

The fight for the respect of the human equality principle

"Open forum – Public support of Reforms within the Rule of Law"

Report and Recommendations

The text before you represents the resume of the project of the Committees for Human Rights Network in Serbia – CHRIS titled ***"Open forum –Public Support of Reforms within the Rule of Law "***, with the aims being public advocacy for the general antidiscriminatory law passing and public debate dealing with the basic antidiscriminatory subjects. At public meetings organized by the Network in the six cities: Novi Sad, Negotin, Vranje, Novi Pazar, Valjevo and Niš and media campaign, modern antidiscriminatory legal standards were presented to local public servants (municipal and district courts, municipal and district prosecution offices, police, centre for social work, offices of national employment service), media and citizens associations. *Project realization was supported by Freedom House, the funds of the USA agency for international development within the project „Democratic transition and reintegration in Serbia“.*

Round table subject

The participants of the round tables are introduced to the complex and manifold legal aspects of the fight against discrimination. Special attention was paid to the following subjects:

- Legal-historic aspect of the fight against discrimination (brief resume of the historical development of antidiscriminatory legislation in the world, with special attention to the legal history of the 20th century, including both Nazis and communistic regime, as well as achievements in the fight against discrimination in the second half of the 20th century);
- Legal-philosophic aspect of the discrimination prohibition, insisting on the understanding that in the present time equal treatment of people regardless of their personal characteristics represents moral imperative of the contemporary modern society;
- Positive-legal aspect of the equality guarantee, pointing to the highest international and comparative-legal standards of the legal protection from discrimination, as well as presenting basic solutions of domestic proposals for the law against discrimination;
- Legal-political aspect of the tendency to adopt antidiscriminatory laws in the domestic legal system, with special attention paid to the obligation to respect the standards of the European Council and judicial practice of the European court for human rights, as well as to the obligation to conform our legal system with the articles of antidiscriminatory directives of the European Union.

- The model proposal of antidiscriminatory law CUPSA and the Institute for Comparative Law from Belgrade was set.
- The coalition against discrimination founded in March 2005 was presented with the aim to advocate the adoption of antidiscriminatory law and monitoring discriminatory practice, with one of the founders being also the representative of the Network of the Committee CHRIS outside Belgrade.

The achieved results

In all the six cities in which round tables were held, there were representatives of local communities starting from the local bodies of public authority, including also the representatives of the central state bodies engaged on the level of the local community (judicial system, prosecution, police, prisons) then numerous journalists, all the way to the activists of local nongovernment organizations. On average, there were over thirty participants on each of the held round tables.

Due to undeveloped legal system as well as legal culture in the country, this was a real opportunity to get acquainted with the material for discrimination prohibition for the most of the participants. Many did not know that the country had already taken over the obligation to adhere to the European Standards in this field by becoming a member of the European Council, nor did they know that these European standards in the domestic legal system have advantage in relation to the arrangements of domestic laws. The participants were also unfamiliar with the initiative for domestic antidiscriminatory law adoption, nor did they know of numerous possibilities of legal discrimination protection. In that context it is indicative that the participants considered the efficient protection against discrimination to be achievable only by offence and criminal punishment while being ignorant as to the possibilities that are at hand for the discriminated person to start the mechanisms of legal protection on their own, firstly by the civil law complaints.

From the discussion after the held presentation, it was notable that the participants were focused on the problems in the field of discrimination that they daily encounter on the local community level. Thus, disabled persons were interested how to solve problems with architectonic obstacles, absence of health service, transportation and the like. Romas emphasized problems with school and health system as well as unfavourable relation of the majority of population which is seen in dishonourable behaviour or physical abuses. In Negotin, the issue of national minority rights, especially of Vlachs, was initiated as well as the issue of nondiscriminatory religious freedom in the context of the recent unwelcoming events that have to do with intended demolition of the Romanian orthodox church and prevention of the religious ceremony of the historic events by the Vlah community. In almost all the settings, difficult heritage of political discrimination was emphasized, especially regarding the fact that the individuals who did not comply with the ideas of the ruling authoritative regimes after the 20th century world war were more drastically punished than the people from big cities such as Belgrade who shared the same opinion. According to the stand of the participants, certain forms of discrimination due to political beliefs or belonging to certain political parties are still strongly present in the local surrounding.

Very often, well known arguments have been heard to speak in favour of admitting high level of women discrimination, starting from the reduced salary in relation to the men's for the same work, all the way to the family violence which has endemic character in the country according to the assessment of the participants who came from the centres for social work. However, as could have been expected, greater argument was raised by the attitudes on the acceptance of the equal rights for one-sex oriented persons. It seems that in small and conservative settings inside the country there is not enough will to accept one-sex oriented persons. In these settings, homophobia is very emphasized and it is mostly based on the laic judgement that it has to do with sick persons – the conclusion can be reached from there that it is about socially unacceptable behaviour which must not be satisfied by any special legal settlements. In that context it was very hard to explain such participants the initiatives that exist mostly among nongovernment organizations and which relate to the acceptance of legal actions of illegitimate communities of one-sex oriented persons.

The reaction of legislature representatives on the held presentations pointed to the need for organized specialized, that is to say strictly professional seminars. All the participants of the Round Forum expressed support to enactment of the new law against discrimination and their readiness to be actively involved in the application and monitoring of antidiscriminatory law application. Very positive words and appraisals of the project were heard from the participants, since that was the first time for the majority of them to have the law model, which is vital for their work, presented by one of the law authors. This primarily relates to the judicial system and legislature representatives, since, according to their words, there is no communication among legislative part of the state apparatus (republican deputies and certain ministries) and those who will be responsible for the law implementation after its being adopted (this was one of the general conclusions specially emphasized on the Open Forum in Novi Pazar). In that sense, there were suggestions and initiatives to further additional education and public sensibilisation. The president of the municipal court in Nis gave suggestion to enable judicial representatives to give their legal-redaction comments and proposals on the law model on special professional seminars. One more indicator of the project success, not only when discrimination is an issue but the rule of law generally, is the presence of the prosecution representatives (the system institutions which are generally most closed for communication and cooperation) and their active participation at meetings, additionally strengthens civil society organizations so that their work has results and they are recognized as one of the key »players« when it comes to human rights and the rule of law.

In other words, the needs to further knowledge in the field of discrimination are more specific when it comes to judges and prosecutors and their daily engagement. Having in mind the lack of professional education in this field, they need abundant explanations of the European standards and their new legal settlements, so that they could successfully use those in concrete discrimination cases. More so because the adoption of antidiscriminatory law is the obligation of our state. The fulfilment of this obligation was demanded by the United Nation bodies and European Council and European Union spokesman. But more than that, our state has recently obliged itself to enact the law against discrimination by adopting the strategy of joining the European Union. It should be noted that this obligation does not deal only with the protection of special groups of persons, but also with the new law adoption by means

of which everyone would have legal protection against discrimination regardless of their personal characteristics.

Finally, what is dominant in all the local communities is an unusually high engagement level of the local media. Not only were the journalists of local newspapers present during presentations, but a special meaning was given to round tables within regular reports of the local public newspapers. There was not a city where ample TV and radio report was not recorded on legal problems of discrimination. In Nis and Novi Sad half an hour, i.e. one hour debate show was organized and broadcast live, while in other places, local TV stations recorded the material which they broadcasted later several times at even intervals in the form of special shows. Such an important response of the media speaks clearly in favour of the standing that the journalists and public newspapers have finally recognized discrimination as the subject which is of greater importance for many interested individuals and which should be discussed publicly.

Discrimination in Serbia has finally reached the status of publicly accepted issue. It seems that today in the country there are no nongovernment organizations which do not deal with human rights and which did not include fight against discrimination in its program activities. People, as well as public newspapers, care about the principle of equality and they do not publish pornographic pictures on the covers, media tries to see to the end the whole procedure of legal responsibility settlement of those who speak for the blood and honour, and incidents such as fascistic act at Novi Sad university are publicly attacked. The reaction of the state on the discrimination issue is equally important – Higher court of Serbia resolved the first case of discrimination, the authority in Novi Sad and Vojvodina undertook the steps to prevent organized fascistic groups by the mechanisms of legal protection. In People's parliament of the Serbian Republic there are two special antidiscriminatory laws in the procedure of adoption – The proposal of the law of preventing discrimination of the disabled and the proposal of the law on gender equality. Finally, before the Constitutional court of Serbia there is a proposal of the Belgrade centre for human rights to evaluate the constitution of the legal definition of illegal marriage union of the opposite gender people.

Undoubtedly, things are improving and it would really be devastating if this country was totally immune of the effort made by the people who live in it. However, it should not be forgotten that those of advanced understanding were always a minority in this society, i.e. there are more of those who pull us backwards, not towards the traditional values, which could be seen as a legitimate strive, but towards simple mud: crime, hatred, intolerance and omnipresent powerful stupidity.

In Nis, on 30th April, 2006