



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

**ISM-CORUM**

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

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

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

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The national activities in France were carried out by ISM CORUM ([www.ismcorum.org](http://www.ismcorum.org))

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## II. Introduction

*What seminars held where and when, for how many participants and for what participants*

**The first Anti-Discrimination seminar in France** was held on the 6<sup>th</sup> and 7<sup>th</sup> of December 2007 in Lyon.

39 participants attended, among which 2 invited representatives from the competent national/regional public authorities (DPM and ACSE) and 2 from the French Equality Body (HALDE) – 42 participants had been registered, there were 3 cancellations or absentees

Among the registered participants:

- 54% were females
- 85% belonged to organisations outside the capital
- 37% of organisations represented had legal activities
- 85% were active on Race or ethnic origin, 46% on Age, 44% on Disability, 63% on Religion or belief, 44% on Sexual orientation (many organisations, especially among Trade Unions, were actually active on several or all grounds)
- 78% of organisations represented were doing Awareness raising, 59% were giving Support to individual victims, 49% were into Litigation, 76% into Monitoring policy and law (many organisations developed several types of activities)
- 22% were Trade Unions and 68% NGOs (10% public bodies)
- 10% of participants were Invitations (representatives of public bodies) and 90% Applications

**The second Anti-Discrimination seminar in France** was held on the 18<sup>th</sup> and 19<sup>th</sup> of February 2008 in Paris.

37 participants attended + a lawyer specialized in Social and Labour Rights who gave a talk as a professional + Isabelle Chopin for the Migration Policy Group – 42 participants had been registered + an invited representative of the French Equality Body (HALDE) who finally had to cancel; there were 5 other cancellations or absentees

Among the registered participants:

- 62% were females
- 50% belonged to organisations outside the capital
- 24% of organisations represented had legal activities
- 79% were active on Race or ethnic origin, 45% on Age, 52% on Disability, 43% on Religion or belief, 55% on Sexual orientation (many organisations, especially among Trade Unions, were actually active on several or all grounds)
- 83% of organisations represented were doing Awareness raising, 48% were giving Support to individual victims, 33% were into Litigation, 64% into Monitoring policy and law (many organisations developed several types of activities)
- 38% were Trade Unions and 62% NGOs
- 100% of participants were Applications

**The Diversity Management seminar in France** was held on the 13<sup>th</sup> of March 2008 in Paris.

65 participants attended + 2 invited business case speakers (L'Oréal and EDF) + 3 journalists + 2 professionals from ISM CORUM + 4 from Diversity Conseil + Gesa Boeckermann for the European Commission + Erika Lüthi for the International Society of Diversity Management. 90 applications had been approved, there were 25 cancellations or absentees

Among the approved applicants who had provided all requested information (71 people):

- 77% were females, 23% males
- 76% belonged to private Companies, 7% to Public service providers, 17% to training and consulting agencies
- the size of their organisations was:
  - 14% between 1-9 employees
  - 4% between 10-49
  - 9% between 50-249
  - 9% between 250-500
  - 64% more than 500

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

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

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

###### *Manual and documentation*

The “Combating Discrimination Training Manual” (the blue cardboard file) will be a good reminder for the participants, even if it is somehow too general at times. Note that it is not very convenient for holding in hands during participative training for example.

The Manual was also useful at a symbolic level: it seems that the participants appreciated to be distributed publications from the European Commission, and it was one of the concrete signs that they were participating in an EU programme.

The same can be said about the yellow “For Diversity Against Discrimination Toolbox”.

It must be noted that budget was lacking to postmail these EU publications to the participants before the seminar.

The “National context” document will of course be more concretely helpful for the participants in their French environment. Producing it at an early stage within the programme was also quite useful for the preparation of the seminars and the training of the trainers.

It was not so much the case for the “Mapping” document, because in the French context you couldn’t match the seminars to the needs of so diverse organisations anyway.

The “Funding” document was probably too rapidly outdated in the French context of 2007 general elections, change of government and administrative and budgetary restructuring.

###### *Target groups*

The required mix of people coming from NGOs and from Trade-Unions, and the required overall diversity of the participants (size of organisations, locations, levels of legal expertise, antidiscrimination grounds concerned, types of activities), was something of a bet.

It definitely created difficulties in the selection of participants and in the preparation of the seminars’ contents, organization and methods.

But with a good information and preparation, it turned out to be a strength, and one of the most interesting aspects of the training. Interactions in general and co-working in particular (workshops on case studies, brainstorming sessions, role plays) went extremely and somehow surprisingly well between the participants in both antidiscrimination seminars (Lyon and Paris), much to the satisfaction and learning of everybody.

###### *Role of international trainers*

International trainers were quite helpful in what they brought in the Train the Trainers seminar, whether in terms of methods or in terms of contents.

In the preparation of the seminars as such, we did not really resort to the international trainer. Her agenda did not allow her to participate in the day of collective working on the preparation of the seminars that was organised between the six trainers together in Lyon.

## *Trainers*

The participants in the seminars found that the French trainers were well prepared and helpful.

It is not sure that six trainers were necessary, and four or five may have been enough.

To make a team out of six trainers who do not necessarily know each other before, somebody needs to take the lead, in order to set time frames, to plan exchanges and meetings, to organise everybody's contribution to the collective work, to print and copy work and training documents, to watch for an appropriate distribution of roles during the seminars and for a fair balance of tasks, to take decisions when necessary, to follow-up, etc.

Quite logically, that leading role was taken by the senior trainer who also was responsible for the whole project at ISM CORUM. Quite concretely, this was extra managing and organising work.

## *Organising NGO: ISM CORUM*

The organisation of the national seminars turned to be a heavy task. Regarding the Anti-Discrimination side of the programme only, that is the organisation of two two-days seminars in two different cities (Lyon and Paris), it requested, among other things:

- searching for 6 trainers (3 in each city's area) matching a difficult set of different required criteria; announcing jobs, screening applications, selecting and recruiting the appropriate trainers
- managing the 6 trainers and their preparation work (see above) as well as their work contracts (6+6)
- searching for 2 seminar venues providing 3 different rooms on 2 consecutive days for a total of 40-50 people at a reasonable price
- translating all information and registration documents for trainees and posting them on the internet
- identifying and informing target trainees organisations
- organising announcements of the seminars in various media and managing the follow-up communication
- registering applications: we received close to 80 for the seminar in Lyon and around 100 for the seminar in Paris
- selecting the participants under the constraint of the various required criteria, while caring for the balance of travel and accommodation costs between Paris and Lyon
- informing all approved and rejected applicants, giving follow-up information and explanations
- organising all travels and hotel nights and meals and coffees needed for trainees and trainers and extra speakers
- arranging seminar venues to provide a convenient work environment given the number of participants and the organisation of the training in plenary sessions, workshops, role plays, etc.
- ordering or printing, then delivering to the place more than 40+40 copies of all training documents
- managing 40+40 participants coming from all over the country; caring for all logistical aspects during the seminars
- managing all administrative and financial aspects before, during and after the seminars
- translating, collecting and analysing evaluation forms
- reporting all along the process and at the end of it

## **Preparation of the seminar**

### *Train the trainers seminar*

ISM-CORUM, the French organising NGO, also organised in Lyon the Train the Trainers seminar for France and Luxemburg, which was not an easy task neither.

The Train the Trainers seminar was quite useful, whether in terms of methods or in terms of contents. The international trainers were competent and the French and Luxemburgian teams showed a very strong and concerned involvement. Regarding training methods, the Train the Trainers seminar sometimes raised more questions than it gave solutions.

### *Announcement of the seminar*

Both Anti-Discrimination seminars were advertised on ISM CORUM website. We also managed to have them advertised on the French Equality Body website. Both Anti-Discrimination seminars were advertised also in some Social Affairs, Legal and Trade Unions specialised reviews and internet sites.

Invitations were sent to the 400 contacts in NGOs and Trade Unions of ISM CORUM database.

### *Attracting and selecting participants*

The selection of participants was a quite uneasy task, considering that we received close to 80 applications for the seminar in Lyon and around 100 for the seminar in Paris.

Participants were selected under the constraint of the various required criteria: type of organisations (NGO or Trade Union), size of organisations, locations, levels of legal expertise, antidiscrimination grounds taken into account, types of activities, strategic organisations, etc. Our bottom line was to create a maximum of diversity for the seminar between the participants and the organisations they represented, and for example we almost always rejected multiple applications coming from the same organisation.

Because of budgetary constraints, the balance of travel and accomodation costs between Paris and Lyon also had to be taken into account.

### *Logistical arrangements*

Finding two seminar venues providing three different training rooms and equipment on two consecutive days for a total of 40-50 people with preferably on the spot accommodation and restaurant, everything at a reasonable price, was not an easy task neither. It was difficult in Lyon in terms of availabilities, it was difficult in Paris in terms of availabilities and price.

The seminar venues needed to be thoroughly arranged, for them to provide a work environment as convenient and comfortable as possible, considering the number of participants as well as the complex organisation of the training, which sequenced plenary sessions with workshops on practical cases, role plays and brainstorming workshops.

## **Carrying out the seminars**

### *Ratio of participants (NGOs/trade unions)*

First Anti-Discrimination seminar in Lyon: 22% Trade Unions and 68% NGOs (10% public bodies)  
Second Anti-Discrimination seminar in Paris: 38% of participants were from Trade Unions and 62% from NGOs

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

The programme of the French Anti-Discrimination seminars is displayed next page. For observations on trainers, participants or content, see above or below in the present report.

Day 1 - Morning	
9h30 - 10h30	Registration and Coffee – INTRODUCTION TO THE SEMINAR
10h30 - 11h30	LEGAL CONCEPTS
11h30 – 10h45	Break
11h45 - 12h30	QUESTIONS ON LEGAL CONCEPTS
12h30-13h30	Lunch
Afternoon	
13h30 - 14h00	ROLE PLAY
14h00 - 15h00	WORKSHOPS (6 grps) : Case analyses : DEFINITION OF SITUATIONS
15h00 - 15h15	Break
15h15 - 18h00 (Break in the middle)	PLENARY SESSION : Exposés of case analyses (6 groups x 2 cases)

Day 2 - Morning	
9h30 - 11h15	TREATMENT OF SITUATIONS – with reps of the Equality Body
11h15 – 11h30	Break
11h30 - 12h30	WORKSHOPS (6 grps) : Case analyses : TREATMENT OF SITUATIONS
12h30 - 13h30	Lunch
Afternoon	
13h30 - 14h30	PLENARY SESSION : Exposés of case analyses (6 groups x 1 case)
14h30 - 16h00	WORKSHOPS (4 grps) : Self-diagnoses and exchanges of organisations on good practices, difficulties, needs and perspectives
16h00 - 16h15	Break
16h15 - 17h30	PLENARY SESSION : Exposés of self-diagnoses and exchanges (4 grps)
17h30 - 18h00	Conclusion - Evaluation of the seminar

## **Main lessons learned**

Average evaluation of both seminars by the participants was quite good: 4.3 in Lyon and 4.5 in Paris on a scale of 5.

What could eventually be improved:

- Information to the participants on the participants' profiles before the seminar. The participants' list with names, organisations and functions had been emailed to all participants before the seminar.
- Information to the participants before the seminar on the objectives of the seminar. The announcement template had been translated, adapted to the French context and put online and emailed.
- A feedback from the first seminar in Lyon was that the trainers needed to put even more stress and clarity on the objectives and instructional methods of each sequence all along the seminar. They did it during the second seminar in Paris, and they got a good feedback on that from the participants.

For the rest, it is difficult to summarize participants' feedbacks. This is due to the wide diversity of these participants: some would have liked even more time on legal and judicial matters, others would have preferred social sciences issues to be explored; some would have liked even more case studies, others had enough; some would have liked more workshops and exchanges between participants, others some extra exposés; a majority of participants in the Lyon seminar would have liked the pace of the course to slow down, but it was not the case in Paris where the average level of expertise of the participants was higher; etc.

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

### **I. Profile of NGOs/trade unions working to combat discrimination**

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

##### *NGOs*

France has a certain number of national level NGOs which are very actively involved in the fight against discrimination. These NGOs are usually dedicated to combating discrimination on the grounds of a specific criterion, although often in a number of fields (see question 2). When they are of national importance, they usually have a network covering the whole of the country (see question 7). Alongside these national NGOs, there are numerous associations operating on a local level.

##### *Trade unions*

The trade unions aim to combat discrimination on all grounds at work. The major French trade union confederations are currently the CFDT, the CFTC, the CGC, the CGT, FO and the UNSA. They are all involved in combating discrimination in employment, although to differing degrees.

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

##### *NGOs*

There are national NGOs currently working in France on the various discriminatory criteria which are banned by European law. Even so we can see that combating discrimination on the grounds of certain criteria (such as ethnic origin/religion, disability) is longer-established and enjoys greater density within associations than others (e.g. sexual orientation or age). There is no major national association specialising in combating discrimination on the grounds of all criteria simultaneously.

In terms of combating discrimination on the grounds of race or ethnic origin, there are large associations such as the MRAP, SOS-Racisme and the LICRA which have been active for a long time. These associations aim to combat discrimination of all kinds and in all fields. Initiatives designed to combat discrimination on the grounds of religion or beliefs are broadly handled, in France, by anti-discrimination associations operating on the grounds of ethnic origin.

Discrimination on the grounds of disability is often covered in a more specialised way according to the types of disability. For instance: the Association des Paralysés de France (the French Paralytic Association), the Union Nationale des Associations de Parents and Amis des Personnes Handicapées Mentales (National Union of Associations of Families and Friends of Mentally Disabled Persons), the FNATH an association for people with permanent disabilities, etc. Some associations or federations of associations have nevertheless been dealing with all types of disability for a long time, such as the APAJH or the ADAPT, which is particularly active in the field of employment and vocational training.

When it comes to combating discrimination on the grounds of sexual orientation, the best-known associations, such as SOS-Homophobie, the Inter-LGBT, Act-Up and Aides, will operate in all fields. Even so, more recently associations have begun to specialise in discrimination on the grounds of sexual orientation in the field of employment and work. Thus the L'Autre Cercle federation, a group made up of people holding positions of responsibility in businesses, government bodies or in the liberal professions, or the Homoboulot group, bringing together gay, lesbian, bisexual and transgender employees' associations.

French associations specifically combating discrimination on the grounds of age are a newer phenomenon and essentially work in the field of employment. We would like to mention *Quinquas Citoyens*, whose specific purpose is to combat discrimination in employment on age grounds, and *Quincapital*, an association of active older workers including professionals aged 50 and over who are still working or looking for jobs.

#### *Trade unions*

The trade unions aim to combat discrimination on the grounds of all criteria, first and foremost in the fields of work and vocational training. Even so, some trade union confederations may incorporate French education trade unions, the trade unions of social welfare bodies or even tenants' or users' trade unions. This means that the trade union confederations can also act against discrimination outside of their own preferred field, i.e. employment, getting involved in the fields of education, social protection and access to goods and services.

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

#### *NGOs*

The combating of discrimination on the grounds of a specific criterion is often the main purpose of the associations mentioned above. Even though this may not be their main purpose, other associations play a very important part in combating discrimination through their wider-ranging activity in defending and promoting human rights. For instance there is the *Ligue des Droits de l'Homme* (Human Rights League) for any discriminatory criterion, or the *Groupe d'Information et de Soutien des Travailleurs Immigrés* or *GISTI* (Immigrant Information and Support Group) for ethnic origin.

#### *Trade unions*

Although combating discrimination is not the main purpose of the trade union confederations, this is still a subject with which they are finding themselves increasingly involved.

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

The NGOs and trade unions mentioned above are registered on a national level.

#### *NGOs*

Setting up a non-profit-making association is a very simple matter. All it requires is for the articles of association to be declared at the Prefecture and these articles of association must record the chairman, secretary and treasurer of the association which has been set up. Some associations which meet strict conditions may be recognised as being "of public utility". In addition to its legal effects, this status is seen as a label which gives the association special credibility.

#### *Trade unions*

In formal terms the trade unions are associations of a special type and they are subject to the associative form system. Nevertheless the law grants the largest trade unions certain prerogatives, such as the ability to conclude collective agreements. The public authorities have appointed the *CFDT*, *CFTC*, *CGC*, *CGT* and *FO* confederations as legal representatives at national level. Any trade union affiliated to one of these five confederations acts as the legal representative of its branch or company. Any other trade union must prove its representative status if it is disputed.

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

*NGOs*

Many associations do not publish their numbers of members, employees or volunteers. The number of staff employed by anti-discrimination associations can vary widely and this also depends upon how long they have been going. The national anti-discriminatory associations mentioned above are the largest and best-known.

*Trade unions*

The rate of trade union membership in France has now fallen to a very low level compared to a lot of other countries. It is estimated that only just over 8% of French employees are now effectively members of a trade union, and this is more common in the civil service and public companies (15% union membership) than in the private sector (5%). Estimates of the number of union members represented by the various confederations vary, as the figures are put forward by the trade unions themselves and are not always very reliable. For instance the orders of magnitude displayed over the last few years are as follows: 800,000 CFDT members; 710,000 CGT members, although this is the leading confederation in terms of electoral representation; 360,000 UNSA members; 160,000 CGC members and 130,000 and CFTC members. Even so, we must underline the fact that the influence of the trade unions in France is partly independent of their numbers of members (see question 9).

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

In France there is no real national network incorporating various structures in civil society based around the issue of combating discrimination, whether in general or based upon on a specific criterion or in a given field. There are still cases of co-operation, and how easy this is tends to depend on the types of structure involved and the fields of operation:

- the trade unions see themselves and are still traditionally seen as the most credible players when it comes to taking action in the world of work; in this field, they do not necessarily look to co-operate with the NGOs;
- co-operation between the trade unions themselves is not always easy in France; nevertheless, on the subject of combating discrimination in employment, we can see that inter-union co-operation can be built within well-defined frameworks, such as partnerships for the purposes of EQUAL projects;
- the associations seem to find it easier to co-operate with each other for the purposes of events, problems or specific watchwords, even though there are "competitive" relationships.

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

*NGOs*

It is not possible to cover the highly diverse landscape of locally-based anti-discriminatory associations operating in the country in any detail. The structures operating on a national scale mentioned above are, generally speaking, either federations made up of structures operating on a more modest scale or associations organised into a network of local delegations, sections or committees creating links across the country. To take a few examples: the APAJH is a federation, operating in this respect on a national level, made up of departmental associations and regional unions; SOS-Racisme is a nationwide association operating through its local sections; L'Autre Cercle is a network of regional associations; etc. The national offices of these federations or networks are usually based in Paris.

*Trade unions*

The national confederations group together federations of trade unions from various branches of activity (federations of metallurgy, trade, services, health, etc.), which are often themselves made up of a number of specific professional trade unions.

In addition to this, on an inter-professional basis, the trade union confederations are also organised according to a territorial logic, matching the administrative subdivisions into which France is divided up: departmental and regional unions or committees. Finally the trade unions set up company sections at the employers where they represent their members. The national offices of the trade union confederations are usually based in Paris.

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

*NGOs*

Whether they have a national or only a local influence, anti-discrimination associations engage in the same types of activities in terms of providing information for victims and raising awareness among civil society in general; only the scale of these activities varies. On the other hand, some of the ways in which action is taken appear to be reserved for use only by the major national associations: this is true for legal actions, whether representing a plaintiff or issuing civil proceedings for damages. But above all it is the scope and impact of lobbying of the public authorities and partnership with them which determines the association's capacity and facility for intervening in dealings with the central public authorities based in Paris. This is why we see that the head offices of the most influential anti-discriminatory associations are concentrated in the capital. However, France's political and administrative organisation is also decentralised, and anti-discrimination associations can work with the decentralised services of the State, the prefectures and the prefects with responsibility for equal opportunities, the regional departments of the specialist anti-discrimination public bodies (the Acsé, la Halde) and the various territorial authorities (regions, departments, municipalities). Associations operating on a local scale may work both with these various authorities and with the major associations on the network.

*Trade unions*

The fact that the major trade union confederations provide representation on a national scale and the way they are organised into professional branches and broken down on a regional basis means that they have dealings with the central authorities, specialist technical structures, decentralised administrative structures (including the Regional Directorates for employment and vocational training) and local authorities (including the regions, which have jurisdiction for these same fields). The general public policy guidelines and decisions taken by the trade unions are set out at national confederation level, but this does not prevent specific union involvement at branch or regional level. For instance, this is what happens in terms of combating discrimination in the Rhône-Alpes region, especially as part of EQUAL projects, where co-operation between unions can be built up, perhaps more easily than on a central, national level.

**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)**

*NGOs*

The development of the struggle against discrimination as a public policy, at European and national level, gives the anti-discrimination associations visibility. Of those mentioned above, the most influential on the French public scene are those which combat discrimination on the grounds of origin: e.g. SOS-Racisme has made the general public aware of the "testing" method, consisting in sending identical applications, one with a "typically French" name and one with a name suggesting a "non-French" ethnic origin, a method which obtained legal validation in France; the GISTI is well-known for its legal victories, etc. Associations which work on disability have influence with the part of civil society involved and the government bodies in charge of the matter. As for the more recently-established associations working against discrimination on the grounds of age or sexual orientation, some of them have already become influential in relation to a method of action or a specific sector of operations.

Even so, anti-discrimination associations protest at the meagre role they have been given in the operation of the Haute Autorité de Lutte contre les Discriminations (HALDE – High Authority on Combating Discrimination).

#### *Trade unions*

The political and social influence of the trade unions in France is partly independent of the number of employees who are union members (which has now fallen to a low level, see question 5). They actually still have an important role and influence in public policy matters due to the scope of the public service work reserved for the joint institutions, which are jointly run by the employers' associations and the employees' trade unions. In particular the trade unions handle the management of the vocational training system and the management of the various branches of social protection, including unemployment insurance.

### **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)**

Co-operation projects are being set up. They may vary in difficulty according to both the types of structure involved and the sectors of operation: see question 6.

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

Co-operation projects seem to be easier with certain types of initiative. They are fairly common for the purposes of organising events or of awareness-raising campaigns (the anti-racism week, for example) but they are rarer for exchanges of expertise. In fact it is when it comes to running joint initiatives for lobbying purposes or to putting pressure on a third party that co-operation between structures seems to be the closest: for instance, the setting up of an inter-association pressure group calling for the setting up of the HALDE, or when the trade unions want to conclude collective anti-discrimination agreements with the employers.

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

Indeed, with lobbying initiatives, we have seen the first transverse collaborations with various criteria: the inter-association group we have just mentioned, or inter-union company agreements relating to various criteria simultaneously. If we consider each criterion, the most visible collaborations take place against discrimination on the grounds of origin/religion and on the grounds of sexual orientation, but first and foremost they are linked to the organisation of events or to current affairs, only more rarely to legal actions. The age criterion has been taken on board too recently to have given rise to any platform for action. The disability criterion was taken on board a lot longer ago, it gives rise to co-operation between specialist associations and trade unions on the subject of vocational integration and keeping the disabled in employment. Thus the major associations for the disabled and the five representative trade union confederations are jointly members of the board of the Association de Gestion de Fonds pour l'Insertion Professionnelle des Personnes Handicapées (Agefiph – Association for the Management of Funds for the Vocational Integration of Disabled People).

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

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

They may receive public subsidies, including those awarded by the Agence nationale pour la Cohésion Sociale et l'Égalité des chances (Acsé). But public subsidies are becoming rarer. They may also win tenders or calls for proposals, for specific initiatives engaged upon by the ministries, the HALDE, the Acsé or the local authorities.

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

These conditions are supervised. The subsidies may lead to agreements on targets and must have a public interest component. Tenders issued by the central State or the local authorities fall within the framework of public contracts which involve any structures wishing to become the authorities' service provider competing according to precise terms.

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

The budgets of associations also include private funds which take the form of donations, members' dues and funding from private legal entities. Only associations recognised as being of public utility may receive donations.

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

They receive no decision-making power in return for their funding. Only members of the association's Board may take part in decisions.

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

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

There is some debate about the funding of the French trade unions. In formal terms, the trade unions are deemed to be independent, and this includes financial independence. But it is felt that actually nowadays a lot of them operate thanks to indirect public funding, especially in the form of staff provided by the State and the local authorities.

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

The French trade unions are formally independent of the political parties: they have no legal link to them nor any obligation to adhere to their political party lines.

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

In an ideal world the principle of the independence of the French trade unions is designed to ensure that they operate solely on the basis of self-financing, in other words mostly using their own members' dues. As the proportion of employees who are union members is now low, it is clear that this method of funding is not sufficient to support them.

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

The trade unions may be partners in, and even leaders of, projects with international or European funding. For instance this is the case with EQUAL projects designed to combat discrimination in employment, where the trade unions also receive French private and public funds alongside and matching funding from the European Social Fund.

**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?***

Funding is a decisive factor for all structures, as their capacity for action and influence is largely dependent upon it. As public subsidies for associations are becoming much rarer, and members' dues are not sufficient to support the trade unions, the smaller structures are under threat, and the larger ones are in difficulty.

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

The limits on solely internal French funding also mean that there is growing involvement in European projects. The EQUAL programme in particular has provided decisive leverage in the involvement of French NGOs and trade unions in combating discrimination in employment, training and economic activities. The transnational co-operation agreements relating to EQUAL projects have got French associations and trade unions involved in these subjects together with other associations and trade unions in the European Union, especially those from the 15 “old” Member States.

*b. Other new EU Member States?*

There are also collaborations between French associations and unions, but for the moment they are rarer, with the “new” Member States of the Union of 27, especially on the problems of racism or discrimination against the Roma people.

*c. Others?*

Participation in international anti-discriminatory projects or networks outside Europe seems to be more limited to certain modes of action and certain types of association. See question 15.

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

In terms of combating discrimination at international level, French NGOs and trade unions contribute mostly to campaigns for specific causes, or to international conferences and consultations held on discrimination against women or on the grounds of race or ethnic origin. Some types of association are more prominent on international networks than others; obviously this is the case with the French sections of international human rights NGOs (Amnesty International, the International Federation of Human Rights), but this is also a specific feature of associations combating discrimination on the grounds of sexual orientation: L’Autre Cercle, amongst other examples, is a member of the International Lesbian and Gay Association, and the campaign for an international day against homophobia (IDAHO) is a French initiative.

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

The use of English as a working language is still somewhat limited in France. In terms of combating discrimination, there is growing use of English for the purposes of European programmes. However with the exception of structures which have a firmly international outlook, the ability of French NGOs and trade unions to work in English depends on all too few members of their staff.

**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?**

Even though there are “historic shared beliefs”, the French trade unions are independent of the political parties in their commitments.

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

This appears to be possible. See question 8.

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

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

French civil society organisations working against discrimination carry out one-off or longer-term activities of a highly varied nature:

- communication and awareness-raising initiatives: conferences, public position papers, information media, campaigns, etc. (all of the trade unions and NGOs);
- action in support of people who believe they have been the victims of discrimination: a constant willingness to listen and offer psychological and social support (e.g. SOS-Homophobie), support in amicable proceedings and mediation (the trade unions), legal advice, legal support and help with drawing up the documentation required to report cases (the CGT for instance) including the carrying out of “testings” [see explanation in question 9] (SOS-Racisme);
- the development of instruments designed to prevent and correct cases of discrimination: training the public and professionals (the NGOs), brochures for anti-discriminatory action by staff representative bodies (the CFDT), legal guides (the MRAP), anonymous CV banks (SOS-Racisme), job-dating and sponsorship networks for employment (the ADAPT), placement activities (Quincapital), identification and promotion of good practices in business (L’Autre Cercle), etc.;
- lobbying of and negotiating with the authorities and public institutions (inter-association group for the setting up of the HALDE), with elected representatives, with economic operators (the trade unions);
- activities representing civil society on commissions and bodies specialising in combating discrimination or those which may deal with the subject: the Acsé, the HALDE, la Commission Nationale Consultative des Droits de l’Homme (National Consultative Commission on Human Rights), the departmental Commissions for equal opportunities, etc. (trade unions and NGOs).

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

See the second point in question 19. The associations may report cases to the HALDE jointly with any person who believes that s/he has been the victim of discrimination, with his or her agreement.

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

In terms of support, anti-discrimination associations, which usually specialise in a given criterion, will actually devote themselves essentially to people who are the victims of discrimination on the grounds of this criterion. However these associations see the whole of their approach in terms of general interest and aim to address French society as a whole.

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

Yes and for some of them this includes legal support. See questions 19 to 21.

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

The trade unions aim to represent and defend the interests of all employees, whether they are union members or not.

### **24. Do they do ‘case work’?**

Yes: social, psychological, legal, etc. support. See questions 19 and 20.

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

The trade unions do not receive any specific public funds for this support work. Some subsidised associations may have made this work their speciality.

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

This work may include supporting them in amicable proceedings, mediation and reporting cases to the HALDE. On the matter of representing people in court, see question 27.

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

Since the law of 16<sup>th</sup> November 2001, the representative trade unions at a national level or within companies may go to court for discrimination on behalf of an applicant for a job or for work experience or for an employee, provided that this latter has been given notice in writing and has not objected. Associations which have been duly constituted to combat discrimination for at least five years can do the same, subject to written agreement from the interested party. So far associations and trade unions have made little use of this new right. But they can also – and this has long been the case – issue civil proceedings for damages in actions brought by the plaintiffs themselves, in all of the fields covered by anti-discriminatory law. This is the type of legal undertaking of which they tend to make the greatest use.

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

Class actions are not allowed under French anti-discriminatory law.

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

Yes, some of them engage in activities offering psychological and social assistance. See question 19.

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

The trade union confederations and the largest associations, or those which have a specific field of expertise in combating discrimination, carry out work lobbying the decision-making public authorities in various ways, both from the legislative and the public policy point of view. Conversely, the State may consult the players in civil society in various ways: for instance these latter appeared before parliamentary committees when preparing for the major anti-discriminatory laws over the last few years.

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

Lobbying relationships, in particular, but only for the largest organisations. See question 8.

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

The Regional Councils and the municipalities are more accessible to the organisations operating on a local scale. See question 8.

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

There is often conflict in the relationships between employees' trade unions and the employers' organisations in France. Nevertheless, on the subject of combating discrimination, a national inter-professional agreement on diversity was concluded between the "social partners" in October 2006, and there are company agreements, whether covering diversity in general, for disabled workers, etc.

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

In France this is the HALDE, which has been operating since 2005. A number of associations, along with the CFDT and FO trade union confederations, are members of its consultative committee. The associations have already reported numerous discriminatory problems to it. Opportunities for co-operation on projects between the HALDE and civil society structures have opened up.

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

The major specialist associations seek out miscellaneous skills depending on the types of initiative in which they wish to engage: social workers and psychologists to listen to and help the victims, training staff, jurists for legal advice and the formalities involved in reporting cases, researchers, accountants for project management purposes, etc. Skills relating to questions of discrimination are developing within the trade unions.

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

Specific training on discrimination has already been provided in France, some of it under the aegis of the Fasild, which has now become the Acsé. However by no means all civil society structures take advantage of it. Skills are often acquired on the job and are disseminated as part of partnership projects such as the EQUAL projects.

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

The most professionalised associations have the required skills, often developed on the job, in order to bid for public and private tenders and to report on the work done to the project sponsors. Those which receive subsidies must also report on their activities. The trade unions have less experience of these practices.

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

The assessment of the quality and scope of the activities depends on the type of initiative undertaken: reports and formal assessments for the financial backers, legal victories, passing of legislation or political measures following pressure campaigns, etc.

**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?**

Once the points dealt with in questions 40 and 41 have been considered, we must add that the difficulties which are sometimes encountered in building partnerships do not help to make up for the lack of resources and do not make it easier to disseminate skills and areas of expertise.

**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 and the lack of skilled human resources linked to it are regularly among the core concerns of trade unions and associations.

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

It is less than a decade since combating discrimination became a recognised key public policy area in France. The professionalisation of the civil society organisations working on this subject, in particular on the more technical aspects (law, statistics), is just as recent. A lot of it is still at a militant stage.

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

Generally speaking there should be more anti-discrimination training in France. Looking beyond the facts and principles, it should tackle the more “technical” aspect such as anti-discriminatory law and legal proceedings, the identification and proof of a case of discrimination, ways of seeking funding.

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

Clearly a large proportion of their staff still need training in the new French legal and institutional anti-discriminatory framework, so that it can actually become effective. For structures designed to support the reporting of people for discrimination, there are two identifiable needs:

- training on the procedures involved in taking legal action, whether in court or out of court;
- training on how to gather together the evidence.

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

The previous remark on the procedures for legal action is even truer at European level.

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

Although the lobbying of the public authorities on anti-discrimination questions is not a long-established practice in France, it is now on the rise. However lobbying is often not seen by associations – and still less so by the trade unions – as a skill in which they could be trained: it is a matter of militant experience and know-how. Furthermore, in France, political or legislative proposals are rarely formulated by civil society structures acting in an advisory capacity to the authorities. NGOs and trade unions may influence policies or legislation after having been consulted about them, or because they brought pressure to bear in public, but the formulation of policies and laws is a matter for the government and the elected representatives.

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

The trade unions could do more to publicise their role in combating discrimination amongst employees and jobseekers. They could put more effort into this role in the field, particularly in terms of taking legal action. However the current low numbers of union members in France, which is almost nil in SMEs, is a real difficulty.

Associations have already run successful campaigns widely publicising their anti-discrimination work, such as SOS-Racisme with its “testing” campaigns [see explanation in question 9]. The associations could probably be better known to the general public on criteria other than ethnic origin.

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

The trade unions, in particular, would like to or could do more in this area. See question 46.

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

The credibility and status - in the eyes of the public authorities - of associations and trade unions working against discrimination, could probably be improved; this also depends on the public authorities...

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

The quality of the relations between the “social partners” also depends on the employers... In spite of the conflictive nature of social relations in France, in the field of anti-discrimination, we can see that co-operation is being built between the trade unions and the employers, provided that common frameworks are established: EQUAL projects, social agreement negotiations, etc.

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

See question 46. Even more than raising awareness among public opinion in general, it now appears that we need to increase awareness and train some types of participants: human resources professionals and legal professionals, for example.

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

Above all we must not forget to produce techniques and tools designed to help bring about change in the perpetrators of discrimination.

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

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

The principle of equality is asserted by the 1958 French Constitution which refers to two fundamental texts: the 1789 Declaration of the Rights of Man and of the Citizen and the Preamble to the 1946 Constitution. These assert that everyone is equal before the law and prohibit any discrimination in employment on the grounds of ethnic origin, gender or beliefs.

In terms of discrimination on the grounds of criteria of race or ethnic origin, age, religion or convictions, sexual orientation and disability, French law has developed considerably over the last few years under the impetus of European directives 43 and 78 of 2000. The transposition of these two directives took place in stages (see below).

At the end of 2003, the date by which transpositions into national law had to be completed, France was on time in terms of the incorporation of most of the European framework for combating discrimination. She had informed the European Commission that she would use the three additional years allowed for the transposition of the provisions on discrimination on grounds of age and disability into the civil service. In June 2007, the Commission asked France (and 13 other Member States) to complete the full transposition of the directives on certain specific points which were still not completely dealt with. At the end of 2007 the settlement of these points is still in progress in France. On the other hand, current internal French law goes further, on a number of other points, than European community provisions.

In terms of content, whether for instance for the extension of the list of prohibited criteria, the extension of the sectors covered, the sharing of the burden of proof, or the classification of indirect discrimination, the passing of the necessary legislation took place consensually.

The most widely debated provision is that of the independent body advocated in article 13 of directive 2000/43. Although France undertook to settle this point before the due date for the “closure” of the transpositions at the end of 2003, the actual incorporation of this provision only took place in 2004, by means of the law of 30<sup>th</sup> December instituting the Haute Autorité de Lutte contre les Discriminations et pour l'Égalité (Halde - High Authority on Combating Discrimination). The status of the Halde has led to debate about the limits and organisation of its powers with regard to the conventional court system.

#### *Major legislative contributions as a result of the transposition*

The contributions made by the **law of 16<sup>th</sup> November 2001** relate essentially to the field of employment and of work. Amongst other things, the law has now amended the following:

- the Employment Code for both the private and the social economy sector,
- the law of July 1983 on the rights and obligations of officials for the public sector.

The law of November 2001 introduces the discriminatory grounds of “sexual orientation” and “age” into these two pieces of legislation. In the two pieces of legislation, it specifies the conditions which allow a distinction to be made on the grounds of age. Among the criteria which may be linked to ethnic origin, it introduces “physical appearance” and “paternal surname” into these two pieces of legislation. It also introduces them into the Criminal Code which, amongst other things, punishes any discrimination in terms of access to and supply of goods and services. Finally, on the five criteria prohibited by the directives of 2000, the law of 2001 bans discrimination:

- in access to work experience and training courses at companies (Employment Code and Criminal Code);
- in access to employment and any position in life at work (Employment Code and law of 1983).

In addition, the law of November 2001:

- sanctions the classifications of direct discrimination and indirect discrimination on all criteria, both in the Employment Code and in the law of July 1983 for the civil service;
- sanctions the sharing of the burden of proof in the civil courts in the Employment Code, on all criteria: the applicant or employee must present evidence suggesting the existence of discrimination, the defendant must prove that there were grounds for his or her decision as a result of objective elements unrelated to any discrimination;
- introduces the ability for trade unions and associations to take legal action for discrimination on behalf of the applicant or employee in question into the Employment Code, provided that this latter does not object (trade unions) or gives his or her written agreement (associations established more than five years previously);
- introduces provisions designed to protect plaintiffs and witnesses against retaliation into the Employment Code, and into the law of 1983 for the civil service;
- extends the investigative powers of labour inspectors in terms of discrimination;
- introduces measures into the Employment Code encouraging the social partners to conclude collective agreements to ensure equality of treatment between employees with no distinction on the grounds of race or ethnic origin.

The **law of 17<sup>th</sup> January 2002** extends the relevant contributions of the law of November 2001 to the field of the rental housing market: ban on direct or indirect discrimination, sharing of the burden of proof in the civil courts. The law also specifies that the owner or his or her representative cannot ask people applying to rent a property for a photo.

The **law of 30<sup>th</sup> December 2004** creates an independent body to uphold and promote equal opportunities: the Haute Autorité de Lutte contre les Discriminations et pour l'Égalité (Halde). In the end French law goes further than article 13 of directive 2000/43, as the Halde has jurisdiction for all cases of discrimination, including all of the fields and criteria covered by directives 43 and also 78 of 2000. The law of December 2004 granted the Halde the following powers and missions:

- to provide advice, legal and investigative assistance to any person who believes that s/he has been the victim of discrimination, and who may have direct and free recourse to the Halde;
- to carry out research, to raise awareness, to support training, to disseminate good practices and to promote equality in all fields;
- to offer consultation, observation and recommendation services, amongst others to the public authorities and the courts.

At the same time the law of December 2004 extended the fields covered by conviction for racial discrimination in France, by completing the transposition of directive 2000/43. It confirms the right to equal treatment without distinction on the grounds of race or ethnic origin in terms of social protection, health, social advantages, education, access to goods and services, the supply of goods and services, membership of and commitment to a professional trade union organisation, including any advantages procured by this latter.

In all of these fields, the law of December 2004 sanctions the procedure for the sharing of the burden of proof in the civil courts, in matters relating to direct or indirect discrimination.

**The law of 11<sup>th</sup> February 2005** asserts the principle and means of bringing about actual, specific equality for disabled people (accessibility, right to compensation, right to participation) in all fields of life in society. In the field of employment it makes the following provisions:

- that employers must provide reasonable facilities for disabled workers, provided that the costs of this are not disproportionate;
- that special provisions may be made to allow disabled candidates to sit the civil service examinations.

*The French situation beyond the European directives of 2000*

Although the sectors covered by convictions for discrimination are the same, the list of discriminatory criteria is wider in French than in European law. For instance, alongside “disability”, we also have the criteria of “state of health” and “genetic characteristics”. Alongside religion and convictions, the French codes also include “political opinions” and “trade union and mutual activities”. Finally, French law systematically includes the criteria of “gender”, “family situation” and “pregnancy”, which are dealt with by European directives other than those of 2000. Furthermore the Halde now has areas of jurisdiction and powers which are far wider-ranging than those called for by directive 2000/43 (see above).

The French situation is regularly examined by official European watchdogs, such as the ECRI or the EUMC (which has become the Agency for Fundamental Rights). It is also assessed by the committees monitoring the application of international agreements ratified by France, such as the Committee on the Elimination of Discrimination Against Women (CEDAW) or the Committee on the Elimination of Racial Discrimination (CERD). These various authorities note the positive development of the formal framework for combating discrimination in France in recent times, whilst drawing attention to various different points where progress still remains slow in practice, with examples including the level of commitment by the forces of order and the judicial system to combating discrimination, the dual discrimination against immigrant women, discrimination against “travellers”, etc.

The problem of discrimination is becoming increasingly well-known and recognised in France itself, where over the last few years it has regularly been the subject of public reports, opinion polls and official studies. One of the most recent of these studies is a national survey carried out by “testing” ethnic discrimination in recruitments (sending identical applications, one with a “typically French” name and one with a name suggesting a “non-French” ethnic origin), ordered by the Ministry of Employment and carried out by the ISM-CORUM consultancy under the aegis of the International Labour Organisation (<http://www.ismcorum.org/testing-bit-france-2007-M22-R22-A361.html>).

For the purposes of the international reports mentioned above, it is sometimes recommended that France should refine the tools she uses to measure cases of discrimination. Tools, including statistics, are developed in France, but they do not break the whole of the population down into ethnic or racial categories. This point has been a source of very lively debate over the last few years.

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

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

#### *Ways of taking legal action*

Out-of-court proceedings – employment under private law

People who believe that they have been the victims of discrimination in employment or work can take action using out-of-court systems: In particular, they can inform staff representatives so that they can set in motion a procedure to alert the employer, take the matter before the Halde or appeal to the labour inspector. This type of procedure is not compulsory prior to taking court action.

**The staff representative** plays a **role** in keeping a watch, raising the **alert** and questioning which can lead to matters being taken to the employer if s/he is informed and observes, e.g. via an employee, that there is an infringement of the rights of people working for the company, such as a case of discrimination. Once the staff representative has brought the matter to the employer's attention this latter or his or her representative must investigate immediately, and take any corrective steps which may be necessary. If the employer disputes whether the situation is genuinely discriminatory, or if s/he fails to take action by investigating and does not look for appropriate solutions, the staff representative may take the matter to an industrial tribunal (if the employee, after being notified in writing, does not object or does not wish to take this action him or herself).

Any person who believes that s/he has suffered discrimination in employment may take the matter directly to the **HALDE - 11 rue Saint Georges, 75009 Paris – tel.: 01.5531.6100 or 08.1000.5000 - [www.halde.fr](http://www.halde.fr)**

The Halde may then demand that any person implicated disclose all documents, explanations or information that it deems to be relevant. It may hold hearings and carry out spot-checks. The Halde thus assists the plaintiff with drawing up his or her documentation, and helps him or her to identify any type of proceedings which may be suitable for his or her case. It may reports on its observations to the courts if the matter is taken before them.

The Halde asks the perpetrator of any case of discrimination to put an end to it, makes recommendations to the companies (who must then follow up on them), and it may make its involvement public. As an alternative to recourse to the courts, the Halde may carry out or refer the case to mediation. Mediation is an attempt to resolve a conflict amicably, headed by a neutral ombudsperson, outside of the judicial framework. The method broadly depends on the people involved in the conflict and it is not binding. The main role of the ombudsperson, who is appointed as a result of his or her moral authority or skills, is to submit proposals for resolving the conflict, in the form of recommendations. If the mediation fails, the matter can still be taken to court.

If the facts of the case have not already lead to criminal proceedings, the Halde may also offer the perpetrator a settlement, consisting of the payment of a fine and, where applicable, compensation paid to the victim. The total value of the fine is set according to how serious the case is and also on the grounds of the resources and liabilities of the physical person or legal entity in question. If the settlement is unsuccessful, the case is referred to the criminal court.

Finally, an employee may ask the labour inspector to talk to his or her employer, e.g. with a view to conciliation. In matters relating to discrimination, the inspector may ask for disclosure of any document or information, irrespective of the medium, which is relevant to the recording of any discriminatory matters covered by either the Employment Code or the Criminal Code (see *the situations covered* below).

When s/he observes offences under the Criminal Code, the labour inspector may draw up a report: this latter is deemed authentic until there is proof to the contrary and it is sent to the prosecutor, who decides on what subsequent action should be taken.

#### Court proceedings – employment under private law

When a person believes him or herself to have been the victim of discrimination in private employment and wishes to restore his or her rights, s/he may take the matter before two different courts, either with the assistance of competent parties or represented by them:

- the criminal court, which hands down sentences for deliberate discrimination in terms of access to work experience or a period of training at a company, job offers, recruitment, penalties and dismissal; the criminal penalties for these kinds of discrimination (fine and imprisonment) were recently increased;
- the industrial tribunal, a civil court which judges any dispute on the grounds of discrimination in employment, including prior to the signing of the contract of employment (recruitment process).

#### Out-of-court proceedings – the civil service

A civil servant or a public official who has been the victim of a discriminatory decision may take action via various out-of-court channels. S/he may ask for the decision to be changed or withdrawn, either by means of an automatic appeal to the authority which took the discriminatory decision, or by appealing to a higher authority which can then take disciplinary action against the culprits.

Any person who believes that s/he has been the victim of discrimination in the civil service may also opt for an alternative method of settling the matter, such as mediation or conciliation. S/he may approach the Halde for this purpose.

#### Court proceedings – the civil service

If the person involved wishes to take legal action, s/he must issue proceedings in the administrative court. S/he may also issue emergency proceedings in this same court, which may order interim measures to be taken.

The civil service trade unions may take legal action in the administrative court against any regulatory action concerning staff status, and against any individual decisions which infringe civil servants' collective interests.

Two main types of court action can be taken in an action for discrimination in the administrative court:

- action for an abuse of power, which will aim to restore the previous situation by overturning a discriminatory decision;
- full proceedings, which in theory is the only kind of action which can give rise to compensation; in order to win damages the victim of discrimination will probably have to establish the responsibility of the government body.

In the specific situations involving discrimination which are punishable under the Criminal Code, it is still possible to take action in the criminal court, based upon the same conditions as in private employment.

### *The situations covered*

A deliberate case of discrimination may be punished by three years imprisonment and a fine of 45,000 euros (article 225-2 of the Criminal Code) when it consists of the following:

- making a job offer, an application for work experience or a period of training at a company subject to a condition based upon one of the banned criteria;
- refusing access to work experience for a person as part of his or her studies or continuing vocational training on the grounds of a banned criterion;
- refusing to recruit, penalise or dismiss a person on the grounds of a banned criterion.

Employers as legal entities may be declared to be criminally responsible for these cases of discrimination if they are committed at the request of their managing body. The legal entity is then liable to pay a fine of 150,000 euros and is banned from operating in the field in which the offence was committed. Legal entities may also be the subject of criminally reprehensible discrimination, on the grounds of a banned criterion linked to the members or to certain members of these legal entities.

In the civil courts and industrial tribunals (article L122-45 of the Employment Code) or the administrative court (article 6 of the law of 1983), discrimination may be punished in any situation in professional life, including access to work experience, recruitment, remuneration, profit-sharing measures, vocational training, assignment, classification, assessment, promotion, discipline, etc.

Any differences in treatment on the grounds of age, disability or state of health do not constitute discrimination if they have an objective cause (a medically-recorded inability, for instance) or if they are done with a legitimate aim (employment policy, occupational risk prevention), and the means used are necessary and appropriate.

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

### *Ways of taking legal action*

Outside of the field of employment, if a person believes that s/he has been the victim of discrimination on the grounds of race or ethnic origin, s/he can:

- attempt to resolve the situation via amicable channels, including mediation; this type of procedure is not compulsory prior to taking court action;
- take action in the civil courts, the departmental court or the administrative court depending upon the status of the person in question (private or public);
- issue criminal proceedings in the criminal court, in the event of deliberate discrimination manifesting itself in one of the precise situations covered by the Criminal Code.

As in the field of employment, the Halde and the anti-discrimination associations may help the person to issue proceedings. Irrespective of the field involved, the Halde may intervene of its own accord in a case of direct or indirect discrimination, provided that the victim does not object. Any association whose articles of association include combating discrimination or assisting the victims may refer the matter to the Halde jointly with a victim if the latter is in agreement. The associations and the Halde help these people to put together their cases, including from a court perspective. The Halde has wide-ranging investigative powers for this purpose. As an alternative to court action, the Halde may propose mediation or a settlement (see the details of these procedures given above). If the matter is taken to the courts, the Halde may ask to speak at the hearing. The competent associations may issue civil proceedings for damages in the criminal courts.

### *The situations covered*

In addition to the field of employment and professional life (whether paid or unpaid), any inequality in treatment on the grounds of race or ethnic origin is banned in social protection, health, education, social benefits (housing benefits, family benefits, etc.), access to goods and services (housing, banking services, all places and establishments which are open to the public, etc.), the supplying of goods and services, the exercising of any economic activity whatsoever, access to elected public office, etc.

The civil courts punish any racial discrimination in all of the fields mentioned above. Criminal law punishes only those cases of discrimination which consist of refusing to supply an item of goods or a service, of making the supply of an item of goods or a service conditional, or of hindering the normal exercising of any economic activity whatsoever. When the discriminatory refusal to supply an item of goods or a service is committed either in a place which is open to the public or for the purposes of preventing access thereto, the penalties incurred are five years' imprisonment and a fine of 75,000 euros. The penalties are the same in cases when the discrimination is committed by a person who holds public authority or who has a public service remit, and it consists of refusing entitlement to a right granted by law (e.g. social benefits) or hindering the normal exercising of any economic activity whatsoever.

As for criminally reprehensible forms of discrimination relating to work, legal entities may be declared to be criminally responsible for the cases of discrimination mentioned above. Legal entities can also be the victims of these kinds of discrimination, on the grounds of the races or ethnic origins of their members or some of their members.

### **2.C. What avenue for an employment or non-employment complaint**

Whether or not a case submitted by a private individual who believes that s/he has been discriminated against, or by an association or a trade union representing him or her goes to court depends upon the nature of the case, how serious it is, the desired results, the evidence available and the time limit. When the complainant or his or her representatives have the choice, two essential criteria need to be examined: the desired compensation and the possibility of establishing the evidence.

#### Compensation

The civil court aims to remedy the losses caused to the victim of the discrimination. The civil action ends in the first place with a remedy in kind which involves the overturning of the discriminatory act (e.g. reinstatement to a position) and, failing this, by the awarding of damages. Discriminatory measures are *ipso jure* null and void: any discriminatory provision or clause shall be deemed to be ineffective and compensation will be determined accordingly.

The criminal action aims first of all to penalise the perpetrator of the discrimination. If this latter acts deliberately, s/he is liable to fines and imprisonment. If there is a civil action for damages or a direct summons, the criminal judge must then rule on the compensation for the losses. It should be noted that only a limited number of situations are covered by the Criminal Code as far as discrimination is concerned (see above). Cases of discrimination in pay, for example, can only be dealt with in the civil courts.

#### Establishing proof

In civil cases, people who believe that they have been the victims of either direct or indirect discrimination are entitled to proceedings which involve a sharing of the burden of proof. The complainant must establish proof on the grounds of which the judge can presume that there has been a case of discrimination. In view of the above, it is up to the defendant to prove to the judge that there were objective grounds for the measure in question which bore no relation to any form of discrimination.

In criminal cases, it is entirely up to the complainant or the Public Prosecutor to produce evidence of the offence of discrimination and, in addition to the facts of the case, it must also be proven that this was done deliberately. Any person against whom criminal action for discrimination is taken is entitled to the presumption of innocence, and there is no sharing of the burden of proof. However the investigative powers of the Halde, the labour inspectorate, the criminal police and the investigating magistrate will all help to establish the proof.

## **2.D. Technical procedural requirements of each available remedy**

### Time limits

Court action, in cases of discrimination as in other cases, can only be taken within certain time limits:

- in civil cases, the matter must be brought before the relevant court within a period of thirty years after the occurrence of the facts in order to apply for compensation for any losses suffered; in cases relating to the payment of salaries, the case must be brought before the industrial tribunal within a period of five years;
- in criminal cases, the matter must be brought before the court within a period of three years after the occurrence of the facts in question;
- administrative action must be taken within four years for an application for compensation, or within two months for the overturning of a decision.

It usually takes a long time for the trial to take place and then for a ruling to be made for various different reasons, including “the logjam” of Justice, in other words the large number of court actions of all kinds.

### Procedures for taking a case to court

A case can be brought before the departmental court or the industrial tribunal by various means: by means of a registered letter with acknowledgement of receipt sent to the office of the clerk to the court or tribunal, by a statement filed physically at the office of the clerk, by the voluntary attendance of the parties.

National trade unions or those representing staff working at the company may issue any legal proceedings against a case of discrimination in the field of employment, on behalf of an applicant or an employee, without having to produce an authority to act on behalf of the interested party, provided that this latter has been notified in writing and has not objected within a period of fifteen days. Anti-discrimination associations may take legal action provided that they have the written agreement of the interested party.

In order to issue criminal proceedings, the victim may simply file a complaint at the police station or else send a complaint with an application for damages by registered letter with acknowledgement of receipt sent to the senior investigating magistrate, or else, by deed of service, summons the alleged perpetrator of the discrimination (direct summons). The labour inspectorate or the Halde may send reports to the prosecutor, who then appraises what action should be taken.

The trade unions and the competent associations can make claims for damages before a criminal court before which an offence of discrimination has been brought. The application should be made to the office of the clerk of the court.

### Admissible evidence

All kinds of written and oral evidence, documents or witness accounts and also the Halde’s observations can be produced in the civil courts.

Offences can be proven by any means in the criminal courts. The judge decides on the basis of his own personal opinion. S/he may base his or her decision upon admissions or witness statements, reports or bailiffs' reports, expert reports, any written traces (except for those between the defendant and his or her lawyer), any information gathered during a "testing" [see explanation above], etc. It should be noted that no employee or civil servant may be penalised for acting as a witness to discriminatory action. Unlike cases brought before a civil judge, the criminal judge is not obliged to rule out any evidence obtained illegally or unfairly.

## **2.E. Existing support and obstacles at national level**

In addition to any advice offered by trade unions and anti-discrimination associations and any pre-court work which may be carried out by the Halde, the assistance of a lawyer is either highly desirable or compulsory in any court (compulsory in the administrative court). From this point of view and subject to certain conditions, any person who is on a low income is entitled to "legal aid": this means that the State pays fees and legal costs. The aid may be either total or partial depending upon the interested party's resources.

It should also be noted that the recent nature of the changes to the legal and institutional framework against discrimination in France partly explains the relative lack of awareness of them, even sometimes among law professionals... The Halde's communication campaigns are improving awareness of this authority's work in civil society.

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

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

This may be a highly effective procedure because:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **2.K. Professionalism**

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

### **3. Societal issues**

Not enough of the criminals who are guilty of deliberate discrimination are aware that it is an offence in France. For cases of discrimination more generally, the people involved in employment, housing, the economy, services, government bodies etc., are only slowly getting over their first instinct which is to deny that there could be any discrimination where they work. The question is particularly tense when it is a matter of ethnic origin or religion, it is not even always seen as a problem when it is a matter of age or gender.

If we look at the kind of cases of discrimination we find in France we can see that we still need to make considerable progress so that the equality proclaimed in law gives way to a better equality of treatment in fact. Non-exhaustively: women in terms of pay and access to positions of responsibility, people of non-European origin (or those supposed to be, such as travellers) in terms of access to employment, housing and places open to the public, older workers or disabled people in terms of recruitment, homosexuals and people holding certain religious convictions in employment, are still suffering direct or indirect, conscious or unconscious discrimination.

Nobody is completely without prejudices which may lead to one kind of discrimination or another. The trade unions and associations can sometimes have prejudices of their own. Trade unionists can sometimes have homophobic or racist attitudes. Religious associations can be hostile to homosexual associations, and vice versa. People of one particular ethnic origin may reject other people of another particular ethnic origin. Older people may be intolerant of young people, and vice versa. And everyone can have negative prejudices about the ability of disabled people at work.

#### **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?**

Neither the European Commission's Representation in Paris nor its office in Marseilles manages access to funding. Anti-discrimination organisations can receive other forms of support from them:

- advice and information on European matters (e.g. on tenders),
- joint organisation of events, if they have a European dimension.

This latter possibility means that sometimes the Representation may allow its premises to be used on a one-off basis, although this is not always the case, it is a discretionary decision which takes account of factors such as the projects' European dimension.

2. **Does the central government provide for specific funding for NGOs/trade unions working on anti-discrimination? 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?) Is it easy to access such funding? What are the conditions? In case of federal countries, are there funding possibilities at the federated level?**

*At the time of writing we do not yet know how the new French government will be organised following the 2007 presidential elections.* The management of the European Social Fund in France (ESF) currently falls within the remit of the Ministry of Employment: [www.travail.gouv.fr/FSE/](http://www.travail.gouv.fr/FSE/). At this same date, this Ministry is the supervisory authority for the Agence Nationale pour la Cohésion Sociale et l'Égalité des Chances (Acsé - National Agency for Social Cohesion and Equal Opportunities): [www.lacse.fr](http://www.lacse.fr). This agency is the main source of subsidies for associations combating discrimination on the grounds of ethnic origin working in all sectors.

State-funded public grants for anti-discriminatory initiatives can take the following forms:

- operating subsidies or project subsidies which are paid under the terms of an agreement signed between the funding public body and an association which is actively involved in combating discrimination;
- calls for tenders or calls for proposals linked to specific initiatives for which the public authority (ministries, the Halde, the Acsé, etc.) is looking for service providers.

Subsidies are awarded on a discretionary basis. They are re-examined on a regular basis, but may be subject to a long-term agreement. Conventional subsidies come under the State credit system, or increasingly they are decentralised State credits, accessible locally via the Prefectures. A subsidy application must be drawn up and evidence of the public interest of the activities proposed for funding must be given, as this is a condition which anti-discrimination initiatives must meet. On this subject, when they are in place, the Prefects to whom authority for equal opportunities has been delegated must be approached. The Acsé may award subsidies for the types of activity it has been given the task of supporting, including the following:

- preventing and combating discrimination in employment and housing,
- promoting equal opportunities generally.

The Acsé may finance both nationwide and local initiatives. For activities on a local scale, the subsidies will be investigated by the Acsé's regional departments. For all further details please see: [www.lacse.fr/dispatch.do?sid=site/modes\\_d\\_intervention](http://www.lacse.fr/dispatch.do?sid=site/modes_d_intervention)

On the subject of combating discrimination and also on any other subject, calls for tenders fall within the framework of public contracts, for which structures wishing to act as a provider of services to the public authority compete under precise terms. For any information about the terms of the service and about the conditions to be fulfilled in order to be a service provider, the public body issuing the tender should be approached. Service providers who have won a public contract following a tender procedure are paid remuneration for services strictly linked to the specifications of the public contract in question.

Information about public tenders can be found by regularly checking the Official list of public contracts: [www.journal-officiel.gouv.fr/jahia/Jahia/marches-publics](http://www.journal-officiel.gouv.fr/jahia/Jahia/marches-publics)

More specifically, the Halde issues tenders which are published directly on its website: [www.halde.fr/haute-autorite-1/recrutement-marches-publics-28/index.html](http://www.halde.fr/haute-autorite-1/recrutement-marches-publics-28/index.html)

The Acsé does the same thing: [www.lacse.fr/dispatch.do?sid=site/marches\\_publics](http://www.lacse.fr/dispatch.do?sid=site/marches_publics)

Participants in civil society who are actively combating discrimination may have recourse to the various sources of funding mentioned above, so that they can combine them: tenders and subsidies, accessible either at national level or at local level.

Note that France is not a federal country.

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

The local authorities, municipalities, departments or regions can themselves award subsidies or issue tenders within their own respective fields and territories of jurisdiction. For instance this is what happens with the regions in employment and vocational training matters, for the departments in social action matters and for the municipalities in housing matters. The importance given to combating discrimination in their subsidies and tenders may vary widely from one local authority to another.

Furthermore funding in the regions is aimed at developing social dialogue locally. This is of direct interest to employees' unions and the employers' associations, which can intervene on the subject of combating discrimination in this respect.

The granting of subsidies by local authorities is supervised. For instance, municipal subsidies for trade unions may be granted provided that these are for economic and social activities carried out in the local public interest. This may be the case with activities designed to combat discrimination in employment and vocational training and aimed at employees in the area.

Information about the conditions for access to these sources of local funding, subsidies or tenders can be obtained by asking the relevant local authorities themselves.

**4. 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 anti-discrimination grants may take the forms of sponsorship, donations and legacies, the financing of specific projects, or support and contributions in the form of tangible resources. Private funding may come from private individuals (donations to associations, union dues), but they are larger when they are granted by foundations with links to large companies.

There are foundations which are made up of private companies working together on a single subject. For instance the Fondation Agir Contre l'Exclusion (FACE – Action Against Exclusion Foundation), or more recently IMS-Entreprendre pour la Cité (City Enterprise), are company foundations which particularly promote initiatives designed to combat discrimination and to promote equal opportunities. Irrespectively of their own initiatives, these foundations can help to identify individual companies which are likely to support projects dealing with these questions. The Centre des Jeunes Dirigeants (Young Executives' Centre) is an association of executives and heads of SME-SMIs who may support initiatives designed to combat discrimination in employment.

Private foundations not set up by companies may be actively involved in combating discrimination, one example being the Fondation de France. Private bodies with legal status but of a general interest nature (Pension, family benefit funds, etc.) may finance studies or initiatives designed to combat discrimination

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

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

###### *Needs Assessment for Diversity Management (DM) in French businesses/companies*

A significant number of French companies and multinationals have signed the Diversity Charter and have started implementing various innovating practices related to diversity. Diversity Management has become a way to refer to those new practices.

The issues that are currently dealt with in France revolve mostly around:

- age and the idea of a generation gap,
- ethnic minorities and their difficulty to access the hiring interview step,
- women and professional promotion,
- employment access for disabled people.

Religion so far has often been restricted to the issue of Moslem women wearing the veil, especially in public related positions. But there have also been stories about Moslem operators asking for ‘unusual’ breaks in order to pray.

Hiring practices are in the centre of many ongoing debates in France at the moment. Various court cases, studies, as well as both required and non-required testing procedures have revealed a rather striking amount of direct and indirect discriminations in recruitment processes in France. In the large testing survey conducted by ISM-CORUM for the International Labour Organisation in 2006, considering all stages of the hiring process, total choices went up to 4 times more in favour of a white candidate of old French descent, than in favour of a candidate of Arabic or Black-African descent.

In France, the links between ethnic origins, social and economic background, current place of living and access to higher education do exist. They have an impact on access to employment. There is a conjunction of issues faced by the same people, which make things even more difficult for them.

In France, the diploma issue is very important. France is one of the only countries in Europe to have a two-sided higher education system, including universities on the one hand, which, although they can be ranked, are open to anyone with an A-level, and private schools on the other hand, which are sometimes very expensive and always selective. On top of that dual system are the “Grandes Ecoles”, namely the national top-ten engineering and business schools. In those schools there are still fewer women, especially in the science-based ones, and less and less social promotion is at work. When 25% of the students came from factory-workers backgrounds 20 years ago, they are less than 10% today. The representation of ethnic minorities is also very weak.

The first and obvious reason for French companies to take up the issue of Diversity Management is the demographic gap which is going to seriously impact the experienced middle-management population. The lack of experienced skills is a real concern for most banking institutions for example, who have already started to look out for alternative candidates, in addition to the traditional ones.

But the corporate image of the company is also more and more at stake, the diversity issue being closely related now to companies’ social responsibility, which has become a growing concern.

## **Preparation of the seminar**

### *Training seminar in Köln*

After her proposal by ISM CORUM as national Diversity Management trainer and her validation as such by the European Commission, Anne Saüt, general manager of the consultancy Diversity Conseil, was present in Köln to be trained to the Diversity Management session. She followed the course in order to integrate:

- aims of the European project
- targets of the seminar
- organisation of the training
- business cases to use
- UE study on performance through diversity Management
- role to play as trainer
- role of coordinator Erika Luthi to design the seminar and agree on the content

### *Announcement of the seminar*

Advertising on the two websites ISM CORUM and Diversity Conseil

Invitation sent to the 400 contacts of the data base of Diversity Conseil and the 100 contacts in private companies and public service providers of the ISM CORUM database

Invitation sent to the 800 contacts of the data base of ESSEC RH

Invitation sent to the data base of the MEDEF

Announcement on RH specialised press and internet sites

### *Attracting and selecting participants*

Selection made by ISM CORUM and Diversity Conseil. Priority was given to high level HR people or managers in private and public companies over consulting and training agencies, and most business schools teachers and students had to be rejected due to the limited number of seats (around 110 applications were received)

### *Logistical arrangements*

Diversity Conseil searched for a strategic seminar venue in Paris and arranged the conference room of the ESSEC Business School

## **Carrying out the seminar**

### *Ratio of participants (business/government/employers org./consultants/others)*

76% belonged to private Companies, 7% to Public service providers, 17% to training and consulting agencies (see the Introduction of the report)

### *Process during the day – observations*

A short timing was decided for the seminar (4 hours and a half) in the late afternoon and evening, in order to get more high level HR people and managers. We wanted also Gesa Boeckermann of the European Commission to join to this event, to get more companies in and to present the EU studies and policies on diversity management.

Two high profile Diversity Managers of two famous French companies, L'Oréal and EDF, were invited to present their business case, diversity strategies and experiences on the topic. An official representative of the MEDEF (French employers movement) in charge of diversity policies was invited also to explain the MEDEF action for diversity in companies in France.

The programme of the Diversity Management Seminar in France was as follows:

<b>STEPS Title</b>	<b>Type</b>
Introduction Eric Cediey, ISM CORUM	Présentation
Présentation du séminaire par Anne Saüt, Diversity Conseil - sujet choisi - plan - intervenants	Présentation
Tour de salle des participants : présentation des participants et attentes	Tour de salle - d'où je viens - ce que je fais - mes expériences de Diversity Management - mes attentes
Démarrage du séminaire - "Our world is changing" données économiques, démographiques, sociologiques - définition de la notion de diversité - définition du management de la diversité - avantages de mettre en place le management de la diversité - - lien entre management de la diversité et performance	Présentation
Intervention de Gesa Boeckermann : présentation de l'étude de l'UE sur diversité et performance	Présentation
Débat : questions réponses avec le public	Débat
Application du management de la diversité - processus de changement du management de la diversité - sept étapes pour que la diversité devienne une ressource - la mise en œuvre : une affaire d'attitude et de comportements (principes) - outils : Charte, audit, sensibilisation, formations au leadership .... - exemple d'outil de mesure et de management : autotesting de recrutement, par Eric Cediey  Lien avec leurs entreprises	Présentation  Travail en groupe sur ce qu'ils ont mis en place dans leurs entreprises Quels sont leurs résultats et par rapport à quels indicateurs de performances  Tour des groupes sur les réponses
Business cases :  Témoignage de Philippe Hagmann, Responsable Diversité d'EDF Présentation du management de la diversité à EDF : audit, analyse des process Rh, formation de 14000 personnes ;	Présentation

<p>analyse des freins et des leviers, de l'impact sur l'entreprise</p> <p>Débat : questions réponses avec le public</p> <p>Témoignage de Bolutiwi Aiyesimoju, Responsable Ethique et Diversité de L'Oréal</p> <p>Présentation de la politique « Equité et diversité » de L'Oréal, analyse des freins et des leviers, formation des collaborateurs sur plusieurs pays, etc</p> <p>Débat : questions réponses avec le public</p> <p>Témoignage du MEDEF sur les moyens offerts aux entreprises (information sur les réseaux de partenaires, formation, etc...)</p>	<p>Débat avec les participants : réactions ? actions envisageables dans leur propre environnement ? Leviers et freins ?</p> <p>Présentation</p> <p>Débat avec les participants : réactions ? actions envisageables dans leur propre environnement ? Leviers et freins ?</p>
<ul style="list-style-type: none"> <li>- Comment les participants peuvent promouvoir le management de la diversité dans leurs structures</li> <li>- Engagements des participants</li> </ul>	<p>Travail de groupe et échanges</p>
<p>Evaluation of the seminar</p>	<p>Feuilles d'évaluation remises</p>

### **Main lessons learned**

Around 70 people participated in the seminar most of them representing large companies, meaning that French business people are interested by EU actions.

A lot of exchanges happened during the event and after during the cocktail.

Most of the participants appreciated the short timing instead of spending one full day.

Some people couldn't participate due to the size of the conference room, and some of them wanted a second seminar to be organized.







## 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.