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FLASH REPORT

Country:	Serbia
Title:	J.J. from P. v. The School for primary and secondary education P.
Date:	9 July 2019
Expert:	Ivana Krstic
<u>Context</u>	
Issue at stake:	Victimisation
Grounds of discrimination:	Racial or ethnic origin
Field of application:	Employment
Source:	National equality body
Applicable law:	Law on the Prohibition of Discrimination

Content

Case development: This case concerns the first complaint submitted to the Commissioner for the Protection of Equality for victimisation.

The complainant is J.J., a psychologist in the School for primary and secondary education M. She claims that she suffers since she 'openly expressed suspicion' that on 10 June 2016 two teachers were violent and discriminated a Roma pupil. After the Roma pupil had stolen chips from the school bag of her classmate, the teacher decided to punish her. She first separated her from the rest of the group, and then she was joined by another teacher in shouting at the pupil in the hall, insulting and humiliating her based on her ethnic origin. Afterwards, the teachers forced her to stand in the school yard while holding a pillar during the class. The complainant claims that on 13 June 2016, the School principal obstructed her work and forbade her to talk to G.N., who was a direct witness of the violent incident and who reported the inappropriate behaviour of the two teachers against the Roma pupil. Despite this ban, she spoke to G.N. and the Roma pupil on several occasions. She warned the principal that the case should be solved within the school as soon as possible, and that the teachers should be punished.

As the principal did not act in this case, in August 2016 she first informed the Team for the protection of pupils against violence, abuse and neglect about the incident, and in February 2017 the city administration, the Ministry of Education, Science and Technological Development, school administration and the center for social work. She explains that after revealing the discrimination against the Roma pupil, she was removed from the position of the Team Coordinator to protect pupils from violence, abuse and neglect at the end of the school year 2016/17, and from the position of the Parent's Council coordinator in March 2017. On 28 February 2017, during the school year, her employment contract was changed and was foreseen to expire on 31 August 2017. She also pointed out that, from the moment when she reported the violence and discrimination, she was exposed to many discomforts by the school principal and some colleagues, as the principal, in order to destroy her professional reputation, urged other teachers to distance themselves from her, to talk with

her close associates and to obstruct her work. Also, on several occasions she was insulted by her colleagues, and once she was called 'trash'.

The principal of the School stated that J.J. was not discriminated against in any way and on any ground prescribed by the Law on the Prohibition of Discrimination (LPD). The principal explained that the reason for her shift from the position of the Team Coordinator to protect pupils from violence, abuse and neglect is the fact that she 'constantly reports and sues the school where she is employed'. When it comes to removing the complainant from the position of the Parent's Co-ordinator, the principal stated that the reason for that was that she retained a person who did not have rights to be a member of that body. Finally, the principal rejected the claim that he urges other teachers to distance themselves from the complainant, and that the complainant 'does not need to seek blame in another person' as 'she is alone responsible if other employees behave differently to her'.

Opinion of the Equality Body: The Commissioner for the Protection of Equality delivered its opinion at the end of December 2018, and the opinion was published on 15 April 2019.¹ During the course of the proceedings, by analysing the allegations of the complaint, statements and evidence, including witness statements, and by applying the provision of Article 45 of the LPD (the shift of the burden of proof), the Commissioner for the Protection of Equality established that the complainant had made probable that an act of discrimination had occurred. She particularly underlined the changes in working status and position at the complainant's workplace which occurred after she had reported discrimination of the Roma pupil to various bodies and institutions. On the other hand, the facts and evidence offered by the principal of the School did not provide sufficient grounds for concluding that the mentioned changes in the labor status and the position of the complainant at work were not caused by the fact that she had reported discriminatory treatment. The CPE found a violation of the provision of Article 9 of the LDP, which says that: *'Discrimination shall exist if an individual or a group of persons is unwarrantedly treated worse than others are treated or would be treated, solely or predominantly on account of requesting or intending to request protection from discrimination, or due to having offered or intending to offer evidence of discriminatory treatment.'* The school principal was recommended to take all measures within its jurisdiction in order to eliminate the consequences of unjustifiably less favourable treatment of J.J. in the School, because she offered evidence of discriminatory treatment against the Roma pupil, as well as to send a written apology to her.

Internet link source: <http://ravnopravnost.gov.rs/294-18-misljenje-sa-preporukum-po-prituzbi/>.

¹ J.J from P. v The School for primary and secondary education, complaint no. 07-00-303/2018-02, opinion from 24 December 2018.