
genderace

The use of racial anti-discrimination laws

Gender and citizenship in a multicultural context

ANNEX 6

Bulgaria Country Report

June 2009

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CONTENTS

Introduction	135
1. Presentation of the sample	136
2. The use of resources	139
3. The experience of discrimination.....	142
3.1 Sectors	142
3.2 The alleged authors of discrimination.....	145
4. Processing the complaint.....	146

Introduction

There are several ways for protection against discrimination in Bulgaria:

1. An individual may file a case before the corresponding district court under the Civil Procedure Code. Such actions can be undertaken by trade unions and NGOs on behalf of the discriminated individuals as well.
2. A discriminating act of the administrative authorities can be appealed before the competent administrative court under the rules of the Administrative Procedure Code.
3. Since 2005 the basic venue for discrimination complaints is the Commission for Protection from Discrimination (CPD). In 2005 it received more than 100 complaints. The number grew to 389 for 2006 and 649 for 2007. The Commission review the cases in specialized panels as follows:
 - First Panel: Ethnic and Racial affiliation.
 - Second Panel: gender, human genome, employment, harassment at the workplace, trade union affiliation and trade union membership.
 - Third Panel: nationality, citizenship, origin, religion and belief.
 - Fourth Panel: education, conviction, political affiliation, personal or social status, property status.
 - Fifth Panel: disability, age, sexual orientation, family status.
 - Enlarged five - member Panel for cases of multiple discrimination.
 - Ad hoc Panel for special cases.

The decisions of the Commission are subject to appeal within 14 days before the Supreme Administrative Court (SAC) under the provisions of the Administrative Procedure Code. Up to date the Supreme Administrative Court has issued more than 250 rulings and decisions on appeals related to decisions of the Commission for Protection from Discrimination (CPD).

4. Another alternative for an individual suffering from discrimination (especially in cases where no other legal remedy is available) is to complain before the national Ombudsman. The Ombudsman has the power to propose to the corresponding authority to take measures to stop or prevent the existing discrimination. The Ombudsman may also file a case before the Constitutional Court in cases where the Ombudsman is of the opinion that a legislative statute adopted by the National Assembly actually violates the fundamental rights and freedoms of the citizens (including cases of discrimination).

This report is based on data from 156 complaints as follows:

21 – from the Ombudsman Office

128 – from the CPD. Six of the cases have been followed up to their appeal before the SAC. In three of the cases SAC has affirmed the CPD decisions, in other two the CPD decisions have been reversed, and one of the decisions has been partially affirmed and partially reversed.

- The report also includes data from four SAC decisions, and also one decision of the Plovdiv Administrative Court, one of the Sofia City Court, and one of the Plovdiv District Court. The latter has been followed through its appeals up to the Supreme Court of Cassation.

1. Presentation of the sample

The analysis is based on 156 complaints (71 submitted by male persons, 72 by female persons; 5 by groups of individuals and 9 where the gender of the complainant can not be recognized) There are cases where the victims of discrimination belong to the same sex – school girls in the towns of Devin and Smolian.

- **Age** is not required to be indicated in the complaints. It can be established in cases where the victims are pupils or retired persons, because this is mentioned in the description of the events, as a result of the specific features of these

groups. The age is specifically indicated in cases of complaints for discrimination on the grounds of age. There are some cases where the age of the complainant is indicated but this is at random – a result of the personal decision of the complainant to specify his/her age.

- Most of the complaints have been submitted by **Bulgarian citizens**. The basic exceptions from this rule are the complaints submitted by individuals coming from the former Soviet Union republics. In two cases the complainants are individuals from Western Europe claiming discrimination on the grounds of citizenship or nationality. These facts could be interpreted as meaning that the feeling of discrimination is stronger among the better informed groups, which have a tradition to defend their rights. Another specific group of complainants are non – Bulgarian citizens sentenced to imprisonment. They plead discrimination on the grounds of nationality and citizenship. This could be explained by the fact that in cases of imprisonment the corresponding individuals have access to information and legal aid. In addition to that, usually persons deprived of freedom are more active in the efforts to defend their rights.

- There is no requirement for the complaint to specify **the ethnic or religious affiliation** of the complainant. These are indicated if the complainant considers that necessary – mainly in cases of complaint for discrimination on ethnic or religious grounds. In some of the cases our team has determined the ethnicity on the basis of indirect indications. On the other hand, religion is indicated only when expressly stated. The ethnicity of the complainants is distributed as follows:
 - 84 Bulgarians;
 - 31 Roma;
 - 12 Turks;
 - 5 Pomaks;
 - 5 Others

In 18 of the cases the ethnic belonging of the complainant remains unclear.

As far as the Roma are concerned, 13 of the complainants are female and 11 are male. In 7 of the cases the victims define themselves as a group of people belonging to the Roma community, or as the community itself. The Turkish complainants consist of 4 female persons, 6 male and 2 cultural organizations of the Turkish community. The Pomak complainants are 2 male persons, 2 groups of schoolgirls and 1 religious organization. Eight of a total of 156 complainants have self-identified themselves as Muslim.

- There is no requirement for a complainant before the CPD or the Ombudsman to identify **family status**. This information is available only if that it is of significance for the case. Our team has managed to identify 15 married persons, 5 unmarried, 2 divorced and 2 widows. This small number of cases where the family status is identified can not suffice to bring us to general conclusion with regard to the family status of the complainants in general

- The situation with the **educational status** is similar. There is no requirement for a complainant to fill it in the complaint form. The way our team has identified it is by deducing it from the professional occupation. For these reasons university education is dominating since it is a legal prerequisite for exercising of certain professions. University education is rarer among persons belonging to minorities, which corresponds to the official data of the Bulgarian National Institute of Statistics. Among the Roma complainants there can be identified three persons with University education (two women and one man) and other two women with specialized high school education. It should be noted that one-third of the Roma female complainants have good education. It could be assumed that the higher educational status and prestigious profession (teachers and nurses) increase the sensitivity to discrimination practices and provide self-confidence for defense and protection of one's rights. The same situation pertains to the Turkish women – two out of four have university diplomas. There is also a Turkish male with a PHD degree. Most of the Pomaks complaining of discrimination have good education as well.

- No data on **profession or employment** are required at submission of the complaint. This information can be derived if the case is related to workplace discrimination. The Roma cases usually do not provide this type of information because they concern discrimination in other fields. Most of the Turks are engaged in the state sector. One of the complainants is a woman having own business. An interesting case is the one where an elder retired woman claims to have been discriminated by her employers on the grounds of sex.

2. The use of resources

CPD has a functioning system providing the complainants with legal advice and technical assistance for filling of the application. The application must be signed personally by the victim of discrimination. In 17 of the cases the complaints have been filed by NGOs. Two of them deserve special attention: Association for European Integration and Human Rights in the city of Plovdiv and the Roma Informational Agency DEFACTO in the city of Sofia. Both organizations are specialized in specific types of cases: DEFACTO notifies about discriminatory media expressions and the complaints submitted by it usually consider Roma victims of discrimination. The Association for European Integration and Human Rights deals with discrimination of specific groups – ethnic, gender, age, as well as with concrete individual cases of discrimination.

Among the cases reviewed by the first CPD Panel, one can identify several typical instances - restriction of access to restaurants and other similar establishments on ethnic and racial grounds- mainly Roma affiliation. Our team believes that the complainants have consulted lawyers but there are no express statements to that effect.

In all of the analyzed cases the complainants have used the services of a female lawyer only on two occasions. The cases concern two female colleagues who separately accused the director and the rest of the personnel in their firm of sexual discrimination. In both cases CPD has not found the claims to be well founded.

The cases where the complainant submits a claim on behalf of another person are rare. Our team has identified eleven cases where the person submitting the complaint is male, and at the same time the victim is not him but a woman (9 cases) or a child (2 cases). As far as the female victims are concerned – in 8 of these cases the complaint has been submitted by the spouse, and in the last instance by a neighbor. In three cases the contact person is female. These include the mother of a person with an intellectual disability, a Bulgarian woman associated with a foreign male (the nature of the relationship is not specified) and a case where the complaint for discrimination against a woman and a man (who are colleagues) has been filed by the woman.

The information received from the CPD (remaining outside of the cases included in our report) displays that the trade unions submit complaints only in cases where they consider presence of discrimination on the grounds of political or trade union membership. The 2005 research *Syndicates against Racism and Discrimination* clearly showed that the trade unions conduct active anti-discrimination policy – insisting their members to be treated equally regardless of their ethnic affiliation. In cases where the trade unions step forward to protect their members, they are usually concerned with the employment rights. According to the information received by the Confederation of the Independent Trade Unions in Bulgaria (CITUB), their structures have not received complaints or filed cases in which a member of CITUB has complained of discrimination on ethnic or gender grounds.

The Ombudsman powers include the possibility for provision of legal aid to the complainants. Usually the citizens come personally to the Ombudsman office to complain, regardless of the fact if they have been consulted by lawyers or NGOs. The archives of the Ombudsman office do not contain case files related to discrimination on ethnic or sexual grounds. The cases reviewed by the IMIR team are related mainly to violations of civil and political rights.

Despite the preliminary conversations and promises, the IMIR team could not gain access to the NGO archives. The conclusions on their work are based mainly on the interviews conducted. The information received reveals that there are a significant

number of organizations dedicated to the protection of minority rights (which is true for the last 20 years) and the rights of women (which is true for the last 5 years). The gender oriented organizations display high sensitivity to the specific problems of the women belonging to minorities, and they often put forward the issue of multiple discrimination. These organizations provide free of charge legal consultations. In most of the cases women belonging to minority groups turn to this type of NGOs seeking protection from domestic violence. In the rare number of cases where court claims have been filed, these are civil actions not including discrimination issues. If NGOs undertake to protect victims of discriminations these actions are funded under various types of projects and programs.

The barristers pleading before the courts usually make their case on the grounds of civil or criminal violations and rarely use the venue of discrimination claims.

Thus, some individuals sentenced for violence against an African living and working in Bulgaria were convicted for attempted murder and hooligan actions, and not for discrimination. At the same time the organization, which has undertaken the case (*Spravedlivost 21*) popularized it as the first successful anti-racism case in Bulgaria.

The information from the CPD shows that women belonging to minorities rarely submit complaints for discrimination. In most of these rare cases the complaint is related to discrimination on ethnic grounds. On the other hand, there are a significant number of cases where women belonging to the Bulgarian majority complain of discrimination on the grounds of gender, including two cases of sexual harassment.

The conclusion, which can be derived after the analysis of the information from the CPD and Ombudsman's Office archives, and from the interviews with NGO representatives, is that the most active minority group seeking protection from discrimination are the Roma (both male and female). The complaints submitted by Turks are 12, 4 of which come from female persons.

3. The experience of discrimination

The cases reviewed reveal that in most of the cases individuals complain of discrimination at the workplace. These complaints are related to unequal conditions of labour, unequal remuneration, lack of access to opportunities for higher qualification, and illegal dismissal. The other basic field of discrimination is the access to public places and establishments. There are some cases of complaints related to delayed or poor medical assistance. At least before the CPD, the complaints related to police violence are not great in number. Usually the person accused of discrimination is the employer or the immediate superior of the complainant. There are cases of women complaining of discrimination with regard to their working conditions or the attitude within a male working environment.

3.1 Sectors

Sectors	Men	Women	Group	Total
Housing	2	6		8
Education	7	5	1	13
Employment	27	48	1	76
Public health services	2	3		5
Private goods and services	6	3	1	11
Public goods and services	4	1	3	8
Police	4	0		4
Justice system	6	2		8
Access to public spaces	1	0	3	4
Other	3	2		5
Unknown	1	1		2
Media	2		3	5
Multi sectors	4	1	2	7
TOTAL	69	73	14	156

There are ten complaints submitted by Roma people related to employment and most of them are related to illegal dismissal. Roma often complain of restriction or denial of: access to private services (7 cases), access to public services (4 cases), access to establishments or institutions, as well as lack of access to public spaces (2 cases). The NGOs usually file complaints against electronic or printed media for discriminatory

programs or publications. These cases are related to the Roma community. In the rest of the cases the Roma consider themselves discriminated on ethnic grounds by the justice system, the police (violence), the healthcare institutions and in the field of housing. It could be concluded that the Roma group considers itself a victim of institutional and social discrimination. The grounds of the complaints submitted by Roma women are similar to those submitted by Roma men. There are no complaints related to discrimination within the family, larger kinship circle or the neighbourhood. This confirms the initial assumption of our team that intra-community practices, which are considered discriminatory by the outside observer, are not recognized by women as such, or at least there is no readiness on their part to declare these publicly and expose them outside the community. There are no such cases reviewed by the CPD, SAC and the Ombudsman. The issue is raised within the framework of interviews with representatives of NGOs working with female victims of domestic violence. On the other hand, in such cases the gender aspect is emphasized and the cases filed before the court consider family harassment and not discrimination.

Of special interest are two cases concerning Pomak pupils going to school with a specific type of clothing – vales and robes. In the first of the cases the complaint has been filed by the pupils themselves – inhabitants of the village of Gyovren, studying in the town of Devin. The CPD did not find that the oral warning of the school director and the Rules of the Regional Inspectorate contain signs of discrimination since the access to school for the girls has not been restricted. On the other hand, the CPD recommended to the Minister of Education to analyze the status of the Bulgarian educational system within the context of observance of the antidiscrimination legislation and the freedom of religion. The SAC reversed the decision in the latter part since according to the court the anti-discrimination law in Bulgaria envisages the prevention and termination of discrimination and not the provision of guidelines. The other case is a complaint, filed by a local religious organization against the internal by-laws of a high school in Smolyan envisaging a mandatory school uniform. The organization claimed that these by-laws were actually a deliberate attempt to prevent the possibility for the pupils to wear their traditional religious clothes. At the same time the director of the school did not stop the pupils to visit the school dressed as they prefer.

The CPD did not find any discriminatory practices in this case. The Commission actually concluded that the director had violated the school by-laws, thus treating the rest of the pupils in the school unequally in comparison with the Muslims. The CPD then sanctioned the organization, which filed the claim, for actions inciting discrimination; fines were also imposed on the Ministry of Education and the school itself.

Turks complain mainly of discrimination at the workplace (5 cases). Usually they consider themselves discriminated on ethnic and religious grounds. There is only one case of a Turkish female complainant claiming discrimination on the grounds of gender. It should be mentioned that both Turks and Bulgarians usually complain of discrimination on the following grounds: property status, personal and social status, employment rights.

It could be concluded that for the last decade the NGOs and other public organizations in Bulgaria have seriously raised the issue of discrimination against the Roma as a minority community, which has made a serious impact on the level of information and activity of the Roma with regard to protection of their rights. The representatives of the rest of the minority groups and the Bulgarians complain mainly against discrimination at the workplace: poor working conditions, illegal dismissal or impeded access to work.

Ground(s) of discrimination	Men	Women	Group	Total
<i>Race / ethnic origin</i>	10	10	8	28
<i>Religious beliefs</i>	1	2	3	6
<i>Sexual orientation</i>	1	0	2	3
<i>Age</i>	1	6	0	7
<i>Disability</i>	5	6	2	13
<i>Sex/Gender</i>	3	5	0	8
<i>Other</i>	25	23	1	49
<i>Nationality/citizenship</i>	7	2		9
<i>Multiple grounds</i>	15	16	1	32

3.2 The alleged authors of discrimination

In most of the cases the discriminating person is the employer – private or state entity. In that aspect the gender of the discriminating individual is of no significance and it can not be clearly established since the individual actually represents the corresponding company or institution.

Alleged author of discrimination's relationship to complainant	Total
Superior/employer	67
Colleague	2
Property owner	0
Neighbour	3
Passer-by	0
Law enforcement agents	3
Private goods or services provider	19
Public goods or services provider	50
Personal relations	0
Unknown	11
Multiple agents	1
Total	156

Both the complaints and the decisions of the CPD often do not mention if the concrete case represents direct or indirect discrimination. If the type of discrimination is specified it is defined as direct, indirect or as both. In the cases where it is not expressly stated, the IMIR team has identified the type of discrimination by deducing the facts of the case. In approximately a quarter of the cases (33) the discrimination is defined as harassment as well. Most of these cases are related to employment relationships.

Kind of discrimination

Kind of discrimination	Men	Women	Group	Total
Direct discrimination	29	28	13	70
Indirect discrimination	10	10	6	26
Harassment	5	12	2	19
Instruction to discriminate	0	1	0	1
Victimisation	0	1	0	1
Other	4	5	1	10
Unknown	1	3	0	4
Multiple	11	12	2	25

4. Processing the complaint

Most of the data processed by the IMIR team comes from the CPD and not from the courts. Usually the proceedings before the CPD finish with a decision establishing the presence or absence of discrimination. The CPD has no authority to review a complaint if a lawsuit is filed concurrently for the same case. The sanctions imposed by CPD do not envisage material compensation for the complainants, but they could provide supportive arguments in ensuing civil action.

In ten of the cases the parties have managed to reach an agreement and the proceedings before the CPD have been terminated. In most of the cases it is impossible to establish if further measures have been undertaken with regard to the victims of discrimination. In six cases specific measures for improvement of the condition of the complainant have been envisaged.

The GENDERACE Team is responsible for the content of the report which does not necessarily reflect the view of the Commission, nor can the Commission accept responsibility for the accuracy or completeness of information it contains.