



Institutionalisation of the fight against racism
E.g.: The Centre for Equal Opportunities and Opposition to Racism

Ladies and Gentlemen,

For the past twenty years, opposition to racism has been institutionalized in Europe. Indeed, aside NPO's and NGO's, public institutions have been emerging, whose purpose is to fight against racism and all forms of discrimination, whether they are racial or not. Those are created by laws and financed by the taxpayer.

Amongst those public institutions whose purpose is opposition to racism, we can mention the High authority for the struggle against discrimination and for equality in France (HALDE), created by a 2004 law; the Commission for Equality and against Racial Discrimination in Portugal (CICDR), created by a 1999 law; the Equality and Human Rights Commission in Great Britain (EHRC), created by a 2006 law; and finally the Centre for Equal Opportunities and Opposition to Racism (which I will refer to as "the Centre") in Belgium. I'd like to say a few words on the matter.

The Centre was created by a law voted on February 15, 1993. Back at that time, it was almost unique in Europe, and it succeeded the Royal Commission for Immigration Policy (CRPI), created in 1988, which was an advisory commission supposed to address recommendations to the legally qualified authorities on the ways to provide the best integration conditions for immigrant people, based on a thorough knowledge of the questions related to immigration. Therefore, we can say that the essence of the Centre, whose creation is a major progress in the struggle against all forms of discrimination, is closely related to the presence of "foreigners".

The Centre was originally entitled to address recommendations and – more importantly – to go to court in case of discrimination. Nevertheless, the Centre was legally qualified to go to court only for racial discrimination cases. Today, discrimination is much more diverse. For instance, phenomenons such as discrimination based on religious or philosophical beliefs have become significant, and have consequently put the Centre in a situation where it is not completely efficient. These factors have led to the amendment to the article 2, 2°, of the 1993 law in order to extend the legal qualification of the Centre to these forms of discrimination, too. A major progress indeed.

However, if discrimination based on religious or philosophical beliefs has been officially recognized as part of the Centre's legal qualifications, one might wonder about the Centre's reliability when it comes to fight these forms of discrimination – *de facto* as well as structurally.

De facto, because according to various testimonies, numerous people claim that even after they asked the Centre to refer their case to a court, the Centre did not reckon that it was relevant/necessary to seize the legally qualified jurisdictions; and structurally, because the 1993 law makes no provision for criteria that would leave the Centre no other option than to refer specific matters to a court. Indeed, its article 3 states that the Centre is "entitled" to go to court (meaning when it reckons that it would be "relevant"). As a result, remedies are rare, and the Centre does not contribute to the constitution of a case law which is necessary in terms of discrimination of a religious or philosophical nature.

Being independent is a *sine qua non* condition for a racism fighting public institution in order to be effective. The aforementioned institution thus can not be used at coalitions' and political party's own advantage. However, in order to ensure the effectiveness of the institution, its mechanism must be objective, which is currently not the case.

One solution might consist in the amendment of the 1993 law to make provision for a new article 3*bis*, in order to establish clear and accurate criteria which will allow the individuals to register a complaint in case of discrimination. SELOR (a Belgian office – part of the FPS Personnel & Organisation – responsible of recruiting public servants who pass through an objective procedure) is an example of how a public institution is supposed to proceed. By adopting such a mechanism, the Centre could avoid all kinds of suspicion that one might have about the Centre's impartiality.

Furthermore, if the Centre must be rendered objective, it is important to depoliticize the method of appointment of its board – but not the board in itself (which will have to play a fundamental role in defining the institution's major orientations). Indeed, administrators are currently being appointed by the federal government or following suggestions by the governments of the different federated entities. This happens along the lines of a procedure which lacks fundamental transparency. The royal decree of 28 February 1993, establishing the Centre's organic status, doesn't go far enough, and its article 1 should be revised.

Finally, taking into account the rise in discrimination in the past years, be it religious or not, another pertinent idea would be the establishment of an insurance policy system against discriminating acts. Indeed, discrimination victims, who are often issued from humble backgrounds, often end up undergoing the discrimination with some kind of resignation. The costs induced by legal actions form a major obstacle for these people, which may lead to their giving up. This allows a maintain of the conditions in which discrimination can be perpetuated if it isn't fought effectively. This vicious circle may be broken by the establishment of such insurance policies, which don't exist at the moment; or by extending the cover of those that already exist. Certain insurance companies, for example, offer insurance policies against acts of physical violence. Discrimination is also a form of violence in itself, which is why its integration into the current system would be a major advancement.

Thank you for your attention.

Mehmet A. SAYGIN – Jurist
UETD Brussels Secretary-General

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