

Session 4:

Citizens, administration and the protection of human rights in an enlarged Union

Saturday, 6 April 2013: 9.00-11.00

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Human rights and public services: Towards a more effective approach

When we discuss for the implementation of public administration reform in contemporary conditions especially is important to focus on public services users and in general on the process of modernization and improvement of services that are complemented by human rights values. That are those aspects of the reform that deal with the way public services are designed and delivered, such as the emphasis on service users and improvement of public service delivery standards, that are relevant to human rights. Once these common links are identified, the question arises how the human rights approach can give a special contribution for achieving improvements in public services. In this context, public services are considered as services of public economic and noneconomic interest.

The aim that should be achieved with this approach of delivering public services is adoption of legislation that should prohibit actions by public authorities which are incompatible with the European Convention on Human Rights and to avoid breaches of people's human rights. According to the "positive obligations" doctrine, public authorities should adopt a proactive approach for implementation of Convention rights. The legislation should provide a rights-based framework for designing policy and delivering services and should incorporate principles of fairness, equality, dignity and respect. These values are well recognized as fundamental to ensuring the delivery of high quality public services.

Human rights are characterized with universality and their approach helps to put the public service user into the heart of their design and delivery. When services are designed with the user in mind, it encourages recognition that people are entitled to be treated fairly and with dignity and respect.

In general, quality of service delivery depends of the application of the human rights approach that highlights the importance of the existence of a clear corporate strategy and high-quality training of staff that provide services. Of course of crucial importance is the existence of a human rights framework for making and reviewing policy decisions, including processes for taking into account the perspective of users.

In order to achieve better public services the public authorities should determine for adoption of proactive human rights approach. For that purpose it should be accepted one broader context of related "initiatives, frameworks, concepts and standards" that will apply to service delivery. Still there is a little chance that real changes will occur within the public services delivery unless a human rights approach is not adopted during the process of their modernization. In this aspect, is crucial the question of awareness and attitudes of delivering the public services in the context of the principles of human rights among public services users.

The paper will analyze the international standards for ensuring human rights approach in the performance of public services, corporate social responsibility, established by the United Nations, the European Union and the OECD. That is in order to determine more precise their

links and to identify priorities that countries within their public administration reform should undertake for achieving more effective implementation of the principles of protection of human rights in improving the performance of public services.

Dr Polonca Kovač, Associate Professor, Faculty of Administration, University of Ljubljana

Participative authority in administrative proceedings: European impacts and Constitutional court practice in Slovenia

The scope and meaning of administrative relations in contemporary society is increasing. Modern model of public governance is therefore contrary to traditional one grounding execution of power by rather participative networking and partnerships. It reflects tendency to redefine top down authoritative and unilateral decision-making by higher level of bottom-up cooperation of ruled ones. Inevitably the importance of public administration as decision-maker is changing and growing as well. In this respect, crucial part of modern governance is "good administration", incorporating classical procedural safeguards in relation towards the (state or administrative) authority as defined by Council of Europe, EU ombudsman and Article 41 of Charter of fundamental rights of EU (2010). Administrative proceedings and the relations among participants in the regulation and implementation thereof thus enable to put into operation the development of the theories on the role of the state: from enabling through ensuring to collaborative state, with comprehensive participation of individuals in public governance. The paper will in this context address the right to be heard (*audi alteram partem*) as a fundamental principle or key value within rights of defence in democratic state, as seen in the theory, comparatively and in Slovene administrative and judicial praxis.

The notion of the right to be heard, arising from human dignity and equal protection of rights, is in administrative relations theoretically and in the judicature a bit different as compared to criminal or civil proceedings. Namely, there are certain specifics to be taken into account like the primacy of material truth, hence limitation of the adversary principle. On the other hand the parties must have *locus standi* to participate in authoritative decisions, since public interest prevails over their private entitlements. The research will be carried out to analyse Slovene praxis on the subject. We will examine the hypothesis that European convergence impacts on Slovene authorities' conduct - especially after full membership of Slovenia in EU (2004) - led to higher awareness of the right to be heard as not merely administrative-processual but constitutional guarantee. The primary research method used besides historical, descriptive and comparative ones will be the thorough analysis of case studies from Slovene Constitutional Court in administrative matters. We will define basic origins and expose necessary minimal standards of participatory principle as processual aspects of right to be heard, access to the file and information, use of one's own language, notification, assistance and representation, statements of reason and effective legal protection etc. On these grounds we will identify major trends and challenges facing Slovenia and comparable states in the region with socialist heritage when democratizing their societies.

Dr Ivana Dobrotić, Research Assistant, Dr Teo Matković, Assistant Professor, Professor Dr Siniša Zrinščak, Faculty of Law- Social Work Centre, University of Zagreb, Croatia

Gender equality policies and practices in Croatia – The interplay of transition and late Europeanization

This article contributes to understanding change in gender regimes in post-communist countries. Using Croatia as a case, it juxtaposes the observed change in key indicators of the position of women in various walks of life with the context of the European gender agenda and the positions of actors involved in the national political arena and policies introduced throughout the transition period.

The article reviews the previous enlargement waves and indicates that the gender agenda was added to the negotiation process rather late – primarily via the EU accession conditionality requirement. Although narrow in scope and often limited in impact to just 'paper compliance' with EU legislation, it opened discussions in the gender equality area in post-communist countries and empowered women's organizations. In all the countries, the implementation of the European agenda was heavily influenced by the power and discourses of the main actors involved.

The article provides a map of social actors involved, together with gender-related policies as they have changed in three distinct periods in Croatia. The final analysis of observed practices and structures indicates very slow change and the crucial impact of structural and institutional developments as well as economic cycles, but little association of observed developments with dominant discourses or policies implemented over the past two decades.

Keywords: gender equality; post-communism; Europeanization; Croatia