

Activity Report of the Bureau for Implementation of Equal Treatment e.V. (BUG) for the period January to December 2013

A. Supporting cases of discrimination

In 2013, 29 people contacted BUG to ask for advice on whether a discrimination complaint seems appropriate in their situation. This was the case with a small number of persons. There has been no case that resulted in a lawsuit supported by BUG.

Since 2012 the following complaints were facilitated by BUG:

1. Since January 2012 BUG has been supporting the lawsuit of a young man (2), who was dismissed due to his HIV infection during the probationary period. Since the second instance BUG has been providing legal assistance in court. In April 2012, the appeal was submitted to the Federal Labour Court. In summer and autumn 2013, BUG prepared two legal opinions on the subject, based on two decisions of the Court of Justice of the European Union that had changed the assessment of chronic diseases. The National Monitoring Body for the UN Convention on the Rights of Persons with Disabilities of the German institute for human rights submitted an Amicus Curiae.

The court hearing was held at the Federal Labour Court on 19th December 2013. The judgment acknowledged most of the arguments put forward by BUG. The verdict clarifies that HIV - as a chronic disease - is to be taken under the term disability in the AGG and that reasonable adjustments should have been considered before giving notice to the claimant. The case was remanded to the Regional Labour Court Berlin in order to assess its specific facts pursuant to this judgment. The press reported very extensively about the verdict. Therefore a press review was compiled by BUG.

2. Since the beginning of 2012 two young men are supported who were regularly denied entry to nightclubs owing to their ethnic categorisation. Means of evidence were collected and the lawsuit was filed at the court in September 2012. The hearing took place at the regional court Hanover in February 2013. Since the defendant party had filed a challenge on grounds of bias against the presiding judge, the delivery of the judgment was delayed until August 2013. The nightclub was ordered to pay € 1,000 and has to refrain from unjustified rejection in the future. If this is not done, a fine of up to € 250,000 may be imposed. The nightclub appealed the judgment. By the end of the year it was still not clear whether there will be an appeal procedure. If necessary, BUG will continue supporting the plaintiff.

Unfortunately, a second claim could not be lodged since a witness backed out and as a consequence the plaintiff did not want to pursue the case anymore.

The following cases were supported by BUG, but did not lead to a legal assistance in court.

3. In summer BUG was contacted by a black German from Bamberg who was denied entry at a nightclub. The claim was raised by BUG. The club replied that they were very embarrassed by the situation and that the external bouncer had already been dismissed since he had disregarded the instructions of the club manager. The nightclub hopes that a conversation will clear up the situation for good. In cooperation with the nightclub a door policy was developed and an agreement with the bouncers was written that is to be used from 2014 onwards.

4. The Integration Council of Bavaria conducted 'testings' at nightclubs in Munich. This resulted in seven lawsuits. BUG communicated with one of the plaintiffs and agreed to submit an Amicus Curiae on the subject 'testings' to the court. By the end of 2013, no trial dates had been announced.

5. In summer, BUG worked intensively on a case concerning the German guardianship law and its conformity with the CRPD. The brother of two disabled siblings wanted to take over their guardianship but was officially denied to do so. He asked for BUG's support in submitting an individual complaint to the Committee of the UN Convention on the Rights of Persons with Disabilities. In cooperation with MDAC (international NGO on the rights of people with intellectual disability), we analysed whether the submission of an individual complaint could succeed. As no agreement could be obtained from the respective siblings we have refrained from assisting this individual complaint.

6. In August, a young woman contacted BUG, who should not be moved up to the next level in a vocational school due to her absenteeism. She had the impression that this could be due to ethnic discrimination since comparable pupils having had higher absenteeism were still moved up. BUG handed in an assertion at the school but initially did not receive any feedback. Through the support of a mediating person the education authority was contacted to clarify the situation. Hereby a school staff meeting was achieved and in the end the young woman was moved up to the next level.

7. In late 2013 the opportunity occurred to support further racial profiling cases. Initial discussions took place to clarify BUG's role.

B. Advocacy work

Amending the AGG

a) Since 2010 BUG has been putting together a comprehensive list of aspects that should strengthen the General Equal Treatment Act. In late 2012 a first draft of a document containing the proposed amendments was published which was financially supported by the Gunda Werner Institute. Using this draft, NGOs, associations and professionals were consulted in 2013. About 30 institutions were contacted and asked to provide written or oral feedback. By October, about ten organisations had given feedback. These supplements were included into the text, suggestions for amendments to the legal text of the AGG were developed and a draft for a federal anti-discrimination law was prepared by two experts. In 2014, with this material lobbying will be undertaken.

b) During the development of the political parties' election programmes for the parliamentary elections in 2013, BUG established numerous contacts with politicians to promote the inclusion of amendments to the AGG in their respective election programmes. BUG was successful in doing so with three out of six parties. One of these parties is now part of the government.

c) In spring, BUG compiled benchmarks concerning amendments to the AGG. They were sent to political parties in relation to the federal elections in September. The responses of all parties were made available in an overview on BUG's website.

NSU inquiry

The NSU inquiry committee of the German Bundestag has been working since spring 2012. As the tasks of this committee were similar to the work of the Macpherson Commission in the UK, BUG has analysed to what extent the British experience in processing racism within the police is transferable to the German situation. Based on this information, BUG introduced information concerning the implementation of the recommendations from the Stephen Lawrence report to staff of the members of the Inquiry Committee in May. In June, BUG drafted recommendations which were then made accessible to some members of the Committee. Three of the recommendations offered by BUG were included in the conclusions adopted by the full Inquiry Committee. The recommendations of the Social Democratic Party also contain several other aspects that BUG had proposed.

In early autumn, some NGOs met to examine how civil society organisations may support implementing the NSU inquiry's recommendations. BUG prepared and moderated the meetings.

Racial profiling

On the occasion of the federal election campaign BUG and the German League for Human Rights compiled benchmarks on the subject of racial profiling which were distributed to political parties. Responses have been received by all relevant parties. They can be found on our website. BUG was able to establish international contacts by attending an international seminar with lawyers supporting racial profiling cases.

Miscellaneous

To estimate the position of political parties regarding the 5th Equality Directive of the EU, benchmarks about this EU directive were prepared and sent to all relevant parties. The directive has been blocked so far by the federal government. Their answers were largely predictable. An overview of the responses is made available on BUG's website.

C. Networking of BUG

In 2013 the Director Vera Egenberger continued maintaining contact with associations, organisations, institutions and individuals working in the field of equal treatment. BUG is widely perceived as the NGO proficient in the AGG and legal non-discrimination work.

Networking for advocacy work against ethnic discrimination in Hanover

With the intention to promote the visibility of the problem of ethnic discrimination in access

to nightclubs in Hanover / Lower Saxony, BUG held an information meeting supported by the students' council and the Anti-Discrimination Office of Hanover in the town hall in summer. Possible approaches to the problem were discussed. More than 30 people attended and the press response was positive. The Director of BUG chaired the event.

In order to advance the work on the topic, a strategic plan of activities was agreed with other stakeholders in the aftermath of the event. This includes further lawsuits, advocacy work towards an amendment to the German restaurant code, cooperation with nightclubs and the German Hotel & Catering Association as well as the production of information leaflets for young people. Some of these steps were taken forward until the end of the year. In particular, a very constructive cooperation with a club and the German Hotel & Catering Association could be established. By January 2014, a meeting is planned to assess the activities carried out since summer and to agree on further steps.

Informal Network on racial profiling

The informal network on ethnic profiling coordinated by BUG met twice in Berlin during the reporting period. After the lawsuit in Coblenz was closed the interest in the group decreased. Due to a thematic conference organised by BUG, the group could be expanded to about 25 groups (more than 60 individuals).

Networking conference on racism and the police

Funded by OSI, BUG conducted a networking meeting on 12th June 2013 in cooperation with the Turkish Association of Germany (TGD), the institute for research on migration and racism and the Amadeu Antonio Foundation. The aim was to bring activists from the areas of asylum, right-wing movement and racism together to agree on specific steps towards cooperation in the context of police and racism. The event resulted in four working groups. One was included into the informal network on racial profiling. Another one is used as an internal training on the structure and the mandate of the police. The third group will discuss the topic hate crime. Information about the fourth group follows here.

Independent complaints body

As a result of the aforementioned conference BUG and the International League for Human Rights agreed to set up and coordinate a working group on an 'independent complaints body for the police'. In October the first meeting was held where further steps were discussed. Two further meetings followed until the end of the year where concrete conceptual proposals for the structure and competence of such a complaints body were discussed and collated. This work will continue in 2014.

Federal Anti-Discrimination Agency (ADS)

In 2013, the constructive exchange with the Federal Anti-Discrimination Agency continued. In some cases, information concerning complaints supported by BUG was exchanged and people that had been discriminated against and who could not be supported by the ADS were advised to contact BUG.

Follow-up on the report of the NSU inquiry

In order to ensure the implementation of the conclusions in the NSU Inquiry Committee report, some people working in this area have been meeting since October 2013. Three

meetings have taken place to assess the 47 conclusions and to analyse how the concrete implementation can be facilitated by civil society. BUG prepared the meeting in cooperation with the Amadeu Antonio Foundation.

D. Information and Public Relations work

Press

Accompanying its complaints BUG has conducted extensive press work. After proceedings and the pronouncement of judgments BUG released its own press statements. After the release of the NSU report BUG also published a press release. A press review concerning the legal case of an HIV-positive man was compiled in late 2013.

Website

During the year a new dossier on hate crime was published on the website. In addition, the website was largely translated into English and updated regularly. The site has evolved into a respectable and comprehensive instrument for information dissemination and self-portrayal of BUG.

E. Membership in networks

BUG has regularly attended meetings of the 'Network against Racism' and was present at a meeting of the 'Forum against Racism'.

Through its membership in the 'Network against Racism' BUG is involved in ENAR and has participated in the General Assembly and a themed meeting. This participation offers latest information regarding anti-racism developments at EU level and introduces new international networking opportunities. BUG is a member of the 'Paritätische' and since the beginning of 2013 also a member of 'Forum Human Rights'.

Regular exchange has been maintained with strategic litigation NGOs in other EU countries.

F. Financial situation

In 2013, BUG managed to attract funding from three foundations and received an amount of approximately € 36,000 for a project on racism and the police, networking in the field of racial profiling and its work on amendments to the AGG. With this running costs could be covered which included e.g. rent, office supplies, telephone, etc. as well as some compensation the Director. Unfortunately, five further applications of foundations were rejected or are still pending.

G. Fundraising

As part of the adopted fundraising strategy major applications for grants were submitted to Aktion Mensch, OSI and the European Commission in 2013 to secure funding. It is becoming apparent that foundations are only to a degree ready to financially support BUG's activities. BUG's activities do not seem to fit into priorities of German foundations. Therefore intended applications had to be adjusted accordingly in order to meet funding lines.

H. Awards

In summer BUG was awarded with the ‘ribbon for courage and understanding’ of the DGB Berlin Brandenburg. In September BUG received the ‘Wirkt-Siegel’ of Phineo. Both awards are a flattering recognition of BUG’s work.

I. Interns

Since January 2013 BUG has been involving interns in its work on a regular basis. Anne Stoehr, Paola Dannenberg, Theresa Schlögl, Esther Balke, Chandler Hill, Dana Dinarvandi, Mathilde Prost, Clara Hofmann, Catharina Einbacher and Leonie Kijewski have participated in various activities and projects. We are grateful to all interns for their thoroughgoing support.

I. Further activities

Legal aid fund

In October 2013 approximately 2.500 € were available in BUG’s legal aid fund. This fund will be used to support legal cases.

Work Programme 2014

In summer Vera Egenberger developed the work programme 2014. It was adopted at the 6th Board Meeting on 16th November 2013.

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