



MANNRÉTTINDASKRIFSTOFA ÍSLANDS
ICELANDIC HUMAN RIGHTS CENTRE

NATIONAL ACTIVITY REPORT ICELAND ANTI-DISCRIMINATION AND DIVERSITY TRAINING

Icelandic Human Rights Centre

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

http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm#train

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II. Introduction

The Anti-Discrimination seminar was held at Háteigur A, Grand Hótel Centrum on 14 April 2008 from 8:30 until 16:30. The seminar was held for 32 participants from NGOs, trade unions and government agencies working on varied grounds of discrimination.

The seminar provided an introduction of the Racial Equality Directive 2000/43/EC and the Employment Equality Directive 2000/78/EC and against this background addressed the situation in Iceland with respect to discrimination in selected fields. In particular, the role of civil society in anti-discrimination efforts was explored.

In Iceland, with a largely homogenous and monocultural population since settlement in the Ninth Century, historically the most serious problem of discrimination is gender discrimination; there is a demonstrable dichotomy between the high level of education of women and their status in the labour market and society as a whole. With a substantial rise in immigration in recent years, however, there are indications that non-citizens and persons of immigrant origin also suffer discrimination in daily life, especially as regards education and employment. Incidents of refusal of access to public spaces and harassment are also reported.

The formal status of disabled persons is good under Icelandic law, which guarantees the right to equality, the right to receive assistance to be enabled to live and work in society, the right to general national and municipal services as well as access to public spaces. The law also provides for affirmative action: disabled persons shall have preference for government employment over other applicants if equally qualified. In practice, however, disabled persons habitually suffer discrimination with respect to, for instance, the right to education, housing and participation in public life and persons with disabilities form a large part of those living in poverty. Although building regulations require that public buildings be accessible for disabled persons and violations are punishable by a fine or jail sentence, these laws are rarely enforced.

Icelandic legislation aimed at equality for homosexual persons is one of the world's most progressive and in a relatively short time the situation of homosexuals has improved tremendously.

There are no legal provisions stipulating equality for everyone regardless of age. Little research has been carried out on this topic but discrimination relating to employment is apparent, especially in correlation with gender. Furthermore, the situation of elderly citizens as regards economic and social rights as well as right to respect for private and family life in nursing homes are issues of concern.

No research has been carried out about the extent of discrimination in the work place based on religion or belief.

In this setting, the seminar addressed gaps remaining in both legislative and *de facto* protection against discrimination, in particular, discrimination on grounds of age, sexual orientation, race, national origin and disability.

III. Anti-discrimination seminars

a) National activities anti-discrimination seminars

Design of the training

The Icelandic Human Rights Centre organized the seminar in cooperation with the national trainers and the international trainer. The seminar design was based on the trainers seminar held in Stockholm on 12-13 May 2008, the *Capacity Building of Civil Society Dealing with Anti-Discrimination Training Methodology Manual* and the *Combating Discrimination – a Training Manual*. The two Directives in question have not been transposed into national law and, furthermore, national anti-discrimination legislation is limited. There was accordingly no scope for a review of existing measures, which is a major component in training sessions in other countries. It was thus decided that the seminar could be carried out in one day. The target group was practitioners from NGOs dealing with anti-discrimination issues in the field of race and origin, age, disability, religion or belief and sexual orientation, as well as NGOs working on anti-discrimination issues in general. In trade unions, the target group was staff and lawyers dealing with equality issues. Representatives from the Gender Equality Office, a governmental body, attended as well as officials from the Ministry of Social Affairs. The international trainer was Nicola Dandridge, an equality expert from the United Kingdom. The two national trainers were Margrét Steinarsdóttir, legal trainer and Guðrún Dögg Guðmundsdóttir, non-legal trainer and country expert. Both national trainers have experience of working with trade unions and NGOs on the five relevant grounds of discrimination.

Preparation of the seminar

All the trainers attended the trainer seminar in Stockholm and consulted each other extensively during design of the seminar programme. The country expert prepared a thirteen page report, mapping the NGOs and trade unions dealing with anti-discrimination in Iceland and their capacity as well as a detailed funding section and a chapter for the training manual describing the national legislation, institutions and procedures relating to equality in Iceland.

For the seminar the *Combating Discrimination Manual* was updated and translated into Icelandic. Chapters on trade unions, the national anti-discrimination context in Iceland, funding opportunities, the civil society landscape and international human rights conventions to which Iceland is party were added.

The seminar was announced by e-mail, internet and follow-up phone calls to all major NGOs and trade unions and specific individuals. Participants attended from all major NGOs working on anti-discrimination issues and the two largest trade union associations, in addition to smaller trade unions. Four participants required air tickets and hotel accommodation.

Participants received an electronic version of *Combating Discrimination - a Training Manual* before the seminar and at the seminar they received a hard copy containing the manual and the additional materials in Icelandic. Participants also received promotional materials on EU anti-discrimination work and the European Year of Equal Opportunity. The presentation Power Points were sent out electronically to all participants.

Carrying out the seminars

The seminar took place at Háteigur A, Grand Hótel Centrum on 14 April 2008 from 8:30 until 16:30. The room was organized as a class room with chairs and tables, whiteboards, paperboards, PowerPoint projector and a podium with a microphone. The hotel has perfect access for persons with disabilities. The programme was organised so that the theoretical stage was set with presentations in the morning and after lunch while brainstorming and group-work was carried out in a more casual setting in the afternoon, when participants had become more familiar with the topic and each other.

From 8:30 to 9:00 participants registered and received name tags. At 9:00 Guðrún Dögg Guðmundsdóttir welcomed the participants and introduced the programme. Participants introduced themselves. From 9:02 to 9:15 Nicola Dandridge gave an introduction on the European Commission and the two Directives. From 9:20 to 10:25 Margrét Steinarsdóttir gave a presentation on the Directives and national anti-discrimination legislation. Then coffee and croissants were served. From 10:40 to 11:15 Margrét continued her presentation on the Directives and national anti-discrimination legislation. From 11:15 to 12:00 Nicola discussed the role of NGOs and trade unions as set out in the Directives – and gave examples of their application. Lunch consisting of a main course and desert was served. From 13:00 to 13:35 Nicola gave examples of the role of NGOs and trade unions and their work in the UK and other EU countries. From 13:35 to 14:15 Guðrún Dögg Guðmundsdóttir gave a presentation on NGOs and trade unions in the Icelandic context and their role, possible and actual, in anti-discrimination efforts. From 14:20 to 15:00, brainstorming and group work began. The participants, divided into five groups, were asked to analyse the strengths and weaknesses of their organisations and come up with ideas for improvements and cooperation. Then coffee and cake were served. The groups were then asked to come up with examples of discrimination that could fall under the scope of the Directives, discuss them and write them on the whiteboard. The trainers assisted the groups and then the examples were discussed in plenary, with the trainers and participants collectively analyzing and discussing the cases. The trainers then wrapped up the seminar allowing for 10 minutes for completion of the evaluation forms. During the whole programme, time was allowed for lively discussion, questions and debate.

The seminar was very well received as demonstrated by the attached evaluation form and the following results:

Average results of evaluation questionnaires for participants (..) = AVERAGE

SEMINAR CONTENT

- | | | |
|----|---|--------|
| 1. | I was aware of the participant profile for this seminar. | (4.27) |
| 2. | I had the necessary knowledge and skills to take part. | (4.09) |
| 3. | I was well informed about the objectives of this seminar. | (4.27) |
| 4. | This seminar lived up to my expectations. | (5) |
| 5. | The content is relevant to my job. | (4.5) |

DESIGN

- | | | |
|-----|--|--------|
| 6. | The objectives of the seminar were clear to me. | (4.86) |
| 7. | The activities stimulated my learning. | (4.41) |
| 8. | The activities gave me sufficient practice and feedback. | (4.36) |
| 9. | The difficulty level was appropriate. | (4.31) |
| 10. | The pace was appropriate. | (4.59) |

TRAINERS

- | | | |
|-----|----------------------------------|--------|
| 11. | The trainers were well prepared. | (4.77) |
| 12. | The trainers were helpful. | (4.77) |

ENVIRONMENT

- | | | |
|-----|--|--------|
| 13. | The venue was comfortable. | (4.86) |
| 14. | The training venue provided the necessary environment for me to learn. | (4.68) |
| 15. | The training venue was equipped for wheelchair access. | (5) |
| 16. | The meals and refreshments provided were good. | (4.68) |

MATERIALS

- | | | |
|-----|--|--------|
| 17. | The materials provided were relevant and useful. | (4.86) |
|-----|--|--------|

The discussions were lively and all attendees participated actively. The cooperation between the different trainers went very smoothly and the participants were happy. It is the impression of the national coordinator that the seminar also fostered seeds of future cooperation between the various NGOs and trade unions working on anti-discrimination issues. The seminar also garnered support for the transposition of the Directives and the strengthening of Icelandic anti-discrimination legislation and its implementation in general.

Main lessons learned

- NGOs in Iceland are most run on a voluntary basis so for some a whole day seminar on a weekday is difficult.
- Intensive efforts are needed to get representatives of trade unions to attend seminars of this type.
- The materials developed for the seminar were considered extremely useful.
- It is possible to discuss complicated legal materials with a non-legally trained group satisfactorily.
- There is as of yet no discussion on multiple discrimination in Iceland and NGOs rarely work across the different discrimination grounds.
- A more detailed information pack about EU anti-discrimination work could be useful.

General findings and conclusions

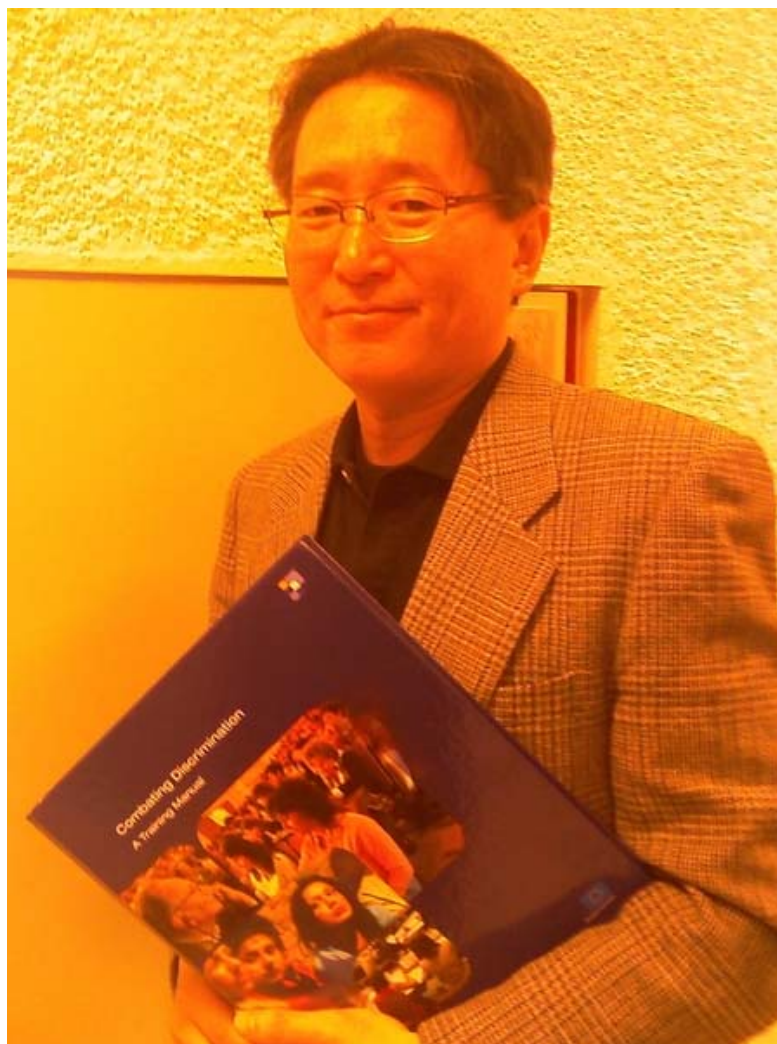
Design of the training programme as in tender proposal was realistic and achievable.

Balance of tasks between project leader and national level was as should be and without problems.

Budgeting and costs of the seminars were realistic and problem-free.

Time frame of the project and of the work performed was realistic although the translation work was more comprehensive and time consuming than originally envisaged. Also, the official Icelandic committee charged with discussing possible implementation of the Directives did not hand in their conclusions on time; this made the organisation of the seminar programme and setting dates for the seminar difficult.





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

I. Profile of NGOs/trade unions working to combat discrimination in Iceland

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

No trade unions in Iceland have anti-discrimination as their main area of work although trade unions regularly deal with anti-discrimination issues. Thus trade unions in Iceland pursue equality programmes to varying degrees but, generally, there is limited work on anti-discrimination and diversity. There is a broad range of NGOs working specifically to combat discrimination at a national level. Most are generalist grassroots organisations taking a broad view of equality and diversity or pressure groups aimed at progressing equality and anti-discrimination for their members. Their structure and work varies significantly.

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)?

Trade union work to combat discrimination is mainly in the area of gender discrimination and discrimination based on race or ethnic origin in the workplace.

Most NGOs working specifically on non-discrimination issues work to eradicate discrimination based on a particular ground such as gender, disability or sexual orientation. Organizations promoting the rights of particular social groups, such as WOMEN - Women of Multicultural Ethnicity Network and the Association of the Elderly [Samtök eldri borgara] deal with non-discrimination issues as part of their activities and actors such as the Icelandic Red Cross, the Office of the Priest for Immigrants and the Intercultural House, a non-profit organization (NPO), also work on non-discrimination issues as part of their activities. Other organizations such as the Icelandic Human Rights Centre, working on the whole human rights spectrum, deal with discrimination issues - based on all grounds.

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

As set out above no trade unions in Iceland have anti-discrimination as their main area of work although many deal to some extent with labour rights in relation to women and discrimination based on ethnic origin. Many NGOs have anti-discrimination as their main area of work, especially those working on gender equality and LGBT rights. Others work on anti-discrimination only as a limited part of their activities and few do comprehensive anti-discrimination work covering more than one equality ground. Below is a table mapping the most prominent NGOs combating discrimination in Iceland.

Organization	Working on grounds of discrimination						
	Gender (M/F)	Race or ethnic origin	Disability	Age	Sexual orientation LGBT	Minorities	Religion or belief
MULTIPLE GROUNDS							
Mannréttindaskrifstofa Íslands /The Icelandic Human Rights Centre www.humanrights.is	•	•	•	•	•	•	•
Íslandsdeild Amnesty International / Amnesty International www.amnesty.is	•	•			•		
Rauði kross Íslands/ The Icelandic Red Cross www.rki.is	•	•				•	•
GENDER							
Bríet- Félag ungra femínista/ Briet - The Young Feminist Association www.briet.is	•						
Femínistafélag 'Islands/ The Feminist Association www.feminstinn.is	•						
Félag kvenna af erlendum uppruna/ Women Of Multicultural Ethnicity Network www.ahus.is	•	•				•	
Kvennaráðgjöfin / The Women's Counselling	•						
Kvenréttindafélag Íslands/ The Icelandic Women's Association www.krfi.is	•						
Samtök um kvennaathvarf/ Women's shelter www.kvennaathvarf.is	•						
Stígamót / Icelandic Counselling and Information Centre for Survivors of Sexual Violence www.stigamot.is							
RACE OR ETHNIC ORIGIN							
Alþjóðahús / Intercultural Centre www.ahus.is		•				•	
Ísland Panorama www.panorama.is		•				•	
DISABILITY							
Alnæmissamtökin á Íslandi/ The AIDS Organization of Iceland www.aids.is			•				
Blindrafélagið – samtök blindra og sjónskertra / The Association of the Blind www.blind.is			•				
Félag heyrnarlausra /The Icelandic Association of the Deaf www.deaf.is			•				
Geðhjálp/The Icelandic Mental Health Alliance www.gedhjalp.is			•				
Landssamtökin Proskahjálp / National Association for Persons with Intellectual Disabilities www.throskahjalp.is *			•				
Sjálfsbjörg-Landssamband fatlaðra/The Association of Disabled in Iceland www.sjalfsbjorg.is *			•				

Oryrkjabandalag Íslands/ The National Federation for the Aid of People with Disabilities www.obl.is *				•				
AGE								
Félag eldri borgara/ The Association of Senior Citizens www.feb.is					•			
Landssamband eldri borgara/ The National Federation of Senior Citizens le@rl.is *					•			
LGBT								
FSS-Félag STK stúdenta/ Association of LGBT students http://gay.mis.is/						•		
Samtökin '78 /The Icelandic Lesbian and Gay Association www.samtokin78.is						•		
TransÍsland-hagsmunasamtök transgender fólks/ Icelandic Association for Transgender People annakk@simnet.is						•		
RELIGION OR BELIEF								
Félag múslima / The Muslim Association www.islam.is							•	•
Samráðshópur trúfélaga / Religious associations consultative group								•
Siðmennt-félag siðrænna húmanista/ The Icelandic Ethical Humanist Association www.sidmennt.is								•

* Umbrella organization or federation.

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

The Act on Trade Unions and Industrial Disputes No. 80/19384 stipulates the right to establish trade unions and federations of trade unions for the purpose of working jointly for the interests of the working class and wage earners in general. Trade unions and NGOs are all registered at the national level. Registration is simple; organizations have to register with the Internal Revenue in accordance with Law No. 17/2003 on the Register of Enterprises. The Internal Revenue asks that organizations hand in a specific form along with the ordinance/laws of the organization. For the Internal Revenue to register the organization its ordinance/law has to set out:

- 1) the name and address of the organization,
- 2) the aim of the organization and how that aim will be achieved,
- 3) the organization's founders,
- 4) who can join the organization,
- 5) the organizational structure,
- 6) how the organization will be financed and beneficiaries of any profit and,
- 7) how the organization may be dissolved.

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

In general Icelandic NGOs are small (paid staff of 0-5 persons). Individual membership-based NGOs vary from having around 50 to 700 members. Umbrella organizations such as the Association of the Disabled, Þroskahjálp - The National Federation for the Aid of People with Disabilities and the national branches of INGOs such as the Icelandic Red Cross have more employees and thousands of members.

Trade Unions come of all sizes. VR Trade Union [Verslunarmannafélag Reykjavíkur] (25,000 members), Efling Trade Union (20,000 members) and the Confederation of State and Municipal Employees [Bandalag starfsmanna ríkis og bæja] (18,000) are the largest trade unions in the greater Reykjavík area where almost half of the Icelandic population lives.

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

Trade unions generally form national networks, the largest being the Icelandic Confederation of Labour [ASI]. Trade unions are affiliated to national federations which are in turn affiliated to the Icelandic Confederation of Labour.

Federations affiliated to ASI as of 2006	Unions	Members
Federation of General and Special Workers [SGS]	29	38,539
The Commercial Federation of Iceland [LIV]	21	25,953
Federation of Skilled Construction and Industrial Workers [Samiðn]	20	7,092
Union of Icelandic Electrical Workers [RSI]	10	4,128
Federation of Icelandic Seamen [SSI]	26	3,409
The Icelandic Federation of Food and Restaurant Workers [MATVIS]	5	1,270

In addition there are five national trade unions directly affiliated to ASI with approximately 2,600 members.¹ Another large trade federation is the Association of Academics [Bandalag háskólamanna], which has 24 member trade unions and approximately 7000 members.

Some NGOs have formed federations, in particular those working to promote the rights of persons with disabilities. Öryrkjabandalag Íslands - Association for the Disabled - is formed of 30 organisations working to promote the rights of varied groups such as people suffering from HIV/AIDS, deafness, epilepsy, mental illness, dyslexia etc. Þroskahjálp - The National Federation for the Aid of People with Disabilities is comprised of 22 organisations working to promote the rights of persons with disabilities, especially in the field of developmental disability. Organisations working in other fields tend to have a more informal co-operation.

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

Trade unions are spread all over the country although the headquarters of national networks are all based in the capital.

All NGOs doing work related to discrimination are based in Reykjavik but organisations working on age related issues are dotted around the country. Mention should be made in this context of three official bodies working on non-discrimination which are based outside the capital: the Centre for Gender Equality and the Akureyri Intercultural Centre are based in Iceland's second largest city, Akureyri, and in the West there is the Multicultural Centre in Ísafjörður. These organizations are all mainly funded by municipalities or from the National Budget.

¹ Icelandic labour law; A summary of basic rights and obligations on the private labour market, The Icelandic Confederation of Labour, Second Edition, 2006.

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

Trade unions in the capital and in other places in the country are doing similar work and most NGOs are based in the Capital. Those working in the rest of the country are doing similar work.

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

The political and societal weight of the trade unions and trade federations is considerable in Iceland. Union density is very high compared to most countries and Act No. 80/1938 stipulates that trade unions are the legal contracting parties concerning wages and terms of employment for their members. Agreements between individual workers and employers are invalid to the extent to which these are in conflict with minimum rights as stipulated in the respective collective agreements. All workers are covered and protected by collective agreements, concluded by the trade unions and employers in each trade within each municipality, irrespective of whether they are members of the negotiating trade unions. The trade union federations influence public policy by taking part in many official committees working on issues regarding employment and their opinions are generally sought when new bills of law touching on labour rights are presented. Trade unions are influential members of civil society when it comes to rallying opposition against controversial legal bills or laws.

NGOs also have considerable societal weight although not quite to the same extent as trade unions. The most politically influential organizations have traditionally been those working to promote the rights of persons with disabilities and gender equality and recently those working on LGBT issues and the elderly are coming to the fore. NGOs working to combat discrimination based on race or ethnic origin are still very weak although the Intercultural House in Reykjavik exerts considerable influence behind the scenes.

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

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

Trade unions regularly cooperate with each other, in particular through the trade federations and the Icelandic Confederation of Labour. The unions work together on campaigns such as the *Einn réttur-ekkert svindl* [Same rights for everyone – no cheating] campaign which aims to counter the recent trend of immigrant and migrant workers in some cases being paid less than the agreed wage and working in substandard conditions. This campaign aims to inform workers of their rights and raise awareness among employers of their responsibility to treat workers in accordance with labour market agreements. Trade unions also organize joint events such as conferences and labour unions work regularly with NGOs and NGO umbrella organizations. In 2005, when the authorities cut public funding of the Icelandic Human Rights Centre, trade unions all over the country called for the reinstatement of public grants and raised emergency funds to prevent the institution from closing down. Recently, the Icelandic Confederation of Labour, the Association of the Disabled and the Association of the Elderly launched a massive political campaign to exert pressure on the Icelandic Government to improve the living conditions of persons with disabilities and the elderly in the country.

NGOs in Iceland regularly cooperate; this is vital as most NGOs are small with limited manpower. Cooperation often takes the form of exchange of expertise, campaigns and joint events such as conferences. Other examples include research projects, meetings with parliamentarians, comments on legal bills and shadow reports to UN treaty bodies.

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

Trade Union cooperation to combat substandard labour conditions for immigrant labour has been prominent in recent years. As relates to NGO cooperation, work to combat gender discrimination is the most prominent as there are many women's organisation in the country. One example of a yearly cooperation project is the 16-day campaign to combat gender based violence that has been organized by women's and human rights organizations for several years. Another co-operation project is the *Allar heimsins konur* [Women of the World] project that brings together NGOs, trade unions, municipalities and women's shelters with the aim of crafting projects to promote the rights of women of immigrant origin to allow them to participate fully in Icelandic society. The associations of the disabled often work together and so do the associations of the elderly. Cooperation on combating discrimination based on race or ethnic origin is budding and every year the events organized during the European Action Week against Racism are getting more elaborate.

11. How are these NGOs funded?

a. *Do they receive state funding?*

NGOs do not receive state funding as a matter of course. NGOs in Iceland generally obtain funds from six sources: 1) membership fees, 2) municipalities: often in the form of payment for services rendered, 3) the National Budget and, 4) lotteries, 5) public fundraising campaigns, and 6) private companies. NGO funding is varied; some are primarily funded by membership fees, others conclude service contracts with municipalities such as the City of Reykjavík and get paid for their services. Some receive funding from the Human Rights Commission of the City of Reykjavik, Ministries and the National Budget and many receive substantial grants from private foundations. Generally, there is no public funding allocated specifically for projects to combat discrimination but as 2007 is the European Union Year of Equal Opportunities some funding has been set aside for non-discrimination projects carried out in 2007. The Icelandic Government allocates annually 8 million ISK to *Human Rights Projects* in the National Budget. The grants go towards earmarked projects.

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

Generally, no formal conditions apply except that a report has to be submitted to the relevant authority on how the money was allocated. In some application forms the applicant is required to demonstrate how the programme of work will be delivered and the expected outcome of the project. In rare instances the applicant is required to seek funding from additional sources.

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

Most NGOs apply to the many private foundations in Iceland and some do receive substantial grants.

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

Generally no conditions or restrictions apply; in rare cases the foundations ask to be acknowledged publicly for their contributions.

12. How are these trade unions funded?

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

Trade unions do not receive funding from the State. They have, however, recently announced a joint campaign with the Ministry for Social Affairs with the aim of rooting out employers that abuse migrant workers.

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

Trade unions are not funded by political parties.

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

Trade unions in Iceland receive funding from membership fees.

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

Trade unions are generally free to receive private funding and participate in projects funded by European – and international institutions.

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?

Most Icelandic NGOs working on discrimination issues are severely hampered by lack of funds and their activities restricted. Most rely on volunteers to be able to operate and much time and effort is spent searching for funds, taking time away from core activities. In addition, as most funding available is project contingent, on an annual basis, planning activities effectively from one year to another is problematic.

The labour federations and the larger trade unions are adequately funded and function efficiently.

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

- a. Neighbouring countries?*
b. Other new EU Member States?
c. Others?

The larger trade unions and federations are in contact with trade unions in the neighbouring Nordic and European countries. In the wake of many Icelandic companies starting operations in Eastern Europe and the new EU Member States some trade unions have started working with their counterparts there with the aim of promoting the rights of workers employed by these companies.

Icelandic NGO contact with NGOs in other countries is varied. The organizations working to combat discrimination based on disability work with partners in the Nordic countries and Europe. Some organisations working to combat racism, homophobia and gender discrimination work with partners in Europe, in particular the Nordic countries, although most focus their activities on projects in Iceland, have limited contact with organisations abroad and do not participate significantly at the international level.

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

The larger trade federations are in contact with international organisations such as the ILO and IOM. Few NGOs in Iceland have the resources to work effectively at the international level although i.e. the Icelandic Human Rights Centre has been involved in international work to a limited extent.

16. Can they work in English?

All NGOs and trade unions are able to work in English.

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 have an impact on the trade union's ability to work on anti-discrimination?

Trade unions in Iceland are not linked to political parties and this non-involvement does not impact the unions' ability to work on anti-discrimination.

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

The regional branches of trade unions can work on anti-discrimination even if headquarters do not.

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

19. What kind of work do they do?

Most local NGOs focus their activities on the situation in Iceland. Their work is diverse, covering everything from psychological counselling to media campaigns; NGOs engage, *inter alia*, in advocacy on behalf of individuals, lobbying, reporting, education programmes, training, counselling, research and consultation with Government and other NGOs.

The goal of trade unions in the Icelandic labour market is to improve wages and other employment conditions of their members, in their own community, primarily by representing them in collective bargaining with employers and their federations and promoting their rights through employment legislation. Trade unions are involved in activities such as campaigning, lobbying and education programmes and some may assist in pursuing claims before the courts. Trade unions habitually comment on draft laws and consult with the authorities regarding labour issues. Examples of non-discrimination work carried out by trade unions include VR's media campaign highlighting gender discrimination in the labour market, Efling's Icelandic classes and training for foreign workers and its cooperation with the Icelandic Church Aid strengthening the rights of Dalits in Tamil Nadu, India. Another example is ASI publishing and promoting the ILO standards on disability in the workplace.

20. Do they take up complaints of discrimination?

Some trade unions provide legal advice to members on discriminatory practices and may assist or represent members who are pursuing claims before the courts.² NGOs generally do not have the resources to take up individual complaints of discrimination. The National Federation for the Aid of People with Disabilities is an exception as the organisation has provided financial aid to individuals bringing claims to the courts in addition to litigating directly itself.³

² It should be noted, however, that very few cases regarding unlawful discrimination have been successfully adjudicated before the Icelandic courts.

³ Notable is the Supreme Court Judgement of 4 June 1998, holding that that provisions of the Act on Damages, to the effect that a group of injured persons with a certain level of disability would not receive compensation for non-pecuniary loss, conflicted with Article 65 of the Constitution, as well as Article 72 protecting the right to property. Also, judgement of 19 December 2000, where the Supreme Court held that an Act reducing social security payments based on the income of the disabled persons' spouse ran counter to Article 65 of the Constitution (equality) and Article 76 concerning the right to social assistance. Other notable cases concerning disability include Supreme Court Judgement of 4 February 1999 concerning a blind student who was deemed not to have received the necessary assistance to pursue her university studies and Supreme Court Judgement of 6 May 1999 ruling that the State Broadcasting Service had the obligation to use sign-language in television programmes aired in relation to political campaigns for national elections. The Supreme Court has dealt with one case regarding racial discrimination when it fined the Vice-Chairman of a nationalist organisation for having violated Section 223a of the Penal Code with his derogatory remarks about Africans in general. (Judgement of 24 April 2003). Many cases regarding gender-discrimination have been adjudicated by the Supreme Court

21. Do they focus on their own community?

NGOs doing anti-discrimination work in a particular field such as sexual orientation, disability or gender will focus on the area in which they have expertise at the national level. No NGOs are working on the rights of a particular community of people. Trade unions represent the interests of their members irrespective of the 'community' from which they come.

22. Do they work with victims directly?

The trade unions that provide legal advice and representation clearly work with victims directly. NGOs which provide legal advice and counselling such as the Women's Counselling, the Women's Shelter and the Icelandic Counselling and Information Centre for Survivors of Sexual Violence, work with victims directly. The Icelandic Lesbian and Gay Association offers counselling for victims and the Intercultural Centre provides free legal assistance for people of immigrant origin. These organisations do not provide legal representation.

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

Within a company the trade union will represent the individual union members. In practice, a positive outcome of negotiations will benefit all workers irrespective of whether they are members or not.

24. Do they do 'case work'?

As noted above some trade unions work with victims directly, take up complaints of discrimination and do case work. NGOs generally do not have casework functions but will refer individuals to the Parliamentary Ombudsman if the complaint falls within his/her mandate, or recommend lawyers. Unfortunately, there are no resources to support case work or law centres that have the means to assist individuals to access remedies for unlawful discrimination, except in the case of gender discrimination.

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

No official funding for case work in particular is available from the authorities but individuals can apply for public funding to pursue a claim. The Civil Litigations Act no. 91/1991 sets out strict conditions for financial aid to pursue a claim before the courts.

26. Does this include legal representation?

No official funding is available for legal representation. Individuals can apply for financial aid in accordance with the Civil Litigations Act no. 91/1991. Pro bono services providing legal advice have been established by the law students associations at the universities of Iceland and Reykjavik, the Intercultural Centre and The Women's Counselling services but these bodies do not provide actual legal representation.

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

NGOs and trade unions can engage on behalf or in support of victims of discrimination in judicial procedures. In practice, the National Federation for the Aid of People with Disabilities is the only NGO with the resources to support victims in judicial proceedings and the capacity of trade unions to fund legal representation for members varies greatly although a few trade unions and federations habitually represent individual victims before the employment tribunal. Individuals can represent themselves in the courts or tribunals but would be at a considerable disadvantage in doing so as the respondent will usually be legally represented.

For complaints of discrimination in the provision of goods, facilities and services by official bodies, complaints can be easily made to the Parliamentary Ombudsman.

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

According to Art. 19, Para 1 of the Act on Civil Litigation, class action suits are possible but have not in principle been resorted to. More often, a case is filed on behalf of one individual, but resulting in, if the claim is found to have merit, others in the same position also benefit from the outcome.

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

In general, NGOs do not provide social assistance to victims or potential victims although those concerned with gender-based violence and discrimination based on sexual orientation provide counselling. Few NGOs doing anti-discrimination work on other grounds provide formal assistance to victims but in practice most will try to help individuals to the best of their ability.

Trade unions do not provide formal social assistance to victims or potential victims but some do provide legal advice to members on discriminatory practices and may assist or represent members who are pursuing claims before the courts.

Please, see 19-27 above for further information on the work of NGOs and trade unions.

30. Do they advocate changes in legislation and policies?

Most NGOs and trade unions working to combat discrimination advocate changes in legislation and policies, some more actively than others. Unfortunately, there are examples of NGOs openly critical of government policies experiencing the withdrawal of public funding. The Icelandic Human Rights Centre received unconditional funding in the National Budget until the year 2005 when, without prior warning or negotiation, support earmarked for the Centre was eliminated, and instead provision was made for the amount previously dedicated to the Centre to be open to any party upon application. This severely undermined the Centre and some NGO representatives have expressed concerns that NGOs now tread lightly when criticising the draft laws and Government policies.

As a rule, the Parliament calls for comments on legal bills presented; however, it varies greatly whether NGO and trade union comments are taken into account in the final legislation. A positive development in recent years is the practice of some ministries to meet with NGOs/trade unions and/or ask for comments on draft laws before the bills to be presented to the Parliament are finalized. Providing for comments at an early stage allows for a less rigid and more cooperative process with a greater likelihood that legitimate civil society concerns are adequately addressed.

31. What are their relations with the central government?

Most NGOs have relatively good relations with the central government. In some instances, those NGOs and trade unions commenting on draft laws are called before Parliamentary Committees or other official committees. Trade unions generally have good relations with the central government. In exceptional circumstances instances, organizations have fallen out of favour with the Government and then have had difficulties in getting their issues on the agenda.

32. With the regional government and municipalities?

As in the case of the central government, most NGOs have relatively good relations with the regional government and municipalities. Specialist NGOs such as the Intercultural Centre, the Gay and Lesbian Association and support centres for victims of gender-based violence have developed effective relationships with the authorities, in particular the Municipality of Reykjavik. Trade unions also generally have good relations with the regional authorities and the municipalities.

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

Employers' organisations such as the Confederation of Icelandic Employers and trade federations such as the Icelandic Confederation of Labour have very different perspectives and approaches. Engagement is mainly around negotiation on terms and conditions in the workplace but employers and trade unions habitually consult with each other on labour market issues. Although these actors agree on the importance of equality in the labour market there is more often than not difference of opinion on how this goal can be achieved. A case in point is recent discussion revolving around means to close the gender wage gap. Trade unions advocated for a prohibition of non-disclosure clauses in employment contracts while employers' organizations vehemently opposed any such ideas.

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

NGOs and trade unions do not have a formal relationship with the Parliamentary Ombudsman nor the Centre for Gender Equality. Organisations combating gender discrimination have had some cooperation with the latter although the Centre is rather weak due to inadequate funding and other factors.

35. What are the qualifications of the staff?

The staff of trade unions are generally qualified but competence in anti-discrimination work clearly depends in a large extent on their size and funding. Depending on the remit of an NGO staff may be, *inter alia*, jurists, social scientists, advocates, grassroots activists or volunteers. As most NGOs are small staff is forced to wear many hats and is therefore seldom highly specialized.

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

Although many NGOs and trade union staff have competence in advocating for legal or policy reform they generally have not received formal training in anti-discrimination work. Consequently, by and large, training will take place 'on the job'.

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

Similarly, few NGO staff are trained in writing funding proposals or reports. The Icelandic Human Rights Centre is an exception as it has in recent years submitted several reports to international monitoring bodies such as the UN Human Rights Committee, the CERD-Committee and the CEDAW-Committee, as well as the CoE Commissioner for Human Rights and the European Commission against Racism and Intolerance. Trade union capacity to write funding proposals and reporting varies greatly and depends to a large extent on the resources available. No public assistance is available for writing funding proposals.

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

Few NGOs and trade unions formally evaluate the effects and quality of their anti-discrimination work. In some cases, however, they will need to identify objectives and report on outputs when seeking and receiving external funding.

The larger NGOs and trade unions will have strategic plans and business objectives together with performance management frameworks to facilitate measurement and evaluation of their general performance.

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?

Limited funding and lack of staff and expertise are clearly the main challenges facing NGOs working to combat discrimination. As stated above the majority of NGOs in Iceland are very small with no fixed core funding so disproportionate time and effort is spent on fund raising.

Anti-discrimination work carried out by trade unions generally focuses on gender-based discrimination. Discrimination based on religion and belief, age, disability and sexual orientation is clearly not given the same attention. In recent years, with serious cases of exploitation of migrant workers coming to light, some unions have started to promote respect for the labour rights of people of immigrant origin. They have launched awareness campaigns and provide Icelandic courses and training for workers so that they know their labour rights. Still, prejudice against foreign workers persists. Workers of immigrant origin are blamed for lowering the bar in the workplace by tolerating substandard working conditions instead of the blame being placed on Icelandic employers taking advantage of the vulnerability of these people.

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

Clearly, as outlined above the lack of staff, funding and expertise is a key issue for NGOs. Trade unions do not suffer as much from lack of staff and resources, but expertise on anti-discrimination issues is limited.

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?

As most NGOs are small staff generally work on a wide range of issues and much time and effort is spent on fundraising. Therefore, staff are forced to be 'generalists' and knowledge and skills in relation to anti-discrimination are sometimes lacking. In relation to trade unions, knowledge and skills in anti-discrimination work vary greatly depending on the focus and capacity of the diverse trade unions.

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

In Iceland anti-discrimination legislation is not underdeveloped and issues regarding age, disability, race or ethnic origin are generally not framed in an equality framework. A prerequisite for effective anti-discrimination efforts is a change in legislation concerning the different groups to set benchmarks for the work of both NGOs and trade unions. Clearly there is a need for training on the existing law and remedies. Also, it is important to introduce a broader perspective on equality as currently most trade unions focus on gender equality and immigrants in the labour market and most NGOs are single issue organizations. Training on the different human rights complaints bodies and possible national mechanisms would be helpful.

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

Although NGO staff receives little or no training in relation to anti-discrimination work, and are generally not involved in individual cases, they specialize in promoting the rights of particular groups and are thus familiar with the discrimination issues faced by their constituency. They would, however, clearly benefit from training regarding national anti-discrimination legislation. The larger trade unions are familiar with the relevant national anti-discrimination legislation although their staff do not receive particular training on this issue.

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

Generally, neither NGOs nor trade unions are sufficiently trained in relation to European anti-discrimination. This is understandable as the Directives have not been transposed into national law and public discussion on their content and implications is limited. In the event of transposition, those NGOs and trade unions doing case work would clearly benefit from regular information on developments before the European Court of Justice and guidance relating to the interpretation of the Directives.

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

NGO general staff are not familiar with national or European anti-discrimination legislation but many NGOs still comment on bills of law presented to the Parliament. NGOs do not receive particular training to carry out this task and often pool their resources to be able to present a stronger case to the Althing. Unfortunately, few NGOs have the resources to submit detailed policy or legislative proposals to the authorities.

Trade union employees receive little or no training on anti-discrimination issues and have limited knowledge of national legislation, international human rights law and EU legislation. Only the lawyers working for the organisations are familiar with anti-discrimination legislation to some extent but it should be noted that not all trade unions employ lawyers in the organisation. Trade unions habitually comment on bills of law presented to the Parliament but they receive no particular training to carry out this task.

Although NGOs and trade unions are regularly asked to comment on legislative proposals this work is severely hampered on the one hand by the limited resources, of NGOs in particular, and on the other by the *ad hoc* nature of the process and the fact that often the organisations get very short deadlines to hand in their comments.

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

NGOs and trade unions would clearly welcome additional resources to help them promote their anti-discrimination role. Currently, NGOs and trade unions do very limited work in relation to, for instance, age discrimination and discrimination based on religion and belief, and discussion on multiple discrimination is in its infancy.

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

As stated above, lack of resources and thus expertise severely hampers NGOs and the smaller trade unions in their anti-discrimination efforts. More work is clearly needed, especially in relation to age discrimination, religion and belief, disability, race and ethnic origin; for instance assisting victims to bring claims before the courts. Although legal aid and representation is imperative for change, without additional resources and staff NGOs and trade unions do not currently have the capacity to do more with ‘victims’.

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

Trade unions enjoy credibility and status with the Government. In recent years the authorities have also increasingly recognized the expertise of NGOs. Clearly, more formal engagement with NGOs and trade unions in relation to policy making and legislation would positively influence anti-discrimination efforts. However, the onus is on the Government to raise the status of NGOs as most organizations have consistently expressed willingness to cooperate. Effective engagement with NGOs would clearly be facilitated through provision of official funding for consultation, etc.

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

Trade unions and employers can exert powerful influence on the authorities. Currently, the employers' organizations are not doing active anti-discrimination work and more pressure from trade unions to take up equality issues would clearly be beneficial.

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

NGOs and trade unions could clearly 'do more' to promote and educate their constituencies on equality, diversity and human rights. For both, however, this is contingent upon the availability of resources and expertise to support campaigns, education programmes and other initiatives.

51. What would they need to develop?

Some studies on gender-based discrimination in the labour market exist but there is limited research on discrimination based on other grounds. This lack of information contributes to lack of awareness and limited public discourse on the situation of vulnerable groups in the labour market. Thus an important first step to combat discrimination would be a comprehensive study mapping the actual situation. The information gathered could then be used to inform public debate, raise awareness of actual problems and form the basis for practical proposals on how to combat discrimination in the work place.

The aforementioned lack of information and expertise is without doubt a problem in relation to the limited anti-discrimination activities of trade unions and may be the reason why few trade unions have formulated action plans or policies to combat discrimination based on the different grounds. Trade unions could clearly play a more prominent role in anti-discrimination efforts. Firstly, as regards raising awareness of what constitutes discrimination among their members in newsletters, training, etc. Secondly, simply making information regarding discrimination accessible on their web-sites would be useful. Currently it is difficult to find information on what rights one has, what constitutes discrimination and where the available remedies for individuals may be sought. Thirdly, trade unions could play an important role in information gathering by including questions pertaining to discrimination in their yearly surveys. The information thus obtained could then be used to inform recommendations for policy and legal reform aimed at combating discrimination.

NGOs working to combat discrimination do what they can with limited resources. As stated above, lack of funding severely hampers their ability to work to their fullest potential. Currently, only the National Federation for the Aid of People with Disabilities has the resources to bring cases to the courts. Financial support for NGOs working in other fields to enable them to take on individual cases and bring claims to the courts would be an extremely important factor to combat discrimination in Iceland as presently very few individuals have the means to pursue their claims in the judicial system. An alternative would be to establish a joint human rights complaints body that could work with victims directly; taking up complaints of discrimination and bringing them to the courts.

As most NGOs in Iceland are small, a disproportionate percentage of their funds is spent on administrative costs. One suggestion to counter this problem would be the establishment of a human

rights hub where smaller NGOs could share office facilities such as meeting rooms and technical appliances which would lower costs and also foster cooperation.

NGOs working on anti-discrimination issues also need reinforcement and training to be better able to formulate legal and policy recommendations. Formal consultations with NGOs relating to all major draft laws would be a great improvement and strengthening cooperation of NGOs working in similar fields vital. One success story demonstrating the importance of cooperation is the work carried out by the Icelandic Human Rights Centre and the Icelandic women's movement to pressure the government to formulate an action plan to combat violence against women in Iceland. After extensive cooperation the organisations presented a detailed draft plan to the relevant ministries which was adopted by the government almost in its entirety.

Formerly, many officials viewed NGO staff as enthusiasts without concrete professional credentials but authorities are slowly starting to acknowledge the expertise found in the different NGOs. Still, constructive criticism is sometimes viewed negatively instead of as a useful addition to the democratic discourse. Regular NGO meetings with the relevant authorities could diffuse tensions and increase cooperation between the NGOs internally and the government officials respectively. Increased cooperation in relation to international campaigns such as the European Action Week against Racism and the 16-day campaign against violence against women would also be beneficial.

Combating discrimination entails more than legal reform; it is ultimately about changing attitudes and the behaviour of individuals, groups, agencies and institutions. This is a lengthy process that involves influencing groups and institutions that perpetrate both wilful and involuntary, direct and indirect, discrimination. To meet this daunting challenge all actors in society must be engaged and increased cooperation between trade unions, NGOs, researchers and the authorities is imperative.

c) National legislation in the field of anti-discrimination

1. The transposition of the Directives into national law

The Agreement on the European Economic Area (EEA Agreement) forms the foundation of relations between Iceland and the European Union. The EEA Agreement was adopted in 1994, extending the Internal Market, with its so-called four freedoms (free movement of goods, capital, services and persons), to Iceland and the two other EEA EFTA countries. The Racial Equality Directive 2000/43/EC⁴ and the Employment Equality Directive 2000/78/EC⁵ have as of yet not been transposed into Icelandic law. A special Committee has been established under the auspices of the Ministry for Social Affairs with the aim of discussing possible means of transposition (Starfshópur um tilskipanir ESB um bann við mismunun). The Committee has still to make its findings public.

There is only minimal provision in Icelandic legislation for combating discrimination. Thus the transposition of the Directives into domestic law would strengthen the rights of several groups in Iceland considerably. An analysis of the added value of the Directives for Icelandic legislation on non-discrimination will be provided below but to set the stage the main provisions of the two Directives are described as well as Iceland's main legislation relevant to combating discrimination.

The Racial Equality Directive 2000/43/EC

- Sets out the principle of equal treatment between people irrespective of racial or ethnic origin.
- Provides protection against discrimination in employment and training, education, social protection (including social security and healthcare), social advantages, membership and involvement in organizations of workers and employers and access to goods and services, including housing.
- Contains definitions of direct and indirect discrimination and harassment and prohibits the instruction to discriminate and victimization.
- Allows for positive action measures to be taken, in order to ensure full equality in practice.
- Gives victims of discrimination a right to make a complaint through a judicial or administrative procedure, associated with appropriate penalties for those who discriminate.
- Allows for limited exceptions to the principle of equal treatment, for example in cases where a difference in treatment on the ground of race or ethnic origin constitutes a genuine occupational requirement.
- The complainant and the respondent share the burden of proof in civil and administrative cases, so that once an alleged victim establishes facts from which it may be presumed that there has been discrimination, it is for the respondent to prove that there has been no breach of the principle of equal treatment.
- Provides for the establishment, in each Member State, of an organization to promote equal treatment and provide independent assistance to victims of racial discrimination.

The Employment Equality Directive 2000/78/EC

- Implements the principle of equal treatment irrespective of religion or belief, disability, age or sexual orientation in employment, training and membership and involvement in organizations of workers and employers.
- Includes identical provisions to the Racial Equality Directive on definitions of discrimination and harassment, the prohibition of instruction to discriminate and victimization, rights of legal redress and the sharing of the burden of proof.
- Requires employers to make reasonable accommodation to enable a person with a disability who is qualified to do the job in question to participate in training or paid labour.
- Allows for limited exceptions to the principle of equal treatment, for example, where the ethos of a religious organization needs to be preserved, or where an employer legitimately requires an employee to be from a certain age group.

⁴ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal L 180, 19/07/2000.

⁵ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303/16, 02/12/2000.

The main laws containing anti-discrimination provisions

The Constitution (Stjórnarskrá Lýðveldisins Íslands, nr. 33/1944)

In 1995 the Constitution was amended to include a general prohibition against discrimination. Article 65 stipulates that: 'All shall be equal before the law and enjoy human rights without regard to sex, religion, opinion, national origin, race, colour, financial status, parentage and other status. Men and women shall have equal rights in every respect.' A limited number of cases regarding violations of this article have been adjudicated by the Supreme Court with the provision guaranteeing equality invoked in all kinds of specific cases, with the courts broadening the interpretation of the Constitution to cover rights not stipulated in it. Evidence of this trend includes a judgement of the Supreme Court of 4 June 1998, holding that that provisions of the Act on Damages, to the effect that a group of injured persons with a certain level of disability would not receive compensation for non-pecuniary loss, conflicted with Article 65 of the Constitution, as well as Article 72 protecting the right to property. The provision was successfully invoked in a case concerning a blind student who was deemed not to have received the necessary assistance to pursue her university studies,⁶ and in a judgement that ruled that the State Broadcasting Service had the obligation to use sign-language in television programmes aired in relation to political campaigns for national elections.⁷ In a judgement of 19 December 2000, the Supreme Court held that an Act reducing social security payments based on the income of a disabled person's spouse ran counter to Article 65 of the Constitution as well as Article 76 concerning the right to social assistance. And finally, in a judgement of 3 December 1998, the Supreme Court deemed the Fisheries Management Act in conflict with Article 65 and the freedom of employment stipulated in Article 75, as regards fishing for occupational purposes.

The General Penal Code (Almenn hegningarlög, nr. 19/1940)

Article 233a provides that any person who, by mockery, slander, insult, threat or other means, publicly attacks a person or group of persons on the grounds of their nationality, colour, race, religion or sexual orientation shall be liable to a fine or imprisonment for a term not exceeding two years. Article 180 provides that denying a person service, or access to any public area or place intended for general public use, on account of that person's colour, race, ethnic origin, religion or sexual orientation is punishable by fines or imprisonment for up to six years. Incidents of refusal of access to public spaces and harassment based on race and/or ethnic origin are reported but as of present no cases referring to this provision have been decided in the courts. The Supreme Court has only dealt with one case regarding racial discrimination when it fined the Vice-Chairman of a nationalist organisation for having violated Article 233a with his derogatory remarks about Africans in general.⁸

The Administrative Procedures Act (Stjórnsýslulög, nr. 37/1993)

Article 11 stipulates that administrative authorities shall ensure legal harmony and equality in decisions, and that discrimination between individual parties based on views relating to, *inter alia*, race, colour, national origin, religion, political opinion, social status, family origins is prohibited.

The Primary School Act (Lög um grunnskóla 1995, nr. 66)

Article 29 provides that in issuing a general curriculum and organising studies and tuition, and in preparing and selecting study material, care shall be taken that all students receive as much as possible equal opportunities for study. The objectives of study, tuition and practices in primary schools shall be such as to prevent any discrimination based on origin, sex, residence, social class, religion or disability.

The Rights of Patients Act (Lög um réttindi sjúklinga, nr. 74/1997)

Article 1 provides that any discrimination between patients on grounds of sex, religion, opinion, ethnic origin, race, colour, property, family origins or other status is prohibited.

⁶ Judgement of 4 February 1999.

⁷ Judgement of 6 May 1999.

⁸ Judgement of 24 April 2003.

The Postal Service Act (Lög um pósthjónustu, nr. 19/2002)

Article 6 provides that mail service shall be provided without discrimination of any kind, in particular of a political, religious or ideological nature.

The Act on Equal Status and Equal Rights of Women and Men (Lög um jafna stöðu og jafnan rétt kvenna og karla, nr. 96/2000).

In May 2000, the Act on Equal Status and Equal Rights of Women and Men (Gender Equality Act) was passed by the Icelandic Parliament, replacing the former Gender Equality Act of 1991. The Act set out various structural changes creating a new specialized institution, the Centre for Gender Equality, administrated by the Ministry of Social Affairs and entrusted with monitoring the Act's implementation. The Act stipulates that institutions and enterprises with more than 25 employees shall have a gender equality policy or adopt special provisions regarding gender equality in their employment policies. The official equality system is now divided into three organs: the Equal Status Council, the Complaints Committee on Equal Status and the Centre for Gender Equality. Unfortunately, this system for promoting gender equality has not proven to be as effective as hoped. This is due, in part, to shortcomings of the Gender Equality Act. The Act prohibits both direct and indirect discrimination but does not contain a specific definition of the concept of discrimination. The Act does not provide for penalties for those who do not comply with its provisions and the decisions of the Complaints Committee are not binding. Furthermore, the activities of the Centre for Gender Equality have been seriously hampered by lack of funding.

A proposal for amending the Act has been introduced for comment by the Ministry for Social Affairs. The proposal contains significant improvements, strengthening national protection against gender discrimination considerably. Notably, if the proposed amendments to the Act are adopted, non-disclosure clauses will not be permitted, the Centre for Gender Equality will be able to fine businesses that do not provide requested information and decisions of the Complaints Committee will be binding. It is envisaged that a bill will be presented to the Althing in the fall of 2007.

Act on the Affairs of the Handicapped (Lög um málefni fatlaðra, nr. 59/1992)

The stated objective of the Act on the Affairs of the Handicapped, set out in Article 1, is to ensure to the handicapped equality and living conditions comparable with those of other citizens, and to provide them with conditions that enable them to lead a normal life.

Act on the Affairs of the Elderly (Lög um málefni aldraðra, nr. 125/1999)

Article 1 stipulates that in the implementation of the law, the equal rights of elderly persons shall be guaranteed and their right to self-agency respected.

Act Amending Laws relating to the Judicial Status of Homosexual Persons (Lög um breytingu á lagaákvæðum er varða réttarstöðu samkynhneigðra (sambúð, ættleiðingar, tækniþróun, nr. 65/2006)

The law amends several laws to eliminate existing discrimination relating to the judicial status of homosexual persons.

International human rights conventions

- European Social Charter (Félagsmálasáttmáli Evrópu nr. 3/1976)
- Convention on the Elimination of All Forms of Racial Discrimination (Alþjóðasamningur um afnám alls kynþáttamisréttis nr. 14/1968)
- International Covenant on Civil and Political Rights (Alþjóðasamningur um borgaraleg og stjórnmálaleg réttindi nr. 10/1979)
- International Covenant on Economic, Social and Cultural Rights (Alþjóðasamningur um efnahagsleg, félagsleg og menningarleg réttindi nr. 10/1979)
- Convention on the Elimination of All forms of Discrimination Against Women (Samningur um afnám allrar mismununar gagnvart konum nr. 5/1985)
- Convention on the Rights of the Child (Samningur Sameinuðu þjóðanna um réttindi barnsins nr. 18/1992)
- ILO Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Samþykkt nr. 100 um jöfn laun til karla og kvenna fyrir jafnverðmæt störf.)
- ILO Convention (No. 111), Discrimination (Employment and Occupation) (Samþykkt nr. 111 um misrétti með tilliti til atvinnu eða starfs, þingsályktun 27. mars 1963)
- ILO Convention (No. 156) concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities (Samþykkt nr. 156 um jafna möguleika og jafnrétti til handa körlum og konum í atvinnu: Starfsfólk með fjölskylduábyrgð nr. 20/ 2000)
- ILO Convention (No. 159) concerning Vocational Rehabilitation and Employment (Samþykkt nr. 159 um starfsendurhæfingu og atvinnumál fatlaðra nr. 20/1990)

Other relevant domestic laws related to anti-discrimination

- Agreement creating the European Economic Area (Lög um Evrópska efnahagssvæðið nr. 2/1993)
- Act on Trade Unions and Industrial Disputes (Lög um stéttarfélög og vinnudeilur, nr. 80/1938)
- Act on the Legal Status of Employees Posted Temporarily in Iceland in the Service of Foreign Undertakings (Lög um starfskjör starfsmanna sem starfa tímabundið á Íslandi á vegum erlendra fyrirtækja nr. 54/2001)
- Law on European Cooperative Societies (Lög um evrópsk samvinnufélög nr. 92/2006)
- Law Concerning Part-time Employees (Lög um starfsmenn í hlutastörfum nr. 10/2004)
- Law on Communication Centre for the Deaf and Hearing-impaired (Lög um Samskiptamiðstöð heyrnarlausra og heyrnarskertra nr. 129/1990)
- Act on the Free Right to Employment and Residence in the European Economic Area (Lög um frjálsan atvinnu- og búseturétt launafólks innan Evrópska efnahagssvæðisins nr. 47/1993)
- Law on Temporary Employment (Lög um tímabundna ráðningu starfsmanna nr. 139/2003)
- Law on Social Services in Municipalities (Lög um um félagsþjónustu sveitarfélaga nr. 40/1991)
- Maternity/Paternity Leave and Parental Leave Act (Lög um fæðingar- og foreldraorlof nr. 95/2000)
- Law Incorporating the European Convention on the Protection of Human Rights and Fundamental Freedoms into Domestic Law (Lög um mannréttindasáttmála Evrópu nr. 62/1994)
- Act amending the Law Incorporating the European Convention on the Protection of Human Rights and Fundamental Freedoms into Domestic Law (Protocol No. 14) (Lög um breyting á lögum um mannréttindasáttmála Evrópu, nr. 62 19. maí 1994, með síðari breytingum (14. samningsviðauki) nr. 56/2005)

Iceland adheres to the principle of dualism; international treaties do not automatically become domestic law when ratified. Until formally incorporated into domestic law international instruments are only binding according to international law. Consequently, human rights conventions that have not been incorporated into Icelandic law cannot be directly applied by the courts. It is, however, a principle of the Icelandic legal system that domestic law shall be interpreted in accordance with international obligations, but in cases of divergence, domestic law generally takes precedence. Consequently, European equality law is not considered to apply in cases before Icelandic courts if parties do not make specific reference to it. If EC law is to have direct effect in Iceland it has to be incorporated by domestic legislation. The Treaty on the European Economic Area (EEA) has been incorporated into Icelandic law by Act No. 2/1993 and according to Article 3, Icelandic domestic laws are to be construed in accordance with the Treaty. Fortunately, the practice of the Supreme Court in recent years demonstrates that international instruments are gaining ground in the Icelandic judicial system.

Clearly, there are serious gaps in Icelandic anti-discrimination law as only very limited legislation exists prohibiting discrimination on grounds other than gender. International human rights bodies monitoring the implementation of international conventions in Iceland have made several recommendations to Icelandic authorities.

The Human Rights Committee, monitoring the domestic implementation of the International Covenant on Civil and Political Rights, noted with concern in 1999 ‘the persistence of certain areas of inequality between men and women in Iceland, despite the efforts of the Government.’ The Committee ‘recommends that the State party intensify its efforts to achieve full equality between men and women, including in the employment sector. It hopes that the "job evaluation" exercise undertaken under the Ministry of Social Affairs will contribute to eliminating discrimination in the workplace and to implementing fully the principle of equal wages for work of equal value.’⁹

The CEDAW Committee has expressed concern that CEDAW has not been incorporated into domestic law and particularly regrets that Article 1 of the Convention, which defines ‘discrimination against women’, is not part of Icelandic legislation. The Committee is also concerned that the decisions of the Complaints Committee on Equal Status are not binding in cases where government agencies violate the law. Furthermore, the Committee noted the apparent contradiction between the high level of education of women and the lack of women’s equality in the labour market, particularly the persistent wage gap. The Committee also expressed concern regarding the long-standing high rate of part-time employment of women, women’s limited political representation, light penalties for crimes of sexual violence, and the fact that Iceland may be a destination country for trafficking in women, *etc.*¹⁰

The CERD Committee noted that CERD has not been incorporated into Iceland’s legal order and considered that Iceland should adopt a more proactive approach to prevent racial discrimination and related intolerance by adopting comprehensive anti-discrimination legislation providing for effective remedies against racial discrimination in civil and administrative proceedings. The Committee has also expressed concerns that the ‘24 years rule’¹¹ may have discriminatory effects, bearing in mind that the minimum age of marriage in Iceland is 18 years. Furthermore, the Committee has expressed concern regarding reported cases where access to public places has been denied on racist grounds, lack of training regarding aspects of refugee protection to border guards, and issuance of work permits to employers of foreign workers rather than to the employees themselves, *etc.*¹²

After visiting Iceland in 2005 the CoE Commissioner for Human Rights recommended that the Icelandic authorities ratify Protocol No. 12 to the ECHR and ‘review safeguards against discrimination with reference to current European practice by exploring, in particular, the extension of low-threshold complaints bodies to other areas than gender discrimination.’ The Commissioner also recommended that the authorities consider ways of adapting religious education in schools to meet the particular needs of pupils who belong to minority religions and the provision of an alternative, non-confessional, curriculum on religious and ethical education’¹³

⁹ Concluding Observations of the Human Rights Committee, 1704th and 1705th meetings, CCPR A/54/40 (1999).

¹⁰ Concluding Observations of the Committee on Discrimination against Women, 532nd and 533rd meetings 2002.

¹¹ In order to obtain a permit to stay in Iceland based on marriage or cohabitation with an Icelandic citizen or a foreigner who already has a permit, the partner or spouse must be 24 years of age or older.

¹² Concluding Observations of the Committee on the Elimination of Racial Discrimination, 67th session 2005.

¹³ Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the Republic of Iceland, 4-6. July 2005, Strasbourg, 14 December 2005, CommDH(2005)10, www.coe.int

In its third report on Iceland the European Commission against Racism and Intolerance noted that:

The legal framework to combat racism and racial discrimination still remains to be strengthened and better implemented. Immigrants still often find themselves in a situation of excessive dependence on their employers, which, coupled with limited knowledge of the Icelandic language and awareness of their rights, exposes them to a higher risk of exploitation and discrimination. The position of immigrant women who are victims of domestic violence continues to be a cause for concern to ECRI. Improvements still remain to be made to the asylum procedure and to certain provisions regulating the residence rights of non-citizens.

[...] ECRI recommends that the Icelandic authorities take further action in a number of areas. These areas include: the need to strengthen the legal framework against racism and racial discrimination, including through ratification of Protocol No.12 to the European Convention of Human Rights and the adoption of comprehensive primary antidiscrimination provisions; the need to better implement the legal framework in force; the need to reduce exposure of immigrants to exploitation and discrimination by reviewing the system for granting work permits and by providing them with adequate opportunities to learn the Icelandic language and access interpretation services; the need to ensure, including by introducing the necessary changes to the legislation, that foreign women who are victims of domestic violence are not forced to stay in violent relationships to avoid deportation; the need to improve asylum seekers' access to free legal aid and to an impartial and independent appeals mechanism. In this report, ECRI also recommends that the Icelandic authorities build on efforts made since ECRI's second report to develop co-ordinated policies concerning immigrants and integration and that they ensure that the fight against discrimination in all its forms feature prominently within these policies.¹⁴

It varies greatly how, and whether, authorities implement recommendations of international monitoring bodies. The aforementioned draft law amending the Act on Gender Equality positively reflects several recommendations made by CEDAW and authorities have recently adopted an action plan to combat violence against women. When it comes to issues concerning permits to stay, labour rights and family reunification of immigrants, asylum, vulnerable foreign women and education for youth of immigrant origin, authorities have as of yet been reluctant to amend legislation in accordance with recommendations of international monitoring bodies.

Clearly, transposition of the Directives into Icelandic law would remedy several of the issues of concern expressed by these bodies, and more, as anti-discrimination legislation in Iceland falls severely short of the minimum requirements set out in the Directives. Currently, the sole specialised law setting out non-discrimination is the Act on Gender Equality. Transposing the Racial Equality Directive would most certainly strengthen legislation aimed at countering discrimination based on racial or ethnic origin, hopefully in the form of a specific anti-discrimination act. In addition to setting out definitions of direct and indirect discrimination and harassment and prohibiting the instruction to discriminate and victimization, transposition would strengthen national protection as regards employment and training, education, social protection, membership and involvement in organizations of workers and employers and access to goods and services, including housing. Most importantly, transposition would entail the establishment of a complaints mechanism and an organisation tasked with promoting equal treatment and providing independent assistance to victims of racial discrimination.

¹⁴ Third report on Iceland, European Commission against Racism and Intolerance, adopted on 30 June 2006 made public on 13 February 2007, CRI(2007)3, www.coe.int.

Transposition of the Employment Equality Directive would significantly improve the rights of several groups in the labour market. At present Icelandic law does not contain any provisions specifically prohibiting discrimination in working life on the grounds of age, disability, religion, belief or sexual orientation. The laws on the affairs of the elderly and disabled persons set out equality but they do not define or address discrimination, harassment, rights of legal redress or set up a complaints mechanism. Furthermore, the Directive requires employers to make reasonable accommodation to enable a person with a disability who is qualified to do the job in question to participate in training or paid labour. Icelandic law does not currently place this duty on employers. Finally, the Directives set out a formal role for associations or organisations in judicial or administrative processes and stipulate that States shall encourage consultations with civil society on discrimination issues.

A list of relevant research may be found at the end of this document.

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

The European Court of Human Rights and the European Court of Justice have made it clear that the protection of fundamental rights must be ‘practical and effective not theoretical and illusory’. In cases of discrimination, the remedial authority available in Iceland is mainly fourfold: the courts, the administrative system, the Parliamentary Ombudsman and the Complaints Committee on Equality Status.

The courts

Every person has legal personality under Icelandic law and may initiate legal proceedings before the courts if she or he believes that his or her human rights have been violated. He/she can, *inter alia*, claim damages and compensation for non-pecuniary loss, annulment of libellous or slanderous statements, and that administrative decisions in cases of alleged discrimination be repealed.

There is no constitutional court competent to resolve disputes concerning alleged breaches of constitutionally protected human rights. It is, however, an established constitutional custom that the courts are competent to assess whether laws are in agreement with constitutional provisions despite the fact that such power of review is not expressly mentioned in the Constitution. If the courts rule that a legal provision conflicts with the Constitution, they will disregard the provision in their judgement although they do not have formal authority to invalidate laws.¹⁵ There have been a number of cases where the courts have found laws to be in conflict with the human rights provisions of the Constitution. Article 60 of the Constitution stipulates that the courts resolve disputes concerning the extent of administrative authority; decisions of administrative authorities may be referred to the courts for invalidation. The courts cannot review the administrative discretion underlying a decision but they are competent to evaluate whether the decision was taken lawfully, *e.g.* whether the principle of equality was respected. If the administrative procedure is deemed defective the court may repeal the decision and order the authority to take the matter up again on the basis of lawful considerations.¹⁶ The courts have time and again confirmed that the principle of equality shall rule within the administrative system.

The administrative authorities

Various decisions regarding the rights and duties of individuals are made at the administrative level. If such a decision is made at a lower level, *e.g.* by a magistrate or a committee or commission responsible to a Ministry, it can be appealed to that Ministry as a higher authority. See also above.

The Administrative Procedures Act No. 37/1993 entered into force on 1 January 1994. The Act applies to administrative decisions of both national and local authorities, unless specific legislation provides for more strict procedures.

¹⁵ Core document forming part of the report of the States Parties: Iceland. 24/06/93. HRI/CORE/1/Add.26. 24 June 1993.

¹⁶ *Ibid.*

The law applies to decisions taken by public authorities regarding the rights and duties of individuals and other legal persons. The law aims to ensure legal certainty when such decisions are taken and contains rules as to both form and substance concerning the preparation and the taking of decisions. The law guarantees, *inter alia*, equal treatment in a legal sense and the right for parties to acquaint themselves with the process leading to the decisions and to present their views.

The Parliamentary Ombudsman (Umboðsmaður Alþingis)

The Parliamentary Ombudsman is elected by Althing for periods of four years. The Ombudsman's role is to monitor the administrative functions of the State and municipalities and safeguard the rights of the citizens *vis-à-vis* the administrative authorities. The Ombudsman shall take pains to ensure that the principle of equality is observed and that administration is conducted in conformity with the law and good administrative practice.

The Ombudsman investigates administrative cases based on complaints or on his own initiative. He may also examine whether laws are in conflict with the Constitution or are defective in other respects, including whether they comply with the Iceland's international human rights obligations. Cases are normally concluded through an act of remedy by the authority involved, or an opinion issued by the Ombudsman as to whether the authority has by its actions infringed the law or good administrative practice. Where the actions of an authority form the object of reproach or criticism the Ombudsman will recommend that the infringing authority make amends. If a criminal offence has taken place the Ombudsman shall notify the proper authorities. Conclusions by the Ombudsman are not legally binding on the authorities and do not automatically invalidate the disputed decision, yet the Ombudsman's conclusions are generally followed. Where a public authority does not heed a finding of the Ombudsman he or she may recommend that the party concerned be granted legal aid in a lawsuit against the authority in question.¹⁷

The Complaints Committee on Equal Status

The role of the Complaints Committee on Equal Status is to consider and issue in writing a substantiated opinion on whether the provisions of the Gender Equality Act have been violated. Individuals and non-governmental organizations in their own name or on behalf of their members who consider that they have been subjected to violations of this law may seek redress with the Committee; in special circumstances, the Committee is permitted to consider cases referred to it by others. Cases shall be submitted to the Committee in written form within one year from the time the alleged violation of the law was revealed, or from the time the party concerned became aware of the alleged violation. In cases where argumentation on the basis of administrative law is being sought, this respite shall start when such argumentation has been presented. A case shall be considered to have been submitted in time if a letter containing it is received by the Committee, or has been posted, before the end of this deadline. In special circumstances, the Centre for Gender Equality may request that the Complaints Committee consider a specific case. The Complaints Committee's proceedings shall, in general, be carried out by written procedure; however, the Committee may summon the parties or their representatives.

The Committee's opinions are not subject to appeals to a higher authority. In cases which may be expected to have a policy-establishing effect on the labour market in general, the Committee shall seek comments from the overall organizations of employees and their contracting parties before issuing its opinion. In cases where the Committee is of the opinion that the provisions of this law have been violated, it shall submit substantiated requests for improvements to the parties concerned.

¹⁷ Um umboðsmann Alþingis, Parliamentary Ombudsman Webpage: www.umbodsmaduralthingis.is

The Ombudsman for Children

The Ombudsman for Children shall seek to ensure that, in their dealings, public authorities, central and local alike, individuals, societies and other associations of individuals, and representatives of legal persons, give full consideration to the interests, needs and rights of children. All persons, children and adults alike, may apply to the Ombudsman, orally or in writing, for matters pertaining to children. The Ombudsman decides whether an indication warrants his or her taking up a matter. Where the Ombudsman feels that a matter gives rise to further investigation he or she will seek information from the parties. The Ombudsman can, furthermore, summon the parties concerned, or visit them in order to gather additional information and to have a closer look at some details. The Ombudsman has free access to all institutions which house children or deal with children in one way or another. The Ombudsman can conclude a matter by: dismissing it with or without specific instructions; dropping it at any stage; following it through with observations, recommendations, instructions and proposals for a remedy; or issuing a reasoned opinion. Conclusions by the Ombudsman in matters submitted for his or her consideration are not by law binding on the parties. Those concerned are, however, expected to heed the observations, recommendations and proposals made by the Ombudsman for improvements in the children's lot. The Ombudsman is not a remedial authority as there is no formal complaint procedure and it is not the role of the Ombudsman to deal with individual cases.

Nevertheless, the Ombudsman receives a number of inquiries and has been able to advise children or their parents as to courses open to them either in the administration or the courts of law.

The contact information for the Ombudsman is as follows:

Umboðsmaður barna, Laugavegi 13, 101 Reykjavík, Telephone: (354) 552 8999, E-mail: ub@barn.is, Website: www.barn.is

2A Employment and occupation related discrimination - all grounds

Varied remedies exist that may be used to address employment and occupation related discrimination on the grounds of race or ethnic origin, religion or belief, gender, disability, age or sexual orientation. The remedies available vary depending on the grounds for discrimination and whether the alleged perpetrator is a public authority or a private body. A few public authorities have special grievance procedures that may address discrimination complaints and the universities have adopted anti-discrimination policies that sometimes encompass a grievance procedure.

The University of Iceland adopted a policy against discrimination in 2005 covering age, disability, health, gender, sexual orientation, religion and political beliefs and ethnicity, origin, race and culture. The policy represents one of the three main pillars within the University's equal rights programme. The other two consist of the programme on gender equality and the policy of the affairs of disabled people. The policy applies to all University staff, students and guests as well as consultants and others employed in projects financed by non-University sources. The dean, the head of the department or the office manager or director of each administrative division is responsible for solving problems arising from an alleged act of discrimination. If there is a difference in opinion that cannot be solved at this level, the aggrieved party shall be informed about the avenues of complaint. A member of staff who feels that he or she has been discriminated against can approach his or her immediate superior or dean who shall seek reconciliation or other solutions. Those concerned can also approach the personnel department and the University's Equal Opportunities Officer. Information on these matters shall be treated confidentially by everybody involved and shall exclusively be communicated to those who necessarily need to have access to it. A student who feels that he or she has been discriminated against can approach the University's Equal Opportunities Officer, the student's Equal Opportunities Officer and/or the student counsellor. Those approached by an aggrieved party shall then turn to the dean of the faculty or his or her representatives who will then seek reconciliation or other solutions. The superior in question can then seek the support of a consultant agreed to by both parties concerned. Should the support of a consultant not suffice to resolve matters, the aggrieved party will be informed of avenues of complaint.

Should the aggrieved party choose to file an official complaint, this should be addressed to the Ethics Committee of the University of Iceland.

The Act on Trade Unions and Industrial Disputes No. 80/1938 provides for an internal grievance procedure. At each place of work where at least five persons are employed the local trade union is entitled to nominate two persons from among the workers to act as shop stewards. The employer shall approve one of them as shop steward. The shop steward shall ensure that work agreements are adhered to by the employer and that the workers' social or civil rights are not curtailed. The Act on Trade Unions and Industrial Disputes also establishes a special court which deals with trade union matters and industrial disputes according to the Act; the Icelandic Labour Court (Félagsdómur). The function of the Court is: 1) to pass judgments in cases arising on account of charges concerning violation of the Act on Trade Unions and Industrial Disputes and loss sustained on account of unlawful stoppage of work; 2) to pass judgments in cases arising on account of charges concerning violations of a work agreement or due to disagreement relating to the interpretation of a work agreement or its validity; and, 3) to pass judgments in other cases between workers and employers which the parties concerned have agreed to refer to the Court, provided that at least three of the five judges agree upon such a procedure. Decisions of the Labour Court are final and cannot be appealed, with exceptions though.

Individual employment and occupation disputes would be dealt with by the general courts, but one can not exclude that issues of equality law could appear before the Labour Court within the above mentioned jurisdiction of the Court, especially in those instances where non-discrimination principles have been incorporated into collective agreements.

The Act on Gender Equality establishes a specific remedy to deal with gender-based discrimination. The Act prohibits both direct and indirect discrimination and entitles individuals and non-governmental organizations to seek redress from the Complaints Committee on Equal Status. Although the decisions of the Complaints Committee are not binding, the Centre for Gender Equality or the individual concerned can initiate legal proceedings based on the Committee's opinions.

Legal remedies include civil law remedies and private criminal prosecutions. There are no specific court proceedings in discrimination cases. In procedure before Icelandic Courts, as a general rule, the claimant has the burden of proof. However, the Act on Gender Equality stipulates that if evidence is presented of direct/indirect discrimination based on the grounds of sex in the engagement, appointment to a occupation, promotion, changing of position, continuing education, vocational training, study sabbaticals, dismissal, wages, working conditions or the working environment, the employer shall be obliged to prove that other reasons than sex were the criteria for his/her decision. Furthermore, the Maternity/Paternity- and Parental Leave Act prohibits dismissal of an employee during pregnancy without reasonable cause, placing the burden of proof on the employer.

The laws are applicable to the following situations: advertising of posts, recruitment procedures, selection, terms and conditions, pay, discrimination in the workplace, working hours, suspect groups *e.g.* part time workers, workplace disciplinary procedures, promotion, allowances and bonus payments, dismissal (procedural and substantive), social security payments, occupational pensions, issuance of permits and licences and access to vocational training.

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

There are no special remedies available for dealing with discrimination based on race or ethnic origin other than those described above, *i.e.* the courts, the administrative system and the Parliamentary Ombudsman.

As set out above, in a judgment of April 2002, the Supreme Court sentenced an individual for violation of Article 233a of the General Penal Code. The defendant had been indicted for having, by certain expressions made in a weekend newspaper interview, publicly assaulted an indefinite group of people by derision, vilification and mockery on account of their nationality, colour and race. He was sentenced to pay a fine of ISK 100,000 to the State Treasury.

In two summary appeal cases (Nos. 216/2002 and 217/2002), the Supreme Court considered claims for asylum in Iceland on humanitarian grounds, and permits to stay. The Court dismissed the claims on the grounds that it was not within the purview of the courts to grant asylum on humanitarian grounds or permits to stay; this was a matter to be decided on by the administrative authorities.

The Parliamentary Ombudsman has considered several cases pertaining to foreigners regarding denial of entry, visas, citizenship, permits to stay, and expulsion. The Ombudsman for Children has not received any complaints alleging discrimination against children on grounds of race, colour, or national or ethnic origin.

The Intercultural Centre in Reykjavik provides free legal counsel for people of immigrant origin.

2C Avenues for employment related and non-employment related discrimination complaints

The choice of avenues for raising an employment related discrimination complaint differs somewhat from the situation regarding non-employment related complaints.

Concerning employment related complaints individuals turn to either their union, the Parliamentary Ombudsman or the Complaints Committee on Equal Status or bring the complaint themselves (with or without the help of a private lawyer) to court. The usual course is to bring the complaint to the union or to the Complaints Committee on Equal Status, if the case regards gender-based discrimination. The larger trade unions offer direct legal assistance to victims of discrimination and may engage on behalf or in support of victims in judicial and administrative procedures. The smaller unions conclude agreements with law firms to guarantee legal aid for their members. The federations only take on cases which may set precedents for the labour market as a whole. The advantage of having a union dealing with the case is that the union generally bears the cost of litigation if the complainant loses. Bringing a case to the courts individually entails running a substantial economic risk as the complainant will have to pay the winning party's legal costs if s/he loses, in addition to his or her own legal costs. Although the decisions of the Complaints Committee on Equal Status are non-binding they are useful as they may form the basis for the Centre for Gender Equality initiating legal proceedings at no cost to the applicant.

Complaints may be lodged with the Ombudsman concerning decisions, procedures and conduct of officials of ministries and government agencies and other bodies engaged in State administration. The same applies in the case of officials of local authorities and others who are engaged in administration for municipalities, as well as to employees of private bodies inasmuch as these have been by law vested with authority to decide as to individuals' rights and obligations. Any person who feels unfairly treated by the authorities may lodge a complaint with the Parliamentary Ombudsman. Associations and bodies formed by individuals may also lodge a complaint. Decisions which may be appealed to a higher authority, *e.g.* a Minister, must first be referred to the higher authority before a complaint can be lodged with the Ombudsman. However, complaints involving, for instance, a delay in the conclusion of a case, or the conduct of a civil servant, may be lodged directly with the Ombudsman. A complaint must be lodged with the Ombudsman within one year of the notification to a party of the decision which forms the object of the complaint.

Individuals can also bring non-employment related complaints to the Parliamentary Ombudsman or the Complaints Committee on Equal Status or bring cases to the courts. The procedures are the same as described in relation to employment related discrimination. Discrimination falling under Articles 233a and 180 of the General Penal Code is subject to public prosecution.

2D Technical procedural requirements of each available remedy

Limitation of action

The general rule is that civil proceedings become statute-barred four years after the complainant became aware of the situation and claims for damages become statute-barred in ten years.¹⁸ Criminal proceedings become statute-barred on the basis of the punishment set for each specific crime; *i.e.* in two years if the punishment is one year or less, in five years if the punishment is maximum four years, *etc.* The General Penal Code stipulates that violations of Article 233a (see above) entail a maximum of two years in prison and therefore the statute of limitations is five years.¹⁹

Complaints must be lodged with the Parliamentary Ombudsman and the Complaints Committee on Equal Status within a year of the notification to a party of the decision which forms the object of the complaint.

Formal requirements pertaining to complaints

Parliamentary Ombudsman

All formal requirements pertaining to complaints made to the Parliamentary Ombudsman are readily available at the webpage of the Office. A special form is available for that purpose. If need be, and, insofar as possible, the Ombudsman's staff will help with the drafting of a complaint. The application should include information on the person (legal person) who lodges a complaint: full name, social security number, address, phone number and profession and information on the substance of the complaint. The application must be signed by the concerned party or by the person who prepares the application.

The Ombudsman may demand from the authorities such information as he/she may require to examine the complaint, including reports, documents, records and other items. He may summon administrative officials to give oral information and reports. The Ombudsman has, furthermore, free access to the premises of the authorities in order to carry out investigations for official purposes. Should the Ombudsman decide, following a preliminary investigation of a case, to examine it further, he/she will give the authority concerned an opportunity to present its case.

The contact information for the Ombudsman is as follows:

Umboðsmaður Alþingis, Álfamýri 7, 150 Reykjavík, Telephone: (354) 510 6700, Toll free: 800 6450, Telefax: (354) 510 6701, E-mail: postur@umb.althingi.is, webpage :www.umbodsmaduralthingis.is

Complaints Committee on Equal Status

All formal requirements pertaining to complaints made to the Complaints Committee are readily available at the webpage of the Office. A special form is available for that purpose. Individuals, and non-governmental organization in their own name or on behalf of their members who consider that they have been subjected to violations of the Act on Gender Equality, may seek redress with the Complaints Committee on Equal Status. In special circumstances, the Complaints Committee shall be permitted to consider cases referred to it by others. Cases shall be submitted to the Complaints Committee in written form within one year from the time the alleged violation of the law was revealed, or from the time the party concerned became aware of the alleged violation. In cases where argumentation on the basis of administrative law is being sought, this respite shall start when such argumentation has been presented. A case shall be considered to have been submitted in time if a letter containing it is received by the Committee, or has been posted, before the end of this respite.

¹⁸ Law No. 14/1905, Articles 3 and 4.

¹⁹ General Penal Code No. 19/1940, Article 81.

In special circumstances, the Equal Status Bureau may request that the Complaints Committee consider a specific case. The Complaints Committee's proceedings shall, in general, be carried out in writing; however, the Committee may summon the parties or their representatives. In other respects, the Committee's proceedings are carried out under the provisions of administrative law and further regulations issued by the Minister of Social Affairs.

The contact information for the Committee is as follows:

Kærunefnd jafnréttismála, Hafnarhúsinu v/Tryggvagötu, 150 Reykjavík, Telephone: (354) 545 8100, Telefax: (354) 552 4804, Webpage: <http://felagsmalaraduneyti.is/kaerunefndir/jafnrettismal>.

The Labour Court

The Labour court has limited jurisdiction and can pass judgment in cases concerning the Act on Trade Unions. Trade unions, associations of masters and manufacturers and individual employers are authorized to seek a decision by court as to whether an activity comes under section I and II of the Act respecting craft and trade as well as to which authorized branch of trade it covers. Procedure follows that of the general courts, except for some exceptions especially in relation to the speed of proceedings. Federations of trade unions and employers' associations proceed with cases before the Court for and on behalf of their members.

Associations not being members of the Federations proceed with their cases themselves. Unaffiliated parties will proceed with their cases themselves. In case a federation or union decline to instigate proceedings for their members the party concerned is authorized to file the case himself, but prior to a writ of summons being issued he shall submit evidence of the refusal of the union or federation concerned before the President of the Labour Court. Parties to a case may grant Icelandic citizens who are in charge of their financial affairs and have an unblemished reputation authority to plead their cases before the Court. The plaintiff shall as far as possible give an account of how he or she will be proving the claim. A case shall be pleaded verbally, witnesses can be summoned and assessments undertaken.

2E Existing support and obstacles at national level

A complainant runs no direct financial risk if the ombudsman or his or her union brings a case to court on his or her behalf. There is, however, a substantial financial risk if an individual decides to bring the case on his or her own behalf and this is a significant obstacle to bringing claims of discrimination to the courts. If a person demonstrably does not have the means to bring an action before the courts, or the case raises issues of public concern or significantly affects the applicant's private interests, an application for financial legal aid can be submitted to the Ministry of Justice. Such legal aid entails that the lawyer's fees and other costs of the litigation are paid by the State Treasury. The Committee on Legal Aid evaluates applications. Upon the Committee's recommendation the Minister of Justice grants legal aid. Chapter XX of the Act on Procedure in Civil Cases No. 91/1991, and the Regulation on the Rules of Procedure for the Committee on Legal Aid No. 69/2000 set out the conditions and process for legal aid. In practice, applicants need to be almost destitute to qualify for legal aid from the State.

Some NGOs and trade unions provide advice and support to persons who are the targets of discrimination and can provide initial advice about where the complainant can turn.

Until very recently the focus has been mainly on gender-based discrimination. There is considerable expertise on gender issues and issues relating to discrimination based on sexual orientation and disability in civil society but less so regarding the other discrimination grounds. Of late, with a steady increase in immigration, discrimination based on race, religion and ethnic origin is coming to the fore, but there is still limited competence in the NGO community and among jurists to deal with these discrimination grounds in an Icelandic context.

2F Referrals to the European Court of Justice (ECJ) and the EFTA Court

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 of a Member State of the EU to the European Court of Justice in Luxembourg under Article 234 of the EC 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 can be a highly effective procedure as:

- 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 the Court's 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.

This is, however, a specialised procedure and expert EU lawyers familiar with it 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 up to two years can have serious consequences for the complainant. Article 34 of the EFTA Agreement on the Establishment of a Surveillance Authority and a Court of Justice, cf. also domestic law No. 21/1994, is similar to Article 234. Icelandic courts and the Labour Court may ask the EFTA Court for advisory opinions. This has been done several times by Icelandic courts. For instance, in EFTA Court Case E-9/97 the District Court of Reykjavík asked for an advisory opinion on the interpretation of Articles 1(2) and 10 of Council Directive 80/987/EEC of 20 October 1980.

2G Petitions to the European Parliament

One of the fundamental rights of citizens of EU Member States is the right to file petitions with the European Parliament. Article 194 of the EC Treaty stipulates that any citizen of the European Union, or resident in a Member State, may, individually or in association with others, submit a petition to the European Parliament on a subject which comes within the European Union's field of activity and which affects him or her directly. Any company, organization or association with its headquarters in the European Union may also exercise this right of petition, which is guaranteed by the Treaty. A petition may take the form of a complaint or a request and may relate to issues of public or private interest. Since Iceland is not a member of the EU, Icelandic citizens cannot file petitions to the European Parliament unless they have taken up residency in an EU country.

2H Alerting the European Commission and the EFTA Surveillance Authority to discriminatory administrative practices

Citizens of EU countries may also write directly to the European Commission, which is often a speedier process than lodging a petition with the European Parliament. This can be done with a view to encouraging the Commission to initiate infringement proceedings against the offending State. The Commission and the Parliament would be bound by the EU Charter of Fundamental Rights' provision on the right to good administration (Article 41) if adopted:

- Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
- This right includes
 - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;

- the right of every person to have access to his or her file, while respecting the legitimate interest of confidentiality and of professional and business secrecy;
 - the obligation of the administration to give reasons for its decisions.
- Every person has the right to have the Community made good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
 - Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

In Iceland anyone may lodge a complaint against an EFTA State with the EFTA Surveillance Authority. Admissible claims are those stemming from any measure (law, regulation or administrative action) or practice attributable to the State which the complainant considers in violation of a provision or principle of EEA law.

2I Complaints to the European Court of Human Rights

After exhausting domestic remedies a person may, if the case concerns rights covered by the European Convention on Human Rights and Fundamental Freedoms (European Convention), apply to the European Court of Human Rights in Strasbourg. This may be done under Article 14 of the European Convention provided another Article is also engaged or, if the country has ratified it, under Protocol 12 to the Convention. Iceland has not ratified Protocol 12.

To bring a case to the Court, one need not be a national of a State bound by the Convention but the violation must have been committed by one of those States, within its 'jurisdiction', generally on its territory. Private individuals and legal entities can bring complaints but the applicant must have directly and personally been the victim of the alleged violation. General complaints about an unfair law or a measure are not admissible nor can a person complain on behalf of other people (unless they are clearly identified and s/he is their official representative). An application may be lodged against one or more of the States bound by the European Convention which has/have allegedly (through one or more acts or omissions directly affecting the applicant) violated the European Convention on Human Rights. The alleged violation must have been perpetrated by one or more public authorities in the State(s) concerned. The Court does not accept complaints against individuals or private institutions or complaints regarding violations of other legal instruments.

Complaints have to be filed with the Court within six months from the date of the final decision at domestic level. After that time the Court will not accept the application.

Two cases regarding discrimination (Article 14) have been decided by the CoE human rights bodies: in *Kjartan Ásmundsson v. Iceland* (Application No. 60669/00) the European Court of Human Rights found a violation of the right to property in conjunction with Article 14 and in *Magnus Gunnar Gudmundsson vs. Iceland* (Application No. 23285/94) the European Commission of Human Rights also found a violation of the right to property in conjunction with Article 14.

2J Other international remedies

Iceland ratified the 1st Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) in 1979, accepted the right of individual petition under the Convention on the Elimination of all forms of Racial Discrimination (CERD) in 1981, and ratified the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), allowing for individual petitions in 2001. The abovementioned instruments allow individuals to bring complaints of alleged violations to quasi-judicial expert committees.

NGO/trade union contributions, in the form of alternative reports to international monitoring bodies, are also important to ensure that, *inter alia*, the Committees which examine Iceland's periodic reports under the ICCPR, CERD, CEDAW and the Convention on the Rights of the Child (CRC) get reliable information on instances and patterns of discrimination.

Collective complaints can be made under the Council of Europe's revised European Social Charter but Iceland has not ratified the revised Charter.

2K Professionalism

NGOs in Iceland are developing an increasing level of professionalism regarding anti-discrimination and the unions have long had a primary role in negotiating on behalf of their members, both in regard to collective agreements as well as providing representation in individual cases.

3. Societal issues

Despite some efforts to address discrimination serious gaps remain in both legislative and *de facto* protection against discrimination based on age, race, national origin, disability, sexual orientation and gender.

With a largely homogenous and monocultural population since settlement, historically the most serious problem of discrimination in Iceland is gender discrimination; there is a demonstrable dichotomy between the high level of education of women and their status in the labour market and society as a whole.

With a substantial rise in immigration in recent years, however, there are indications that non-citizens and persons of immigrant origin also suffer serious inequity in daily life, especially as regards education and employment. Incidents of refusal of access to public spaces and harassment are also reported, despite Article 180 of the Penal Code.

The formal status of disabled persons is good under Icelandic law which guarantees, *inter alia*, the right to equality, the right to receive assistance to be enabled to live and work in society, the right to general national and municipal services as well as access to public spaces. The law also provides for affirmative action: disabled persons shall have preference for government employment over other applicants if equally qualified. In practice, however, disabled persons habitually suffer discrimination with respect to, for instance, the right to education, housing and participation in public life and persons with disabilities form a large part of those living in poverty. Although building regulations require that public buildings be accessible for disabled persons and violations are punishable by a fine or jail sentence, these laws are rarely enforced.

Icelandic legislation aimed at equality for homosexual persons is one of the world's most progressive and in a relatively short time the situation of homosexuals has improved tremendously. Currently, the last legal hurdle concerns marriage. The National Church is opposed to conducting the same religious ceremonies for heterosexual and same-sex couples and there is a special law on the partnership of homosexual couples. This issue is still under serious discussion and positive changes are expected in the fall of 2007.

There are no legal provisions stipulating equality for everyone regardless of age. Little research has been carried out on this topic but discrimination relating to employment is apparent, especially in correlation with gender. Furthermore, the situation of elderly citizens as regards economic and social rights as well as right to respect for private and family life in nursing homes are issues of concern.

No research has been carried out about the extent of discrimination in the work place based on religion or belief.

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d) Funding opportunities in the field of anti-discrimination

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

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

a) *European-level NGOs*

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

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

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

Until the end of 2006, the European Women's Lobby received running cost support through the Gender Equality Programme with an annual amount of around 800.000 €

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

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

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

Calls for proposals and tenders under PROGRESS are published on the Calls for Tender/Calls for Proposals website of DG Employment, Social Affairs and Equal Opportunities on: http://ec.europa.eu/employment_social/emplweb/tenders/index_en.cfm

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

b) European Trade unions

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

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

http://ec.europa.eu/employment_social/social_dialogue/grants_en.htm

2. EU funding for national NGOs/Trade Unions

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

http://ec.europa.eu/employment_social/emplweb/tenders/index_en.cfm

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

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

http://ec.europa.eu/employment_social/esf2000/2007-2013_en.html

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

http://ec.europa.eu/employment_social/emplweb/esf/esf_matrix_en.cfm

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

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

The European Commission does not have a specific delegation to Iceland but a joint delegation to Norway and Iceland which is based in Norway. The delegation does not provide any type of support or funding but refers people to the EU programmes which Iceland participates in as part of the EEA Agreement. These programmes are based on project-funding and generally there is a requirement that at least three EU/EEA countries have to be involved.

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

There are no specific funds dedicated for the work on anti-discrimination. The funds available have a broader scope such as human rights or equality but are accessible for NGOs and trade unions.

The Equality Fund (Jafnréttissjóður) is a special research fund that provides financial funding of ISK 10 million per year. The object of the fund is to promote gender research and thereby promote equality between women and men.

The Human Rights Fund (styrkir til mannréttindamála) provides ISK 8 million every year in financial support to organizations and institutes that work on projects dealing with human rights issues.

In addition, one can apply directly to the relevant Ministers for grants to various projects.

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

The funding is financial project funding from the Prime Ministers Office and Ministry of Justice and Ecclesiastical Affairs and is provided on a yearly basis. The funding is not part of any specific governmental programme.

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

The grants are generally few and large so only a few actors are granted funding. It is difficult to know what sort of projects they are funded. Generally, the only condition for funding is that grantees should prepare a report on the projects progress after completion.

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

N/A

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

Funding can be applied for from the Human Rights Commission of the Municipality of Reykjavik and the City Council. There are no criteria for application but a report on the activities at the end of the year is required.

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

Numerous funding possibilities exist and application is easy. However these funds are very general and provide grants to projects ranging from buying shirts for sports teams to human rights research. No specific funds on non-discrimination work exist.

Landsbankinn (bank) supports various projects every year financially, application is open to all on their website and the application period is continuous over the year.

Glitnir (bank) supports various projects every year financially, application is open to all on their website and decisions on funding are taken once a month.

Actavis (pharmaceutical company) financially supports projects within the field of welfare of children and health etc.

Baugur Group (international investment company) supports UNICEF and provides financial funding twice a year for diverse cultural, academic, humanitarian and welfare projects.

Pokasjóður is an association of 160 shops that yearly distributes ISK 100 million to projects dealing with environmental-, cultural-, and philanthropic issues.

Margrét Björgólfsdóttir commemoration fund, with a capital of ISK 500 million, provides financial funding once a year. The objective of the fund is to support healthy living and enrich life, promote education, culture and physical education. The aim of the fund is reached by supporting individuals, projects and organizations to educate, initiate, and organize activities and competitions.

Eðvarð Sigurðsson commemoration fund supplies grants to: 1) individuals who want to gain knowledge about trade union related matters, domestically and abroad- i.e. grants to attend seminars, and 2) research and publication grants for projects relating to Icelandic society, the labour market and the work of labour unions.

Alcan (industrial company) provides ca. ISK 8 millions in financial funding twice a year to organizations and individuals.

In addition, many Icelandic companies receive applications for small grants for various projects. The Icelandic Federation of Labour occasionally funds humanitarian projects and different projects related to the labour market and labour rights.

8. Are there any other source of funding?

Nordic funding from the Nordic Council and funding from Nordic bilateral funds might be accessible but usually three Nordic countries have to be involved in the project.

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.