

STUDY ON THE EFFECTS OF APPLYING THE PRINCIPLE OF EQUAL RIGHTS AND EQUAL OPPORTUNITIES

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ABSTRACT: *The concept of "equality" today means something more than the equal rights that the democrats of the last century enthusiastically claimed for all citizens; it means a real equality of individual opportunities for social promotion, and education is the most important tool in development. Equal opportunities are the concept according to which all human beings are free to develop their personal abilities and to choose without limitations imposed by strict roles. the principles of equal opportunities and non-discrimination are often considered fundamental features of a just society. Both involve a comparative reporting to individuals, groups and values and both are defined as tools to ensure fairness in the public sphere. At the same time, the two can be understood both as a set of formal rules and as moral norms, whose relative weight is given by the general conception of justice to which a certain society adheres.*

KEY WORDS: *human rights, discrimination. Equality, fairness, citizen, justice .*

JEL CLASSIFICATIONS: *K15, K30, K38.*

1. INTRODUCTION

The need to create minimum standards for the protection of human rights, and the need to develop a common system of fundamental rights and freedoms have led to the creation at European level of a remarkable legal architecture through the guarantees offered in this matter.

Thus, given that human rights are an integral part of general principles of law, a European system for their protection has developed. In this framework Convention on Human Rights and the freedoms fundamental is not only designed to make compatible European standards with the national , but also the one to perform a function own legitimacy, based on all the values that are binding on the judge, as well

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as the legislator, which having a legal force superior to the internal norms constitutes for them a point of reference .

Fundamental rights have not only a function of protection of the person, but also a function that relates to the political order, as they represent common judgments on the order and values of a society trying to find a new European identity.

2. HISTORICAL PREMISES

Since ancient times, there have been concerns for the protection of human rights. It was during this period that the first philosophical ideas on human rights appeared , as well as certain representations of equity and justice. Plato said that the idea of justice is found in every individual as well as in the organization of the city , he argued that man should not respond "to a injustice with another, not with evil with evil ", whatever another man would do to him.

The idea of equal natural people was expressed and Aristotle who stated that: "Only the law becomes someone is slave or free, but by nature people do not differ in any way." And Christian doctrine has propagated the idea of human equality before God and natural rights. With the era Renaissance started and concern to regard man as being autonomous with its own personality, taking of being individual, and not as a separate part of society .

Voltaire was the first philosopher to use the notion of human rights in his work . According to the French writer, these are: "the complete freedom of the person and his goods; the freedom to express oneself through oneself; that of being tried in criminal matters only by a jury composed of independent people ; the freedom to be judged only in accordance with the precise provisions of the law and to practice in peace the religion which one adopts ”.

Among the first acts that legally enshrine some individual rights and freedoms are the "Magna Carta" (1215), the " Petition of Rights " (1628), the "Habeas Corpus Act" (1679) and the "Bill of Rights " (1689).

At December 10, 1948, was adopted the Declaration Universal Human Rights as document international fundamental inalienable rights and inviolable of all members of the human family, but it was not conceived as a legally binding document for all States in the sense of the Treaty international of which to be obligatory to States with regard to the fulfillment of certain commitments in this field, as a result of which two international human rights pacts were adopted on 16 December 1966 :

- International Covenant on Civil and Political Rights (1976);
- International Covenant on Economic, Social and Cultural Rights (1976).

3. CONSTITUTIONAL REGULATIONS

Art. 16 of the Romanian Constitution. (1) Citizens are equal before the law and public authorities without privileges and without discrimination . (2) No one is above the law.

Equality in rights is a general principle of law encountered in all branches of law. It is provided as a principle in the Charter of Fundamental Rights of the European Union, in art. 20. This principle is expressed both legally and doctrinally and in case-law. Over time, equality has crystallized both as a principle of law and as a fundamental right and legal category. Thus, on an evolutionary scale, it has gone from inequality to equality and then even to positive discrimination, as a means of protecting certain disadvantaged categories. Equality is a complex constitutional principle that is defined both by reference to difference and by reference to discrimination.

Equality means, first and foremost, providing equal opportunities for all citizens. The complexity of this principle has led in the jurisprudence of the Romanian Constitutional Court to the proclamation of a right to difference as an expression of the equality of citizens before the law. The law must provide equal opportunities for all citizens. This is the meaning of the constitutional provision according to which citizens are equal before the law and public authorities, without privileges and without discrimination.

The fact that no one is above the law shows us that the intention of the legislator is to create a rule of law in which the law is the one that governs and not the will of individuals. Only the law can be equal for all. The will of each individual expresses the needs of each depending on the situation in which each person finds himself.

Secondly, equality means non-discrimination. In this way, art. 16 of the Romanian Constitution must be interpreted and applied in accordance with art. 4, para. (2) of the fundamental law according to which: “ *Romania is the common and indivisible homeland of all its citizens, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin* ”. These non-discrimination criteria, provided in art. 21 of the Charter of Fundamental Rights of the European Union, are the basis for the application of the principle of equality. The relationship between art. 16 and art. 4 is a coordination relationship between the two rules by which they complement each other. While art. 16 establishes the principle of equality, art. 4 establishes the criteria according to which this equality is achieved. Equality can mean, on the one hand, a purely formal equality, for example: every employee has the right to equal pay, or equal work, men and women have the same pay; on the other hand, a relative equality, taking into account the situation in which a person finds himself, for example: the right to a standard of living which is a right with a different content for each individual.

Purely formal equality can also be called non-discrimination. To discriminate means to separate, ranking on various criteria. The result of discrimination is the abolition of equal treatment.

In its case law, the JRC has considered that equality also means the possibility of establishing a right of difference for different legal situations. Thus, in the case of retirement of men and women of different ages, the JRC concluded that equality of rights means the prohibition of negative discrimination, but not of positive discrimination (see JRC Decision No 107/1995 and No 27 / 1996). At the moment, even the Charter of Fundamental Rights of the EU, in art. 23, provides that the

principle of equality does not preclude the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex.

Negative discrimination means any difference, exclusion, restriction or preference based on criteria: race, nationality, ethnicity, language, religion, social status, beliefs, sex, sexual orientation, age, disability, chronic non-communicable disease, HIV infection, membership in a disadvantaged as well and any other criterion the purpose or effect of restricting, removing recognition, the use or exercise, in conditions of equality, human rights and the freedoms fundamental or rights recognized by law in the political, economic, social and cultural or in any other field of public life.

4. INCITEMENT TO HATRED IN ROMANIA

In Romanian legislation constitutes an offense and is punishable under the current rules, if the issue is outside the scope of criminal law, any behavior manifested publicly the nature of a propaganda nationalist-chauvinist, incitement to racial hatred or national or behavior that aims or aims at achieving dignity or creating an atmosphere of intimidation, hostile, degrading, humiliating or offensive, directed against a person, a group of people or a community and related to their belonging to a certain race, nationality, ethnicity, religion, social category or to a disadvantaged category or its beliefs, sex or sexual orientation.

This regulation means that it is a contravention and is sanctioned contravention those facts which fall to be dealt with criminal and a person or group of persons initiate action against another person or group for to intimidate them, to degrade their image due to the fact that they are of a certain race, culture, nationality. These actions can be found in the form of propaganda or protests on persons considered disadvantaged, and who do not fail or not have the power necessary to keep the chest of these things, and so desire other group to intimidate and to have the offense is met.

Incitement to racial or national, specifically refers to the situation where people who discriminate, unite, and trying (sometimes and fail) to convince and others to nurture in them a feeling of rejection and anger towards that person, group or community of people who are disadvantaged because they have certain beliefs about life, politics, religious choices or are members of a particular cult, ethnicity, nation.

So besides being a person chose to discredit and to physical abuse or other forms an individual or a community of persons, it is intended to lead and others to follow suit and to act like him, succeeding so to convince people concerned to commit and other crimes.

The main person who started all this action, the instigator may be any person who meets the conditions overall to be an active subject of the offense, and be natural, major or minor, or a legal person and his actions leading to denigrate people disadvantaged.

Is regulated in the law on preventing and sanctioning all forms of discrimination and that constitutes an offense "any behavior consisting in leaving home, deportation or hindering conditions of life and standard of living in order to arrive at giving the home traditional of a person or a group of persons belonging to a

certain race, nationality , ethnicity or religion, or a community , without their consent. It is a violation of the provisions of this ordinance both to oblige a group of persons in the minority to leave the locality, area or areas where they live , and to oblige a group of persons belonging to the majority to settle in localities , areas or inhabited areas belonging to minorities national . ”

This provision supports the idea that every person should live and have a stable home wherever he wants . So it is forbidden for another person or group of people to try to drive him from the place where he lives who belongs to a certain ethnicity, race or is a follower of a religious cult different from others . It is considered a misdemeanor to do everything possible only to make it difficult for a person or a community of people to live in order to force them to leave their home. People who carry out such actions lack any logic in the sense that people of another nationality or race, live in their own home and have no connection or are not in a situation where it can be said that it bothers others around them. . It is totally wrong for someone to try to banish a person from his own home , have absolutely no right to take such actions as they are not in any way affected by the fact that in that place they go live a certain kind of people.

However it is considered a violation of this ordinance so the act of forcing a group of people who are in the minority to leave a certain territory, as and coercion of a group of majority to occupy and to establish a territory belonging to minorities national.

In conclusion, a person or group of persons cannot be forced to leave their place of residence, but vice versa, a person or group of persons cannot be forced to settle in a territory they do not want for various reasons. related to people already there.

If someone wants to live in a certain one of them, he can do it, and if he does n't want to, he is also free not to live in that area. Each of us is free to do whatever they want to their lead live anywhere wants as long as it does not affect the livelihoods of others .

5. THE TRUTH ABOUT EQUALITY

Is legal equality sufficient to guarantee the sustainability of society ? Some will say that, in principle, the existence of legal provisions to ensure equality before the law is the necessary condition for characterizing a company as fair.

Others will say that the equality of all before the law is not enough to ensure the premises of a sustainable society. They, emphasizing the differences between people, will show that the rights and obligations of members of society must be distributed equitably so that equality guarantees social equity .

From a logical point of view, equity and equality are notions that are in a relationship of intersection (cross), in the sense that there may be situations of inequality that are fair or equitable, as may be encountered and cases where equity is not satisfied, but the demands of equality are not met.

In the rule of law, equality and equity have a largely common scope. For example, it is in line with both concepts - equality and equity - that everyone:

- those who commit wrongdoing should be punished;

- those who make income to pay taxes and fees;
- to benefit from public facilities;
- to have obligations of general interest, etc.

But if we analyze in concreto, in many cases arising in practice we find that although equality of formally works in reality there are many inequities and social injustice as rights and obligations are not distributed fairly and equitably.

How should benefits and burdens be shared to ensure social equity? There are no unanimously accepted solutions. Faced with such a state of affairs, we are tempted to return to equality, which seems to be more rigorous than equity, so that it is easier to translate it into social reality.

The doctrine discussed the ways in which social justice can be guaranteed to achieve the goal of ensuring a sustainable or perennial society. Among those who approached this topic, we invoke J. Rawls, which developed the principle of difference, according to which social inequalities are justified only to the extent that the most unjust recipients are in a better situation than they would have been if inequalities had not be there. According to J. Rawls, equality is preferable to inequality if the latter does not generate social benefits for all. The desideratum is to avoid subordinating the interests of one social group in favor of another such group.

The principle of difference, in the view of J. Rawls, is based on the idea that it ensures the general obtaining of benefits. The corollary of this principle is that if there is no economic- social distribution that guarantees the best for all members of society, then we must return to the principle of equality (equal distribution of benefits and burdens).

Economic, social and political measures must benefit everyone, but especially those who are usually disadvantaged by formal equality, without excluding, however, the attainment of at most proportionate advantages by those in privileged positions.

In all cases, social justice requires an opportunity analysis of the situation of members of society, simulating the possible effects of future possible measures, so as to avoid obtaining disproportionate advantages in favor of privileged categories. An unequal increase in benefits in favor of those in disadvantaged positions, even if it brings certain gains and disadvantaged ones, is unfair and must be avoided.

CONCLUSION

Equal opportunities are based on ensuring the full participation of each person in economic and social life, regardless of ethnic origin, sex, religion, age, disabilities, etc. School is the cradle in which all hopes may become reality if those taking part in activities of learning, professor and pupils aware of the diversity and complexity of human nature and exploit every talent or God-given creative side.

Romanian School faced lately with various problems, including and schooling of children disadvantaged or those with needs special education Equal opportunities training is virtually guaranteed in nearly all countries, but the practical implementation of this general principle remains one of major causes of reforms.

Equal opportunities means, in fact, offering options multiple capacities and different skills, "an education for all and for each" an education open to everyone,

regardless of age and under socio-economic, but also an education for everyone, in function of specific needs - avoiding homogenization and encouraging diversity - to create the conditions equal opportunities of access to life social. This option was supported policies equalization of opportunities that focused on eradicating exclusion and selection exacerbated training skills base for all individuals, education of "second chance" for those who have left the education system, integrating education formal education, non-formal and education informal, so as to expand the situations of *învățare*. In category of children deprived we can include those coming from single parent families or orphaned by both parents, children whose parents are unemployed, have serious health problems or immoral behavior, children living in isolated or remote areas and whose schooling depends on the existence of a means of transport and Roma children who are difficult to integrate into the class of students.

The best solution for an educational system that meets the needs of all students proves to be inclusive education, characterized by the following principles: the right of every student to education based on equal opportunities; no student may be excluded from education or discriminated against on the grounds of race, religion, color, ethnicity, sex, language, disability; the school adapts to the needs of the students; differences between individual students is a source of richness and diversity, and not a problem. The inclusive school is based on a curriculum adapted to the needs of children.

The Romanian school must build various strategies for a pluralistic treatment of cultural diversity, such as: appreciating the cultural heritage that students bring with them and using it to help teachers and principals learn students' cultures; the use of ethnic conflicts to produce positive cultural and social exchanges; creating an environment of cooperation between students, teachers and students' families; facilitating the success of all by ensuring equal and efficient access to the school; removing prejudices related to race, social class or ethnicity; elimination of practices that disadvantage individuals and groups of students.

Equal opportunities for training is virtually guaranteed in nearly all countries of the world, but the practical implementation of this general principle continues to be one of the causes of importance to major reforms. The concept of "equality" today means little more than the equal rights that the democrats of the last century enthusiastically claimed for all citizens; it means a real equality of individual opportunities for social promotion, and education is the most important tool in maximizing these opportunities. The human species also conforms to that guiding principle of species evolution - variability; regardless of the number of individuals, their education must be differentiated and specialized, depending on the "natural-genetic equipment" of each, the skills and interests of each person, correlated with the needs of competent staff of society.

It can be concluded that discrimination and differential treatment can even lead to self-exclusion and self-marginalization. This can have a significant negative impact on victims' social and economic well-being, well-being and health.

Experiences of discrimination have led to the conclusion that they can be associated at the individual level, in terms of effects, with symptoms related to stress and depression. People who have the humiliating experience of discrimination are

affected in a multitude of forms and usually do not want to address these issues in public. Even if for some people discrimination has become a daily experience, they are not willing to take some measures, such as, for example, to file complaints with state bodies. The fact that victims of discrimination are not willing to take legal action does not mean that their experience will not affect their behavior. A typical response to various forms of discrimination is to adopt an avoidance strategy in which the person concerned knowingly or unintentionally tries to avoid situations in which there may be a risk of discrimination.

Prejudices will always be because human nature is to criticize, to comment in general everything that does not seem normal.

People are different. Each is unique and special in its own way. That should be respected and not criticized!

Our daily behavior towards our peers and vice versa, the way we make decisions throughout life will lead to our development as correct individuals in society. Our goal is to develop the skills of the minds and hearts of all we come in contact with because, as Albert Einstein says, "It is easier to disintegrate an atom than a prejudice."

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