Parliamentary Assembly
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Resolution 2054 (2015)[1]

Equality and non-discrimination in the access to justice

Parliamentary Assembly

1. Access to justice is an inherent aspect of the rule of law and a fundamental requirement of any democratic society. Article 6 of the European Convention on Human Rights (ETS No. 5) provides for the right to a fair trial and Article 13 sets forth the right to an effective remedy. Both of these rights are encompassed by the broader concept of access to justice, which refers to the various elements leading to appropriate redress against the violation of a right, such as information on rights and procedures, legal aid, legal representation, legal standing or general access to courts.

2. The Parliamentary Assembly regrets that, despite the essential role of access to justice for the effective enjoyment of rights by individuals, it is too often hampered by both practical and legal obstacles. The lack of legal information, the lack of trust in the authorities, the impact of the economic crisis on legal aid and the incomplete legal framework applicable to specific situations significantly contribute to the persistence of barriers to access to justice.

3. The Assembly is concerned that these barriers are harder to overcome for some groups of people who are particularly subject to discrimination and also less likely to know their rights and existing remedies. In this regard, the Assembly recalls the need to achieve equal access to justice for all by removing obstacles preventing individuals from understanding and exercising their rights and seeking redress in the event of a violation. The Assembly underlines that co-operation between civil society, administrative and judicial entities and law-enforcement bodies is of the utmost importance to ensure equal access to justice.

4. In the light of these considerations, the Assembly calls on member States to:

4.1. promote and improve legal awareness by exploring and implementing specific information mechanisms and innovative communication strategies;

4.2. ensure that adequate information on rights and procedures is available in different languages and formats and in plain language, relying on the support of civil society intermediaries for the dissemination of targeted information;

4.3. enhance reporting of offences by developing incentive mechanisms aimed at rebuilding trust in the authorities and reducing the deterrent effect of incurring costs.

5. The Assembly calls on member States to ensure that all categories of people have access to effective remedies and, in particular, to:

5.1. guarantee that legal aid is made available to every person, accused or victim, and take the necessary measures to ensure that categories of people subject to discrimination can receive legal aid;

5.2. sign and/or ratify the European Agreement on the Transmission of Applications for Legal Aid (ETS No. 92), if they have not yet done so;

5.3. use new technologies and ensure that categories of people disadvantaged in this respect have alternative forms of access to justice institutions;

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1. *Assembly debate* on 24 April 2015 (18th Sitting) (see Doc. 13740, report of the Committee on Equality and Non-Discrimination, rapporteur: Mr Viorel Riceard Badea). *Text adopted by the Assembly* on 24 April 2015 (18th Sitting).

5.4. remove legal obstacles to legal standing, notably by allowing courts to accept the submission of third-party interventions and equality bodies to represent individuals in legal proceedings in certain cases, and by making legal immigration status irrelevant to the conduct of judicial proceedings;

5.5. sign and/or ratify the European Charter for Regional or Minority Languages (ETS No. 148) with a view to guaranteeing, throughout the duration of legal proceedings, the full exercise of linguistic rights of people using a regional or minority language before the criminal, civil and administrative courts, in accordance with Article 9 of the charter;

5.6. sign and/or ratify the European Social Charter (revised) (ETS No. 163) and the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158), if they have not yet done so;

5.7. promote and develop the use of quasi-judicial mechanisms and alternative dispute resolution.

6. The Assembly calls on member States to step up their efforts to remove legal, social, economic and cultural barriers to women's access to justice and, for this purpose, to:

6.1. sign and/or ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210), if they have not yet done so;

6.2. carry out an in-depth analysis of the impact of gender on access to justice, in particular by collecting gender-disaggregated data, and adopt gender-sensitive policies taking account of the specific barriers to access to justice encountered by women.

7. With regard to categories of people particularly subject to discrimination and in order to ensure that all individuals enjoy full access to justice on an equal basis, the Assembly calls on member States to:

7.1. carry out national studies to evaluate the scale of the obstacles faced by these categories of people and implement tailored measures to tackle them;

7.2. provide specific training to the police and to legal professionals, including lawyers and judges, on discrimination issues;

7.3. step up efforts to combat discrimination faced by these categories of people in exercising their rights and, to this end:

7.3.1. enact or amend existing legislation to incorporate provisions on multiple discrimination in the existing legal framework against discrimination;

7.3.2. set up and support the work of national equality bodies;

7.3.3. remove obstacles to access to justice for people with intellectual disabilities, in accordance with the case law of the European Court of Human Rights.