

**Mobilising Communities, Advocates and Lawyers to Challenge
Racial and Other Discrimination in an Expanding Europe
(Article 13 Project)**

Within Transnational Actions for the Development of Policy
and/or Legal Responses to the Fight Against Discrimination
on Grounds of Racial or Ethnic Origin, Religion or Beliefs, Disability, Age and
Sexual Orientation

EXTERNAL EVALUATION OF THE PROJECT

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I. Introduction

1. Background

This Report sets out the findings of the evaluation of the Project “Mobilising Communities, Advocates and Lawyers to Challenge Racial and Other Discrimination in an Expanding Europe” (further “Article 13 Project”), implemented jointly by the Minority Rights Group International, the European Roma Rights Center and the Swedish Ombudsman against Ethnic Discrimination. The Project was financially supported by the European Commission.

The aim of the Evaluation Report is to capture and document the relevance of the Article Project activities, to examine whether they met the initial objectives and achieved the planned outcomes (as set in the original proposal); and to assess the initial actual impact on the target countries and beneficiaries. Additionally, the report describes the effectiveness of the Project and the challenges it encountered.

According to the proposal of the Article 13 Project submitted to the European Commission, the external evaluation was to assess also the Project’s efficiency. However, the evaluator was not been provided with any financial reports or relevant materials in this regard (except of the initial budget of the Project). Thus, this Evaluation Report does not address the utilization of the Project’s resources and does not examine whether they had been applied properly in the realization of the respective activities. It is presumed that such examination is conducted separately by a financial audit.

The evaluator also notes that she has had working relations with some organizations and individuals participating on this Project. Phat prior to August 2006, she was an executive director of the Center for Civil and Human Rights, based in Kosice, Slovakia, and she is still a member of the Board of the Center. Three cases included into the case docket of the Article 13 Project (see below, Activity 3) are litigated by an attorney of the Center. However, the Project entered into the cooperation with the Center only in October 2006. As a Board member, the evaluator is not engaged in the case work and has not been involved in the litigation of the respective cases. Additionally, in her current position, the evaluation cooperates with the mental health program of the League of Human Rights that was a collaborating partner in the Project for the Czech Republic. The staff working on this project and the content of the work are different from those on which the evaluator cooperates with the League and she had not been familiar with the work of the League in the field of protection from discrimination. The evaluator believes that she did not have any conflict of interest issue when conducting the evaluation and that she performed her task objectively and impartially.

2. Evaluation Objectives

As noted above, the main purpose of the evaluation was to assess the Article 13 Project’s success in reaching its stated goals, its effectiveness and where possible, relevance of different aspects of the Project. As such, the evaluation has focused mainly on the following factors:

- To what extent have the implemented activities contributed to the realization of the Project specific outcomes and to what extent did the Project meet the stated goals?
- Were the aims and objectives of the project realistic, well targeted and precise?
- Were the aims and objectives achievable in the time frame considered in the planning documents?
- How did the organization monitor the achievement of the objectives?
- Which Project components have been most effective?
- Which Project components needed improvement?
- Can the project be sustained? Is the project replicable and transportable?

The evaluation further assessed the project performance under the indicators outlined in the Project log-frame and reviewed whether the planned outcomes indicated therein had materialized.

3. Evaluation Methodology

In carrying out the Article 13 Project evaluation, the evaluator conducted the following activities:

- reviewed provided materials related to the implementation of the Article 13 Project, mainly
 - the project proposal and log-frame,
 - interim progress reports submitted to the European Commission,
 - programs and materials from individual training workshops and analysis of evaluation forms filled in by each training participants (the training evaluation forms had been processed and analyzed by the Project staff and country partners),
 - selected correspondence with country partners and attorneys taking cases within the project,
 - cases memoranda.
- conducted telephone interviews with the project staff in all partner organizations - total four project staff persons were interviewed;
- conducted telephone interviews with representatives of collaborating partners organizations in the Czech Republic, Germany and Poland - representatives of all three country partners were interviewed (four persons as there was a change of the collaborating partner in Poland);
- conducted telephone interviews with selected participants of pan-European training workshop (five persons);
- conducted telephone interviews with selected participants of all national workshops for lawyers and NGO activists (12 persons, out of whom 5 persons were NGO activists and 7 were lawyers) - the selection of person for interviews was random, depending however on their availability and accessibility as many contact addresses for the participants were outdated. From each of the national workshops, at least one activist and one lawyer were interviewed.
- conducted telephone interviews with attorneys in charge of the litigated cases from each country where the cases were initiated (three attorneys representing cases were interviewed).

Thus, the information sources for the evaluation were both qualitative and quantitative. All interviews were in-depth, based on a same set of questions developed by the evaluator. They sought background information on the interviewee, their involvement in the project and then, depending on the activity, to collect opinions on how the Project had been perceived, lessons learnt from the activities, overall achievements of the project as well as the issues related to Project's effectiveness and sustainability.

Although the aim was to have a comprehensive assessment, considerations of time and the availability of the pan-European and individual country workshops participants to provide information to the evaluator within the short time framework of the evaluation have limited the depth and scope of assessment. As for the country workshops, 82 persons were trained, thus 15% of the participants were interviewed. It is questionable whether such a small sample of follow-up interviews is statistically significant. However, they provided a useful indication of the workshops and utilization of the information and knowledge gained during the trainings over time.

4. Report Structure

Following the introduction, section II. presents the overview of the Project and its planned goals and outcomes. The findings of the evaluation are contained in section III., according to individual activities. In evaluation of each activity, there are listed factors that contributed to the overall success of the activity and Project and the problems in implementation of each activity. After the assessment of activities, the conclusions of the evaluation and recommendations for the future are presented in section IV.

II. Description of the Article 13 Project

1. Goals and Objectives of the Project

The Article 13 Project was a two year, complex project, funded by the European Commission, that aimed to strengthen the rule of law pertaining marginalized groups in the society that experience discrimination on the grounds of racial or ethnic origin, religion or belief; and to enhance civil society's ability to provide professional help to these groups in five focus countries (the Czech Republic and Slovakia, Sweden, Poland and Germany). The Project was implemented in a period of December 2004 – November 2006.

The Project activities included pan-European training for lawyers and national workshops for activists and lawyers, subsequent litigation and advocacy of discrimination cases; a publication of resource materials in local languages; and a creation of legal resources website. As such, the Project was planned to ensure that European Community legislation, adopted under Article 13 of the EC Treaty, was successfully transposed and implemented, and that marginalized minority communities, in particular Roma, benefited from increased legal protection.

The **overall objectives** of the Project were in all five focus countries:

- to make a significant contribution toward ending racism in five European countries;
- to contribute to greater implementation of national and EU anti-discrimination legislation (on the grounds of racial or ethnic origin, religion and belief) and international human rights standards; and
- to support and strengthen the capacity of activists from minority based or human rights NGOs and lawyers to more effectively challenge instances of discrimination on the grounds of racial or ethnic origin, religion or belief.

The Project was implemented through five main activities which **specific aims** were:

- **pan-European training for lawyers:**
 - to increase lawyers' knowledge of available instruments and litigation strategies relating to minority rights and discrimination;
 - to encourage sharing of experiences and good practice between countries;
- **national level workshops for activists and lawyers:**
 - to increase activists' capacity in using anti-discrimination norms and standards in order to support strategic litigation through related advocacy;
 - to assist victims in accessing justice by giving the activists the necessary skills to document the violations experienced by communities, and relaying these findings to lawyers who are willing to take on such cases;
- **national level implementation projects for activists and lawyers:**
 - to enable activists and lawyers to put into practice the skills they have gained during the workshops, thus ensuring sustainability;
 - to solidify working relationships between activists and lawyers;
 - to further implement Article 13 Directives (other relevant standards such as the FCNM and ICERD will also be used to further strengthen legal arguments)
- **editing/translation of resource material**
- **development of website**
 - to disseminate available resources on protection and legal means of fighting discrimination in local languages and in an electronic form on the project website.

2. Partner organizations

The main project partners and their personnel were as follows.

Minority Rights Group International (further "MRG") - international non-governmental organization, based in London, UK, advancing rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and promoting cooperation and understanding between communities. The person responsible for the Project implementation was Nurcan Kaya, supervised by Clive Baldwin, Head of International Advocacy.

European Roma Rights Center (further "ERRC") - an international public interest law organization, based in Budapest, Hungary, undertaking a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma in Europe. There were several persons

responsible for the Project due to frequent staff changes, those include Claude Cahn (Programs Director), Dianne Post (Legal Director), Allan Anstead (Legal Officer) and Larry Olomoofe (Human Rights Trainer, responsible for overall co-ordination of the ERRC human rights education department).

Swedish Ombudsman against Ethnic Discrimination (further “DO”) is a governmental institution mandated to deal with discrimination on ethnic and religious grounds. The DO has a specific Roma Project set up to combat discrimination against the Roma to survey the extent of ethnic discrimination or other violations against Roma and to raise awareness among Roma about the protection against ethnic discrimination. Similarly to the ERRC, there were several persons responsible for the Project within DO, including Lars Lindgren and Domino Kai (the Roma Project Coordinator).

Collaborating organizations in the individual project countries were: in

- in the Czech Republic: the League for Human Rights (further “LLP”), human rights organization based in Brno that engages in legal advocacy in three areas: to victims of police brutality, incompetence, and impunity, and victims of racially motivated attacks, particularly members of socially marginal groups such as the Roma minority and foreigners; to victims of domestic violence; and to children whose rights are abused. Person responsible for the project was Robert Cholenský;
- in Germany: the German Institute for Human Rights (further “GIHR”), based in Berlin. The various functions of the Institute include information and documentation, research, policy advice and human rights education within Germany; in particular, it is concerned with the promotion of human rights treaties, with issues in the framework of security policy, peace policy and human rights, and with strategic issues with regard to human rights policy. Person responsible for the project at the GIHR was Petra Follmar;
- in Poland: the Polish Association for Legal Education (further “PSEP”), a non-governmental organization based in Warsaw that among other activities promotes protection of human rights and legal reform of justice system in Poland, organizes educational activities aimed at various social groups, runs legal clinic at Warsaw University and four other universities in Poland and supports social initiatives and activities enhancing the legal knowledge among citizens. Person responsible for the project at the PSEP was Krzysztof Pawlowski. In the last Project period (July – November 2006) the PSEP was replaced by the Helsinki Foundation of Human Rights (further “HFHR”), non-governmental human rights organization based in Warsaw that has a specific Strategic Litigation Program, with Adam Bodnar, the program coordinator, as a person responsible for the Article 13 Project in the HFHR.

According to the available information, none of the staff of the main partner organizations or collaborating partners was working on the project full time. The evaluator was unable to obtain any information as for what percentage of their working time did the project personnel actually worked on the project: no timesheets of the project personnel, documenting the amount and specific content of their work on the project, were made available.

III. Findings and Assessment of Individual Project Activities

1. Note to the evaluation of Activity 1 and 2

As mentioned above, the main goal of Activities 1 and 2 was to increase the participants' knowledge of available instruments of protection from discrimination and to increase their capacity to use them. Thus, the key element of this evaluation was to ascertain whether the pan-European and national trainings successfully contributed to raising this qualification and capacity and what impact did the training have on their subsequent work.

One of the negative aspects of the trainings evaluation was the fact that no needs assessment took place prior to the trainings. The evaluator was not provided with any original appraisal of the extent of the participants' knowledge and experience in the area before they participated on the trainings. Under these circumstances, the evaluator relied solely on the perception of the interviewees. In order to capture these perceptions, the interview questions sought responses related to how much they have learned about the topic, what benefits they perceived from their trainings participation and how they applied the knowledge learnt in their subsequent work, as well as whether there were any differences between the work before and after the trainings.

2. Activity 1: Pan-European training for lawyers

Pan-European training for lawyers took place in a period of 19 – 22 May 2004 in Budapest. According to the Project materials, 21 lawyers from Sweden, Poland, the Czech Republic and Germany participated in the training. Participants got an overview of the international standards that could be used to combat discrimination, with particular emphasis on the EU mechanisms as well as practical aspects and tools for litigating antidiscrimination cases. Group discussions provided a venue for detailed discussions and exchange of experiences and generated ideas for future work.

It seems that the proceedings of the workshop were not recorded, e.g. there are not available any workshop minutes or notes from the group discussions that would document the content of the discussions and suggestions of the participants. Only available materials provided to the evaluator were: a) the training agenda, b) the interim report to the European Commission, and c) the evaluation forms from the training. The evaluator was not provided with the feedback analysis, nevertheless, as indicated in the first interim report to the European Commission, the feedback of the participants in the evaluation forms from the training was processed by the ERRC and overall evaluation had been highly positive.

The training agenda indicates a high quality and comprehensive nature of the training. The participants got a detailed overview of available legal mechanisms and procedures as well as necessary practical skills. It is clear that the agenda accommodated potentially diverse

background and level of knowledge of the participants. The training was delivered by qualified experts from the region working in the field.

The interim report shows that the participants found the training useful and harnessing the relationships and collaboration of human rights advocates in different countries. Training evaluation form revealed an average score of 4.2 with 4 being productive and 5 being very productive. This was reaffirmed in the post-training interviews with five participants. Two years after the participation on the training, interviewed lawyers indicated, for example, that

- “The training was needed to find out more about European legal framework of protection from discrimination. Although the EU law is taught at the law school, the issue of racial discrimination is overlooked and the teaching is rather dry. In the best case, you are told the rules but not how to apply them.”
- “I found the training particularly important vis-à-vis the EU accession of my country. I knew that that according to the domestic law, there is possible to litigate discrimination but I did not know how the EU legislation can help in it.”
- “I was working in the human rights field before but I was new to the topic of discrimination. It was great beginning for me to the area, especially because the training was not superficial and went into details.”
- “I very much appreciated meeting other lawyers who are working in the same area elsewhere and to learn where they were standing and what strategies they apply to the same problems. I find very useful to establish professional contacts with individuals and with some of them, I still keep in touch professionally and personally.”

Interviewed participants further concluded that they have been applying the skills and knowledge in their work and legal representation of the clients.

- As of the particular importance the participants indicated information of procedural aspects of antidiscrimination litigation. For example, some interviewed participants felt that in cases of discrimination, judges are confused about the nature of shifting of the burden of proof. Reportedly, in one country, the judge on the specific case even interrupted legal proceeding and referred the case to the Constitutional Court to examine whether the shifting of burden of proof – as established by the EU Directives - violated the fair trial requirements under the country Constitution. Therefore, several participants identified that it was extremely important for attorneys to be familiar with the respective rules and be able to prepare the cases properly.
- One interviewed respondent further stated that he used the training agenda in the preparation of the curriculum for the class on EU law the university where he was teaching, and that he included an overview of antidiscrimination mechanisms in the course.

All of the interviewed participants said they have been working for or cooperating with domestic NGOs and that they have been sharing the acquired knowledge with their colleagues, thus increasing professionalism of the respective organizations. One participant stated that her experience was reflected in the activity plans of her organization and that in May 2006 her organization arranged a similar training for local attorneys in the country, through her Bar association.

Interview respondents were of the opinion that the mutual cooperation had to be continued and that there should be a regular venue established for the exchange of practical experience and good practices.

When asked about the improvements, the interviewed participants suggested that it would be useful to include a moot court exercise in the agenda. All participants of the pan-European training later participated on the national workshops. As such, they found some agenda repetitive. In the future, they would suggest to change the order of the trainings – to organize national training first (with a detailed overview of norms and standards and skills development) and then, one or two years later, organize an international meeting assuming that in the meantime, they would gain more experience in the area and would make the exchange of information more useful.

Three interview respondents said that they were already representing victims of discrimination in cases at the courts and continued doing so after the training. One interviewed participant said that he did not take any cases afterwards because of other commitments but was ready to do so in the future. One interviewed participant said that he was mainly representing third country nationals and that no cases of discrimination were reported to him within this practice, currently, he is not working in the field but if the opportunity arises in the future, he would be willing to take up a discrimination case.

Conclusion: The evaluation confirmed that the Project has made solid progress toward the goal of strengthening the capacity of the lawyers to litigate discrimination cases and the activity had been successful.

3. Activity 2: National level workshops for activists and lawyers

There were five national training workshops organized in the course of the Project implementation:

- Training for the Czech Republic and Slovakia took place in the period of November 3 – 6, 2005, in Brno and 21 people participated on it;
- Training for Sweden took place in the period of November 16 – 19, 2005, in Stockholm – with 18 participants and 4 observers;
- Training for Germany took place in the period of February 9 – 12, 2006 in Berlin – with 23 participants ;
- Training for Poland took place in the period of –February 16 – 19, 2006 in Warsaw – hosting 16 participants.

The national trainings did not use a uniform agenda and the agendas for individual trainings were developed on case by case basis to adapt to the local variation and pertinence of each country. The agenda for national workshops in the Czech Republic, Germany and Sweden were overseen and developed by the ERRC in the cooperation with the MRG and the local collaborating partners. The Polish agenda was developed by the MRG with an input from the Polish partners. Despite certain differences, in each workshop, there was provided an overview of international and regional standards of protection and each workshop contained sessions on practical skills of case development, advocacy strategies and group discussions. The agenda of the training in Germany appears to be most comprehensive and in-depth, while the Swedish agenda was rather brief. Each workshop was delivered by trainers with appropriate theoretical and practical expertise with a good balance of international and local trainers.

Prior to all national workshops, collaborating partners issued a call for applications and high number of applications had been received in Germany, Sweden and Poland. Apparently, the different criteria were applied for the selection of workshops participants in each country. Stated eligibility criteria for activists and lawyers wishing to participate were willingness to undertake implementation activities and belonging to communities of the beneficiaries of the Project. According to the interviews with the collaborating partners and participants, it can be concluded that only in Germany and Poland the applications were thoroughly assessed and there was a proper selection process applied. In Sweden and the Czech Republic (including Slovakia), the participants were “invited” and their participation reflected this fact. In the Czech Republic, the collaborating partner even stated that there was a problem in assuring a sufficient number of participants and some activists had to be “convinced” to come. Most of the interviewed participants also indicated that they felt that no obligations or commitment on follow-up activities were required from them. The interviewed participants had these impressions despite the fact that the continuous nature of the project and follow-up activities were clearly communicated to them in Germany and in Poland. Although it was appear preferable to use the standardized criteria for the participants’ selection, these would not have automatically secured a high level of follow-up project implementation (as documented by a low level of follow up interest in the countries were the workshop participants were selected more thoroughly). In any case, the workshops gather a whole range of individuals working in the area of discrimination, community development and minorities protection and provided a proper basis for future activities.

All national workshops were evaluated by the participant through the questionnaires. Similarly to the agendas, the evaluation questionnaires were not uniform. (Note: the evaluator was not provided the questionnaires as such, only the processed information from them, and not all the analysis were comprehensive). In all workshops, overall evaluation of the participants was positive (average “good” or “very good” ranking), though some participants indicated that the trainings contained more theory than practice (e.g. the Czech or Polish training). Overall, the participants felt that the training increased their knowledge in the field and encouraged them to combat discrimination through their work.

The statements obtained during this evaluation demonstrated a limited use of the acquired knowledge by NGOs and community activists. Four out of five interviewed activists had previously and afterwards attended a number of other trainings on discrimination or human rights protection. They had difficulties remembering that they participated on these particular trainings

and what they learnt there; and what was the level of the applicability of presented concepts on their communities. For example, they claimed:

- “I did participate on the workshop but I do not remember what it was about. I work with migrants and thus, I suppose we were taught some things that concern foreigners who have problems with employment.”
- “I remember the workshop but I did not remember anything useful that would come from it. I still work with the Roma but I am employed at the regional government and this issue does not concern me anymore.”
- “I have been to many trainings in my country, I remember this one because we traveled to the Czech Republic, it was about the Roma but I am not sure what specifically was taught there.”

Apart of more consideration in the selection, these statements suggest the need for more vigorous implementation of follow up activities to sustain their interest.

On contrary, the lawyers claimed that they had enjoyed the experience and were considering further activities. They stated that it had helped them gain professional and substantive skills in the area of protection from discrimination. For example, the interviewees stated

- “I learnt a lot and I have definitely used and am still using it in my work. Although the training dealt with the issue of racial discrimination, the principles are applicable on other areas, like discrimination based on gender or sexual orientation. Especially, I am applying the way of thinking encouraged at the training – that is to be critical to the law and how it is applied by judges.”
- “The training was rich and very detailed and I am using the knowledge from the training in my work in general way. Recently, I found very useful information about testing in proving discrimination because I did not know about it before. We are going to start this activity now in my organization.”
- “I found particularly useful information about the Roma in our country and prejudices and discrimination they are facing. I did not know there were such problems and it was an eye opening experience for me”
- “Training was really great and I told about it to people in my Bar association. I was sorry that someone from the Bar officials was not there because they are organizing regular trainings for attorney but nothing of this sort and we do need it.”

Most of the interviewed lawyers expressed appreciation of a joint training for lawyers and activists and a possibility of mutual exchange of professional experience. They find this structure of training useful because the problems communities are facing have become clearer and they obtained a better picture of the field as the result. Only one interviewed respondent had a different opinion and stated that

“This arrangement wasn't good and it didn't work out in Warsaw. It is difficult to work with people who are on a totally different level of knowledge. I think it would be better to

organized two separate country trainings: a more advanced one for lawyers and a general one for activists; and then, to arrange some opportunities for cooperation. In this way, the training was pretty confusing and frustrating for both lawyers and activists.”

According to the available information, none of the workshops have been successful in establishing networks of activist and lawyers to work together on the cases, as originally planned. The only exception was Germany, where the participants stayed in touch via specifically created list server, no interviewed participants felt that the workshops created a forum for further collaboration or that they could use each other as resource for cases or legal assistance. At the same time, it must be noted that this factor cannot be attributed to the main project partners. Due to language difficulties, the follow up activities were to be organized by the local partners and it would not always be easy to keep the contact through the direct involvement of the main partners.

Based on the interviews, it has to be said that the participants tended to be cautious in perceiving the trainings as even having potential to establish such cooperation. Both activists and lawyers reported that there is a high need of legal assistance and representation to the communities facing discrimination but in a variety of other issues. In most of cases, there are high costs associated with taking cases to the court and NGOs do not have funds to pay for such representations when their clients are unable to cover litigation costs themselves. Although some lawyers would be willing to provide free legal aid in certain cases, they cannot advance the costs of litigation either.

Moreover, the interviewed participants constantly mentioned that although they had learnt a good deal about the topic, it may be very difficult to actually apply the knowledge in the actual work as there is still a very low number of victims of discrimination willing to take the cases to the court (see more details below, section 4).

Conclusion: The majority of interviewed workshop participants reported that they valued the training and considered it in both the substance and format an asset to their professional development. They indicated that they have used and applied the knowledge obtained during the training workshops. Even with limited impact on future cooperation, the workshops achieved the goal to improve the capacity of the participants in the given field and the activity was successfully implemented.

4. Activity 3: National level implementation projects for activists and lawyers

As described above, the purpose of this activity was to enable activists and lawyers who participated on the national training workshops to put the skills they have gained during the workshops into practice; as well as to solidify working relationships between activists and lawyers. The activity aimed to further implement Article 13 Directives and other international standards that were to be used in legal arguments in the litigation. Apart from assessing implementation of these objectives, the evaluation also focused on determination of the quality and extent of the support, information and guidance provided by the project partners to activists and lawyers in individual countries and determining what additional considerations and support are necessary to allow full implementation of this activity. These issues are examined in turn.

It must be noted that according to the project proposal, it was envisioned that six months after the workshop, the implementing organizations would be collecting feedback from the workshops participants via follow up questionnaires. There is no indication that such questionnaires were collected and the evaluator did not receive any information in this regard.

Creation and solidification of working relationship between lawyers and activities

Interim reports on the implementation of this activity and this evaluation revealed that the Activity has not succeeding in enhancing strong working relationships between lawyers and activist. It seems that that the workshops did not create a necessary momentum and enthusiasm for two groups to take the cooperation further without intensive support of the project partners. Moreover, interviewed respondents gave mixed messages as for the awareness of the reasons for the workshop and encouragement of cooperation.

It seems that lawyers stayed in touch with those activities that they knew previously and with whom they already had working relationships, this was especially the case of Slovakia, the Czech Republic and Germany. However, there were apparently some problems in the communication. Some interviewed workshop participants claimed that they were not aware any follow up activities and that they were expected to work together in the future. In some countries (Sweden and Slovakia), the participants complained of the lack of responsiveness from the project partners (it has to be reiterated that in the case of Slovakia, this constituted the lack of responsiveness from the Czech collaborating partner, the main project partner, MRG, was not s were not in the position of communicating with the participants from Slovakia directly). Their statements contained the following.

- “As far as I know, there was no follow-up. I did not have any cooperation with anyone afterwards and I have never heard from anyone. I was disappointed because I was interested in the topic and left the workshop very enthusiastic. I was also very disappointed that I never heard from the partner organizations. I contacted them several times myself with cases I found and inquired about their help but never got any response.”
- “I had no idea there was meant to be a continuation of the work on the project. I remember that we were told at the training that we should look for the cases but I did not know what this meant and that we would be specifically expected to do so. I just thought they told us to be aware of it if something comes across.”
- “I did not keep in touch with the people from the training because we have a lawyer in our organization and she can represent people. I did not know about any follow up and did not cooperate with anyone. I am in a regular contract with [one main partner organization] and we work together but I would not say this was in the relation to this particular project.”
- “Nobody contacted me afterwards and I did not contact anyone because my organization does not have a capacity to look for cases, we provide educational activities in communities and we did not get to know any discrimination cases, but we would not able to look for them.”

On the other hand, some of these statements might be considered subjective and defensive. At least in the case of Sweden, where most participants spoke English, the MRG several times allegedly attempted to contact the participants directly but has never heard from them.

The only exception in this regard is Germany where, as mentioned above, the collaborating partner created a special mailing list for the participants that continues to serve as a forum for mutual information and exchange. According to the person responsible for the project in Germany and German participants, the list is perceived as basis of informal antidiscrimination network; people know about it and use it. The frequency of its use varies, but posting appear on it at least biweekly.

Application of the obtained skills in practice

Within this activity, it was expected that a pool of cases would be identified by the participants out of whom some would be pursued further as strategic cases. In general, such expectations have not been met. Although the evaluation interviews indicate that lawyers participating on the workshops felt that they have been applying gained skills in their general practice (see also above, discussion to the Activity 4), there are very little indications that the workshops lead to greater application of the skills in practice among the NGOs activists. The only case referred to the Project that was subsequently included into the case docket was a case of racial harassment from Poland. In the Czech Republic, workshop participants allegedly sent “some questions” about cases but no case concerned discrimination; the Czech collaborating partner referred five cases to the Project but those were rejected as not being sufficiently strategic.

The evaluation tried to assess what was the reason of the failure of NGO activists and lawyers to identify and refer the cases. The following issues were identified as constraining factors:

- Low trust of minority communities in judicial system: interviewed respondents claimed that although discrimination is omnipresent among Romani and other minority communities the courts are unlikely venues where these communities and individuals would seek justice for historical reasons. Moreover, judicial proceedings usually take a very long time and it is very difficult for people to see the whole process and embark on litigations lasting several years.
- Low legal awareness about legal protection from discrimination among minority communities was mentioned as a very important factor for lack of cases. Allegedly, members of Romani and other vulnerable communities are not always aware that discrimination can be targeted via legal means and do not know what to do when they are discriminated. Also, in Germany, one interviewee mentioned that the antidiscrimination law is only available in German (and has not yet been translated into Turkish, for example) while many members of minority communities do not speak the language properly and there is a language barrier in terms of access even to basic information.
- Interviewed participants constantly mentioned that even if members of minority communities know their rights, it may be very difficult to exercise them fear of

retaliation. Public accommodation places are allegedly often owned by “mafia” and those providing jobs usually have more respect and support in the societies than the Roma or other minorities. The activists and lawyers jointly claimed that the Roma have difficulties to take legal cases against individuals and entities perceived this way and fear that they would “revenge” on them.

- Multitude of other problems faced by minority communities: some participants stated that Romani communities have in many instances the problem to survive and the issue of discrimination is not perceived by them as particularly acute.
- Some interviewed participants stated that they did not believe in litigating discrimination in courts. They said the discrimination was a complex problem and they considered other methods – especially mediation and advocacy – more appropriate to address it. One attorney who is representing many Romani cases of housing discrimination said that although discrimination was the major factor in the case, it was difficult to prove it and other factors were more visible (e.g. the lack of social housing in the country). She stated that she did not believe in strategic value of even strong cases and thought that the issue should be resolved through governmental intervention or legal reform that was unlikely to be initiated through cases but through general campaign.
- Several interviewed participants claimed they did not refer any cases because it was not clear to them what kind of support the project could provide to them. They said that in all cases they are aware of, the victims do not have sufficient financial resources to sustain the costs of litigation and legal fees. For example, the participants stated:
 - “I did not refer any cases to the project because I understood there were no money for the litigation of the cases and that is always the problem for the victim. They need money for legal representation and costs of the litigation. Therefore, I instead referred them to the institutions that can provide them with such representation.”
 - “I represent many discrimination cases in courts but I did not see any value to refer the case to the organizers. The call for cases said they would analyze the case for us but that was all. For me, the analysis of the case is not a problem, I know the law and have a lot of experience, and this would moreover require a lot of translations into English and correspondence on something I was pretty confident about. What I would rather appreciate would be financial support to my clients to pay the court fees but I understood this was not available.”

It has to be pointed out that there had been some confusion over the support and that the lack of financial support. The major problem is that the financial support for the cases is in many instances provided for a particular project period, while it is not possible to conclude the case at the courts, and acquire all possible expenses, within the project period. This factor has to be taken into the account for future activities and secure the money for the entire duration of the cases.

- Several interviewees expressed a range of concerns about the need for more support to NGOs in the identification of discrimination cases and need of increased assistance,

including the supervision and assistance in organization of testing experiments. For example, some participants mentioned:

- “It is not at all easy to find a good case with enough evidence from NGOs to take to the court. They usually consider any legal problem discrimination although the problem is something else. Or if they have a real case, they do not have sufficient evidence and the case is not strong enough to satisfy the burden of proof. So far, all discrimination cases I have had in my legal practice were cases that were developed with lawyers from the scratch or through testing cases. These were not cases of victims who would contact me directly”.
 - “The information we were told about testing at the training was very confusing and I would say incorrect. My organization has been doing testing experiments for couple years and it is not as easy as it appears and each testing brings many surprises. I think that out of 5 successful testing where differential treatment is proved, we only bring one case. I do not think even a good community NGO would be able to do this properly. Then need a lot of help on the spot so all is done properly for the court case.”
 - “Small community NGOs do not have capacity do conduct larger research for example into indirect discrimination cases because these are way too complicated for them. These can be developed only on long term basis with a lot of time and resources investment.
- Some participants believed that it was impossible to litigate cases of discrimination prior to transposition of the Race Directive into domestic law and that cases could have been brought only when a special antidiscrimination law had been adopted. The participants believed so although the presentations and information during the country workshop clearly informed them about contrary. All the country workshops started with an introduction to the EC Treaty and its obligations upon member states and the "transposition" of the Race Equality Directive. The discussion then embraced the issues of the lack of transposition, partial transposition and full transposition and the differing effects each category had on domestic law. There were long and sometimes heated debates (Berlin and Stockholm for instance) where these issues were explored and discussed fully at length
 - Attorney also listed another costs related aspect to the low number of cases. Allegedly, the form of support of the Project to the cases was later revised and the Project could also financially support the cases. However, only those costs that were already accrued by the litigants and lawyer could have been covered. The lawyers complained that this was a very unfavorable arrangement as at the beginning of the litigation the costs are very low but they increase in the course of legal proceedings. The total costs of the litigation in one case is very difficult to estimate at the beginning as it depends on many factors, inter alia, the number of court hearings, costs of witnesses, travel and evidence costs, or costs of the other party of the proceedings if the litigated case is lost. The victims are usually poor and cannot secure fully the costs of litigation. Thus, one attorney said that she referred only cases where partial financial contribution from elsewhere was already secure

and she only needed additional funding for those cases. Again, this factor should be taken into account for future activities when planning projects of this sort.

- Some participants also attributed the failure to generate more cases to a short time framework of the project and the order in which it was organized. They felt that more cases would be generated if the training took part at the beginning of the project and they would have more time (on top of the assistance and resources) to look for the cases.
- In certain aspect, the low number of identified cases and proper implementation of the follow-up activities can be contributed to the project management and the roles of national partners (see below, sections 8 and 9 of this Evaluation Report).

Litigation of selected cases

Together six cases were initiated within the framework of the project: two in Poland, one in Germany and three in Slovakia. The cases represent a variety of problems faced by minority communities and different issues that are prohibited by the Race Directive:

- three cases concern discrimination in access to public accommodation;
- one case concerns discrimination in health care system;
- one case concerns indirect discrimination of minority women; and
- one case concern racial harassment.

Based on the interviews with attorneys litigating these cases and based on the previous experience of the evaluator, it can be concluded that all cases have a potential to contribute to the development of the jurisprudence under the Race Directive. In all respective countries where they are litigated, the case law on racial discrimination is non-existent and the cases represent one of the first cases filed at the domestic courts on discrimination as such.

Although all countries involved are the civil law countries, the cases have a potential to become “precedents” in the respective jurisdictions for various reasons. The cases present an opportunity for upper courts to address certain procedural aspects (e.g. the issue of use of testing for obtaining evidence, shifting of the burden of proof and others) that are followed by lower courts. Also, according to the attorney, the courts follow the amounts of compensations awarded in other cases. In all cases, the public awareness and media campaign can raise a profile of the issue and encourage other victims to bring cases.

So far, all the cases are only in initial phase and none of them have been decided even in the first instance. The attorney estimated that in average, litigants have to wait minimum one year for the first instance decision. Thus, the impact of those cases on the situation in individual countries and in the region will be possible to assess only after some period of time.

All attorneys stated that when preparing the cases and conducting litigation, they have been communicated only with one of the main project partners (MRG) and were not aware of other project partners. All of them expressed appreciation for the substantive support they received from the MRG, especially in form of international law and comparative jurisprudence outlines.

The critical remarks were raised that these were not always received in sufficiently timely manner and they had to wait for the response sometimes for several weeks.

On the other hand, as it was stated below, some of the quoted perceptions from the interviewed participants can be considered subjective. At least on the part of the MRG, there has been a lot of effort exercised to make this activity success and implement it within the Project lines. For example, the MRG contacted some participants directly and especially in Slovakia, the MRG secured three cases for the project directly, without a help from the local partner.

Conclusion: Due to various factors, this activity was implemented only with limited success. The activity has not managed to achieve fully its stated goal, however, at the end; six strategic cases were initiated with the courts with potential to have a precedential impact on domestic law. Despite an overall impression that this activity was not implemented fully, the evaluator gathered a large number of suggestions for how it can be improved in the future and points which ought to be borne in mind for any future similar initiatives (see below, section V. of this Evaluation Report).

5. Activity 4: Editing/Translation of resource materials

The aim of this activity was to translate available body of materials on legal standards and antidiscrimination litigation and into local languages of target countries. Previously, the MRG and the ERRC produced a number of resources that were mostly restricted for English speaking audience only.

It was impossible to assess the implementation of this activity as the evaluator did not receive for example any list of the publications that were actually translated. Conflicting messages were provided in this regard – for example, the ERRC claimed that several materials are being translated by local collaborating partners at present; however, local partners were not aware of any translations. It seems that the materials that had already been definitely translated were materials distributed at national workshops as a part of training bundle given to participants. Out of those, only Swedish training material was provided to the evaluator – it appears comprehensive and contains a proper recognition of the European Commission support. The interviewed participants from national workshops recalled receiving several materials at the workshops but retrospectively, they could not estimate how useful those became later. They also did not provide any information on the quality of the translations.

Project proposal further indicates that the materials ought to be internally evaluated through a special questionnaire by all users in terms of their perceived usefulness, use and comments. There is no indication that such internal evaluation had been carried out prior to the preparation of this Evaluation Report.

Apart from the fact that it is not clear what publications have been translated, there appears no dissemination strategy of the translated materials beyond the participants of national workshops. Given the fact that the participation on the workshops was limited to approximately 20 people in average, it would appear logical to make resources available to a larger audience.

For the purposes of the EU reporting, it is suggested to prepare a comprehensive list of all the materials that had been or are being translated and provide the copies of the materials to the European Commission.

Conclusion: For the lack of available materials, it was impossible to assess whether this activity was implemented and whether it achieved its goal.

6. Activity 5: Development of website/Outreach to non-focus countries

Within this activity, the Project created a specialized website, hosted by the MRG organizational website that ought to include various information on how to address discrimination using international and regional legal documents, and resource materials on litigation and advocacy initiatives.

This evaluation confirmed that the website had been prepared in a timely manner, is comprehensive and well organized in terms of use-friendliness. It contains overview of international and normative instruments and available international case law on discrimination. It does not include any practical handbooks and is rather “black law” oriented. The website properly acknowledges the contribution of the European Commission.

As a certain disadvantage it appears that the location website is not immediately visible when entering the MRG site: it can be found after some search (it is located in the Legal Cases section, subsection Antidiscrimination). It would be desirable to place a link to it visibly on the MRG introductory page or highlight it in another way. Also, there is no indication or reference to this website on the respective sites of partner organizations (the ERRC and the DO do not mention it anywhere on their website).

According to the Project proposal, the effectiveness of the website ought to be assessed via number of hits and comments from users. No information about these factors was provided to the evaluator. The section of the website as such does not contain any numeric count of the hits and any “discussion” section with feedback from the users. No interviewed participant of the country workshop was aware of the site and stated that they had not been using it.

Conclusion: The evaluation confirmed that this activity had been successfully implemented; however, the effectiveness and outreach aspect of it could not be assessed due to the lack of information.

7. Project Indicators and Outputs

This section addresses the extent to which the project met its performance indicators as set out in the application form submitted to the European Commission (log-frame).

	Activity objectives	Expected results	Evaluation
Activity 1 and 2	Lawyers' increased knowledge of existing standards and improved ability to undertake litigation relating to minority rights and discrimination, and increased links between lawyers and community activists	<ol style="list-style-type: none"> 80% of lawyers who complete the training report that the training was useful, and continue to use skills/knowledge gained in their work, and apply knowledge by becoming involved in taking on anti-discrimination cases; number and quality of cases incorporating EU and other relevant anti-discrimination standards into legal briefs; Activists and lawyers actively collaborate on discrimination cases 	<p>Activities fully successful in terms of knowledge and skills increase- evaluation forms collected during the training workshop and post-training evaluation interviews documented high level of satisfaction with the training and increase of the knowledge in the area.</p> <p>Activities partially successful in terms of applications of acquired knowledge in practice – post-training interviews revealed low level of knowledge application among NGO activist. However, it must be noted that only a small sample of activists was interviewed and the sample cannot be considered statistically significant.</p> <p>Not evaluated – not actual legal submissions were provided for the evaluation by the attorneys as those represent confidential information and would require confidentiality of waiver from the clients.</p> <p>Activities fully unsuccessful as the Project did not manage to create a sufficient cooperation among activists and lawyers.</p>
Activity 2 and 3	Increased capacity of activists from minority-based or human rights NGOs to redress patterns of discrimination through: advising victims, identifying cases with potential, referring them to lawyers, monitoring implementation of national and EU anti-discrimination legislation and international human rights standards, and undertaking advocacy to support the litigation effort	<ol style="list-style-type: none"> 80% of activists who complete the in-country training report that the training was useful, and continue to use skills/knowledge gained in their work, and apply knowledge by contributing to legal implementation of EU anti-discrimination standards Number of cases identified Number of cases referred to lawyers Number of communities consulted 	<p>Activities fully successful in terms of knowledge and skills increase- evaluation forms collected during the training workshop and post-training evaluation interviews documented high level of satisfaction with the training and increase of the knowledge in the area.</p> <p>Activities partially successful in terms of applications of acquired knowledge in practice – post-training interviews revealed low level of knowledge application among NGO activist. However, it must be noted that only a small sample of activists was interviewed and the sample cannot be considered statistically significant.</p> <p>Activity only partially successful as only six cases had been identified in the project – out of which only one was submitted independently and remaining were identified through an active search on the side of the project partners.</p> <p>Activity unsuccessful as no activist referred the cases to lawyers within the project.</p> <p>Activity partially successful – the project consulted Romani individuals in Slovakia, members of national minorities in Poland and Germany.</p>

Activity 4 and 5	Lawyers' and activists' increased access to anti-discrimination standards, resources, case law, and best practices across Europe	<ol style="list-style-type: none"> 1. Lawyers and activists report on usefulness of the website content and use materials 2. Frequent use of the website 	<p>Not evaluated according to the indicators due to the lack of available information.</p> <p>Not evaluated according to the indicators due to the lack of available information.</p>
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8. Project Management and Cooperation of the Project Partners

Effective project management should be the key aspects and the formal requirement of any project implementation, especially when the financial support from the European Commission is involved. In this regard, the evaluation also focused on the means of project management and monitoring its progress.

Interviews with the project staff of the main partner organizations indicated that there was a scope for the improvement of the Project management. Following major issues have been identified:

- Lack of the full time staff for the project: in none of the main partner organization, there was assigned a staff member who would be working on the project full time. The project staff performed other multiple tasks and had heavy workloads elsewhere. As a result, their involvement in the project became somewhat limited.
- Frequent staff changes and changes in the leadership: In two main partner organizations (the ERRC and the DO), the personnel officially responsible for the project changed several times while there was not secured a complete hand over of the project documentation and information.
- Communication and oversight of the local partners: to certain extent, there was no clear single vision among the collaborating partners of what the project was aiming for and this was left to a local interpretation of its utility in soliciting and prosecuting cases. There was a broad, general understanding of the Project, as outlined in the project proposal, but implementing the Project meant that it was fractured along many levels of interpretation and elision.
- Division of labor with local partners: It seems that some local partners did not understand properly the expectations and their role in the project. This led to the change of the Polish partner. Local partners could have been more vigorous in pursuing the follow up activities (that for language reasons had to be delegated to them) and the main partners should have more closely monitored their activities in this regard, or modify the scope of the project if necessary.

The internal matters within major partner organizations improved in the last stage of the project but certain deficiencies in the proper implementation of follow up activities to the national workshops can be attributed to these factors.

Similarly, more attention could have been given to monitoring of the progress of Activity 3. It is clear that the cases were initiated only in the last stage of the project and proper monitoring and interim evaluation could have revealed the factors for low cases referral and the activity could have been modified earlier. This evaluation supports strongly continuous progress evaluation and modification of the activities if necessary to meet their stated goal.

V. Conclusions and Recommendations

The Article 13 succeeded in its main goal to increase an awareness and understanding on issues of legal protection from discrimination based on racial and ethnic origin. The evaluation revealed that most members of the target groups gained a greater knowledge of the topic. The level of application of the knowledge and skills varied among the participants and some difficulties were encountered in follow up activities to the trainings. However, all stakeholders interviewed have expressed a view that it was relevant to the fight against discrimination in individual countries and on the EU level and that general awareness and in-depth knowledge of legal mechanisms is crucial for any further actions against discrimination.

The Project succeeded in implementation of all planned activities, with significant problem only in one area that can be attributed mainly to external factors. Two activities could not have been evaluated fully due to the lack of comprehensive information provided to the evaluator.

The partners proved that we are able to deliver a complex project in several countries and feel that there is an ongoing requirement to deliver similar projects in other countries or regions.

Following actions are suggested by the evaluator for potential future implementations of this type of the project in other countries or for further continuation.

- **Trainings:**

- Prior to each training, conduct the needs assessment, in particularly of the community and NGO activists: to determine what they needed most and what kind of further support is necessary to enhance the knowledge application
- Assure that the training participants are potential leaders who would be willing to take action after the training and encourage their communities to become actively involved.
- Collect and analyze post-training data as envisioned in the project proposal (questionnaires six months after the trainings) so that the overall usefulness and effectiveness of the training can be a subject of evaluation and scrutiny.
- Provide more support to training participants to use the outputs from the training effectively.

- **Litigation**

- Provide more substantive support to community organizations in implementation of follow up activities – for example assist in development of concrete projects incorporating the aspects of the training in their work and help in organizing testing experiments.
- Consider identified impediments of litigation and encourage other forms of advocacy – e.g. campaigns or lobbying for legal reform.
- Provide sustainable support to cases during the whole process of litigation and provide funds to secure all possible costs of the litigation to reduce the reluctance of the victims to bring the cases for the lack of financial resources.
- Provide substantive and financial assistance to community organizations to provide support to victims of discrimination who bring their cases to the court to reduce the fear of retaliation or losing interest.

- **Project management and partners cooperation**

- Include sufficient resources for good quality project management and monitoring right from the outset
- Achieve consensus among partners on concrete objective, individual expectations and proper work division.
- Use extra resources to monitor potential drawbacks in follow up activities.
- Provide mechanism within organizations for an appropriate and comprehensive hand over in case of staff change.