



**Tallinn Centre for  
Legal Information on  
Human Rights**

**NATIONAL ACTIVITY REPORT ESTONIA  
ANTI-DISCRIMINATION AND DIVERSITY TRAINING**

**Tallinn Centre for Legal Information on Human Rightsn**

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

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

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## **II. Introduction**

During the project the national coordinator, in partnership with the international and national trainers team, organised three seminars for various target groups and with different objectives.

The trainings were carried out by qualified, specially selected and trained trainers. For the AD component a team of trainers consisting of six individuals, among whom were representatives of civil society and experts on all grounds of discrimination and representative of the national equality body specialising in equal treatment. For the diversity management component, a national trainer representing the Estonian Employers' Confederation was recruited.

For the best realisation of the project the country expert developed and amended information for the country, which was then translated into Estonian and into Russian. The DM trainer also provided a country needs assessment to be used for the design of the training and to address all key country issues.

The first seminar took place on 25-26 October 2007, in Viimsi, Estonia. The event was a training seminar for activists from NGOs working against discrimination on various grounds (age, disability, sexual orientation, race, religion or belief) and trade unions. The total number of participants was 36.

Despite the attempts made by the team, the majority of participants were from an NGO background and only one participant (though three registered) were from a trade union background. The background of NGOs participating was quite wide – they represented all grounds of discrimination. No less than 50% of participants came from outside the capital of Estonia. Equality body representatives and authorities participated as well. The seminar took place in two languages: Estonian and Russian (in order to guarantee participation by both Estonian and Russian-speaking activists).

The anti-discrimination follow-up training took place on 27-28 February 2008 in Pirita, Tallinn. The training seminar was a second meeting for those participants who took part in the first seminar during the pilot project in 2005 and the first seminar within the framework of the same project in October 2007. As previously, the target group was anti-discrimination NGOs (all grounds of discrimination as contained in the Directives) and trade unions. The total number of participants was 24, the majority of whom had participated in 2007 and several in 2005. As previously, the number of trade union representatives was extremely low. No less than 50% came from areas outside the capital. Equality body representatives and authorities participated as well. The event took place in three languages: Estonian, English and Russian (in order to guarantee participation by both Estonian and Russian-speaking activists).

The third seminar organised was the diversity management seminar. It took place on 13 March 2008 in Pirita, Tallinn. The event was aimed at business people, i.e. entrepreneurs, HR and PR specialists and providers of public services. The total number of participants was 18 (39 registered).

The participants were from various sizes and types of companies, the majority of them from Tallinn. The seminar was carried out in three languages: Estonian, Russian and English (in order to guarantee participation of both Estonian and Russian-speaking activists).

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

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

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

For the realisation of the anti-discrimination seminars, manuals were developed by the international team of experts in 2005 and managed by Human European Consultancy. The manuals were prepared for the trainers and separately for the trainees. They included general information about the Directives and various techniques of anti-discrimination work etc., as well as the national module developed by the national country expert to address the specific national needs of the countries participating.

For the seminars in 2007 the national country expert was requested to provide an update on the national situation, a funding chapter and a mapping section and to develop a completely new trade-union-related section. The manuals (in 2005), updates and trade union section were then translated into Estonian and specifically for Estonia into Russian. The majority of the additional materials distributed during the seminars were translated into these two languages (case studies, Directives etc.).

During the first seminar the content was basically as provided in the manuals and proved adequate for the beginners and those already involved but requiring more proficiency. The most important information was presented and concerned both the EU and local level as well as good tips for activities and ideas for reflection.

For the follow-up seminar the team of trainers developed case studies to be distributed among the participants and discussed during the working groups. The case studies covered all grounds of discrimination in order to ensure equal work on all the grounds and were distributed randomly among the working groups. As a result all grounds of discrimination were addressed.

The trainers also tried to provide the audience with a synergy of more theoretical and specific material which they would be able to use in their everyday work and practical advice and comments in order to show how the theory can be implemented in practice. The agenda also included several workshops, brain-storming sessions and discussions aimed at exchanges of experience and networking. Several participants were also offered the opportunity to talk about the projects they have carried out using the knowledge and skills gained from the first AD training. It may be said that the follow-up seminar was more specific and more focused on the needs of a specific country. It allowed more time for discussion and cooperation. This proved to be a very good aspect of the seminar and was highly praised by the participants.

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

The preparation of the seminar started in 2007.

The preparation started by recollecting the procedures of the training in 2005 and looking through the evaluations from the participants. This was found to be very important and useful for the better realisation of the tasks in 2007.

After the first training seminar training the evaluation forms were studied and conclusions drawn. The team also discussed their perceptions and the feelings they had during the event. Gaps were identified and the benefits and challenges for the follow-up noted.

The preparation seminar for the follow-up took place several weeks prior to the seminar itself. All members of the team, including the country expert and international trainer, actively participated. At the preparation stage the trainers developed hypothetical case studies to be considered and discussed during the seminar. Unfortunately, the situation in Estonia is such that there are no cases of discrimination which have been ruled on by the judicial institutions or the Chancellor of Justice who serves as an equality body.

The case studies addressed all grounds of discrimination and it was decided that it would be important for them to be dealt with randomly, so that the participants would have the chance to work on cases which were not from their specific sphere of work. It was also decided which key concepts it would be useful to address in respect of the local situation and which of the trainers would be responsible for which of these concepts.

Advertising for the seminars started about one month prior to the events, due to local specifics. In general it can be said that in Estonia participants start to register shortly before the event, therefore there is no reason to start advertising very early. The recruitment was carried out by the national organising NGO. Various methods were used: personal contacts, a number of networks of NGOs including the union of NGOs, contacting former participants in seminars carried out by the organisers, newspaper articles etc.

The organisers tried to observe gender and regional balance during the selection process, also giving priority to participants coming from outside the capital and with reference to the motivation of the applicants.

For the follow-up seminar the lists of participants in the seminars in 2005 and 2007 were used. As there were free places left after the final deadline the organiser, after consulting the team and the international trainer, took the decision to allow participation by NGOs which had participated previously but represented by new people.

### **Carrying out the seminars**

The procedures during the seminars can be described as a synergy of theoretical background lectures, workshops, brainstorming sessions and discussions. Space was deliberately made for exchanges of experience, especially during the follow-up seminar when a special session was dedicated to the anti-discrimination projects (successful and not so successful) which were run by the participants after the first training and during which they were able to use knowledge obtained during the seminar.

The trainers undertook good team work both during the preparation and at the seminars. They were eager to support each other and open to sharing with the participants. This fact was greatly appreciated by the team members and also the participants who ranked the trainers very highly.

While during the first training some of the participants were rather aggressive and provocative, during the follow-up the group was very friendly both to each other and to the trainers. The participants were from various backgrounds, representing NGOs dealing with various types of discrimination. Some of them had a legal background while others did not. The majority of the participants were not yet actively involved in anti-discrimination work but had strong motivation to become involved. There were, however, also those who are working very actively on the issue and have lots of experience, among them representatives of pan-European networks such as ENAR, EWL, European Disability Forum and others. This fact gave additional strength to the seminar as it provided additional expertise and exchanges of experience.

It is important to note also that, despite the fact that the organisers and the team tried everything possible to recruit representatives of trade unions, their participation was minimal. For the first seminar three trade union representatives registered, however, only one took part in the seminar. For the follow-up the organiser allowed participation by the trade unions, despite the fact that they had not been involved in the first seminar. The primary agenda also had a special part dedicated to the anti-discrimination work of trade unions and a workshop on cooperation between trade unions and NGOs. Although the representative of one of the trade unions had initially agreed to make a contribution, two days prior to the event they refused, giving workload as the reason. Therefore in the follow-up there was also only one trade union representative, who first participated in 2005. It is very sad that the activeness of this group of civil society is so low. It is possible only to conclude that either Estonian trade unions do not engage in anti-discrimination activity, which is also supported by observations by other colleagues and campaign managers, or that they do not want to cooperate with NGOs.

In general it is possible to say that both seminars were successful and evaluated positively by the participants. They noted that the idea of having such seminars is good and useful for civil society. The content and materials developed and distributed were considered to be good and the work and proficiency of trainers high. Almost all the participants and trainers also noted the importance of addressing both the Estonian and Russian-speaking NGOs and making them work together in order to better understand each other's interests and needs. In fact these kinds of synergies do not often take place in Estonia, even though there are equal numbers of NGOs representing Russian and Estonian-speakers. Such seminars are very important and useful for civil society organisations in Estonia, especially for those from the regions rather than the capital. It was highlighted that although there are currently very few organisations that work on the issue of anti-discrimination, there are many more who would like to be engaged in this work but are unable to due to the lack of required training and support. The participants highlighted the problem of a lack of public funding for such activities.

Another emerging finding is that, despite the fact that Estonia has now been a member of the EU for several years, it is still the case that the broader public and NGO representatives in particular have as yet a very limited understanding of the processes and mechanisms of the work of EU bodies. Moreover, they are unaware about the procedures for the implementation of the Race and Employment Directives and the current situation in Estonia.

Finally, it was expressed widely that such initiatives as this seminar, with participation by experts and trusted individuals, should be organised more often. It was highlighted that dialogue and cooperation between NGOs working on different grounds of discrimination is important and should be initiated. The participants expressed regret that representatives of the trade unions are not involved or do not want to be involved in the activities, as they could provide more solid backup for employees.

### **Main lessons learned – seminars**

The main lessons learned during the anti-discrimination seminars and applicable to the Estonian situation were as follows.

Estonia is a country where the minority population is rather large and moreover the general society can be described as divided into two main groups according to ethnic background: ethnic Estonians and non-Estonians. These two groups are separate and therefore do not interact much either in everyday life nor in the work of civil society. It is important to provide a space for these two groups to come together and discuss the same issues. Dialogue should be maintained and common strategies worked out, with decisions taking into consideration the interests and ideals of both groups, no matter how difficult it might be. The representatives of human rights NGOs are more aware about the processes and needs of the society they represent and can serve as a starting point for negotiations.

During the seminars the participants expressed their will to work together in mixed groups and listen to the opinion of different linguistic groups and try to come to a common decision. This task can be considered as having been successfully fulfilled in the context of the event.

The second lesson learned is that it is also good to have a mixed team of trainers (Estonian and non-Estonian) as this also serves as an example for civil society of how team work can be done and what can be achieved. Moreover, among the trainers and experts it is good to have representatives of the state, in our case the expert from the equality body and one of the ministers (responsible for promotion of tolerance and integration). This fact adds credibility to the team, but also serves as a good contact point for the NGOs to address in their future work. This is especially important for those involved in anti-discrimination activities.

The exchange of experience component of the seminar was extremely useful for the audience. First of all it pushes participants to look at other forms of discrimination more practically, i.e. how it happens, what it looks like, who might be responsible, how do we ourselves behave and should we “plead guilty”? Secondly, it provides a chance to look at our own activities and understanding from the other perspective and try to implement the ideas into the activities of our own NGOs. It also provides a good opportunity to advertise the activities of a particular NGO and look for partners and support.

Anti-discrimination work is a complex web of activities and actions and for the best realisation of objectives and achievement of results it is therefore vital to maintain cooperation and support actions by NGOs working on different grounds of discrimination. Only then can there be a high level of effectiveness of the actions.

The last lesson learned applies to the Estonian trade unions and is a negative one. Despite the fact that in Europe trade unions play an important role in action against discrimination and also actively cooperate with NGOs, in Estonia the situation is different. The trade unions seem to be indifferent to this issue and do not want to be involved in any activities, especially with regards to the issues which are considered rather unacceptable by Estonian society, such as sexual orientation, race and religion. Moreover, the majority of trade unions do not act in partnership with NGOs and do not even try to maintain any kind of dialogue with them. This is extremely sad, as in civil society in Estonia, it is only trade unions which might be able to speed up progress.











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

### **Background information**

In Estonia there are certain important peculiarities of the situation as regards fight against discrimination. In 1990s the topic of human rights (in general) and discrimination (in particular) for both public authorities and for ethnic majority associated with the issue of the so-called Russian-speaking population and with concerns that international organisations and some foreign states (first of all the Russian Federation) raised in this regard. In the background there were rather rigid ethnic policies sued by official Tallinn in early 1990s. These policies were to promote repatriation and emigration of ethnic minority members settled in the country after the WWII.

Positive trends in the situation were registered in late 1990s with the adoption of official ethnic non-Estonians' integration program. Furthermore, after the adoption of the Race Directive and Employment Equality Directive (hereinafter the Directives) anti-discrimination issues were discussed by local legal specialists in the context of harmonisation of Estonian legislation with the *acquis*.

The process of harmonisation has enriched the non-discrimination discourse: It was finally accepted by the society that the problem of unequal treatment may concern groups other than ethnic minorities (e.g. women, disabled persons, senior citizens etc). In the beginning of the economic reforms in early 1990s disabled and elderly persons faced numerous problems due to the fact that the system of social protection failed to meet their basic needs. The situation was further jeopardised by their shrinking opportunities on labour market. Since late 1990s the Estonian authorities started to scrutinise their social policies regarding these categories of population. However, only quite recently the problems of disabled and elderly people were addressed in terms of unlawful discrimination.

During the Soviet period discrimination on the grounds of religion and sexual orientation was often based on valid legislation. There were drastic changes in this sphere after the collapse of the USSR when numerous restrictions were lifted (such as criminal liability for 'religious propaganda' or for homosexual intercourse). Very rapid improvements made it difficult for some religious people and representatives of sexual minorities to blame any types of discriminatory behaviour: Today any acts of discrimination might be perceived as very smooth as compared with Soviet-era persecution. Additionally, there are reasons to believe that Estonian society is much more tolerant towards religious and sexual minorities as compared with a number of 'old' EU member states (one of the reasons is a relatively small number of religious people in the country).

Regretfully, for many members of Estonian society the recognition of the problem of discrimination on any grounds seems to be a taboo. This is also a case for 'politically neutral' types of discrimination (e.g. unequal treatment on the basis of sex). In general, in Estonian society the level of awareness regarding discrimination issues is very low.

Estonian trade unions cannot play an active role in the field. After the demolishing of the Soviet economic system, their influence at the national level (and even more importantly: at the grassroots' level) has been diminishing. The situation was somehow better at large enterprises that survived the 1990s reforms. Anyway, today less than 1/10 of Estonian working population are trade unions' members. The most important trade unions are united in the Confederation of Estonian Trade Unions (Estonian abbreviation EAKL) or the Estonian Employees Unions' Confederation (TALO). These umbrella organisations are important social partners that regularly conduct negotiations with the employer's organisations and the authorities.

## **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?**

There are very few human rights NGOs in Estonia. Normally these NGOs deal with ethnic and national minorities and claim minority rights to be one of the fields of their activities. To the best of our knowledge only one Estonian NGO placed discrimination-related issues at the centre of its activities (Legal Information Centre for Human Rights - LICHR). Additionally, human rights NGOs that deal with legal counselling cannot ignore issues of discrimination on all other grounds.

In recent years organisations other than human rights NGOs started to work in the field of non-discrimination.

Estonian trade unions do not work in the field of non-discrimination (if not gender equality issues).

### **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)?**

Again, mostly pro-minority NGOs deal with discrimination. They work with the so-called Russian-speaking population. As far as the number of 'visible' minorities members is very small, only 1-2 of these NGOs pay special attention to the problems of discrimination on the grounds of 'race' and colour.

Until recently, NGOs that were organised by disabled people, elderly (retired persons) and sexual minorities did not explicitly address in their work the issues of discrimination. The EU accession process resulted in significant changes of the situation. At the moment some of the above-mentioned NGOs started to articulate their concerns and demands in terms of human rights and fight against discrimination.

The issue of religious discrimination is definitely marginal in Estonia. Religious people constitute a minority in the local society. The number of Muslims and Judaists is very small. Under such circumstances there are few objective preconditions for foundation of strong NGOs that will deal with the issues of discrimination on the grounds of religion or belief.

Trade unions may work on gender discrimination, if any.

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

Most of NGOs tackle anti-discrimination issues occasionally. To the best of our knowledge only 2-3 NGOs in Estonia collect information on discrimination cases in a more or less systematic way. They are NGOs that provide legal counselling and keep relevant statistics and cases-related information (e.g. LICHR). However, discrimination-related cases are extremely rare in Estonian courts. Lack of equality as such was mentioned in 10-15 cases tried in the National (Supreme) Court. Only 2-5 of such cases were prepared by NGO community. Practically, none of these cases refer to the problems of discrimination within the scope of the Directives.

We are aware about one case (2004) when trade unions were involved in quasi-judicial procedure in the equality body (Legal Chancellor's Office). However, this case concerned discrimination on the ground of membership in a trade union.

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

In Estonia there is a unified procedure for registration of NGOs and trade unions which seems to be easy. The number of NGOs in Estonia amounts to several thousands and trade unions to several tens. However, only few NGOs were engaged in non-discrimination related activities.

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

Estonian NGOs that work on anti-discrimination are rather small. In some of them the work is done by members of the organisation. Others may employ staff to organise their everyday activities. The staff of an average NGO varies from 1 to 10 activists/employees.

According to the information of the Ministry of Social Affairs (16.09.2006) trade unions' members make up only 8.5% in workforce and less than ¼ of all employers have workers who are members of trade unions. Larger trade unions may have thousands of members.

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

Estonian anti-discrimination NGOs are not united in a special national network.

In early 2000s there was an attempt to unite all human rights organisations in the Estonian Association of Human Rights. However, this attempt failed. The most active NGOs participate in the work of the Network of Estonian Non-profitable Organisations. Pro-minority NGOs leaders take part in the sessions of the Presidential Roundtable of National Minorities. There are several umbrella organisations of ethnic and national minorities in Estonia. However, they mostly deal with promotion of minority identity and culture as well as society integration projects. There are also several umbrella organisations of disabled people.

As it was mentioned above, most of Estonian trade unions are united in two umbrella organisations. However, none of them pays any special attention to the issues of non-discrimination.

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

NGOs work actively in all major urban centres of Estonia. However, the most efficient NGOs seem to be based mostly in Tallinn, Tartu and Narva (three largest Estonian cities). Trade unions are working throughout the country (however, they are better represented in urban centres).

The majority of ethnic non-Estonians basically reside in the capital city and in the Ida-Viru County near the Estonian-Russian border. There are plenty of pro-minority NGOs in both places. In Ida-Viru County the most active NGOs are united in an umbrella organisation called Roundtable of National Associations of Ida-Virumaa. However, most of these NGOs do not deal with discrimination-related issues.

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

There are no major differences between NGOs/trade unions working in Tallinn and in the provinces. However, regional organisations are more interested in establishing contacts with local self-governments.

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

The political or societal weight of these NGOs is quite modest. Their legitimacy as civil society actors is to be enhanced in the near future. As for trade unions, their role is much more noticeable while they have real opportunities to influence political procedures (e.g. active position during the election campaigns, contacts with the authorities, etc).

**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)**

In recent years the most efficient national NGOs organised special trainings to share the expertise with smaller NGOs and with NGOs from the province. Such trainings were organised by LICHR for pro-minority and women NGOs and for organisations working with victims of trafficking in human beings; by Jaan Tõnission Institute for NGOs working in the sphere of education and youth work, etc. However, even more important were seminars and workshops specially conducted to discuss discrimination-related topics. These seminars (with the involvement of NGO activists, public officials, local and foreign experts) were good fora for exchange of information. However, in practical sense cooperation of different NGOs normally take place in the frame of different short-termed projects. As it was mentioned above no special national networks or umbrella organisations were founded to work in the field of anti-discrimination.

The cooperation of trade unions with NGOs seems to be underdeveloped. However, trade unions' representatives may take part in their events and *vice versa*.

As for cooperation of trade unions, the system is quite centralised in Estonia while the most important of them are united in the Confederation of Estonian Trade Unions and Estonian Employees Unions' Confederation. However, trade unions do not pay any noticeable attention to the issue of non-discrimination (if not gender equality issues).

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

There was greater collaboration between different NGOs in relation to ethnic origin, disability and age. The problems of national and ethnic minorities, disabled persons and senior citizens were addressed by public authorities that adopted several policy documents. Adoption of these documents, consultations with relevant NGO activists and governmentally organised public debate created positive background for better collaboration in these spheres.

As for anti-discrimination work of trade unions, it was normally limited to gender equality issues.

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

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

NGOs of ethnic minorities united in umbrella organisations enjoy modest state funding.

As for human rights NGOs, most of them receive their funding from foreign donors. However, very limited recourses may also be provided by national and local authorities for legal counselling.

Certain limited state funding is also available to organisations of people with disabilities, youth and elderly, especially for those that participate in state sponsored grass-root projects (e.g. projects aimed at better integration of vulnerable groups into labour market, etc). Some projects can be funded through the *Riigikogu* Gambling Tax Council.



In Estonia a very important source of funding are different programs of foreign embassies.

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

Public funding is normally offered during a special tender procedure. In practice, with the exception of umbrella organisations NGOs are working on the projects basis with no or very few core funding provided by Estonian authorities.

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

The system of private foundations is undeveloped in Estonia. The most important of them is the Open Estonia Foundation (member of the Soros network). This foundation supported different initiatives in the field of human rights. However, financial resources of this institution have been diminishing in recent years.

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

We have no information about any restrictions and conditions imposed by private funders (other than deadlines and reasonable requirements to the form of an application).

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

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

There is no state funding available for trade unions (or it is very limited).

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

Political parties do not normally fund trade unions.

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

Trade unions mostly function with their members' fees.

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

Estonian trade unions enjoyed some funding from international (mostly European) institutions. Private funds normally do not support them.

**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?**

The lack of funding is the main factor that affects the work of Estonian NGOs. As a result smaller organisations heavily depend on volunteers' assistance. However, legal counselling has to be provided by professional jurists and there are few volunteers with legal educational background. The problem of fluctuation of trained personnel is one of the major problems of human rights NGOs as well.

Availability of only insignificant financial resources are also one of the main problems faced by Estonian trade unions. This factor may influence the size of permanent staff.

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

**a. Neighbouring countries?**

Few NGOs in Estonia have established contacts with similar organisations in Russia, Latvia, and Finland. They are mostly organisations that deal with ethnic minorities, migrants and refugees. To the best of our knowledge, in contacts with neighbouring countries Estonian NGOs prioritised international umbrella organisations that deal with different aspects of protection of refugees, migrant workers and irregular immigrants.

Estonian trade unions' umbrella organisations have good contacts and cooperation with Finnish partners as well as with similar organisations in Scandinavia.

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

These will be mostly contacts with neighbouring countries that acceded EU (Latvia, Lithuania). For trade unions Scandinavian countries shall be explicitly mentioned.

**c. Others?**

It is worth mentioning that Estonian organisations cooperate with similar NGOs/trade unions in 'old' EU Member states (e.g. the Netherlands, Denmark, Germany). Several Estonian NGOs have established contacts with CIS countries (e.g. Georgia, Ukraine, etc). In both cases, this cooperation is oriented at solution of the problems of 'clients' of Estonian NGOs.

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

Participation of Estonian NGOs in international level campaigning is rather limited. However, few of them took part in different EU initiatives (e.g. "For Diversity. Against discrimination"). A number of Estonian NGOs are included into mailing lists of UNITED ("I care"), MINELRES, etc. Few associations of disabled people, elderly, youth and sexual minorities are members of international or regional (European) umbrella organisations.

Estonian trade unions may participate in campaigns organised by pan-European umbrella organisations.

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

Basically, it depends on the location. In the capital few members of larger organisations are proficient in English. However, for any successful local initiatives use of Estonian and Russian (rather than English) is indispensable. English is normally not a problem for the *leading* staff members of umbrella organisations of NGOs/trade unions.

**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?**

Some Estonian trade unions are working quite actively with the Social-Democratic Party of Estonia. However, this cooperation is not tight enough to claim the existence of links between them. In general, trade unions only try to influence the political parties.

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

It is possible theoretically. However, this situation cannot be observed in practice.

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

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

Estonian NGOs/trade unions mostly distribute information regarding new legal regulation concerning non-discrimination at seminars, workshops, etc. Several human rights NGOs deal with legal counselling. For Estonian NGOs it is extremely important to establish and maintain contacts with national and local authorities to make visible concerns of the groups they represent.

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

To the date only few discrimination-related cases were prepared by Estonian NGOs/trade unions.

### **21. Do they focus on their own community?**

Activities of local NGOs are visible mostly to a social group/community they represent. For instance, the Estonian Chamber of Disabled People is well known among persons with disabilities, not in the society as a whole. In short, Estonian NGOs focus on their own communities.

Another characteristic of the Estonian third sector is a reflection of ethnic division of the society. Thus, there is a kind of division of all Estonian NGOs on the basis of the first language of their members and employees: some NGOs are working predominantly with Estonian-speakers and some are working only with Russian-speakers. This is true for almost all NGOs in the country regardless of the scope of their activities.

Most of trade unions are eager to be visible at the national level and to work in both linguistic communities.

### **22. Do they work with victims directly?**

Mostly human rights NGOs that provide legal counselling are working directly with victims of discrimination. However, the number of these organisations and the number of registered cases of alleged discrimination is very small.

Trade unions normally organise legal counselling for their members. However, none of them pays special attention to the issue of non-discrimination. This is also a case for gender equality in spite of explicit recognition of this problem.

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

On collective level, a trade union may represent all workers. On individual level they may represent non-members (and sometimes also members) only with their proxy.

### **24. Do they do 'case work'?**

Again, such work is mostly done by few human rights NGOs that provide legal counselling. Trade unions *may* do this work with the assistance of their legal counsellors.

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

There is no state funding for casework (if not limited resources distributed among non-commercial institutions by the Ministry of Justice).

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

Few human rights organisations that provide legal counselling are interested in litigation. For instance, LICHR provides legal representation in cases that could become a precedent (e.g. there were cases of discrimination of employees on the basis of official language proficiency).

Trade unions may be involved in legal representation of their members (and interested non-members). However, there is no information about such activities in non-discrimination context.

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

There are no special provisions in Estonian legislation allowing associations with legitimate interest to be engaged in judicial procedures in support of a complainant or on behalf of one or more complainants. However, in penal, civil and administrative court procedure, the workers of associations and other entities with a legitimate interest may be legal representatives of one or more victims of discrimination. It will be much easier for trade unions' representatives to be engaged in the judicial and quasi-judicial procedures. In conciliation proceedings for the resolution of a discrimination dispute at the Office of the Legal Chancellor, a person who has a legitimate interest in verifying compliance with the requirements for equal treatment may also act as a representative.

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

Class actions are not possible in Estonia.

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

Bigger organisations of disabled and elderly people actively provide social assistance to their members or representatives of target groups. This practice is not so wide-spread in case of ethnic, sexual and religious minorities.

Trade unions are normally dealing with legal counselling and potentially they may cover non-discrimination issues.

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

All active Estonian NGOs are eager to influence political decision making process. The main form of such activities is participation in different consultative bodies. For instance, for years many pro-minority NGOs' activists participated in the work of the Presidential Roundtable on National Minorities. This body advocated for introduction of comprehensive anti-discrimination protection system even before this problem was officially recognised by the authorities. Organisations of elderly and disabled are rather active as well.

One may note that organisations of sexual minorities are not so engaged in the process of consultations. However, there are positive trends in this field. For instance, few lesbian organisations decided to participate actively in different fora that discussed women's rights and gender equality issues.

As for religious organisations, the Estonian Union of Churches (now only Christian churches) do participate in consultations with the authorities on different issues. However, they are mostly concentrated on technical issues rather than on human rights and discrimination related problems.

Estonian trade unions, especially their umbrella organisation, are lobbying quite actively changes in law and practice. However, they have never emphasised the issues of non-discrimination in the scope of the Directives' protection.

In autumn 2006 the Ministry of Justice conducted written consultations with the Estonian third sector regarding the draft Law on Equal Treatment. Several non-governmental organisations/institutions and one of trade unions' umbrella organisations used this opportunity to raise their concerns regarding the national anti-discrimination legislation.

### **31. What are their relations with the central government?**

Estonian NGOs are very interested to work with the central government and its institutions. However, in most cases access to the highest political level is not so easy for them. Organisations of women, disabled and elderly established good contacts with the Ministry of Social Affairs, while pro-minority NGOs are actively working with the Minister for Population Affairs (this institution is responsible for integration-related issues).

In general the relations between the central government and NGOs are 'vertical'. NGOs participated in different governmental programs being institutions that received funding for a concrete project. Only in recent 3-4 years some of such projects do have an anti-discrimination component. There were reports that in recent years the police authorities have also established contacts with the third sector to make the fight against incitement of ethnic and racial hatred and violence more efficient.

Umbrella organisations of trade unions conduct regular negotiations with the central government (e.g. on the issue on minimal wages, principles of remuneration of certain categories of workers etc).

### **32. With regional governments or municipalities?**

The regional (county) level has no practical value in Estonia in the context of relations of the third sector and authorities. Just the opposite, the role of municipalities (self-governments) is very important. Several self-governments are very pro-active in their relations with local NGOs. Similar to the national level, these relations are encouraged by participation of NGOs in different consultative bodies. Additionally, several municipalities provide financial support to NGOs in the frame of various local programs. For instance, for many years the City of Tallinn funded legal counselling for people in need. The scope of such counselling may also include anti-discrimination issues. However, discrimination as such was rarely discussed at the local level in Estonia.

Umbrella organisations of trade unions may conduct regular negotiations with the local governments.

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

The contacts of trade unions with employers' organisations normally took place in the frame of the bi- or trilateral negotiations of trade unions, employers' organisations and the central government.

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

Estonian NGOs actively work with the local ombudsman institution (Legal Chancellor). Many NGOs use the right to file petitions with the Chancellor's Office if they have concerns regarding constitutionality of laws and other legislation (everybody has a right to file such requests with the Chancellor's Office in Estonia). However, Legal Chancellor's work with NGOs shall be intensified.

Trade unions have well established contacts with the Legal Chancellor. However, they apply quite rarely to him as an equality body.

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

In general, only few NGOs that are dealing with legal counselling and bigger trade unions are equipped with qualified staff. Additionally, there are few persons in the Estonian third sector and in trade unions who are knowledgeable in the field of discrimination.

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

A number of NGOs participated in trainings organised by the Migration Policy Group (in cooperation with Interights and European Roma Rights Centre) or by the Human European Consultancy in partnership with the Migration Policy Group. Some of their representatives held lectures on discrimination-related issues at workshops and seminars that were organised in Estonia in 2002-2006.

Fight against discrimination was a main topic of three international seminars organised by LICHR in 2001-2006. These seminars were an excellent opportunity for the local NGO community to listen to international experts in the field (e.g. a representative of the Netherlands Commission of Equal Treatment was invited to Tallinn by LICHR).

Non-discrimination training of trade unions' staff was rare and occasional, if any.

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

Only few Estonian NGOs are sufficiently trained in writing proposals and reporting. Additionally there could be a problem concerning poor knowledge of English (for most of organisations) or Estonian (for pro-minority organisations). In recent years several trainings were organised to provide local NGOs with necessary information in this field. For instance, in 2003 LICHR has organised a training for human rights related NGOs and for local public officials in the Ida-Viru County. However, in general there are still significant differences between the capital city and provinces.

Bigger umbrella organisations of trade unions are supposed to be much more experienced in this regard.

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

Only few NGOs publish regularly annual reports or similar information. Only few of them have a website with *regularly updated* information. Evaluation of positive and negative trends in one's activities was especially effective in those NGOs that had to do this work in the frame of different projects sponsored by foreign donors. However, most NGOs are rather inexperienced in this sphere.

The question is irrelevant for trade unions, while they do not deal with anti-discrimination work in a comprehensive way.

**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?**

The main problem faced by NGOs/trade unions involved in anti-discrimination work seems to be absence of official and societal recognition of importance of such activities in Estonia.

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

The lack of funding is among the main problems of all Estonian NGOs/trade unions, including NGOs dealing with anti-discrimination work (as far as without core financing activities of such NGOs will remain rather limited).

Estonian NGOs/trade unions do not face the problem of lack of staff as such. However, there are many concerns regarding lack of professional and well-trained specialists. This is also a case for NGOs/trade unions that provide legal counselling: Shortage in funds results in high level of fluctuation of trained personnel with legal educational background.

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

Again, lack of well-trained specialists is one of the main obstacles to the development of anti-discrimination work in Estonia.

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

Generally speaking, NGOs/trade unions need two types of training. First of all, there should be special study programs for lawyers to provide them with necessary knowledge of anti-discrimination legislation. As far as there are very few relevant legal norms in Estonia and they have only recently been adopted, the case-law and legal practice of Western countries will be of crucial importance in order to give these lawyers some guidelines regarding possible development of the local system of protection against discrimination.

Secondly, there is very limited experience on how to organise social work for victims of discrimination in Estonia. The system has not been developed as yet. NGOs/trade unions may play an important role in this field. However, their staff should be trained in order to be able to tackle with these issues.

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

The national anti-discrimination legislation is valid only since 1 May 2004. No sufficient training for NGOs was organised except for the project *Mapping civil society dealing with anti-discrimination* (2005) and some valuable training for NGOs of disabled persons in 2006.

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

Few representatives of Estonian NGOs/trade unions participated in trainings organised in 2002-2006. However, the number of such persons is still too small to raise the average level of awareness of the local third sector as regards European anti-discrimination law.

The lack of funding is the main factor that affects the work of Estonian NGOs. As a result smaller organisations heavily depend on volunteers' assistance. However, legal counselling has to be provided by professional jurists and there are few volunteers with legal educational background. The problem of fluctuation of trained personnel is one of the major problems of human rights NGOs as well.

Insignificant financial resources are also one of the main problems faced by Estonian trade unions. Again, this factor may influence the size of permanent staff.

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

Normally, cooperation of Estonian NGOs with the authorities in formulating policy proposals and legislative proposals was a result of sporadic activities, not comprehensive training. Some information in this regard was provided to NGO community at seminars and workshops conducted by bigger organisations (such as LICHR). Several organisations (e.g. LICHR, Estonian Chamber of Disabled People etc) as well as bigger trade unions are rather experienced in providing assistance in formulating legislative proposals.

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

Many relevant NGOs and trade unions do not understand the role they may play to promote the principles of non-discrimination in the society (especially through legal procedures).

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

Estonian NGOs/trade unions are not ready to play a more important role in promotion of anti-discrimination principles in Estonian society: They face lack of training, shortage of necessary financial resources and, last but not least, lack of understanding as regards the importance of anti-discrimination legal mechanisms. In the very beginning Estonian NGOs should be convinced that anti-discrimination cases may be solved in judicial or quasi-judicial procedure.

Estonian NGOs/trade unions should work much more with victims of discrimination. At the moment most of them neither collect relevant information nor provide victims with legal or psychological assistance.

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

Without doubts, trade unions shall introduce non-discrimination in the agenda of their daily work with employers and their organisations.

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

In Estonia non-governmental organisations might ensure that the problem of discrimination is prioritised by the authorities. NGOs/ trade unions shall make the government believe that problems of discrimination on any grounds should be solved in the frame of pro-active cooperation of public bodies and the third sector.

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

There are sociological evidences that the problem of discrimination (on any grounds) is invisible for the majority of the society. This is especially the case for ethnic Estonians: most of them claimed that they have never experienced discrimination on any grounds (including even such ground as sex).

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

It is hardly possible that Estonian NGOs dealing with anti-discrimination work will develop without significant financial assistance. Any developments of NGO community will be possible only on the solid financial basis. The next stage should be a situation when relevant staff members of such organisations are trained to deal with discrimination cases in terms of law or social work.



As a background for this work there should be pro-active measures to promote dialog in the society in order to raise its awareness about the problems of discrimination and new mechanisms of protection against it. Similar measures are needed for trade unions.

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

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

Before the accession of Estonia to the EU there was no detailed anti-discrimination legislation. Furthermore, most of the recent positive changes in this field were the result of harmonization of Estonian legislation with the EU law. These days in addition to generally worded anti-discrimination provisions in the Constitution and other laws, and as well as relevant criminal provisions, the structure of Estonian anti-discrimination law is shaped by three legal acts: Law on Gender Equality (adopted 7 April 2004; regulates solely the issues related to gender discrimination); Law on Employment Contracts (relevant amendments adopted on 22 April 2004); Law on the Legal Chancellor (relevant amendments adopted on 11 February 2003).

Initially there were plans to adopt a separate Law on Equality and Equal Treatment which would cover all required spheres of social life. However, the draft law elaborated by the Ministry of Justice has never been adopted. In early 2007 the same ministry submitted to the parliament a new and comprehensive Law on Equal Treatment. This draft is necessary to finalise the process of transposition of the EU anti-discrimination directives.

The 2004 amendments to the Law on Employment Contracts were very important. They included definitions of direct and indirect discrimination, harassment, instruction to discriminate and an articulated right to compensation for pecuniary and non-pecuniary damage caused by discrimination. However, the proposed definition of harassment was not in line with the directives because in Estonia it was worded as being applicable only in relations of subordination and dependency. Furthermore, Estonian lawmakers forgot to introduce specific provisions regarding victimization (adverse treatment of workers who made reference to the rights and obligations of non-discrimination). As for reasonable accommodation of disabled workers, some very general principles may be found in the Law on Occupational Health and Safety.

The amended Law on Employment Contracts prohibits 'unequal treatment' on the basis of sex, race, age, ethnic origin, language proficiency, disability, sexual orientation, obligation of military service, family status, family life obligations, social status, representation of employees' interests, membership in the employees' organisations, political opinion, membership in a political party, religious or other belief. A person who applied for a job is also protected by this Law. It is worth mentioning that this list of grounds is much longer than in the directives. Additionally, some scholars convincingly argue that any discrimination in employment is prohibited in Estonia by virtue of Article 12 (1) of the Estonian Constitution ("Everyone is equal before the law. No one shall be discriminated against on the basis of ethnic origin, race, color, sex, language, origin, religion, political or other opinion, property or social status, or on *other* grounds"- italics added).

We should also stress that the Law on Labour Contracts does not regard as discrimination privileges related to pregnancy and birth; taking care of minor children, disabled adult children and parents; related to membership in trade unions; related to disabled; considering person's sex, language proficiency, age and disability if it is justified; making appropriate arrangements related to work and free time to satisfy employees' religious needs.

In spite of all these positive changes the Law on Employment Contracts does not cover all types of employment as required by the EU law. First of all, this law does not regulate work of public officials, self-employment, access to occupation and to trade unions. Furthermore, Estonian legislation does not have detailed antidiscrimination rules in other areas covered by the Race Directive, such as education (but not employees' training), social protection and advantages, access to publicly available goods and services. This problem may be solved with the adoption of the draft Law on Equal Treatment, which is pending in the parliament.

The lack of comprehensive anti-discrimination legislation in Estonia was addressed by several international bodies. For instance in its Second Opinion on Estonia (2005) the Advisory Committee on the Framework Convention for the Protection of National Minorities argued that the country “has improved guarantees against discrimination in some sectors, but the proposed comprehensive legislation in this sphere has not yet been adopted” (section 188).

At this point we would like to enlist the issues of concerns raised by the UN Committee on the Elimination of Racial Discrimination (CERD) in its 2006 concluding observations on Estonia (69<sup>th</sup> session). It will give us better understanding of the Estonian situation in the light of the International Convention on the Elimination of All Forms of Racial Discrimination:

- non-recognition of non-citizens as national minority members;
- the Legal Chancellor (ombudsman and equality body) remains a limited instrument in terms of protection against discrimination;
- the absence of comprehensive anti-discrimination legislation, in particular legislation and regulations in the civil and administrative fields;
- some television programs portray discriminatory images of the Roma community;
- persons belonging to Russian-speaking minorities are disproportionately represented in the population of convicted prisoners;
- no right to be members of political parties for non-citizens;
- strict naturalization language requirements set forth in the Law on Citizenship;
- the high rate of unemployment among members of minorities, in particular Russian-speaking minorities;
- the high rate of HIV/AIDS among persons belonging to minorities;
- the limited proportion of Roma children who attend school;
- very few acts of racial discrimination prosecuted and punished by the authorities;
- very small percentage of bilingual programming at Estonian television.

The Third report on Estonia of the European Commission against Racism and Intolerance (ECRI) was published on 21 February 2006. ECRI strongly recommended “to prosecute hate crimes more actively and ensure that people convicted of such crimes are punished in accordance with the severity of their crime” and “to carry out awareness-raising campaigns throughout the country in order to ensure that law enforcement officials as well as victims of race hate crime are aware of the existence of Articles 151 and 152 of the [Penal] Code” (section 37). ECRI further recommended that the racist motivation of a crime is considered to be an aggravating circumstance at the sentencing stage of a criminal trial and those ordinary crimes with a racist motivation are classified as racist crimes. Anyway, the number of criminal investigations on the basis of Penal Code - Articles 151 (incitement to hatred) and 152 (violation of equality) - is very small. For instance, in 2006 there were only one investigation on the basis of Article 151 and no investigations on the basis of Article 152.

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

In Estonia a victim of discrimination can use criminal procedures (if s/he has suffered from crimes stipulated by the Penal Code), administrative court procedures (e.g. complaints against action by an official or state/municipal institution) and civil procedures (e.g. moral damage) to bring forward their complaints. Additionally, a person can file an application to quasi-judicial entities such as the labor dispute commissions and the Legal Chancellor’s Office. People may also submit in a much more simple procedure a compliant (*vaie*) against a decision of a public official to his/her chief (normally within 10 days).

In Estonia the Legal Chancellor was appointed an equality body. In case of discrimination by public institutions s/he may be involved as an ombudsman and the procedure can be initiated on the basis of an application from the victim or on the Chancellor's own initiative. The opinion of the Legal Chancellor regarding such cases will not be of a legally binding nature.

As a special quasi-judicial institution, the Legal Chancellor may deal with discrimination by private legal and natural persons in the context of a special conciliation procedure. The aim of this procedure is to reach an agreement between the victim and the person suspected of discrimination on the grounds of sex, race, ethnic origin, color, language, origin, religious, political or other belief, property or social status, age, disability, sexual orientation or on other grounds provided for in the law. The conciliation procedure can be initiated only on the basis of an application from the victim (but an alleged discriminator is not obliged to participate in it). The agreement between parties in a conciliation procedure is obligatory and enforceable by bailiff. It may also include an obligation to pay compensation. If the conciliation procedure fails, a victim may seek protection of his or her rights in court.

In conciliation proceedings at the Legal Chancellor, NGOs with legitimate interest to check compliance with the requirements for equal treatment may act as a representative of a victim. This provision has already been used in practice.

In 2004-2006 the Legal Chancellor received only eight complaints with requests related to the conciliation procedure. That may explain why the government supported the idea of creation of another proactive equality body – the Equality and Equal Treatment Commissioner (foreseen in the draft Law on Equal Treatment).

The Legal Chancellor was vested with other powers to promote the principles of equality and equal treatment:

- 1) to analyze the implementation of legislation to the condition of the members of the society;
- 2) to advise and inform officials and the general public;
- 3) to make proposals to the official bodies to change legal acts;
- 4) to promote co-operation between private and legal persons on an international and domestic level;
- 5) to promote the relevant principles in co-operation with other persons and bodies.

Additional information can be found on: <http://www.oiguskantsler.ee>

Complaints regarding gender discrimination can also be filed with the Gender Equality Commissioner, <http://www.svv.ee>.

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

The detailed anti-discrimination provisions can be found in Estonia in the field of ordinary employment, where a victim may address civil court or quasi-judicial bodies (the Legal Chancellor or the Labour disputes commissions). A public official may address administrative court or the Legal Chancellor. However, his or her case will be decided on the basis of general constitutional provisions and s/he shall take care of administrative court terms (they will not be suspended by the application to the Chancellor).

In Estonia in individual labour disputes workers are often assisted by trade unions (some of them provide their members with comprehensive legal counselling). There are good reasons to promote the involvement of trade unions into the fight against discrimination on the workplace.

The Law on Employment Contracts foresees shift in the burden of proof in discrimination cases. It is formulated in Estonian law as an obligation to give clarifications. If a person refuses to do that, the fact of discrimination will be deemed proved.

The anti-discrimination provisions of the Law on Employment Contracts are applicable to: entry into employment contract; payment of wages; promotion; giving of work-related tasks; termination of employment contract; opportunities of training, retraining and advanced training; and to *other* instances of employment relations. In other words, virtually all instances of relations on the basis of an employment contract are covered.

The labor dispute commissions follow a procedure established in the Law on Resolution of Individual Labor Disputes and the Code of Civil Procedure. Their decisions shall be based on law and shall be substantiated. If the parties do not agree with a decision of a labor dispute commission, they have recourse to the courts, which may hear the same labor dispute. The commissions cannot deal with financial claims that exceed 50 thousand Estonian crores.

In 2006 Labor dispute commissions received altogether seven complaints with demands related to discrimination. In one case victims of sexual harassment were awarded with compensation for moral damage equal to 10 thousand Estonian crores.

It is important to know that in case of discriminatory dismissals neither commissions nor courts may apply provisions of the Law on Employment Contracts regarding a limit on the total amount of compensation to be paid to an employee who waives reinstatement of his or her position (because such limits will not be in line with the case law of the European Court of Justice). Similar rules are valid for public officials.

The number of discrimination complaints in Estonia is small. At the same time according to the sociological study *Working Life Barometer 2005* (commissioned by the Ministry of Social Affairs), a noticeable share of respondents claimed that they have often, or from time to time, been at their present workplace witnesses of unequal treatment of other workers on the following grounds: older age (14%), official language proficiency (11%), younger age (11%), disability (8%), ethnic origin (6%), female sex (5%).

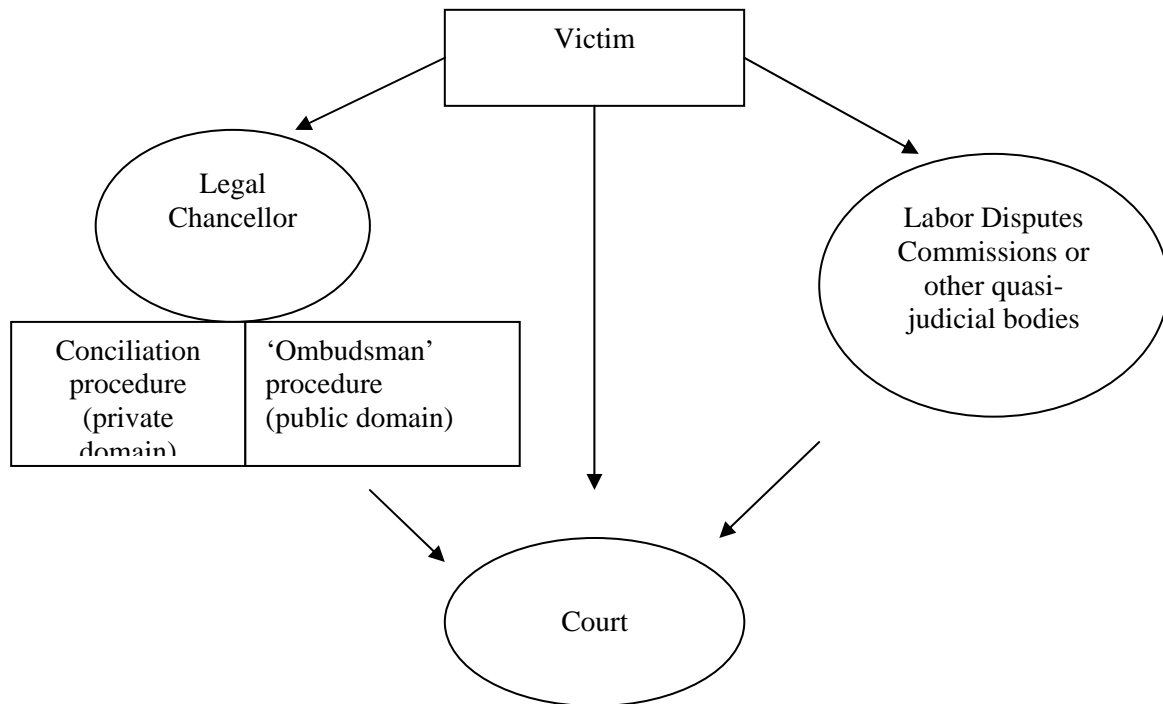
## **2.B Non-employment or occupation related - race and ethnic origin**

The national legislation has very few provisions to address the issue of discrimination in the areas outside employment. Again, it is important to quote Article 12 (1) of the Constitution which bans unequal treatment on any ground and in all spheres of activities which are regulated and protected by the State.

There were very few court cases in Estonia related to discrimination outside employment in the areas covered by the EU directives.

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

The question was addressed above. Schematically the answer may be presented as follows:



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

It is guaranteed that a person may file a complaint to the Legal Chancellor within one year in the case of discrimination by public bodies and within four months in the case of discrimination by private legal and natural persons. The Law on Employment Contracts stipulates that a worker may address a labor disputes commissions or court within one month in case of dismissal and four months in case of other disputes (however, three years if the case related to the payment of wages).

As for courts, the procedural terms may differ. It is important to know, however, that a complaint may be submitted to the administrative court *normally* within 30 days (and 10 days in disputes related to migration issues).

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

The Legal Chancellor is not supposed to give assistance to discrimination victims in the meaning of the Race Directive. However, the current Chancellor normally provides people who addressed him with information regarding their rights and opportunities available. This problem is tackled upon in the draft Law on Equal Treatment. If adopted, it will introduce a new body – the Commissioner of Equality and Equal Treatment – which will provide assistance to people pursuing their complaints about discrimination.

In general the vulnerable groups of Estonian society may experience the following problems in their access to judicial and quasi-judicial procedures: low awareness level, lack of legal knowledge and (for ethnic minorities) poor proficiency in the official language.

In order to solve these difficulties, the authorities offer them qualitative legal aid. The procedure to apply for State legal aid is quite easy and all necessary information is available on the website of the Ministry of Justice, <http://www.just.ee>.

Few Estonian NGOs provide assistance to discrimination victims, e.g. the Legal Information Centre for Human Rights (ethnic and racial discrimination), <http://www.lichr.ee>.

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

There are no specific features in the Estonian situation in this regard. 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**

There are no specific features in the Estonian situation in this regard. 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 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 made 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.

There are no specific features in the Estonian situation in this regard. However, some additional information may be received from the Estonian representation of the Commission, see at <http://ec.europa.eu/eesti>.

## **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 (ECtHR). Article 14 of the Convention stipulates that “[t]he enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”.

In the Estonian context it is worth mentioning that applications to ECtHR can be drafted in both Estonian and Russian.

Address: European Court of Human Rights, Council of Europe, F – 67075, Strasbourg-Cedex, France.

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

In the Estonian context complaints to the UN Human Rights Committee are especially relevant.

Additional information on: <http://www.ohchr.org/english/bodies/hrc>

## **2.K Professionalism**

Everyone in a NGO/trade union who takes up the case of an individual or a group of individuals must be aware of the need to observe high standards of professionalism, including confidentiality and efficient management of case files. For individuals whose cases the NGO/trade union is not able to assist with, the NGO/trade union should be able to provide relevant information and, wherever possible, referrals to another agency that is able to provide further advice and support. Thus, trade unions may address their umbrella organizations (the Confederation of Estonian Trade Unions (Estonian abbreviation EAKL) or the Estonian Employees Unions’ Confederation (TALO)). NGOs may also use assistance of bigger organizations, e.g. the Legal Information Centre for Human Rights.

## **3. Societal issues**

Certain important peculiarities of the Estonian situation as regards fight against discrimination cannot be explained outside historical context. In early 1990s the topic of human rights (in general) and discrimination (in particular) for both public authorities and for ethnic majority associated with the issue of the so-called Russian-speaking population and with concerns that international organizations and some foreign states (first of all the Russian Federation) raised in this regard. The Estonian authorities who sought for membership in both EU and NATO tried to reject as ill-founded any criticism regarding their own policies. For many years any discussions regarding the issue of discrimination were overly politicized. Regrettably, for many members of Estonian society the recognition of the problem of discrimination on any grounds seems to be a taboo. This is also a case for ‘politically neutral’ types of discrimination (e.g. unequal treatment on the basis of sex).



In general, in Estonian society the level of awareness regarding discrimination issues is low. However, positive changes in this regard were observed in the pre-accession period.

According to the 2005 data of the Eurobarometer, Estonian residents consider discrimination on the basis of disability (49%) and age (48%) to be the most widespread in their country. The result regarding the prevalence of discrimination based on disability is slightly lower (by 4 points) than the EU average (53%), while the figure for age discrimination is 2 percentage points higher. In the cases of discrimination on the basis of religion/beliefs (14%, -30 percentage points), ethnic origin (37%, -27 points), sexual orientation (26%, -24 points) and gender (29%, -11 points), Estonians record figures considerably below the EU averages. Like Europeans in general (56%), more than half the Estonian respondents polled (58%) say that they do not know their rights if they were to be the victim of discrimination or harassment. Only 19% say that they do know their rights in this situation in contrast to the 32% EU average.

### 1. *Racial and ethnic origin*

Estonia is a multi-ethnic society. According to the 2000 national census, ethnic non-Estonians made up one third of all residents, the majority of them are (80%) ethnic Russians. In 2006, 1/5 of the total population were not citizens of Estonia (the majority are stateless former Soviet citizens and citizens of the Russian Federation). Most of them are members of minorities who settled in Estonia after the Second World War and their descendants.

In Tallinn in 2005 ethnic Estonians and non-Estonians were questioned about the experience of limitations of their rights or maltreatment because of their ethnic origin during the last three years (sociological study *Interethnic Relations and the Issue of Discrimination in Tallinn*). Such experience was reported by 11.2% of ethnic non-Estonians and 2.8% of Estonians for educational institutions, by accordingly 12.5 and 3.1% for housing, and by 17.1 and 1.8% for workplace. In recent years the unemployment rate among ethnic minorities has always been two times as high as among majority members.

In December 2006 the international NGO Amnesty International published a report *Linguistic Minorities in Estonia: Discrimination Must End* where analyzed the situation of Russian-speaking population in the labor market and in education Estonia. The Amnesty International *inter alia* urges the Estonian authorities “to consider pragmatic and solution-oriented approaches towards language policies in the private sector” and recommends to make “all Estonian language classes reimbursable, including those taken to improve Estonian language proficiency for better employment prospects” (section 4.4.2).

### 2. *Age*

The age of the Estonian society increases rapidly. According to the 2000 national census residents of 55 years of age and older accounted for 26.4% of the total population.

In the Estonian context older and younger people are experience more often unequal treatment in the labour market, while the unemployment rate among the youth has traditionally been very high.

### 3. *Disabled people*

According to the 2000 national census persons with disabilities made up 7.5% of all population. The unemployment rate among them considered to be extraordinary high. In January 2005, 59,174 Estonian residents were disability and incapacity for work pensioners.

Estonian laws do not include detailed provisions regarding reasonable accommodation of disabled workers. However, the new Law on Employment Services and Allowances provides unemployed disabled people with special services, including 'accommodation of the workplace and means to work'. These services will only be granted to disabled persons if they are necessary to overcome the disability-related obstacle to his or her employment, and if other employment services (e.g. information on the situation in the labour market, employment mediation, vocational training, etc) have been ineffective.

There are certain rules established in the interests of persons with reduced mobility and visually impaired and hearing impaired persons (norms regarding public buildings, public transport or street traffic). Since March 2007 special rules were established in the Law on Language to regulate the use of the Estonian sign language. However, these measures are not enough to solve all problems related to equal treatment and socialisation of disabled persons.

#### 4. *Religion or belief*

Estonian society is rather indifferent towards faith, while ethnic non-Estonians are significantly more religious than Estonians. According to the 2000 census, 90% of followers of a particular faith were Lutherans or Christian Orthodoxes. The number of Judaists and Muslims was insignificant. 6.1% of all population was atheists.

Some religious minorities experienced difficulties with registration of their religious associations in accordance with Estonian legislation (e.g. *maausulised*). However, in recent years these problems were solved. There is very few information about religiously motivated hatred and intolerance in the country.

#### 5. *Sexual minorities*

The number of sexual minorities is unknown in Estonia. The leaders of relevant organisations reported mostly the cases of discrimination at the workplace.

In recent years the general public discussed the following topics related to sexual orientation: 1. incidents (including violence) on the gay pride parades in Tallinn; and 2. the issue of legalisation of the same-sex marriages in the country.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

According to the information of the European Commission's representation in Estonia, it does not supervise any support programs. However, anti-discrimination activities may be supported "in accordance with its own action plan and the data exchange objectives of the European Commission". For further information you should address the representation whose contacts are available on:

<http://ec.europa.eu/eesti>

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

The Estonian central government does not provide specific funding for NGOs/trade unions working on anti-discrimination. However, there may be several sporadic activities funded by the state budget (e.g. in the frame of the 2007 European Year of Equal Opportunities). Much more comprehensive support is provided by respective public bodies to the NGOs of disabled, young and older people (e.g. through the Ministry of Social Affairs). Theoretically, this support may also be used for anti-discrimination work.

Tenders' details and other information can be found on the website of the Ministry of Social Affairs on: <http://www.sm.ee>.

In the domain of ethnic and national minorities, semi-official Non-Estonians' Integration Foundation does regularly provide support to the activities related to society cohesion. Some of these projects might have a component aimed at promotion of interethnic tolerance (also regarding immigrants and refugees). It is expected that in 2007 a new national integration program will be adopted. Hopefully, the new program will pay more attention to the issues related to tolerance (and indirectly to non-discrimination). Regularly updated information about tenders organised by the foundation is available online: <http://www.meis.ee/est/konkursid>.

Several other public foundations can be potentially useful in this context, first off all the *Riigikogu* Gambling Tax Council. It may support *inter alia* education programs, youth and disabled related work on the project's basis. See further details on: <http://hmn.riik.ee>.

The Ministry of Justice may also provide support to non-governmental organizations engaged in legal counseling of members of vulnerable social groups. See further details on: <http://www.just.ee/4434>.

**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?)**

There is no specific funding for the work in the field of non-discrimination. In general, funding for the third sector in Estonia is provided on project by project basis through tender procedures. Tender rules and procedures may vary.

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

There is no specific funding for the work in the field of non-discrimination.

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

Non applicable

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

No governmental funding possibilities exist at regional level.

Several bigger local self-governments (municipalities) provide regular funding for various third sector initiatives (mostly on project's basis in tender procedure). However, none of them adopted any specific programmes related to non-discrimination. The most noticeable support to various civic activities is guaranteed by the City of Tallinn.

Contact details of all Estonian municipalities can be obtained from:  
<http://www.riik.ee/et/omavalitsused>.

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?**

Private funding for relevant activities of NGOs/trade unions is rare or occasional in Estonia. The most important private donor is the Open Estonia Foundation (Soros network), which may provide support to various human rights and civic initiatives on project's basis through tender procedure. However, its financial resources are quite limited at the moment. Tender information is published by the foundation on: <http://www.oef.org.ee/et/Uudis/konkurs>.

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

Another important source of financial support to the Estonian third sector is foreign embassies. Some of them provide funding to various small scale projects (most importantly, embassies of Norway, UK, US and Russia). The relevant program of the Dutch embassy (MATRA-KAP) will be finalised in 2007. Each embassy sets its own priorities regarding small projects of Estonian NGOs and they may vary each year. For instance, in 2005-2006 some funding for anti-discrimination work was provided mostly by the embassies of the Netherlands and the Russian Federation.

Contact details of all foreign representations in Estonia can be found on:  
[http://www.vm.ee/est/kat\\_126](http://www.vm.ee/est/kat_126) (website of the Ministry of Foreign Affairs).

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

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

Diversity management (DM) in business is a relatively new topic for discussion in Estonia. There are very few actions and events taking place and few specialists, the majority of whom come from the NGO field. Therefore it was extremely difficult for the organising NGOs to find a trainer who would fulfil the criteria given by HEC and the European Commission. Eventually we managed to recruit someone from the Employers' Confederation who had some experience in the issue and, more importantly, had a background which we hoped would help us to recruit more participants.

HEC and IDM developed a manual for the participants which presents all the important facts with regard to DM and human rights. It is important to include in the manual information about how to communicate and also maintain dialogue with other NGO players in the field of diversity (this was a point which had also been highlighted several times by the international trainer). The manual was translated into Estonian and distributed among the participants.

The target group in Estonia was quite wide. First of all it was thought that the event would be aimed at HR and PR specialists. However, taking into consideration the fact that there are not many large companies which would hire such specialists, it was agreed that we would also target entrepreneurs, employers, owners of businesses and those who together with the owners manage human resources (book-keepers and lawyers). In addition, researchers and PhD students, university professors, business training and representing unions and organisations were also targeted.

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

In order to prepare the DM seminar and provide the participants with information related to the current situation regarding diversity management in Estonia, tackling all the main issues, the national trainer had prepared a country needs assessment, which identified the following needs. She noted that there is no specific term for 'diversity management', moreover the issue itself is quite new and unexplored in Estonia. It is often associated with the internationalisation and transnationalisation of companies (*rahvusvahelistumine*), perhaps also equal opportunities, but seldom with the inclusion of disadvantaged groups.

It was highlighted that, when talking about equal opportunities in Estonia, the first issue to arise is that of the Russian-speaking minority which constitutes about 30% of the total population (in some counties this figure is up to 90%). It is definitely a linguistic issue, i.e. this group of the population is not proficient in the Estonian language and has difficulties with access to the labour market. In addition, there is the issue of the fear that migrant workers might start arriving in the country.

Secondly, the aging of the population and workforce should be addressed.

The issue of people with disabilities was mentioned and also brought up as a positive example of tackling the issue, through cooperation between civil society and business.

The issue of gender equality and especially parenting was highlighted as an important subject to address, despite the fact that, according to the latest surveys, Estonia has the lowest level of gender gaps in the labour market in the EU.

It was pointed out in the needs assessment that the DM issue should attract companies and be acted upon, as it might be a good solution for the labour market. It could be an attractive solution for various groups and especially migrant workers who could substitute the aging workers and therefore improve the labour market situation, which is already becoming quite serious and is expected to worsen over the next 10 to 15 years.

Based on these recommendations, the agenda was designed and contained issues and activities most appropriate to tackle these issues.

The recruitment procedure started about a month before the event. Both the national coordinator and the trainer and international trainer were involved and used all the possible options to recruit as many participants as possible. In order to do this, the following methods were used: the membership lists and newsletters available from the Estonian Employers' Confederation, the Chamber of Commerce, *Aktiva* (a newsletter for entrepreneurs), the Union of Small and Medium Enterprises and also the *Yellow pages*, as well as lists of public hospitals and other institutions. Unfortunately, the unions were not always eager to cooperate and provide space for advertising, in most cases not even replying to our messages. There were a couple of cases of NGOs being forwarded the information regarding the seminar with the comments that it was for civil society and not for business as it is not the role of business to deal with diversity.

Personal contacts were also used in recruitment, as well as the alumni lists of one of the private universities which has well-known legal and economics departments.

The international trainer also placed an advertisement on an international website [www.dialogin.com](http://www.dialogin.com), did some Googling and used his contacts in Estonia and neighbouring countries in order to support the process.

Representatives from the authorities and the equality body were invited. As a result we had an individual from the institution of the Chancellor of Justice, not only listening but making a contribution and actively participating, and registered three representatives from the ministries, of whom only one representing the Ministry of Social affairs showed up. She was very useful in the discussions and workshops, providing expertise and knowledge.

A survey was posted on the homepage of the Employers' Confederation and aimed to find out the knowledge of employers regarding diversity management and their proposals and ideas about what it should include and how it should be addressed, as well as what positive practices exist etc. Unfortunately only a few people filled in the survey.

### **Carrying out the seminar**

As mentioned above, diversity management is not yet a very popular topic for Estonia. Therefore it was difficult to find business cases. The trainers used hypothetical cases and examples from other countries.

The team tried to recruit participants from a variety of backgrounds. The majority were from small to medium enterprises, some from larger companies. There were public authorities and researchers from universities. The employers' associations were represented by the national trainer and another consultancy organisation. Despite our attempts, public bodies and recruiting companies did not take part.

With regard to the processes during the day, it should first be noted that the fact that the organiser invited a representative of the equality body to participate and give a presentation on the legislation was a very good step which added value to the seminar and especially addressed the local situation and needs. This fact was highly appreciated by the participants and served as a good example for the team.

In general it is possible to say that the atmosphere within the group was constantly changing. During the presentations, workshops and discussions of a more general nature the atmosphere was friendly and people were eager to work together regardless of ethnic background. Then during the 'World Café' section, when a more specific discussion started and the room became a place of an Estonia-related debate, the friendliness of some participants was not so obvious.



The level of tolerance of some members of the group (of both ethnic backgrounds) turned out to be rather low. However, there were no open conflicts, as there was no real discussion.

According to the evaluation forms received from the participants, in general they were quite happy with the seminar. However, the majority marked pretty low the level of information provided before the seminar and the formulation of objectives. It was noted that the information regarding Estonian realities was not very concrete and lacked details and also that models other than US models of DM could have been discussed. The overall impression, however, was generally good. The team also evaluated the seminar as quite a good experience.

The following outcomes from the seminar can be identified:

- Diversity management is an important topic for every company and attention should be paid to it.
- Further trainings such as this should be carried out and employers and supporting companies and confederations should actively participate in them.
- The stereotypes which exist in society and which are also widespread among employers and HR specialists should be identified and tackled, with the aim of eliminating them.

Companies should adopt diversity management action plans and implement them.

### **Main lessons learned from the seminar**

Similar to the anti-discrimination sessions, one of the main lessons learned was the need and ability to work with both Estonian and Russian-speakers, preferably in mixed groups (with translation, if need be). This presents the trainers and the group with an additional challenge, however, it is considered to be effective and enables people to learn and take into consideration the ideas, styles of work and problems of both groups of society.

Secondly, it is useful to invite public officials to participate and make contributions, as they can provide not only expertise and an official position, but also add credibility to the event.

Thirdly, it is indeed important to have a trainer from a business background, however, it is also important to seek for a balance between a background and expertise in diversity management and the ability to include and be aware of all the issues important to society. The attempt to do this was not bad for Estonia, however, it could have been better.

The level of tolerance in society is not particularly high (and this has been proved by some sociological studies). Therefore, it is important to devote special attention to the tensions between the ethnic groups and do everything possible to prevent conflicts arising during discussions.

## 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.