

Documenta – Center for Dealing with the Past | Centre for Peace, Nonviolence and Human Rights | Civic
Committee for Human Rights | Pravda Bjelovar

Support to the Strategy of development of judiciary in the area of human rights

Osijek, Zagreb, Bjelovar 27th November 2015

Biweekly report on war crimes trials, acts of discrimination, hate crime and hate speech, and on the rights of civilian war victims and the process of dealing with the past in the society

Rights of victims of crime

The terrorist attacks in Paris on 13th November 2015, when 129 persons died and 350 were injured, stressed the importance of the Directive 2012/29/EU of the European Parliament and of the Council that pays special attention to the victims of terrorism: "Victims of terrorism have suffered attacks that are intended ultimately to harm society. They may therefore need special attention, support and protection due to the particular nature of the crime that has been committed against them. Victims of terrorism can be under significant public scrutiny and often need social recognition and respectful treatment by society. Member States should therefore take particular account of the needs of victims of terrorism, and should seek to protect their dignity and security". On 16th November Croatia commemorated the victims of terrorist attacks in Paris by flying the flags at half mast, sounding the sirens for 60 seconds at noon and observing a minute of silence in mourning for the victims of the Paris attacks.

The Directive 2012/29/EU of the European Parliament and of the Council of 25th October 2012, establishing minimum standards on the rights, support and protection of victims of crime, defines a crime as a wrong against society as well as a violation of the individual rights of victims. As such, victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind based on any ground such as race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health.

The Member States are liable to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 16th November 2015. The Republic of Croatia decided to implement the Directive through the amendments of its Criminal Procedure Code. In July 2015 the bill of the amendments of the Criminal Procedure Code passed the procedure of public consultations¹, but it did not get to the Croatian Parliament session before it was dissolved on 26th September ahead of general elections. Therefore the Republic of Croatia has not yet implemented the Directive 2012/29/EU into national law.

¹ <https://esavjetovanja.gov.hr/ECon/MainScreen?entityId=1411>

Open the borders for all

On 24th November two activists of the “Welcome” civic initiative were taken into custody for a “talk” after drawing a graffiti saying: “Open the borders for all”, on the roof of “Medika” building in Zagreb. This happened on the eve of the meeting of Croatian PM Zoran Milanović and the President of the European Council Donald Tusk, who was also scheduled to meet the President of the Republic of Croatia, Kolinda Grabar- Kitarović, the next day.

The police arrested the activists today arguing that the organizational protocol of the above-mentioned summit dictates removal of such graffiti. The fire fighters later arrived on the scene to cover up the message intended for European and American leaders, who were gathering in Zagreb on 24th and 25th November. This incident occurred in the light of an established decree by the countries on so called Balkan route, which permits border crossing to refugees coming from Syria, Afghanistan and Iraq, and denies entry to Europe for all other refugees.

Apart from the fact that the message should have been drawn on the roof of a building representing one of the most important spaces of independent culture in Zagreb, this act of censorship represents a serious blow to the freedom of speech and expression. In a country where Nazi symbols and other hate messages are not eliminated, the messages against war, violence and in favour of protection of human dignity are being erased. Also, the institutions of the Republic of Croatia prioritize the protection of foreign officials from allegedly controversial messages before the protection of the freedom of opinion and expression of the citizens.

The civic initiative „Welcome!“ does not renounce its requests for safe passage of all the people who come to Europe in search of safety! Instead of building walls and barbed-wire fences, imposing prohibitions and giving inhuman treatment, we the citizens send a message to all the officials of the Zagreb Summit: Stop the wars, not people!²

Suspended criminal proceedings for the crime committed during the Military- Police Operation Storm

The Rijeka County Court suspended the criminal proceedings against Rajko Kričković, since the Indictment Division considered that there is no sufficient proof that the accused is suspect beyond reasonable doubt for the criminal offence. That is, the deposition of one witness cannot provide full proof and be a basis for guilty verdict, without other proof that would indicate that the accused is the perpetrator of the criminal offence he is charged of. On 5th November 2014 the Rijeka County State Attorney’s Office issued an indictment against Rajko Kričković, citizen of the Republic of Croatia, for the crime committed in the village of Kijani committed during the Military- Police Operation Storm, war crimes against civilian population according to the Article 120, paragraph 1, of the General Criminal Code of the Republic of Croatia. The accused, member of the 118th Home Guard Regiment of the Croatian Army from Gospić, was indicted for killing two civilians, R.S. and M.S., and setting their house on fire with M.S. inside in the period from 15th to 28th August 1995 in the village of

² Center for Peace Studies: <http://www.cms.hr/en/azil-i-integracijske-politike/koga-vi-farbate-otvorite-granice-je-prijeteca-poruka>

Kijani in the Lika Region.³ The Rijeka County State Attorney's Office filed an appeal to the ruling on the suspension of criminal proceedings before the Supreme Court of the Republic of Croatia.

No sexual discrimination in teaching on homosexuality at religion classes

On 14th July 2015 the Supreme Court of the Republic of Croatia dismissed the complaint⁴ of human rights organizations – Lesbian Group Kontra, and the intervener joining the plaintiff –Iskorak – Sexual and gender minorities rights centre, regarding the judgment of the Zagreb County Court of 11th October 2011. The judicial procedure was initiated with joint complaint based on the Anti-Discrimination Act for the alleged statements by a teacher of religion at one Zagreb primary school who taught students that homosexuality is a disease. The joint complaint was dismissed by the Zagreb County Court because it was not corroborated that the religion teacher gave the alleged statements, but she was following the religion textbooks.

In its ruling the Supreme Court stressed that religious education is an expression of freedom of religion, that religious communities have the right to their education, confirmed by the fact that religion education is an elective subject approved by the state, and that the «freedom of religion is a constitutional and conventional right that is superior to the Anti-Discrimination Act». The Court also established that the principle of proportionality was not violated since the positions on homosexuality have been expressed within the curriculum unit on the topic of homosexuality, taught in the framework of a subject (religion) specifically aimed for those students whose parents chose this teaching for their children.

Discrimination on grounds of age

The Sisak Municipal Court confirmed that Ksenija Vrebac was victim of discrimination on grounds of age, profession and political affiliation. This is the second judgment on the prohibition of discrimination rendered this year by two different judges of the Sisak Municipal Court against the same company owned by the City of Sisak.

Namely, in March this year the Court rendered a non-final judgment and prohibited discrimination against Darko Weiss by the company Sisak projekti. In November, the Court ruled that another former employee of the same company, Ksenija Vrebac, was victim of mobbing or discrimination by the then CEO and ruled the prohibition of further discrimination. The plaintiffs claim that they were removed from their jobs in spite of their qualifications and working results, due to their age, that they were fired because they were members of the HDZ political party, so that the loyalist cadre from political parties SDP or HNS could take their places.

The so far carried out research has shown that the percentage of discrimination on grounds of age is not decreasing, and given the increase of population ageing in all the societies, the extension of working life, it is important to study this phenomenon and improve education, direct contact with elderly people (enable meetings, exchange of experience and transmission of traditional and cultural values) and a better media presentation of ageing in order to strengthen and develop positive images of elderly people.

³ Source: <http://www.dorh.hr/rije0511>

⁴ <http://narod.hr/wp-content/uploads/2015/11/Presuda-VSRH-od-02.11.2015.-05.11.2015..pdf?0c5358>

***Statement by the new President of International Criminal Tribunal for
the former Yugoslavia Carmel Agius***

On 17th November justice Carmel Agius assumed the Presidency of the ICTY. In his speech he stressed that it is vitally important to continue and augment our cooperation with a view to closing down this Tribunal at the end of 2017 in an efficient, professional and exemplary manner. He stressed that the ICTY has an enormous responsibility towards the United Nations Security Council, towards international humanitarian law and international criminal law enriched with ICTY's jurisprudence, towards justice, due process and the fair trial rights of the accused. The Tribunal has a responsibility to the legacy that it will leave behind when it finishes its journey and a responsibility towards victims and their families.⁵⁶

⁵ <http://www.icty.org/en/press/statement-president-carmel-agius>

⁶ The content of the report is the sole responsibility of the publishers and it does not by any means reflect the official position of the supporting organizations. The report was made within the project «Support to the Strategy of development of judiciary in the area of human rights», with the financial support by the European Economic Area and the Kingdom of Norway grants for civil society organizations, implemented in the Republic of Croatia by the National Foundation for Civil Society Development.