

ECRI's seminar with national Specialised Bodies¹ The role of national Specialised Bodies in advising legislative and executive authorities and other stakeholders

Strasbourg, Agora Building, Room G01 – 26-27 May 2016

Conclusions

Introduction

The advisory function of national Specialised Bodies clearly merits the attention given to it at this seminar and the further attention promised as a follow-up to the seminar. This advisory function contributes greatly to combating discrimination and achieving equality.

The advisory role was explored during the seminar in relation to three different but interlinked elements, i.e. the role of national Specialised Bodies in:

- Informing the content of legislation and public policy,
- Shaping organisational procedures and practices, and
- Developing a wider institutional infrastructure for equality and non-discrimination.

Context

National Specialised Bodies often implement this function in the most difficult contexts, ranging from those created by economic and social crisis to those created by the absence of a democratic culture. Particular barriers were also identified where national Specialised Bodies have not been afforded sufficient resources for effective interventions or in contexts where radical political forces that do not recognize equality are on the rise.

In view of these contexts, it was suggested that strong up-to-date and clear standards for national Specialised Bodies are needed to reinforce their status and to ensure adequate conditions to implement their work effectively, including their advisory function. International support and cooperation among the national Specialised Bodies are also particularly important in such difficult contexts.

There is a body of good practice by national Specialised Bodies available in implementing this advisory function. This can be built on and learned from. The need for national Specialised Bodies to be persistent and innovative in implementing this function in these difficult contexts was emphasised. Provision for positive duties and obligations in equal treatment legislation would assist in this work. These provisions should include requirements for public sector and private sector organisations to take action on equality and diversity and for public authorities to take account of equality, diversity and non-discrimination in elaborating policy. They could usefully include an obligation to give consideration to the advice of national Specialised Bodies on draft policy documents or legal acts.

¹ Independent authorities expressly entrusted with the fight against racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as ethnic origin, colour, citizenship, religion and language (racial discrimination), at national level.

Good Practice

A range of good practices by national Specialised Bodies was presented and discussed during the seminar. In seeking to guide the content of legislation and policy, examples of good practice included:

- The links established by the *Défenseur des Droits* in France with the Parliament and the employment of a staff member to nurture these links;
- The use of working groups by the Council for Preventing and Eliminating Discrimination and Ensuring Equality in Moldova to develop draft legal amendments;
- The proactive approach to securing legislative and policy change by the People's Advocate in Albania through engaging with the media and with civil society.

In seeking to guide the procedures and practices of organisations, examples of good practice included:

- The annual cooperation agreements developed by the Interfederal Centre for Equal Opportunities in Belgium with local authorities that both bring the work of the national specialised body to a local level and give the local authority access to the expertise of the national specialised body;
- The pilot project developed by the Federal Anti-Discrimination Agency in Germany in the use of depersonalised job applications by employers.

In seeking to stimulate the wider infrastructure for equality and non-discrimination, examples of good practice included:

- The relationships developed by the Office of the Ombudswoman in Croatia with NGOs through consultation, working with contact points, joint projects and joint research that offered legitimation and recognition for the NGOs and that multiplied the impact of the national Specialised Body;
- The expert council established by the Parliamentary Commissioner for Human Rights in Ukraine to provide opinions on its work and on legislation and the cooperation developed with NGOs to establish regional coordinators;
- The cooperation network established by the Office of the Greek Ombudsman to engage state agencies, local authorities and civil society organisations on Roma issues.

Creative Approaches

The advisory function challenges national Specialised Bodies to be creative and to go beyond their individual case work. This includes the need for a creative combination of functions in a 'carrot-and-stick' approach. It requires a focus that goes beyond non-discrimination to include a concern for achieving full equality in practice for groups covered by the different grounds of the equal treatment legislation. A range of creative approaches by national Specialised Bodies were evident in the discussions.

National Specialised Bodies reported:

- Engaging in a dialogue with policy makers that was ongoing, rather than once off, throughout all the policy making or drafting legislation process, and that embraced all levels of government;
- Addressing competence and culture barriers to equality and non-discrimination institutions by raising awareness and educating on these issues

within organisations, and, more specifically, providing training on these questions;

- Investing in outreach to employers and service providers, rather than relying on public relations work or brochures, in seeking institutional change through providing advice, guidance and support and acting as best practices examples themselves;
- Cooperating with educational systems in promoting equality and non-discrimination from early education throughout the system;
- Cooperating with civil society organisations to allow and enable more voices for change to be heard.

It was clear from the discussions that the advisory function of national Specialised Bodies worked best when linked with their legal casework: cases and casework recommendations, if pursued or implemented strategically, can drive institutional change as well as resolving individual issues. Legal arguments, based on international and national law, can reinforce and strengthen the advice and guidance provided by national Specialised Bodies.

Conclusion

In order to improve the impact of the advisory function of national Specialised Bodies, it will be important to give increasing focus to it. This seminar was a welcome step in this direction. The publication to be developed on foot of the seminar and further engagement with national Specialised Bodies will be a valuable follow-up in this regard.

The importance of mobilising support from international organisations and networks for this advisory work of national Specialised Bodies was emphasised. It would be useful for ECRI to continue to focus on the implementation of and response to this advisory function of national Specialised Body in its country reports. It would be particularly valuable to take account of the discussions and conclusions of this seminar in the planned review of ECRI General Policy Recommendation No. 2 on national Specialised Bodies.