

Project: Capacity Building of Civil Society in the IPA countries and Territories (Albania, Bosnia and Herzegovina, Croatia, FYR of Macedonia, Kosovo under UNSCR 1249/99, Montenegro, Serbia and Turkey); EuropeAid/127427/C/SER/Multi;
TACSO Turkey Office

REPORT

Submitted to: TACSO Turkey Resident Advisor

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Activity and subject:

- Working meetings concerning the “Ombudsman” issue with Disabled, Women and Children’s Ombudsman Organizations in Zagreb, Croatia on April 24-27, 2012
- Working meetings with the Human Rights Organizations at the Croatian Human Rights House Representation, Thoughts Concerning the *Applicability* of the Human Rights House model in Turkey, on April 26, 2012

Our “*The Disadvantaged as Actors in the Constitution Process*” project comprises a series of activities intending to actively include disabled, women and children from disadvantaged groups in a common platform as a pressure group to the new constitution and related regulations preparation process. The main objective is to enable civil society with an active citizenship role to influence the political will and have a say in the new constitution.

Following the June 2011 elections, a Constitutional Reconciliation Commission was established in the TGNA with equal representation from all parties of the Parliament and this Commission began its new constitution preparation activities with its first meeting held on October 19, 2011. The facts that active participation of civil society to the new constitution preparation process was prioritized and encouraged by the political will, draft constitutional preparations of civil society organizations were taken into consideration by the Commission and a technical team was established in this perspective indicated that civil society requests would be taken seriously in the new constitution process. These facts founded the grounds for such a project to obtain its objectives.

One of the activities of the project was to see best practices on site in this context. Thus, a visit to Croatia was realized in order to share civil society participation examples from Croatia with a democratization of civil society perspective. TACSO provided financial support to this Croatia study visit of the project.

Meetings were held with disabled, women and children's ombudsman organizations of Croatia during the visit. These meetings were among the main activities of the visit especially in terms of evaluating the suitability of their model to the soon to be established ombudsman organization of Turkey.

The Croatian office of the Human Rights House network which has representation in 12 countries (Azerbaijan, Belarus, Bosnia Herzegovina, Croatia, Macedonia, Georgia, Kenya, Norway, Poland, the Russian Federation, Uganda and the United Kingdom) was also visited and information concerning the structure and function of the network was gathered. The applicability of such structure in Turkey was examined by the Turkish civil society organizations.

Thus, the Turkish participants of the visit, ÖZEV and ÖZ-GE DER began to work on establishing a representation of the Human Rights House in Turkey.

Place and date of performed activity/training/event:

April 25-26, 2012, Zagreb, Croatia

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25-26 April 2012, Zagreb, Croatia

Data on participants:

- Akça ÜNSAL, representative of TACSO Turkey
- Bülent AVCILAR, representative of ÖZEV (Turkey Disabled's Education and Solidarity Foundation)
- Berin ÇANLI, representative of ÖZ-GE DER (Association for Solidarity with Freedom-Deprived Juvenile)
- Hülya GÜLBAHAR, representative of Constitutional Women's Platform
- Dilek KUMCU, Constitutional Committee Consultant member
- Elif SERBEST, representative of Prevention Of Discrimination Against Persons With Disabilities Platform
- Şükriye HALAÇOĞLU, representative of KAP-DER (Cappadocia Women, Youth, Education and Culture Association)

Objectives of performed activity/training/event:

The Croatian study visit of *“The Disadvantaged as Actors in the Constitution Process”* project had three main objectives:

- (1) To what extent were civil society organizations able to participate in politics and public opinion creation processes with a democratization perspective during the EU accession process of Croatia and what were the methods which were used?
- (2) Croatia made important changes to its constitution in 2010 as a part of the EU accession process, to what extent were civil society organization able to take part in that process and what kind of methods and tools were used?
- (3) What is the structure, activity areas and functions of the ombudsman organizations of Croatia? Could the ombudsman model of Croatia be an example for the soon to be established ombudsman organization of Turkey?

Short description of agenda / flow of the performed activity:

- 24/04/2012 Croatian Union Physically Disabled Persons Associations (CUPDPA)
- 24/04/2012 TACSO Croatia Office
- 25/04/2012 Office of Ombudsman for People with Disabilities
- 25/04/2012 Center of Education and Counseling of Woman
- 26/04/2012 Office of Ombudsman for Gender of Equality
- 26/04/2012 Human Rights House: Centre for Peace Studies
- 26/04/2012 Human Rights House: Documenta
- 26/04/2012 Human Rights House: Babe!
- 26/04/2012 Human Rights House: Civic Committee for Human Rights
- 26/04/2012 Human Rights House: APEO/UPIM
- 26/04/2012 Human Rights House: Svitanje

Following the September 12, 2010 referendum in Turkey, the establishment of a “public auditory” (ombudsman) organization became legal. However, this organization which found place in the 74th article of the constitution has not yet been formed.

As a result of the meetings held with the disabled, women and children’s ombudsman organizations of Croatia, answers to question such as what should the structure of the ombudsman organization of Turkey be like and to what extent could the Croatian model be an example were contemplated.

As a result of the meetings held with the Croatian Human Rights House Network office, information concerning the structure and function of the network together with information about the human rights organizations within the network were gathered. In this respect, the suitability of this structure to Turkey was questioned and these

constituted the basis for Turkish civil society organizations to begin working in this perspective.

Evaluation of the activity:

Impressions concerning Children's Issues:

Croatia has an official child protection system and the United Nations Children's Rights Convention entered into force in 1991.

The children's ombudsman organization was established by law in 2003 following the general ombudsman organization. The children's ombudsman organization first began functioning in a small office and it was designed as an organization affiliated to the parliament. However, the relationship with the parliament and thus the government did not comply with independency principle of the universal human rights law perspective. Meetings were held with the children's ombudsman office which has offices in three different regions and information was gathered concerning the "independency and autonomy" issues of the organization. For the selection of the ombudsman an open call is made and the applications are studied by a committee established by the government. This committee then makes a proposal to the parliament about their ombudsman choice. The final selection is made by the parliament but this is not enough to say that this process complies with impartiality or independency principles. It is not clear what kind of criteria the committee uses while making its proposal to the parliament about the ombudsman following its examination of the applications. Thus, objectiveness of the criteria becomes another issue. The ombudsman selections are made by the parliament ever eight years and the same person is allowed to be re-appointed.

The office of the ombudsman has two main departments, expert services and general services. The Ombudsman has two deputies. There are six consultants and four staff in charge of managerial and financial issues. Staff has degrees in law, psychology, social and humanitarian sciences, media, informatics, finance and office management areas.

The organization was established with the aim of protecting children's rights, to monitor it, influence legislative and enforcement bodies in this perspective, accept and make room for children's views and inform the public about children's rights. It is the first expertise organization of Croatia.

The office includes 15 staff. They report to the parliament once a year. The office is member to the European Network of Ombudspersons for Children (ENOC) and the Children's Rights Ombudspersons Network in South and Eastern Europe (CRONSEE).

They receive complaints concerning various different areas. Last year they received 1054 complaints in total. They have 25 child members between the ages of 12 to 18. Schools are a fundamental tool in terms of reaching children. There are regular children's ombudsman introductory meetings in schools and posters are also always kept up.

Applying children are identified with a volunteerism approach. Applying volunteers are asked about their reason of application and selections are made to reflect the representation of the country.

One of the main priorities of the ombudsman office is cooperation with children. Therefore, through the MMS youth consultancy network, regular meetings are held once a year at national level and several times at regional levels. On the other hand, the members of this network, in context of children's rights and parental responsibilities legal status activities, have taken part in the European Council's consultancy process.

International meetings are held twice a year. These meetings last two or three days and they tackle various different issues. They also constitute a sort of consultancy board mechanism. Although there isn't a regular distribution system, the media is informed on a case and needs bases.

The Croatian Constitution only includes the general ombudsman system.

Although the sexual intercourse age is defined as 15, member children have asked this to be increased to 16.

Every year a meeting with CSO and media representatives is held. Last year, a research was conducted with the participation of 2500 children from schools.

Criminal liability begins at age 14. Children are directed to rehabilitation between the ages of 14 to 16. Restriction of freedom for children is only considered for very severe or repeating criminal actions.

Prosecutors usually direct children to rehabilitation instead of the court (opportunity system). For the last eight years of its activities the ombudsman office, together with the active participation of children, has been working with an interdisciplinary expert team.

Impressions concerning Disability Issues:

The Disability Ombudsman came into force through the Parliament with a law dated October 10, 2007 and its main responsibilities are defined as:

- To develop suggestions concerning disability problems,
- To follow up on the responsibilities of both the Disabled Rights Conventions and other international conventions of the issue which Croatia is a party,
- To take precautions concerning problems of the disabled people,
- To take on a cautionary role for the legislative,
- To inform the public about disability rights,
- To provide advocacy for people whose disability rights have been violated,
- To carry out monitoring activities for disability discrimination,

- To conduct disability rights studies with civil society organizations,
- To inform prosecutory bodies about indentified disability discrimination acts,
- To prepare annual reports for the parliament.

The disability ombudsman needs to have at least a graduate degree in social sciences and 10 years of experience in the field of disability rights. The ombudsman should not have had a political affiliation in his/her past.

The most important identifying factor of the ombudsman is that he/she must also have disability of their own.

The ombudsman mainly identifies discrimination of the disabled in areas related to violence, sexual harassment, abuse, exploitation, negligence and reckless treatment.

As civil society organization members mostly working with disabled youth, we were able to be informed about the ombudsman organization which does not exist in our country yet. We had a chance to inquire about the structure and functions of this ombudsman organization especially during the visit we made to the Disability Ombudsman office on our first day. However, as of the first day of our visits, we realized that the fundamental issue of our visit, namely civil society contribution to the constitutional change process, did not actually have the influence we expected. The changes were mainly made based on the EU accession process. Therefore, we were not able to get concrete data which would contribute to our own process. However, one issue which did respond to our expectations was the issue of civil society being taken seriously by the government and its visibility. We were able to see the power civil society had compared to our country. Especially CESI, which conducts international and national activities related to gender mainstreaming and women's rights, seemed to have a clear influence on the development of the society regarding these issues.

The meetings we had with CUPDPA, which is an effective and overarching organization related to disability issues, were quite inspirational in terms of the future activities of our own platform, which brings disability related organizations together with a similar aim but different structure. We were able to get information from the CUPDPA president and staff concerning the approach towards disabled people in Croatia, discrimination, participation and accessibility. We were also able to provide them with information concerning similar issues in Turkey. We all agreed to conduct joint activities with this organization in the future.

We returned with the impression that although an exact modeling would not be possible, through the common conditions, population characteristics, history and restructuring processes we share, examples can be taken for our own civil society activities from Croatia.

Impressions concerning Women's Issues:

We saw that the Croatian Government has a pretty strong mechanism in order to strengthen gender equality. In addition to the Governmental Gender Mainstreaming Office, Gender Equality Ombudsman and the Croatian Parliamentary Men-Women Equality Commission, Croatia has gender mainstreaming boards in all its 20 administrative regions.

In 1996 the Croatian government established an Equality Problems Commission with representatives from all related ministries and governmental agencies to act as a consultancy board and changes were made to national policies to make them stronger in terms of function. The Commission was renamed as the Gender Mainstreaming Commission and it was annulled in 2003. As a result of lessons learnt and new legislative regulations the Gender Mainstreaming Government Office was established as an expertise agency for the implementation of the Gender Equality Law and its National Action Plan.

The primary responsibility of the Gender Equality Ombudsman is gender mainstreaming, gender identity and complaints concerning expression and gender tendencies.

Following the 2001 Constitutional change Croatia included gender equality amongst its constitutional values and on July 23, 2003, the Gender Equality Law was enforced to help prevent gender discrimination. There were two other laws which were simultaneously accepted as well, the Family Abuse Prevention Law and Law Concerning Gay Marriages.

In 2008, in light of relevant international standards and EU regulations concerning gender equality, the Parliament enforced the new Gender Equality Law. This law banned any kind of discrimination stemming from all kinds of gender, marital status, family status and gender tendency. The Discrimination Prevention Law entered into force on January 01, 2009.

The Gender Equality Law protects gender equality as a constitutional value in Croatia and encourages equality opportunities between men and women in all aspects of political, economical, social, cultural, educational and other areas of social life. This law, for the first time with reference to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), accepted all forms of inequality (direct, indirect, abuse, sexual harassment).

In Croatia, gender equality and strengthening women policies were accepted through the decisions of the Parliament and national action plan of 1997 and 2001. At the moment, the National Policy for Encouraging Gender Equality, 2001-2005, constitutes the fundamental base for developing women's rights. Another separate framework has been designed for the objective and action models of developing women's rights based on the 2001-2005 National Policy, Beijing Action Platform and Private Session outputs of the Beijing +5 General Assembly. With the 2006 National Policy, the prior policy has been developed and the principle to establish both a national and regional level network in order to continue encouraging and developing gender equality issues.

Civil society organizations working in the field of gender equality were included in the National Action Plan preparations and thus, the government and civil society were able to work together for the implementation of women's status policies and the declaration of the Beijing Action Platform.

The Applicability of Human Rights House Network for Turkey

Human Rights House Foundation, an independent, nonprofit NGO located in Norway, which promotes the establishment of Human Rights Houses worldwide. In this respect, it has a network/ representation in 12 countries (Azerbaijan, Belarus, Bosnia-Herzegovina, Croatia, FYR Macedonia, Georgia, Kenya, Norway, Poland, Russian Federation, Uganda, United Kingdom).

When a Human Rights House is established in a country it represents a test of the freedom of organisation, the freedom of expression and the freedom to be a human rights defender in that country.

During the study visit, participants from Turkey have received information on the procedures of establishment and structuring of the Human Rights House Network. Bureaucratic procedures to implement this network in Turkey were launched under the leadership of ÖZEV.

Each participant from Turkey agreed that the visit to Human Rights House Croatian Office had been a very fruitful and efficient visit.

About Human Rights House:

When a Human Rights House is established, human rights organisations co-locate their activities in one building in order to:

- create an environment that stimulates collaboration and co-operation
- enhance networking, moral support and solidarity among organisations
- cut costs and free funds for projects and activities
- make the organisations more visible to the public and decision-makers
- provide a stable and secure base of activities

Main principles of Human Rights House are:

- **Independence** The House must be an independent institution.
- **Sustainability** The Human Rights House is an investment aimed at reducing long-term costs, in order to make the organisations less dependent on donor funding. The House will thus help sustain the core activities of the organisations.
- **Diversity** The partner organisations should be involved in a wide range of different activities. This should reflect problems and needs in society.

- **Equality** Each participating organisation must be an equal partner.
- **Democracy** The House must be run and managed by equal participation and representation of the partner organisations.
- **Autonomy** Each partner organisation must retain its autonomy.
- **Reduced costs** As a rule of thumb, if the House is bought the organisations should enjoy a 50% reduction in rent after moving into the Human Rights House. Even if the House is rented, sharing of facilities should lead to reduced costs for the members.
- **Security** The Human Rights House must provide protection and security for the member organisations and human rights activists working there.
- **Joint facilities** The Human Rights House should contain facilities that are useful to the partner organisations and users, for instance meeting rooms, documentation centres and conference halls.

List of materials/ handouts delivered to participants:

- Croatian Anti-Discrimination Act Document
- Ombudsman Organizations Working Booklets
- Information Booklets about the Human Rights House Network