
STATE OF ART REPORT on Fundamental Rights

A youth perspective on the practical application of the
EU Charter of Fundamental Rights in Bulgaria, Estonia, Italy and Portugal.

Edited in 2013 - European year of Citizens



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General Introduction

In 4 countries... 4 organizations are committed to the identification of several obstacles that citizens find in their daily life considering their fundamental rights as Europeans.

The present document is a **State of Art Report** on the practical application of the **European Charter of Fundamental Rights** specifically in these 4 countries: Bulgaria, Estonia, Italy and Portugal.

Organized in 3 chapters, we will focus first on an overall review of the European Charter considering the national laws of each country, secondly we will introduce **40 real life cases** of citizens from these countries that have recently found some obstacles to the fulfilment of their rights as European citizens. Finally, you can find some references that will link you to national and European institutions, projects, departments that can **help us all work together** and contribute to defending our fundamental rights.

According to the Eurobarometer spring 2012 survey. On European Citizenship, the attachment of citizens to the European Union suffered a significant deterioration since the spring 2010 survey, **Europeans who are attached to the European Union are now in the minority**, more specifically we have: **BULGARIA** (53%); **ITALY** (45%); **ESTONIA** (43%) and **PORTUGAL** (42%).

In the same document we can see that the **majority of Europeans feel that they do not know their rights as Europeans** (54% versus 45%).

Despite all this, a **majority of citizens wants to know more about these rights** (63% versus 34%).

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CHAPTER 1

Introduction

The rights of Portuguese citizens are protected by the EU Charter of Fundamental Rights and by the Portuguese Constitution, which purpose is to ensure that all citizens (adults and children) are equal and have equal justice, dignity and rights. Portugal, including the Azores and Madeira islands, has a population of 10.7 million and is a constitutional democracy with a president, a prime minister, and a parliament elected in multiparty elections.

According to the Eurobarometer*, in Portugal 59 percent of respondents feel that they are European citizens - a rate slightly lower than the EU average (63 percent). Nevertheless, there are some differences on the data in terms of socio-demographic groups. The Portuguese who seem to feel more European are senior managements (83 percent), young people (73 percent) and individuals who completed higher levels of education (71 percent).

On the other hand, elderly people (49 percent), people residing in rural areas and domestic women (both 50 percent) are those who feel less European. Thus, the sense of European citizenship seems to be associated with younger individuals and more resources (educational or professional). However, even in groups where there is greater reluctance towards European citizenship, the proportion of respondents who expressed this sentiment is close, less than 50 percent. Now the question is raised: does such a feeling imply knowledge about citizenship rights? In general, the Portuguese think they know their rights too badly: only 35 percent of respondents in Portugal claim to know their rights as EU citizens. However, what really

distinguishes the Portuguese in this topic is that in addition to the fact that they don't know their rights, Portuguese don't think it's worth knowing more, in fact, only 36 percent of the Portuguese would like to know more about their citizenship rights, which is the lowest rate in the EU. This figure contrasts sharply with the one found in countries where self-assessment of knowledge is also low (Romania, France and Italy) but whose citizens mostly say they would like to know more about their rights (67, 70 and 62 percent, respectively).

Nevertheless, the report shows that for the Portuguese, as well as for the majority of Europeans citizenship rights on which they would like to obtain more information are mobility within Europe (for living and/or working) as well as the possibility of using health systems of other European countries. With regard to the European Citizens Initiative, it turns out that in Portugal, as in Europe, there is a general consensus among citizens towards the expression of a low probability of use of this instrument. In terms of the application of the ECFR in the context of the Portuguese law we had the kind contribution of José Bernardino, from Board of Directors of Amnesty International Portugal. According to this specialist, it is possible to detect a strong approximation of the ECFR to the already established provisions in the Constitution of the Portuguese Republic concerning fundamental rights, meaning that the Charter works as a complementary source of rights already recognized and can be useful as an interpretative reference for Community and national rules in case of doubt about the respective degree of conformity with the Fundamental Rights enshrined therein. The Charter can be invoked in national and European courts, concerning the actions of the European Union institutions and Member States when applying Community laws, in accordance with the rules of interpretation set out in its last chapter concerning General Provisions.

*Source: Eurobarometer STANDARD 78 / AUTUMN 2012: http://ec.europa.eu/portugal/pdf/comissao/destaques/eurobarometro/eb78_pt_nat.pdf

According to these rules, to the extent that the rights enshrined in the Charter are consistent with the Fundamental Rights already foreseen in the Portuguese Constitution, they must be interpreted in harmony with constitutional law. Potential restrictions of these rights and freedoms must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognized by the Union or the need to protect the rights and freedoms of others. The Charter was written in an attempt to reconcile the protection of fundamental rights at European level by finding a common ground with the constitutional requirements of the Member States, taking precautions of never overlapping with them, giving them a new level of institutional dignity, essential for the development of the European project.

In the Portuguese Constitution, the Charter is upheld, along with the rest of the Community legal order, through article 8 paragraph 4, which states that “the provisions of the treaties that govern the European Union and the rules issued by its institutions in the exercise of their respective responsibilities shall apply in Portuguese internal law in accordance with Union law and with respect for the fundamental principles of a democratic state based on the rule of law.” “The principle of the supremacy of Community law can be extracted implicitly from this provision in conjunction with article 7 paragraph 6, which states that Portugal may, “subject to reciprocity and to respect for the fundamental principles of a democratic state based on the rule of law and for the principle of subsidiarity [...] agree to the joint exercise, in cooperation or by the Union’s institutions, of the powers needed to construct and deepen the European Union”. Equally, article 16 paragraph 1 of the Constitution holds that “the fundamental rights enshrined in this Constitution shall not exclude such other rights as may be laid down by law and in the applicable rules of international law.”, which include those set forth in the Charter of Fundamental Rights.

Despite a difference in the protection of the rights and principles that the Charter establishes in its article 52, some provisions from Portuguese ordinary law raise some doubts regarding the direct realization of the rights enshrined in the Charter.

One example is a recent amendment to the Immigration Act, which came into force in 2012, which allows that a “foreign citizen subjected to an expulsion decision is forbidden to enter the national territory for a period up to five years,” and gives the Immigration and Borders Service the power to extend this period without limits, when they believe that the foreign citizen is a “serious threat to public order, public safety or national security.” The law in question imposes increased controls on borders that gives a too large margin of discretion to Immigration and Borders Service, and may put into question the right embodied in article 19 of the Charter, protection in the event of removal, expulsion or extradition.

Another current example relates to the difficulty in exercising the right referred to in article 11 paragraph 2 of the Charter, on the right of freedom of expression and information, which enshrines the pluralism of the media. Although there is a constitutional requirement for disclosure of the property owners of the companies working in the field of media and prohibition of concentration, there is no effective legal mechanism capable of fully ensuring this requirement, especially in cases of multiple and crossed ownership concentration. Several legal initiatives that sought further clarification in this field has been present in Parliament, most recently in 2012. The adoption by same-sex couples remains prohibited. This follows an explicit exception from the legal diploma that allowed, in 2010, the legalization of gay marriage. This is a measure liable to violate article 9 of the Charter, since it discriminates against the rights of gay couples, not guaranteeing them the same legal status from other marriages, and has elicited criticism from the European Court of Human Rights.

CHAPTER 2

Study Cases

1 ::: Right to Education

There are 400.000 university students in Portugal. According to national statistics, the number of students that are leaving their studies has raised up to the mean of 100 students every day.

L. is now 20 years old. She had studied for 2 years in a law school in Lisbon when she had to abandon her studies because she had no more money to continue. Her big dream is to become a lawyer but now she sees herself at home. Last week she decided to take all her books and papers from sight and just hide them in the closet. When asked why, she explained that was very hard to look at them every day and remember that she can no longer continue studding. L. is deeply sad since she received the news by e-mail that she could not profit from the scholarship anymore. She remembers that day as if it was today: "It is very sad to see one´s mother crying telling us she is sorry for not being able to help us continue studding". Although both of her parents have a job, before knowing the result of the scholarship they made all efforts to afford all expenses. They had to wait 5 months, but the tuition is the same price as the house rent, leaving the family with depts and even more financial difficulties.

Remembering her days in class, she talks about the differences you can find among the law students in terms of wealth. According to her the difference

between the sudents was evident because you could find the students sitting in front of the class with books, while she and some others would hide on the back of the class caring copies of the original books. She laughs: "how ironic it is to be forced to use copied books, which are illegal, to study law?!"

Her desk is now no longer used for studying, but rather for searching a job, or activities that can help her go back to university. At the same time she is afraid of having to emigrate in order to find a job. She would prefer to stay in Portugal and she hopes it will not be necessary.

Adding to the fact that Portugal is going through a period where many families face great financial difficulties, there has been a cut of 30% in the scholarships given to Portuguese students. Moreover, since January 2012 the criteria for scholarship attribution has changed, considering only the gross salary of the family and not anymore other important facts that have major influence, for example family health expenses in case of chronic disease.

2 ::: Adoption by gay couples

The Portuguese law allows gay couples to get married, but does not allow them to adopt children. Violating the European fundamental right that says that everybody has the right to constitute family, we present you one of the many couples that face this obstacle.

J. and M. are a couple for 15 years now. They met each other in college and soon realized they wanted to share their lives together, which led them to start a relationship. In 2010 the law changed in Portugal and they were thrilled by the possibility of getting married and so they did in the beginning of 2011.

J. is now 32 and works as a music teacher in schools. He loves music and children, so he says he could not be doing anything else that he would like better. M., who is 34 years old, is more of a scientist. He studied biology and is participating in one investigation project sponsored by one international science foundation. He is also very happy with his professional life and wishes to continue working in the research field. Everything seems to be alright in their lives, but there is something they really wish to have: children. They feel they have reached a maturity level in their professional and emotional life and wish deeply to raise a child. In fact they would like to raise two.

For this reason, 2 years ago they both started searching for adoption options and realized that the Portuguese law does not allow them to adopt as an homosexual couple. On the other hand, the law allows for one of them to adopt as a single parent. Their desire is so strong that they are now thinking about that option. The only thing that stops them from taking that step is the preoccupation regarding the child safety in case something happens to whoever takes the responsibility for the adoption. When a child is adopted by a couple, in case something happens to one of them, the other parent is directly legally responsible for the child, but in

their case, if something happens to the “official” parent, the child is left again with no support, especially if this happens before the child becomes 18.

J. and M. live in one apartment in Setubal and are now making plans of moving to a larger house in the same neighbourhood in order to create enough space for one more member in the family. Recently they have joined a support group together with other gay couples facing the same difficulty and, inspired by some successful cases, regardless of all their fears, they are willing to take the risk. Nevertheless, every day they hope the law might change in the meantime.

3 ::: Access to public transportation for people with reduced mobility

The participation of people with disabilities in society depends largely on the ability to move around as independently as possible. In Portugal, this mobility is compromised almost entirely due to the inaccessibility of public transport.

Although there are legislated tax exemptions for the purchase of private vehicles to people with physical and vision disabilities, a high number of people can not access the purchase of a motor vehicle. Therefore, the proposal of the European Commission in its Communication on “A Barrier Free Europe for People with Disabilities” is of crucial importance for the future of people with reduced mobility. Law making of accessibility to all areas of public transport urges (including rail, road, air, inland waterway, and sea and private vehicles).

The introduction in Portugal of the English model of taxis, with low floors and space to accommodate a person in a wheelchair ended in utter failure for many reasons. After this experience any more attempts, nationwide, has been made to ensure the accessibility of taxis, as it is urgent to implement or facilitate the licensing, either by finding suitable models and their maintenance services.

There is a Mini-Bus service provided by Carris (Lisbon's public bus) but the requirements to apply for Mini-Bus and waiting times that users are obliged to, is reaching unsustainable proportions for those who need to resort to this means of transport. There is the need to increase the existing fleet to ensure a substantial increase in transport capacity for people with major mobility difficulties.

Most of the urban buses are equipped with ramps or lifts providing access to people with reduced mobility, including moving in a wheelchair. This was a historic victory for people with disabilities. The older stations of the Metropolitan remain inaccessible. Only 30 from the 55 existing stations are properly equipped. It is necessary to build elevators where they do not yet exist, ensuring continuous operation of the ones already existing.

An important step was taken to provide some trains with platforms that ensure access for people with reduced mobility. Unfortunately they are more expensive and most of the railways continue to segregate people with walking difficulties. Being one of the most rapid transports and less pollute, it should be a priority to ensure accessibility conditions in all existing lines.

4 ::: Resident Permit for Immigrants

In Portugal, many immigrants are deprived of their livelihood and unable to obtain renewal of their residence permit, being then asked to leave the country or exposing themselves to expulsion (<http://www.observatoriodireitoshumanos.net/>).

Although immigrant rights are well framed by the Portuguese law, there are many practical problems that arise which prevent the full realization of these rights, especially due to a lot of bureaucracy and delay of administrative processes.

In December 2012 we have one good example of how the Portuguese system can hinder some processes with devastating consequences for the migrants concerned. Eloi Pereira Gonçalves and Maria Carolina Silva, immigrants with Brazilian nationality with residence in the Portuguese region of Maia, requested in time the renewal of their residence permit at the Foreigners and Border Service Office (SEF). At the time, the applicant found himself working under the authority and direction of others in the construction industry, having made proof thereof at the SEF. However, during administrative proceedings, the applicant ended up unemployed.

In this situation, the applicant went to Social Security Office to apply for unemployment benefits, which he would be entitled to in his situation. However, Social Security has required him his residence permit and refused verbally the possibility of applying for unemployment benefits without it. Now, of course, the applicant could not show his residence permit, since it was in renewal process, taking with him only the provisional receipt issued by SEF, proof of submission of the renewal application.

Consequently, the applicant was deprived of his own means of subsistence, while the SEF eventually rejected their application for renewal of residence permit

and those immigrants eventually have left Portugal, powerless at the situation. Moreover, this situation has been repeated with other immigrants in similar circumstances, who, confronted with the information given to them, don't even apply for unemployment benefits.

5 ::: Freedom of Peaceful Assembly and Association

During the last months in 2013, some of the Portuguese Associations located in the Area of Bairro Alto have been facing some problems with the authority in terms of their closing schedule.

We shall give you one example. Mob Association is an open space to the community. A meeting point of people, music and entertainment, self-organization. It was created by two common initiative groups, Crew Hassan and Precarious Inflexible - Association to Combat Precarious work.

The Crew Hassan was a cooperative that marked the cultural and civic life scene in Lisbon for seven years. Along the Coliseum, there was a ceiling for artists, musicians and a space for exhibitions, meetings, debates, parties and initiatives of numerous different groups. It is in this spirit that the collective Crew Hassan now has a new start as co-founder of Mob. The Precarious Inflexible emerged in 2007, following the MayDay - a protest demonstration from precarious workers in the workers day. Since then, this Association for the combat of precarious work is a fulcrum and a megaphone against increasingly widespread labor abuses. The Precarious have been at the center of moments of social struggle - from "geração à rasca (strugglin generation) and mobilizations in the streets and squares.

The association headquarters is in Bairro Alto, one of the areas in Lisbon most frequented by young people, especially at night, for there is a lot of evening entertainment offered. Like many other associations, Mob runs a space open to its associates with rooms for concerts, expositions, meetings, and other activities promoted by all members. Mob, like other associations in the neighbourhood, does not depend on subsidies and the revenue comes from the bar and concerts.

Lately, since the begging of February 2013, these organizations have had some problems with the police, who expelled everyone from the space at midnight "by orders of the City Council." Normally the space would be open until 3:00 am, which is the legal hour for closure for all other spaces in the area.

A legal expert contacted by the "i" newspaper points out several problems in the decision of the City Council regarding the mandatory closing time. "First, the timetable of an establishment is assigned by licensing and bars, canteens, schools, companies and associations are exempt from licensing, so there can be no impositions of time," he explains. "It's illegal. Furthermore, an association can only be deprived by the will of members."

6 ::: Human rights violation in Prisons

On January 8, 2013, about two dozen relatives of inmates staged a concentration close to Lisbon Prison (EPL) to denounce the use of torture and human rights violations in Portuguese prisons.

It is known that informal punishments are normal practice in prisons, especially in those where inmates are staying. According to António Pedro Dores, PHD Sociology by ISCTE-IUL, "What happens most of the time is that people are confronted with the power of the state in a very explicit and expressed way, and, of course, do not know how to deal with such power, and therefore prefer description and silence as much as possible, trying to avoid the confrontation with something unfamiliar".

S. has a brother in prison. He became aware that his brother was being beaten because he had visited the day before the event and then was informed of what had happened. After that he contacted a human rights organization named ACDE. This NGO made contacts with the media and mobilized them to be outside the EPL when the brother went visiting again next day. When he arrived, prison guards did not want to let him see his inmate brother. Again on the street, he spoke to the media. He said he was not afraid of the consequences because he was going to emigrate the next day. He left Portugal, but kept contact with the NGO reporting about his brothers' situation. NGO reporting about his brother situation.

When asked about the difficulty of reporting these cases, António Pedro Dores explains that "generally, and by obligation, the Ombudsman and the Directorate-General of Prison Services have an obligation to respond to these complaints". Last year ACDE made about two hundred fifty complaints. They were all received and treated by legal authority. The problem is that many times the investigations are poor and it is very common

to report the same case more than one time. Moreover other problems include inadequate facilities, poor health conditions, and violence among inmates. There were high rates of HIV/AIDS and hepatitis C in the country's prisons. The number of prisoners has increased in the last year and we have now 13,500 people in Portuguese prisons, which means that is a problem of overcrowding.

7 ::: Police Violence

Unfortunately, the cases of police violence are still very present in Portugal. Besides some controversial cases exposed by the media, there are many cases who never even become known by the public. This is the case of J., a 40 year old man whose perspective on local authority changed brutally after being a victim of police violence himself.

On a Saturday evening last year J. went to have dinner with some friends and after dinner they went for some drinks in one of the most famous areas from Lisbon's night life: Bairro Alto. Around 4 o'clock everybody decided to go home and all went their separate ways. On his way to take one taxi, J. is approached by two guys that try rob him and steal his mobile phone. J. tries to defend himself and for some brief moments he is in the middle of a fight. Unfortunately, the guys take his mobile and run away. After this situation, J. decides to go to the police in order to report what just happened to him and so he walks to the closest police office in that neighbourhood.

When he arrives to the police office he tries to explain the situation and report what happened. Instead of that, the police officers start asking him questions

as if he was guilty of something when he had just been a victim. To his complete surprise, the policemen start attacking him. After beating him and forcing him to clean the floor with a mop, they arrest him in a chair for 3 hours, before he is finally set free. In the end they do not report his complaint.

After this unbelievable act, and without wallet and telephone J. went directly to a different police office in order to report what happened to him in the other police office. There he was able to call one lawyer friend who advised him to take a picture of his beaten body together with the daily newspaper in order to prove the act. In this second police office he was informed that he was not the first person to complain about the aggressive acts from policeman from that particular office. Finally J. was able to contact his family and went to the hospital for medical care.

Nowadays, J. is one of the many cases in court regarding police aggressions on civilians. Unfortunately, many people don't even get to court because they are not able to pay the lawyer and court expenses J. has already spent trying to bring justice to this case.

8 :: Childrens Rights

The court found a violation of Article 8 in conjunction with Article 14 of the Convention. Following a wide dissemination of this judgment to the relevant authorities and the re-examination of the question of the applicant's parental authority, the Committee of Ministers closed the supervision of the execution of this judgment. In two recent cases, Santos Nunes v. Portugal and Pontes v. Portugal, the court found violations of Article 8. In the first case, the violation was due to a lack of diligence on the part of the authorities, in particular the police, responsible for enforcing the decision awarding the applicant custody of his child, who had been placed in the care of another couple. In the second case, one of the applicants' children had been removed from them and ultimately adopted and their parental authority withdrawn.

The court found that the authorities had not taken measures enabling the applicants to have regular contact with their son and that the decision to place him for adoption was not based on relevant and sufficient reasons (two violations of Article 8). On the other hand, in the case of Assunção Chaves v. Portugal, in which the applicant, a Brazilian national, complained about the placement of his daughter in an institution after her birth in a hospital and the forfeiture of his parental rights, the court did not find a violation of Article 8,⁵¹ but only of his right of access to a court (Article 6, paragraph 1), as the applicant had not been duly informed about his procedural rights.

Considering the timing and the type of cases, it would be premature to draw any far-reaching conclusions on the operation of family courts in Portugal. Therefore, the problem of the functioning of family courts would need to be assessed in this larger context.

9 ::: Labour exploitation

Labour exploitation is a reality in Portugal. With one of the lower minimum wages in Europe, there are still many people working for lower amounts and with no social protection guaranteed.

R. is 22 years old. Originally from one city in the north of Portugal (Amarante), she came to Lisbon to study Sound Design and Music Production. In order to help her parents pay for the studies and her residence in Lisbon, R. started looking for a job in the capital.

R. is in Lisbon since October 2012 and started looking for a job since then. She had to find a job that would be compatible with her classes' timetable. R. had studied graphical design and tried very hard to work in that field. She had many work offers but no one would pay for her work. After some voluntary work, R. decided that she really needed to find one paid job. Finally, in February this year (2013), she found one part time job in one hamburger restaurant in the centre of Lisbon.

R. was happy with the fact that she had found one job and although she was not working as a graphic designer and the payment was not much, she was proud of having her first job and gaining more financial independence. Now R. is working 4 hours 6 days a week from 8pm to midnight. Although this is her schedule, when the restaurant closes at midnight, she still has to stay there in order to clean everything and she rarely gets out before 1am, which means that she works in fact 5 hours.

In the end of February she was paid for the first time and she was confronted for the first time with the real amount she was being paid: 2.40€ per hour. Although she knew this before she accepted the job, she now had the real idea of much hard work she had in the restaurant, plus considering that not paid extra hour for cleaning.

In Portugal there are many people like R. who are working very hard for very little money. Currently, the minimum wage gross net salary is 485 euros. Considering in addition the social tax of 11%, the net salary is 431.65 euros. In January 2013, a petition was drawn in favour of raising the minimum wage as a matter of justice and human rights. In the text, which states that "Portugal has the lowest minimum wage in the Eurozone" reads that the underwriters believe that "raising the minimum wage is a matter of respect," "human rights" and preserving the "dignity". In less than two weeks the petition gathered more than 5000 signatures. Later, it will be forwarded to the Parliament, the social partners and the Government.

10 ::: Domestic Violence

Domestic violence is neither a recent phenomenon nor a problem pertaining exclusively to certain societies or social settings. It is a serious problem that statistically affects more women than men and that, in essence, means a serious and repeated violation of the most fundamental human rights, through the exercise of the arbitrary power of the stronger upon the weaker. In Portugal, the average age of the victims of domestic violence is estimated to be between 26 and 45 years old, 90, 6% women and 9% men. Just in 2012. The perpetrator, mostly male, is in average between 36 and 45 years old and is, usually, the spouse/partner of the victim. In about 64% of the cases, the violence occurs in a continuous manner and indoors.¹

In 2012, 17.000 domestic violence crimes were registered, some of them ending in the death of the victim. We bring to this report the case of a woman supported by the Portuguese Institution “Casa Abrigo”, who decided to speak out in the name of many other women.

In one particular interview A. describes some of the violent acts she suffered by the hands of her husband during 10 consecutive years: “ he would drag me out of bed, beat me, he would kick me, pull my hair, throw me against furniture, against paintings, throw me on the floor, choke me...every single week.” She continues her report saying: “they say they love us, they adore us and we have to believe that violence is part of the love. This then becomes a vicious cycle and it’s automatic. For them it becomes normal, it’s like eating or sleeping. There were some times when I would suffer aggressions in the morning, the police would come and, in a few hours, the police would come back because he would hit me again. This was a great suffering for me, for the children, for my little baby at the time. Besides being victims as well, many times when the dad would be aggressive against me, I would see anguish and despair in their faces.

The Portuguese Penal Code foresees and punishes the crimes of domestic violence (Article 152. Portuguese Penal Code - Law no. ° 59/2007).

Domestic violence assumes the nature of a public crime, which means that the prosecution is not dependent upon complaint by the victim, just a complaint or knowledge of the crime. (still have to talk about the decreasing of cases and more support measures).

¹ ::: Source – Assembly of the Republic (Parliament) – End domestic violence - <http://app.parlamento.pt/violenciadomestica/conteudo/seccao-dadosestatisticos.html>

CHAPTER 3

Links and References

The Portuguese Constitutional Law:

<http://www.helplinelaw.com/law/portugal/constitution/constitution02.php>

Organizations and Institutions responsible for the regulation of fundamental rights in Portugal:

Citizens and Family

This site has legal and practical information about your rights and obligations regarding births, deaths, nationality, marriage, divorce, income support, adoption and disabilities. Check out the useful contacts.

<http://www.portaldocidadao.pt/PORTAL/pt/cidadao/eu+e/familia>

Families', Children's and Young People's Social Protection

Information about families', children's and young people's social protection: income support, subsidiary assistance, child benefits and more.

<http://www.portaldocidadao.pt/PORTAL/pt/cidadao/eu+e/familia>

Family mediation

This site on family mediation gives information on counselling for topics concerning marriage, divorce and children.

<http://www.portaldocidadao.pt/PORTAL/pt/cidadao/eu+e/familia>

Guide on family legislation

At this site, you will find links to information on family laws. Check the links covering topics on the family, marriage, divorce, parents, adoption, etc.

http://www.paisparasempre.eu/leis/fd_unl_dfamilia.htm

Portuguese Family Planning Association

Looking for information on sexuality or family planning? This association offers you support counselling, general information and publications on sex education, family planning, teen pregnancy and motherhood and much more. Be informed!

<http://www.apf.pt>

Foreigners and frontier services

Instructions and legislation regarding immigration. Information about visas, entry and permanent residency in Portugal. A useful site, especially for those from non-EU countries. English version available soon.

<http://www.sef.pt>

Health guide for immigrants

Information for immigrants on health issues: obligations and rights, emergencies, disease prevention and more.

<http://www.oi.acidi.gov.pt/docs/rm/Brochuras/saude.pdf>

High Commissioner for Immigration and Intercultural Dialogue

Official site of the High Commissioner for Immigration and Intercultural Dialogue. Access information on immigration policies and legislation, integration and contacts of interest to immigrants.

<http://www.acidi.gov.pt>

Immigration Observatory

On this broad-ranging site about immigration in Portugal, you can access publications, statistics, research and a resource guide with useful contacts to immigrant associations, documentation centres, embassies and much more. Don't forget to read the relevant news and check the useful links.

<http://www.oi.acidi.gov.pt/>

Commission for Citizenship and Equality of Gender

A public service for citizenship and equality of gender. See the services available: library, publications and counselling. Read about the news and check the useful links.

<http://www.oi.acidi.gov.pt/>

Commission for Equality in Labour and Employment

This organisation fights discrimination and promotes equal opportunity and treatment for women and men in the work force. Find out more about their activities, campaigns and publications.

<http://www.cite.gov.pt>

Foundation Pro Dignitate

This Foundation fights for human rights, namely, freedom of opinion and expression and the establishment of democracy in Portugal. See the actions taken and check the contact for further information.

<http://www.prodignitate.pt/>

International Lesbian and Gay Association

National association dedicated to achieving equal rights for lesbians, gay men, bisexuals and transgendered people. Read more about the current programmes, online counselling service and links.

<http://www.portaldocidadao.pt/PORTAL/pt/cidadao/eu+e/familia>

National Secretariat for the Rehabilitation and Integration of People with Disabilities

This organisation promotes equal opportunities for disabled people, ensuring them full access to information. Check out the Institutions and Programmes Guide for People with Disabilities with useful contacts all over the country.

<http://www.inr.pt>

Portal for People with Disabilities

This portal was created to celebrate the European Year of People with Disabilities was created the Portal for People with Disability. It has information about legislation and rights, training, employment, technical aid, health and more.

<http://www.pcd.pt>

Portuguese Association for Victim Support (APAV)

A non-profit, charitable organisation that provides confidential and free services and social support to victims of crime at a national level. Why not join the team and become a volunteer providing assistance and personal support to victims of crime? Don't miss the useful information.

<http://www.apav.pt>

Portuguese Association of Women's Studies

This non-profit association aims to support, promote and stimulate women's studies in all areas of knowledge. See more about the activities, publications, studies and events on the site.

<http://www.apem-estudos.org/>

Portuguese Refugees Council

Find publications, legislation, news and general information concerning refugees' issues. See how you can contribute.

<http://www.cpr.pt/index3.html>

Refugees Welcome and Information Guide

This guide provides general and specific information on: accommodation, health, employment and training, education. See also the useful bibliography about refugees support.

<http://www.apem-estudos.org/>

United Nations High Commissioner for Refugees

General information about the organisation's activities and about refugees. Check the daily news, newsletters and publications, and find out how you can help the refugees.

<http://www.cidadevirtual.pt/acnur/welcome.htm>

Amnesty International

Amnesty works to protect human rights worldwide. Read about its human rights mandate, the news on actions and campaigns, country and thematic reports and useful links. Act now!

<http://www.amnistia-internacional.pt/index.php>

Documentation on human rights

List of international texts and general documentation on human rights.

<http://www.gddc.pt/direitos-humanos/index-dh.html>

Education for human rights

Read the documentation, download the publications, try the useful sites and contacts for the human rights sector.

<http://sitio.dgfdc.min-edu.pt/cidadania/Paginas/default.aspx>

DECO- Portuguese Consumers' Association

This association works to inform, defend and represent Portuguese consumers. Find valuable information about consumers' rights in general. Some of the information is only for members.

<http://www.deco.proteste.pt/>

European Consumers' Centre

This Centre gives information about consumer affairs and mediates transnational conflicts within the EU. Check your rights as a consumer for tourism, warranties, shopping, the Euro, food, etc.

<http://cec.consumidor.pt/>

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CHAPTER 1

Introduction

According to human rights experts¹, the situation of human rights in Estonia is relatively good, especially in the context of post-communist states. The protection of political rights, elementary personal rights and freedoms, including freedom of speech, are taken for granted. Reporters without Borders' index for freedom of expression places Estonia on the third place in the world, behind Finland and Norway. Estonia has joined international treaties protecting human rights and became since 2013 a member of UN Human Rights Council. The rights of Estonian citizens are protected by the Constitution of the Republic of Estonia and the EU Charter of Fundamental Rights. In recent years, various developments in legislation have taken place to ensure better protection of fundamental rights. The most important developments are outlined below.

In 2011, the draft act criminalising human trafficking was drawn up. This was a huge step forward regarding helping the victims of human trafficking and in providing the victims a legislative protection; particularly because the necessary elements of an offence of human trafficking no longer require proof of the lack of will or intent on the part of the victims. In addition, the amendment to the Penal Code will facilitate gathering statistics about human trafficking. Also, significant change occurred in the field of surveillance activities. A new regulation significantly amending the current rules was adopted, as it was decided that the regulation had not been in consistence with the Constitution. In addition to the amendments that have already been initiated, it was found as a result of the analysis of the Data Protection Inspectorate that the act needs specifying and that the Data Protection Inspectorate's independence

needs a more firm basis.²

The Chancellor of Justice of Estonia has stated that the high level of state fees is a hindrance to access to justice in Estonia. The size of state fees and/or the limitation to aid for court proceedings are in contradiction of the Constitution. Also a long term problem in Estonia has proved to be the unreasonably lengthy court proceedings. Several amendments to acts of law were adopted in 2011 to combat this problem.³

Estonia still does not have a National Human Rights Institution that meets the Paris Principles of UN.⁴ While there are no reports of widespread human rights abuses, there continue to be reports of trafficking, primarily of women for sexual exploitation and men and women for forced labor elsewhere in the EU. Conditions in some detention centers remain poor, and lengthy pretrial detention continue to be a problem. Only slow progress has been made in naturalizing Estonia's large population of stateless persons. There have been allegations that police used excessive force during the

1 ::: Iivi Anna Masso, Member of the supervisory board of Estonian Human Rights Centre. Pages 5-6, http://humanrights.ee/wp-content/uploads/2011/09/ElKaruanne2011.eng_.pdf

2 ::: Ibid

3 ::: <http://humanrights.ee/en/activities/annual-human-rights-report/human-rights-in-estonia-2011/>

4 ::: <http://www.eihr.ee/eesti-inimoiguste-aruanne-2012/>

5 ::: Country reports on human rights practices for 2011. United States Department of State.

arrest of suspects. Societal problems included domestic violence and discrimination against women in the workplace. The government took steps to punish officials who committed abuses, and there were no reports of impunity.⁵

According to experts, the most vulnerable groups in Estonia are families with many children, children, long term unemployed people, women, older people and family members of people with disabilities⁶.

A big problem related to fundamental rights in Estonia is low awareness of human rights. Almost a third of Estonians do not know what human rights are, shows Estonian Human Rights Report for 2012, from the Institute of Human Rights. 30% of the respondents said that the term “human rights” means nothing to them. The rights that are best known include the right to life (92%), followed by the rights to education (87%) and equality before the law (86%). At the same time, the awareness of ethnic Estonians is considerably higher than that of non-Estonians⁷. According to the Institute of Human Rights, the low level of awareness alludes to the fact that people often do not know how to identify violations in human rights and therefore to stand up for their rights. People also do not know how to differentiate human rights violations from other social problems.

The majority of the Estonian population believes that there are no violations of human rights in Estonia, the survey confirms. 54% of the Estonian population believes that everything related to human rights is in good order in the country, but 29% believe that this is not true. 17% did not know how to answer the questions. Unfortunately, a large portion of those who think that everything is not fine with human rights in Estonia, do not know what human rights are, for example they consider their difficult economic situation to be a violation of human rights (23% of respondents). Some of the local non-Estonian-speaking population also considers the requirement for Estonian language

proficiency to be a violation of their human rights, along with the requirement that 60% of the curricula in upper secondary schools be taught in Estonian.

According to the residents of Estonia, the main human rights problems are related to the issue of women’s rights, i.e. the pay gap (8%) and inequality (8%). A relatively small portion of the population identify problems with the freedom of speech (5%), adherence to the laws and unjust punishment (5%), as well as discrimination in the workplace (5%), lack of citizenship and the lack of the possibility to vote (5%), children’s rights (3%), age-related discrimination (3%), poor treatment of disabled people (2%).⁸

When asked to indicate their main expectations of the European Union, Estonians have relatively high expectations regarding citizenship – 25% of Estonians mentioned it, ranking at the top together with Sweden (29%) and Austria (28%). When asked about the positive impacts of EU, 49% of respondents in Estonia mentioned the reduced border controls, 32% of Estonians mentioned the euro and 28% mentioned improved consumers’ rights, 27% mentioned less expensive communications costs and 18% strengthened rights of air transport passengers. Living and working in another EU country was mentioned by 17% of respondents, receiving medical assistance by 11% and studying by 10% only⁹

Sense of being a EU citizen is quite strong in Estonia - 67% of Estonians feel they are a citizen of the EU, which is above EU average. At the same time, Europeans who are attached to the European Union are in minority and Estonians’ attachment is slightly below average with 43% of respondents saying they feel attached to the EU (EU average is 46%).¹⁰

6 ::: Ibid

7 ::: <http://www.eihr.ee/en/survey-estonian-people-do-not-differentiate-between-human-rights-and-everyday-worries/>

8 ::: <http://www.eihr.ee/eesti-inimoiguste-aruanne-2012/>

9 ::: http://ec.europa.eu/public_opinion/archives/eb/eb77/eb77_citizen_en.pdf

10 ::: Ibid

CHAPTER 2

Study Cases

1 :: Discrimination of Gay Couples

A same-sex family, two women with 3 children living in Viimsi (local authority near Tallinn), was refused social benefits payable to resident-families of the municipality because they did not correspond to the traditional opposite-sex couples. The municipality refused to pay the benefits the couple was entitled to for the children's school meals and transport to school. The reason given by the municipality was that two same-sex persons living together do not constitute a family.

The case was then referred to the Chancellor of Justice. The Chancellor found the initial refusal to provide social benefits to be void. The Viimsi municipality accepted the opinion but went on to amend the decree so as to exclude same-sex cohabiting partnerships and rejected the couple's second application as well. The applicants turned to the court. The local municipality lost in the first instance and appealed. As of June 15 2012, the local municipality also lost the appeal and has no further plans to appeal. The municipality now pays the couple the benefits the children are entitled to.

So far, this is the only case that has reached court in Estonia concerning sexual orientation discrimination. While this was a success for this specific family, because of the legal system in Estonia (judgments are only directly valid for the parties of the case) this will not automatically guarantee all unmarried same-sex couples the same rights. As the Viimsi case shows, entitlement

to benefits currently differs for unmarried same-sex couples from unmarried opposite-sex couples. This specific case concerned the denial of benefits for the children of same-sex couples, discriminating against children of same-sex parents by not extending benefits given to children of unmarried opposite-sex couples.

According to Estonian gender equality commissioner Mari Liis Sepper, the discrimination ban in equal treatment law should be widened, because right now this law protects people with disabilities, different sexual orientation or elderly only in terms of employment.

The law should add protection regarding access to goods and services, especially public services like public transport and special needs services. Also, people with different sexual orientation have problems when renting apartments, getting child support or parental leave. At the moment, the only way to solve those problems is to go into court, whereas this is not an easy choice for many people.

2 ::: Discrimination of Roma children

Estonia is one of the few European Union member states whose education system includes publicly financed schools that provide an education in languages other than the official state language. About 20% of all schoolchildren in Estonia attend Russian-language basic and secondary schools between the ages of 7 and 19. All students who complete a Russian-language basic school and choose to go on to secondary school will, from that point on, receive 60% of their teaching in Estonian and 40% in Russian.

Two Roma children, who had previously studied in a Russian language school, started studying at an Estonian language school. They started studying in 3rd grade there. They faced several problems. At the beginning of the school year, other schoolchildren were calling them dirty and thieves. These incidents became less frequent with the teacher's intervention.

In the middle of the school year it became evident that the study results of the children are below average and they had often not done the assigned homework. Although their teacher had uploaded their homework in e-school (e-school is the Estonian online education network that connects students and educators and parents, helping parents to get information about the child's studying process online), it seemed that parents were not checking the completion of their children's homework.

Teachers discussed the lack of completion of homework amongst themselves. The teacher of 1st grade suggested the teacher of the 3rd grade to double check that the students write down their homework assignments in their diaries. Alternatively, she suggested that the teacher could write in e-school the homework assignments in Russian language, because the parents of the Roma students understand Russian better.

However, the teacher of 3rd grade responded that her workload was huge anyway and this prevented her to take additional administrative responsibilities and practice such an individual approach. In addition, she remarked that the parents of the Roma children had not raised any issues at the parent's meetings, but had been silent instead.

The Roma community, despite its small size, faces important problems, particularly concerning socio-economic marginalization. Education has been pointed out by the UN Special Rapporteur on Racism as one of the key obstacles for the integration of Roma in the Estonian society. Roma children suffer from much higher dropout and drastically lower educational achievement rates, which directly affect their ability to enter the labour market.¹¹

3 ::: Freedom of Peaceful Assembly and Association

Freedom of assembly is guaranteed according to § 47 of the Constitution. More specific regulation is provided by the Avaliku koosoleku seadus [Public Assembly Act], which sets out possible restrictions for freedom of assembly. There are no rules which would discriminate on the grounds of sexual orientation in the Act, therefore, any discrimination that may occur is a question of the application and interpretation, rather than the text, of the law.

11 ::: <http://www.crin.org/resources/infodetail.asp?ID=30717>

There has been constant public debate surrounding the yearly LGBT Pride parade that has taken place in Tallinn since 2004. During the 2006 parade counter-demonstrators attacked parade participants the police were accused of not providing sufficient protection. This also prompted Amnesty International to issue a statement calling for better protection for the freedom of assembly. In 2007, parade organizers issued a public statement that parade organization 'has turned out to be more complicated than in previous years' and accused the public authorities of a lack of cooperation. The organizers also submitted a complaint to the Chancellor of Justice's office. The Chancellor concluded that although the requirement by the Northern Police Prefecture to parade organizers to use a private security firm to guarantee participants' safety is in itself legal, the refusal of the organizers to fulfill the requirement cannot be a ground for refusing to allow the parade to take place. It also established that the Northern Police Prefecture had not followed standards of good governance by not fully cooperating with the parade organizers, as well as not correctly responding to their initial e-mails.

In conclusion, as pointed out by the Chancellor of Justice in his analysis of the Police Prefecture's actions, although the authorities seem to be well aware of their negative obligations not to disturb the parade, they are not so much aware of the positive obligation to provide an environment where freedom of assembly and related rights can be enjoyed (for example, by protecting protesters from counter-protesters).

4 ::: Sexual discrimination

The Labour Dispute Committee of Estonia made its first decision in a harassment case on 3 March 2011. The employer had taunted and mocked the female employees and didn't value their family lives and them raising children. The employer also physically assaulted a female employee and shook her with anger. If he employer was in a good mood, he pinched and hugged the female employees. The Labour Dispute Committee found that the employer had sexually harassed the employee, demanded him to stop the harassment, and awarded 2000 euros in damages in favour of the applicant.¹²

European Agency for Safety and Health at Work published a report in February of 2011, which stated that 5–20% of European employees have experienced violence and harassment at workplace. The same report also states that just 8% of Estonian employers see a problem with violence and threat of violence; the EU average is 37%. There is an even greater difference in the opinion of the employees. Just 5% of representatives of employees in Estonia see a problem with violence, while 53% of employees in European Union consider it a problem. The difference there is more than a tenfold. The same survey states discrimination as one of top concerns among factors causing psychosocial risks for just 2% of representatives of Estonian employees, while an average of 11% of EU employee representatives consider it a concern.

12 ::: <http://humanrights.ee/en/activities/annual-human-rights-report/human-rights-in-estonia-2011/>

5 ::: Children's Rights

Monika (30) was living in Italy with her daughter and Italian husband. The husband was becoming increasingly abusive and in March 2012 Monika escaped to Estonia together with her daughter. On the 5th day of her return to Estonia she filed in Tartu Municipal Court to take away the custody of the child from her husband. The husband turned to police in Italy and Monika was accused of child abduction. The husband turned to court in Italy to take away custody of the child from Monika. He also turned to court in Estonia with the request to return the child to Italy. He based his claim on the Hague child abduction convention.

Monika collected evidence that the child is safe in Estonia, they have their own house and stable income, friends and family, kindergarden space, doctors, etc. She submitted the opinions of several experts, her physical therapist, and the social worker of the county stating that taking the child to Italy would be a traumatic experience. The same opinion was voiced by the child psychiatrist who was appointed by the court.

In October 2012, Tartu County Court decided to send the child back to Italy reasoning that the child has spent most of her life there and sending her back would not cause unusual trauma. Even if the environment is safe for the child in Estonia, the court did not take it into account because the child had been brought to Estonia illegally. The court cited the judgement of the Supreme Court of Estonia from 2006 which says that if a child has been taken illegally, then the child should not be returned only in special cases, e.g. if the return would harm the wellbeing of the child seriously. According to lawyers Tarmo Pilv and Häli Jürimäe, this Supreme Court judgement is outdated, because European Human Rights Court has radically changed the returning of the child practice. In new judgements it is stressed that the interests of the child are primary and in case of a

small child the relationship with mother is of primary importance. The familiar environment of the child is not necessarily the country where the child has spent more time. In case of infants, the mother's reasons for moving to another EU country and the social and family relationships of the mother and child in this country have to be taken into account. According to Pilv, the Estonian courts did not take into account European Human Rights Court decisions and did not check the circumstances mentioned in them, but instead interpreted the Hague convention in a mechanical way. According to Monika herself, she should have gone to a women center in Italy instead of coming to Estonia and turned to court in Italy. However, she would not have had enough money to hire a lawyer in Italy. She saw herself as a citizen of Estonia and permanent resident of Estonia, so she thought that she can go to court in Estonia¹³.

13 :::Source: <http://www.ekspress.ee/news/paevauudised/eestiudised/kuidas-voib-kohus-nii-julm-olla.d?id=63824448>

6 :: Unjust Detention

3 severely malnourished Somalian girls, aged 17-19, were detained at Tallinn airport in September 2011 because they were travelling with forged documents. The girls came from Russia together with an accompanying adult and they were going to travel to Sweden. They admitted that they had only become acquainted with each other in the plane, whereas the adult accompanying them had known each one of them separately.

Both the police and border authorities decided that the girls should be placed at Harku Expulsion Centre. The girls were having severe health problems. They were neither offered legal aid nor Somalian language translator, although their English speaking skills were very poor. One of the girls was a minor, but she was treated as an adult until the expertise concluded that she was not an adult. According to Estonian Human Rights Centre legal expert Anne Veerpalu, in other European countries in case of a doubt the person is treated as a minor until proved otherwise by the expertise. The girls remained in the expulsion centre until spring. By that time Estonian Human Rights Centre had successfully applied for legal aid for them from the state. They finally also were granted residence permits. After their release from the expulsion centre, the minor was placed in a children's home and the other two women were sent to a women shelter. However, the women left to Sweden from there.¹⁴

According to Estonian Human Rights Centre legal experts, the girls were human trafficking victims and should not have been kept at the expulsion centre. When expulsion proceedings about the asylum applicant have been terminated and the asylum proceedings have been initiated, it means that her detention for the purpose of expulsion is not justified, as an applicant in asylum proceedings cannot be expelled from the state. In actuality it is not clearly known how long the asylum

proceedings of a person may take and therefore the length of her detention is also not known. The situation where the asylum seeker does not know the length of his detention is not permissible, neither is it proportional according to the experts of Estonian Human Rights Centre. Estonian Human Rights Centre will continue to request that the court move the asylum seekers to Illuka Reception Centre or some other appropriate accommodation (for example that minors without accompanying adults are moved to appropriate welfare institutions) until the end of asylum proceedings, which may take years in some instances.¹⁵

14 :: <http://www.epl.ee/news/eesti/taismahus-eesti-riik-pidas-somaaliast-parit-saatjata-last-kurjategijaks.d?id=64624838>

15 :: <http://humanrights.ee/en/activities/annual-human-rights-report/human-rights-in-estonia-2011/>

7 ::: Gender discrimination and pay gap

Pille, a mother of 3 children, worked as a legal advisor in the legal department of Estonian Ministry of Defence. She had 2 male colleagues who worked at identical positions and they all had the same job descriptions and similar tasks. Once, when substituting for her supervisor and handling personnel documents, she noticed that she was earning about 65 euros less per month than her male colleagues. Pille had worked in the ministry for 13 years and she had a university degree, whereas the male colleagues were still university students who had worked in the ministry for 2 and 3 years.

Pille was initially certain that it was simply a mistake and referred the case to the human resources department. To her surprise, she was explained that everything was fine, since she received an extra bonus for being a long-term employee, so her total salary exceeded that of the two male colleagues. After talking to her direct supervisor who also did not take any action to change her salary, Pille reported the case to the gender equality commissioner of Estonia. The commissioner confirmed that this was gender discrimination and started an investigation, which lasted for 1 year. She confirmed that Pille was paid less even though her qualifications were higher and the male colleagues did not actually even meet the formal criteria for their positions. The gender equality commissioner also discovered that there were more people with similar cases working in the ministry. After the commissioner finished the investigation in favour of Pille, she submitted her decision and a request to compensate her salary difference to the ministry. After 2 months the human resources department contacted her and offered to pay the compensation on the condition that she signs a confidential compromise agreement. She agreed and received her compensation. However, the next day after signing the agreement the ministry announced 17 job cuts, including the entire legal department where Pille worked. Although she was

fighting for her rights and won, she lost her job.

The pay gap between men and women in Estonia is the greatest among the EU Member States – 31%, while the EU average is 17.5%. At-risk-of-poverty rate of Estonian women is 41.3%, while the EU average is 20.1%. This figure for Estonian men is 18.9%, while the EU average is 14.9%. This statistical data clearly points to inequality in the society, which results in lower pay and a greater risk of poverty for women.¹⁶

8 ::: Racial discrimination

Abdul Turay is a British citizen. He has studied history in University of North London, State University of New York College at Cortland and Tampere University. He has worked as a reporter in Hongkong, Taiwan and UK, working for the British government among other posts.

In the past few years he travelled frequently back and forth between the UK and Estonia to visit his girlfriend in Estonia. Most times he had problems with Estonian border authorities. Every time he had to go through extra lengthy border checks and he was searched extremely thoroughly.

Once he tried to enter the country from Helsinki. At the port, the border control officer did not believe that he is a British citizen and suspected that his passport was

¹⁶ :::<http://humanrights.ee/en/activities/annual-human-rights-report/human-rights-in-estonia-2011/>

forged. The reason he did not believe him seemed to be because he is black. An employee of British Embassy, Siomen Chen came to meet him at the order and assured to the border guard that although they had only just met with Mr. Turay, he can confirm that he truly is a British citizen. However, as Mr. Chen was Chinese, the border guard suspected that he was just a random Chinese person trying to help out his friend. Mr. Turay was not let into the country and he had to return to Helsinki. Statistically it is actually more probable that a black person comes from the UK than from Africa, because in 2011 the number of British tourists who visited Estonia was 31 290, whereas 1028 tourists came from Africa.

9 ::: Inviolability of family life

Lisette Kampus (29) and her same-sex partner wanted to buy a family ticket for the science centre Ahhaa located in Tartu, the 2nd largest city in Estonia. The centre refused to sell them the family ticket which gives a discount compared to buying 2 regular tickets. The person at the counter decided that two women do not constitute a family.

This story indicates a wider problem with Estonian law. Estonian laws do not state clearly what is a family and that allows different interpretations. The current family law states who can marry, but does not define the term „family“. According to Estonian gender equality commissioner Mari-Liis Sepper, even though same-sex partners do not have the right to marry in Estonia, it does not mean that according to the law family is limited to heterosexual couples and their descendants only. Paragraph 26 of the constitution states that „Everyone has the right to the inviolability of private and family life.“ Everyone means that there can be no discrimination based on sexual orientation here.

The case received a lot of media attention. Estonian daily newspaper which published the case interviewed other museums and entertainment centres asking whether they also have a similar restriction. Most of them assured that they did not. Following the media attention to the case, the science centre changed their ticket policy and now same-sex couples are able to buy family tickets. A youth worker from Tartu Lille Youth Centre, Heidi-Maarja Melts, explained that the youngsters that she works with are more and more tolerant and in general more open to accept the different versions of a family than the older generation. Marianne Meiorg from Estonian Human Rights Centre also said that the changes in the society are evident. „In this case the media attention and comments have been mostly positive,“ she said. „3-4 years ago this case would not have even received media attention or the story would have been more sarcastic.“

The UN Human Rights Committee has expressed concern over Estonia not recognizing the same-sex couples partnership which has been registered in another country.²⁰

17 ::: <http://www.epl.ee/news/eesti/perekonda-defineeritakse-omasuva-jargi.d?id=64769254>

10 ::: Single parents

Mrs. X is divorced and has a child. The child's father refuses to support the child financially. The court has decided that the father should pay child maintenance to the mother, which he refuses to do. Court proceedings and implementing the decision have taken in total more than 10 years. During that time the state has been unable to make the child's father pay.

Mrs. X has now complained to the European Human Rights Court that her human rights have been violated because of too lengthy court and enforcement proceedings. European Human Rights court has previously decided that state has to guarantee that the enforcement proceedings are finished during a sensible time and that court decisions are enforced. If that is not done, it is a violation of fundamental rights.

In Estonia there are currently 12 000 unfinished enforcement proceedings regarding child allowances. Right now the bailiffs are able to solve just about 550 cases per year. The statistics of recent years shows that if in 2006 Estonian parents owed in total less than 1 million euros to their children, then now the total amount is more than 11 million euros. Compared to the current number of 12 000 unfinished proceedings, there were 1000 unfinished proceedings in 2006. This shows that even though people turn more and more towards the courts, single parents are not benefiting from it.

European Human Rights Court states that in order to keep the trust towards the court system, enforcement proceedings need to be proportional, fair and effective. For example, in the case of child maintenance, monitoring and arresting the property of the debtor ¹⁸.

18 ::: Based on the newspaper article: <http://epl.delfi.ee/news/eesti/inimoiguste-kohus-uurib-miks-eesis-laste-elatise-kuidagi-katte-ei-saada.d?id=67469926>

CHAPTER 3

Links and References

www.Humanrights.ee

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www.maailmakool.ee

Materials for teachers, including materials on various human rights and protection of human rights

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CHAPTER 1

Introduction

In Italy, Eurostat's data have demonstrated that there is a high level of disaffection with "Europe". Relying to our resources and abilities, we have tried to thoroughly study this phenomenon. The starting point is our personal experience, ours and of the young people involved in this project. Results must be considered for what they actually are and testimonies are useful to let us get deeply in this analysis.

First of all, it seems clear that crisis has been an important element in the process of disaffection with Europe. The word "crisis" sums up different types of crisis: Eco-systemic, financial, economic and political. Each one of these aspects has its sectoral and territorial's declination, which cannot be extended globally. For example, in the BRICS states a social redistribution of the wealth, a widening of consumptions and a consolidation of the basics of welfare are primary objectives, maybe because of the spread of the conflicts of living labor. Instead, in the Euro-zone and in the south of Europe we can assist to a deeper crisis due to austerity, markets instability (consubstantial with the revival of financial speculation), mass impoverishment and recession: the "black Monday" of Cipro is just one of the examples that support this thesis. Since 2008, Italian citizens found themselves forced to deal with a significant deterioration of their material condition. The most affected by this situation are definitely young people, students, aware of their precarious future and conscious of the futility of their education. They are indeed experimenting on their skin the disproportion between their skills, their training and the tasks they are to perform when

they jump from one job to another. Thousands of students demonstrating against school and university's disqualification, frequents suicides of unemployed and evicted, but also of entrepreneurs and VAT numbers were a constant during last year. Many people facing these difficult conditions, hoped for a help or just a better crisis management from European institutions, but have been disappointed. All the answers to the crisis followed the policy of austerity and of "one way" cuts, which brought only a worsening of living conditions of the multitude and didn't focused on the very causes of the crisis. In this regard, it is sufficient to check last European Council's summits, mostly the one held last December: "Towards a Genuine Economic and Monetary Union" is a very instructive document. The main point is about how to consolidate "Six Pack", TSG and "Two Pack" agreements, which in the last two years have progressively cut the sovereignty of individual states in budgetary matters, fiscals polices and public debt management. The aim, is to base a genuine Economic and Monetary Union on the principles of "stability and integrity", even with the direct intervention of the Central Bank (for the recapitalization of individual banking-houses in crisis). The goal is to "fulfill a Central Market as a powerful mean devoted to promotion and development" and to make this European central market "competitive on a global network". However, the only suggestion given to achieve this objective, is to cut down costs of financial expenditure, starting from the unproductive welfare, through a disciplinary labor government: this dismantling of "structural rigidities" advocated as "promotion of transnational mobility" could be easily seen as a casualization. What's more, Italian citizens are concerned with the imposition character of this approach. After four years of crisis (and particularly after the last two years), the nature itself of the material constitution of Europe resultes intrinsically modified, defining a major concentration of powers and emptying the parliamentary assembly of its residual authority.

It seems that the “Troika” has simply assumed the role of new epicenter of political decisions. If we consider the Treaties (from those of Rome-1957 to those of Lisbon-2007), we can see how the financial and economic policies of the UE are ruled by a constant triangulation among the Committee (whose members are named by the individual states), the European Council (the Summit of Heads of Government of the Member States) and the European Central Bank. Apparently, these are the “institutions” with whom Member States have to reach a progressive “convergence” based on “contractual relations”, while any other kind of institution seems to be deprived of its powers. We do not need bother Hobbes and sixteenth century’s jusnaturalism with it’s difference between “contract” and “pact” to understand that it’s the material content of this contractual accommodation that alienates citizens from the Union. Sure enough, when the financial and economic policies of the individual states have been put through by the European “review”, the Council has defined the “country-specific’s recommendations” minutely expressed as a “plan for reforms”, it is Committee’s turn to “inform national’s parliaments about the need to effect these reforms in an Economical and Financial Union perspective”. Clearly the problem is that the individual States’ parliaments are informed after political decisions have been already taken; so how can a single citizen be involved in these processes? How is it possible to convey a sense of inclusion and of sharing between common people?

In any case, there are just few youngsters that depict themselves as decidedly anti-Europeans. With regard to our lives, we are indeed an European generation. Studying, vacation, work or friendship: our geographical relations link Members States from north to south, east to west. Union’s borders are continually exceeded and even North Africa, after it’s “springs”, is considered part of Europe. Many european boys and girls recognize as similar peers from the other shore of the Mediterranean. From this point of view, the “Fundamental Rights” are seen as an extraordinary connection between people moving through European States: they represent additional rights building a mobile citizenship as we are, that has once been defined as “liquid”. However, there is still a long way to go before every European citizen is aware of these additional rights. Many Italian laws, indeed, do not take into sufficient consideration the European strategy: in some cases, we even seem to go in an opposite direction, when compared to the one adopted by the UE.

To conclude, we are now proposing ten testimonies about the difficulties our peers found when dealing with the actualization of these rights and about the differences between our national legislation and the European one.

CHAPTER 2

Study Cases

1 :: Gay, lesbian, bisexual, and transgender people's rights.

Italian authorities have not filled the gap of the country's legislation against crimes linked to sexual and gender discrimination, even though the article 21 of the Charter of Fundamental Rights of the European Union unequivocally states the principle of non discrimination with particular reference to "sexual tendencies". As a result, the victims of crimes based on sexual orientation, identity, and gender expression have not had the same legal protection, which is granted to victims of crimes based on other kinds of discrimination (as the 2012 annual report of Amnesty International testifies). In 2009 and in 2011 as well, the Italian parliament, thanks to PDL, Lega Nord and UDC votes, rejected law proposals which envisaged the crime of homophobia and the aggravating circumstance of aggression for sexual reasons (<http://www.camera.it/126?tab=2&leg=16&idDocumento=1658&sede=&tipo;>); yet, these law proposals were following a path suggested by the European Union itself, in reference to the Lisbon Treaty of 2008.

In the meanwhile, from the North to the South of Italy, chronicles have reported an increased number of violence with homophobic motive. The absurd is that it is not possible to have a precise count of these episodes, exactly because the country's legislation does not envision and regulate this specific kind of crime, as other European states do, such as Denmark, France, Norway, The Netherlands, and Sweden. According to the Gay Help Line (800713713), only 2 out of 10 aggressions are reported. The fact that these violences are not

isolated episodes, and rather the products of a vast area of social disadvantage, seems confirmed by an ISTAT poll, compiled as an assignment of the Ministry of Equal Opportunities. The poll is titled "Homosexual population of Italian society" and shows that the 53,7% of homosexual/bisexual Italians have declared being victim of sexual-orientation discrimination, in different sectors and environments: 24 % refer to school and university, 22,1% to job place; 10,2% have had problem in the research of a house, 14,3% in the relationships to the neighborhood, 10,2% in the access to public health services, or in public spaces and offices, and in public transportation (<http://www.istat.it/it/archivio/62168>). Particularly serious are, in this respect, the 585 pages of the booklet of The School of field marshals and sergeants of Carabinieri, where homosexuality is described as one of the "main sexual degenerations" together with "exhibitionism, fetishism, sadism, masochism, incest, necrophilia, bestiality (or zoophilia)" (<http://www.fanpage.it/l-omosessualita-e-una-degenerazione-sessuale- secondo-il-manuale-dei-carabinieri/#ixzz2MCflkuZu>).

Here is the testimony of Stefania – the name is invented – a transgender girl of Croatian origins, who was sunbathing on a free beach. "I was flat on my back reading a book. At a certain point, without any reason, four guys in their twenties came over at me." They insulted and humiliated her publicly, using expressions such as "you sucks, we kill transgender people," and to scare her they menaced Stefania with some rackets, up to the point of hitting her. In that moment – it was about 2 pm – that part of the beach was not hugely frequented, and in the area there were not other people. "I was shocked by these guy's calm, really astounding. They came to me coldly, just to intimidate and insult me. They also wanted to know if I was a foreigner." From that day on, a real persecution started. On the following day, while going out from her house, Stefania noticed that her car had been damaged: the rear-view mirror was broken. "A clear sign that they had followed me up to where I lived."

2 ::: The situation of jails.

On the ... the European Court of Human Rights of Strasbourg sentenced Italy for the violation of the article 3 of the European Convention of Human Rights which, as the article 4 of the Charter of Fundamental Rights of the European Union does, forbids “*every inhuman and degrading treatment*”. This is the fourth time in four years. Even though the decision of the Court refers to the specific situation of 7 convicted, in the sentence the judges explicitly talk about a “structural overcrowding” of Italian jails, and invite Italian authorities to “take immediate action,” as well as to “introduce a system of internal complaint” (presently nonexistent). This system would allow the detainees to address the Italian courts to denounce their conditions (indeed, there are already more than 550 appeals made by detainees to the European Community).

It has been years now that the “structural overcrowding” of Italian jails has been denounced by the associations operating within prisons. According to the last report presented by the jail observatory “Associazione Antigone” (<http://www.associazioneantigone.it>), the average overcrowding rate of Italian prisons is 142,5%, with peaks of 176,8% in Puglia, Liguria, and Veneto, 251% in the city of Brescia, and 269% in the city of Messina. Therefore, as an average, the population of detainees is made to live in less than 3 square meters per person (yet international standards suggest 7 square meters as a minimum), with scarcity of water and inadequate lighting. The tragic national average of one suicide every 6 days has pushed the Government to promulgate a bill which favors alternative punishments to imprisonment; yet, this bill was blocked by the Senate after its approval by the Chamber of Deputies. In the meanwhile, with the help of an unscrupulous use of preventive detention (which can last up until 6 years, and brought to prison 25,777 persons in 2012), the population of detainees has grown of the 25,8% in the last ten years, and a good part of it is made of young foreigners, as a result of the

approval of the crime of clandestine migration. Besides benefiting less of the alternatives to incarceration, these young people often find in linguistic difference a big obstacle to adequate defense and full understanding of their rights (www.istat.it).

This is the testimony of Marianne, a Dutch detainee in the women’s prison of Giudecca, Venezia. “Walls and bars were the first hard hit of the jail, but the second and harder one was that I didn’t know even a word of Italian, and I couldn’t communicate to anyone: there was a terrible linguistic barrier (...). As far as I can see staying in this prison, in Italy you don’t go very far by speaking French, English, or German. While proceeding amongst tons of request forms and papers that I was forced to sign without understanding any content, I found myself handicapped in Italy, a country which wants itself as part of Europe. I needed medical care and to explain myself I used the dictionary, without knowing if the doctor had understood me or not. During at least two months he prescribed me vitamin B in order to cure health dysfunctions and high blood pressure: I was almost in despair. Similar things happened during my first questioning: I was accompanied by a French interpreter – as she was not Dutch, I couldn’t express myself well. Besides, my lawyer pointed out to the judge my impossibility to understand the documents I was signing because of the language; the judge answered that I could get some translated papers if I paid for them. Finding a good lawyer, too, has been almost impossible to me (...). I could “talk” to the lawyer I had only by using hands, with the door wide open and an agent who could listen to all what we were saying (...). While the Italian detainee, showing good behavior, can make use of alternative punishments, of some permission to go home, a couple of cheap phone calls per month, meetings with family members, the foreigner cannot have anything of this, and can only expect to be expelled at the end of the punishment.”

3 :: Torture

It was 1987, when Europe invited all its member States to ratify the ONU Convention against torture. At the White House there was Ronald Regan, Gorbachev was sitting in the Kremlin. Italy subscribed to the Convention, but today, 25 years later, the country has not got it started, violating the international commitment made by signing the Convention itself. For more than twenty years now, several Italian governments have set up commissions, put strength and money in projects that have never attained to anything. Center-right and center-left legislatures have never managed to make the Parliament approve a law able to insert the felony of torture in the Penal Code; the worry is that the introduction of this felony, as it is envisaged and formulated by the never-applied ONU Convention, may limit the activity of the security forces. On the 6th of July 2012, Amnesty International formally addressed a letter to Monti government, inviting the Ministry of Justice to “assure the fulfilment of the Convention in every part, including the fundamental one about the introduction of the felony of torture in the Penal Code, a precise duty of the Italian government”. Two years before, on the 9th of June 2010, the Board of Human Rights had defined as “unjustifiable” the Italian delay, also denouncing the lack of a “precise intention” to insert the felony of torture in the penal judicial system.

Therefore, the felony doesn’t formally exist, but torture definitely does. Yet, it cannot be adequately prosecuted, as it has been the case of those young people victim of torture in the barracks of Bolzaneto, and as it also happened during the break in of police in the premises of the school “Diaz,” while the G8 was taking place in Genoa; according to the judges, the young people hosted in the school were treated in a way that was “inhuman and degrading but, as a penal norm did not exist, the prosecution was forced to charge the accused with the crime of abuse of authority.” Not to talk about other cases, as those of Federico Aldrovandi e Giacomo Cucchi,

died because of the blows struck by the agents of Italian public safety. Again, on the 30th of January 2012, the court of Asti acquitted five state correction officers thanks to the law on interruption of the prescription period; the officers had been previously charged of the violence and abuses underwent by two prisoners of the district prison of Asti between 2004 and 2005. In the motivations given by the judge, where the abuses are documented, the existence of a normative blank relative to the circumstance of torture is clearly signalled.

K. Anna Julia, arrested the 22/7 around 1,30 am – registered at about 10,15 pm of the same night – brought to the correctional institution the 23/7 at about 12 pm. She comes from the hospital “Galliera,” where she has been admitted in reason of the blows suffered at the Diaz; she has a fractured jaw and she has lost some teeth; her head aches very badly. Once arrived to Bolzaneto she is insulted by a group of agents, that surround her in the courtyard; they call her “Black Block” and make fun of her, pointing at her wounded mouth. They make her wait, standing against the wall, her arms lifted. The female agent that brings her to the cell makes her walk keeping her head bent down notwithstanding her evident physical conditions. In the cell she can immediately lie on the floor. She cries. Sometimes an agent enters the cell, to insult her; she can understand just the words “Black Block” and “bastards;” from other cells she hears screams of people who are beaten. She asks to a female agent if she can have a tampon, but the woman answers that there are none. She herself, and other cellmates try several times to call to the agents, to have her taken to the infirmary, but every effort is useless until many hours later. She is finally given a painkiller and some ice. In the infirmary, the doctor asks her how she has got the wounds; she doesn’t know the Italian word for truncheon (“manganello”) and has difficulties to express herself; then somebody, who looks to her like a doctor, grabs a truncheon and brandishes it at some centimeters from her mouth; all the bystanders laugh. Always in the infirmary, she has to undress, also in the presence of male agents; her body is still stained with

blood; they make her stand naked in these humiliating conditions for more than ten minutes; they take away from her the only tampon she has. During the whole permanence in the building, they feed her only with a piece of banana and some bits of bread, that she cannot chew because of the pain at her mouth.

Source: Diario (Special Genova – La Verità, 21 luglio 2006)

4 :: Women's rights

For several years, the U.E. has been insisting on the importance of involving women within the labor market. The first of the five objectives Europe has granted to reach by 2020 regards occupation: in less than 7 years, three out of four people aged between 20 and 64, will be easily able to find a job.

Anyway, with regard to women's situation, European objectives do not face reality. According to the UE's statistic office, women's occupation rate in Italy is almost at 46.7% (against the men's, 57.2%).

What is more, if we consider young women, Istat data reminds us of how difficult can be for a woman to get an occupation. For example, in south Italy 39% of women aged under 35 is yet to find a job. What's more is that in Italy a woman receives 1/5 less of the salary a man takes, even when signed up for the same job. "It depends on the kind of contract" says Carla Collcelli, CENSIS's vice-director "for those who require additional fees, basic pay cannot change, whereas checks, career advancement, promotions and interior shots definitely can."

Nowadays, wage discrimination seems not to be directly connected with causes relating to women specific nature, especially with the lower educational level, as in

Italy, since '80s, it has been registered a higher level of education among women. Women are more involved than men in secondary and tertiary education, there are far more women that get a degree, rather than men (57% against 43%- Istat 2003) and the women's grades tend to be higher (even in more "masculine" faculties, as engineering). The 20.8% of university's enrolled women gets graduation while only the 17.3% among men. Finally, among women rates of enrollment in post-graduate courses and post-graduation are higher.

In any case, despite women's success in the educational system, in the labor market it seems to persist a disadvantage when talking about placement or types of contract offered they are offered (forward contracts or involuntary part-time). In fact, there is less consistency between educational qualifications and work effectively carried out.

Eventually, the birth and the care of a child affect the women's competitiveness in the labor market: they are considered as too "burdensome", and companies are concerned about that. We assist indeed to an heavy discrimination, enhanced by the presence of persistent stereotypes in our culture: it seems that society still

tends to give exclusively to women the responsibility of growing a child, as if men should be allowed to not take on the responsibility of their role of parent.

According to Linda Laura Sabbadini, director of Istat's social department: "Women's problem in working is strictly tied to welfare" and so "either the work of care is redistributed between sexes and society, developing a wide network of services, facilitating the growth of women's employment in the service sector, or it is unlikely there will be a future for women's employment." In a country in which politics about parenting have not the same flexibility as in other UE states members, another aspect that is highlighted by this crisis is that of the forced resignation for maternity or "blank resignation".

The interruption of work because of pregnancy is one of the most common reasons for dismissing women from labor market. In addition, it is definitely not a free choice they have decided to make. According to an Istat's estimation, in 2008-2009 around 800.000 going-to-be mothers have been fired.

Dana Moraru, 26 years old, Romanian, has been living in Italy since 2002 and used to work in a Hotel in Venice close to San Marco's square. Her employment contract, signed in 2006, was part-time undefined. "When they hired me, my holder made me sign a sheet of resignation, guaranteeing me that it was just a formality".

I was so happy I had finally found a permanent job that I didn't care about it. For all these years I have had no problems at all, everything was fine until me and my partner (Mario, 35, Italian) decided to raise a family together.

It was on October 22nd I got pregnant. My holder went rampage and told me I had to warn her. She add I would have never had my maternity paid. Few days later, I got the notice of dismissal. I tried to make due with the unions, but I had signed the sheet of resignation, and there was no way to help me. Now we live just with

Mario's salary, and I'm afraid this crisis won't help me finding a new job."

Actually, the winding road of women's career starts from the very beginning (with longer waiting times) and it becomes harder when the woman reaches the middle stage of her professional career (women aged between 34 and 39) and she has to make difficult and important choices both regarding work and family. It goes worse when she gets older and faces the decision of coming back again or not into the labor market.

Eventually, we can deduce that the causes of the pay differentials have different and intertwined origins, attributable to the nature itself of the working world, to the production models and to the prejudices still present at the managerial level. However, it is probably due also to the inability of our society to assume the weight of the costs of motherhood: it is clear that the full equality between men and women will only be achieved through reconciliation policies.

5 ::: Paid Leave

The second paragraph of article 31 from the Charter of Fundamental Rights of European Union asserts that “Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave”. Thanks to art.39, paragraph 11 from the 25 June 2008 government’s decree-law number 112, and to law 133/2008, many workers have been deprived from this right. Law 133 introduced in the intricate jungle of employment contracts (in Italy we have 40 different kinds of employment contracts) the job on call which “Biagi’s law” had repealed in 2007. What is a “Job on call”? It’s when the worker makes himself available to his employer’s call; this fits very well to employers, that recently are trying to use it as much as possible. In 2010 Istat published for the first time in Italy data about job on call contracts, and made clear an always increasing trend in using them, a growth of 75% compared to 2008, especially in restoration branches (restaurants use this kind of contract at 60%). Between 2011 and 2012 there has been a growth of 70% (as a Repubblica’s research shows).

Many young people, once they started facing the work’s world, found themselves dealing with job on call contracts, especially in Veneto region, where there is the highest rate of “intermittent” workers (20% of the total). The problems are located on two different levels: first, with the “phone call”, there is no income guaranteed, and second, according to this kind of contracts, any protection in case of sickness or maternity is gone, and the “annual paid leave” vanishes. Often this contracts are pretending “legal cover”, whereas the practical working activity is stable and in no way “on call”.

This is Marta’s case: Venetian, 24 years old, a student in occidental languages at Ca’Foscari University. She works three nights per week in a well-known venetian club called “Jazz club”.

M: “I’m a student, and I work as a waitress in order to pay my studies since I was 21. After several months of illegal labor, cash pay at the end of every night and no contract, the owner offered me a so called “job on call contract”. I agreed because I had no alternative, but I immediately realized that it’s absolutely not “on call”: I work every week the same three nights, always since a couple of years. The owner is very happy about this contract because he doesn’t pay for me any contribution, pretending that every day of work is a single job I have no guarantee in case of sickness. I remember one winter that I had to stay in bed with a strong fever: I simply got no income for three weeks. It’s not in my plans to build a family now, but if I wanted to have a child I could not count on any assistance because of my contract”.

M: “I’m afraid in particular of one thing: with this contract my boss can fire me when he likes without any formal obligation. Because my job is “on call” he can simply pretend he didn’t call me, I have no protection at all and I live this situation like a permanent form of extortion: I’m afraid that if I criticize something, like the tasks we have to do, the hours of work or the wage I simply will be left at home. So I have to say yes to every request and I don’t think that’s fair”.

6 ::: Workplace deaths

Even if Article 31 “Fair and just working conditions” from the Charter of Fundamental Rights of the European Union asserts that “Every worker has the right to working conditions which respect his or her health, safety and dignity”, Italy is still far behind in the achievement of this principle.

Workplaces deaths represent a sad record in our country. An investigation lead by the news Repubblica (<http://espresso.repubblica.it/dettaglio/morti-sul-lavoro-le-cifre-vere/2185020>) shows that Italy is the country in which there is the highest rate of deaths during working-time. “According to Eurostat’s stats (updated in December 2012), considering NaceR2’s activities (a collector of the 13 economics activities commune in all UE), between 2008 and 2010 Italy has been the country with the highest numbers of workplace deaths (718 in 2010, whereas in Germany 567, in France 550, 338 in Spain and 172 in UK).

Further than Inail (the public institution that provides insurance to those who suffer work-related injuries.) there are more independent organizations that contest the above mentioned data. “L’Osservatorio Indipendente di Bologna morti per infortuni sul lavoro (<http://cadutisullavoro.blogspot.it/>)” an independent association founded by an ex worker, Carlo Soricelli, from Emilia, maintains a different accounting of the deceased in the workplace.

His data are significantly distant from Inail’s: in 2011, according to Soricelli, there have been more than 1170 victims (+11.6% than 2010), also in 2012 the valuation is similar, with on average 1180 victims per year. Basically, this is due to the different range of people the organizations base their stats on: Inail takes into account only its own insured, while many categories are excluded: retired farmers, the military, law enforcement are

examples; what’s more an always larger portion of the work construction and agriculture turned to unreported employment. Stats can’t touch cash-in-hand’s practice. Blackmailed workers have not the intention to denounce the less severe accidents. They stay at home, silenced, waiting for an under table compensation. Occupational accidents is a topic too often forgotten. And all the governments which ruled this country in the lasts years have been incapable to stop these massacres.

The only thing it has been done, is the distortion of the “Testo Unico per la Sicurezza sul Lavoro” (Dlgs 81/08) wanted by Prodi’s government, which has been modified negatively by Berlusconi’s one with the Decreto Legislativo 106/09. It halved the penalties for employers and managers, in some cases it replaced arrest with a fine, introduced the “save-manager” which removes responsibility from employers in the case of delegation and sub-delegation and extended for 90 days the requirement for the preparation of the risk assessment (DVR) for new businesses, etc..

Noteworthy is the fact that in all these years nothing has been done to increase controls for work security in companies. How can 1850 technics for prevention of ASL manage to control 4-5 million of companies spread all over Italy? There is a clear problem of lack of work security’s controls.

Every year in Italy we have 1.000.000 work accidents, which cause 25.000 permanent disabilities. Every seven hours one person dies in the workplace: under this numbers there are tragedies, omissions, serious and often unspoken faults, and for this reason it is difficult to scroll through them like an ordinary rosary statistics. According to Anim (national association for civilian disabled or invalids) European’s norm is yet to be applied for two reasons: “Employers still see the

adaptation of safety rules as an additional cost, while believing that the risk of workers is already covered by compulsory insurance; the same workers, the new law entrusts control responsibilities on security measures to, in most cases, are not prepared for this role and find themselves in trouble to exercise compared to those unscrupulous employers who take advantage of the easy availability of labor, to put the worker in an almost of subjection”.

Filippo L. lives and works in Venice, and today is 30 years old. He tells us about his workplace accident happened 5 years in summer of 2008.

FL: “I was working, as I used to do every year, mounting at the Biennale (in September 2008 it was going to begin the architecture exhibition). I was not directly under dependencies of Biennale, but I worked for a lagoon’s transport company which every year won the contract for the transport service and portorage. We were about 15 people, all paid cash-in-hand (80 euros per day) and hired by the day.

We were working at the Cordiere of Arsenale, which are very big. For moving along we were using an old tractor to which was attached a wagon like a ‘trailer’. One day - I still remember it as it was yesterday - the tractor broke up. There were no mechanics and we tried to fix it (working without the tractor was impossible!).

Just now I realize I have been too reckless: I put my hand in the engine and my glove was stuck in the transmission belt which almost cut off my right hand index finger. I was immediately brought to Hospital and the doctors were able to hang up my finger, but still I can not move it well. As soon as my employer knew about my accident he came to the Hospital threaten me not to say I got injured working for him.

All season long I have not been able to start working again. I had no rights in asking Inail’s contributions because I was working under the table and when I asked a compensation to my employer he refused telling me to sue him. My family and I did not have the spare money he has, so that I gave up.”

7 :: Right to vote for “erasmus” students.

On December 21st, 2012, after the negation of the vote of confidence by the Chamber of Deputies, Italian Prime Minister Mario Monti presents his resignation to the Head of the State.

Through the presidential decree 226 of the 12/22, new elections are announced for February 24th and 25th 2013. The decree also establishes the voting rights for all those Italian citizens who reside abroad.

The article 2 of the decree grants the access to vote only to some of the various categories of citizens who find themselves temporarily abroad (the so-called absentee voters): the Army and the Police Force; employees of the Public Administration; professors and academic researchers. To be left out are the about 25,000 Italian students scattered around Europe thanks to the Erasmus project. These students can be abroad for a period which varies from 3 to 9 months, and therefore are not granted in their voting right by the law 459/2001.

This affair has immediately come to attention, arousing stir and indignation at all levels, from student associations to the European Commission. On January 21st, Androulla Vassiliou, Commissioner of Education and Culture, declares that “students abroad should not be disadvantaged [in the access to their right to vote] and their mobility should not be discouraged [...]. Students abroad are women and men and they must not be discriminated. In the XXI century it is very easy to make citizens abroad vote. Students should be treated exactly as the soldiers on a mission, or as professors abroad.” Yet, appeals and protests end up being ineffectual: on January 22nd, with a lapidary press release the Council of Ministers states that there are “insurmountable difficulties” in granting the right to vote to these thousands of European young people.

Here is the testimony of Gianmarco C., student at the

Università degli Studi of Siena, where he attends a Laurea Magistrale in International Sciences. During the academic (and electoral) year 2012/2013, he is visiting student (Erasmus) at the Institut d’Etudes Politiques of Strasbourg.

“The article 48 of our Constitution states that voting is a right that I have as a citizen; it states that the right to vote is personal, equal, free, and secret; that exercising it is a civic duty, and that it cannot be limited but in some precise cases, defined by the article itself. Yet, at present, about 25,000 Italian women and men are excluded from the exercise of their right to vote as absentee: they are those Italians who sojourn abroad in academic institutions, but who are not professors nor researchers: the students.”

This choice unveils the strongly discriminatory attitude of the Italian governments towards the category of students, de facto excluding them from the exercise of a citizenship right, unless the student him/herself decides to come back to the “Belpaese” to vote, of course at his/her own expenses. My consideration quickly widens, and I think that during the last years the political history of our country has been a history of political disaffection, continuous abstaining, of elections where handfuls of votes (around 23,000 in 2006) have determined a victory or a defeat. Precisely for these reasons, the exclusion of some 25,000 persons from the access to vote is decidedly inconceivable.

Therefore, we have made a plea to the political actors which will take part to the newly elected Parliament during the next legislature. We ask that they undertake a modification to this norm in order to formally and substantially eliminate this discrimination granting, to those who are abroad for valid reasons, equal opportunities in the exercise of their right to vote.

8 ::: Integration of persons with disabilities.

“The Union recognizes and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.” Article 26. Integration of persons with disabilities.

On the other hand in Italy, disability is still seen as matter of assistance, there is no effort in pursuing social integration or promotion of equal rights and opportunities. Assistance might actually risks of being sweeping aside by the spending review and the consequent politic of cutting costs imposed by the troika to the National Government. According to the last CENSIS research run with the participation of Fondazione Cesare Serono named “I bisogni ignorati delle persone con disabilità” (<http://www.fondazione-serono.org> - <http://www.censis.it>) Italy is spending 438 euros yearly per capita, against 531 euros on European average (these dates are confirmed by Eurostat). The fund for self-sufficiency has been just wrote off (national fund for social politics suddenly collapsed from 1 billion 800 million during Berlusconi’s one to 187 of this year Monti’s). Home help is also down to 22 hours yearly per capita, this means that relatives has to provide by themselves for their disabled children. Thereby parents feel lonely and abandoned. Austerity overcame also school’s branch dealing with placing disable people, which was one of the hot spots in Italians educational system since the abolition of ghettos classes, called “differenziali”. In most of the public schools lack the role of a material assistant, in other words the person who should help kids and youths in dealing with practical difficulties during school time, for example helping in eating, personal hygiene. During the school year 2012-2013 the association “Tutti a scuola” (<http://www.tuttiascuola.org>) showed that about 65.000 supporting

teachers were dismissed, so that 120.000 disable youths on 215.000 enrolled have been left without any kind of assistance during school classes; at the same time almost the 10% of the families appealed for court to seek an increasing of supporting hours (www.istat.it).

Compared to other U.E members Italy is far behind also about occupation rates. In France, (where the 4, 6% of the population has a disability recognition, like in Italy, the disabled employed are 36% whereas in Italy only 17% (in Germany they pass 56%). Less than one young man affected by Down syndrome out of three work when, less than 1 out of 10 when autistic (<http://www.censis.it>). In Italy one of the biggest problem for the families is the matter of parents death and it has never been faced seriously: the few family-houses are all private and set on the middle-north of Italy. Under river Tevere there are none. Recently it has been proposed a bipartisan law which should have withdrew money from gambling (for 150 million euros-“il fondo dopo di noi”- dedicated to build small communities, where disable people could carry on an acceptable life on their own, but the secretary Cecilia Guerra, in the name of the Government, has rejected the proposal, cutting off the legislative route started in 2010. In 2009 Italy has ratified the Convention on the Rights of Persons with Disabilities (<http://www.lavoro.gov.it/Lavoro/md/AreaSociale/Disabilita/ConvenzioneONU/>) and according to our Constitution an Handicap person must never be discriminated and shall not only be properly cured (right of health) but shall also have the same opportunities of a healthy person (principle of equality). Unfortunately, upholds the referent of CENSIS’s welfare Katty Vaccaro “ We have the right laws, but the way they are carried out is often inadequate).

Marcello (the name is invented) lives in Venice with his family; he is a 24 years old youth and suffers from Down syndrome. With the help of his mother Bruna he tells us

his personal experience through his school's path.
M: "During elementary and middle school I found myself very well; I had a support teacher always next to me in classes. He helped me in every moment of school's day and he became my friend. My classmates were very friendly and I enjoyed going to school and spending time with my mates. No one never mocked me."

Bruna says that in addition to the support teacher, Marcello also had a restricted program of studies and that helped him in finishing school on time.
B: "Problems started on the first years of college. Government cuts violently hit the school's system; support teachers were reduced, just present for few hours during school's day and often "merged" disabled children from different classes, making them stand out in the hall. A humiliating situation. Furthermore, youths with different disabilities were put together. What kind of assistance is this?"

M: "I did not like to stay in the hall, I was not with my friends and often it was cold. Than I was bored because we were not doing anything interesting. People from other classes were staring at us and I was feeling "strange".

B: "I still have contacts with SD child's parents and they tell me the situation is getting worse; all the disable children of the same school are divided into classes with just one support teacher. It seems we are back in the ghetto classes of the years before '77".

Marcello got his diploma and he is proud of it. He could not enroll at University because integration programs training do not exist yet.

Nobody of the SD's Venice youths was able to enroll at university even if they wished to.

9 :: Freedom of thought, conscience and religion

The Article 10 of the CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION titles: Freedom of thought, conscience and religion. The first clause declares: Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.

The freedom of religion, defined as a "natural right" even before than civil or political, was put to the wringer in the Municipality of Grantorto, when the Association "La Fede" asked to open an Islamic cultural center in the small town in the territory of Padua, where there was a commercial warehouse vacant since several years and put for rent by the owners.

The association, led by Abderrahim Benabid (italian citizen since 25 years), is active since 2002 in the municipality of Carmignano sul Brenta, where it never caused any problems neither to the citizenship nor to the police, and on the contrary it always had worked to help integration fighting against any fundamentalism. The administration held by Lega (political Party, xenophobe, from northern Italy), anyhow, denied the permissions to open the center.

It was the beginning of 2011, when the mayor Sergio Acqua chained himself in front of the warehouse while the militants of his party organized banquets to collect signatures arousing the people against the mosque peril. At the local newscast on Telenuovo Channel (24.2.2011 17:37), said: "I'm on the side of my country that does not want an invasion of North Africans, in a city which barely reaches 5 thousand citizen, the actual amount of foreigners is already more than enough. We fear

a cultural and religious contamination , with a final overthrow by the Arabs”

It also mobilizes the mayor of the nearby Citadel, the League's Massimo Bitonci, who adds: “these people have not yet realized that they have let go of our area. Also the mayor of the nearby Cittadella, Massimo Bitonci, mobilized, and added: “These people haven't realized yet that they have to forget about our place. We will continue to fight, we will be in the streets, we will collect signatures and we'll express our opposition by any means. We are not willing to sell off our culture, traditions, experience baggage, our religion, in exchange for respectability that end in itself, which cannot produce anything good, considering the times we are living in.” There is one final reason (reported by the blog onthenord.org) for mayor Acqua, which can look pretty scary: “I fear a popular uprising because here in Grantorto, in addition to 720 non-EU residents, 258 of which are Moroccans, there are 1,000 people who vote for Lega.”

Whether those threats were real or not, given the atmosphere in the town, the association gave up the project of the cultural center and young people were those who suffered most for the consequences, both children of immigrants and Venetians, who undergo the fear of political and administrators to recognize different religious and cultural identities, seeing the opportunity to learn about a different culture vanishing, together with the chance to learn to live in the so called melting pot. We collected the words of Daniele Cavalli, a youth from Grantorto: “We are not interested in his idea of society, as closed, frightened and claustrophobic. We live in 2011, we look ahead to 2020, at 2030, we are the generation - even here, in the province - which take the plane and in hour is in London; our classmates have different skin

colors, we love the many cultures that we meet, the friendships that we cultivate through the network and outside. We live in a global world, we are interested in learning English at school and the we also like to use Venetian dialect in our conversations, but the last one is certainly not one of those things that has to imposed in the school timetable. We live in a global, dynamic world, enriched with many cultures. And we accept the global challenge, the challenge of the future, which is not a right, but our conquest. He offers us his pettiness, his fears, his anxieties, his crucifixes brandished as swords and moreover his pigs put out to pasture just to offend those who have different beliefs. We are citizens of the world (...). This pettiness won't bring us out of the crisis. It won't bring us to the future. It would led us to a past that must not come back. I look at my peers in North Africa. They're not enemies. They have my same dreams, my same ideals. They are my brothers”.

Luckily, a few months later the project of the cultural association “Fede” was hosted by the residents from the nearby town of Piazzola sul Brenta.

Not a problem or any incident has been recorded in the last year.

10 ::: Right to asylum and protection in the event of removal, expulsion or extradition

Italy is located in a very important geographical position in the past as today, especially when we talk about migrations. Africa is just 133km away from the Italian coast of Lampedusa.

In recent years we have witnessed a very remarkable phenomenon of migration: people arrived in Italy from the coast of North Africa are several thousand; the political upheavals of the countries affected by the Arab Springs, as well as the wars in the African territory, have caused a migration in recent years that allowed exponential growth of asylum seekers.

For example in 2012 there were 58 thousand refugees in Italy, only in 2011 there were 34 thousand requests (data UNHCR). Italy is among the countries that are part of the Union where the number of refugees is lower, less than 1 per 1,000 inhabitants, compared to 7 for Germany, 9 for Sweden .. etc ... (data UNHCR).

When in 1951 was adopted the Geneva Convention, international legal instrument of reference for the protection of refugees, defined as follows:

“A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.

In the European Charter of Fundamental Rights articles 18 and 19 are very explicit.

Art 18: “The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community”.

Art 19: “Protection in the event of removal, expulsion or extradition - 1. Collective expulsions are prohibited. 2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment”.

In Italy, especially in the last two years, the military operations done have expelled thousand of migrants, sent back to the country that they left, without the guarantee of protection that should be ensured by the above mentioned rights. We all know the story of Lampedusa. In particular, in the Italian law it is provided that the application for asylum must be physically presented at the border. How is it possible for those fleeing from war countries aboard makeshift boats to be able to submit the request for asylum? Especially if the operations implemented by the Italian Government are aimed only to curbing the phenomenon of migration and not to protect those people? The asylum seekers are not only a complaint against violent and unfair countries or situations, they are also a mirror that refers to all the human need for freedom, security, dignity.

M. is a 19 years old boy from Somalia. In march 2013 he arrived to Lampedusa by sea and he was transferred with the other men in a Temporary Permanence Centre. After few months, in June he was moved to Cagliari to be repatriated. He never had the possibilities to make the request for asylum, even if he is from a war territory. This is not the only case, there is a lot of people that hadn't the possibility to make the request, as there are a lot of people who did not even had the chance to arrive in Italy because the military operations sent back to Libia the boats as soon as they found them in the sea.

CHAPTER 3

Links and References

European Charter of Human Rights

http://www.europarl.europa.eu/charter/pdf/text_en.pdf

Constitution of the Italian Republic

http://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf

For detailed statistics on EU members

<http://epp.eurostat.ec.europa.eu>

Convention and Protocol relating to the status of refugees

<http://epp.eurostat.ec.europa.eu>

Unique text on immigration

<http://epp.eurostat.ec.europa.eu>

unique text on safety on workplace

<http://www.lavoro.gov.it/SicurezzaLavoro/Documents/TU%2081-08%20-%20Ed.%20Ottobre%202013.pdf>

Presidential decree of 22nd December 226

http://www.esteri.it/MAE/IT/Sala_Stampa/ArchivioNotizie/Approf_PostingDettaglio/2013/01/Elezioni%202013.htm

For the promotion of citizenship rights multilingual and multimedia website, provides complete and in depth coverage of all issues relating to immigration laws (the regulation of migrant flows, political rights and work).

http://www.esteri.it/MAE/IT/Sala_Stampa/ArchivioNotizie/Approf_PostingDettaglio/2013/01/Elezioni%202013.htm

National Institute assistance to citizens

www.inail.it

Independent journalistic platform

www.fanpage.it

Diario Special Genova 26 luglio 2006

www.diario.it

One of the most important newspaper in Italy

www.repubblica.it

The UN refugees Agency

www.unhcr.it

Independent Observatory of Bologna died on the job

cadutisullavoro.blogspot.it

The CENSIS Studies Centre for Social Investment, is a socio-economic research institute

www.censis.it

The foundation aims to facilitate the spread of scientific thought of all those who play a role in the process of health management (citizens, patients, doctors, caregivers, institutions, etc.)

www.fondazioneeserono.it

National Institute of Statistics, a public body that deals with the detection and statistical surveys in various sectors

www.istat.it

Association that works for the realization of equality between people regardless of sexual orientation and gender identity.

www.arcigay.it

Support structure for victims of homophobic violence

www.gayhelpline.it

Tuttidirittumani per tutti network information on the violation of the rights of migrants and asylum seekers at the Port of Venice

Association “for the rights and guarantees in the criminal justice system”

www.associazioneantigone.it

Association that deals with the situation of disabled people in the Italian school

www.tuttiascuola.org

International organization for human rights

www.tuttiascuola.org

National association of down people

www.aipd.it

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CHAPTER 1

Introduction

In its concluding observations, written in 1993 regarding Bulgaria, the Human Rights Committee recognized that “the inadequacy in the provision of human rights education and information adversely affects the implementation of the Covenant”, which translates a lack of awareness about Fundamental Human Rights that needed to be resolved.

Ten years later, we can say that the country has still to make great improvement on its Awareness campaigns and education about Fundamental Human Rights, both at a Governmental and Non-governmental levels. Lack of statistics and figures to illustrate this information is an objective proof. However, informational campaigns and educative projects on specific Human rights which represent particular issues in the country do exist. Few projects and trainings seem to be created and implemented by non-governmental organizations, however, some of them are quite active nowadays, especially in Human Rights education towards children and young people.

Bulgaria was one of the last two countries to enter the European Union in 2007. Although the country has not entered the Schengen Area or the Euro zone yet, its entry will be reconsidered in 2014. Meanwhile, in 2012, a survey was conducted and a report written on the

European Citizenship questions all over the European Union. Hereafter, some of the most outstanding facts about Bulgaria’s answers are shown.

To the question “What Europeans expect from the European Union”, Bulgarians answer the economy and managing the crisis as a priority expectation (70%), while the EU rate is 51%.

Worth highlighting too is that the rate of Europeans who are attached to the European Union is 46% when the score of Bulgaria is higher, with 53%. When asked to choose the most positive results of the European Union, Bulgaria mentioned the free movement of people, goods and services within the European Union, at the first rank with 76%.

Contrasting these two results, only 3% of the Bulgarian thinks that European public authorities have the most impact on their living conditions when the EU rate is 9%. Also, sense of being an EU citizen corresponds to half of the respondents with 50% for Bulgaria. In comparison the sense of European citizenship in the EU is 61%. When asked to identify levers for strengthening their sense of European citizenship, respondents first mentioned the creation of a harmonized EU social welfare system (37%): this is mentioned most often in Cyprus (60%), Bulgaria (57%) and Sweden (55%).

About improving the consumer rights, only 13% of Bulgarians share this opinion, on the same level as Spain (13%) and Hungary (10%): fewer than one in five people in these countries say that they have benefited from this European Union achievement.

Studying in another EU country was mentioned by 2% of the Bulgarian, working in another EU country by 5% and receiving medical assistance in another EU country by 4%. Countries where respondents seem to have benefited the least from the achievements of the European Union are Bulgaria, Hungary and Spain.

CHAPTER 2

Study Cases

1 ::: Official Corruption

In July 2011 the European Commission's Cooperation and Verification Mechanism report stated that the fight against high-level corruption had not yet yielded convincing results. There were very few final and enforced verdicts in this area, and there were few instances of active targeting of high-level corruption. The report further stated that a number of acquittals in cases involving high-level corruption, fraud, and organized crime exposed serious deficiencies in judicial practice. The leadership of the judiciary, the Supreme Judicial Council, the general prosecutor and the president of the Supreme Court of Cassation did not properly analyze or follow up these deficiencies. There were reports that random case-assignment software was manipulated to steer certain cases to specific judges. In both the executive and judiciary, NGOs reported that corrupt officials were pressured to quit or retire, or most often were reassigned, rather than prosecuted on corruption-related charges. The overly formal judicial system made it difficult to prosecute high-profile organized crime and corruption cases effectively. Legal and procedural limitations on the use of sting operations, plea bargaining, and cooperating witnesses made it difficult to pursue corruption cases. The prosecution dropped charges in three of the five corruption cases against former ministers begun in 2010; two cases continued. The trend continued during the year of high profile cases ending in acquittal, but there were some successes.

In March 2013, Bulgaria's former agriculture minister Miroslav Naidenov was charged with corruption linked to an EU-backed food distribution scheme and trying to bribe a subordinate: he is accused of favouring a food producer to win a tender in 2010 to supply an European Union-backed program to distribute food to disadvantaged people; of promising a bribe of 200,000 levs in 2010 to a senior official at the state agricultural fund which disburses EU aid to farmers, and of putting pressure on the official to sign orders granting a tax refund to two domestic food producers. Naidenov denied any wrongdoing. He faces up to eight years in prison if found guilty.

2 ::: Press Freedom

There are numerous concerns about the domination of the media market by business interests seeking political influence. NGOs reported that journalists practiced self-censorship or took money from political and business leaders and from organized crime groups to plant either positive stories about the leaders and criminal groups or negative stories about their rivals. In addition, media owners reportedly forced journalists to change their reporting and to pervert the facts. In many cases, the true owners of media companies could not be identified. Media ownership remains only partially transparent, and there is no civil monitoring of the government-subsidized media.

On February 8, 2010, Bulgarian news agency journalist Ivan Yanev was investigating the killing of a police officer in the village of Enina when a police spokesman from the nearby city of Stara Zagora threatened him, stating that Yanev was a “dead man.” Authorities accused Yanev of reporting on the killing before the official police version was released and prohibited him from returning to the crime scene.

3 ::: Human trafficking and exploitation

The end of communism has contributed to an increase in human trafficking, with the majority of victims being women forced into prostitution. Bulgaria is a country of origin and country of transit for persons, primarily women and children, trafficked for the purpose of sexual exploitation. The Bulgarian government has shown some commitment to combat trafficking but has been criticised for failing to develop effective measures in law enforcement and victim protection.

In November 2012, 43-year-old Bulgarian Jemal Borovinov and 14 others were taken from their home country and soon found themselves trapped in a Bulgarian human trafficking ring operating in southern Italy. They were deprived of all their money, identity documents and means of communication before reaching Italy. They have been tortured and drugged to convince them to either deal drugs or become prostitutes. Jemal and his wife managed to escape, they are now suing them, but they received threat and were advised not to speak to journalist by police officers.

4 ::: Children's Rights

According to the State Agency for Child Protection, 2,155 children were victims of violence in 2010, of whom 77 percent were victims of violence in the home. Nationwide one in three children was a victim of physical violence, and one in eight of sexual violence. Nearly 19 percent of the cases involved emotional abuse. UNICEF reported that 23 percent of students between the ages of 10 and 14 were victims of cyber-bullying, while 13 percent of students admitted to cyber-bullying.

The government funded in 2011 an NGO-operated 24-hour free hotline for children to report abuse; during the first nine months, the hotline received 13,106 verified complaints. Nearly 13 percent of the calls concerned family problems and violence. These calls prompted investigations that sometimes resulted in the removal of children from abusive homes and the prosecution of abusive parents. Hotline administrators referred 235 reports to child protection authorities for handling.

5 ::: Violence and discrimination on women

Rape is illegal but underreported due to the stigma attached to it. Spousal rape can be prosecuted under the general rape statute; however, authorities rarely prosecuted it in practice. NGOs reported in 2010 that one in four women was a victim of domestic violence. Police and social workers refer victims of domestic violence to NGO-run shelters, but NGOs complain that local authorities rarely provide financial assistance for operational costs.

During 2010 the Commission for Protection against Discrimination received sexual harassment complaints, which accounted for an estimated 5 percent of all complaints. However, sexual harassment remained a widespread problem, and the government did not effectively enforce the law. According to NSI quadrennial data, the same year, women's salaries were 11 percent lower than men's, with some lower-paid sectors, such as education and services, dominated by women.

In 2008, in trial *Bevacqua and S. v. Bulgaria*, the applicant, who claimed she was regularly battered by her husband, left him and filed for divorce, taking their three-year-old son (also an applicant) with her. However, she maintained that her husband continued to beat her. She spent four days in a shelter for abused women with her son but was allegedly warned that she could face prosecution for abducting the boy, leading to a court order for shared custody, which, she stated, her husband did not respect. Pressing charges against her husband for assault allegedly provoked further violence. Her requests for interim custody measures were not treated as priority and she finally obtained custody only when her divorce was pronounced more than a year later. The following year she was again battered by her ex-husband and her requests for a criminal prosecution were rejected on the ground that it was a “private matter” requiring a private prosecution. The Court found a violation of Article 8 (right to respect for family life) given the Bulgarian authorities’ failure to adopt the measures necessary to punish and control the applicant’s husband. The Court also stressed that considering the dispute to be a “private matter” was incompatible with the authorities’ obligation to protect the applicants’ family life.

6 :: Discrimination & violence based on sexual orientation

In 2010, while reports of violence against LGBT persons were rare, societal discrimination, particularly discrimination in employment, remained a problem. The gay-rights organization Gemini reported that individuals continued to be reluctant to pursue legal remedies for discrimination due to the stigma of being openly identified as gay.

On June 26 2010, the third annual gay pride parade in downtown Sofia attracted an estimated 300 participants. The parade was held without disruption but under heightened security. Earlier that day, 10 nationalist organizations gathered about 100 protesters to demonstrate against the gay pride parade. The Holy Synod of the Christian Orthodox Church condemned the parade, calling it a glaring, shameful, and sinful demonstration and appealing to the local authorities to prohibit the event. For the first time, the gay pride parade received support from a political party in the National Assembly, the right-wing conservative Democrats for Strong Bulgaria.

7 :: Children and adults with mental and physic disabilities

In 2009 there were 2,906 children with disabilities in public institutions. The law requires improved access to buildings for persons with disabilities, and some new public works projects took this requirement into account; however, in 2010, enforcement of this law lagged in existing non-renovated buildings. The law promotes the employment of disabled persons; however, enforcement was poor, and most persons with disabilities were unemployed primarily due to lack of access to adequate education and skills. For the most part, employers did not equip workplaces to accommodate persons with disabilities, and many were not able to find accessible transportation. The government continued to lack a policy with regard to children with disabilities, resulting in their receiving inadequate access to education, healthcare, and social services. Children with varying types and degrees of disability were placed in the same institution. Still, in 2011, persons with mental and physical disabilities, including very young children, were often in institutions separated from the rest of society. The majority of these institutions were located in remote rural areas, which prevented hiring of qualified staff and hampered access to timely medical assistance. Despite some incremental improvements, conditions in institutions for persons with disabilities remained poor. The constitution provides the right of all citizens to vote, and the law provides specific provisions to ensure that persons with disabilities have access to the polls. However, authorities rarely enforced these provisions in practice, and the majority of polling stations were not wheelchair accessible.

In February 2011, the European Court of Human Rights heard the case of a man who was placed under guardianship and subsequently consigned to a social care home in Pastra for people with psychiatric disorders. The man had complained that living conditions there amounted to ill-treatment and that his deprivation of liberty was unlawful and arbitrary.

8 :: Ethnic Minorities

Authorities estimated that Roma constitute between 6 and 10 percent of the population. According to a 2002 Council of Europe report, there were 600,000 to 800,000 Roma in the country. According to the 2001 census, ethnic Turks made up 9 percent of the population. However, those figures are said to be inaccurate because many of the asked persons did not answer to this question. Ethnic Bulgarian Muslims, often termed Pomaks, are a distinct group of Slavic descent, whose ancestors converted from Orthodox Christianity to Islam; they constitute 2 to 3 percent of the population.

Roma

The main problem lies in the “ghettoisation” of some Roma districts, where the inhabitants frequently lack even basic essentials. There is widespread discrimination against the Roma in Bulgarian society, and as of 2006, the Bulgarian government has not implemented any laws legislating against the discrimination of Roma. Numerous cases have been cited regarding the ill-treatment of the Roma population by the Bulgarian police. Bulgarian state security forces have been known to arbitrarily arrest and abuse street children of Roma ethnic origin.

The Roma are subjected to harassment in Bulgaria, including the hazing of Roma army conscripts and poor police responses to crimes committed against Roma. A high percentage of Roma children do not attend school, both due to poverty and a lack of teachers who speak their native language. Also, Roma children often drop out from school, mainly because they attend de facto segregated schools where they receive inferior education or because their local school was closed and their new allocated school is too far away from their home. General public mistrust, coupled with their low level of education, made locating work more difficult for Roma. According to a 2010 NGO survey, 12.8 percent of the Roma had a permanent job and 13 percent of the Roma had seasonal or occasional occupation. The access of Roma to health services continued to be a problem, and in some cases there was discrimination. According to a health survey released in October 2010 by the Bulgarian Academy of Sciences, 56 percent of Roma over the age of 15 suffered from hypertension and 47.5 percent of Roma children and 23.9 percent of adults suffered from diabetes and asthma. Bronchitis, cardiovascular disease, peptic ulcers, arthritis, rheumatism, prostate, and menopause problems were chronic in many Roma communities. As negative example of the implementation of the fundamental rights in this area it could be mentioned that in September 2010, the Yambol municipality demolished a squatter settlement populated by an estimated 100 Roma families. The local government refused to compensate the expelled families, but provided them with free transportation to a location of their choice. Authorities made an individual assessment of each family and placed them on the relevant waiting list for municipally owned apartments. In November the local court ruled that the demolition had been illegal. Anti-Roma violence spread throughout Bulgaria after a non-Roma man was hit by a minibus with a Roma driver in Katunitza on 24 September 2011. The incident triggered demonstrations with strong anti-Roma sentiments. In Katunitza, several houses belonging to Roma were set on fire. NGOs, including the Bulgarian Helsinki Committee, criticized the authorities for their

failure to take the necessary steps sooner to stem the violence. It was reportedly only in the subsequent days that the police guarded entrances to some Roma neighbourhoods and arrested more than 350 people. According to media reports, the Prosecutor General responded to the protests by sending instructions to regional prosecutors, reminding them of the need to respond to acts that may amount to violence on racial, religious and ethnic grounds. A number of criminal proceedings against individuals arrested during and after the protests were reportedly concluded.

As a good practice regarding fundamental rights we can point out that the Open Society Institute program funded by the Roma Education Fund supports young Roma studying in medical schools, and thanks to the National Assembly internship program, 10 young Roma professionals graduate each year since 2007.

Roma access to health services has been improved thanks to the collaboration between the National Network of Health Mediators and central and local government. Since its inception this partnership trained more than 100 health mediators appointed to full time positions in 55 municipalities to work with high-risk and vulnerable groups.

9 ::: Religious freedom

In 2009, there were some reports of societal abuses or discrimination based on religious belief or practice. Discrimination, harassment, and general public intolerance, particularly in the media, of some religious groups remained an intermittent problem. The 2011 census identified only 1,130 Jews in the country while local Jewish organizations counted between 5,000 and 7,000. Neo-Nazi graffiti could be seen in many cities. Defacement of Jewish buildings, both public and private, occurred in Pleven, Ruse, Shumen, Burgas, Sofia, Blagoevgrad, and Pazardjik. Internet social networks have become increasingly popular with anti-Semitic groups, especially after the Katunitsa events. Jewish organizations remained concerned over the government's passivity in addressing all hate crimes. Public reaction to this passivity was muted. Muslims are the second largest religious group, estimated at 10 percent of the population.

In 2011, the prosecution service refused to start a case against extreme right-wing Ataka party leader Volen Siderov for the reprinting of his two anti-Semitic books, *Boomerang of Evil* and *Mammon's Power*. On 20 May 2011, Muslims were assaulted while praying in front of the Banya Bashi Mosque in Sofia when a demonstration organized by supporters of the same extreme right-wing party Ataka turned violent. Four Muslim men and a member of parliament from Ataka were reportedly injured. An investigation was opened, but the Bulgarian Helsinki Committee reported that the assaults were prosecuted as "hooliganism" rather than acts of discriminatory violence. The assault was noted with concern by the UN Human Rights Committee, which criticized the authorities for their poor enforcement of existing anti-discrimination legislation.

10 ::: Refugees and asylum-seekers

Generally, the government cooperates with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

A bad practice regarding refugees and asylum-seekers is that in November 2011 the Bulgarian Helsinki Committee alleged that asylum-seekers had been held in detention by the authorities, contravening domestic legislation and the EU Asylum Procedure Directive. Reportedly, up to 1,000 asylum-seekers were being detained in Liubimets and Busmansti detention centres. The director of the State Agency for Refugees stated that limited capacity in open reception centres had resulted in the practice. The draft National Strategy on Asylum, Migration and Integration also acknowledged that Bulgaria lacked the institutional capacity to fulfil the basic requirements for receiving asylum-seekers.

A good example is that in July 2011, the Court in Plovdiv ruled against extradition of an ethnic Chechen man, Ahmed Razhapovich Chataev, to Russia. Ahmed Chataev had been granted refugee status in Austria in 2003. He was reportedly arrested on 19 May when he attempted to cross the border between Bulgaria and Turkey. The basis for his arrest was an extradition request by the Prosecutor General's Office of the Russian Federation, alleging that he faced charges of incitement to terrorism and financing of terrorism activities. The Plovdiv Court ruled that Ahmed Chataev's refugee status was valid in Bulgaria. Concerns were expressed by NGOs that, if extradited to Russia, Ahmed Chataev would be at real risk of serious harm, including torture and other ill-treatment.

CHAPTER 3

Links and References

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