



NATIONAL ACTIVITY REPORT CZECH REPUBLIC ANTI-DISCRIMINATION AND DIVERSITY TRAINING

Counselling Centre for Citizenship/Civil and Human Rights

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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

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

The national activities were carried out by Counselling Centre for Citizenship/ Civil and Human Rights, <http://www.poradna-prava.cz> , <http://www.diskriminace.cz>.

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II. Introduction

Anti-discrimination and diversity management training, on which the contents of the following information is based, were realised as part of a project co-ordinated by Human European Consultancy and set up and funded by the European Commission. The Counselling Centre for Citizenship, Civil and Human Rights was involved as a national partner in the realisation of the seminars. We are pleased that we could contribute to a gradually broadening collection of conferences, discussions and trainings on equality and discrimination in the Czech Republic and that we could enrich its important interactive and innovative aspects. All educational activities were focusing on Conveying the ‘added value’ of the shared knowledge and experiences of the training participants. Therefore we also hope that we succeeded in establishing a solid basis for a discussion about the most effective ways to help victims of discrimination in the Czech Republic in the future, what the cooperation between the non-profit sector and the anti-discrimination body should look like and the most important conditions for effectively getting diversity management issues across to employers. We hope that we will be able to further extend the discussion on the general need for support for equal treatment in the Czech Republic and that new anti-discrimination legislation will be met.

III. Anti-discrimination seminars

a) National activities anti-discrimination seminars

Introduction

*Basic seminar held at 12. and 13. March 2007
Staré splavy, Hotel Bezděz*

The training was attended by 21 participants (of 26 who originally registered). Most of them were grassroots NGO workers from different parts of the country, typically social workers and lawyers. There was also one volunteer and one representative of the governmental human rights body.

- Information Centre for the Civic Sector, Český Krumlov (*ICOS Český Krumlov*)
- Integration Path (*Cesta integrace, o.s.*), Říčany
- Czech Society AIDS Help (*Česká společnost AIDS Pomoc*, Prague)
- Iuridicum Remedium
- Consumer Protection Society (*Sdružení obrany spotřebitelů*)
- Spektrum
- Roma Council of Chomutov (*Romská Rada města Chomutova*), Chomutov
- Gay and Lesbian League (*Gay a lesbická liga*),
- Gender studies, o.p.s.
- Government Council for Human Rights (*Rada vlády ČR pro lidská práva*).

*Follow-up training seminar held on 11 and 12 February 2008
Staré splavy, Hotel Bezděz*

The training was attended by 33 participants (of 40 who registered). Most of them were grassroots NGO workers from different parts of the country, typically social workers and lawyers. There were also two participants from the Office of the Public Defender of Rights, who is supposed in the future to fulfil the role of equality body, and one representative of the governmental human rights body.

- Czech Society AIDS Help (*Česká společnost AIDS Pomoc*, Prague)
- Iuridicum Remedium
- Consumer Protection Society (*Sdružení obrany spotřebitelů*)
- Roma Council of Chomutov (*Romská Rada města Chomutova*), Chomutov
- National Centre for Human Rights
- Gender Studies, o.p.s.
- Office of the Public Defender of Rights (*Kancelář Veřejného ochránce práv*)
- Human Rights League (*Liga lidských práv*)
- Organisation for Aid to Refugees (*Organizace pro pomoc uprchlíkům*)
- Open Society o.p.s. (*Otevřená společnost, o.p.s.*)
- IQ Roma servis
- People in Need o.p.s. (*Člověk v tísni, o.p.s.*)
- Karika o.s.
- Soro o.s.
- Gay and lesbian league (*Gay a lesbická liga*)
- Association of Czech and Moravian Roma (*Sdružení Romů Čech a Moravy*)
- Counselling Centre for Citizenship, Civil and Human Rights (*Poradna pro občanství, občanská a lidská práva*),
- Government Council for Human Rights (*Rada vlády ČR pro lidská práva*)
- Czech/Moravian Confederation of Trade Unions (*Českomoravská konfederace odborových svazů*).

Of the participants, one person had also participated in the 2005 Břevnov seminar and 11 people had participated in the 2007 Staré splavy basic seminar.

Design of the training

Anti-discrimination seminars

I. Basic seminar

During the two-day course, seven presentations were given and seven parallel workshops held (for three groups). The thematic presentations were given on the following topics:

- 1) Basic concepts – direct and indirect discrimination (Slavomír Goga, Gay and Lesbian League/ *Gay a lesbická liga*)
- 2) Specifics of disability (Lucie Víšková, Czech Blind United / *Sjednocená organizace nevidomých a slabozrakých*);
- 3) Basic concepts – harassment and sexual harassment, harm, direct effect and preliminary questions (Markéta Hronková, Slovak-Czech Women's Fund/ *Slovensko-český ženský fond*)
- 4) Material scope of discrimination directives, legislative process and legislative lobbying (Petr Novotný, Counselling Centre for Citizenship, Civil and Human Rights/ *Poradna pro občanství, občanská a lidská práva*, Slavomír Goga, Gay and Lesbian League/ *Gay a lesbická liga*)
- 5) Discrimination in recruitment and in the course of employment (Martina Štěpánková, Counselling Centre for Citizenship, Civil and Human Rights/ *Poradna pro občanství, občanská a lidská práva*)
- 6) Victimization, alternative solutions to disputes (Jan Bárta, ADRA)
- 7) Litigation of discrimination in the courts, shift of the burden of proof (Martina Štěpánková, Counselling Centre for Citizenship, Civil and Human Rights/ *Poradna pro občanství, občanská a lidská práva*).

The presentations lasted approximately half an hour and each was followed by a workshop where the participants split into three smaller groups in order to discuss different practical issues.

- Workshop one: Discriminatory advertising
- Workshop two: Reasonable accommodation
- Workshop three: Case study for mediation: Ukrainian female textile workers
- Workshop four: Case study for discrimination litigation: hearing a witness
- Workshop five and six: National Action Plan. Each of three groups selected one section of activities for the national action plan (I. Public awareness-raising, II. Support for the victims of discrimination (social, legal and psychological); III. Discrimination case litigation) and developed a plan of action. During the last workshop, the groups were networking in order to incorporate different parts of the plan into one umbrella structure.
- Workshop 7: IV. National Action Plan/Networking.

Training materials:

1. *Combating discrimination – a training manual* (Czech version)
2. Bobek, M., Boučková, P., Kühn, Z.(eds.) *Rovnost a diskriminace*, 1 vydání, Praha: C. H. Beck, 2007. [*Bobek, M., Boučková, P., Kühn, Z.(eds.) Equality and discrimination. 1st edition, Prague: C. H. Beck, 2007, 471 pages + CD*].
First unique, original Czech publication on discrimination and equality theory, this is an interactive handbook with a comparative and contextual approach. The introduction contains a general description of equality, discrimination and procedural questions.

The second part describes reflections on prohibitions of discrimination in EU law, case law from the European Court of Human Rights, the Czech Constitutional Court and other Czech courts. The third part contains studies of three classified grounds of discrimination: gender, sexual orientation and religion. It concludes with a unique collection of critical summaries of important European and worldwide case law and case studies. Enclosed is a CD containing the full text of all the case law summarised in the book.

3. Printed and electronic materials for the presentations and updated materials, both translated and original additions to the manual.

II. Follow-up seminar

Plenary workshops:

- 1) Carrying out situational testing and using evidence in court proceedings (Guest: Barbora Bukovská, Counselling Centre for Citizenship, Civil and Human Rights/MDAC Budapest)
- 2) Consumer discrimination (Guest: Eva Petlachová, Michaela Suchardová, Iuridicum Remedium and Consumer Protection Society/ *Sdružení obrany spotřebitelů*);
- 3) Discriminatory advertising (Markéta Hronková, Slovak-Czech Women's fund/ *Slovensko-český ženský fond*)
- 4) Draft anti-discrimination law – development and perspectives (Martina Štěpánková, Counselling Centre for Citizenship, Civil and Human Rights / *Poradna pro občanství, občanská a lidská práva*);

Parallel workshops

1st day:

- Workshop one: Using tape recordings as evidence in discrimination cases: case studies from the Public Defender of Rights, with Kateřina Valachová, guest participant from the Office of the Public Defender of Rights
- Workshop two: Statistics in proving discrimination, with Martina Štěpánková, trainer
- Workshop three: Trade unions' role as social partners in proving discrimination, with Dušan Martínek, guest participant from the Czech-Moravian Confederation of Trade Unions/ *Českomoravská konfederace odborových svazů*

2nd day:

- Workshop one: How the NGOs and TUs can cooperate in combating discrimination. Guest: Petra Kubálková, *Otevřená společnost, o.p.s.*
- Workshop two: Using statistical data for research regarding frequency of discrimination. Guest: David Strupek, attorney.
- Workshop three: How the NGOs and future equality body can cooperate. Guest: Karel Černín, Office of the Public Defender of Rights.

International trainer: Supervising the course of the workshop, advising on possible improvements (in respect of improving interaction and participation during the seminars), commenting on draft follow-up seminar programme.

Trainers: Preparation of new presentations for the basic seminar, presenting and discussing with participants.

Organising NGO: organising the seminar venue, seminar organisation, preparing training materials, facilitating the workshops, overall management and facilitation of the seminar, contacts with national anti-discrimination trainers, announcement of the seminars, registration of participants, submitting

lists to Human European Consultancy, organisation and collection of evaluation forms, organising hotel accommodation, drafting final report.

Preparation of the seminar

Preparation for follow-up seminar

The programme was drafted with regard to comments raised by the participants after the 2007 basic seminar. It was constructed to be as interactive as possible and aimed to make extensive use of discussion and to provide space for participants to present their experiences. The involvement of participants was secured in two ways:

1. presentations brought by the participants
2. participants invited as guests to parallel sessions of the seminar, according to their field of expertise

The plenary workshops were followed on each day by parallel workshops, where the participants split into three smaller groups to discuss selected issues with guests.

Announcement of the seminar

Seminars announced on the internet:

1. Specialised webpage www.diskriminace.cz
2. Organisation's webpage www.poradna-prava.cz
3. NGO online information portals: www.icn.cz, www.zpravodajstvi.ecn.cz

Attracting and selecting participants

Using our mailing lists, the NGOs were addressed via email (approx. 100 organisations on our mailing list). Representatives of the Human Rights Department of the Office of the Government and Office of the Public Defender of Rights were also invited.

Logistical arrangements

A venue at a location outside Prague was selected (approx. 80 km from Prague), with good public transport connections. The area is very attractive from the tourist point of view, but with enough space and very quiet in out of the high season. The building is quite large and offers a range of meeting rooms.

Carrying out the seminars

Ratio of participants (NGOs/trade unions)

86% NGOs

11% Trade unions

Process during the day – observations (trainers, participants, content)

I. Basic seminar

Due to the large numbers of anti-discrimination seminars for NGOs held in the Czech Republic in 2007, it was quite difficult to attract participants for the seminar. It should also be said that the knowledge and skills of the target group has changed considerably in the Czech Republic since 2005. The current knowledge and skills of NGO workers are incomparably better than in 2005.

What was attractive in 2005 is not necessarily capable of attracting great attention now. The first thing to do was to look at the content of the presentations and workshops and to make considerable revisions. We also tried to learn lessons from the 2005 seminar and extend the time allowed for discussion, as this was very important for this type of seminar.

The participant structure was rather unbalanced. The group was dominated by grassroots NGOs, with their staff consisting typically of social workers. The only central and larger participating NGO was Gender Studies o.p.s. The second largest group of participants consisted of lawyers. Sometimes it was difficult to meet the needs of participants with different levels and types of expertise, but on other occasions this proved to be beneficial for an exchange of individual expertise.

Bad weather, with unexpected, sudden heavy snow during the night before the seminar, caused problems on the roads and railways. Many people arrived late and five participants who registered did not arrive at all, although the venue is normally easily accessible by train, car and bus. Most of the participants gave the bad weather as their only concrete reason for dissatisfaction.

II. Follow-up seminar

The programme of the follow-up seminar focused on very practical and specific issues in the genuine Czech context of combating discrimination. Therefore, the trainers from the basic seminar acted as facilitators rather than presenters and the main intention was to provide a broad platform for important experiences and expertise contributed by the participants. This was in accordance with recommendations made by the participants at the 2007 basic seminar. The result was a highly interactive programme, enabling the participants to build upon the discussions and start networking with respect to future developments of anti-discrimination law in the Czech Republic. The most fruitful discussions in this respect were on the use of situational testing in proving discrimination and the discussion about possibilities for cooperation between the NGOs and the future equality body, the Public Defender of Rights.

Among the participants, the grassroots NGOs and NGOs involved in the provision of social services were the dominant component. Therefore, the groups also included a mixture of legal and non-legal professions. Although the participants with non-legal backgrounds from time to time complained about the legal content, we consider it to be mutually enriching to share experiences not limited to lawyers only. This fact, in our opinion, led to the practical experiences of the participants contributing to the diversity and innovative character of the seminar.

Evaluation of the seminar (use evaluation report made earlier)

I. Basic seminar

All participants were invited to evaluate the seminar through the pre-prepared evaluation sheets. We received 20 completed questionnaires (however, some participants did not respond to all the questions). Generally, the participants expressed satisfaction with the seminar content, as well as the organisation and venue.

Participants made recommendations with regard to the content of the follow-up seminar. They recommended that more work on case studies be included during the follow-up training, that quite detailed issues related to litigation be debated (such as testing, use of tape-recorded evidence in the courts) and that more information on forthcoming anti-discrimination legislation be provided. One participant would opt for less time for discussion, but this seems to be an exception.

II. Follow-up seminar

All participants were invited to evaluate the seminar through the pre-prepared evaluation sheets. We received 20 completed questionnaires (however, some of them were incomplete.) Generally, the participants expressed satisfaction with the seminar content, as well as the organisation and venue.

Participants made recommendations with regard to the content. One of their recommendations was to focus more on certain practical issues of motivation of the discrimination victims to stand up in anti-discrimination actions, more concrete information about how NGOs could use the assistance of the Office of the Public Defender of Rights in practice and techniques of communication with the police. They stressed that more attention should be dedicated to mediation techniques and issues. The participants with non-legal backgrounds sometimes complained that some workshops needed to be adjusted for non-lawyers. However, they appreciated extensive discussion which allowed the issues to be dealt with in depth. From the side of organisers, we regretted the fact that individual parts of the programme did not start on time, usually in the mornings, as the participants were not always on time.

Main lessons learned

It was apparent that the awareness of the NGO sector in the area of anti-discrimination protection has improved greatly in comparison to when the seminars were held in 2005. Today Czech NGOs do conduct strategic litigation cases in the area of anti-discrimination protection and they do offer mediation, legal counselling and assistance to discrimination victims. Moreover, as the Czech Republic does not yet have an equality body, it was apparent, especially during the follow-up seminar, that the NGOs in the Czech Republic are currently compensating for the tasks not carried out by such a body. The capacity of NGOs in this respect was especially visible in the discussions with the employees of the Office of the Public Defender of Rights during the follow-up seminar. Consequently, the topics of the basic seminar, although updated, often did not quite correspond to the needs of the participating NGOs and the same is true of the 2005 manual. The participants were much more satisfied with the content of the follow-up seminar. For the lawyers from the Office of the Public Defender of Rights, the meeting was fruitful and it brought strong prospects for cooperation between the NGO sector and the future Czech equality body.





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

I. 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?

Both NGOs working on legal, educational and informational aspects of Human rights issues, and local NGOs providing social services do implement anti-discrimination projects. The role played by Czech Trade unions in the area of non-discrimination can be well compared to the role played by NGOs. In the Czech republic, Trade unions are much weaker institutions than for example British or French Trade unions.

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)?

NGOs are focusing on all discrimination grounds according to the EU directives. Most frequently, they are involved with racial discrimination issues, typically involving discrimination of Roma community and migrants. But there are also NGOs involved with issues concerning discrimination of gay and lesbians, disability discrimination and discrimination of elderly. Seldom, NGOs are involved in issues concerning discrimination on the religion ground. Trade unions are typically involved with issues concerning gender discrimination.

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

Small NGOs are mostly interested in practical issues of assistance to victims and/or casework, and anti-discrimination issues represent only a small portion of what they do. Czech-Moravian Trade Unions Confederation <http://www.cmkos.cz/> does provide counselling to victims of discrimination on all grounds, but legal representation is provided only for Trade Union members. From the platforms representing different grounds, some gay and lesbian initiatives (such as Gay and Lesbian League <http://www.gll.cz/>) do work on informational anti-discrimination activities as well as on legislative lobbying. The platforms where age plays a role are usually organizations representing the rights of elder people. Their representatives do recognize discrimination of elder people as a serious problem.

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

There are not any serious practical obstacles involved in the registration procedure. In fact, all NGOs and Trade Unions are registered on national level. The process of registration is very simple. The most easy type of registration involves only proposal for statutes, submitted by at least three persons (preparatory committee) to the Ministry of Interior. There are not any fees to be paid for the registration. The procedure is subjected to special and very simple registration procedure. The Ministry can only notice the Preparatory committee for additions, if the draft statutes are not providing for name of the association, its seat, its aims, organs and way of their establishment and powers of their representatives and principles of management, or if the draft statutes are inaccurate or vague. The Ministry of Interior can only refuse to register an organization, where it is clear from the statutes that the purpose is to establish an organization of the character reserved to special laws (church or religious organization, political party, enterprise established to accumulate profit), where the statutes do not respect voluntary membership to association or are in other respects aimed to limit the rights and freedoms of others.

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

The NGOs are comparatively small size subjects in comparison to Trade unions. While the NGOs usually employ some 5-15 individuals or act on purely voluntary basis (the exception being People in Need, quite a large organization with some 60-80 employees, renting the whole building for its staff), Trade unions are traditionally much larger organizations, with comparatively complicated structure and staff amounting to tens- of full time employees. For example one of the largest Trade unions, *Odborový svaz KOVO*, has around 200 thousand members.

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

As regards NGOs, they normally do not function as a part of networks. Most Trade unions are joined in the Czech-Moravian Trade Union Confederation.

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

Main Trade Unions have usually their official seat in the capital, but their member organizations are seated regionally. Small NGOs are also organized mostly regionally, but there is still number of “human rights” NGOs based in the bigger cities as Brno or Ostrava, and in Prague.

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

The main Trade unions do play different role (in the sense of developing labour policies) than their member organizations. However there are also important tasks played by Trade unions in collective bargaining, especially in the area of so called “higher level collective agreements” - that means collective agreements, whose conditions are applicable within whole branches of economic industry. NGOs of all types are involved in counselling, litigation, educational activities - only their beneficiaries might vary considerably. In fact it is true that most of the organizations involved in litigation and lobbying are seated in bigger cities, but it is not the rule that it is the capital. Very important city with this respect is also Brno, where Constitutional court and Supreme court are seated. Also there are organizations who offer mainly practical assistance to victims, seated both in capital and in regions.

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)

In the Czech republic, the political weight of Trade unions is only important towards government, in respect of so called Council of economic and societal agreement (tripartity), the body associating employers, Trade unions and government. Most important questions of governmental policy and government- prepared legislation are discussed there. Otherwise, the political and societal weight both of Trade Unions and NGOs is not really big, especially towards companies and general public. The only exception again in this respect is the civil society aspect, used by developing successful activities in the area of legislative lobbying.

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)

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

Cooperation is taking place mainly in the area of campaigns, organising events and collaboration on case work.

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

Trade unions do cooperate together as well as with NGOs in the area of gender discrimination. The platforms representing the interests of gay and lesbians do cooperate with organizations working on gender issues.

11. How are these NGOs funded?

a. Do they receive state funding?

State funding resources are available mostly in the area of social services and development of national minorities, where some part of anti-discrimination agenda might be funded. The most important funding resources for NGOs are EU programmes.

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

The general conditions include usually the organizational form (only civil assemblies, churches or registered religious assemblies, commonly beneficial assemblies or foundations, might be entitled to apply); other conditions usually include not to have debts on social security payments and taxes, not being required in the past to repay state funding due to failure to proper reporting or fraud.

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

The portion of private funding for NGOs consist mostly of foreign private donor funds, private funding of Czech donors is still not very popular in the Czech republic. The local private donors do not usually fund the area of Human Rights, and prefer to donate to culture or public investments (such projects as for example a foster home library, concert for disabled etc.).

d. Do private funders impose any restrictions or conditions?

The conditions are similar to these imposed by the state.

12. How are these trade unions funded?

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

The conditions for receiving state funding is for Trade unions practically the same as for NGOs.

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

There are not Trade unions who would openly admit to be funded by the political party. However, some financial links between political parties and Trade unions cannot be excluded.

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

In fact, Trade Unions do not have any special right to public funding, they are in this respect on equal footing with NGOs and other non-profit organizations when applying for state funding for specific projects. In all other respects, they must be sustainable on the basis of their members fees and their property returns.

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

There is not any impediment for Trade unions to participate on these resources of funding.

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?

For NGOs, this certainly is a factor. The same could be said about Trade unions, but their situation is financially more stable, because they usually own property (mainly immovable property).

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

a. Neighbouring countries?

Yes. But usually these are the contacts with larger NGO's/Trade unions, who are doing networking. For example, the Czech-Moravian Confederation of Trade unions does maintain international cooperation with International Labour Organization, International Confederation of Free Trade Unions, European Trade Union Confederation, Deutscher Gewerkschaftsbund, Österreichischer Gewerkschaftsbund, Konfederácia odborových zväzov Slovenskej republiky, LIGA Szakszervezetek (Hungary), Solidarnosc (Poland).

There are some NGOs cooperating with European Roma Rights Centre, based in Budapest, or who are members of European umbrella organizations and platforms such as ILGA, AGE, ENAR or MDAC. There is also cooperation with national organizations in Austria, Italy or Spain and others in the framework of EQUAL projects or transnational projects funded by European commission.

b. Other new EU Member States?

Yes. But usually these are the contacts with larger NGO's/Trade unions, who are doing networking or maintain personal contacts. The Czech important body associating national Trade unions does maintain cooperation with the Confederation of Independent Trade Unions in Bulgaria, Confederation of Labour Podkrepa, Bulgaria and Association of Free Trade Unions of Slovenia.

c. Others?

The contacts very often include old EU member states, who are usually members of different partnerships developed within EU funded projects. The Czech-Moravian Confederation of Trade Unions does maintain cooperation with Vlaamse intergewestelijke (Belgium) Confédération Française Démocratique du Travail, Confederazione Generale Italiana del Lavoro, Confédération Générale du Travail, Confederația națională a sindicatelor libere din România Fratia, Federatie Nederlandse Vakbeweging or Irish Congress of Trade Unions.

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

It does not seem that there are such activities taking place in international scope. When some occur, they are of rather exceptional character.

16. Can they work in English?

For small organizations, English might be a barrier, the same as for example organizations of elderly people who often function on voluntary basis and did not have enough chances to use English as a language during their active-working life.

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?

There are not any Trade unions in the Czech republic where there would be such evident links to political parties.

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

Theoretically they can (these are not “branches” but Trade union member organizations), and often they would have much closer link to concrete discriminatory manifestations than the sheltering Trade unions.

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

19. What kind of work do they do?

Both NGOs and Trade unions do take up individual cases and are involved in legislative lobbying, including the area of discrimination. They are involved in educational activities, occasionally also in public awareness raising and campaigning.

20. Do they take up complaints of discrimination?

The NGOs usually do not represent victims at courts, but hire attorneys to do it or the NGO activists represent victims directly; Trade unions run their own systems of legal assistance and counselling, including legal counselling for all workers and court representation in cases of their members.

21. Do they focus on their own community?

Trade unions provide selected services for their members only (for example legal representation), some for all workers (for example, counselling. All NGOs focus on target groups corresponding to the concrete projects, but these do not correspond to their members.

22. Do they work with victims directly?

Both Trade unions and NGOs do work directly with the victims.

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

In theory, Trade unions could represent any worker, regardless of his/her membership in the Trade union.

24. Do they do ‘case work’?

Especially “Human Rights” NGOs do casework.

25. Are they able to access state funding for casework?

There is not any state funding expressly dedicated for case work, although case work could be done in projects with financial sources in “social services” state funding programmes.

26. Does this include legal representation?

Again, state funding does not usually provide for budget lines for legal representation. Usually, funding for legal representation can be obtained from state budget in limited extent as “legal services”.

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

The provisions on the right of associations to represent victims were inserted into the Civil Procedure Code (2002), although they are not frequently used. The NGOs/Trade unions do more frequently engage in litigation on behalf of victims indirectly, that means the victim gives powers directly to the attorney and NGO/Trade union is covering fees of the attorney, and in reasonable cases also court fees. This approach does not disburden the victim of the duty to pay legal costs if the case would fail.

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

There is not class action allowed on national level in the Czech republic.

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

As was mentioned above, the NGO providing assistance to victims do very frequently provide also social assistance and assistance to potential victims of discrimination. The Trade unions do prefer to be involved in educational activities, what to certain extent encompass also preventive assistance.

30. Do they advocate changes in legislation and policies?

Both NGOs and Trade unions are engaged in advocacy for changes of legislation and legislative policies. For Trade unions this activity can be performed relatively more easily, because of membership of Trade unions in the Tripartity (Council of Economic and Social Agreement), while NGOs perform this activity mostly by legislative lobbying in the Parliament, and through membership in the counselling bodies of the Government (typically Council for equal opportunities of women and men and Council for Human Rights.)

31. What are their relations with the central government?

As regards Trade unions, their relations to the government are institutionalized enough by the membership in the Council of Economic and Social Agreement. As regards NGOs, situation is more complicated and differs considerably from one organization to the other, depending on how critical and also constructive is the approach of the organization, how helpful the approach of concrete governmental body, how far is the organization seated from the main capital. Generally said, the NGOs do usually co-operate closely with the Public Defender of Rights (Czech ombudsman) and with Human Rights Deputy office, but sometimes they encounter difficulties to communicate with effect with ministries and other central state administrative bodies.

32. With regional governments or municipalities?

The relations of NGOs (both grass-root organizations and organizations from the capital) representing the rights of Roma minority can be really difficult, but the situation seems to be improving each year, as the municipalities and NGOs are improving their mutual communication.

33. For the trade unions, with the employers organisations?

The communication in prevailing number of cases on issues of collective bargaining, where the contacts are institutionally settled and without serious difficulties, however, they focus on issues of general worker protection and bargaining on wages, but do not usually address expressly issues of discrimination.

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

Nearly all NGOs do maintain close contacts with ombudsman (Public Defender of Rights). Czech republic did not implemented the European directives properly and therefore it does not have specialized body yet. The powers of Public Defender of Rights apply to state administration, and more recently, to placements to institutions where *de facto* or *de iure* personal freedom of individual is limited. Although these areas of power do not explicitly include victims of discrimination, Public Defender of Rights does try to address also these issues where they emerge.

35. What are the qualifications of the staff?

The Human Rights NGOs usually employ lawyers and social workers. The small organizations do often act on voluntarily basis with activists of differing professional background. The specialized NGOs also employ medical personnel. Quite often, NGOs cannot employ qualified personnel for full time contracts and contract experts working for more institutions. Trade unions do not usually encounter any problems with securing qualified staff on full time basis.

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

Besides the required higher education, many members of NGO/Trade union staff already received specific training in antidiscrimination litigation provided for by different initiatives funded from other EU countries resources.

37. Are they trained in writing funding proposals and reporting?

There are frequent opportunities for any interested individual to participate in seminars or courses on this topic for free or for fees on quite acceptable level.

38. How do they evaluate their “success” and the quality of their anti-discrimination work?

The success and quality of work is usually measured by whether the cases are win or lost and legislation changes done (in activities involving litigation and lobbying) and by evaluation made by the members of target groups (educational, awareness raising and campaigning activities).

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

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

Funding is one of the main problems faced by all NGOs in the Czech republic, as the funding resources are still unstable. The situation is considerably better for Trade Unions, who often have their own resources from rental of property etc., and can secure more safely funding from EU structural funds. The NGOs do lack funding to secure their everyday administrative functioning in the first place. With regard to antidiscrimination work, most difficult is to secure good quality cases for litigation, as the litigants always bear the risk of being awarded the duty to pay legal costs of the other party.

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

The NGOs usually have scarce resources to employ more experienced personnel, although the situation considerably improved during the last year. For the Trade unions, the situation is better as they are considerably more financially independent. However, the Trade unions do not engage so much in strategic litigation as the NGOs do. The reason might be that it is always easier to find litigants in cases of discrimination in access to services or housing than in labour relations, where individual litigants are more vulnerable.

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?

It is very difficult to answer this question, as there is in the first place a lack of national legislation, which is the necessary prerequisite for the staff to apply their skills and knowledge.

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

In the past, NGOs most appreciated the training of practical techniques to be used in combating discrimination. That means: 1) what regards casework and litigation - how the NGOs/Trade unions should act where concrete discriminatory conduct occurs, how they should collect evidence, how they can evaluate the merits of the case, how they can pick up *prima facie* case; how they can use the shift of burden of proof; 2) with regard to legislative lobbying, awareness-raising, education and public campaigning – what are the best ways to introduce the problems of the disadvantage to the public.

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

There is not any real antidiscrimination legislation in the Czech republic at the moment, except in the area of labour relations and access to employment. At the moment there is very wide range of opportunities for training in the different skills needed for practical use of national legislation, corresponding to the needs of small organizations as well as organizations specializing in more global human rights issues.

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

Trade unions are themselves providing training opportunities as a part of their programmes, as well as the Human Rights organizations do.

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

These techniques are not quite often lectured during trainings. Especially Human Right NGOs have often their own lawyers, who are quickly able to develop corresponding skills. However, this type of training is lacking. Trade unions do have specialized departments, where they have experts specialized in writing legislative and policy proposals.

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

Objectively, every skill could be supported by simply doing more to improve it.

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

This is definitely very important, but for NGOs/Trade unions is crucial to realize and develop strategies how to work with victims and clients.

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

As regards Trade unions, they have ready developed institutional opportunities to work with government, they have departments specialized in legislative drafting. Most of Human Rights NGOs does a lot of cooperation work with the government, they draft and formulate proposals. Local NGOs are most frequently assisting individuals in presenting their complaints to governmental bodies – most often to the Public Defender of Rights (Ombudsman).

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

Definitely, it would be important if the Trade Unions could do more antidiscrimination work focusing on companies and good practices which could be implemented by them.

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

According to my evaluation, there were quite successful projects of campaigns against racial discrimination (funded by the government). However, this cannot be said on awareness raising and campaigning with regard to other grounds. The NGOs would definitely appreciate the examples of good practices in this area.

51. What would they need to develop?

Most importantly, they need to develop trust that anti-discrimination activities can have real effect - that means to show them very practically how to do successful antidiscrimination work – advocacy, assistance, legislative lobbying, influencing of policies or campaigning.

Ground	Types of NGO’s	Legal advice, assistance and lobby
Disability	<p>Usually specialized NGO’s representing the interests of group with one concrete type of disability.</p> <p>mental disability and mental illness http://www.rytmus.org/ http://www.dobromysl.cz/ http://www.spolecnostduha.cz/ http://www.vidacentrum.cz/ http://www.fokus-praha.cz/ http://www.nadacebona.cz/</p> <p>physical disability http://www.invahelp.cz/ http://www.vlastnicestou.cz/ http://www.pohoda-help.cz/ http://www.prosaz.cz/</p>	<p>The NGO’s are providing direct assistance to individuals (i.e. psychological support, training, social services, direct assistance etc. Sometimes also general legal advice is provided, even when not focusing directly on discrimination.</p>

	<p>hearing disabilities http://www.neslyfici.cz/</p> <p>sight defects http://www.kafira.cz/ http://www.tereza.fjfi.cvut.cz/ http://www.sons.cz</p>	
Religion	<p>Different situation for “traditional” churches and other religious groups. Groups from more recently founded or emerging religions might encounter problems amounting to discrimination; their members are more probably to be foreigners, some restrictions with respect to setting up associations could apply; discrimination might occur in recruitment, at the workplace, contracting goods or services etc., where the individuals dress differently in compliance with the religious requirements.</p>	<p>“Traditional” churches set up organizations involved in charities, other kinds of humanitarian work, social, health and educational services. Organizations representing other religions are not – according to our knowledge - involved in activities as advocacy or lobbying, as they are afraid of xenophobic reactions.</p>
Sexual orientation	<p>The NGO’s /platforms, mostly represented by activists-volunteers.</p> <p>http://www.004.cz/ http://www.lesba.cz/ http://www.bengales.cz/les-uvod/ http://www.stud.cz/ http://gales.wz.cz/ http://www.partnerstvi.cz/ http://www.gl.cz</p>	<p>Main efforts focus on the lobbying activities to enact legal framework to govern same-sex couples registration.</p>
Age	<p>Several senior organizations, as well as charities and organizations providing care and assistance for elderly people.</p> <p>http://www.zivot90.cz/</p>	<p>Mainly educational activities, social and healthcare services. Sometimes legal advising for elderly people, not specially focusing on discrimination. They are not usually involved in advocacy, lobbying nor litigation efforts.</p>
Race/ethnicity	<p>Existing NGO’s assist Roma, migrants and refugees.</p> <p>http://www.llp.cz/subdomains/cz/ http://www.poradna-prava.cz/ http://www.infoservis.net/ http://www.mkc.cz/ http://www.clovekvtisni.cz/english/ http://www.soze.cz/ http://www.uprchlici.cz/</p>	<p>Direct assistance to the victims of discrimination, information campaigns, networking at http://www.migraceonline.cz/, where the research efforts play a key role, lobbying for the enactment of a new antidiscrimination law and litigation of discrimination cases at courts regarding access to housing, services and employment.</p>

Citizens Advisory Centres	<p>The network of CAC has currently 34 members.</p> <p>http://www.obcanske-poradny.cz/</p>	<p>Network extending over all regions of the Czech republic, providing free advice on most frequent administrative and legal issues. In more complicated cases, they refer the person to seek the help of an attorney or specialising NGO. They are not involved in the antidiscrimination litigation.</p>
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c) National legislation in the field of anti-discrimination

1. The transposition of the Directives into national law

There is not complete transposition of the two European anti-discrimination Directives in the national law. The proper implementation exists only within the scope of the Law no. 435/2004 Coll., on Employment, covering access to employment, recruitment, vocational training, re-qualification and re-training, and Law no. 361/2003 Coll., on Service by Members of the Security Services. Only these laws are within their scope of application fully implementing all requirements of directives, include definitions of discrimination and special action on protection of victims of discrimination. As regards the Labour code (Law no. 262/2006 Coll.), it contains only isolated equality provisions, supposed to be supplemented by the Anti-discrimination Law. The bill was not approved, and new draft bill has not been submitted to the Parliament yet. The Labour Code 2007 does not contain definitions of discrimination and the provisions on judicial anti-discrimination action are missing. There is also not complete transposition in the scope of the Law no. 221/1999 Coll., on Service by Members of the Armed Forces, where the definitions of discrimination are missing. The same could be said with respect to the legislation governing state service, which does not contain definitions of discrimination; the effect of this law was again postponed, this time to 1.1.2009. There are no anti-discrimination provisions nor definitions of discrimination in the laws governing the labour relations of judges, state attorneys, members of parliament, members of local government, and labour relations covering prisoners and volunteers. The provisions of Law on Employment do not apply to recruitment and vocational training for these occupations and to prisoners as well.

Where an occupation is conducted in a self-employed capacity (not in the form of employment) the anti-discrimination clauses and definitions in the Labour Code and Law on Employment do not apply. The laws governing self-employment are thus in breach of the Directives (i.e. laws governing self-employment for attorneys, medical doctors, notaries and many others).

In the Law on Employment, (which deals also with certain entitlements of self-employed persons to vocational training and re-qualification), the term “state of health” is considered a ground of direct discrimination, while the term “disability” is only used in the definition of indirect discrimination (Art. 2 Para. 1 subsection b) ii)). A social security office has the authority to issue a decision recognising a person as “disabled”. For other people, these entitlements do not apply. The Directives have not been transposed into laws on self-employment, which do not include definitions of discrimination. The material scope of the laws in this area includes all types of self-employment and occupations carried out in a self-employed capacity.

The Directives have not been transposed into laws governing vocational training, education and access to education. The School Law does only state that the equal access to education is guaranteed to the EU nationals and Czech citizens, and it should be not discriminated against them on the ground of race, colour, sex, language, religion or belief, national origin, ethnic and social origin, property, birth and state of health or any other status. There are no definitions of discrimination, except for vocational training where partly the scope of the Directives is covered by the Law on Employment (vocational training, re-training and special forms of re-training and occupational therapy for people with disabilities).

The “Racial Equality Directive”, with its broader scope has not been transposed yet into laws governing social protection, healthcare, education and access to goods and services including housing. No definitions of discrimination are given by these laws, the only provision introduced in 1993 by the Law on Consumer protection only states that the seller should not discriminate against the consumer (without any grounds specified). The Law on Consumer protection does not apply to the access to rental housing and access to health.

A general anti-discrimination clause can be found in the Charter of Fundamental Rights and Freedoms. The Charter is divided into five chapters, including a chapter on general provisions which establishes the equality of rights, the principle of non-discrimination which applies to all fundamental rights and freedoms and the principle of the rule of law. Article 3 of the Charter guarantees equality in access to fundamental rights and freedoms and includes an open-ended list, expressly prohibiting discrimination on the grounds of sex, race, colour, language, religion or belief, political or other conviction, national or social origin, membership of a national or ethnic minority, property and birth or other status. It does not specifically provide protection against discrimination on sexual orientation and disability grounds. The institutions – or one Equality body – still need to be established in order to implement requirements of Article 13 of Council Directive 2000/43/EC.

There was hardly any public discussion regarding transposition of the Directives. Often repeated arguments in the parliamentary debate labelled positive measures as something known more widely as positive discrimination or expressed doubts whether Czech republic does really need the EU Directives implemented in the way represented by the present bill.

As most notorious examples of discrimination or discriminatory practice occurs within the area of economic rights such as labour relations, education and access to goods and services. There is hardly any area where typical manifestation of discrimination outside of areas covered by the directives do appear. There were no opinion polls nor any comparable assessments taken to identify the position of public to the implementation of the Directives. Nor there is any important research initiative in academic institutions on the kinds of discrimination covered by the Directives.

In its recommendations to 5th periodical report, the CERD Committee mentioned the high percentage of Roma children in special schools as well as discrimination of Roma and racism as serious problems faced by the member state. It highlighted the efforts of the member state to draft Anti-discrimination law, but noted the difficulties encountered by the State during the legislative process. Also the Committee of CEDAW in its comments to 3rd periodical report to the Convention, expressed its concerns as regards the fact, that general Anti-discrimination law was not approved yet. It commented on the position of different bodies such as the Council for equal opportunities of women and men, gender focal points at the Ministries and other institutionalized measures, especially with regard to lack of decisional capacity, human resources and funding. It was concerned by the fact of deep and persisting stereotypes regarding the role of women in the society, lack of efficient legislation combating home violence, unequal representation of women and men in political life, and discrimination and exclusion of Roma women, including the facts regarding coercive sterilizations.

All these problems are known to NGOs and Trade unions, who are realizing many projects (very often also thanks to governmental co-financing) in order to address policy, societal and practical aspects of problems as is home violence against women, exclusion of Roma, launching public campaigns to fight prejudice and lobbying for effective national legislation to combat discrimination.

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

According to the Directives, there is a requirement that their implementation shall in no circumstances be grounds to reduce the level of protection already provided for under national law.

The European Court of Human Rights and the European Court of Justice (see section on Key Concepts) have made it clear that the protection of fundamental rights must be “practical and effective not theoretical and illusory”.

2.A Employment and occupation related - all grounds

Remedies at national level for challenging employment and occupation related discrimination on the grounds of race or ethnic origin, religion or belief, disability, age or sexual orientation as set out in national laws giving effect to Council Directives 2000/43/EC and 2000/78/EC:

- collective bargaining by trade union
- employer's internal grievance procedures
- administration channels including referrals to the labour inspectorate
- legal remedies including
 - i) civil law remedies
 - ii) administrative law remedies, represented for example by misdemeanour procedures.
 - iii) public criminal prosecutions

As regards the members of security forces, members of armed forces and individuals in civil state service, there are specific administrative procedures governing complaints and all sorts of decisions with respect to their service relations. Against the decision of the bodies responsible to decide in service relations, the administrative action could be brought to the Court. Also with regard to certain occupations, where obligatory membership to professional chambers is required, disciplinary proceedings can be brought by the Chambers against their members, governed by internal rules of these chambers. Disciplinary decisions of the Chambers could be challenged by the administrative action at the courts.

Applicable situations:

- advertising of posts
- recruitment procedures
- selection
- terms and conditions
- pay
- discrimination in the workplace
- dress codes
- working hours
- suspect groups e.g. part time workers
- workplace disciplinary procedures
- promotion
- allowances and bonus payments
- dismissal (procedural and substantive)
- social security payments (in as much as they are classified in EU law as “pay”)
- access to vocational training

There are some bigger companies establishing internal mechanisms handling the complaints of employees generally, sometimes called “company ombudsman”.

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

- a) The remedies existing at local or national level which are appropriate for challenging discrimination on the grounds of race or ethnic origin:
 - administrative channels
 - legal remedies including

- i) civil law remedies
- ii) administrative law remedies
- iii) public criminal prosecutions

b) Applicable situations

- education
- housing
- access to and provision of goods and services provided to the public, including welfare services, banking, insurance etc
- access to premises open to the public, e.g. restaurants, hotels, leisure facilities

c) Types of applicable remedies – employment and non-employment related

i. Judicial civil procedures (tort claim)

A victim discriminated against in access to employment can bring an action according to special provisions of the Law on Employment. Labour Code 2007 does not contain specific anti-discrimination action any more. A case in other fields than is access to employment can be filed under provisions on infringement of personal integrity (Personality protection action). The Civil Procedure Code and the shift of the burden of proof apply in both cases.

Section 11 of the Civil Code provides protection of the personal rights of individuals, mainly to life, health, civil integrity and human dignity, privacy, his/her name and expressions of personal character. It does not contain an explicit guarantee of protection against discrimination. Courts hold that direct discrimination always constitutes unlawful infringement.

Criminal judicial procedures

The Criminal Code sets penalties for crimes relating to racial discrimination and discrimination on the grounds of religion or belief.

Administrative judicial procedures

The Code on Administrative Court Procedure regulates the judicial review of administrative decisions. In theory, the revision of administrative decisions can be a result of discriminatory practice; on the other hand, the Court is also reviewing the decisions of administrative bodies, who identified as discriminatory certain practice of a petitioner.

ii. Administrative procedures

Relevant administrative procedures provide investigative powers for administrative bodies and inspectorates, as established within the scope of specific laws. They are empowered to impose sanctions for misdemeanours and administrative delicts.

Employment offices and Labour Inspectorates, using their powers in the area of employment and labour relations, and the Czech Trade Inspectorate, which controls access to goods and services, are competent to investigate misdemeanours and administrative offences involving discrimination and to impose sanctions. Natural or legal persons or employers who violate the Law on Employment or the Labour Code's provisions on discrimination may be fined up to 1 million CZK (approx. €31,949). Procedures can be initiated by a complainant or on an employment office's own initiative. In the event that a complaint is initiated, the complainant is not an actual party in the administrative procedure. Penalties become income for the state budget.

Administrative bodies and inspectorates established in other fields besides employment and trade inspection that fall within the scope of Directives 2000/43/EC and 2000/78/EC do not have administrative procedures to protect against discrimination. The same situation occurs with regard to professional self-governing organisations established to supervise specific occupations (e.g. the Czech Bar Association, the Union of Judges, the Czech Medical Chamber and many others). The Law on Service by Officials of the State Administration (Law No. 218/2002) provides for special investigative powers to be given to the State Service Office.

Czech Trade Inspectorate

Law on Consumer Protection refers to the powers of the Czech Trade Inspectorate (CTI). Under the Law on the Czech Trade Inspectorate, the CTI is authorised to inspect legal entities and individuals that sell or deliver products or goods and services. Though the CTI is required to collaborate with civic associations and use in its work complaints, information and petitions from private citizens, it can only initiate administrative proceedings after an inspection has been conducted. Evidence produced by the consumer can only serve as a reason to carry out an inspection.

Municipal Office's Misdemeanour Commissions

Only natural persons can be subjected to misdemeanour procedures, governed by the Law on Misdemeanours. Acts of discrimination can be sanctioned according to the provisions on misdemeanours against community relations. According to the law it is an offence to restrict or to deny the assertion of rights by members of a national minority or to cause harm to an individual because of his/her membership of a national minority, his/her ethnicity, race, colour, sex, sexual orientation, language, belief or religion. As with administrative proceedings, the complainant is not a party in this procedure (the one exception is where material damage was caused to his/her property by the misdemeanour).

iii. Legal representation and legal aid

The entitlement of associations with a legitimate interest to engage in judicial procedures is regulated as a special type of representation under Section 26 of the Civil Procedure Code. In matters regarding discrimination on grounds of gender, racial or ethnic origin, religion, conviction, disability, age or sexual orientation, a party can be represented in proceedings by a legal entity established according to a special law¹, where the protection against such discrimination is part of this legal entity's activities. Trade unions can also represent their members as parties to proceedings on any matter, with the exception of business or trade disputes. The entitlement of trade unions to engage in proceedings is not limited to matters of protection against discrimination.

A shift of the burden of proof in discrimination cases is permitted by the Sec. 133a of the Civil Procedure Code. For labour matters, the shift of the burden of proof is applicable in cases of direct or indirect discrimination on grounds of gender, racial or ethnic origin, religion, belief, conviction, disability, age or sexual orientation. The burden of proof is shifted in cases of direct or indirect discrimination on grounds of racial or ethnic origin in the provision of health and social care, access to education and vocational training, access to public commissions, access to membership of employer and employee organisations, access to membership of professional organisations and professional associations, and the supply of goods or services. Matters related to housing are not included. The provisions on the shift of the burden of proof can only apply where substantive law exists (such as definitions of direct and indirect discrimination) and that is not the case in some areas covered by Directive 2000/43/EC. In its recent judgment, the Constitutional court declared the Czech provisions on burden of proof compatible with the guarantees of fair trial vested in Czech Charter.

¹ Law No. 83/1990 Coll., on Citizens Assembly

2.C Where a choice of avenues for raising either an employment related or a non-employment related complaint exists, what are the criteria when selecting a forum?

In the Czech republic, there does not exist any choice of avenues for raising an employment related or unemployment related complaints. First, the only anti-discrimination action established in the Czech legal system is in the area of access to employment (covering recruitment, vocational training and re-qualification), and it logically cannot be used in the area outside of employment. There does not exist any anti-discrimination action applicable outside the field of employment. Outside the field of employment, the only option is to use Protection of Personality action, which is not anti-discrimination action in the strict sense, but it is rather general action to protect personal interests of the individual. As the material provisions of the laws are subjected to the principle of *lex specialis derogat legi generali*, the anti-discrimination action of the Law on Employment should be used where this law applies (recruitment, vocational training, re-qualification), while in all other areas only Personality protection action only could be used. From what was said it follows that it is also not possible to choose freely either employment-related anti-discrimination complaint or personality protection action.

In the area of employment, there exists a choice for the victim between the court action and administrative complaint to labor inspectorate or labor office. However, the victim could also choose to initiate both procedures at the same time. The advantage of administrative complaint is that it is free of any charge or costs, without risk of being due to pay costs of the defendant in case of loss. Other advantage of the administrative complaint procedure is that the complainant is not a party in the procedure, and therefore the investigation could be often completed and sanction imposed without disclosing the identity of the complainant to the perpetrator. That is very important for chance pursue further carrier in the same establishment. The disadvantage is that the “positive” result of administrative complaint could be only the punishment of the perpetrator, not any award of compensation to the victim.

The court procedures are characteristic by high costs, very slow process (in extreme cases the litigation takes 5-6 years) and completely unpredictable outcomes. This all represents very high risks for the potential litigants, not even discussing the high demands on evidence submitted to the court. Litigation at courts is therefore more suitable for strategic litigation, involving NGO or Trade unions as supporters of the victims, than for the real protection of individual equality rights.

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

With respect to civil actions, the time limit applicable is statutory bar corresponding to different types of claims. General civil law time limit according to the Civil code is three years. However, the statutory bar for right to damages is two years only from the date when the affected becomes aware about the damage and person responsible for it, but maximally after three years elapsed from the event causing the damage. Claim for damages caused intentionally can be executed within ten years time limit – this rule is not applicable to health damages.

First instance decisions of administrative bodies can be appealed within 15 days after their delivery, where the special law does not state differently. The action against administrative decision according to the Code of Administrative Judicial Procedure could be taken within 60 days after the decision on administrative appeal in question became binding.

There are not any time limits specified for submitting motions to initiate administrative procedures. However, it is in the interest of the claimant to submit the motion as soon as possible, especially as regards labour matters.

According to the Sec. 125 of the Civil procedure code, the admissible evidence includes all means which are appropriate to investigate the merits – therefore the parties could introduce evidence in any form – including such evidence as specific or background newspaper reports, etc.

There are not existing any bodies to provide assistance or information as regards discrimination and equal opportunities. General information and contacts to all courts in the Czech republic could be found at <http://www.justice.cz> ,all contact numbers and addresses of Labour offices <http://portal.mpsv.cz/sz/local> and Labour inspectorates http://www.suip.cz/cubp_ddw/drvisapi.dll?MIval=/www/index.html&v_wdt=1 .

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

Lack of legal aid, lack of pro bono legal assistance

In limited circumstances, legal aid is provided through court advocates and the bar association. The Court procedure, especially with regard to personality protection cases, is financially burdening and long. Processing of cases can last 3 years, but also 6 years is not quite exceptional period. The protractions are heightening costs to unbearable risky levels, what means that it is hardly possible for a victim (unsupported by NGO or Trade union) to bear these difficulties alone for longer time.

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.

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. (The Czech Republic has signed but not 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 1st 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 and 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 or 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 or trade union is not able to assist with, the NGO or 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

With regard to all instances where discrimination occurs in the Czech republic, the concepts of tolerance and plurality are often publicly perceived merely from the perspective of formal, not material equality. Thus, for example, more often than tolerance, assimilation is regarded to be optimal aim, and positive measures are viewed as breach of equality principle.

In this context, however, much needs to be done in order to get the general public understand basic principles of material equality, the reasons why certain groups need to be protected against discrimination law while other groups do not need such protection, why and where the needs have to be accommodated in order to enable members of different groups to reach effective equality. The knowledge of these basic concepts, and how they operate, is comparatively low within the whole society. It is therefore also very difficult to discuss implementation of EU directive, because the basic knowledge on the theoretical grounds is lacked within the whole society, including politicians.

The vulnerability of a group is specific because of its minority status, accompanied usually also by historically generated disadvantage and exclusion. In the first place in the national context in such situation are Roma, who are subjected to multiple discrimination in all areas of social life. There are also deeply rooted gender stereotypes influencing the disadvantaged position of women in the public and social life. The other disadvantaged group are migrants and also disabled. The positive action on behalf of disabled is viewed in the public as totally ineffective. The law also request the employers to provide reasonable accommodation for disabled at their own cost without specifying that these costs must not represent disproportionate burden. Certainly also elder people are discriminated against at the Labour market and often fall victims to home violence. As the religious needs are publicly viewed as something to be accommodated to secularized society, also the religious minorities are potentially endangered by discrimination.

As regularly each individual harbours his/her own specific prejudices, also the workers in apparently liberal NGOs or Trade unions do maintain their own. There is also no reliable research available in order to identify the prejudices harboured by groups who are discriminated against themselves with regard to other discriminated groups.

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

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

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

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

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

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

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 EU delegation does not provide any specific funding for NGOs/Trade Unions working on non-discrimination at national level, as this does not fall within their competency. However, they provide material help such as provision of conference and meeting rooms etc. for NGOs for free. As this fact is very well known between NGOs, they do have to book very long in advance before the expected event, as the interest is quite high.

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

The central government does provide funding for NGOs/Trade Unions in this respect. The only funding which is really specifically provided for NGO/Trade Unions working on Anti-discrimination was in past years:

- Campaign against Racism, funded by Office of the government with co-financement of European Union. This funding option is in this year wholly replaced by the European year for Equality; <http://www.vlada.cz/cs/urad/default.html>
- Equal Initiative, co-funded by the Czech government and European Commission, implemented by Ministry of Labour
<http://www.equalcr.cz/clanek.php?lg=1&id=1>
<http://www.mpsv.cz/cs/>

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?)

All these forms do include only direct project funding. There are of course further options for material support, such as provision of facilities for free, what is not in fact provided by central government, but rather by the regional administration. Besides this direct funding provided for anti-discrimination projects, the government provides other programmes where also anti-discrimination projects can be supported. These are mainly:

- projects of provision of social services, administered by the Ministry of Labour
<http://www.mpsv.cz/cs/>
- projects of criminality prevention, administered by Ministry of Interior
<http://www.mvcr.cz/bezpecnost/index.html>
- projects for development of minority culture, administered by the Office of the Government
<http://www.vlada.cz/cs/rvk/rmm/default2.html>

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

The conditions vary dependent on the type of funding, but it is not in fact very demanding to satisfy formal conditions. What is more serious difficulty with regard to the access to this funding is, that there is often not enough money to cover all projects which should be supported, or that the projects are systematically funded in lower amounts than requested (and lower than what is at the same time reasonable).

The conditions include usually filling form, submitting documents proving the existence of legal entity applying for funding, its annual balance sheet report, and annual report (natural persons being only exceptionally eligible) providing details on its funding history. The legal persons applying for funding are sometimes required to be of non-profit character (dependent on the type of funding) and to declare that they are not in-debt on social security and tax payments.

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

The Czech republic is not a federal country.

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

There are many possibilities for funding at the regional level, most of them, however, has their source in EU structural funding.

The most important of these is JPD3 Programme (European Social Fund) administered by the regional administration and Ministry of Labour. This funding is not exclusively dedicated to anti-discrimination protection but rather to provision of diverse services including social and educational services to the public, where also anti-discrimination projects can be funded.

On the regional level, also some amount funding for social services projects and projects of criminality prevention is available, the source being central government (Ministry of Labour).

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?

The private funding possibilities are scarce. The private companies do prefer to support cultural events and festivals from charity or social projects there is most popular funding possibility to support foster care and foster homes.

8. Are there any other source of funding?

There are private foundations (such as Soros foundation), who provide limited amounts of funding.

A very important source of EU funding of anti-discrimination programmes of NGOs is the Transition Facility Programme, administered by the Foundation for Development of Civil Society (Nadace pro rozvoj občanské společnosti) where the most important portion of EU funding for Czech NGOs anti-discrimination projects originates.

IV. Diversity Management seminar

Country Needs Assessment for Diversity Management (DM) in National Businesses/Companies

The term diversity management (DM) has only recently been introduced into the Czech language and it is now being translated as *‘řízení různorodosti’* (‘management of difference or diversity’) with a short note added explaining the expression. In journals focusing on HR development there have been several articles published in the last couple of years explaining and discussing the topic of diversity management. All of them try to explain the term DM and its basic principles, they gather information from foreign literature and their level of quality varies. Only a few of them mention specific examples of applied DM and even those write mostly about the foreign business environment. DM implementation in the Czech market is only just starting, however, the term DM is already known to HR specialists in larger international companies. In larger companies, which have a sufficient number of HR experts and up-to-date methods of HR development the employees are aware of DM. They discuss it and understand the diversity of employees in their own company. However, in many cases there is a lack of knowledge about methods which would enable the application of DM. There is also little known about European Union activities supporting DM.

The most discussed topic is the gender dimension. This issue started to be talked about more at the end of the 1990s. Today many NGOs are working in this field and do an excellent job. In Czech society gender equality was perceived as one of the top priorities of the EU, a priority strongly supported by EU guidelines and measures. Methods of applying gender equality in practice were introduced to the public through many projects within the framework of preliminary EU activities.

Ethnic diversity is often mentioned in connection with the Roma ethnic minority.

Other aspects of diversity besides gender and ethnic minorities are not perceived. Age will, however, become a very important issue soon because of its connection with the development of the labour market. The current demographic progress of Czech society is similar to the ‘old’ countries of the EU – the number of older people is increasing and people over the age of 50 are receiving better support. However, employers often act in favour of younger employees. Employers often say to people when hiring them that, “We are a very young and proactive team”. They use this phrase as a motivational expression. GDP in the Czech Republic is gradually increasing, economic development is doing very well and unemployment is low (on average eight per cent). Under these circumstances it is crucial to pay attention to life-long learning programmes and new advanced methods of HR development. Czech employers have already noticed the competitive advantage they gain with high-quality working teams with a low turnover. DM could be one of the tools to help with attaining this goal. DM focused on age diversity could become a tool for the motivation and stabilisation of employees in many successful companies.

From the social point of view, at the end of the 1970s and 1980s Czech society was stigmatised by an enforced uniformity. After 1989 many national differences between the Czechs and the Slovaks were discussed, which led to disintegration, followed by the break-up of the former Czechoslovakia into two separate states (1992): the Czech Republic and the Slovak Republic.

After 1995 another issue became more talked about – the situation of the Roma population. The reason for this was mainly very significant process of an increasing Roma population. There are lots of NGOs which have been operating recently in this area, many of them with excellent results.

In my opinion there is a lack of positive understanding of diversity. Diversity should be considered an enriching element for the development of the labour market.

No specific experiences of good company practices from the Czech environment have yet been described. DM is quite a new concept, not just for the experts, but also for people working in areas of

applied HR methods. In specialised journals articles can be found explaining the basic principles and examples of good company practice abroad.

For example, the journal *HR* (No 2, February 2008) was devoted to diversity. According to the opinions of the HR specialists working in prominent Czech and also international companies, people perceive diversity in their workplace, but they have not implemented any DM methods, as they lack specific experience. There is some experience of gender DM implementation – many large companies have integrated it into their HR strategy. The non-profit organisation Gender Studies a competition to choose the best company which is most successful in implementing and supporting gender equality.

The DM issue will be interesting especially for larger employers who are thoroughly enforcing an up-to-date approach to HR development and who are noticing changes in the Czech labour market. As mentioned above, the Czech Republic has an increasing GDP and quite a low level of unemployment. In this situation employers have to develop and stabilise their employees and minimise turnover. For well-prepared HR specialists DM can be a very interesting tool for an effective HR approach. This would work for companies with Czech funds, employing mostly Czech employees, but also for international companies employing people of many different nationalities.

*Diversity Management Seminar
Břevnov Abbey, Prague, 31 March 2008*

Design of the training

The translated manual was distributed to the participants. Although the businesses were directly invited by email and telephone, the number who registered represented quite a small proportion of participants (seven). The largest proportion of participants was represented by training and consultancy companies (15) and there was a medium-sized group of public service providers (eight). In the end 17 participants attended the training. The training was designed by the national DM trainer and commented on by the international trainer who also attended the seminar and was directly involved in the work with the participants. The venue was chosen and the seminar organised by the Counselling Centre for Citizenship, Civil and Human Rights (Counselling Centre).

Preparation of the seminar

Training seminar in Cologne

The meeting for trainers focused on the process and development of the DM seminar design and was intended to offer and recommend complementary materials on DM resources. The trainers were divided into working groups and each of them was instructed by an experienced DM international trainer. The members of the working groups were also able to share their experiences in the next phase of the seminar preparation via email.

Announcement of the seminar – the seminar was announced on the official website of the Counselling Centre and on the online information portal Econnect (www.econnect.cz). The advertisements were placed in one daily newspaper aimed at readers from the business sector (*Economic newspaper*, 18 February 2008) and one weekly (*Economist*, No. 9, 28 February 2008, page 69) and in the periodical of the employers' organisation (SPEKTRUM, Union of Industry and Transport, No. 3/2008).

Attracting and selecting participants – the participants from businesses were contacted via email and also directly by phone. More than 60 human resources managers and people with responsibility for human resources in companies were contacted.

Logistical arrangements – the venue was in a quiet residential area, in a hotel located in the courtyard of a Benedictine monastery. The conference room was adapted for interactive training (no tables, chairs placed in a circle). The lectures were accompanied by PowerPoint presentations.

Carrying out the seminar

The seminar took place at Břevnov Abbey, Prague, on 31 March 2008. The seminar was attended by 17 participants.

Business cases

There were no business cases available. Diversity management is a fairly new concept in the Czech context and there were no firms available who would be willing to present a business case.

Ratio of participants

Business 21%
Government 28 %
Employers' org 0%
Consultants 51%)

Process during the day – observations

The seminar began with the 'first contact' exercises: the giraffe and elephant fairy tale, which was complemented by further exercises presented by international trainer, Angelika Plett, focusing on showing the participants the importance of shared knowledge and skills for achieving innovative results. The seminar continued with a definition of diversity management, a facilitated discussion of how diversity aspects are perceived in the Czech context and benefits which can be brought by diversity management. After the coffee break the seminar continued with group work and a concluding presentation of the arguments for and against diversity management. The programme continued with an explanation of the application of diversity management principles in both large firms and small enterprises. The first part of the seminar was concluded with a presentation of eight practical steps for diversity in small enterprises and group work discussion on diversity in concrete form. The afternoon session was dedicated to the personal assets of diversity, with work in groups concerning the importance of diversity management for the participants' own organisations or enterprises and with an explanation of different levels of diversity management strategies: me, my team, my organisation.

Some participants would welcome more group work and less formal presentations. They also expressed their wish to learn more about the risks of implementing diversity and to have an explanation of methods for how to avoid these risks. They would appreciate a practical demonstration of diversity management implementation in businesses. They noted that, in practice, diversity management cannot be implemented in businesses based on generalised rules, but requires an individual approach. For the same reason, they would appreciate the presentation of examples of good practice. On the other hand, it was acknowledged that in the Czech Republic good practice in this respect are scarce, if not non-existent. The participants welcomed the materials distributed in Czech and English and the choice of venue. They appreciated the seminar as a good general introduction to new issues in human resources management, as well as the presentation and facilitation skills of the trainer. They very much valued the contribution of the international trainer, who presented interesting exercises during the initial part of the seminar. They found interesting both the presentation of the application of diversity management in small and large enterprises and the exercise on the positives and negatives of diversity. They would like to receive additional information and participate in further trainings.

Evaluation of the seminar

Seminar content (Rate aspects of the seminar on a scale of 1 to 5)	
I was aware of the participant profile for this seminar	2.8

I had the necessary knowledge and skills to take part	3.2
I was well informed about the objectives of the seminar	3.6
This seminar lived up to my expectations	3.7
The content is relevant to my job	4.7
Design	
The objectives of the seminar are clear to me	4.5
The activities stimulated my learning	4.3
The activities gave me sufficient practice and feedback	4.7
The difficulty level is appropriate	4.5
The pace is appropriate	4.1
Trainers	
The trainers were well prepared	4.2
The trainers were helpful	4.6
Environment	
The venue was comfortable	4.8
The training venue provided the necessary environment for me to learn	4.3
The training venue was equipped for wheelchair access	4.8
The meals and refreshments provided were good	4.9
Materials	
The materials provided were relevant and useful	4.7
Results	
The objectives of this seminar were accomplished	4.1
I will be able to use what I learned in this seminar	4.5

Rate the aspects below on a scale of 1 to 10	
Presentations	8.2
Discussions	8.6
Time	8.6
Team work	8.4
Venue size and accessibility	9.1
Length of programme blocks	8.2
Proportion presentation/discussion	7.8
Expectations	7.7
Seminar organisation	9.0
General level of satisfaction	7.8

Improvements to the course

The participants proposed the seminar should include more practical activities, case studies and group work. They appreciated the trainers' presentation skills. Two participants proposed a more in-depth approach. Some of them would be interested in receiving more frequent information on DM.

Main lessons learned

The seminar was attended mostly by participants who work as project coordinators in consultancy firms and only a minority came from the human resources departments of businesses. This was the result of low awareness about the importance of diversity management for the culture of Czech firms. We hope that this situation will gradually change, thanks also to consultancy firms who can transfer their positive experiences from the training to their consultancy and other services they offer to companies. It was also apparent that the follow-up training should focus on the specific circumstances for individuals and enterprises, in order to exploit participants' knowledge and experience and show how diversity management could change the business culture of a specific enterprise.

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.