ЦЕНТЪР НА НЕПРАВИТЕЛСТВЕНИТЕ ОРГАНИЗАЦИИ В РАЗГРАД

Non-Governmental Organizations Center Razgrad

PROJECT "COMPLETE TRANSPARENCY, PUBLICITY AND IMPARTIALITY IN THE PROCESS OF LAW ADMINISTRATION BY COURT"

RESUME
Of the report of civic court monitoring in Razgrad, Veliko Turnovo, Silistra, Turgovishte, and Shumen, as of 15.09.2006 -30.04.2007

The final analytical report presents the results of the civic court monitoring which was conducted by the NGOs Center in Razgrad. It comprises of the observations on the work of the six magistracies in five towns of Northeastern Bulgaria with a total of 890 154 people[1]. The survey encompasses a period of eight months, from September 2006 to April 2007. The monitoring was conducted as a part of Project "COMPLETE TRANSPARENCY, PUBLICITY AND IMPARTIALITY IN THE PROCESS OF LAW ADMINISTRATION BY COURT", and also as a part of the Judicial Strengthening Initiative of USAID.[2]

18 volunteers were engaged in the monitoring. They observed 346 cases in 396 court sessions in the regional courts in Razgrad, Silistra, and Shoumen and in the district courts of Razgrad, Veliko Turnovo, and Turgovishte. They observed court cases initiated in accordance with the Family Code, The Law for Protection against Domestic Violence, the Law for Protection against Discrimination, Criminal Procedure Code, and the Civic Code. The court cases which were observed were selected on the basis of preliminary schedules in the courts. The cases of great public interest which were prosecuted at the point in the monitored courts were also included in the monitoring.

The goal of the monitoring is to exercise civic control over the activity of the court. The volunteers observed specific parameters set out by the organization of the correctly administered laws and codes, of the work of the court administrative body, of the development of the court cases, their expedition, effectiveness, transparency, and impartiality. The conditions under which the legal institutions in the five towns operate, the functionalism and the technical provision in the buildings, the possibilities for access disabled people have were monitored in particular.

An analyses of the court practices related to the court cases prosecution, the conduct judges have as well as their impartiality or inadmissible partiality was presented. The court jury's

[1] As per data of the National Statistical Institute
[2] United States Agency for International Development (USAID)

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work was also a subject of monitoring. Special attention is paid to the efforts the legal institutions put into the achievement of transparency and publicity of the legal proceedings as well as the attitudes towards a positive change in this direction.

The report includes the observers' impressions collected into special survey cards whose data was summarized and analyzed in two separate three-month reports. The conclusions from the monitoring, the articulation of the problems and the address of the recommendations on the improvement of the work of the court were done by the Civic Consultative Group comprised of 10 experts who compiled the present report in accordance with preliminarily approved structure. Besides the evaluations the analytical report includes an estimation of the progress of the specific court as per a three-grade scale.

The results from the monitoring disclosed that there is a certain progress in the activity of the legal system in Northeastern Bulgaria, but still more efforts are required for a successful legal reform.

A major problem of the legal proceedings in the magistracies continues to be the slow and ineffective jurisdiction. The postponement of trials is constant. The legal proceedings continue for years. The lack of dispatch leaves the feeling of fecklessness. Forced to wait for justice for decades, people lose their trust in the legal institutions and their confidence in the supremacy of law has eroded. The observers stated there was a case in which the sentence was passed on after a delay of 15 years as a result of which of which there were statute-barred terms had already expired[3].

As the most common reason for the delay in prosecuting the case tends to be the absence of the defendants, important witnesses, and experts on the case. The explanation most often given to this is the irregular calling to witness or the presenting of patient's notes which provide an excuse for the absence in court. The observers notice that courts use different practices and in such cases greater chaos occurs in addition to the already low-pace of court proceedings. Criminal procedures have been postponed and rescheduled as a result of not well-formulated indictments. Such delays pose risks because witnesses disappear in the slow process of prosecution because they leave the country or as a result of a natural death. Such cases have an unsuccessful end and re a testimony to the ineffective legislation.

The trend of delaying cases because of officials engaged is particularly alarming. Lawyers regularly use patient's notes in order to be absent from the court room and to reschedule the trials in favor of their clients. There is not an apparent reason for the absences of experts who delay the prosecution as well.

Negligence which is an obstacle to the work of court and which delays the trials were observed in particular courts. Ill-organized schedules or such that have not been announced quite in advance, lack of information in courts on the location and time of the trial, judges and lawyers' delays pose an additional inconvenience to citizens and erode trust in legal institutions.

[3] Criminal Case of # 517/2004., Razgrad Regional Court

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The monitoring discloses that the newly enforced laws on protection against domestic violence and protection against discrimination are little known yet and those are rarely applied.

The citizens do not know that the rights of protection against violence and discrimination are asserted in particular texts and they do not seek for justice addressing those texts.

Uncertainty has been observed which makes the subjects of domestic violence seek for help from court through the Family Code and not through the specific law. It is even more alarming that discrimination in the monitored towns occurs according to the surveys. Citizens have encountered such cases but proceedings have not been instituted on those particular cases.

The monitoring of the judges' work reveals that the majority aims to be objective and impartial. There are certain preferences shown when there is a case of damages caused by the state to a citizen. According to the volunteer observing the case the magistrate has provided comfort for the representative of the authority which creates the feeling of fickleness in citizens in the face of institutions.

There is an alarming trend of nominating magistrates for state positions on the basis of a belonging to a political party. A good example for this is the formation of election commissions which are entitled to organize and conduct elections. During the period of the monitoring in the regions that were monitored were noticed the following precedents (Razgrad).[4] There cannot be treated as exceptions because similarities to them occurred in the Central Elections Commission. These temporary bodies of authority are formed on the basis of the quota principle and only by the political parties. Their members represent particular political parties and openly or less implicitly are loyal to their supporters as they neglect law. The Supreme Council enforced this vicious practice. According to the civic observers this is a pernicious trend which erodes the trust in the authorities' impartiality, independence and political non-commitment.

The practice of selection of the court jury is also ineffective. It has been revealed that three municipal councilors, i.e. the Chairperson of Razgrad Municipal Council[5], the Chairperson of a Permanent Commission[6], and a Councilor[7] are simultaneously members of the court jury in Razgrad District Court. There is no evidence for their participation in court sessions. The civic observers do not consider it is normal one to vote for oneself and to neglect the responsibilities taken in society. There is no information on how and who determines the participation of the jury in the trials, to whom the jury members bear responsibility and how effectively they help litigation. There are two members of the jury in Razgrad who were

[4] The judges Anelia Yordanova and Svetla Robeva of Razgrad District Court participated in the Regional Election Commission in Ragrad at the time of the elections for European Parliament members. They were appointed by the Bulgarian Socialist Party.

[4] Accepted by the Union of Judges in the end of 2003 and approved by the Supreme Juridical Council on January 11th, 2004.

[5] Dobrinka Moneva is a municipal councilor since 1991 and a chairperson of Municipal Council serving a third mandate and appointed by the Bulgarian Socialist Party (BSP).

[6] Miroslava Katsarova is serving a third manadate as a municipal councilor and appointed by the BSP.

[7] Rabiha Hadzhjinjuz is serving her first mandate as a municipal councilor appointed by the Movement for Rights and Freedom. (MRF).

appointed long time ago respectively in 1975 and 1979. There is a similar practice in the other regions as well.

There is a lack of transparency in the trials in which there is a conflict of interests based on family, economic and other circumstances according to the laws and Guidelines for the Operation of the Legal Administration.

It is common in the small settlements judges and lawyers to appear together. Those are often relatives and compromises the principles of objectivity and impartiality. The judges do not resign when there are family or other circumstances and relations.

The judges and prosecutors often break the laws on ethical behavior in public and discredit the system[8]. The informal meetings in public of lawyers, judges, prosecutors, and police officers give the sense of preliminary settled outcomes of the trials in court. Such behavior is inconsistent with the general principles in the rules of ethical behavior typical of the professions.

Citizens consider it inappropriate close relations to be demonstrated outside of the court rooms because this creates doubts about the independence, moral, objectivity, and presence of corruption practices:[9]

The monitoring discloses that the legal institutions are located in buildings adjusted in such a way as to respond to their functions but do not meet the contemporary standards of the modern legal administration. Of the five courts which were a subject of the monitoring only the courts in Shumen and Veliko Turnovo are placed in buildings constructed for the specific purpose. The buildings of court are generally narrow, poorly-equipped and without loudspeakers installed. In most of the buildings the access for disabled people has not been ensured, there are no WCs for citizens; the offices are narrow and inconvenient; the administrative service hindered by the low living standards and the not very good attitude of the officers towards the visitors. The buildings which have been adjusted to serve as courts are not always a property of the state and this is a barrier to their modernization and reconstructions with money from the budget of the legal system.

The monitoring reveals that a common weakness in the courts which were subject to monitoring is the lack of communication strategy on the connection with citizens. There is no public relations specialist in any of the monitored courts; public reports of courts are rather an exception than a regular practice. The transparency of the legal institution continues to be a serious problem even in the cases when websites are updated. They contain basic information and give the impression that they have been created formally and with for no practical purpose.

The interaction of the volunteers, who have been engaged with the monitoring, with the officers of court revealed that the process of opening the court to society is slow and difficult. In the beginning of the monitoring the volunteers were met by unfriendliness at most of the places but over time this has changed towards cooperation and mutual trust almost everywhere.

[8] Adopted by the Union of Judges at the end of 2003 and approved by the Supreme Juridical Council on January 11, 2004

[9] http://lex.bg/f/Judges.doc – Guidelines of Professional Ethics of Judges in Bulgaria

The civic monitoring implemented by the NGOs Center in Razgrad was the first attempt of society in the districts subject to monitoring to exercise civic control over the legal system. The results from it were periodically announced through the mass media in the particular towns. The conclusions and assessments as a result of the monitoring echoed strongly among viewers and readers. A number of magistrates, lawyers, journalists, municipal councilors, members of the court jury and civic leaders participated actively in the discussions on the topic. The discussion revealed that the idea of a public partnership between the legal institution and the non-governmental sector has been estimated as useful, timely, and necessary.

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