



## **NATIONAL ACTIVITY REPORT BULGARIA ANTI-DISCRIMINATION AND DIVERSITY TRAINING**

**Bulgarian Helsinki Committee**

**May 2008**



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This project and publication has been commissioned by the European Commission under the framework of the European Community Action Programme to combat discrimination (2001-2006). This programme was established to support the effective implementation of new EU anti-discrimination legislation. The six-year Programme targets all stakeholders who can help shape the development of appropriate and effective anti-discrimination legislation and policies, across the EU-25, EFTA and EU candidate countries.

The training manuals used in the anti-discrimination seminars and the diversity management seminar can be downloaded from the European Commission website:

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/public/pubst\\_en.htm#train](http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm#train)

The Anti-discrimination and Diversity training project was managed by Human European Consultancy ([humanconsultancy.com](http://humanconsultancy.com)) in consortium with the Migration Policy Group ([www.migpolgroup.com](http://www.migpolgroup.com)) and the International Society for Diversity Management – idm ([www.idm-diversity.org](http://www.idm-diversity.org)).

The national activities were carried out by the Bulgarian Helsinki Committee ([www.bghelsinki.org](http://www.bghelsinki.org)).

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## **II. Introduction**

Two Anti-discrimination (AD) seminars and one Diversity management seminar were carried out during the project implementation period.

The basic AD seminar took place on 29-30 October 2007 and had a similar content as the basic anti-discrimination seminar for NGOs carried out in 2005. This time Trade unions were also invited to participate apart from the NGO's. 49 of the approved and registered 60 participants actually took part in the seminar.

The follow-up seminar for the participants from both basic seminars (in 2005 and in 2007) took place on 10-11 March 2008. 50 representatives from NGOs and trade unions participated in this seminar.

The Diversity management seminar was carried out on 26 February 2008. 36 of the approved and registered 50 participants representatives of the business actually took part in the seminar.

### **III. Anti-discrimination seminars**

#### **a) National activities anti-discrimination seminars**

##### **Design of the training**

The design of the training was as described in the tender proposal "Anti-discrimination and diversity training VT/2006/009". No changes in view of the manual content, target group, role international trainer(s), trainers, organising NGO were made necessary during project implementation period.

##### **Preparation of the seminar**

The course of preparation for the first AD seminar was comprehensively guided and strictly controlled by Evelyn van Royen from Human European Consultancy (HEC). The major steps taken in view of the seminar preparation were:

- Updating the 2005 Mapping civil society report/ Needs assessment in country by the national expert in February-March 2007
- Identifying 6 AD trainers in February 2007 - according to project conditions the trainers from the project implemented in 2005 had to be engaged for the current AD seminars. Due to the unavailability of three of the trainers from 2005, the organising NGO (BHC) proposed three new trainers - all of them lawyers/ attorneys-at-law and BHC staff members.
- Developing training materials - updating the training manual from 2005 by the national expert. During the period February - April 2007 the national expert prepared two updated chapters: "Discrimination in national context" and "Funding opportunities for anti-discrimination NGOs and trade unions"
- Preparation of training materials after approval of the updated and newly developed materials for the training manual the full package of documents for the seminar were translated into Bulgarian.

The second AD seminar (10-11 March 2008) was a follow-up seminar for both basic seminars that took place in 2005 and in October 2007. In view of its follow-up character the preparation course for the second seminar was considerably relieved. The core preparation activity for the follow-up was the design of the training that was done jointly by the international expert, the national expert and the AD trainers. The design reflected the needs and interests of participants in basic seminar as expressed in their evaluation forms.

The basic AD seminar was announced in accordance with the comprehensive guidelines granted by HEC. In the end of May 2007 the organising NGO received drafts of announcement, information leaflet and registration form for the seminar. These documents were later adapted to the specific national seminar contents, enriched with the selection criteria for participants prepared by the national expert, translated in Bulgarian, designed with the relevant logos and sent for approval in the beginning of August 2007. The selection criteria for participants were drafted in line with the general criteria proposed by HEC and with the Bulgarian specific context already described in the mapping analyses. The announcement together with the registration form and the information leaflet were distributed via a number of mailing lists and uploaded at the BHC and Center for Independent Living web sites. The deadline for applicants to the organising NGO was September 15th. The announcement was given one month earlier.

The follow-up seminar targeted participants from the two basic seminars in 2005 and in 2007. For its announcement the organising NGO used the draft announcement form and the registration form from the basic seminar that were modified in accordance with the follow-up seminar design and contents.

According to the guidelines for selection and registration of participants given by HEC for the basic national AD seminar the organising NGO had to compile a list of representatives of NGOs and trade unions of which no more than 50% invited and 50% selected from applicants. In view of this requirement the BHC used two basic channels for attracting the participants - emailing NGO's and trade unions and uploading the announcement at two NGOs' web sites. For a period of one month (mid. August to mid. September) the organising NGO received 67 registration forms in total. Most of the applications we received were "own initiative" applications. From 67 applications in total the BHC had appr. 37% invitees and 63% applicants. These applications were approved by the European Commission in the beginning of October 2007 and reduced to 60 by the national expert on the basis of the selection criteria balance and in view of the maximum budgeted number of participants. The national expert carried out the selection process based on the following requirements:

- max. 50% invited/ 50% own initiative
- ratio NGOs/ trade unions - 3/1
- selection criteria:
  - representatives of NGOs dealing with the five grounds of discrimination (race/ethnic origin, age, disability, religion/belief, sexual orientation) providing for a balance of the five grounds
  - priority for NGOs and trade unions representing highly vulnerable groups (for example Roma minority)
  - diversity of NGOs' roles to be represented among the participants (awareness rising, capacity building, litigation, monitoring, lobbying)
  - priority for NGOs and trade unions working outside the capital (2/3).

As the follow-up seminar targeted participants from the two basic seminars, the only way to attract participants was by sending an invitation to all NGOs and trade unions (over 100 addressees) represented in the basic seminars. Exactly 50 representatives from the invited NGOs and trade unions sent their application forms for the follow-up seminar. 48 of them were approved by the European Commission and 2 additional candidates who sent the registration forms after the deadline were included in the participant list because of their eligibility and because of the budget that allowed as many as 60 participants.

All of the logistical arrangements were carried out by the seminar organiser with the technical support of the BHC technical assistants. Both AD seminars took place at park-hotel "Moscow" in Sofia. The venue was chosen in view of the considerable budget limitations and the scarcity of architecturally accessible venues for individuals with physical disabilities. These budget limitations were owe to the fact that the budget was fixed in the beginning of 2007, almost 9 months before the first seminar took place and in the conjuncture of considerable level of inflation.

A special letter with instructions and a registration form were designed for the approved participants to allow better organisation of the logistical matters. They concerned matters regarding the accommodation (1 or 2 over-nights), transportation, travel expenses covered by the organiser, conditions for covering expenses, preferences for the meals (vegetarian, without pork, allergies), special necessities (companions for individuals with physical disabilities, sign language interpreters for individuals with impaired hearing). This preliminary gathered information allowed a smooth course of the logistical arrangements for both AD seminars.

## **Carrying out the seminars**

The ratio of participants actually present at the basic AD seminar was as follows:

- 77% of the actual participants were NGO representatives, approximately 13% trade unions. The initial participants list approved by the Commission included 67 applicants 70% of which were NGO representatives. The reduced list of 60 participants also kept with the requirement for ratio NGOs/ trade unions = 2/1 but this ratio was disturbed when 49 of the registered 60 participants actually took part in the seminar.

The ratio of participants actually present at the AD follow-up seminar was as follows:

- 78% of the actual participants were NGO representatives, approximately 13% trade unions.

Both the basic and the follow-up seminar were marked by intensive participation in both plenary and small group sessions. The trainers were dedicated and provided much quality input. The logistics were smooth.

Both anti-discrimination seminars were successful, with a considerable amount of learning and network-building on the part of participants. A network of anti-discrimination NGOs was formed as a basis for cooperation and resources sharing.

## **Main lessons learned**

Among NGOs there is substantial and growing interest in anti-discrimination work. Activists are especially interested in practical litigation skills and successful cases in domestic and European courts. They value most practical case work in small groups. There is demand for further training, as well as for legal advice on individual cases. NGOs are interested in networking to share experience and expertise.

Awareness of anti-discrimination is low among trade unions. Trade union activists and members were attracted as participants only via personal links with civil society activists.

Basic AD seminar





Follow up seminar





## b) Mapping exercise: NGOs/Trade Unions working to combat discrimination

### Profile of NGOs/trade unions working to combat discrimination

#### 1. What types of NGOs/trade unions working on anti-discrimination exist on the national level?

The NGOs doing visible antidiscrimination work (AD NGOs) split into several categories. First, there are general human rights groups engaged in antidiscrimination work (AD), among other basic rights issues. Those include, in particular, the **Bulgarian Helsinki Committee (BHC)**,<sup>1</sup> the **European Integration and Human Rights Association (EIHRA)**,<sup>2</sup> the **Bulgarian Lawyers for Human Rights (BLHR)**,<sup>3</sup> and the **Levski Human Rights Centre (LHRC)**. In addition, there is an anti-racist NGO, the **Inter-Ethnic Initiative for Human Rights (IEIHR)**, as well as an NGO engaged in EU policy promotion, the **European Institute Foundation (EIF)**,<sup>4</sup> part of whose portfolio is AD and diversity promotion. Further, there are NGOs of vulnerable groups, including LGBT people, Roma, disabled people, and women, which focus on AD, among other concerns for those particular groups. Those group-based NGOs include, most notably, the “**Gemini**” **Bulgarian Gay Organisation (GBGO)** (LGBT),<sup>5</sup> the **Queer - Bulgaria Foundation** (LGBT),<sup>6</sup> the **Equal Opportunities Initiative (EOI)** (Roma) the **Amalipe Centre for Interethnic Tolerance and Dialogue** (Roma),<sup>7</sup> the **Centre for Independent Living (CIL)** (disability),<sup>8</sup> the **Centre for Women’s Studies and Policies (CWSP)** (gender),<sup>9</sup> the **Bulgarian Gender Research Foundation (BGRF)**,<sup>10</sup> the **Women’s Alliance for Development**,<sup>11</sup> and the **Gender Education, Research and Technologies Foundation (GERT)**.<sup>12</sup> NGOs working for the sake of children, such as Save the Children - Bulgaria,<sup>13</sup> UNICEF - Bulgaria,<sup>14</sup> Every Child (Vsjako Dete),<sup>15</sup> Roditeli (Parents) Association<sup>16</sup>, or the elderly have not engaged in anti-discrimination work as such.

The trade unions generally have no awareness of AD, and have engaged in no such activities. A trade union having some involvement in AD is the **Confederation of Independent Trade Unions (CITU)**,<sup>17</sup> the largest one nationally, which has entered into an agreement for cooperation with the **Protection Against Discrimination Commission (PADC)**<sup>18</sup>, the specialised body, in connection to the European Year of Equal Opportunities for All 2007. Another is the **Syndicate of Bulgarian Teachers (SBT)**, a member of CITU, which was involved in a project of the European Trade Union Committee for Education, *Developing Non-discriminatory Quality Education for Roma Children*, in Bulgaria.

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<sup>1</sup> [www.bghelsinki.org](http://www.bghelsinki.org).

<sup>2</sup> <http://www.eurorights-bg.org/en/categories/home/home.html>.

<sup>3</sup> <http://www.blhr.org/indexEN.html>.

<sup>4</sup> <http://www.europeaninstitute.bg/>

<sup>5</sup> <http://www.bgogemini.org/eng/>.

<sup>6</sup> [www.queer-bulgaria.org](http://www.queer-bulgaria.org)

<sup>7</sup> <http://www.geocities.com/amalipe2002/frameeng.html>.

<sup>8</sup> <http://www.cil-bg.org>.

<sup>9</sup> <http://www.cwsp.bg/htmls/home.php>.

<sup>10</sup> <http://www.bgrf.org/en/>.

<sup>11</sup> [http://www.women-bg.org/index\\_en.html](http://www.women-bg.org/index_en.html)

<sup>12</sup> <http://www.gert.ngo-bg.org/en>.

<sup>13</sup> <http://www.savethechildrenbg.org/SCBG/Web/Home.aspx>.

<sup>14</sup> <http://www.un-bg.bg/index.php5?l=1&p=2>.

<sup>15</sup> <http://www.everychild-bg.org/>.

<sup>16</sup> <http://www.roditeli.org/>.

<sup>17</sup> <http://www.knsb-bg.org/eng/enindex.htm>.

<sup>18</sup> As of 19 January 2007.

A few smaller, local, enterprise-based trade unions have engaged in AD work by bringing complaints to PADC, the specialised body. However, those have alleged discrimination on grounds of membership of those particular trade unions, rather than on any of the classical grounds, such as sex or race.

**2. What ground (s) of discrimination, scope or sector are they concerned with (if they are concerned with a specific ground or a specific sector such as for example education)?**

The human rights groups (BHC, EIHRA, BLHR, LHRC) work on various grounds, including race/ethnicity, religion, disability (both mental and physical), gender, age, and sexual orientation. Their AD work spans across various sectors, including employment, education, healthcare, public services, criminal justice, etc. The AD promotion work of the EIF also spans across grounds and sectors. The antiracist IEIHR focuses on ethnic and religious discrimination, while the group-based NGOs all focus on their respective grounds, across sectors. The Roma group Amalipe has a focus on Roma education.

The little that has been done by trade unions to date is limited to SBT's project on Roma equality in education.

**3. Is anti-discrimination their main area of work or only a small part of what they do? Do they work on anti-discrimination?**

For all the AD NGOs covered here antidiscrimination is a significant priority, and for some it is a top priority, or even the prime one.

For the trade unions, it is but a small fragment of their activities.

**4. Are these NGOs/trade unions registered on the national level? Is it easy or problematic to register as an NGO/trade union?**

All AD NGOs & trade unions are registered with the courts. Registration is not a problem.

**5. Generally how large are these NGOs/trade unions? (Please mention the size of membership for the main trade unions)**

The smallest NGO (the local LHRC) has 3 staff, while the largest (BHC) has close to 30. The others vary in between.

CITU reports 350 000 members.<sup>19</sup>

**6. Are they part of larger national networks? Or are they working on their own?**

Almost all the AD NGOs have affiliations with various networks, such as the Human Rights Family, the Bulgarian Refugee Council, the National Equal Opportunities Network, the Roma Public Council within the Sofia Municipal Council, the National Association of People with Disabilities, the National Council on Equality Between Women and Men, the Gender Equality Coalition, the Bulgarian Platform of the European Women's Lobby, and others. They work in concert on a case-by-case basis, as well as on their own. Age organisations, whether for the Elderly or the Youth as indicated earlier are not yet engaged in anti-discrimination work.

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<sup>19</sup> Info published at their website, see footnote 14 above.

CITU and SBT, which are barely aware of anti-discrimination issues, have not been networking on anti-discrimination issues neither amongst themselves, nor with NGOs.

**7. Are they mainly based in the Capital or spread out in the country?**

Most of the AD NGOs are based in the capital. Only EIHRA, Amalipe and LHRC are based elsewhere (in Plovdiv and Veliko Turnovo, respectively), and only LHRC is a grass roots organisation located in a small town. However, BGRF and IEIHR report having local offices in several towns around the country.

CITU is based in Sofia, but has territorial structures nationwide.

**8. Are NGOs/trade unions from the capital and the rest of the country doing the same type of work?**

The grass roots LHRC lacks the capacity to engage in lobbying and advocacy at the national level like the central AD NGOs. Unlike them, it is not in a position to litigate, or to deliver training, or to consult the authorities on legislation and policy. It focuses on local level advocacy, fact-finding, work with victims, referral of complaints, and support of litigation by larger NGOs. EIHRA and Amalipe, the other two NGOs located outside of Sofia, carry out work comparable with that of the Sofia-based groups, especially the EIHRA, which has national visibility for its advocacy via litigation.

CITU and SBT, the trade unions which have barely engaged with anti-discrimination projects to date, could not at this stage be said to be doing any specific type of anti-discrimination work.

**9. What is the political or societal weight of these NGOs/trade unions on the national level? (Towards, the general public, the civil society, the companies/employers, the government)**

The influence of the NGOs varies individually. Some of them, such as BHC, or BLHR, are among the most influential NGOs of all in the country, and carry great weight with civil society, the media and the authorities. Still, some sectors of the general public perceive BHC's ethnic minority protection work as controversial. EIHRA, Gemini, CIL are quite visible too, and attract media attention. The gender NGOs seem to carry less authority with the general public, and be less visible. All AD NGOs are recognised by the government and included as a matter of course in consultation processes regarding non-discrimination, inclusion, and minority protection. The EIF appears well connected with the government, as well as with business donors, due to its political affiliations, which the other NGOs don't have. EIF also has working relationships with employers' organisations and businesses, which the other AD NGOs as a whole lack.

CITU is the largest trade union in the country, with all the implications.

**10. Are NGOs/trade unions working in the field cooperating together: (NGOs with other NGOs, trade unions with other trade unions and also NGOs together with trade unions)**

All AD NGOs engage in partnerships with one another. However, there has been no cooperation on the whole between CITU and those NGOs. Only EIF reports some cooperation with SBT.

**a. For what purpose(s) (e.g. exchange of expertise, collaboration on case work or campaigns, organising events jointly)**

For all of those.

**b. *Is there greater collaboration in relation to certain grounds of discrimination? If so, which?***

Cooperation engaging all AD NGOs has been more frequent with respect to ethnicity and disability. However, the gender groups cooperate extensively among themselves with regard to sex.

**11. *How are these NGOs funded?***

**a. *Do they receive state funding?***

Mostly, the AD NGOs do not receive domestic state funding. However, some of them have on some occasions received state funding for particular projects, such as social integration and rehabilitation of people with disabilities, or social and legal assistance for women victims of violence. Also, EIF has received public monies via public procurement. In addition, a number of the NGOs have received EU funding through the executive branch, as well as via other sources, or directly. Also, some have received funding from foreign governments.

**b. *What are the conditions in order to receive public funding?***

Under the *State Budget Act 2007*, NGOs registered with the Ministry of Justice as public interest non-profits are eligible to apply for state budget funds for particular projects “of public consequence” in the fields of human rights, social assistance of vulnerable groups, social integration, healthcare, education, etc.<sup>20</sup> In addition, under that act, certain NGOs, mostly disabled people’s organizations, but none of the AD NGOs, are expressly granted unconditional subsidies of varying amounts.

In parallel, under the *Disabled Persons’ Integration Act*, nationally representative organisations of, and for, disabled people are entitled to state subsidies. Strict criteria define which organisations are representative, with only a limited number of organisations being recognised as such. None of the AD NGOs are in a position to claim such status.

Third, under the *Public Procurement Act*, NGOs could compete for tenders for particular projects.

**c. *Do they also receive/apply for private funding?***

Private donations from international and foreign donors are the prime source of funding for the NGOs. In fact, they are largely dependent on this source, having close to no domestic donors. EIF is quite an exception, receiving donations from a number of domestic businesses. Only one or two of the other AD NGOs report ever receiving domestic private donations. The lack of culture of donating for human rights, including AD, among domestic businesses, is a serious issue for the AD NGOs’ sustainability and growth. With the country now in the EU, international donors are generally withdrawing, with potentially dire consequences for many NGOs.

**d. *Do private funders impose any restrictions or conditions?***

As a rule, international donors award funding for particular specified purposes binding the NGOs with time limits, reporting requirements, etc.

As a very rare exception, one of the AD NGOs (BHC) has once been granted unconditional money by a foreign private donor. In some cases, some of the NGOs have been bound by their foreign donors not to engage in particular activities, such as lobbying for legislative change, for political reasons.

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<sup>20</sup> Art. 8 of the act in conjunction with Appendix N 4 to the act.

Domestic businesses, on the other hand, as far as they donate to any AD NGO, are unlikely to pose strict conditions for the use of their monies.

**12. How are these trade unions funded?**

**a. Do they receive state funding? (Generally speaking do trade unions receive state funding?)**

While trade unions are entitled within the framework of collective bargaining to freely use assets, such as premises and equipment, at the expense of the state to allow them to do their work, they generally receive no money from the state. SBT reports having on occasion taken part in “joint” programmes with various ministries, implicating certain funding from the state for SBT’s role in those programmes.

**b. Are they funded by a political party? If so, do they have to adhere and respect the party’s line?**

CITU and SBT are not on record as having any such relationship to a political party.

**c. Do they function only/also with their members’ fees?**

While CITU and STB collect membership fees, this is by far not their only source of revenue. They carry out economic activities, such as renting property, delivering trainings (but not AD) ones, publishing, etc. They may also receive donations from private companies.

**d. Are they able to receive private funding and/or participate in project funded by European/international institutions?**

Any entity, including a trade union, may receive a private donation, as long as there is a donor willing to grant one. There is no bar to trade unions applying for EU or other projects, and being awarded monies. In fact, as mentioned above, STB, a member of CITU, has taken part in a EU-funded AD project as a local partner of ETUCE.

**13. Is the lack of funding a significant factor in the size of NGOs/trade unions or in restricting the scope or scale of their activities?**

All AD NGOs report the scarcity of funds as a significant factor limiting their growth and scope of activities. Especially, they note the dearth of funding for institutional support, and the tendency of withdrawal of international donors after Bulgaria’s accession to the EU.

SBT also reports insufficient resources as a bar to providing legal representation to members.

**14. Do they work (or are in contact) with similar NGOs/trade unions in other countries?**

**a. Neighbouring countries?**

Most of the AD NGOs are connected with partners in Greece, Turkey, Romania, Macedonia, Serbia, Croatia, Albania. Some of them are members of regional networks, such as the Balkan Human Rights Network,<sup>21</sup> the Minority Rights in Practice Network,<sup>22</sup> the Anti-trafficking and Anticorruption Network (ACTA), ARIADNE.

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<sup>21</sup> <http://www.balkan-rights.net/index.html>.

<sup>22</sup> [http://www.kbs-frb.be/code/page.cfm?id\\_page=125&id=751&lang=EN](http://www.kbs-frb.be/code/page.cfm?id_page=125&id=751&lang=EN).

CITU reports being affiliated with the International Confederation of Free Trade Unions (CFTU)<sup>23</sup> with affiliates in CEE and neighbouring Balkan countries, as well as in other countries. By implication, SBT, which is a member of CITU is also linked to those CFTU affiliates. CITU, and by implication SBT are also linked to trade unions in many countries, incl. neighbouring countries, through the International Labour Organisation (ILO).<sup>24</sup>

**b. Other new EU Member States?**

The NGOs reports partnerships with counterparts from Lithuania, Latvia, Estonia, Poland, Hungary, Slovakia.

CITU, and therefore by implication, SBT are linked to trade unions in the New Member States through the European Trade Union Confederation (ETUC),<sup>25</sup> as well as through CFTU and ILO.

**c. Others?**

The AD NGOs report contacts with individual counterparts in Brussels, Spain, Sweden, Italy, Switzerland, the UK, Ireland, France, Cyprus, the Netherlands, Austria, Germany. BHC, in addition, has partners in Russia, Armenia, Georgia, Azerbaijan, Kyrgyzstan, Turkmenistan, and Belarus. Most of the NGOs also belong to various international networks, such as ILGA<sup>26</sup> and IGLYO,<sup>27</sup> the Network of East-West Women,<sup>28</sup> the International Helsinki Federation for Human Rights,<sup>29</sup> the European Youth against Violence Network, the European Women's Lobby,<sup>30</sup> the International Gender Policy Network,<sup>31</sup> the OSI New York Network Women's Programme,<sup>32</sup> Network for Women in Development Europe (WIDE),<sup>33</sup> Social Watch,<sup>34</sup> European Network Against Racism,<sup>35</sup> European Council on Refugees and Exiles,<sup>36</sup> and others. Just two of the NGOs, EIHRA and the grass roots LHRC, report no contacts abroad.

CITU is affiliated with trade unions internationally through CFTU ETUC, as well as ILO

**15. Do they work on the international level (campaigning, case work, other)**

The three larger human rights NGOs (BHC, BLHR, EIHRA) carry out international litigation, including discrimination cases, mostly before the Strasbourg court, and, in partnership with European organisations, collective complaints under the European Social Charter. In addition, BHC in particular, pursues cases before the UN bodies. The Roma EOI, which is rather new, but whose staff has human rights and AD experience deriving from their previous involvement with the now defunct Romani Baht Foundation (RBF), also may be expected to litigate under the European Convention and Social Charter.

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<sup>23</sup> <http://www.icftu.org/default.asp?Language=EN>.

<sup>24</sup> <http://www.ilo.org/>.

<sup>25</sup> <http://www.etuc.org/>.

<sup>26</sup> <http://www.ilga.org/>.

<sup>27</sup> <http://www.iglyo.com/content/index.html>.

<sup>28</sup> <http://www.neww.org.pl/en.php/home/index/0.html> (Polish branch).

<sup>29</sup> <http://www.ihf-hr.org/index.php>.

<sup>30</sup> <http://www.womenlobby.org/>.

<sup>31</sup> <http://www.igpn.net/>.

<sup>32</sup> <http://www.soros.org/initiatives/women>.

<sup>33</sup> <http://www.eurosur.org/wide/home.htm>.

<sup>34</sup> <http://www.socialwatch.org/en/portada.htm>.

<sup>35</sup> <http://www.enar-eu.org/en/>.

<sup>36</sup> <http://www.ecre.org/>.

Further, BHC takes part in joint international advocacy campaigns, and in drafting joint international reports. Most of the AD NGOs have worked as local partners of European or international NGOs for purposes of international projects, including trainings, conferences, etc. In addition, they have participated in the research and advocacy initiatives of the international networks they belong to.

Just two of the NGOs (LHRC, Amalipe) have not been involved in international work. Amalipe reports only having participated in efforts to garner international support for demands in Bulgaria.

CITU and SBT, the trade unions, have not engaged in international anti-discrimination work. While SBT was involved in an international anti-discrimination project of ETUCE, its role was limited to activities in Bulgaria.

#### **16. Can they work in English?**

Yes, with just one exception (the small local LHRC).

Trade unions generally have large staffs, including English speakers. However, those staff members' language skills may not be particularly up to date

#### **17. For countries where this is the case, where trade unions are linked to political parties, does the involvement or non-involvement of the political party has an impact on the trade union's ability to work on anti-discrimination?**

In Bulgaria, trade unions are not affiliated to political parties.

#### **18. Can specific regional branches of a trade union work on anti-discrimination even if headquarters does not?**

Yes, trade unions' regional structures are fairly autonomous from headquarters, in institutional terms, as well as in their activities.

### **II. Expertise of NGOs/trade unions working to combat discrimination**

#### **19. What kind of work do they do?**

All of the AD NGOs engage in dissemination of information, advocacy, incl. media advocacy, and campaigning. Some also provide legal counselling and legal representation.

The only kind of anti-discrimination work the trade unions have undertaken to date has been anti-discrimination training for teachers organised by SBT in the course of its involvement in an ETUCE project.

#### **20. Do they take up complaints of discrimination?**

Half of the AD NGOs (BHC, EIHRA, BLHR, EOI, Gemini, CIL, Queer, BGRF) take complaints and litigate, before the courts, as well as the specialised body. Some of those are intensely active in strategic litigation (BHC, EIHRA, BLHR), with casework accounting for a large part of their activities. BHC, EOI and EIHRA do legal counselling as well, in addition to strategic litigation. The gender groups are notably weaker in terms of litigation, abstaining as a whole. Some groups take complaints, although they don't litigate, and refer those to partners, and then support their litigation. Almost all of the NGOs (except LHRC) are involved in delivering trainings and workshops. A good number also research and publish. BHC carries out systematic wide-range human rights monitoring and reporting, including on AD issues.

Other groups too monitor, document and appraise particular processes, or fields. The majority of the NGOs engage in various consultative processes with the government, drafting laws and policies; lobbying.

While trade unions generally do take complaints by their own members providing them with pro bono counselling, to date those services concern general labour law issues, and not specifically discrimination. It is unlikely that trade union members would go to their trade union lawyers to complain of discrimination, and even more unlikely that a trade union lawyer would be apt to give such a complainant informed anti-discrimination counselling.

**20. Do they focus on their own community?**

The general human rights groups, which make up a third of the AD NGOs, and the info-dissemination NGO EIF, work across communities. The group-based NGOs (LGBT, Roma, disability, gender) focus on those respective communities.

SBT has only engaged so far in providing anti-discrimination training to its own constituents – school teachers. However, that training has focused on the vulnerability of Roma children in school rather than on teachers themselves as a target of discrimination.

**21. Do they work with victims directly?**

Most do, with few exceptions.

Trade unions do communicate with their members directly, providing them with training and counselling on general labour and other issues. However, they provide no specific anti-discrimination services to their members as victims of discrimination.

**22. Within the company, can trade unions represent only their members or any worker?**

There is no bar to this in law, or practice. Usually, non-members benefit like members from trade unions' negotiating efforts regarding core terms of employment conditions, with the exception of some specific benefits, which they are not entitled to. However, there's nothing to prevent a trade union to bargain for non-members across the board.

**23. Do they do 'case work'?**

Many of the NGOs do (see q. 19-20). The trade unions CITU and SBT do legal counselling and aid on general labour rights, though not necessarily on discrimination cases. SBT provides free legal counselling to members (not to non-members), but provides legal representation only exceptionally due to scarce resources.

**24. Are they able to access state funding for casework?**

As a rule, they are not. As an exception, BGRF, one of the gender groups, reports having irregularly received state funding for legal aid for women victims of violence.

**25. Does this include legal representation?**

Most of the NGOs, which take up cases of discrimination, provide legal representation to claimants. A few refer cases to larger partners due to a lack of resources/ competence. Trade unions only provide legal representation to members of theirs in limited cases due to budget constraints.

**26. Is it possible for NGOs/trade unions to engage on behalf or in support of victims of discrimination in judicial or administrative procedures?**

Under the *Protection Against Discrimination Act*, the comprehensive legislation transposing the EC equality Directives, both trade unions and public interest NGOs are entitled to represent victims of discrimination, as well as to join proceedings as third party interveners.

**27. Are NGOs/trade unions able to pursue class actions if the latter is allowed on the national level?**

Under the *Protection Against Discrimination Act*, both trade unions and public interest NGOs have standing to bring *actio popularis* discrimination cases on their own behalf where the rights of many are affected by an act or practice of discrimination. In addition, trade unions and NGOs, as well as individual claimants, are entitled to invite any party similarly affected to join in a pending lawsuit, whether brought on behalf of a victim, or an organisation, with no upper limit on the number of parties that may join in.

**28. Do they do other practical work? ( e.g. assistance to victims or potential victims, social assistance, etc)**

Relatively few of the NGOs assist victims. BHC supports mentally disabled clients, including by psychological assistance. The Roma EOI and LHRC also provide social support to the community. Most of the litigating NGOs also do on the ground fact-finding and investigation.

**29. Do they advocate changes in legislation and policies?**

Yes, most do, with few exceptions (grass roots LHRC, and the non-advocacy EIF). Trade unions have so far engaged in no such activities relative to anti-discrimination.

**30. What are their relations with the central government?**

All the NGOs, except the grass roots LHRC, are recognised by the government at national level and afforded opportunities to participate in, and influence decision-making. At times, the government cooperates, at others, it resists.

Trade unions are generally established vis-à-vis the government, which accords them consultative status at all levels under legislation.

**31. With regional governments or municipalities?**

Contacts with regional governments are less extensive. Cooperation also varies depending on the issues and demands. For most of the NGOs, relationships with municipalities, especially in larger cities, are often strained, because of litigation and advocacy against those bodies' decisions. Trade unions have established standing with authorities at all levels, including local and regional government.

**32. For the trade unions, with the employers organisations?**

SBT reports working relations with employers, but not too relaxed, apparently somewhat adversarial.

**33. Do they have relations with the specialised bodies/ombudsman?**

A good number of the AD NGOs have established working relationships with those bodies. CITU too (see q. 1).

**34. What are the qualifications of the staff?**

The staffs across the NGOs are mostly professional in diverse fields, including quite a number of lawyers.

The general qualifications of the trade unions' staffs', which also include lawyers, are arguably less up to date than those of the NGO professionals, and in terms of AD competence they are incomparably lower, to put it mildly.

**35. What training has the staff had in relation to anti-discrimination work?**

Mostly, NGO staff members have been trained at seminars delivered by international and domestic partners. Some staff members have attended courses at international universities. Trade union staff members are unlikely to have received any particularly adequate training.

**36. Are they trained in writing funding proposals and reporting?**

Most NGOs have staff members trained to do so, especially, or through practice. Trade unions are unlikely to have more than few staffers with adequate training in this.

**37. How do they evaluate their "success and the quality of their anti-discrimination work?"**

None of the NGOs have institutionalised mechanisms to assess the results of their work. Most express confidence and satisfaction with their achievements based on informal feedback from partners and others in society, media attention, int'l and domestic lawsuits won, and specific successes in negotiating reform with the authorities.

SBT and CITU, which have barely touched upon anti-discrimination projects, have no specific mechanism at all to assess their work in this respect. Even assuming SBT are subjectively satisfied with their own work in their only anti-discrimination project to date, setting aside how objectively valid this would be, it would hardly be representative for any general conclusion.

**III. Needs and problems of NGOs/trade unions working to combat discrimination**

**38. What is the main problem faced by NGOs/trade unions involved in anti-discrimination work?**

For NGOs, the main problem is the scarcity or insufficiency of funding. For trade unions, it is their overall lack of understanding of equality law and policy, as well as their own pervasive prejudices, anti-Romani and homophobic in particular.

**39. Is the lack of staff/funding/expertise one of the main problems faced by NGOs/trade unions involved in anti-discrimination work?**

The majority of NGOs report limited funding as the principal bar, especially in the context of the present general withdrawal of international donors.

The gender groups and others complain of a lack of public and media support, and understanding, as well as of a lack of political understanding and will, including will to invest financially. Others also mention public and journalists' denial of the issues; hostility against ethnic minorities, and their defense; civil servants' incompetence; in particular, judges' incompetence in AD law, including the shift of the burden of proof; incompetence in AD law also on the part of the specialised body; excessive length of court proceedings; fear of victimisation on the part of victims. Gemini reports insufficient support from the LGBT community due to fear of publicity and lack of mobilisation within the community.

While trade unions may not recognise the dearth of anti-discrimination awareness and knowledge in their midst, this is their main problem in terms of taking up any equality work. Funding too would be an issue, as it is unlikely that they be willing or ready to sponsor any anti-discrimination projects on their own.

**41. Is the fact that staff lack necessary knowledge and/or skills one of the main problems faced by NGOs/trade unions involved in anti-discrimination work?**

None of the NGOs report so. While their knowledge and skills are wanting in various respects, this is not a main issue. As for the trade unions, their lack of AD knowledge and awareness is a key problem.

**42. What training is needed by the NGOs/trade unions in order to perform their work the way they would wish to?**

The NGOs need training in documenting and proving discrimination, and using the available remedies, as well as in discerning between the various forms of discrimination, and their elements. The trade unions need all-round training, starting from the very basics. They also badly need awareness-raising to tackle their own prejudices.

**43. Is their staff sufficiently trained in relation to national anti-discrimination legislation?**

While NGO staffers have some training in both, and some have good training, for most it is not sufficient (see q. 41). The trade unions' training is mostly lacking.

**44. Is their staff sufficiently trained in relation to European anti-discrimination legislation?**

While NGO staffers have some training in both, and some have good training, for most it is not sufficient (see q. 41). The trade unions' training is mostly lacking.

**45. Is their staff trained in relation to advising government: formulating policy proposals? Legislative proposals?**

While NGOs staffs are not trained in this, with few exceptions, some have acquired some skills through experience. However, all could use training. The trade unions are insufficiently, if at all, trained in modern-day professional advising techniques.

**46. Do they need to do more to promote their anti-discrimination role?**

All the NGOs need to improve and enhance their media and public advocacy work. However, insufficient resources impede this. Trade unions are yet to assume an AD role of their own.

**47. Do they need to “do more” with victims, clients or potential clients, members or potential members?**

The NGOs need to do more outreach to victims, and to provide them with more counselling and representation. The trade unions need to start providing their members with anti-discrimination services, starting with awareness raising, outreach and counselling. In the first place, they need to tackle their own members deep-seated prejudices against vulnerable groups by awareness raising and training.

**48. Do they need to “do more” with government – to increase their credibility and status?**

The NGOs need to develop more human resources to allow them to take more strategic cases to court and the specialised body. The trade unions, too, could engage in more litigation on behalf of members and non-members alike, if they developed the necessary expertise and human resources.

**49. For the trade unions, do they need to “do more” with the companies/employers organisations?**

Indeed, they could better their relationships with employers by making them more partner-like and less antagonistic.

**50. Would they need to “do more” with public opinion and awareness raising?**

Yes, very much so (see q. 44).

**51. What would they need to develop?**

The NGOs need enhanced PR programmes for their AD work, and more human resources to take more strategic cases of discrimination. The trade unions need, above all, to develop awareness and understanding of AD among their staff and members, as well as competence in AD law and policy.

## c) National legislation in the field of anti-discrimination

### 1. The transposition of the Directives into national law

Both Directives were transposed together via the *Protection Against Discrimination Act (PADA)*, adopted in September 2003, effective as of 1 January 2004. Prior to PADA's adoption several domestic statutes, incl. the Constitution<sup>37</sup> and the Labour Code,<sup>38</sup> contained anti-discrimination clauses but provided for no specific regulation. Those abstract anti-discrimination clauses still exist, parallel to PADA. In addition, the Integration of Persons with Disabilities Act (IPDA), effective as of late 2003, also bans discrimination defining both direct and indirect discrimination.<sup>39</sup>

PADA, which is a comprehensive single equality act providing uniform protection for all grounds in all fields, generally leaves no gaps in terms of transposition of the Directives. It reflects rather closely the Directives' provisions, adding to those further, and more expansive and detailed protections. The few arguable discrepancies between PADA and the Directives include several exceptions from the ban on discrimination, which PADA allows:

- PADA makes an exception for affirmative measures for disabled workers and 'young' workers provided for under a separate statute predating it, the Promotion of Employment Act, without requiring objective justification by a proportionality test;<sup>40</sup>
- PADA allows special protection measures for minors, parentless children, people with disabilities, and single parents provided for by law, without requiring objective justification.<sup>41</sup>

At the time PADA was being discussed for adoption, there was next to no public debate about it. In Parliament, the discussion centered around whether to have a detailed law, providing for specific illustrative bans on concrete discriminatory actions, in addition to the general inclusive bans, or whether to have a 'framework law' consisting only of abstract provisions banning discrimination. A lobby of MPs endeavoured to strip the draft PADA of its concrete illustrative bans but were unsuccessful. The existing PADA does contain those original detailed prohibitions in specific spheres, such as employment, services, education, etc.

What debate there was within government, Parliament and the public failed to discern in substance between the two Directives. In particular, there was no different political or public reaction to banning discrimination on grounds of sexual orientation, disability, or age.

Under PADA, provision was made to set up the Protection Against Discrimination Commission (PADC), a specialised equality body. Its mandate is to hear complaints by victims and communications by third parties, to rule by legally binding decisions, impose financial sanctions, issue mandatory instructions, monitor, research and publish on equality issues. It also has standing to bring lawsuits, give opinions on draft legislation, make recommendations to public authorities, incl. for legislative change. PADC can become quite a strong enforcement body provided that it builds its institutional capacity, in particular, by developing specialised equality law expertise. To date, that institutional capacity is insufficient.

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<sup>37</sup> Art. 6 (2).

<sup>38</sup> Art. 8 (3).

<sup>39</sup> Art. 3 in conjunction with the Additional Provision, §1.3 and §1.4.

<sup>40</sup> Art. 7 (1), subsection 9 PADA.

<sup>41</sup> Art. 7 (1), subsection 14 PADA.

PADA made a change in national law by introducing:

1. A ban on indirect discrimination, harassment, sexual harassment, incitement to discrimination,<sup>42</sup> and victimisation;
2. A ban on discrimination by presumption, and by association;
3. A ban on racial segregation, and on inaccessible environment;
4. Clear definitions of all forms of discrimination;
5. Exhaustive, narrow exceptions for admissible differential treatment;
6. Explicit authorisation of objectively justified positive action;
7. A shift of the burden of proof;
8. Reasonable accommodation duties in employment;
9. Reasonable accommodation duties in education;
10. A positive statutory duty on authorities to incorporate equality considerations in all policy- and decision-making;
11. Especial remedies against discrimination – a specialised body, and a judicial claim;
12. Exemption of those remedies from fees and expenses;
13. Legal standing for non-victims to use those remedies, incl. for *actio popularis* lawsuits;
14. Express possibility for ‘class’ actions, i.e. collective lawsuits by any number of victims and third parties.

National protection before PADA was lesser than the Directives in terms of 1-2, 4-8, and 11 above. It was broader than the Directives in material scope and in the number of grounds protected – the Constitution, and directly applicable int’l treaties have for many years banned discrimination on a vast range of grounds universally, in all fields of societal life. In addition, various statutes and treaties have banned discrimination on wide lists of grounds, incl. open-ended ones, in specific fields beyond both Directives’ scope.

Key discrimination in Bulgaria not specifically covered by the Directives includes public hate speech (racist, homophobic, and other), incl. by politicians, MPs and other officials, constituting harassment and incitement to discrimination, as well as other expressions of intolerance based on prejudices; institutional discrimination (against Roma and people with disabilities, in particular; in education, healthcare, housing, and criminal justice, in particular); racial segregation of Roma in education and housing; segregation and exclusion of people with disabilities (physical and mental) in special institutions and at home due to inaccessible public environment, institutional discrimination, and a lack of adequate social services; inhuman and degrading treatment of people with mental disabilities in special institutions and elsewhere, incl. inhuman conditions in psychiatric facilities; involuntary medical treatment and abusive placement in psychiatric facilities; denial of access to justice for mentally disabled; failure to adequately investigate violence and deaths of mental hospitals’ inmates; denial of ethnic Macedonians’ rights to association and peaceful assembly, based on a sweeping denial of their very identity; disproportionate criminal prosecution of Roma, and failure to prosecute crimes against Roma, incl. racially motivated crime by both officials and civilians; racially-motivated official and civilian crime targeting Roma, incl. police ill-treatment and killings; sporadic attacks on Muslims and mosques; direct sex discrimination in school and university education – absolute admission quotas based on sex resulting in substantially higher admission thresholds in terms of academic achievement for girls and women; dysfunctional institutional framework for protection against trafficking of humans; prolonged illegal administrative detention of refugees and migrants, accompanied by denial of access to court within a reasonable time.

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<sup>42</sup> While the Criminal Code has banned incitement to discrimination since before PADA, that is limited to race only, and enforcement is utterly dependent on prosecutorial discretion. In practice, this criminal ban has not been enforced to protect vulnerable groups at all. Rather, it is perversely used on occasion to harass and victimize minority activists.

The UN *Committee on the Rights of the Child* has noted the following concerns, *inter alia*:<sup>43</sup>

- Insufficient coordination between incumbent authorities.
- Lack of an integrated strategy on children.
- Lack of a systematic mechanism to monitor progress.
- Insufficient capacity to collect and process data.
- Inadequate measures and insufficient capacity of bodies to ensure children's ESC rights, with a disparate impact on poor, disabled, Roma, street and abandoned children, and children born out of wedlock.
- Insufficient measures to combat discrimination against Roma, disabled and children born out of wedlock.
- Insufficient consideration of the principle of the best interests of the child in matters of detention, and institutionalisation.
- Ill-treatment of children in the family and in institutions, incl. by law enforcement personnel. Lack of measures for recovery from such abuse.
- A rise in child prostitution and child pornography, and no specific programmes to combat sexual abuse.
- Insufficient measures to tackle disability, mental health issues, school drop out, early pregnancy and early marriage.
- Administration of juvenile justice issues – deprivation of liberty not used as a measure of last resort, right to legal assistance not ensured, stigmatisation, in particular of Roma children.

The UN *Human Rights Committee* has expressed concern over the following, *inter alia*:<sup>44</sup>

- A considerable delay in the submission of the second report.<sup>45</sup>
- Excessive use of force by police.
- The many disadvantages experienced by the Roma.
- Very little information being provided about the status of women and their participation in public life.

The UN *CERD Committee* has identified the following principal subjects of concern, *inter alia*:<sup>46</sup>

- Persistent marginalisation of the Roma, and discrimination against them in the socio-economic sphere, in particular in education and training, in the workplace, and in access to social assistance.
- Persistence of expressions of racial hatred, incl. violence, particularly by skinheads towards Roma and other minorities.
- Failure by the criminal justice system to effectively prosecute violent racist crime.
- Lack of prosecution of propagation of racial hatred.
- Harassment and use of excessive force by police against minorities, in particular Roma.
- Constitutional prohibition of political parties formed on ethnic or religious bases.

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<sup>43</sup> Concluding Observations: Bulgaria. 24/01/97.

<sup>44</sup> Concluding Observations: Bulgaria. 03/08/93.

<sup>45</sup> Due in 1984, considered in 1993.

<sup>46</sup> Concluding Observations: Bulgaria. 23/04/97.

The UN *CEDAW Committee* has noted the following concerns, *inter alia*.<sup>47</sup>

- A lack of understanding on the part of the government of affirmative measures under the Convention.
- A lack of specific legislation to bring about substantive equality for women, and a lack of any special measures to that end.
- A disparate impact of poverty on women.
- Disproportionate exclusion of women from decision-making processes.
- Violence against women, in the public, as well as in the private spheres.
- Trafficking in women, and inadequate measures to combat it.
- Unemployment among women.
- A very high rate of exclusion of Roma children from school.

There has been no public reaction by the government to these criticisms. In practice, the authorities have undertaken certain legislative changes as follow-up to the CoRoC observations.

There haven't been recent comments on Bulgaria by any of these UN treaty bodies. The government of Bulgaria has 18 reports to different UN treaty bodies that are overdue. Some of them, e.g. HRC, have been overdue for more than 10 years. This is the worst record in Europe on reporting to the UN bodies.

There have been some surveys on interethnic attitudes and on attitudes of the majority towards inequality issues, such as segregated Roma education. One such survey was conducted in May 2005 by the sociological agency Gallup jointly with the Bulgarian Helsinki Committee. It indicated a very high level of prejudice, social distance, as well as negative attitudes towards Roma political participation and ethnic minority rights among the majority population. Prior sociological surveys conducted in 1992, 1994, and 1997 have also shown high levels of homophobic attitudes. No measures whatsoever were taken by the government to address those sociological realities.

Certain NGOs are active monitoring, publishing, litigating, awareness raising and lobbying to address those issues.<sup>48</sup> Trade unions are largely doing nothing in this regard.

What academic research has been undertaken by the Bulgarian Academy of Sciences (BAS) in relation to equality and discrimination has mainly focused on ethnic and gender issues, largely ignoring disability, or LGBT matters. Research projects related to equality carried out by BAS include:

- Socio-economic Infrastructure and Guarantees of Equality for Women (Economic Institute)
- House Work, Division Sphere and Inequality (Population Studies Centre)
- Equality of Women and Men in Bulgaria, Austria and the European Union (Institute of Legal Studies)
- European and National Anti-discrimination Framework (Institute of Legal Studies)
- Women's Rights As Human Rights Under the UN System (Institute of Legal Studies)
- Ethno-cultural Identity and Behavioural Models (Sociology Institute)
- Ethno-Sociology (Sociology Institute)
- Communication Between Bulgarians, Turks and Roma in Cognitive Perspective (Sociology Institute)
- A Study of Relations Between Generations and Genders (Sociology Institute)

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<sup>47</sup> Final Report of CEDAW, 1998 (18<sup>th</sup> and 19<sup>th</sup> Sessions).

<sup>48</sup> Most notably, the Bulgarian Helsinki Committee, the European Integration and Human Rights Association, the Equal Opportunities Initiative, the 'Gemini' Gay Organisation, the Gender Education, Research and Technologies Foundation, and the Centre for Independent Living.

- Strategies and Practices to Combat School Drop Out, and to Re-Socialise Roma Children of Mandatory School Age (Sociology Institute)
- Ethnic Relations in the Army (Sociology Institute)
- Provision of Access to Health Services for Minorities (Sociology Institute)
- Constructing the Roma Identity (Sociology Institute)
- The Roma Family – Aspects of the Quotidian (Sociology Institute)
- Poverty and Ethnicity: Formation of an ‘Underclass’ Among Bulgarian Roma (Sociology Institute)
- Strategies for Equal Access to Healthcare for Vulnerable Minorities (Sociology Institute)
- Social Stratification and Inequality (Sociology Institute)
- Social Inequality (Sociology Institute)
- Men and Women in Bulgarian Agriculture: Division of Labour, Decision-Making and Access to Resources (Sociology Institute)
- Democratic Values, Political Culture and Socio-Economic Inequality (Sociology Institute)
- National Plan to Combat Poverty and Social Exclusion (Sociology Institute)
- The Role of Bilingual Schooling for Socialisation of Children at a Disadvantage (Sociology Institute)
- The Role of Schooling for Socialisation of Turkish Children (Sociology Institute)
- Cities, Environment, Relations Women - Men (Sociology Institute)
- Social Notions of Gypsies (Sociology Institute)
- Ethno-Stratification and Desegregation: Policies to Combat Roma School Drop Out (Sociology Institute)
- Religious Fundamentalism, Human Rights and National Security (Philosophy Institute)
- Inter-Ethnic Relations (Psychology Institute)
- The Laws of the Ghetto. Psychological Studies (Psychology Institute)
- Personal and Organisational Barriers to, and Resources for Women’s Career Development (Psychology Institute)
- Methodology for Studying and Assessing the Climate Guaranteeing Equal Opportunities for Professional Realisation in the Army (Psychology Institute).

## **2. Procedures – administrative and legal channels appropriate for challenging violations of anti-discrimination legislation**

Under PADA, victims of discrimination on all grounds (incl. race, sex, disability, religion, age, sexual orientation) are entitled to uniform access to remedies, regardless of the context (whether employment-related or not) or the specific situation discrimination occurred in, whether the discriminator is a public or private party. Victims are entitled to choose from two parallel special anti-discrimination remedies: 1) a complaint to PADC, the specialised equality body, seeking a declaration of discrimination, an order on respondent to abort, abolish, or prevent future discrimination, and an imposition of monetary penalties on respondent, but no compensation; or 2) a judicial action, seeking a declaration of discrimination, an order on respondent to abort, abolish, or abstain from discrimination, and an award of compensation. Any number of victims may join in one collective lawsuit. Victims who obtain a final finding of discrimination by PADC may subsequently go to court to claim compensation based on that. Public interest NGOs and trade unions, as well as any other party, have standing to seise PADC without authorisation from a victim. Such NGOs and trade unions also have standing to represent victims in court, to intervene in proceedings brought by victims or other NGOs/ trade unions, and to file *actio popularis* lawsuits on their own behalf where the rights of many parties are infringed.

There is no requirement for exhaustion of any other remedy (internal or administrative) before those two legal recourses are available.

In addition to those special anti-discrimination remedies, victims may invoke PADA, among other laws, to substantiate a breach of law in any general procedure, such as judicial civil tort action, or judicial review of administrative acts.

PADA does not expressly provide for, but neither does it preclude, alternative remedies available under general legislation or private practice, such as informal resolution, collective bargaining by trade unions, employer's internal grievance procedures, administrative channels, including referrals to the labour inspectorate, as well as complaints to any other public authorities with supervisory mandates under other legislation governing specific spheres. Under the Ombudsman Act (OA) too, victims and third parties are implicitly entitled to complain of discrimination committed by public authorities and public service providers.<sup>49</sup> However, this remedy can yield no legally binding result. The Ombudsman's mandate is limited to making checks, advocating, mediating, and making recommendations.

## **2.A Employment and occupation related - all grounds**

The procedures provided for under PADA that are listed above in section 2 are also applicable to employment and occupation cases of discrimination on all grounds, as well as to any other cases of discrimination.

## **2.B Non-employment or occupation related - race and ethnic origin**

The procedures provided for under PADA that are listed above in section 2 are also applicable to non-employment or occupation cases of discrimination on all grounds, as well as to any other cases of discrimination.

## **2.C Where a choice of avenues for raising either an employment related or a non-employment related complaint exists:**

Reasons for a victim to choose to go to PADC, the specialised body, instead of to court include the shorter procedural time limits provided for PADC, as well as the fact that only one appeal, to the Supreme Administrative Court, is possible after PADC delivers its ruling. In contrast, the court remedy implies three-instance judicial proceedings, and a much longer time frame. In addition, PADC is meant to possess specialised expertise to make it more adequate to adjudicate on equality matters than the courts, which are the general civil courts under PADA. However, at present this is not a relevant consideration, as PADC, whose capacity is not yet built, has not shown greater professionalism than the courts in handling discrimination law.<sup>50</sup> Another advantage of PADC is that under PADA it has quasi-investigatorial powers, which allow it to be much more proactive in gathering evidence, relieving the victim. In contrast, the court is not allowed to have any motion in the establishment of the facts, where all is left to the initiative and skill of the litigants.

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<sup>49</sup> Art. 2 and 19 OA. The provisions' language is that the Ombudsman is competent to receive communications regarding infringements of rights and freedoms generally, implicitly including discrimination.

<sup>50</sup> At least compared to the trial courts that have ruled on equality cases so far. It still remains to be seen how the higher courts will perform when the bulk of the pending cases reach them.

Because of this and other reasons, such as the generally more technical and formal court proceedings, victims without a lawyer stand a better chance with PADC than with the courts, even though representation is not formally required in judicial proceedings. A negative factor for victims from outside the capital is that PADC is located in Sofia with no territorial structures so far.<sup>51</sup>

A major factor, on the other hand, for preferring the courts is that they can award compensation, which PADC cannot. True, if a victim is successful at PADC (and subsequently at appeal before the Supreme Administrative Court), s/he can then go to court and claim compensation with the onus of only showing the fact of damages, and their causal link to the discrimination found. However, the combined length of the proceedings before PADC (incl. the Supreme Administrative Court) and the three-instance judicial tort proceedings would be exorbitant. Longer prescription for judicial proceedings (5 years as opposed to 3 for PADC) is also a pro-court factor in some cases. Another key factor in favour of the court is that there is a mechanism for enforcement of judgments, which is lacking for PADC decisions. Further, under the Legal Aid Act public legal assistance may be awarded to court litigants who lack the means to pay for a lawyer, where lawyer representation is required in the interests of justice.<sup>52</sup> No such assistance is available at PADC. In employment cases, courts can (and have) ordered re-instatement where dismissal is found to be discriminatory. This specific remedy derives from the Labour Code read alone or in conjunction with PADA. PADC, on the other hand, is not explicitly authorised under PADA to grant such remedy. It still could do so based on a broader interpretation of its powers under PADA to order *restitutio* of the status quo ante, but the problem will remain with the lack of enforcement mechanism for its decisions in cases where employers default. Another benefit of court proceedings is that under PADA they explicitly allow for collective lawsuits, as well as *actio popularis* claims by NGOs and trade unions. However, PADC too is not expressly prevented under the law from hearing a joint complaint brought by any number of victims and other parties.

In other respects, the courts and PADC are similar: legally binding decisions; possibility for appeals; exemption from state fees and expenses; authority to order respondent to take specific relief measures to restore the status quo before the breach, as well as to abstain from further breach. The two venues' potential to raise public awareness and affect public opinion are also comparable; so are their potential negative consequences on the victim using them in terms of victimisation by the alleged discriminator. In terms of interim relief, both venues fail to explicitly offer this under PADA. However, the mandate of both could be construed as authorising a power to order provisional protection too. How effective this proves to be in practice will depend on the respective attitudes of judges and PADC commissioners.

## **2.D What are the technical procedural requirements of each available remedy?**

Judicial proceedings can be brought within 5 years as of commission of an act of discrimination. Proceedings before PADC – within 3 years. The launching of judicial proceedings is subject to the formal requirements under general civil procedure law.<sup>53</sup> A complaint to PADC is admissible where it states the name and address of the complainant, the facts it is based on, the remedy sought, and date and signature. Anonymous complaints are expressly inadmissible.<sup>54</sup>

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<sup>51</sup> While PADA was amended in 2006 to provide for such territorial offices (art. 40 (4)), it delegates to the PADC Structural Regulations adopted by PADC itself to govern those local branches. So far, PADC has failed to amend its Structural Regulations in order to provide for such local offices. Those Regulations only mention that PADC “*may* have territorial offices” without further clarification (art. 23).

<sup>52</sup> Art. 23 of the Act. This legislation applies to all civil, as well as other litigation, implicitly including discrimination litigation too. The award of legal aid in such cases is made by the judge, upon assessment of the proof that the litigant is not in a position to pay for a lawyer.

<sup>53</sup> Art. 98 of the Civil Procedure Code.

<sup>54</sup> Art. 51 (2) PADA.

Both in court and before PADC parties can adduce any type of relevant evidence, with its credibility on the merits another matter. In practice, PADC may be more flexible than some judges in crediting alternative proof.<sup>55</sup>

PADC has adopted *Rules on Proceedings Before PADC* detailing the terms and conditions for bringing complaints and communications. However, there is no user-friendly guidance made available to complainants apart from that normative document.

PADC can be reached at: <http://www.kzd-nondiscrimination.com>; 35 Dragan Tsankov Blvd., 1125 Sofa, Bulgaria; tel.: ++ 3592 870 64 46, fax: ++ 3592 870 84 48. Chairperson: Mr. Kemal Eyup.

N/A for the courts.

NGO source of legal counselling: Bulgarian Helsinki Committee, 7 Varbitsa St., 1504 Sofia, Bulgaria, ++ 3592 944 0670, 943 4876, [bhc@bghelsinki.org](mailto:bhc@bghelsinki.org)

## **2.E What support exists at national level for accessing the different procedures, and what can be done to overcome any impediments/obstacles?**

There is no legal or other assistance for complainants to PADC. Litigants in court could apply for publicly funded legal aid under the Legal Aid Act, having to establish before the judge their inability to provide for a lawyer, as well as reasons why legal representation is required by the interests of justice. Pro bono legal counselling and assistance for discrimination victims is specifically offered only by a small number of NGOs, whose resources are a dearth compared to the existing demand. The public, including victims, in particular those most vulnerable, do not have adequate awareness of their rights, or the remedies available to them. Many have inhibiting mistrust in the rule of law and enforcement institutions. Enforcement officials, on the other hand, including judges and PADC members and staff lack by far the needed understanding and expertise in anti-discrimination law. Many of them also lack freedom from the very prejudices against whose expression they are asked to grant protection. Courthouses are generally inaccessible for disabled people.

Most welcome support would include: capacity building for judges, and PADC members and staff to enhance their competence to handle antidiscrimination law; funding for NGOs to provide legal aid to victims, incl. by taking collective and *actio popularis* legal action, and to engage in advocacy maximising the impact of litigation; providing for a possibility for NGOs to be subcontracted by the national legal aid institution, the National Legal Aid Bureau, to provide legal aid in anti-discrimination cases with public funding; capacity building for lawyers to provide anti-discrimination legal services; capacity building for NGOs and officials to make policies to combat institutional discrimination.

## **2.F Referrals to the European Court of Justice**

Where there is a disputed issue of EU law and the judge is uncertain how to interpret a provision at EU law, a referral can be made by a national court to the European Court of Justice in Luxembourg under Article 234 of the Treaty. The parties to the proceedings can ask the national judge to grant a request for such a referral, or the judge can decide spontaneously to refer the case. Any court may make a referral, but only the national court of last instance is obliged to do so.

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<sup>55</sup> Some judges have reasoned in discrimination cases that Internet material may not be credited as proof, for instance.

This may be a highly effective procedure because:

- Requesting a referral can concentrate the mind of the presiding judge and ensure that s/he gives proper consideration to the complaint, especially to the fact that it raises issues of European rights.
- National bodies, particularly public bodies, are impressed by its high profile and may take steps to avoid the exposure of discrimination at national level to pan-European scrutiny.
- The European Court is the only body that can give a **definitive** interpretation of the terms used in the Directives.

However this is a specialised procedure and expert EU lawyers familiar with its use need to be retained. In addition, it is important to note that the national case is "stayed" (put aside) until the ECJ has decided the issue before it, and this delay of sometimes two years can have serious consequences for the complainant.

## **2.G Petitions to the European Parliament**

The Committee on Petitions of the European Parliament can receive petitions from Citizens of the Union who wish the Committee to investigate their complaint/s that their rights under European Union law are not being properly respected.

## **2.H Alerting the European Commission to discriminatory administrative practices**

It is also possible to write directly to the Commission, which may often be a quicker process than that outlined above under 3.2.G. This could be done with a view to encouraging the Commission to initiate infringement proceedings against the offending State.

The Commission and the Parliament would be bound by the EU Charter of Fundamental Rights' provision on the right to good administration (Article 41) if adopted:

- Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
- This right includes
  - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
  - the right of every person to have access to his or her file, while respecting the legitimate interest of confidentiality and of professional and business secrecy;
  - the obligation of the administration to give reasons for its decisions.
- Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
- Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

## **2.I Complaints to the European Court of Human Rights**

In addition, when all effective national legal remedies have been exhausted, a person may, if the case concerns issues covered by the European Convention on Human Rights, apply to the European Court of Human Rights in Strasbourg (see Key Concepts section).

This can be done under Article 14 of the Convention provided another Article is also engaged or, if the country has ratified it, under Protocol 12 to the Convention. (Bulgaria has neither signed, nor ratified Protocol 12)

Collective complaints can also be made under the Council of Europe's European Social Charter.

## **2.J Other international remedies**

Where the state is a party to the 1<sup>st</sup> Optional Protocol to the International Covenant on Civil and Political Rights, or has accepted the right of individual petition under the Convention on the Elimination of all forms of Racial Discrimination or the Convention on the Elimination of Discrimination Against Women, complaints can be brought to those Committees.

NGOs/trade unions should also ensure that they alert the Committees which examine the State's periodic reports under the ICCPR, CERD, CEDAW and the Convention on the Rights of the Child to instances of discrimination.

## **2.K Professionalism**

Everyone in a NGO/trade union who takes up the case of an individual or a group of individuals must be aware of the need to observe high standards of professionalism, including confidentiality and efficient management of case files. For individuals whose cases the NGO/trade union is not able to assist with, the NGO/trade union should be able to provide relevant information and, wherever possible, referrals to another agency that is able to provide further advice and support.

## **3. Societal issues**

Vulnerable groups include ethnic minorities, in particular the Roma; disabled people (both physically and mentally); Muslims and non-traditional (Protestant and other) believers; LGBT people; older and younger workers, and the elderly; refugees and migrants, incl. foreign prisoners.

The **Roma** are subject to racial segregation and exclusion in education and housing; dismally inferior education, both in segregated schools, and in mixed schools where they are neglected, separated in separate classes, and racially harassed; extremely high drop-out rates; a critical mass of lack of education among this population group; discriminatory relegation of Roma children to special education facilities for the mentally handicapped; dire housing conditions, a lack of basic infrastructure, lack of communal services, lack of security of tenure, collective arbitrary forced evictions; wholesale exclusion from the labour market through blatant direct discrimination and systemic indirect discrimination; a critical mass of long-term unemployment; lack of access to vocational training; disproportionately poor access to healthcare, incl. very poor access to health security; direct discrimination, incl. arbitrary refusals of service and harassment by medical personnel; practices of segregation in hospitals; drastically lower life expectancy, among other indicators for disproportionately inferior health status. Widespread, often radical, public hate speech and racial slandering portraying them as subhuman, inherently criminal and vile; lack of protection by the criminal justice system, incl. from racist crime; disproportionate criminal prosecution and punishment; disproportionate vulnerability to police and prison personnel ill-treatment, incl. summary killings; disproportionate bars to access to justice; disproportionately limited access to political participation and decision-making; unequal access to public services, incl. openly racially motivated direct refusals of access, less favourable conditions of provision of basic services, such as electricity, exclusion by shops, cafes, restaurants, swimming pools, hotels.

The **Turkish minority** are subject to socio-economic isolation in underdeveloped regions, lacking as a result equal access to quality education, services, employment, and participation. Public hate speech targets them as well, especially on the subject of Turkish-language news casts on national TV.

**Muslims** are also targets of intolerance, incl. hate campaigns against Muslim prayers being transmitted through mosque loudspeakers; violent attacks on mosques and individuals; an official campaign against schoolgirls and university women wearing the hijab while attending classes, direct pressure on them to abstain from wearing it or face relegation to education outside of the learning environment.

Non-traditional Protestant faiths also become the object of hate speech and slandering in the media, incl. by politicians.

**Macedonians** are explicitly and publicly denied their identity by politicians, high-ranking officials of all branches of government, incl. judges, incl. the Constitutional Court, and others throughout society. They suffer harassment and obstruction by local authorities and police hindering their freedom to peacefully gather to commemorate historic events. The courts deny them their freedom to organise by incorporating political parties and NGOs. The European Court in Strasbourg has handed down a succession of judgments finding Bulgaria in breach of Macedonians' rights to peaceful assembly and association under art. 11 of the European Convention. The authorities have utterly failed to correct their practices.

**LGBT people** suffer from harassment in school, at the workplace, as well as in the public arena by common homophobic expressions, incl. in the media and by high-ranking politicians; no recognition under law of same sex families.

The **mentally disabled** suffer from unequal access to education with no access to education in practice for children with medium, severe and profound mental retardation. Children with mild mental retardation are segregated in special schools where they get far inferior education formally incompatible with certification standards valid for mainstream schools. At the labour market, they face exclusion, or, at best, segregation, in specialised enterprises. Their lack of access to public services and participation is severely restricted due to a lack of social services to support socialisation. Unequal access to healthcare and social security. Segregation in specialised facilities; dire conditions and ill-treatment in those institutions.

The **physically disabled** are severely restricted by the inaccessible public environment, incl. official buildings, transportation, polyclinics and hospitals, schools and universities, and public services; many are home-bound due to residential buildings lacking accommodation, and inaccessible street sidewalks. Workplace exclusion due to prejudices and a lack of reasonable accommodation; segregation in specialised enterprises for disabled people; formal bars under legislation to access to certain professions and occupations.

**Younger workers** are the objects of direct and indirect discrimination in access to employment, incl. explicit age requirements. **Older workers** too face such bars in access to vocational training, as well as to employment. In some cases, maximum-age bars for access to employment in certain occupations are provided for under law. A practice with detrimental effects on both younger, and older workers is employers paying only minimum social security benefits for younger workers, ostensibly hiring them at lower salaries than the actual amounts paid; in return for compromising their social security, younger workers are preferred to older ones, who are left at a disadvantage due to their greater relative lack of readiness to similarly compromise. The **elderly** are directly discriminated against in the provision of health services based on a view shared by many medical workers that the elderly are less deserving of scarce medical resources than younger patients with longer life expectancy.

**Migrants and refugees** are targets of racist violent attacks and harassment, incl. by skinheads and police, and disproportionately barred from access to employment and housing. Foreign nationals serving prison sentences are subject to a range of discriminatory restrictions, incl. a denial of entitlement to home leave, to conditional release, and to an alleviated regime.

#### **d) Funding opportunities in the field of anti-discrimination**

### **I. EU FUNDING AT THE EUROPEAN LEVEL FOR NGOs/TRADE UNIONS OPERATING AT THE EU LEVEL**

#### **1. EU funding for NGOs/Trade Unions operating at the EU level**

##### *a) European-level NGOs*

European-level NGOs are in a central position to influence and contribute to European employment, social and equal opportunity policies at different levels – both in its formulation and implementation – through the information and expertise supplied by their national members. This is vital in order to ensure that EU policies meet the actual needs of EU citizens, and that citizens are informed about them.

Between 2001 and 2006, the Community Action Programme to combat discrimination provided funding for a number of European umbrella NGO networks representing and defending the rights of people exposed to discrimination:

AGE (The European Older People's Platform); ILGA Europe (International Lesbian and Gay Association – Europe); ENAR (European Network Against Racism); and EDF (European Disability Forum) have been granted a total of 3 000 000 € per year towards their running costs up to the end of April 2007. A number of smaller organisations – the European Blind Union, The European Union of the Deaf, Inclusion Europe, Autisme-Europe – also received support under the Action Programme. Until the end of 2006, the European Women's Lobby received running cost support through the Gender Equality Programme with an annual amount of around 800.000 €

A number of NGOs working to tackle social exclusion (European Anti-Poverty Network, European Federation of National Organisations Working with the Homeless, European Transregional Network for Social Inclusion, Eurochild, European Social Network, Caritas-Europe) received funding from the Community Programme to Combat Social Exclusion with a total of 3.600.000 € between 2005 and 2007.

For the new 2007-2013 programming period, the European Commission decided to create a new integrated programme known as **PROGRESS** (Programme for Employment and Social Solidarity). The programme was approved by the European Parliament and Council in November 2006: [http://ec.europa.eu/employment\\_social/progress/index\\_en.html](http://ec.europa.eu/employment_social/progress/index_en.html)

PROGRESS combines the four former Community Action Programmes, including that relating to non-discrimination: Section 4 of PROGRESS, entitled "Anti-discrimination and diversity", thus aims to support the effective implementation of the principle of non-discrimination and to promote its mainstreaming in all EU policies.

Calls for proposals and tenders under PROGRESS are published on the Calls for Tender/Calls for Proposals website of DG Employment, Social Affairs and Equal Opportunities on: [http://ec.europa.eu/employment\\_social/emplweb/tenders/index\\_en.cfm](http://ec.europa.eu/employment_social/emplweb/tenders/index_en.cfm)

A first PROGRESS call for the award of a financial contribution towards the operating costs in 2007 of European-level networks active in the field of combating discrimination, promoting gender equality and promoting the integration of disabled people in society was launched in November 2006. Grant agreements for the successful EU-level networks will run until December 2007.

## ***b) European Trade unions***

The European Trade Union Confederation (ETUC) represents workers across the industries at European level. Set up in 1973, the ETUC includes 81 national organisations from 36 European countries (among them all the EU countries) and 11 European industry federations, with some 60 million members.

The ETUC is one of the four main European social partner organisations. Numerous European social partners' projects are supported every year by the European Commission's social dialogue budget lines (04.03.03.01, 04.03.03.02 and 04.03.03.03). For more information:

[http://ec.europa.eu/employment\\_social/social\\_dialogue/grants\\_en.htm](http://ec.europa.eu/employment_social/social_dialogue/grants_en.htm)

## **2. EU funding for national NGOs/Trade Unions**

While the EU does not provide for core-funding of national NGOs or national trade unions under PROGRESS, organisations may be able to receive funding for projects through their participation in specific initiatives such as national awareness raising activities or trans-national projects. National organisations are therefore advised to regularly check the Calls for Tender/Calls for Proposals website of DG Employment, Social Affairs and Equal Opportunities and consult the guidelines published there to check whether projects from national NGOs/trade unions are eligible for funding:

[http://ec.europa.eu/employment\\_social/emplweb/tenders/index\\_en.cfm](http://ec.europa.eu/employment_social/emplweb/tenders/index_en.cfm)

The EU-level NGOs such as AGE, ILGA-Europe, EDF or ENAR are also a good source of information. It is therefore recommended to also check the information that is provided on their web page.

In addition to PROGRESS, the European Social Fund (ESF) can be a source of project financing for national organisations. The ESF will between 2007 and 2013 focus on four key areas for action, including reinforcing social inclusion by combating discrimination and facilitating access to the labour market for disadvantaged people. More information can be obtained from:

[http://ec.europa.eu/employment\\_social/esf2000/2007-2013\\_en.html](http://ec.europa.eu/employment_social/esf2000/2007-2013_en.html)

The European Commission does not directly fund ESF projects. Member States are responsible for identifying their priorities for funding and for selecting individual projects. For further information, you should contact the relevant national/regional authority whose contacts are available on:

[http://ec.europa.eu/employment\\_social/emplweb/esf/esf\\_matrix\\_en.cfm](http://ec.europa.eu/employment_social/emplweb/esf/esf_matrix_en.cfm)

## II. FUNDING OPPORTUNITIES FOR NGOs/TRADE UNIONS WORKING ON ANTI-DISCRIMINATION AT NATIONAL LEVEL

1. **Does the European Commission delegation in your country provide for specific funding for NGOs/trade unions working on non-discrimination at national level? What form does that funding take? (project subsidy, provision of meeting room, etc) Is it easy to access such funding? What are the conditions to receive such funding?**

The EC delegation in Bulgaria provides no specific funding for NGO/trade union antidiscrimination activities. It is possible for NGOs/trade unions to apply for funding from the delegation under grant schemes for civil society support and vulnerable groups' deinstitutionalisation, which could potentially be used for equality-related activities, such as awareness raising, or social support for inclusion of people with mental disabilities. However, no funding is made available specifically for antidiscrimination work by NGOs/trade unions.

2. **Does the central government provide for specific funding for NGOs/trade unions working on anti-discrimination?**

The government does not at present provide for specific funding for NGO/trade union antidiscrimination activities. The government (via the National Council on Cooperation on Ethnic and Demographic Issues<sup>56</sup> (NCCEDI)) has only mediated between NGOs and PHARE funds, or Community Action Programme to Combat Discrimination funds (Strand 3, National Awareness Raising Activities?).

The government via NCCEDI has also mediated between NGOs and PHARE funds for projects that are related to minorities, but are not strictly speaking for antidiscrimination, such as *Improving the Status and Integration of Disadvantaged Minority Groups with a Special Focus on Roma* (construction and repair works in schools and kindergartens, provision of educational and medical equipment, infrastructure construction and repairs), or *Urbanisation and Social Development of Predominantly Minority-Populated Districts* (technical infrastructure enhancement, active measures promoting access to employment).

The government has further mediated between NGOs and PHARE funds via the Ministry of Labour and Social Policy<sup>57</sup> for social inclusion of vulnerable groups projects, which, again, are not antidiscrimination proper, such as *Deinstitutionalisation Via Provision of Community Services for Risk Groups* (children, the elderly, mentally disabled), *Developing a Network of Adult Education Centres*, *Improving the Quality of Life for People with Mental Disabilities*, *Promotion of Employment for Youth*, or *Labour Market Integration of Ethnic Minority Groups* (vocational training and counseling, entrepreneurship support).

In terms of providing national, not EU, funding for minority-related projects, the government (via NCCEDI) has only made small grants for cultural minority identity preservation projects. Again, these are not antidiscrimination specifically.

The Structural and Cohesion Funds of the European Union provide certain potential opportunities for NGOs and trade unions to apply for funding for activities, aimed at non-discrimination and inclusion. The monies of those funds will spent under seven Operative Programmes. The Operative Programmes (OP) potentially relevant to anti-discrimination activities are: Human Resources Development OP (HRDOP) and Administrative Capacity OP (ACOP).

<sup>56</sup> <http://www.ncedi.government.bg/>.

<sup>57</sup> <http://www.mlsp.government.bg/bg/index.asp>.

Projects under those two programmes will be co-financed with monies from the European Social Fund and the national budget. The texts of all OP, as well as other information about the structural funds are published on a special web page maintained by the Ministry of Finance.<sup>58</sup> The programmes are also available on the websites of the ministries appointed to govern them, respectively, the Ministry of Labour and Social Policy (MLSP)<sup>59</sup> and the Ministry of State Administration and Administrative Reform (MSAAR)<sup>60</sup> for HRDOP and ACOP. The regulation governing the rules for spending the monies under the OPs are provided for in several governmental decrees.<sup>61</sup>

None of the OPs provides for activities expressly termed anti-discrimination activities, but some of the activities provided for potentially do include measures to foster equality and inclusion, such as trainings, information campaigns, evaluations, programme development, and analyses, linked to fomenting equal opportunities and diversity, and overcoming exclusion.

Thus, under HRDOP governed by MLSP, NGOs and trade unions are potentially eligible to apply for funding for activities aimed at social inclusion and social support, such as provision of social, educational, and health services to promote and sustain the inclusion of ethnic minorities, in particular Roma, people with disabilities, older people, care-givers and other vulnerable groups in the labour market and in education] reasonable accommodation measures to further the access of people with disabilities to jobs; vocational training and consulting for professional and economic empowerment, etc. Specific information regarding those opportunities under HRDOP can be found on the abovementioned web page of MLSP, as well as on the web pages of the Social Assistance Agency (SAA),<sup>62</sup> the Employment Agency (EA)<sup>63</sup> and the Ministry of Education and Science<sup>64</sup> (MES). The last mentioned three bodies are appointed as Intermediary Units under HRDOP and together with MLSP will have a role in evaluating and approving projects. Those bodies web pages also contain Guidelines for Applying, model application documents, tenders for project proposals, criteria for selection of operations, news and other information. Information about the opportunities for NGOs to assimilate structural funds under the Ops is also collected in a report by the Foundation for Local Government Reform from May 2007, which is also available on the Internet.<sup>65</sup> A wealth of information on various subjects linked to the Structural Funds and the Ops for their assimilation, including news, is also accessible on the Internet portal *Europe.bg*, where a specialized library devoted to those matters is organized.<sup>66</sup>

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<sup>58</sup> <http://www.eufunds.bg/>, last access on 28.09.07.

<sup>59</sup> <http://ef.mlsp.government.bg/bg/category.php?id=98>, last access on 28.09.07.

<sup>60</sup> [http://www.mdaar.government.bg/docs/OPAC\\_Final.pdf](http://www.mdaar.government.bg/docs/OPAC_Final.pdf), last access on 28.09.07.

<sup>61</sup> Thus, Decree № 62 of the Council of Ministers of 21.03.2007 on Adoption of National Rules for Admissibility of Expenditures Under the Operative Programmes, Co-Financed from the Structural Funds and the Cohesion Fund of the European Union for the Financial Framework 2007-2013; Decree № 121 of the Council of Ministers of 31.05.2007 on Adoption of the Procedure for Provision of Free Financial Aid Under the Operative Programmes Co-Financed from the Structural Funds and the Cohesion Fund of the European Union; Decree № 55 of the Council of Ministers of 12.03.2007 on Adoption of the Terms and Procedure for Appointment of Executor by Beneficiaries of Contractual Free Financial Aid Under the Operative Programmes Co-Financed from the Structural Funds and the Cohesion Fund of the European Union; Decree № 180 of the Council of Ministers of 27 July 2007 on Adoption of Detailed Rules on Admissibility of Expenditures Under the Human Resources Development Operative Programme; Decree № 231 of the Council of Ministers of 27 July 2007 on Adoption of Detailed Rules on Admissibility of Expenditures Under the Administrative Capacity Operative Programme.

<sup>62</sup> [www.asp.government.bg](http://www.asp.government.bg).

<sup>63</sup> [www.az.government.bg](http://www.az.government.bg).

<sup>64</sup> <http://www.minedu.government.bg/opencms/opencms/index.html>.

<sup>65</sup> Вж. на [http://flgr.logincee.org/library\\_full.asp?LD\\_ID=11016&TargetLangCode=BG](http://flgr.logincee.org/library_full.asp?LD_ID=11016&TargetLangCode=BG).

<sup>66</sup> Вж. на [www.europe.bg](http://www.europe.bg).

The Administrative Capacity OP (ACOP) governed by the Ministry of State Administration and Administrative Reform (MSAAR) also provides “civil society structures” with opportunities to apply for funding from the European Social Fund and the national budget for execution of projects on their own or jointly with administrative bodies.<sup>67</sup> Projects with anti-discrimination content can potentially be proposed under several “priority axes” and “subpriorities”. Those are: priority axis “Good Governance”, subpriority “Effective Coordination and Partnerships In Policy Development and Implementation”; priority axis “Human Resources Governance”, subpriorities “Modern Human Resources Governance in the State Administration”, “Competent and Effective State Administration” and “Strengthening the Capacity of Civil Society Structures”; priority axis “Quality Administrative Servicing and Development of Electronic Government”, subpriorities “Improving Servicing for Citizens and Businesses [...]”, including – expressly mentioned in ACOP - “underprivileged citizens”. Under those priorities NGOs and trade unions can project trainings for equality and inclusion, initiatives to raise awareness and provide expertise on developing policies and procedures designed to foster equality, including human resources policies and practices aimed at diversity and diversity management within the administration, as well as within their own organizations, and other civil society organizations. The guidelines on how to apply and the application forms will be published on the Internet site of MSAAR.<sup>68</sup>

**3. What form does this funding take? (core funding, project funding, facilities) Are such funding possibilities part of specific governmental programmes? (which ones and from which ministries?)**

The funding under the OPs is project funding. See above for the specific planned OP measures potentially making it possible to carry out activities aimed at equality and inclusion.

**4. Is it easy to access such funding? What are the conditions?**

Access to the funding under the OPs is not easy. The rules governing this access are complicated, difficult to understand and tied to administrative and logistic requirements, which are hard for NGOs to comply with. The procedures are unclear, cumbersome, and bureaucratic. The requirements for the project proposal and reporting documentation are unattainable for most NGOs. To become beneficiaries under the OPs, NGOs also need serious financial capacity allowing them to make advance payments to finance the implementation of project activities, for which they can seek reimbursement only after the successful completion and reporting of the project. For the vast majority of NGOs, this will be an insurmountable hurdle barring access to the Structural Funds. The few NGOs which could successfully project and implement operations under the OPs would need especial training and technical assistance in order to develop the administrative capacity necessary for that purpose.

**5. In case of federal countries, are there funding possibilities at the federated level?**

Not applicable to Bulgaria.

**6. Are there other governmental funding possibilities at regional level? At municipality level?**

There is no information on record of either regional or municipal governments providing funding specifically for antidiscrimination work.

<sup>67</sup> [http://www.eufunds.bg/docs/OPAC\\_Final\\_September\\_BG.pdf](http://www.eufunds.bg/docs/OPAC_Final_September_BG.pdf), последен достъп към 28.09.07 г.

<sup>68</sup> <http://www.mdaar.government.bg/faq.php?qst=27&th=8>, последен достъп към 28.09.07 г.

While some municipalities may have social inclusion strategies, or action plans, those are not strictly antidiscrimination activities, but would rather be social protection and support, promotion or affirmative measures for groups at risk.

**7. Are there any private funding possibilities? (private foundations, private companies, headquarters of trade unions, etc.) What are they? Is it easy to access these sources of funding?**

There is no clear and accessible information on private funding possibilities. While there is anecdotal evidence of certain banks, for instance, supporting social inclusion projects, no domestic private entity is on record as providing funding specifically for antidiscrimination work.

**8. Are there any other source of funding?**

The principal sources of funding for antidiscrimination are external sources, both by intergovernmental organisations, (and possibly foreign governments), and by foreign and international private donors, such as charities and foundations.

#### **IV. Diversity Management seminar**

##### **Design of the training**

The design of the training was as described in the tender proposal "Anti-discrimination and diversity training VT/2006/009". No changes in terms of manual content and target group were necessary during project implementation period. Due to the design of the training which envisaged practical sessions in six working groups to be moderated solely by the national trainer, the expected according the project proposal roles of trainers and organising NGO in view of seminar carrying out were considerably modified. The BHC secured 5 pro bono experts who provided substantive presentations and other contributions mainly during the working group sessions.

##### **Preparation of the seminar**

The organising NGO in Bulgaria carried out a pre-selection procedure for nominating the national trainer in February 2007. The national trainer was selected following interviews and assessment of her relevant qualification. The national trainer was assigned by the organising NGO after the HEC and the European Commission approvals. The national trainer was given a clear job description concerning her tasks under the assignment with a clear timetable with deadlines and expected qualitative and quantitative outputs. The organising NGO managed to facilitate the link between the national trainer and the project management, give strategic guidance to the national trainer in terms of choosing the DM target group etc.

The national trainer elaborated a country progress needs analyses that was submitted to the National Coordinator before the training of the trainers in Cologne took place. This document was a basis for the next steps of preparing the workshop and training materials. Its main conclusions were as follows:

**The general understanding for DM in Bulgaria:** The needs analyses showed that the general understanding of the term DM in Bulgaria is based on the fact that the new managerial practices and trends are still slow to make their way into Bulgarian enterprises with the most receptive sectors being human resource management for medium and large enterprises. According to the Ministry of Economy and Energy website, the number of medium-sized businesses in 2004 was 216 000 or 99.2 per cent of all Bulgarian companies. The micro-enterprises offer some 25.9% of the employment and the SME secure more than half of the employment in the non-financial sector. The Diversity management practices in the Bulgarian SMEs, if applied at all in everyday practices, cannot be classified as systematic, positive, organizational approach of managing diverse workforce, conflicts and social issues.

For competing under the conditions of EU membership the Bulgarian SMEs focus mainly on operative management and survival. The micro-enterprises in Bulgaria often are simply a form of self-employment and rather pertain to the sphere of entrepreneurship and conscientious strategic planning for their development. Regarding the quality of the labour force in Bulgaria, the persons surveyed agreed that the foremost importance of human resources and their management should be the top concern of SMEs.

The situation with the large enterprises concerning the adoption of a culture/ practice for Diversity Management is promising having in mind that Bulgaria has just started implementing and applying the national anti discrimination legislation and good EU practices.

Most of the large enterprises surveyed in Bulgaria in 2006 (247 companies classified on maximum value of sales revenues for 2004) within the framework of the national anti discrimination campaign “Diversity in the workplace – private case?” consider the DM generally as a business for social responsibilities, matter of ethics, good managerial practices or building company cultures that respect life experiences, language, talents, skills, thought processes and personal styles. In their everyday practice, the Bulgarian large companies do not consider and evaluate specifically characteristics protected by the national anti discrimination legislation - e.g. race, sex, religion, national or ethnic origin, sexual orientation, age and disability. Some enterprises (branches of multinational companies) focus on developing broader, more far-reaching strategies that rely on the input and expertise of diverse workforces and fostering a culture of inclusion, they are also adding an external focus that recognizes the diversity of their customers and vendors and the communities in which they operate. The same survey identifies that the large companies are not in favour of associating the Diversity Management with "affirmative action" and "equal opportunity" in multi-cultural (ethnicity, race, gender, sexual preference, etc.) contexts. They are not for quotas, especially for people with disabilities (as required by the national legislation for the integration of people with disabilities), as it supposes to recruit workforce because of the disability rather than professional capacity and merits. The branches of the multinational companies, which represent a significant part of the large enterprises in Bulgaria, put the emphasis more on the management of language and national differences as well as equal opportunity for women (gender mainstreaming).

**Issues involved:** In Bulgaria workplace diversity refers most broadly to building company cultures that respect life experiences, language, talents, and skills, thought processes and personal styles as well. To a lesser extent companies pay consciously attention to those characteristics that are protected by the national anti discrimination legislation - e.g. race, sex, religion, national origin, sexual orientation, age, disability. It has to be stressed that the branches of the multinational companies in Bulgaria put systematic effort to attract and retain a diverse workforce and foster a culture of inclusion due to their companies’ culture and traditions. They also add an external focus that recognizes the diversity of their customers and vendors and the communities in which they operate. This company culture has been imported in Bulgaria so as to rely on diverse workforces that can compete in increasingly global and varied markets.

**Demographic and statistical data:** Bulgarian society is multi-ethnic. According to the 2001 census, out of the total Bulgarian population of 7 973 673, some 4.6% (358 815) identified themselves as Roma and 9.5% (757 499) as being of Turkish ethnic origin on a 2% representation basis. In spite of the continuing positive changes on the labour market under the influence of the economic growth and the active employment measures and policies, yet there are a number of problems, which represent serious challenges in the context of the Bulgaria’s membership in the European Union (EU):

- unemployment and poverty particularly affect the Roma ethnic group;
- deepening demographic changes, characterised with growing number and share of elderly people (at age of 65+), which depend directly on the social security system, social assistance system and healthcare system (according to the National Statistical Institute (NSI), by the end of 2005 the number of persons receiving pensions in Bulgaria was 2 301 669, at a constant population of Bulgaria of 7 718 750 persons, excluding external migration);
- the rather high number of the newly registered cases of invalidity status/disabilities (Bulgaria is on one of the leading places in Europe – 9<sup>th</sup> from 51 counties, according to WHO/Europe for 2001).

The concentration of ethnic minorities in certain areas and in declining economic activities has led to the emergence of pockets of unemployment and poverty in several parts of the country and in many Bulgarian towns.

Over the last ten years, the rates of unemployment among Roma have been systematically higher than those for ethnic Bulgarians and those groups make up a large share of the long-term unemployed. In 2005 the unemployment rate amongst the Roma population reached 60%.

In Bulgaria the rate of employment in the age group 55-64 was relatively low in 2005 - 34.7% compared to the EU-25 average of 42.5%. The difference between the male and female employment still remains relatively high in Bulgaria (8.4 percentage points in 2005). In addition, the female employment rate is lower than the average for the EU-25 (51.7% compared to 56.3% in 2005).

According to the NSI's data, the number of male entrepreneurs is twice as high as the number of female entrepreneurs. Female entrepreneurs account for 33.4% of those surveyed, the rest being employees.

**Good company practices:** Some good company practices were presented by the national trainer in the needs analysis. Some of the Bulgarian companies have taken initiatives to employ people with disabilities either by starting with specific measure for accommodating their needs or placing these people in job positions that do not require taking any positive measures. In 2005 among the companies that recruited people with disabilities were medium and large enterprises, such as McDonald's Bulgaria, Sofarma, M-tel, national radio stations "FM+" and „Mila Gold“. Normally, the small companies in Bulgaria have little publicity about their efforts to accommodate specific needs in the workplace. For example, the library of the town Stara Zagora has provided physical access for people with disabilities. Many local and regional administrations have taken systematic efforts to guarantee any access to their public service for people with disabilities. The municipality of Sofia started with appointing a deputy Mayor for health care, integration of disabled people and social activities who is herself with disability. A sign language interpreter was appointed in the municipality. Physical access was ensured as well. In addition, following the Municipality Council's decision dated 11 January 2007 gave a green light to over 40 managers of municipality companies to identify job positions for people with disabilities.

The organising NGO and the national trainer agreed on the date of the workshop - initially it was 8 February 2008, but later it was postponed (see information below). The design of the workshop and content of the program were considered by the international trainer and the national trainer. This process was also facilitated by the project management team that has established under its website [www.idm-diversity.org](http://www.idm-diversity.org), title Diversity Resources a place for exchanging know-how and experiences as well as various additional documents related to this project.

The national trainer took part at the Train the trainers seminar in Cologne. After the seminar took place the national trainer collected best practices in DM in the country, mapped on local, national and European levels through internet research, media monitoring and direct interviews with HR companies based in Bulgaria.

In view of the requirement to contact national employers organisation or Chamber of Commerce in June 2007 the organising NGO through the national trainer contacted a consulting agency that is in business relations with over 100 small and medium-sized companies as well as with several banks. The national trainer's reason for choosing this particular consulting agency was that the big companies working on the Bulgarian market are familiar with the diversity management to a certain extent and the small and medium-sized companies are those who really need to be "clued-up" on these issues. Unfortunately this organisation didn't correspond with the requirements and the organising NGO had to get in touch with another organisation. In late August the BHC succeeded to get into initial contact with the Bulgarian Chamber of Commerce and Industry (BCCI). The organising NGO contacted the Director of the Business Centre Directorate who undertook the engagement to cooperate for the venue of the seminar and to upload the announcement for the seminar at the BCCI's web site.

The active preparation for the seminar started in late December when the national coordinator together with the national trainer prepared selection criteria for the participants and the announcement for the seminar.

The announcement was published before Christmas at the BHC web site's index page with a link to section "Activities" where the full text of the announcement and the registration form were.

The organising NGO asked the BCCI for cooperation in view of mail contacts of organisational members of the BCCI. They answered that the BCCI had over 40 000 members and they couldn't cooperate with contacts except if the BHC sends them official application for paid reference, based on particular criteria on which they will choose the companies. In view of this progress the seminar organiser made a research on the prices for publishing the announcement in some of the most popular business daily papers. These prices were considerably higher than BCCI's reference so we sent them an application based on the following main criteria: 60 big and middle companies, activities requiring mainly human resource etc.

Finally the organising NGO mailed the announcement to:

- 23 organisations - clients of the Consulting agency contacted by the national DM trainer;
- 5 banks (from the BCCI reference);
- 45 companies (from the BCCI reference);
- 21 trade associations of a branch of industry (BHC's research).

In spite of the pro-active mailing campaign there was not a sufficient number of participants within the initial deadline for sending the registration forms. That is why the organising NGO had to extend the deadline for registrations and postpone the seminar for 26 February 2008. During the extended application period the organising NGO personally called each of the above mentioned companies trying to convince them to participate. With the approval of HEC the organising NGO also published the announcement in the business daily with largest circulation in Bulgaria "Klasa". 50 applications for the seminar have been received most of which were provoked with the support of Interuniversity Center for Career Development whose career consultant Mr Dimitrov forwarded the invitation to most of the centers' partners. Thanks to Mr Dimitrov the announcement was also published in "Capital" a business weekly of great repute.

All of the logistical arrangements were carried out by the seminar organiser with the technical support of the BHC technical assistants. The DM seminar took place at BCCI. The venue was chosen in view of the requirement a national employers organisation or Chamber of Commerce to be attracted as co-organiser. Unfortunately the BCCI wouldn't provide support with the venue expenses.

### **Carrying out the seminar**

The business cases were prepared by the national trainer and one of the BHC pro bono trainers.

The ratio of applications was as it follows: 52% companies, public service providers - 8%, training or consulting organisations - 40%. The participants actually present at the seminar were 36 out of 50 registered. This changed the ratio to 45% companies, 12% public service providers and 45% training or consulting organisations.

Two of the five pro bono trainers secured by the BHC (organising NGO) provided substantive presentations and other contributions, thus compensating to the extent possible for the underperformance of the national trainer. All five BHC trainers provided moderation for the group work sessions, making those sessions possible.

The participants were more interested and active in the group work sessions than in the plenary sessions. Discussions during the plenary sessions were more limited; not many questions were asked. Participants as a whole expressed a certain amount of reservation towards introducing diversity management into their own enterprises.

All in all, the seminar was successful. The overall level of participation was adequate, and trainers as a team provided sufficient input. Participants left with sufficient quality exposure to the issues.

### **Main lessons learned**

There is some interest among business people to learn about diversity. However, specifically targeted efforts are necessary in order to attract participation. Potential participants should be sought out directly rather than through formal employers' organisations. Awareness raising of the business case for diversity is needed. Specific practical information about how to manage diversity and concrete examples of successful cases are most in demand.





## Annexes

### The role of trade unions combating discrimination

#### Intended learning outcome:

- For the participants to have explored the roles trade unions can and should play in combating discrimination.

#### **1. What is a trade union?**

A trade union is an organised association of workers, whose aims are to protect, and further workers' rights and interests and represent them at a variety of levels (workplace, sector, national). Originally, unions organised workers along the lines of specific 'trades' and professions (such as hairdressers, teachers, construction workers) but increasingly common are unions with a wider remit (like: workers in commercial services or 'the public sector'). Trade unions can be organised at company level (which is quite common in several countries) or by sector (education, transport, etc.). Unions can also be organised as federations and can also be part of European or international networks.

In several countries, trade unions may have historical links with certain political groupings, ideologies or denominations (socialist, communist, liberal, Christian), and a few have close links with a political party.

However, a common and essential feature to all trade unions is that they are democratic and independent organisations. Democratic because they are membership based and representative organisations, in which every member has a vote and is part of the decision-making process. Independent, because they have to be independent from employers and public authorities to be able to play their role of representatives of workers properly, in which negotiations and compromises but also conflicts (such as strikes) are part of the game.

Trade unions are normally funded by members' subscriptions.

#### **2. What is the role of a trade union in combating discrimination?**

When considering what role trade unions can have in combating discrimination, they should take full advantage of the special roles that have been given to them under Articles 7 and 11 of Council Directive 2000/43/EC, and Articles 9 and 13 of Council Directive 2000/78/EC.

Trade unions are clearly important to the development of peaceful, democratic, well-managed, healthy and prosperous workplaces that engage with and promote equal opportunities, and through the workplace also contribute to these same goals in society at large.

Trade unions as instruments of social dialogue can combat discrimination in the following ways:

- Negotiating with employers to ensure that discrimination in the workplace is eliminated and that equal opportunities are promoted.
- Providing a means for expressing and addressing the needs of workers who are discriminated against in the workplace.
- Supporting victims of discrimination in securing a settlement with the employer (alternative dispute resolution).
- Supporting victims of discrimination in their search for access to justice.
- Promoting equality and diversity in the workplace and in the sector.

- Establishing mechanisms to influence decision-making by employers and Government.
- Mainstreaming non-discrimination and equal treatment in policies and practices.
- Challenging employers, organisations and authorities to combat discrimination.
- Monitoring, documenting and denouncing discrimination.
- Ensuring that equality is prominent on the political agenda and encouraging campaigns and action to eliminate discrimination and promote equality.

A trade union can

- Work in partnership with other trade unions to achieve shared aims.
- Work in partnership with NGOs in order to achieve shared aims.
- Cooperate with national equality bodies, for example in building up networks of equality representatives, or in organising training and expertise for workers' representatives.
- Empower groups to engage in campaigns, to be self-advocates and to assert and enforce their rights.
- Work, where appropriate, in partnership with Governments/employers to achieve common aims and objectives.
- Challenge, where appropriate, Governments/employers when they are promoting policies which are contrary to the trade union's objectives.
- Where appropriate deliver services to members efficiently and effectively where those services promote equal opportunities within the framework of Government policies and adopt and promote strategies of Trade unions and strategies negotiated between Trade unions and Government.
- Where appropriate deliver services to members efficiently and effectively where those services promote equal opportunities outside the framework of Government policies and adopt and promote trade unions' objectives and, strategies even if those are contrary to Government policies.
- Ensure the co-ordination of its own services and to engage Government/employers in discussions on the co-ordination of services between the Government and trade unions, where those services relate to equal opportunities.
- Provide properly professionally researched advice to Governments/employers on issues of concern.
- Advocate and campaign for change as a response to need.
- Guide and contribute significantly to legislative and policy making processes, by providing properly researched advice and briefings to politicians in Government and to employers and other persons of influence.
- Be vigilant "watchdogs" - pointing out where Governments/employers are actively discriminating, or failing in their obligations to combat discrimination or where they need to improve their performance, and enforcing the operation of the checks and balances that characterise democratic society. In this role trade unions must target Government and the business community by advocacy, lobbying and negotiating functions when required.
- Challenge, by appropriately selected mechanisms, acts, omissions, administrative practices or policies which are contrary to the trade unions' and the workers' objectives.
- Keep track of and ensure that advantage is taken of all new developments in combating discrimination, e.g. new legislation (national, EU and international), new policies (national, EU and international), new sources of funding, and landmark judicial decisions (at both national, EU and international level).
- Be open, transparent and accountable to members and to the public.

- Increase the strength of trade unions' participation in social dialogue by forming networks and coalitions, and promoting original initiatives and solutions. This can help to reduce prejudice within society, thus promoting equality.
- Work openly and in a spirit of collaboration with other trade unions and NGOs operating in related fields and prevent conflicts and disputes occurring between trade unions or NGOs.
- Put pressure on a state to ratify international instruments which allow for the international spotlight to be shone on Government practices relating to equal opportunities.
- Supply national and international bodies with essential and reliable information on which they can draw when examining a country's record on discrimination.

In summary, the role of trade unions should be to check, monitor and challenge the actions of employers and Governments and other organisations, in order to combat discrimination and to assist workers and groups of workers in asserting their rights.

### **3. What activities can a trade union do to combat discrimination?**

The following is a suggested list of activities and services that a trade union can carry out or provide in order to help combat discrimination on all grounds:

- Negotiating.
- Awareness-raising.
- Monitoring/Influencing the development of policy & law.
- Providing support to individual victims of discrimination, and to individuals as part of a collective complaint.
- Litigation.
- Alternative Dispute Resolution including mediation.
- Campaigning and organising.
- Advocating changes in practice (as distinct from policy or law).
  - Promoting the establishment of focal groups around a specific ground of discrimination (disability, race-ethnicity, etc.) to offer workers a place where they can share common experiences and discuss which policies to develop in their workplace and their union, and how to join forces to put their interests on the general trade union agenda
  - Adapt their recruitment campaigns to an increasingly diverse workforce, and making the diversity of the trade union movement more visible in internal and external publicity
  - Promote female members and members from a minority background in positions of decision-making and leadership.

### **4. What does a trade union need to fulfil its role?**

- Human Resources.
- Skills.
- Knowledge.
- Expertise.
- Openness.
- Transparency.
- Accountability to their members.
- Non discriminatory attitudes within its own organisation.
- Appropriate national legislation in place regarding its establishment and functioning.

- Funding. Although clearly the core functions and activities must be funded independently by members' contributions, many unions make use of project subsidies by governments and private funds for specific aims. Especially in the area of non-discrimination, a variety of possibilities for funding are available.

**5. Why are trade unions better placed than other organisations to work towards combating discrimination in the employment field?**

- Because trade unions are active in the workplace, they are often best placed to detect patterns of discrimination at work, and to take action to combat disadvantage.
- Trade unions can represent workers collectively, for instance in works councils and collective bargaining, which can often be the most effective way of achieving change and eliminating discrimination in the workplace.
- Trade unions play a crucial role in engaging with workers and employers at the local, regional, national and international level.

**6. What are the obstacles for trade unions and how might these be overcome?**

- Lack of standing in order to participate in relevant political debates. Trade unions will need to be sure that they brief an individual or organisation that does have standing.
- Lack of standing in order to bring complaints, either individually or collectively. Trade unions can support and assist those who do have standing, or seek to reform the rules.
- Perception of affiliation to Government or a political party or other group so undermining their reputation as impartial advocates of equality issues. A trade union needs to ensure to act in a way that does not conflict with members' fundamental rights to equality, and ensure that any connections with political parties or other organisations or causes do not conflict with members' rights.
- Passivity from some of their members/employees or even their leadership regarding action to be taken against discrimination.
- Conflicts between the interests of the majority of members, and the rights of minority members.
- Own prejudices.
- Lack of effective 'partnership' between Government/employers and trade unions. Lack of effective cooperation with NGOs.
- Lack of membership among the discriminated groups of workers, and therefore a lack of interest among the members and the leadership to deal with these issues. This may be a vicious circle, as clearly a trade union that does not show an interest in representing the interests of for instance women or migrant workers will not easily convince those workers that they should join a union.
- Inability to reach some parts of the workforce or senior management due to ineffective structures, poor organisation, externally imposed priorities, or cultural or language barriers. Trade unions should ensure that *their own organisations* have a diverse workforce with personnel who have received equal opportunities training and who are aware, of relevant social and political history, including the history of exclusion and discrimination of certain groups within the community and, where relevant, a range of language skills.