



EQUAL RIGHTS TRUST

Equal Rights Trust

Statement for the Organisation for Security and Cooperation in Europe Human Dimension Implementation Meeting 2017

Working Session 14: Economic, social and cultural rights as an answer to rising inequalities

1. The Equal Rights Trust is an international organisation which exists to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice.¹ In the last ten years, we have been engaged in combating discrimination and promoting equality in seventeen of the Organisation for Security and Cooperation in Europe (OSCE) participating states.²
2. We welcome the inclusion of two sessions on ***Economic, social and cultural rights as an answer to rising inequalities*** on today's agenda. In our view, the links between inequality and economic and social rights are mutual: just as improving enjoyment of these economic, social and cultural rights will reduce social inequalities, so inequality – more specifically discrimination – can result in denial or limitation of these rights.
3. As such, I would like to focus on the role of discrimination in denial or limitation of economic, social and cultural rights, and, therefore, the role of comprehensive anti-discrimination laws in increasing the enjoyment of these rights.
4. Our research in various OSCE states has found consistent evidence that discrimination, arising on various grounds, is a significant factor in the limitation of economic and social rights.
 - a. Horizontal and vertical **gender** segregation in the labour market – a product of both direct and indirect discrimination – significantly impacts women's enjoyment of the right to work, and our research confirmed the existence of such discrimination in a number of OSCE states.³ Moreover, Azerbaijan and some other states retain discriminatory laws aimed at "protecting" women from forms of work judged to be hazardous, thus limiting their freedom of choice in employment, and so impinging on the right to work.⁴

¹ For more information about the Equal Rights Trust and our work, and to download any of the Equal Rights Trust publications cited below, please visit: www.equalrightstrust.org.

² These states are: Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Russian Federation, Serbia, Tajikistan, Turkey, Ukraine, the United Kingdom and Uzbekistan.

³ See for example, Equal Rights Trust, *In the Name of Unity - Addressing Discrimination and Inequality in Kazakhstan*, July 2017, Part 3.3; Equal Rights Trust, *Looking for Harmony - Addressing Discrimination and Inequality in Kyrgyzstan*, December 2016, Part 3.4; Equal Rights Trust, *After the Padishah Addressing Discrimination and Inequality in Uzbekistan*, December 2016, Part 3.4; Equal Rights Trust, *From Words to Deeds: Addressing Discrimination and Inequality in Moldova*, June 2016, Part 2.4.

⁴ Equal Rights Trust, *Addressing Discrimination and Inequality in Azerbaijan*, forthcoming; See also, for example: Equal Rights Trust, *Looking for Harmony - Addressing Discrimination and Inequality in Kyrgyzstan*, December 2016, Part 3.4.

- b. **Racial and ethnic discrimination** remains a barrier to the enjoyment of economic and social rights in many places. In both Ukraine and Moldova, for example, we found consistent evidence that discrimination and harassment against Roma persons limits their enjoyment of the right to health.⁵
 - c. Similarly, in both these countries, we found evidence that the state had failed to address the exclusion of children with **disabilities** from the mainstream school system, limiting their right to education. Moreover, in all of the states in which we have worked, failure to make reasonable accommodation limits the enjoyment of the right to work for persons with disabilities.⁶
 - d. In Russia, and indeed to a greater or lesser extent in other states where we have worked, we found evidence that **lesbian, gay, bisexual, transgender persons** had experienced direct discrimination in employment, as a result of prejudice.⁷
 - e. In Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, we found evidence of **religious discrimination** against both men and women who demonstrate their Islamic faith through their attire and appearance, affecting their enjoyment of the rights to work and to education.⁸
 - f. In Belarus, we found evidence of direct discrimination on the basis of **political opinion**, affecting those in opposition to – or perceived to be in opposition to – the government, who have faced dismissal from employment in public bodies, and exclusion from higher education institutions.⁹
5. While many of these patterns of discrimination persist, to a greater or lesser extent, in all OSCE member states, there is a striking difference in the legal framework which is in place to eliminate such discrimination. While an increasing number of OSCE participating countries have comprehensive anti-discrimination legislation and others – like Armenia – are making welcome steps in this regard, many do not.
6. Article 26 of the ICCPR imposes a clear obligation to enact laws which prohibit discrimination in law,¹⁰ an obligation which OSCE states reiterated at the Copenhagen

⁵ Equal Rights Trust, *In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine*, August 2015, Part 2.5.1; Equal Rights Trust, *From Words to Deeds: Addressing Discrimination and Inequality in Moldova*, June 2016, Part 2.1.

⁶ Equal Rights Trust, *In the Name of Unity - Addressing Discrimination and Inequality in Kazakhstan*, July 2017, Part 3.6; Equal Rights Trust, *Looking for Harmony - Addressing Discrimination and Inequality in Kyrgyzstan*, December 2016, Part 3.6; Equal Rights Trust, *After the Padishah Addressing Discrimination and Inequality in Uzbekistan*, December 2016, Part 3.6; Equal Rights Trust, *From Words to Deeds: Addressing Discrimination and Inequality in Moldova*, June 2016, Part 2.5; Equal Rights Trust, *In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine*, August 2015, Part 2.2.

⁷ Equal Rights Trust, *Justice or Complicity? LGBT Rights and the Russian Courts*, September 2016, Part 2.6.

⁸ Catliff, V., “Religious discrimination in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan”, *Legacies of Division – Discrimination on the Basis of Religion and Ethnicity in Central Asia*, Equal Rights Trust, July 2017.

⁹ Equal Rights Trust, *Half an Hour to Spring: Addressing Discrimination and Inequality in Belarus*, November 2013, Part 2.3.

¹⁰ International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171, Article 26: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and

HDIM Conference, in June 1990. Article 26 is of course complemented by Article 2(1) of the same Covenant,¹¹ and Article 2(2) of the ICESCR,¹² which creates an obligation to ensure non-discrimination in respect of economic, social and cultural rights. In 2009, the Committee on Economic, Social and Cultural Rights stated that Article 2(2) of the ICESCR necessitates the adoption of specific and comprehensive anti-discrimination legislation.¹³

7. There is, thus, a clear obligation on states to enact specific and comprehensive anti-discrimination legislation, and a clear need to do so, if economic and social rights are to be realised. The Declaration of Principles on Equality, developed by the Equal Rights Trust with more than 140 experts from more than 40 countries, and subsequently endorsed by the Parliamentary Assembly of the Council of Europe, provides states with a detailed set of principles to inform the adoption of such legislation.¹⁴
8. The Declaration provides that anti-discrimination laws must be both specific and genuinely comprehensive,¹⁵ providing protection on the full grounds of discrimination recognised at international law, and in all areas of life regulated by law.¹⁶ They must define and prohibit direct and indirect discrimination, harassment, and failure to make reasonable accommodation.¹⁷ They must require the provision of positive action measures.¹⁸ And they must provide procedural mechanisms to ensure that victims can vindicate claims of discrimination.¹⁹
9. I urge all OSCE members states which have yet to enact such laws to do so, in order to meet their international law obligations in respect of equality and non-discrimination, and to accelerate progress in respect of economic and social rights.

effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

¹¹ *Ibid.*, Article 2(1), which states: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

¹² International Covenant on Economic, Social and Cultural Rights, 16 December 1966, U.N. Doc. A/6316 (1966), Article 2(2).

¹³ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in economic, social and cultural rights*, UN Doc. E/C.12/GC/20, 2009, Para 37, which states: “Adoption of legislation to address discrimination is indispensable in complying with article 2, paragraph 2. States parties are therefore encouraged to adopt specific legislation that prohibits discrimination in the field of economic, social and cultural rights. Such laws should aim at eliminating formal and substantive discrimination, attribute obligations to public and private actors and cover the prohibited grounds discussed above”.

¹⁴ Declaration of Principles on Equality, Equal Rights Trust, London, 2008.

¹⁵ *Ibid.*, Principles 15 and 11.

¹⁶ *Ibid.*, Principles 8 and 5.

¹⁷ *Ibid.*, Principles 5 and 13.

¹⁸ *Ibid.*, Principle 3.

¹⁹ *Ibid.*, Principle 18-23.