



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Cyprus
Title:	Less favourable treatment of Turkish Cypriot students by the school parents' association Cyprus
Date:	30 September 2016
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<u>Context</u>	
Issue at stake:	The Equality Body rules that the application of the majoritarian logic over the treatment of a numerically smaller group inevitably results in indirect discrimination Ethnic origin
Ground of discrimination:	
Source:	Report of the Anti-discrimination authority regarding the organisation of the school leavers' prom of the English School for 2015, 3 August 2016, Ref. No. AKR 30/2015
Field:	Education
Applicable law:	The combating of racial and other forms of discrimination (Commissioner) Law N. 42(I)/2004; Law on Equal Treatment (Race or Ethnic Origin) N. 59(I)/2004

Content

Case: The Equality Body received a complaint from the parent of a Turkish Cypriot student attending Nicosia's English School regarding the decision of the school's parents' association to hold the 'prom' on the day of the international Turkish language examination (Turkish GCE A level). The complainant claimed that this decision resulted in indirect discrimination against Turkish Cypriot students, who were essentially placed in a less favourable position compared to other students in the school who were not taking this exam. Having an exam on the same day as the prom meant it would be extremely difficult for these students to participate in the prom because of physical exhaustion, exam stress and the distances involved in order for them to get home after the exam to get ready for the prom and return to the venue, as many of them lived in the north of Cyprus. The issue was raised by the Turkish Cypriot parents with both the parents' association and the school's governing board. However, both bodies decided to keep the date and to offer a number of facilitating measures to the affected students. The parents' association sought to justify its refusal to change the date of the prom on the ground that some (Greek Cypriot) parents had already made arrangements to leave the country immediately after the prom. The claim for the change of the date was put to the vote at the parents' association and was rejected by the majority, causing some of its members to resign. The parents' association tried to offer a number of measures to mitigate the problem, like a bus to transport the Turkish Cypriot students to the venue, a hotel room for them to stay before the exam and after the prom, a hairdresser etc., but these measures were not accepted by the Turkish Cypriot students who finally did not participate in the prom.

Decision of the Equality Body: The Equality Body report stated that, on the basis of its charter, the English school was a bi-communal school and in fact the only bi-communal school operating in Cyprus. In this context, it offers ethnically and religiously neutral education and runs special programs to embed pluralism and diversity. The school aims at being seen as a model of harmonious and constructive coexistence not only between persons of diverse ethnic or cultural characteristics but also between the two communities which are constituent of the Cypriot state: the Greek and the Turkish. In this context, in order to achieve equality a sense of balance must be adopted which reaches beyond the logic of arithmetic majorities. Decisions affecting equal participation and the exercise of rights cannot be submitted to logics of options, categorisations or voting which by definition to the exclusion or to the less favourable treatment of one of the two communities. The majoritarian logic entails the risk of always placing the numerically smaller group in a disadvantageous position.

The parents' association should have proceeded to change the date of the prom, without submitting the matter to voting; after changing the date it should have sought to find facilitating solutions for those negatively affected, such as the parents who had planned to leave the country. This method would have ensured that the impact would be evenly distributed to all persons involved and not only to the Turkish Cypriots. The travelling plans of the parents and other considerations taken into account by the parents' association should not have been given priority over equality. The option finally selected amounted to discrimination which cannot be revoked or mitigated by the facilitation offered to the Turkish Cypriot students. The decision of the parents' association produced tension and confrontation between the students and the parents of the two communities and promoted suspicion, undermining the climate of cooperation and mutuality which is necessary for a multi-cultural school to function.

The events at the English School carry a symbolic value and the message conveyed to society through this incident regarding the will and the ability of the two communities to coexist peacefully in conditions of respect and equality is negative. Although the responsibility for this incident lies primarily with the parents' association, the school itself is not without liability: it had a duty to remind the parents' association of the constitutional values of the school and of the need to respect the rights of all diverse groups.

Key points of analysis: The report adds a valuable contribution to the debate regarding indirect discrimination and positive action which carries a particular political significance in the context of Cyprus given the tension between its two large communities and the prospect of co-existence in light of the current peace negotiations. The reasoning permeating the report is in line with ECtHR case law, as expressed amongst others in the case of *Thlimmenos v Greece* which established that the right not to be discriminated was violated not only when States treated differently persons in analogous situations, but also when States, without an objective and reasonable justification, failed to treat differently persons whose situations were different.¹ The reasoning essentially endorses contemporary approaches to positive action, as these are manifested in the two Equality Directives.

Internet link source:

[www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/DE2B47CF1E92C9A8C225801B00409B58/\\$file/%CE%91%CE%9A%CE%A130.2015_03082016.doc?OpenElement](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/DE2B47CF1E92C9A8C225801B00409B58/$file/%CE%91%CE%9A%CE%A130.2015_03082016.doc?OpenElement).

¹ ECtHR, *Thlimmenos v Greece*, Application no. 34369/97, 6 April 2000, available at [http://hudoc.echr.coe.int/eng#{%22languageisocode%22:\[%22ENG%22\],%22appno%22:\[%2234369/97%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22\],%22itemid%22:\[%22001-58561%22\]}](http://hudoc.echr.coe.int/eng#{%22languageisocode%22:[%22ENG%22],%22appno%22:[%2234369/97%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22],%22itemid%22:[%22001-58561%22]}).