

APE Recommendations for Combating Discrimination in 2014

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2013 has been the year when the first steps in combating discrimination in the Republic of Moldova were undertaken, some difficult steps, especially for the newly elected members of the Council to prevent and liquidate the discrimination and ensure equality (hereinafter, the Anti-Discrimination Council or the CAD), which is the main entity both to combat and sanction discrimination and to promote non-discrimination within the society. It may be said that 2013 was largely devoted to some organizational issues, which enabled the creation and capacity building in the field of non-discrimination. Even if we cannot talk about some spectacular results at the public level, however, it was especially the second half of the year that marked an intense period of storage and organization of capabilities, while the results will be felt in 2014 and beyond.

Discrimination in the Republic of Moldova, as far as it is known

If, from the point of view of the capacity organization to combat the discrimination phenomenon, the things registered obvious progress in 2013, then, in terms of assessing the scale of the discrimination phenomenon in the Republic of Moldova, no steps have been, practically, taken this year. There were no relevant assessments and surveys on this subject. The results of the most recent survey on the subject of non-discrimination led to the development of a study - "Perceptions of the population of the Republic of Moldova of the Discrimination Phenomenon" Sociological Study of the Soros Foundation, published in January 2011.

In addition to the phrase "sexual orientation", the Law on Ensuring Equality concerns dozens of other criteria under which a citizen of the Republic of Moldova cannot be discriminated. That is, race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation and any other similar criterion.

However, in the Moldovan society, there isn't a clear understanding either of the extent of the discrimination phenomenon or of the protection mechanisms against abuse in this area. It is sufficient to note that the courts have not registered until recently any complaints on the grounds of discrimination. Even in egregious situations, such as dismissal of some pregnant women, the applicants rely solely on the violations of the Labour Code. This is evidence of the lack of awareness of the issues of discrimination and the protection against this phenomenon within the society, but - even worse - among the lawyers, judges and prosecutors.

The age, gender and disabilities are the most common criteria for discrimination in the Republic of Moldova. The elderly people face this phenomenon either when it comes to employment or access to health care - they often are denied an ambulance, while the doctors are reluctant to provide treatment and hospitalization because there are younger patients who are to be treated. Gender discrimination is the second criterion according to the scale. Women still face

discrimination, especially in employment, but also in terms of wage increase. The discrimination based on disabilities is another sensitive area. The rather numerous complaints (19 percent of the total amount) concerning the discrimination in access to goods and services on the grounds of language - that is, the Russian speakers complaining that they are discriminated by the Romanian-speaking majority, which represents an interesting element, revealed after the first months of activity of the CAD.

There are several mechanisms to assess the extent and complexity of the discrimination phenomenon within the society. The surveys, which have not been organized in recent years in the Republic of Moldova, are among them. In 2014, the CAD allocated from the budget the financial resources necessary to conduct such a survey. The statistics resulting from the work of the CAD is the second one. This statistics, however, is not a relevant one by the end of 2013, given the short period of the de facto activity of the Council and the still relatively small number of the filed complaints. The first relevant statistics on this track can come only with the presentation by the Council of the annual report to the Parliament. The deadline for the report submission is May 15, 2014. The non-governmental organizations specialized in promoting the human rights may be the third source of information and statistics.

The experts specializing in the protection of human rights point out that even among the lawyers, judges and prosecutors there is no clarity as to the way to deal with cases that reach the court on the grounds of discrimination. This occurs under the conditions when it is namely they who will examine and give sanctions in cases of discrimination reaching the courts, including those identified by the CAD. This was the reason for the Ministry of Justice and some development partners of the Republic of Moldova and civil society organizations to start at the beginning of 2013, once the Law on Ensuring Equality entered into force, a series of training courses for the judges and prosecutors to familiarize them with the procedures and practices resulting from the new Law.

In 2013, more than 150 judges and prosecutors undertook training courses to better understand how to interpret the concept of discrimination in court and were trained in order to know how to apply the Law on Ensuring Equality, within a program asked for by the Minister of Justice from the Office of the United Nations High Commissioner for Human Rights and the National Institute of Justice.

200 Moldovan lawyers were informed about the strategies to defend the victims of discrimination within the "Strengthened Knowledge of the Lawyers in Discrimination Cases" Project, funded by the Soros Foundation Moldova within the Equality and Civic Engagement. In this respect, the Layers Law Centre, in partnership with the Lawyers Union, have trained the lawyers in the regions on how to assist citizens in cases of discrimination. At the same time, the representatives of several Romanian NGOs and lawyers came to Chisinau to share their experience with their fellow lawyers from the Republic of Moldova.

In general, the conclusion, both of the Moldovan experts and the foreign ones, is that in the Moldovan society, the same as it is the case with the overall region, the discrimination phenomenon is quasi-ubiquitous and deeply rooted in the attitudes and mentalities. For the

discrimination to become an unacceptable phenomenon for the majority of the population it is necessary to undertake hard work for many years from now, as this is the only way to reach tangible results. And the Anti-Discrimination Council has a major role to play in this work and in modulating the perception of the discrimination within the society.

Conclusions and recommendations

A real picture of the discrimination is essential, first of all, to develop effective policies to combat discrimination. It is important to try to assess the extent and specifics of this phenomenon within the society for 2014. This can be done by a specialized survey (the CAD allocated the financial means to organize a survey in 2014), by synthesizing the complaints to be filed and considered in the future by the Council and through the statistics that can be provided by the specialized NGOs.

The few public campaigns to promote non-discrimination, visible in early 2013, did not continue into the second half of the year, so that the subject of non-discrimination has practically disappeared from public sight. The campaigns to promote non-discrimination within the society should be a constant concern of the authorities, the Anti-Discrimination Council and the civil society organizations, supported by the development partners of the Republic of Moldova.

In the Moldovan society, there isn't, however, a clear understanding of the extent of discrimination or protection mechanisms against abuse in this area. Even the lawyers, judges and prosecutors - actors who are directly involved in the review of the complaints on discrimination, given that the new CAD is not entitled to imposing sanctions, but can only find and adjudicate - are not fully aware of the phenomenon. Which is why the training courses for lawyers and judges should also continue in 2014.

Generally, the Council, supported by the authorities and the development partners of the Republic of Moldova, undertook in 2013 a great effort to organize and create administrative conditions to be able to operate. The process of hiring staff has to be completed. The contest for filling those six lawyer positions was prolonged, the low interest being explained by the fact that the salary is not very attractive. In this respect, an information campaign would be salutary, perhaps a series of meetings held with graduates or even law students, to introduce to the young lawyers the opportunities and prospects for professional growth within the Council.

The development of the CAD site as soon as possible is another priority. In general, the communication tactics of the Council should be reviewed and improved. The Council members should strive to present comprehensive and substantial information upon media and interested NGOs requests. An answer like "Make a request and we will respond in the time span provided by law" are not likely to bring the mass media and public opinion closer to the subject of non-discrimination.

The authorities must concern themselves with respecting their financial commitments to the CAD and keep in mind that the kind of funding that does not comply with the needs may give birth to suspicion and can be interpreted as an intention to subordinate the Council politically.

The Council should also undertake efforts so that after launching its activity it would ensure its presence both in Chisinau and in the regions, where the discrimination phenomenon is even more acute. In its first decisions, the CAD has not found cases of discrimination only, it has also come with concrete recommendations to amend the legislation and reorganize the work of some institutions. For example, the CAD made recommendations to the Ministry of Education for the introduction of the non-discrimination provisions into the new Code of Education. And in its decision of November 25, 2013, the CAD recommended to the General Education Department of the City of Chisinau to organize a Service of Psychological-Pedagogical Assistance in accordance with the international standards to prevent and eliminate discrimination against children with disabilities of any kind. In addition, the Department had to develop methodological guidelines on the reasonable accommodation for children with disabilities in preschool institutions and ensure training of the staff employed in these institutions. It is a constructive and salutary approach that should continue, while the authorities must take account of these recommendations. Acting this way, the CAD will become a true leader and will build up opinions and policies in the non-discrimination field.

The CAD will need, after completing the employment process, projects for training the Council staff, one of the possibilities being a twinning program for the employees, together with the Romanian National Council for Combating Discrimination. In addition, Romania's experience in combating discrimination may be taken over at the level of civil society and public and private institutions. The CNCD members showed their willingness to share their experience, an important element here being the fact that there is no language barrier in this case.

The Council must make emergency arrangements for acquiring the status accredited by the UN Paris Principles, join the Equinet European network, which would provide the possibility of some twinning programmes and free access to training for the civil servants and Council members. The foreign partnerships would also be formalized, first of all the one with the Romanian National Council for Combating Discrimination.

The CAD should form partnerships to combat discrimination with the national institutions and professional associations, such as the Superior Council of Magistrates, Lawyers Union, Ministry of Internal Affairs, Ministry of Labour, Social Protection and Family, other public and private institutions, NGOs, media outlets, church etc.

The CAD should also undertake the necessary steps with the Republic of Moldova's development partners to obtain the funds and sources to support the activities in the non-discrimination field that are part of the Operational Strategic Planning Council for 2013-2015.

Generally, the role of the development partners of the Republic of Moldova in the management and monitoring of the processes related to fighting anti-discrimination is a fundamental one. One can confidently say that the fight against discrimination is dependent on the involvement of the foreign actors in supporting the education and awareness activities of the professional categories and of the Moldovan society as a whole.

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