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Challenges to the institutional infrastructure for protection against ethnic discrimination – case of Macedonian multiethnic society

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Abstract

Discrimination is one of the most common forms of human rights violations. In multi-ethnic, multi-confessional diverse societies such as the Macedonian one of the most evidently protected discriminatory ground is ethnicity, followed by race, religion and belief as potential inter-sectional multiple grounds. In the Republic of Macedonia discrimination occurs in many forms, from direct to indirect discrimination, from harassment to instruction to overt discrimination. Very often, the alleged victims are afraid to submit complaints to independent institutions due to different reasons among which are fear from victimization, lack of awareness of their rights, week protective mechanisms, etc.

The paper elaborates both the existing legal and institutional framework for prevention and protection against discrimination on ground of ethnicity in the Republic of Macedonian, its gaps, insufficient capacity development as well as positive and negative collision of competences. Also, the paper analyzes the inter-institutional relations and lack of inter-institutional protocols and standard operating procedures among the champion institutions in the area of protection and prevention of ethnic discrimination. Finally, the paper identifies the key challenges and recommends actions for overcoming them. The text uses results from research that have been conducted in the Republic of Macedonia and related discrimination as an illustration of trends and patterns.

Key words: discrimination, ethnicity, protective mechanisms, inter-institutional cooperation

Introduction

Macedonia is a multiethnic society composed of different communities including Macedonians, Albanians, Turks, Roma, Vlachs, Serbs, Bosniaks and others. With the majority Macedonians and higher numbers of minority such as Albanians, traditionally, there has been no serious ethnic conflict. Even in the aftermath of dissolution of Yugoslavia, in 1991, Macedonia as a successor state managed to pull out without violence. However, in 2001, there was a violent ethnic conflict initiated by armed groups, members of the Albanian community, against the state forces. The conflict initiated to increase the rights of the Albanian ethnic community at the national and local level proofed the thesis of Macedonia being a deeply divided society along ethnic lines. The conflict as such ended with the signing of a peace agreement – the Ohrid Framework Agreement (hereinafter: OFA) signed by the leaders of the two main Macedonian parties and the two main Albanian parties. Based on this document amendments to the Constitution, and laws were introduced accordingly, changing the political and legal system of the country. Furthermore, new institutions were established and new policies were created, based on the constitutive elements of the power-sharing democracy model. This was intended to improve the status of the Albanian community and other ethnic communities in the country.

The principle on non-discrimination and equitable representations underpins the OFA in addition to its reforms in the area of decentralization, education, use of languages, special parliamentary procedures with establishing the Inter-Community Relations Committee in the Assembly, and the double majority principle. Furthermore, in order to improve the rights of all communities at national and local level and reduce ethnical discrimination a new institutions were established and to already existing institutions additional competences were given, emphasizing the need for effective institutional infrastructure to fight against discrimination.

Importance of existence of effective institutional framework

National human rights institutions (hereinafter: NHRIs) are independent bodies established by domestic law with a mandate to protect and promote human rights in a state. When properly established and well-functioning, these institutions "are key elements of a strong,

effective national human rights protection system", which bridge the gap between international human rights norms and their implementation at national level (Handbook on the establishment and accreditation of National Human Rights Institutions in the European Union, 2012, pp.15)

States establish NHRIs, because they assist them in complying with international human rights standards and obligations by providing an objective perspective; and link the national to the international level. NHRIs have the ability to address human rights issues comprehensively and consistently due to their broad mandate, which should include powers to promote and protect all human rights: from civil and political to economic, social and cultural. This makes it possible for NHRIs to cover and embed the concept of indivisible and interdependent human rights in government policies, legislation as well as public awareness (Handbook on the establishment … 2012: 23).

On a regional European level, Article 13 of the Racial Equality Directive requires Member States of the European Union to establish a body or bodies responsible for the promotion of equal treatment. Such bodies are to be assigned three tasks to be carried out on an independent basis. Firstly, to offer assistance to victims in pursuing their complaints; secondly to conduct surveys on discrimination; thirdly to publish reports and make recommendations on discrimination. All Member States have designated either one or more equality bodies to deal with racial or ethnic discrimination; with the exception of Poland where, although no entities have been specifically 'designated' the three tasks currently lie within the remit of a range of existing bodies. In a number of Member States, bodies dealing with ethnic and racial discrimination already existed prior to the introduction of the directive (e.g. Belgium, Ireland, the Netherlands, Sweden and the UK). In others either a new body was established (e.g. France, Germany, Italy and Spain), or the mandate of an existing body or bodies was expanded to deal with racial or ethnic discrimination across the areas required by the directive (e.g. Cyprus and Latvia). In some cases the extent of activity of the equality bodies may be more difficult to gauge because they became operational relatively recently (e.g. Luxembourg in 2008, Spain in 2009, Czech Republic in 2010), or because the three tasks are divided over several different bodies (e.g. Austria, Finland, Ireland and Poland). In the majority of Member States the designated equality body or bodies cover not only racial and ethnic discrimination, but also grounds of

discrimination covered by the other non-discrimination directives such as the Employment Equality Directive or the Gender Directives.

In the Republic of Macedonia both the Ombudsman and the Commission for Protection against Discrimination (hereinafter: the Commission) are responsible for anti-discrimination in public sector, but in the private sector only the Commission. The anti- discrimination system is necessary to be composed by national human rights institutions, courts, municipalities' and administrative/government bodies, such as ministries, secretariats and agencies. In multi-ethnic society, especially in post conflict transformed political systems such as the Macedonian it is essentially the state to implement more systematical approach in decreasing of discrimination on the ground of ethnicity. Thus independent institutions should be established with mandate to protect against discrimination but in the same time promote the concept of equality as well. Parallel with the independent institutions, such as the Commission and the Ombudsman, in the Republic of Macedonian exists two specialized governmental bodies - Secretariat for Implementation of the Framework Agreement and Agency for realization of the rights of the members of the communities which are less than 20% of the population. Both institutions have coordinative role of the administrative bodies in the Macedonian executive power and their role is to integrate different approaches *inter alia* in the field of ethnic non-discrimination.

Strengthening these bodies and the relations among them is one of the main goals of the transformed political system within divided society. In this context ECRI suggested the following: "In setting up specialized bodies, member States should ensure that they have appropriate access to governments, are provided by governments with sufficient information to enable them to carry out their functions and are fully consulted on matters which concern them" (ECRI General recommendation No.2, Principle 7).

As mentioned above, this kind of system's infrastructure is connected with the concept of power-sharing, redefined in Macedonia with the adoption of OFA. The model of *power-sharing* is defined as praxis and institutions that result from the broader coalition of the power. In general, it is open to more relevant ethnic groups in the society and adds value to self-determination and democracy in multi-ethnic countries (Taagepera, 2003, pp.9). One part of this concept is proportionality, very important in the Macedonian context and field of monitoring and coordination of already mentioned institutions. This is considered to be the crucial standard in

proper distribution and the main standard in the political representation, appointments in public services, military and the police, as well as in allocation of public funds (Maleska, Hristova, and Ananiev 2007:19).

Legal and institutional framework for prevention and protection from ethnic discrimination in the country

Legal framework

As regards the legislation, in the last several years, the Republic of Macedonia has established an anti-discrimination legal framework, which seems to lay solid foundations upon which case law can be developed in the future. Hence, the national legislation has started to explicitly prohibit discrimination following the adoption of several laws, especially in the area of labour relations. This trend culminated in 2010 with the adoption of the Law on Prevention and Protection against Discrimination. Regretfully the lack of sufficient judicial practice and quasi-judicial case law sets a significant obstacle to the further advancement in the application of these legal institutes provided for by the anti-discrimination legislation.

Constitution

The Constitution of the Republic of Macedonia in Chapter II guarantees the equality of citizens and prohibits the limitation of freedoms and rights on several grounds. However for the issue assessed in this paper Article 9 of the Constitution is the most relevant one due to the fact that has a blanket clause on equality, envisaging that "Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status. All citizens are equal before the Constitution and law." This constitutional provision, although constituting a sufficient legal basis for adopting additional, more detailed anti-discrimination legislation, has several shortcomings. It is evident that this clause lacks ethnicity as discriminatory ground, but includes race and

national origin as discriminatory grounds. This clause has also been criticized for the fact that it uses the word "*citizens",* which leaves the impression that this clause does not protect against discrimination of foreign nationals (stateless persons and persons of foreign nationality). Furthermore, Article 9 does not refer to certain discriminatory grounds that are widely spread nowadays and furthermore contains an exhaustive list of discriminatory grounds. Finally, in view of the fact that Article 9 relates to individual human rights and freedoms, i.e. rights and freedoms of natural persons, it does not envisage protection against discrimination of legal persons (Poposka, 2012). To worsen the situation and despite all the criticism of this Article, for years, the Constitutional Court has been interpreting this clause rather restrictively.

Law on Prevention and Protection against Discrimination

The Law on Prevention and Protection against Discrimination explicitly prohibit all forms of discrimination, including direct (Article 6, paragraph 1) and indirect discrimination (Article 6, paragraph 2). Furthermore, the Law provides for protection against harassment (Article 7), prescribes the need for reasonable accommodation (Article 5, paragraph 1, item 12 and Article 8, paragraph 2), and prohibits the instruction to discriminate (Article 9). This protection is provided to all natural and legal persons, in the public and in the private sectors, in diverse areas of social life such as: employment and labour relations, education, access to goods and services, housing, health care, social protection, administration, justice system, science, sports, membership of and activity in trade unions, political parties and civil society organizations and in other relevant areas.

Article 3 of the Law makes reference to discriminatory grounds, *inter alia* ethnic affiliation, supplemented with an open-ended list of discriminatory grounds. Furthermore, Article 12 of this Law refers to multiple discrimination as a grave form of discrimination, i.e. discrimination against a person simultaneously on several discriminatory grounds. However, the law contains a wide, imprecise list of exceptions from discrimination including positive actions (Article 13-15), that if used with wide margin of discretion can open a space for legal uncertainty.

Finally, the law foreseen establishment of a protective mechanism, equality body – the Commission for Protection against Discrimination (Article 16-33), that can deal with both the public and the private sector.

Even though the Law was adopted in April 2010, the application of the Law was postponed to 1 January 2011. This Law is expected to bridge legal gaps that exist in the country's legal system in the anti-discrimination area and to facilitate the legal protection of all natural and legal persons who are alleged victims of discrimination. However, the process of the Law's adoption was controversial and the issue of the Law's full harmonization with the EU *acquis* is still open (EC Progress report, 2011 and 2012: 54).

Institutional framework

As mentioned above, institutions that has significant role in prevention and protection against discrimination *inter alia* on ground of ethnicity are the Commission for Protection against Discrimination and the Ombudsman as extra-judicial protective mechanisms available to citizens in cases of violation of their rights by discrimination. They are supplemented by the Secretariat for Implementation of the Framework Agreement as central body responsible to coordinate the activities that aims at effective implementation of the OFA and the Agency for realization of the rights of the members of the communities that are presented less than 20% out of the population in the country. We should not forget the Constitutional Court as a constitutional entity that provides protection against discrimination to the citizens in the country.

Constitutional Court

As mentioned above, despite all the criticism of the Article 9 from the Constitution, for years, the Constitutional Court has been interpreting this clause rather restrictively, which is clearly demonstrated by the fact that the Court has proclaimed itself as not competent to decide in almost all cases of alleged discrimination *inter alia* on ground of ethnicity, refusing to consider cases on their merits. Namely, according to Article 110, paragraph 3 of the Constitution,

the Constitutional Court protects the constitutionality and legality, while citizens may file an application to the Constitutional Court in order *to protect their human rights and freedoms* relating to freedom of conviction, conscience, thought and public expression of thought, political association and activity and prohibition of discrimination among citizens on the grounds of sex, race, religion or national, social or political affiliation. This provision is made operative under the Rules of Procedure of the Constitutional Court (1992), i.e. under its Article 51 which envisages that "citizens who believe that an individual document or action has violated their rights or freedoms established under Article 110, paragraph 3 of the Constitution of the Republic of Macedonia, may request protection before the Constitutional Court within two months of the day a final legally valid individual document has been adopted." Statistic from the Constitutional Court Annual report shows that in 2012, out of the total number of 205 new cases before the Constitutional Court, 25 cases were related to protection of freedoms and rights guaranteed under Article 110, of which the Court settled 27 cases, from which 15 were related to protection from discrimination. In 6 cases the Court dismissed the claim, in 11 cases the Court decided to dismiss the claim mostly since the Court considered itself as not competent to decide in the case, in 8 cases because of lack of procedural preconditions for adopting a ruling, and in 2 cases because of statute of limitations (Review of the Work of the Constitutional Court of the Republic of Macedonia, 2013).

This raises the issue of effectiveness of this protection procedure. Namely, in the Republic of Macedonia, there is no clear nomenclature of legal instruments and procedures for protection of human rights and freedoms, including for the protection of the principle of equality and non-discrimination. In addition, there is no clear distinction between the procedure before the Constitutional Court and before regular courts. The decisions of the Constitutional Court not to rule on the merits of some cases, makes relative the standard set by the European Court of Human Rights in the cases *Vernillo* and *Dalia*, according to which all domestic legal remedies that are available and effective, not only in theory, but also in practice, need to be exhausted. This position of the European Court of Human Rights, according to which the Constitutional Court is an effective legal remedy in the Republic of Macedonia for protection against discrimination presented in the cases of *Sijakova*, *Kosteski*, *Krstev* and *Vraniskoski* is gradually undermined in the case *Kamceva*, in which the Court stated that the Court believed that in the

specific case, the issue arose about the use of domestic legal remedies in cases of alleged discrimination in labour disputes. More specifically, the issue arose whether the applicant might choose between two alternatives, i.e. procedure for damage compensation set forth in the 2005 Law on Labour Relations and a constitutional complaint, or should the latter always be used. Unfortunately, the Court did not further elaborate this issue since the case was inadmissible, because the applicant lost the status of a victim and did not have *locus standi.*

Ombudsman

According to the Article 77 paragraph 2 from the Constitution and the Law on the Ombudsman, this institution is responsible for, *inter alia* protection of the principle of non-discrimination (Article 2). In this regard, the Ombudsman as independent and autonomous body provides the victims of discrimination with legal protection by receiving and handling individual complaints for alleged discrimination on grounds of ethnicity among others. Thus being in a position to: recommend ways to overcome the consequences of discriminatory behavior, recommend repetition of a procedure that involved discrimination, as well as to initiate disciplinary or punitive procedures. Aiming to achieve this, the Ombudsman with the Law on changes and amendments on the Law on Ombudsman (2009) created in its systematization a special Unit for protection from discrimination and equitable representation. The Ombudsman is limited in undertaking effective actions for protection against ethnic discrimination due to the fact that its domain of competence does not include the private sector, and the fact that its recommendations are not binding in principle.

Even though on paper the structure is well placed in practice small number of complaints are initiated in front of the Ombudsman. As illustration, in 2011, out of the total number of applications filed with the Ombudsman's Office, only 0.99% were cases of alleged discrimination, from which 35,71% on ground of ethnicity and none on multiple discrimination grounds. However, the Ombudsman states that discrimination exists in all sphere of the social life, but the reported period characteristic is that complaints are mainly initiated in the area of labour relations and on the grounds of political affiliation, belief and ethnicity (Ombudsman 2011 Annual Report, 2012).

Commission for protection against discrimination

The Commission for Protection against Discrimination is established in 2010 according to the Law on Prevention and Protection against Discrimination as autonomous and independent body composed of seven members appointed by the national Parliament with five year mandate. Its mandate is rather broad and as stated in Article 24 encompasses dealing with discrimination claims and providing assistance to victims, research, promotion and education, initiating legislative changes, inter-institutional cooperation, collecting statistic data and creating databases, and adoption of bylaws for its work and internal structure. In comparison with the Ombudsman, the Commission is an equality body that deals with cases in both, public and private sphere which in a sense is broader and more diverse mandate that equips the Commission with possibilities to go into the roots of the structural discrimination in the both sphere of life.

According to the statistics from the case handling by the Commission it can be observed that discrimination on ground of ethnicity is the most common ground. Namely, in 2011, the Commission for the Protection against Discrimination received a total of 63 complaints, from which 14 on ground of ethnicity, or 22,22% from all cases., and in 2012 from 76 cases, 16 are on ground of ethnicity or 21,05% from all cases. The most common area of discrimination is work and labour relations with 47,62% from all cases in 2011 and 36,84% from all registered cases in 2012 (Annual Report of the Commission for the Protection against Discrimination, 2011 and 2012). The same situation is replicated in the cases that are registered on ground of ethnicity only.

However, the small number of recorded and resolved cases reduces the relevance of the assessment and prevents making conclusions of more general importance. The absence of such cases should not lead to the conclusion that there is no discrimination, but the answer should be sought in informing citizens about this type of discrimination and protection systems available, as well as strengthening the protective systems and their inter-institutional cooperation.

Secretariat for Implementation of the Framework Agreement

The Government in compliance with its main responsibility, to determine the policy of implementation of laws and other regulations and responsibility for their execution, in April 2004, adopted a Decision to establish the Department for Implementation of the Framework Agreement, which later evolved into a Secretariat for Implementation of the Framework Agreement of the Government of the Republic of Macedonia (Law on amendments on the Law on Government of the Republic of Macedonian, 2007). According to its mandate the Secretariat has the task to fully implement the Ohrid Framework Agreement and to provide administrative and professional support of the Deputy Prime Minister responsible for implementing the framework agreement. The Secretariat supports the Government in the implementation of strategic priorities related to obligations arising from the OFA, among others ensuring the implementation of the principle of non-discrimination and equitable representation of citizens belonging to all communities in the state government and other public institutions.

In doing this the Secretariat follows the process of decentralization and public administration, methodology for preparing action plans of the Government in connection with the preparation of projects under the Framework Agreement and the coordination of its implementation and monitoring. The Secretariat promotes providing the necessary human resources for the process of implementing the OFA and allows active communication with the public, media and other target groups in order to increase transparency and to inform the public. The capacity of the Secretariat to implement such a vide portfolio are questioned by the international communities. Namely, it is stated that the Secretariat continues to suffer from insufficient strategic planning capacity and internal control standards (EC Progress report 2012: 55).

Agency for realization of the rights of the members of the communities

The Agency for realization of the rights of the members of the communities which are less than 20% of the population in the Republic of Macedonia (hereinafter: the Agency) is established according to the Law on promotion and protection of the rights of members of

communities that constitute less than 20% of the population of the Republic of Macedonia (2008). The institution is responsible for enforcement of the abovementioned law and supervision of the enforcement of laws that established the rights of the communities. In this case, the Agency takes care of realization, promotion and supervision of the rights of communities that are less than 20% of the population in the country in the area of employment in accordance with the principle of adequate and equitable representation, use of language, education, culture, information in their mother tongue through electronic and printed media, the right to establish associations and foundations for the realization of cultural, educational, artistic and scientific goals and the use of their symbols.

The Agency particularly takes care of: coordination of the activities with state governmental bodies and donors, support of the Government in the implementation of strategic priorities related to obligations arising from the Constitution and laws and in particular of ensuring adequate and equitable representation of members of communities in the state administration bodies; maintain communication with the public and other target groups through the media and its website, and preparing analytical materials under its competence.

Inter-institutional relations and its challenges

Relations in the process of coordination and policy-making among governmental authorities

As can be seen from the description of the competences of the institutions stated above one can concluded that there is an *overlap of competences* – defined in the national legislation - between the Secretariat and the Agency. Namely, the head institution in charge of coordinating the implementation of the OFA is the Secretariat, while the Framework Agreement itself covers the rights of members of ethnic communities including those below 20%. In the same time, similar competences are entrusted to the Agency too, but it refers only for matters that involve members of communities below 20% of the population in the country. Even though the mandate of the Secretariat is overarching, still in practice there is no clear picture whether the Secretariat

coordinates matters connected with the Framework Agreement of all communities or it is necessary to exclude the so called "small communities" and leave this competence to the Agency as gentlemen's agreement. If so, then we are left only with the Macedonian and Albanian community and the role of the Secretariat, so one can argue that in practice it is a state organ having the competence of coordinating matters connected with the implementation of the Framework Agreement that refer only to the Albanian community.

From legal point of view, it is necessary to define furthermore to which institution the government organs (ministries and agencies) should submit data and information about measures taken for practicing rights of the so called "small communities". The best solution is the Agency to be the connection between the state organs and the Secretariat and vice versa – in the coordination process, implemented by the Secretariat, the Agency is necessary to be a sub-coordinative point which, according to the directions given by the Secretariat, will continue coordinating the necessary measures and activities connected to the small communities. This is due to the fact that the Agency is perceived by the small communities as institutions that represents them more visibly than the Secretariat.

As in many other fields where is conducted functional analysis of the process of creating public policies, the question is the following – can the Agency, which is a governmental body, coordinate other governmental bodies (if considered that it is very difficult to practice horizontal coordination, especially when we speak about coordinating activities that are needed to be implemented by ministries). Also, it can be stated that the governmental bodies, which create public policies in the fields they cover, do not pay a lot of attention on basing them on principles of ethnic anti-discrimination or mainstreaming them with the existing policies of this kind. This is often due to misinterpreting ethnic anti-discrimination only as a phenomenon that exists along the principle of equitable representation in employment in public sector.

One strategic goal is developing inter-institutional cooperation by signing a general Memorandum of understanding or Memorandum for implementing certain projects (National Strategy, 2012). Moreover, there is a necessity of signing memorandums for cooperation between the Commission and the Agency and the Secretariat in order to define the models for cooperation in the field of further developing the legal framework, conducting mutual researches and raising public awareness about ethnic discrimination. Moreover, there is a necessity of

signing memorandums for cooperation between the Agency and the Secretariat in order to even more define the models of cooperation for exchanging information, creating mutual data base, common activities in the field of trainings and raising public awareness.

Furthermore, as stated above the Ombudsman has competence for *inter alia* protection of the principle of non-discrimination and equitable representation (Constitution, XI Amendment). However, there is a lack of proper coordination between the Ombudsman on one hand and the Secretariat and the Agency, on another. The coordination is not constituted with a certain act and in practice there is an exchange of information and data, however the coordination is not standardized and constant. The Ombudsman on annual base develop report on implementation of the principle of equitable representation, however it is not clear who has the competence to integrate information for equitable representation on state and local level, and after use it for developing particular policies in that regard.

Relationships with municipalities

The missing puzzle in the mutual institutional cooperation is the connection which is supposed to have the Secretariat and the Agency on one hand and the units of the local self-government on the other hand in implementing the goals of the Framework Agreement. To rectify this problem the Ministry of Local Self-Government has to develop and strengthen the capacity of data collection that refers to implementation of the Framework Agreement on local level - especially those referring to equitable representation. Furthermore, there is a need to develop concrete activities that will be implemented by the local Commissions for relations between the communities and to develop decisions of the Municipal Councils that refer to matters of interest for the communities on local level. Thus the Ministry will be a link between municipalities on one hand and the Secretariat and the Agency on the other.

The practice so far shows that the Secretariat is in principle more directed towards targeting the improvement of the status of the Albanian community and partially towards the communities that are below 20% represented. The status of the Macedonian community where it is not a majority on local level is very little treated while the stress is on achieving equitable representation of the Albanian community. Researches shows that the nature of the OFA has to

be recognized also in municipalities where the Albanian community is a majority, i.e. we need to practice the principle of power-sharing on local level that allows developing the rights and representation of all communities. Years after signed of the OFA, in the municipalities Kicevo, Struga, Gostivar and Debar at the municipal level, the expectations of the majority Albanian population seem to be that conditions *will finally improve* (primarily related to equitable representation, economic development, employment, etc.). At the same time, the concerns of the Macedonian population are that, now, as a minority they will be discriminated against. They fear that they will be out in the street simply because they are members of the Macedonian community. The Turkish community feels the same way, whereas the Roma population feels socially and politically marginalized. Putting the mechanisms into practice will stimulate the efficient political participation of the minorities (Maleska, Hristova and Ananiev, 2007: 97).

Achieving certain percentages of representation in local administration contributed to blocking the process of employment of Macedonians in municipalities where the mayors are members of Albanian community or other ethnic community. A lot of measures taken on local level, especially in the sphere of urbanism, education, community activities and culture, that are competences of the local self-government, are often not planned and not conducted on the basis of satisfying the needs of members of all ethnic communities. The Secretariat does not gather information and does not analyze policies on local level from the prism of exercising the rights of all communities, which can be seen as major problem in creating society equal for all.

When the local self-government authorities are concerned, there are no developed protocols and operating procedures or guidelines according to which they will further create local public policies based on the principle of ethnic equitable representation. Moreover, there are no developed protocols for monitoring and submitting information that will help the Secretariat, the Agency and the Ministry of Local Self- Government to do their job adequately and efficiently. The information gathered on the basis of standardized protocols and guidelines will be much easier to systematize and process and will be solid grounds for implementing and monitoring trends and for creating local policies.

Data collection and information communication and integration

It is very important the Republic of Macedonia to have developed effective system for prevention of ethnic discrimination, also to have a developed system of data transfer from one institution to another, systematization and data saving in particular institutions and data integrity and usage.

Practice evidences that studied institutions do not keep quality database, i.e. data are not grouped or typed according to an appropriate methodology and data are not shared enough between institutions. Commission for protection against discrimination statutory is obliged to create database in the field of discrimination, but it is not clear enough if this database should be integrated, i.e. ought to integrate databases which are kept by the Ombudsman, courts of law, government local authorities, inspectorates, regulatory governmental bodies etc. This form of an integrated database is an imperative to have complete document review in the field of discrimination and it will help to systematically react in fighting discrimination on all levels. However, the Commission does not yet have necessary financial capacity or expertise for realization of this kind of activity, although it is an organ of uniformity and it would be evident that this body will indicate authority and influence to realize effectively this activity. Also, huge importance should be vested to the State Statistical Office to collect, analyze and group data with indicators for discrimination (field, ground and geographic region).

One of national strategic goal elaborated in the National Strategy for Equality and Non-Discrimination on the Ground of Ethnicity, Age, Mental and Physical Disabilities and Gender is creating a permanent and systematic data collection of relevant and objective desegregated data for ethnic affiliation in each field (National Strategy, 2012). For achieving this goal it is necessary the country to take some activities including: creation of blank forms/templates or adaptation of already existing blank forms/templates in certain state bodies and local authorities, in coordination with the State Statistical Office, for data collection, including, among other things, the ethnicity in each field in the means of getting public services; preparation of standard operative procedures and protocols for their fulfillment, respecting the rules for personal data protection, evidence and distribution; data preparation or adaptation of already existing software of databases in some governmental bodies, public institutions and local authorities in order to

collect and process data on the ground of ethnicity and sex/gender; software adaptation for data collection and processing in State Statistical Office, including ethnicity as an independent variable; it is necessary data to be shown and presented at state level and in different municipalities. It is also important and necessary that data could be presented in the way of level crossing of the ethnicity variable with the sex/gender variable.

Conclusions

- Protection against discrimination on the ground of ethnicity in the national anti-discrimination legislation is relatively solid. However, the lack of sufficient judicial and extra-judicial practice is a significant obstacle in explaining the application of these legal institutes provided by the legislation.
- The existence of the legislation itself does not achieve the desired goal - equality of opportunity and equality of result by itself. Legislation should be accompanied by additional measures, such as raising the awareness about discrimination and strengthening the institutional capacities to tackle it.
- There is sufficient number of institutions dealing with the issue of promotion and protection from discrimination, however they are lacking capacity to effectively fulfill their mandate and most important they are working on *ad hoc* bases without coordination between them selves.
- There is an *overlap of competences*, defined in the legislation, between the Secretariat for Implementation of the Framework Agreement and the Agency for realization of the rights of the members of the communities which are less than 20% of the population in the Republic of Macedonia.
- There is a necessity of signing Memorandums for cooperation between the Commission for protection against discrimination and the Agency for realization of the rights of the members of the communities which are less than 20% of the population in the Republic of Macedonia and the Secretariat for Implementation of the Framework Agreement in order to define the models for cooperation among them.

- There is a lack of proper coordination between the Ombudsman on one hand and the Secretariat for Implementation of the Framework Agreement and the Agency for realization of the rights of the members of the communities which are less than 20% of the population in the Republic of Macedonia on the other.
- The practice shows that the Secretariat for Implementation of the Framework Agreement is more directed towards targeting the improvement of the status of the Albanian community and partially towards the communities that are below 20% represented. The status of the Macedonian community where it is not a majority on local level is very little treated, while the stress is on achieving equitable representation of the Albanian community.
- Practice evidences that studied institutions do not keep quality database, i.e. data are not grouped or typed according to an appropriate methodology and data are not shared enough between institutions.

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