



## **NATIONAL ACTIVITY REPORT: Ireland ANTI-DISCRIMINATION AND DIVERSITY TRAINING**

**Orlagh O'Farrell (Anti-discrimination seminar manual chapters)  
AkiDwa: African Women's Network in Ireland (diversity management seminar)**

**May 2008**



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

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

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

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

The national chapters for the Anti-discrimination seminar manual were drafted by Orlagh O'Farrell.

The Diversity Management seminar was carried out by **AkiDwA: African Women's network in Ireland.** [www.akidwa.ie](http://www.akidwa.ie)

**I. Table of contents**

I. Table of contents ..... 4

II. Introduction..... 5

III. Anti-discrimination seminars ..... 6

    a) Mapping exercise: NGOs/Trade Unions working to combat discrimination ..... 6

    b) National legislation in the field of anti-discrimination..... 17

    c) Funding opportunities in the field of anti-discrimination..... 28

IV. Diversity Management seminar ..... 34

Annexes ..... 40

The role of trade unions combating discrimination..... 40

## II. Introduction

### Anti-discrimination seminars

No organisation in Ireland could be found who had the interest and capacity to carry out the anti-discrimination seminars. That many seminars for NGOs have been carried out in Ireland on anti-discrimination was the most important factor mentioned.

The country specific chapters of the training manual for the anti-discrimination seminars were drafted by Orlagh O'Farrell.

### Diversity management seminar

The European Union (EU) diversity management seminar held at Gresham hotel on 4<sup>th</sup> April, 2008 was organised by the African Women's network (AkiDwA) in Ireland. The seminar was part of the EU programme established to support the effective implementation of the EU anti-discrimination legislation (2001-2006) and it marked the 2007 – European year of Equal Opportunities for all. The training was delivered by two international diversity management experts: Stephen Holmes (*bottom left*) from International Society for Diversity management (IDM) and Donal Lynch (*bottom right*) from Impact Global.



*Stephen Holmes: Introducing himself*



*Donal Lynch: Conducting the training*

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

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

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

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

A wide range of trade unions and NGOs engage in work to combat discrimination in Irish economic and social life. The Irish Congress of Trade Unions (ICTU) is the umbrella group for trade unions in Ireland, grouping together 56 trade unions north and south of border. In its constitution and policies the Congress is committed to promoting equality and opposing discrimination. It undertakes concrete actions to combat discrimination, taking cases for its members in their workplaces and developing negotiating tools, going as far back as 1982 when it published guidelines on sexual orientation at work (Lesbian and Gay Rights in the Workplace - Guidelines for Negotiators, ICTU, 1982). Both ICTU and its individual affiliated unions are involved in anti-discrimination actions and measures on an ongoing basis. The Irish public service trade union IMPACT has obtained an important judgement recently in the European Court of Justice (ECJ) upholding the rights of its fixed-term workers to be free from discrimination in their employment conditions <sup>1</sup>.

The Community and Voluntary Sector is made of thousands of non-governmental organisations (NGOs), small community based groups, voluntary organisations and religious and charitable organisations that address a huge and varied range of needs from the provision of health, education or other social services, to providing recreational activities to young people to advocating the rights of disadvantaged groups to participate in planning, decision making and governance. A wide range of NGOs are involved in anti-discrimination work, such as the Migrant Rights Centre Ireland, Irish Council for Civil Liberties (ICCL), Immigration Council of Ireland, Age Action Ireland, Free Legal Advice Centres, Forum for People with Disabilities etc. The Equality Coalition, an alliance of groups and organisations concerned with equality issues under the aegis of ICCL <sup>2</sup>, brings together some 40 groups who are all concerned with equality issues and involved in anti-discrimination work to a greater or lesser extent.

##### **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)?**

ICTU and its affiliated unions oppose discrimination on a very wide range of grounds (race, colour, nationality or ethnic or national origins, politics, religion, sex, age, disability, marital status, family status, sexual orientation, or membership of the Traveller Community). They are concerned with equality on all grounds both in employment and civil society generally. This reflects the fact that Ireland has had comprehensive multi-ground equality legislation since 2000. Individual sectoral trade unions will be concerned with promoting equality, across all grounds, in their own sectors, e.g. education (Irish National Teachers Organisation (INTO)), public service (SIPTU, IMPACT), retail (MANDATE) etc.

Some NGOs are involved with all areas of discrimination, (e.g. Irish Council for Civil Liberties.) Others are concerned principally with one ground e.g. Disability Federation of Ireland (disability), [Age Action](#) and [Age and Opportunity](#) (age), [Gay and Lesbian Equality Network](#) (sexual orientation) and [Transgender Equality Network](#) (transgender issues). Integrating Ireland is concerned with equality for immigrants, and the National Women's Council of Ireland (NWCI) deals with women's issues.

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<sup>1</sup> Case C - 268/06 brought by IMPACT (public service) trade union in ECJ, judgement 15.4.08 not yet reported <http://www.impact.ie/iopen24/pub/pub/downloads/cs/G33-39j-3.pdf>

<sup>2</sup> [www.iccl.ie](http://www.iccl.ie)

NGOs may work on more than one issue, across a number of grounds e.g. AkiDwa, the African Women's Network, which is concerned with race and women.

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

Trade unions are primarily concerned with improving the employment rights and working conditions of their members, and anti-discrimination is only one aspect of what they do, although it is an important area of activity. Unions defend workers against discrimination in both general campaigns and individual cases. The Services Industrial Technical and Professional union (SIPTU), which is the largest union in Ireland, has been active in combating exploitation of migrant workers in sectors such as construction and mushroom-picking. Unions also promote anti-discrimination more widely in society, such as in access to goods and services, and work with other actors to promote equality.

For some rights-based NGOs e.g. the Irish Council for Civil Liberties, anti-discrimination is a substantial part of what they do, along with the criminal justice system and human rights. For others it is an aspect of their wider work representing the concerns of particular categories of people or seeking to improve services for their client group. An example is Enable Ireland, which supports organizations developing services for disabled people in local communities, and has also been involved in anti-discrimination campaigns.

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

Trade unions are affiliated to Congress under its rules. Generally, unions must have a minimum of 500 members to register, and subscribe to the objectives and values in Congress's constitution. Ireland currently has no registration system for NGOs. They are often incorporated as companies limited by guarantee and registered in the Companies Registration Office. Very small groupings may have no formal structures. NGOs can obtain charitable status (which means only favourable treatment under some tax rules) if they obtain a CHY number from the Revenue Commissioners. However, the Government is currently in the process of adopting charities legislation which will require NGOs with charitable status to become formally registered and be subject to regulation. The details of registration and regulation are currently under discussion and are the cause of some worry amongst NGOs, who fear that the new rules may be unduly complex and restrictive of their ability to campaign for equality.

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

ICTU as the umbrella structure for unions has a membership of 770,000, including Northern Ireland. SIPTU is the largest individual union with over 200,000 members, representing virtually every category across almost every sector in the Irish economy. Some unions are much smaller. 500 members is the minimum for union affiliation. NGOs vary from larger groups, usually federated structures grouping together smaller organisations, to very small groups providing local representation or services. EAPN Ireland (European Anti-Poverty Network Ireland) is a network of 22 groups and hundreds of associate members and individuals working with a focus on poverty at EU, national and local level. NGOs at local level would be much smaller.

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

ICTU as the Irish trade union congress operates as a network of Irish and Northern Irish trade unions. It also participates in the European Trade Union Confederation ETUC. NGOs often operate within a network, e.g. Disability Federation Ireland comprises 150 voluntary disability organisations. NGOs come together in larger networks on specific campaign issues. At national level both trade unions and NGOs operate as larger blocs within national social partnership structures, for instance in the current national social partnership agreement Towards 2016. For some years NGOs have constituted a

separate pillar within national partnership structures, which provides impetus to come together to articulate discrimination issues and influence Government policy.

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

ICTU has a network of 25 Congress Centres spread around the country including Northern Ireland. Affiliated unions also have regional and local branches. NGOs organised on a national basis usually have their offices in Dublin, and may have local branches e.g. Muscular Dystrophy Ireland (headquarters in Dublin, 8 branches nationwide). There are many NGOs providing services only for their local area, such as ALONE, providing services for the elderly in the Dublin area.

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

NGOs in the capital will often be national bodies set up to influence national Government policy in relation to anti-discrimination work, in the drawing up of the annual budget for instance. NGOs at local or regional level may interact primarily with local decision-making structures, such as local authorities, Area-based Partnerships or City or County Development Boards.

**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)**

Trade unions and NGOs have considerable weight in terms of popular press, national radio and TV. Both are represented in policy-forming structures such as the National Economic and Social Forum (NESF), and especially in national social partner agreements such as the current programme Towards 2016, where alongside the Government and employer groups the trade unions form one partnership bloc and the NGO sector another (Community and Voluntary Pillar). These bodies have considerable weight and are highly influential. NESF reports and recommendations on socio-economic issues are influential in Government circles. Social partnership processes and outcomes command considerable coverage in the press, TV and radio.

Some (especially long-established) NGOs are regularly given press and airtime in relation to relieving poverty and inequality, e.g. the Society of St Vincent de Paul. However, the views of some more recently established actively-campaigning NGOs such as the Immigrant Council of Ireland, an independent organisation working with and for immigrants in promoting their rights through information, advocacy and awareness, are also frequently covered.

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

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

Trade unions work together through Congress to exchange expertise and undertake joint events. NGOs work together in structures such as ICCL (Equality Coalition), NCCRI, and in ad hoc coalitions on specific campaigns. FLAC has established a group of NGOs to campaign in favour of the restoration of universal child benefit and the reversal of the habitual residency rule for obtaining child benefit, introduced at the time of EU enlargement in 2004, which is regarded as inequitable and discriminatory of immigrant children. The Community and Voluntary in the current national social partnership agreement Towards 2016 comprises 14 organisations, some of them federations of smaller groups .

Trade unions also collaborate in projects with NGOs. Sometimes this is initiated through EU programmes. An example is the Dublin Employment Pact Equal at Work projects 2001 and 2005, a collaboration between a wide range of regional and local authorities, community sector organisations and the IMPACT and SIPTU trade unions. The idea behind the initiative was to tackle discrimination in the labour market and other barriers to full participation in the world of work <sup>3</sup>.

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

Collaboration on gender discrimination goes back a long way with the trade union activism, beginning with a campaign for full introduction of equal pay for women and against a derogation from EU equal pay rules in the early 1970s. Much work has been done by trade unions since then in relation to equal pay and other gender issues. Many trade unions have women's committees and annual women's conferences to set yearly agendas for action. There have also been collaborative union campaigns on other issues (such as disability) and there is a current union campaign against discrimination and exploitation of foreign agency workers.

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

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

The situation varies between NGOs. ICCL does not seek or accept Government funding for its work. Many NGOs receive some state funding whether in the form of a direct grant or through publicly-funded project work. Following the publication in 2000 of a White Paper on the voluntary sector <sup>4</sup> the Government committed itself to providing a range of funding measures to support the Community and Voluntary Sector. Under the scheme, funding is provided to Federations, Networks and Umbrella Bodies, National Anti-Poverty Networks and for training and support of NGOs. The most recent round of funding under the scheme to support national organisations in the community and voluntary sector was issued in December 2007 <sup>5</sup>. State funding is also channelled to community and voluntary groups through local structures such as Area – based Partnership and County Development Boards. Occasionally the State provides indirect support to the community and voluntary sector, as is the case where people are employed in community and voluntary groups through the Community Employment Scheme.

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

Funding to national community and voluntary groups under the Government's current framework scheme is for the covering of core costs of an organisation such as staff, administration and ongoing running costs and is for up to three years on a contract basis, subject to an agreed work plan and periodic review.

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

NGOs often apply to philanthropic and other private foundations for some of their funding, such as The Atlantic Philanthropies, the Rowntree Trust, and Business in the Community.

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<sup>3</sup> <http://www.craigiecommunications.com/pg%2021.pdf>

<sup>4</sup> [White Paper on a Framework for Supporting Voluntary Activity and for Developing the Relationship between the State and the Community and Voluntary Sector.](#)

<sup>5</sup> <http://www.pobail.ie/en/PressReleases/file.8771.en.doc>

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

Each funder has its own conditions. For instance, Atlantic Philanthropies which has provided extensive funding across many sectors in Ireland, will not consider unsolicited requests, and targets NGOs that demonstrate strong organisational leadership, evidence of past and current impact, financial soundness and the capacity to implement initiatives and evaluate their success.

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

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

Trade unions are not funded by the state in the direct sense, although they may receive public monies through participation in projects.

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

Unions are not funded by any political party.<sup>12</sup> Unions are affiliated to the Labour party and the Labour party receives funding from the unions, not the other way around.

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

Members' fees make up their core funding, but trade unions also receive funding through undertaking projects financed by government or local authority structures.

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

Trade unions regularly participate in projects funded by European and international institutions, usually in partnership with NGOs or state agencies.

**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?**

Clearly NGOs are limited by budgetary constraints in what they can undertake in terms of anti-discrimination work. The framework established by Government for multi-annual funding of community and voluntary sector organisations referred to above<sup>6</sup> is a positive development in that it allows the 64 successful NGOs to plan their actions over a number of years. Outside of this scheme however, voluntary groups rely on piecemeal funding which they may access from one or a combination of grant schemes. Funding from these sources must usually be spent within one year and this poses a challenge to the ability of groups to become firmly established and build their capacity over a period. Trade unions would also benefit from further funding which would allow them to mount more collective anti-discrimination awareness campaigns, which are costly to initiate and maintain.

**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?**

Trade unions at Congress level operate in an all-Ireland context, as do some individual unions, such as the Irish National Teachers Organisation (INTO) which organises north and south. Irish trade unions maintain friendly contacts with trade unions in Great Britain.

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<sup>6</sup> At Question 11, see footnote 4

They also participate fully in union networks at EU level (European Trade Union Confederation ETUC) and international level (International Labour Organisation, ICFTU International Confederation of Free Trade Unions). NGOs work with their counterparts in other EU countries through partnership in EU projects. They are also represented in EU-level networks such as the European Women's Lobby, ENAR (European Network against Racism), European Disability Forum, AGE (European Older People's Platform).

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

Trade unions currently have a project called Global Solidarity which seeks to train Irish trade union officials to engage with the need for solidarity with the international trade union movement and the upholding of global labour standards<sup>7</sup>. NGOs are concerned with international issues particularly in regard to human rights, and have developed monitoring capacities in relation to various UN monitoring committees. For example they have contributed shadow reports to UN committees such as the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Elimination of Discrimination Against Women (CEDAW).

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

N/A

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

Some Irish unions have links with the Irish Labour Party, which was the party which during its last period in Government (ending in 1997) sponsored the introduction of anti-discrimination legislation in access to goods and services (well before similar EU legislation) as well as employment. It is no coincidence that one of these Labour-affiliated unions is SIPTU, the largest union, which has always been very active in introducing equality policies and campaigns.

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

This is possible and happens at local more level (through Area-based Partnerships and County Development Boards) more than at regional level, Ireland being a relatively small country.

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

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

NGOs engage in campaigns, information and advice, policy submissions, service provision and development, and in some cases support for defending rights. Trade unions carry are engaged in a similar range of activities, but also take up individual cases for members in relation to their rights under employment and equality laws.

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

Trade unions pursue complaints of discrimination for their members and assist them in seeking legal remedies if necessary. NGOs often do not have resources or expertise for this. Some NGOs however take up complaints of discrimination (such as ICCL, Irish Traveller Unit Legal Unit, Immigrant Council of Ireland).

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<sup>7</sup> [www.ictuglobalsolidarity.org](http://www.ictuglobalsolidarity.org)

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

Apart from broadly-based organisations such as the Irish Council for Civil Liberties, NGOs generally concentrate on the rights areas in which they have expertise, e.g. disability, gender, age, race, gay or lesbian, children's rights etc. Trade unions work for their members across the board.

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

Trade unions work with their members where these have been victims of discriminatory treatment at work. NGOs work with victims in their areas subject to their role and resources.

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

Trade unions will take cases for their members, but non-union members will benefit from any collective solutions reached affecting pay or working conditions.

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

Yes, trade unions do case-work on behalf of their members and will assist in the various stages of a complaint, i.e. advise the member of his/her rights, take the complaint up with the employer, support the member in bringing the case to the Rights Commissioner or the Equality Tribunal. Only a minority of NGOs perform this function.

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

Representing members in disputes is a normal function of trade unions for which state funding is not available. Some legal NGOs e.g. FLAC and independent law centres receive state funding and do casework relating to discrimination, but their resources usually permit them to engage only in information and advocacy. Such funding sources as are available to NGOs, discussed above, do not in principle preclude NGOs from developing capacities to assist their members in enforcement of rights.

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

There is no comprehensive system of legal aid for civil cases in Ireland. The Legal Aid Board operates a network of centres throughout the country, but its services are confined to a narrow range of issues, primarily concerning family law. This is a very big problem facing NGOs whose members need legal representation. The only comprehensive free legal service is provided by the 2 independent law centres operating in Dublin (Northside Community Law Centre and Ballymun Community Law Centre) which are community-based NGOs providing a full range of legal services including 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?**

Trade unions and NGOs can support individuals before employment and equality tribunals, although individuals can also represent themselves in these fora. Employment Appeals Tribunal proceedings have become increasingly complex and the support of a trade union or representation by a solicitor can be advisable. In court proceedings NGOs are rarely accepted by the court as having locus standi to bring a case on behalf of a client, although the Irish Penal Reform Trust's application to bring a case on behalf of prisoners was accepted in 2005.

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

Class actions are not allowed under Irish law. When FLAC (Free Legal Advice Centres Ltd) took the series of cases in the 1980s involving 77 women who had suffered discrimination in social welfare law which culminated in the ECJ judgments in Case 377/89 – Cotter v Minister for Social Welfare [1001] E.C.R. I-1155, they had to take the particulars of each and every individual case to draft the statement of claim.

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

NGOs try to provide assistance to victims of discrimination but they report a need for further legal training themselves in order to provide better advice and information. The Citizens Advice Board provides information as to rights through its extensive network of citizens information centres and its online database.

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

Both Trade unions and NGOs devote considerable efforts and time to making submissions to government in relation to legislative proposals and national policies, including legislation on employment, equality, charities regulation, human rights, and transposition of directives. They also make submissions during the annual budget exercise.

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

Trade unions and NGOs have well-established relations with government notably through national social partnership structures such as the current agreement Towards 2016 as already described in this report.

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

Trade unions and NGOs engage in regular dealings with regional and municipal authorities through local structures such as Area-based Partnerships, County and City Development Boards, etc., both as members of committees within these structures and as participants in grant-aided project work.

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

Trade unions engage with employer bodies in the normal course of industrial relations, joint labour committees etc., and within the national social partnership structures.

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

Trade unions are represented on the board of the Equality Authority and take part in advisory committees to draw up policy documents and codes of practice. NGOs may be asked to advise the authority on discrimination issues affecting groups with whom they work.

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

It is impossible to give precise answers to generalised questions of this sort. NGOs staff may be social policy specialists, researchers, communications experts, lobbyists, or legally trained personnel. Trade union professionals may also have this range of qualifications or others.

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

This depends on the size and resources of the NGO or trade union in question. Some NGOs provide their own in-house training, but it is probably more common to access training provided by the Citizens Information Board which has a remit to provide support to community and voluntary information sector providers. Other training and support structures for the NGO sector include The Wheel and Carmichael Centre organisations.

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

Again, it depends on the size and resources of the organisation. The Wheel and Carmichael Centre organisations can assist in providing training of this sort.

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

There is no national standard for evaluating anti-discrimination work in its own right. NGOs may be required to arrange evaluation as a condition of taking part in a funded programme. If they are large and well-resourced they may carry out evaluation as part of a strategic business plan. If they do not have the expertise in-house they may arrange for an external evaluation to be done.

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

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

The lack of a proper system of civil legal aid in Ireland is a major problem for NGOs engaged in anti-discrimination work. This has been highlighted by studies carried out by Free Legal Advice Centres Ltd (FLAC)<sup>8</sup>. The cost of court action to enforce rights can be a major barrier given the limited resources of the Equality Authority and anti-discrimination NGOs to take cases. Lack of resources and legal knowledge are also problems faced by NGOs in anti-discrimination work. Trade unions also report the need for more training on the issue.

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

NGOs experience constant anxieties about funding and ability to recruit and retain sufficient staff. Generally staff are overstretched across a wide range of tasks. Both NGOs and Trade Unions would also point to the lack of legal aid in Ireland as a huge obstacle to effective anti-discrimination enforcement.

**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?**

NGOs need more training in discrimination law including more complex concepts such as indirect discrimination. They need training in order to develop the expertise enabling them to analyse social issues in terms of equality and human rights norms.

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<sup>8</sup> Public Interest Law in Ireland, the reality and the potential FLAC 2006, and Public Interest Law and Litigation in Ireland – Developing a strategy FLAC (unpublished) 2007.

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

More training is required on the content of national and EU legislation, as well as on EU social charter rights and human rights at European Convention and UN Convention level. The interplay between these different legal instruments is also a fruitful area for training.

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

There is a continual demand for training in this area as well as for information about the practical mechanisms for enforcement and the way in which the law has been interpreted in national courts and tribunals. Not all of the judicial and administrative adjudication bodies report their caselaw and decisions in a systematic and accessible way. Advocacy skills also need to be developed for NGOs.

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

More training on European anti-discrimination legislation would be useful so that trade unions and NGOs could monitor the correct transposition and implementation of EU equality law obligations. The scope of training should be broadened to include familiarisation with the European Convention on Human Rights and UN human rights law, in an age of globalised trade and labour movement patterns.

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

It is probably staff shortage as much as lack of training which makes it difficult for NGOs to keep abreast of policy development and legislative proposals and contribute to debate and outcomes.

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

If NGOs had more resources they would be able to advertise more widely to bring rights and enforcement possibilities to the attention of people suffering discrimination and unaware of what they can do about it and the assistance which they can provide.

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

NGOs and trade unions could do more with clients and members if they had more resources, to bring test cases, disseminate good practice models, develop better information campaigns, develop advocacy skills etc. More newly-established areas of discrimination law such as age discrimination need more public information, and mobilising of legal remedies for extremely marginalised groups such as the Traveller and Roma communities is urgently needed.

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

The Trade union and NGO sectors have considerable credibility with government, notably through structures such as inclusive social partnership and NGO structures at national and area-based level. This has endured through successive governments of varying ideological hues.

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

The more the unions can establish the business case for equality measures, the easier it will be to bring employer groups along with them on equality and diversity issues.

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

There is always more work to do with public opinion and awareness raising, particularly with younger people, who are not generally aware of equality issues, and reactionary press commentators who strike attitudes denigrating equality struggles as political correctness.

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

They would need primarily to develop specialised legal and communications expertise.

*Acronyms*

<b>FLAC</b>	Free Legal Advice Centres Ltd
<b>ICCL</b>	Irish Council for Civil Liberties
<b>NCCRI</b>	National Consultative Committee on Racism and Interculturalism
<b>ICTU</b>	Irish Congress of Trade Unions
<b>SIPTU</b>	Services Industrial Professional Technical Union

## **b) National legislation in the field of anti-discrimination**

### **1. Transposition of the Directives**

Irish anti-discrimination legislation consists of the Employment Equality Acts 1998 and 2004, and the Equal Status Acts 2000 and 2004<sup>9</sup>. Four other acts also contain provisions prohibiting discriminatory treatment of protected groups, namely the Pensions Act 1990 – 2004, Unfair Dismissals Act 1977 – 1993, Prohibition on the Incitement to Hatred Act 1989 (criminalizes hate speech against protected groups), and Intoxicating Liquor Act 2003 (includes a jurisdictional change for enforcement of discrimination law in the context of licensed premises). The Racial Equality Council Directive 2000/43/EC<sup>10</sup> and the Framework Employment Council Directive 2000/78/EC<sup>11</sup> required some minor changes, but the existing discrimination acts already anticipated and implemented many of the requirements of the directives. The transposition of both directives and the necessary changes were provided for in the Equality Act 2004.

The directives were transposed within the EU deadline. The European Commission has started infringement actions against Ireland (amongst other Member States) for failure to correctly implement all the provisions of both directives. It sent Ireland a Reasoned Opinion on 27 June 2007 for failure to fully implement the provisions of the Racial Equality Directive drawing attention to:

- Incorrect definition of indirect discrimination.
- Exclusion from protection against discrimination for certain "private" types of employment.
- Limitation of the right of interested parties to initiate proceedings to defend the victims of discrimination.
- Limit to compensation for victims of discrimination.
- Exclusion from protection against discrimination regarding certain types of housing.

The Commission sent Ireland a further Reasoned Opinion on 31 January 2008 for failure to fully implement the provisions of the Framework Employment Directive. The criticisms were in relation to:

- Incorrect definition of indirect discrimination
- Discrimination based on beliefs is not prohibited
- Exclusion of protection against discrimination for certain "private" types of employment
- Interested bodies do not have the right to participate in legal proceedings on behalf of victims of discrimination
- Limit to damages payable to victims of discrimination
- The exception from the ban on discrimination on grounds of religion is too broad

Reasoned Opinions are the second stage in the infringement procedure leading, if not addressed in a satisfactory manner, to a finding by the European Court of Justice that a Member State has breached EU law.

There was broad welcome for the new equality legislation in parliamentary debates and public reaction. Some shortcomings of the legislation were articulated. These shortcomings are outlined below in mention of possible discrepancies.

The Employment Equality Act 1998-2004 established two permanent national institutions with enforcement functions under the Equality legislation, namely the Equality Authority and the Equality Tribunal, and these are the specialised bodies required by the Racial Equality directive.

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<sup>9</sup> <http://www.equality.ie/index.asp?locID=60&docID=206>

<sup>10</sup> [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legisln/2000\\_43\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/2000_43_en.pdf)

<sup>11</sup> [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legisln/2000\\_78\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/2000_78_en.pdf)

Both are involved in the promotion of equal treatment irrespective of racial or ethnic origin (including membership of the Traveller Community), and also have functions with regard to gender, disability, age, sexual orientation, religion, marital status and family status. The Equality Authority is an independent statutory body charged with working towards the elimination of discrimination, the promotion of equality, the provision of information to the public, and assisting litigants. The Equality Tribunal is a quasi-judicial body established for the purpose of investigating complaints under the Employment Equality Act 1998-2004 and the Equal Status Act 2000-2004, on all nine grounds. The Director is charged with the enforcement of the Employment Equality Act, and the Equal Status Act, and may delegate her quasi-judicial functions to Equality Officers and Equality Mediation Officers. The Tribunal has had its legal mandate extended and it now has jurisdiction to deal with discriminatory dismissals and the Pensions Acts as they deal with equality issues. These bodies fulfil the roles envisaged by the directives. There are two other relevant bodies in the context of equality, namely the Irish Human Rights Commission and the National Disability Authority. The Irish Human Rights Commission is charged with the protection and promotion of human rights. The Commission work to ensure the protection of civil, political, economic, social and cultural rights in recognition of the universal, indivisible, interdependent and inter-relation of all human rights. The National Disability Authority, on behalf of the State, promotes and helps secure the rights of people with disabilities. Their responsibilities include policy development, research and advice on standards..

There are a number of concerns in respect of possible discrepancies in Ireland's compliance with the EU directives:

- there is no provision for associations, organisations or other legal entities, bar the Equality Authority, to take cases to enforce the equality norms
- the sanctions available for non-gender discrimination are not effective, proportionate and dissuasive as required by the Directives;
- there are certain limitations on the scope of the Acts, for example, the provisions of the equality legislation do not apply to persons employed in another person's home
- the 2004 Act provides that the Intoxicating Liquor Act 2003 now governs the prohibition of discrimination in licensed premises. Nobody has been charged with disseminating information about the legal protection against discrimination as governed by this Act, and the change of jurisdiction from the Equality tribunal to the courts may act as a disincentive on grounds of costs.

These points appear to be covered in the infringement actions.

Irish anti-discrimination legislation goes beyond EU equality directives chiefly in that the scope of the Equal Status Acts 2000 to 2004 prohibit discrimination in access to goods and services not just on grounds of race and gender but also disability, age, religion, sexual orientation, Traveller community, family and marital status grounds. Nationality is also a named ground under Irish employment equality and equal status legislation.

As far as international norms are concerned, the International Convention against All Forms of Racial Discrimination (CERD) monitoring committee considered Ireland's first set of national reports in 2005 (it had also received shadow reports from the NGO Alliance). In its observations <sup>12</sup> it expressed concern that equality institutions should be properly funded and that there should be coordinated action to combat discrimination against Travellers. The Government pointed to studies it had initiated to address the issues raised. A Follow-up process was instituted by CERD to monitor progress. The next Irish report is due in 2008.

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<sup>12</sup>[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CERD.C.IRL.CO.2.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CERD.C.IRL.CO.2.En?OpenDocument)

The committee monitoring compliance with the Convention on the Elimination of Discrimination Against Women (CEDAW) (2005) expressed concern inter alia about the lack of legislative protection of migrant domestic workers from discrimination. NGOs such as the National Women's Council of Ireland (NWC) have called on the Government, currently drawing up its 6<sup>th</sup> national report, to address this and also focus on the position of marginalised women (travellers, disabled, migrant, carers, trafficked women).

As regards aspects of discrimination which are not currently covered by the directives, the Equality Coalition, an alliance of groups and organisations concerned with equality issues, considers that EU directives should be developed to cover third country nationals, former prisoners, and trade union membership; there should be a separate directive to address disability discrimination; and debate should be stimulated at EU level as regards discrimination in social origin and language including Sign Language<sup>13</sup>.

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

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

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

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

1. A variety of remedies exist at local or national level for challenging employment and occupation- related discrimination. Trade unions represent their members in equality disputes and undertake collective action to challenge discrimination. There can be informal resolution of cases. Employers are required to have internal grievance procedures where discrimination such as bullying or harassment is concerned; these can also be sufficient in some cases to resolve the matter.

The [Equality Authority](#) provides information to the public on the equality legislation. It can advise and provide support in bringing claim to the Tribunal but it has no power to decide a case. Complaints under the Employment Equality Act 1998-2004 must be brought before the Equality Tribunal, except gender cases where there is an option of going straight to the Circuit Court. The decisions of the Tribunal may be appealed; the Labour Court hears the employment appeals, the Circuit Court hears the equal status appeals. The Labour court's decisions can be appealed on a point of law to the High Court. Complaints of unfair dismissal may also be brought under the Unfair Dismissals Acts 1977 and 1993. Unfair dismissal cases are considered first by a Rights Commissioner, whose recommendations are not legally binding. The Employment Appeals Tribunal makes legally binding determinations, with the possibility of appeal to the Circuit Court, and subsequently the High Court. A recent amendment to the Equal Status Act 2000-2004 now requires complaints under that Act involving licensed premises (i.e. pubs etc) to be brought to the District Court rather than as previously to the Equality Tribunal.

The Employment Equality Act 1998-2004 provides for a broad range of remedies: compensation, orders for employers to take specific courses of action, re-instatement and reengagement. There are maximum limits on financial awards, those limits in the context of employment are a maximum of two years pay, and where the complainant was not in employment (e.g. discriminatory interview) the maximum award is €2,697.

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<sup>13</sup> [http://iccl.ie/DB\\_Data/issues/EqualityCoalition1\\_10014\\_Publications.htm](http://iccl.ie/DB_Data/issues/EqualityCoalition1_10014_Publications.htm)

The National Employment Rights Authority (NERA) is a new state agency which was established under the current Social Partnership Agreement "Towards 2016"<sup>14</sup> to achieve a national culture of employment rights compliance. It takes over from the previous labour inspectorate. NERA provides information to employees and employers through its information unit, monitors employment conditions through its labour inspectorate and can enforce compliance and seek redress. While NERA's brief does not cover equality, it investigate complaints concerning aspects of employment rights including Wages, Annual Leave, Working Hours, Redundancy, Dismissal, and Notice, some of which may also arise in discrimination claims.

The Prohibition on the Incitement to Hatred Act 1989 criminalizes hate speech in relation to all of the protected groups.

2. Anti-discrimination employment provisions cover all aspects of the employment relationship, including advertising of posts, recruitment procedures, selection, terms and conditions, pay, discriminatory practices in the workplace, dress codes, working hours, part time work, disciplinary procedures, promotion, allowances and bonus payments, dismissal, and access to vocational training, including vocational training. The Acts also cover agencies and agency workers. Employers are permitted to pay employees with disabilities different rates of pay if they are restricted their capacity regarding amount or hours of work. This is a very regressive provision.

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

1. The Equality Tribunal hears claims in relation to discrimination on grounds of race or ethnic origin (as well as the other grounds under Irish law) in non-employment or occupation matters. There is a right of appeal to the Circuit Court. In the case of discrimination claims against a club or any premises licensed to sell alcohol, the District Court and on appeal the Circuit Court can suspend a club's licence to sell alcoholic drinks for a period.

The Equal Status Act 2000-2004 provides for a variety of remedies, including compensation and orders for service providers to take specific course of action. The Act also imposes maximum award limits, the current maximum being €6,348.69. The majority of awards granted do not come anywhere near the maximum. This coupled with an extraordinary delay in cases coming before the Tribunal suggests that the sanctions under this Act are not effective, proportionate or dissuasive.

The remedies are the same irrespective of whether a public or private body is accused of discrimination.

The Ombudsman's Office examines complaints about the administrative actions of Government Departments, the Health Service Executive, local authorities and An Post, and has special duties in relation to the Disability Act 2005. There are other ombudsman's offices e.g. for pensions, defence and security forces, financial and telecoms sectors. Where complaints primarily concern discrimination covered by the equality acts, the complainant would probably be referred to the equality authorities.

## **2. Applicable situations**

The Equal Status Act 2000-2004 prohibits discrimination in relation to goods and services, education and accommodation (on all nine grounds, i.e. gender, marital status, family status, sexual orientation, religion, age, disability, race including nationality or ethnic origin, and membership of the Traveller community).

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<sup>14</sup> <http://www.taoiseach.gov.ie/index.asp?locID=181&docID=2755>

The list of services is non-exhaustive and includes banking, insurance, grants, loans, credit or financing, entertainment, recreation or refreshment, cultural activities, transport or travel, professional trades, facilities or services. State services as such are not explicitly mentioned in the Act. However, in the case of *Donovan v. Donnellan*, DEC-S2001-011 the Equality Officer interpreted the term service and held: “while State services are not specifically mentioned as being covered they are not specifically excluded either and I believe that certain services provided by the State are available to the public and are covered by the Act, e.g. social welfare services and health services, etc.” There is no express prohibition on discrimination in respect of social protection, therefore compliance with the Racial Equality Directive is dependent on future judicial interpretation. This situation is further impacted by section 14 of the Equal Status Act, which provides a broad statutory exemption to the Equal Status Act, in that where an act or action is required by virtue of another piece of legislation the Equal Status Act 2000-2004 does not apply.

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

### *Equality Tribunal*

The [Equality Tribunal](#) investigates or mediates claims of unlawful discrimination under the equality legislation. Where both parties agree, a Tribunal mediator will facilitate parties to reach a mediated agreement which is legally binding. Mediation is held in private and the agreement is not published. Where parties object to mediation, a case will be heard by a Tribunal Equality Officer, who will hear evidence from both parties in private before issuing a legally binding Decision. A complaint to the Tribunal must be made within the time limits set out in law. The person or organisation against whom the complaint is being made must be notified within 2 months of the last act of discrimination. All decisions are published but in sensitive cases names may be withheld. A complainant may represent themselves or be represented by a lawyer, trade union or other representative. In general, costs are not awarded. Costs in respect of travelling and other expenses (except expenses of representative) can be awarded where a person obstructs or impedes the investigation or appeal.

### *Remedies may be provided as follows*

- In equal pay claims an order for equal pay and arrears in respect of a period not exceeding three years
- In other cases an order for equal treatment and compensation for the effects of discrimination of up to a maximum of 2 years pay or €12,700 where the person was not an employee (e.g. discriminatory interview)
- An order for reinstatement or re-engagement with or without an order for compensation
- An order that a named person or persons take a course of action which is set out.

Gender discrimination claims may be brought either to the Equality Tribunal or the Circuit Court. There is no limit to the amount of compensation that may be ordered by the Circuit Court, and in equal pay claims it may order arrears of pay in respect of 6 years before the date of referral. However,

There are specific provisions in relation to claims of discrimination by the Civil Service Commissioners, the Local Appointments Commissioners, the Minister for Defence and the Commissioner of the Garda Síochana (police).

In Equal Status cases, remedies before the Equality Tribunal include compensation of up to €6,350 in total. The Equality Officer can also order persons to take specified courses of action.

## *Labour Relations Commission*

The Labour Relations Commission (LRC) resolves disputes between employers and employees through the Rights Commissioner Service and the Workplace Mediation Service. In a case brought before the Labour Relations Commission by the Migrant Rights Centre of Ireland in 2008, a Pakistani worker whose employment rights had been abused and whose passport had been confiscated by his employer was awarded €16,000 for gross breaches of employment law. The Rights Commissioner Service investigates disputes, grievances and claims in Ireland that individuals or small groups of workers make under certain legislation. The Rights Commissioner Service operates as part of Labour Relations Commission. Rights Commissioners are independent in the performance of their duties and have a wide range of functions under employment legislation including the Adoptive Leave Act 1995, Carer's Leave Act 2001, Maternity Protection Act 1994, National Minimum Wage Act 2000, Organisation of Working Time Act 1997, Parental Leave Act 1998, Payment of Wages Act 1991, Protection of Employees (Fixed-Term Work) Act 2003, Protection of Employees (Part – Time Work) Act 2001, Protection of Young Persons (Employment) Act 1996, Safety, Health and Welfare at Work Act, 2005, Terms of Employment (Information) Act 1994 and the Unfair Dismissals Acts 1977-1993. The Workplace Mediation Service is a service of the [Labour Relations Commission](#) which aims to resolve workplace disputes and disagreements, particularly between individuals or small groups. This confidential service gives employees and employers in dispute with each other an opportunity to work with a mediator to find a mutually agreed solution to the problem. Workplace mediation is a voluntary process which needs to have both sides agreeing to participate and to work towards a solution to the problem.

## **2.D Technical procedural requirements**

### *Equality Tribunal*

Complaints under the Employment Equality Acts 1998 and 2004 must be brought within 6 months of the last act of discrimination. The time limit can be extended to 12 months for 'reasonable cause'. To make a complaint under the Equal Status Acts 2000 and 2004 you must first notify the person or organisation you are making the complaint. To do this you complete a standard form and send it to the person or organisation you are making the complaint against. The time limit for notification can be extended to 4 months by the Director of Equality Investigations. Complaints about discrimination in pensions must be brought not later than six months after leaving the job. Equality Tribunal may be appealed to the Labour Court (employment cases) and Circuit Court (access to goods and services cases) within 42 days. There is a reversal of the burden of proof in discrimination cases; once the complainant establishes a prima facie case, it is for the employer to prove that there was no discrimination.

### *Rights Commissioner*

Hearings before a Rights Commissioner usually take place in private. The hearings are formal but not adversarial. Each side is given the chance to fully present their case. Written submissions are not needed but they are helpful to the participants and the Rights Commissioners in order to focus on the relevant points. It also helps the Rights Commissioners to have a record of the statements made at the hearing when considering his/her recommendation or decision following the hearing. In some cases, it is possible to settle disputes between the parties on the day of a hearing, with the assistance of the Rights Commissioner. The claimant must ensure that relevant information (such as witnesses, payslips, correspondence, etc.), is available for the hearing. It is up to the claimant and the employer to decide if they wish to be represented at a Rights Commissioner's hearing. Experience has been that it helps if each party brings a companion to the hearing whether as a representative or not. A trade union, employer organisation, solicitor, friend or family member may act as the representative. Claimants should notify their employer of the complaint before referring the case to the Rights Commissioner Service.

To refer a case, a complaint form is filled out and sent to the secretariat of Rights Commissioners Service in the Labour Relations Commission.

### *Labour Court*

Where the decision of the Director of the Equality Tribunal (in an equality case), or the decision of a Rights Commissioner (in a working time case, a national minimum wage case, a part-time work case or a fixed-term work case) is being appealed to the Court, the appeal should be made on the appropriate form or by letter to the Labour Court. It should quote the reference number of the Rights Commissioner's/Equality Tribunal recommendation or decision, enclose a copy of the Rights Commissioner's/Director of the Equality Tribunal recommendation or decision, and briefly state the grounds for the appeal. An appeal must be received by the Labour Court within 6 weeks of the date of the recommendation or decision. Both parties to a dispute must prepare a written submission (of their positions in relation to the dispute) before the hearing. These submissions will form the basis of the Court's investigation of the dispute at the hearing so it is important that they be clear and comprehensive, yet concise. In industrial relations, working time, national minimum wage, part-time work and fixed-term work cases, 6 copies of the written submissions must be delivered to the Labour Court, by post or by hand (i.e. not by fax) at least 3 working days before the date of the hearing. In equality cases, different procedures apply. Parties are advised of the requirements by the Court on receipt of a referral.

### *Employment Appeals Tribunal (e.g. employment conditions, unfair dismissals, some appeals from Rights Commissioners)*

A claim is referred to the Tribunal by way of a completed form containing a statement of the facts and contentions on which the person making the claim intends to rely. There are two types of applications to the Tribunal: a direct claim, e.g. for unfair dismissal, and an appeal from the Rights Commissioner Service. Following receipt of a claim, the details are sent to the person or company against whom a claim is being made. The respondent is given 14 days to respond to the claim and to complete a notice of appearance. All correspondence to and from both parties is copied to both appellant and respondent. It is in the appellant's interest to supply as much supporting documentation with his/her claim as possible. The tribunal will consist of a chairman, one member representing an employers' group and one member representing the trade union movement. A party to a claim may appear and be heard in person or may be represented by counsel or solicitor or by a representative of a trade union or of an employers' organisation, or with the leave of the Tribunal, by any other person.

The Equality Authority and the Equality Tribunal have produced guidance to assist in taking complaints (<http://www.equality.ie> and <http://www.equalitytribunal.ie>). All of the bodies mentioned above and listed at the end of this report also provide information and guides to procedures.

## **2.E Accessing the different procedures - supports and obstacles**

Some of the available procedures are simple and access-friendly. There is no need for legal representation at the Equality Tribunal but procedures can be long; there continue to be delays in the Tribunal in the scheduling of hearings and delivery of recommendations, due to an increase in its workload not matched by increased funding. There is a commitment in "Towards 2016" to review expenditure on the equality infrastructure.

The Equality Authority can litigate or assist cases, but in practice it does so only in a small percentage of cases based on criteria set down by the Board of the Authority. These criteria include: whether the case is of strategic importance, the capacity of the complainant to represent themselves or get representation be it via lawyers or trade unions, the complexity of the case, the nature of the claimant (focus on the actual complainant and the impact of the case on that individual); the issue of resources is relevant.

To that end the Authority reviews their workload, the backlog of cases, the resources available to them the cost of the proceedings, the duration of the proceedings and the likely award or order.

There is no provision for class actions in Irish law, nor is there official provision for associations (other than the Equality Authority) to instigate actions in their own right. In practice it is common for both trade unions and employers organisations to represent parties to an action.

Citizens Information Centres and Free Legal Advice Clinics<sup>15</sup> provide much-needed information about legal rights and entitlements, as do the trade unions<sup>16</sup>. The Citizens Information Board has a good website<sup>17</sup>. There is no legal aid available for discrimination cases.

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

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

This may be a highly effective procedure because:

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

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

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

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

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

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

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

- Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.

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<sup>15</sup> <http://www.flac.ie/>

<sup>16</sup> <http://www.ictu.ie>, <http://www.siptu.ie>

<sup>17</sup> <http://www.citizensinformation.ie>

- 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.

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

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

This can be done under Article 14 of the Convention provided another Article is also engaged or, if the country has ratified it, under Protocol 12 to the Convention. (Ireland has signed but not ratified Protocol 12)

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

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

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

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

## **2.K Professionalism**

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

## **3. Societal issues**

There is a tradition of tolerance in Irish society. However a rapid change in recent years from a homogenous society to one encompassing diverse nationalities and situations has brought with it the challenge to develop a society which not only tolerates but embraces diversity. As a country of emigration in the past, Ireland should be able to draw inter alia on past experiences of its own citizens in other countries to ensure recognition of the contribution of migrants and ensure they can participate fully in Irish society.

However, there can be competition for jobs in more adverse economic times and in certain economic sectors and regions. The efforts by trade unions to ensure full employment rights for migrants is to be welcomed in this context. There is resistance in some quarters to giving full citizenship rights (including the right to marriage and adoption and custody of children) to couples in other situations than that of the traditional nuclear family. The need for integration in school provision has been acknowledged in the face of the recognised risks of segregation patterns in education and housing. The place of religion, in respect of not only majority churches but religious affiliations of more newly-established communities, in a more secular society, is the subject of growing debate.

It is important also to recognise that there may be a potential for unconscious prejudice and competition amongst those who are discriminated against, e.g. there may be mutual intolerance between some religious groups and lesbian and gay rights groups; within disabled rights groups there may be disputes as to the claims of certain people to be entitled to claim to be disabled. Attitudes to ageing need to be re-examined in the face of often unconscious prejudice against the elderly. Finally, the existence of discrimination on multiple grounds is increasingly acknowledged and some NGOs are working together in recognition of this.

### *Materials*

#### *Information on rights and procedures*

Equality Tribunal  
3 Clonmel Street  
Dublin 2  
IRELAND  
Tel:+353 (0)1 4774100  
Locall:1890 344424  
<http://www.equalitytribunal.ie>

Rights Commissioners Service,  
The Labour Relations Commission,  
Tom Johnson House,  
Haddington Road, Dublin 4.  
Labour Court  
Tom Johnson House  
Haddington Road  
Dublin 4  
Ireland  
01 613 6666  
[www.labourcourt.ie](http://www.labourcourt.ie)

Employment Appeals Tribunal  
Davitt House  
65A Adelaide Road  
Dublin 2  
Telephone: (01) 631 2121; Lo-call Service (if calling from outside the (01) area: 1890 220 222

Irish Congress of Trade Unions (ICTU)  
31/32 Parnell Square  
Dublin 1  
Tel: +353 1 8897777

Services Industrial Technical Professional Union (SIPTU)  
Liberty Hall,  
Dublin 1  
Tel : 01 8586300

*ACRONYMS*

CEDAW: Convention on the Elimination of Discrimination against Women  
CERD: Convention on the Elimination of all forms of Racial Discrimination  
ICCPR: International Convention on Civil and Political Rights

**c) Funding opportunities in the field of anti-discrimination**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The European Commission Representation in Ireland does not provide funding for NGO's/trade unions working on non-discrimination, but it may provide a meeting room for seminars.

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

The government provides funding for NGOs/trade unions under various programmes dealing with anti-discrimination and social inclusion. Many of these programmes are funded within the framework of the National Development Plan (NDP) 2007 – 2013, now financed predominantly from national exchequer funds with a smaller percentage of EU structural funding than in the past. Relevant NDP programmes include the **Human Capital Investment Programme**, managed by the Department of Enterprise and Employment<sup>18</sup>. This provides employment and training to promote opportunities, inter alia for disabled people, lone travellers, older workers, women and migrants. Some of these programmes may provide opportunities for groups working in anti-discrimination.

There are also key programmes run by the Department of Community, Rural and Gaeltacht Affairs<sup>19</sup>. For most of these funding schemes the point of contact is Pobal<sup>20</sup> (formerly known as Area Development Management), a not-for-profit company that manages programmes on behalf of the Department of Community, Rural and Gaeltacht Affairs and the EU, and provides financial support to community and voluntary sector NGOs. Pobal funds the Community Development Programme and the Local Development Social Inclusion Programme (LDSIP).

The **Community Development Programme**<sup>21</sup> provides financial assistance to fund community development projects in disadvantaged areas. It also provides support for self-help work in specific target groups that experience disadvantage - disadvantaged women and men, lone parents, travellers, etc. The objectives are to:

- Resource disadvantaged communities to have their voice heard in relation to the issues that affect them and to influence local actions to tackle disadvantage;
- Support a wide range of self-help activities designed to provide a first step for individuals to escape from poverty and disadvantage; and
- Improve family life in disadvantaged communities, by funding of resource projects that act as catalysts for further personal and community development.

The **Local Development Social Inclusion Programme (LDSIP)** is a series of measures designed to counter disadvantage and to promote equality and social and economic inclusion. It provides funding for immigrants' integration, national action against racism, advancement of the traveller community, and women's equality.

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<sup>18</sup> <http://www.entemp.ie/labour/strategy/activities1.htm>

<sup>19</sup> This is the Government department responsible for promoting and supporting sustainable and inclusive development of communities, both urban and rural, including Gaeltacht (Irish speaking) and island communities, thereby fostering better regional balance and alleviating disadvantage, and for advancing the use of the Irish language <http://www.pobail.ie/en/>

<sup>20</sup> <http://www.pobal.ie>

<sup>21</sup> <http://www.pobail.ie/en/CommunityLocalDevelopmentProgrammes/>

*The Immigrants Integration-Programme*<sup>22</sup> is a programme facilitating initiatives to promote the integration of all legally resident immigrants. It also carries out research to identify appropriate and effective interventions.

#### *National Action Plan against Racism 2005 -2008*<sup>23</sup>

The overall aim of the Plan is to encourage the emergence of a more inclusive, intercultural society in Ireland based on a commitment to inclusion by design, which promotes interaction, equality of opportunity, mutual understanding and respect. The current Action Plan, which has provided funding to 45 projects in 17 counties, will run until 2008, when it is likely to be reviewed and new strategies considered.

*Programme for Social and Economic Advancement of Members of the Traveller Community*<sup>24</sup> This programme supports projects involving inter-agency cooperation and meaningful consultation with Travellers and their representatives. In 2007 a first round of Traveller Community projects worth €1 million was funded under this programme, in cooperation with locally-based City and County Enterprise Boards<sup>25</sup>.

#### *Equality Programme*

Various components of the NDP contain measures designed to promote equality for women. In relation to the social inclusion priority, there are two specific interventions which will be implemented under the Equality Sub-Programme, which has a total allocation of €148 million:

- National Women's Strategy<sup>26</sup>; and
- Promoting Equality for Women.

The Department of Community, Rural and Gaeltacht Affairs also operates other funding schemes. Under the **Government Framework for Supporting Voluntary Activity and for Developing the Relationship between the State and the Community and Voluntary Sector**<sup>27</sup>, a new funding scheme to support National Organisations in the Community and Voluntary Sector was announced in late 2007. Grants were awarded to NGOs including organisations working on anti-discrimination, such as the Transgender Equality Network Ireland, the Migrant Rights Centre, Irish Traveller Movement, Age Action Ireland, the African Women's Network in Ireland and the Disability Centre Federation of Ireland. This scheme provided funding for 3 years from 2007<sup>28</sup>.

The Department also administers the **Programme of Grants for Locally-Based Community and Voluntary Organisations**<sup>29</sup>. This programme offers three schemes of once-off grants to local voluntary and community groups. The Scheme of Refurbishment Grants provides funding for the refurbishment of existing premises used by such groups. This is complemented by the Scheme of Equipment Grants, which funds the purchase of equipment such as office, kitchen and I.T. equipment for qualifying groups. The Scheme of Education, Training and Research Grants is aimed at enhancing the capacity of local communities. Applications for grants under the Programme are invited once per year, with advertisements placed in national and local newspapers.

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<sup>22</sup>[http://www.ria.gov.ie/integration/Small\\_Grants\\_Scheme\\_2008/Immigrant\\_Integration\\_Small\\_Grant\\_Scheme\\_2008/](http://www.ria.gov.ie/integration/Small_Grants_Scheme_2008/Immigrant_Integration_Small_Grant_Scheme_2008/)

<sup>23</sup><http://www.nccri.ie/action-plan-conditions.html>

<sup>24</sup><http://www.pobal.ie/live/traveller>

<sup>25</sup><http://www.justice.ie/en/JELR/Pages/PR07000175>

<sup>26</sup>[www.nwci.ie](http://www.nwci.ie)

<sup>27</sup>[http://www.welfare.ie/publications/naps/socincl/supporting\\_whitepaper.pdf](http://www.welfare.ie/publications/naps/socincl/supporting_whitepaper.pdf)

<sup>28</sup><http://www.pobal.ie/en/CommunityVoluntarySupports/>

<sup>29</sup>[www.welfare.ie](http://www.welfare.ie)

The **Citizens's Information Board** (formerly known as Comhairle) provides grants to voluntary groups. This is non-core funding and is for information, publication and social policy work <sup>30</sup>. A list of other funding sources is available from the board and the organisation Create-Ireland <sup>31</sup>.

The Equality Authority<sup>32</sup>, under the aegis of the Department of Justice, Equality and Law Reform, was responsible for administering the EU funds for the 2007 EU Year of Equal Opportunities. The Department of Enterprise and Employment <sup>33</sup> was responsible for the Equal Programme.

**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 form and conditions for NGO funding vary according to the funding scheme. They are run by different government departments as outlined above, notably the Department of Enterprise and Employment and the Department of Community, Rural and Gaeltacht Affairs. The Pobal-run Scheme to Support National Organisations in the Community and Voluntary Sector mentioned at Q1 above is for three years on a contract basis, subject to an agreed work plan and periodic review. It provides core funding (staff, administration and other running costs). National Action Plan Against Racism grants do not cover equipment or refurbishing, and must demonstrate added value, sustainability and partnership. The Programme of Grants for Locally-Based Community and Voluntary Organisations requires groups to provide matching funding of 10-40% <sup>34</sup>.

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

Many funds are operated on a periodic basis, and it is necessary to wait until there is a public announcement or call for expressions of interest. To access funding it is usually necessary to fill in a form, which can be extensive and require much preparation. It is not unusual for funding schemes to require the NGO to have adopted a legal structure, e.g. become incorporated as a company limited by guarantee before applying. Guidelines and tips are often provided on the relevant webpage. It is advisable to take time preparing an application rather than rushing to comply with a deadline, if circumstances permit. Preparing an application for funding may well take some months, and there will be a delay while the applications are then adjudicated. If accepted the successful applicant may well then have to work with the funding body to prepare a suitable business plan, establish performance monitoring etc. Smaller schemes (providing small once-off grants) may not be as onerous to access as EU-funded schemes and those funded under the National Development Plan. The Community Exchange Active link service can provide information on smaller-scale funding.<sup>35</sup>

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

N/A

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<sup>30</sup> [http://www.citizensinformationboard.ie/providers/providers\\_voluntary\\_grants.html](http://www.citizensinformationboard.ie/providers/providers_voluntary_grants.html)

<sup>31</sup> [www.create-ireland.ie/projects-and-initiatives](http://www.create-ireland.ie/projects-and-initiatives)

<sup>32</sup> <http://www.equality.ie>

<sup>33</sup> <http://www.entemp.ie>

<sup>34</sup> <http://www.pobal.ie/en/CommunityVoluntarySupports/ProgrammeofGrantsforLocallyBasedCommunityVoluntaryGroups/>

<sup>35</sup> <http://www.activelink.ie/ce/>

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

Area-based partnerships, Leader companies and Community Partnerships can all be approached by NGOs for funding. They run, with Pobal, programmes such as the **Community Services Programme**<sup>36</sup>, formerly known as the Social Economy Programme, which was transferred from the Department of Enterprise, Trade and Employment to the Department of Community, Rural & Gaeltacht Affairs in 2006, reflecting a shift in emphasis from labour market training to providing essential community services. The CSP funds over 400 projects for people with disabilities, the long-term unemployed, travellers and lone parents. The activities of the projects are varied and include community childcare services, services for the elderly, people with disabilities, rural transport projects, projects to operate community halls and facilities or community radio. City and County Development Boards can also be sources of funding, e.g. the traveller advancement programmes as outlined above.

**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?**

Philanthropic foundations are a source of funding in Ireland. The **Atlantic Philanthropies**<sup>37</sup> prioritize projects concerned with aging, disadvantaged children and youth, population health, and reconciliation and human rights. They look for organisational leadership, financial soundness, evidence of past and current impact. They do not accept unsolicited requests, selecting their projects from their staff's ability to network and consult widely. The **Joseph Rowntree Charitable Trust**<sup>38</sup> aims to fund work which will contribute to the ongoing development of a just and peaceful society in the island of Ireland. It is interested in supporting work in either jurisdiction, or on a cross-border basis, or at an all-Ireland level. Closing dates 19 March, 20 August and early December. A list of private funders is available from Philanthropy Ireland<sup>39</sup>.

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

Businesses are possible sources of funding through corporate social responsibility programmes encouraged by Government (Departments of Enterprise and Employment, and Community, Rural and Gaeltacht Affairs). The Business in the Community organisation promotes involvement by businesses in supporting projects for local social development<sup>40</sup>.

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<sup>36</sup> <http://www.pobal.ie/live/csp>

<sup>37</sup> <http://atlanticphilanthropies.org/>

<sup>38</sup> [www.jrct.org.uk](http://www.jrct.org.uk)

<sup>39</sup> <http://philanthropy.ie/directory/members>

<sup>40</sup> [www.bitc.ie](http://www.bitc.ie)

## **IV. Diversity Management seminar**

### **Design of the training**

Although the seminar was mainly aimed at Diversity Management in business, it was also open to NGOs. An array of stakeholders--many of which were already in our database--was contacted by telephone, email, mail and office visits. These included trade unions, Lions Clubs, Chambers of Commerce, employers' organisations, employment agencies, banks and companies. We asked if they could forward our seminar advertisement to their networks. An advertisement was also put on Active link, an Irish based community website. Follow-up telephone calls were also made. Most business consultants signed up for the training, they also indicated to us that their clients had already been trained in diversity management.

### **Preparation of the seminar**

The needs Assessment for national businesses/companies in Ireland showed that diversity management in the Irish context is generally understood from the perspective of Equality legislation and the need to follow regulations.

### *Issues involved when discussing Diversity Management in Ireland*

As a result of growth of the Irish economy, the extension of the EU and improved communication technology, immigration into Ireland over the past 15 years has become a public concern, the main issues are around:

- Myth that migrants are contributed to decreasing wages, and unemployment. However research reveals that the Celtic tigers was as a result of migrants.
- Anti-racism issues regarding the 'new' ethnic minorities as well as the integration of the existing 'Travelling' community. 'Travellers' (an itinerant minority community indigenous to Ireland. Some have existed on the margins of Irish society for centuries.)
- Language barriers and gender issues tend to affect access to resources and social services.
- Qualification recognition: often non-Irish nationals have difficulties getting their qualifications assessed in a timely fashion. When they are assessed they are not recognised making it difficult to apply for positions in their field of work.
- Exploitation of migrant workers by their employers due to lack of access to employment and equality rights.

### *Demographic / statistical data available for understand diversity management issues*

Emigration was so strong in 1950, through 1960s to the 1980s. But since 1991, Ireland has seen more migrants. Initially the immigrants were returning Irish national who were forced to leave the country in early 1980s, but this was followed by an influx of migrant workers coming to meet the labour demands introduced by the Celtic tigers.

Population Census 2006 showed that 10% of the population came from ethnic minorities out of a total population of 4.1 million, and the National Development Plan suggest that by the year 2021, the population of the republic of Ireland will have grown to 5 million.

Consequently religious groups and civil societies are taking collective action to campaign for the needs and rights of different groups of people in Ireland. National Consultative Committee against Racism and Interculturalism (NCCRI) recommended:

- Intercultural strategy within various sectors.

- 2007 declared as EU year of equal opportunities
- 2008 declared as EU year of Intercultural Dialogue.
- National Economic and Social Council publications such as ‘Managing Migration in Ireland: A social and economic analysis. And ‘Creating a more inclusive labour market.’

*Good company practices / laudable examples concerning DM in your country?*

Dublin Bus and its policy of inclusion, Tesco and SIPTU (The Services, Industrial, Professional and Technical Union is this a trade union) were cited as good company practices participants because they embrace diversity based on the diversity of their workers who come from different countries, Dublin bus and Tesco supermarkets allow the disabled communities to have access their services.

*Why companies in Ireland do take up the issue of Diversity Management*

In recent years, the Irish labour market has changed dramatically due to high levels of immigration and EU enlargement resulting in many thousands of non Irish nationals coming here to work and live. The new diverse workforce has presented new challenges and opportunities to many Irish firms. Meeting only the obligations under relevant legislation will not provide an adequate basis for managing diversity. Diversity management can create a climate that welcomes and respects all types of employees.

Diversity management should harness the differences and create a productive environment in which everyone feels valued and included. Managing diversity can offer employers the ability to better use the strengths and skills of a diverse workforce.

DM is not just an added burden but has the potential to:

- Increase profit
- Provide greater return on assets
- Increase levels of higher value added
- Increase sales
- Reduce costs
- Improve flexibility
- Improve recruitment and staff retention
- Reduce time spent in conflict and dispute
- Improve quality standards

**Carrying out the seminars**

*Participants*

More than 98% of those who signed up for the seminar were diversity consultants, less than 1% were from corporate business and less than 2% were from NGOs or political parties. From a gender perspective, less than 0.5 % were male, the rest were female. The majority came from Dublin and 1 person out of 28 came from county Galway. Based on the lower than expected turnout, all who showed interest in the seminar were allowed to attend. Consequently, we felt compelled to loosen the definition of the target group.



*Figure above: some participants getting to know one another on arrival*

Most of the participants were involved in Equality and Diversity issues in Ireland and, in general, only one or two were aware of the broader aspects of Diversity Management. We therefore decided to include detailed input about the broader DM issues in the morning and in the afternoon give the participants the opportunity to put into practise what was learned during the morning. The activities in the afternoon allowed exchange on issues which related directly to the Irish context.

It was clear at an early stage that there would be limited input from companies regarding Diversity Management policy and experience in Ireland. An employee from Dublin Bus was booked to attend and speak about their recruitment policy, but on the day had to cancel. This meant that we had to readjust the schedule and asked a member of SIPTU (Services, Industrial, Professional and Technical Union) to present his experience of managing diversity in that organisation. He spoke mainly about SIPTU beginning to develop a diversity management strategy for dealing with conflict arising from equality issues in the workplace.

#### *Participants Introductions*

The trainers had the participants introduce themselves by practicing a perspective switch, an exercise quite new to them. Each participant was asked to stand up and stand behind their chair, imagine they are someone who knows them very well (relative, spouse, friend, etc.). They then role-played introducing themselves in the third person, from this outside position. They were also to keep in mind three questions: What is special about this person? What is “normal” about this person? And what is an area of tension with this person?

These three questions connected up to a later input in which the standard, most recent definition of diversity management by R. Roosevelt Thomas focused on exactly these three points (the ability to manage differences, similarities and tensions). The competency of perspective switch was also easily connected to general diversity competence, a major aspect of any diversity management training. This was quite new, fascinating and challenging for the participants.

#### *Communication Techniques*

Three styles of communication were given to the participants; namely, the world Cafe Communication Technique, verbal and none verbal communication, and the giraffe and the elephant.

The Wold Cafe exercise was quite appreciated because the participants had a chance to work on some issues close to their heart, issues which normally are not handled in depth by the general nature of any

workshop.



*Figure above: World Cafe Communication: entails hosting different groups of guests on same issue, listening, thinking, being listened to, discussions*

Two other exercises were found to be quite interesting to the participants. Four volunteers were asked to leave the room with the trainer. He gave them instructions to say “yes” whenever the person asking the question “smiled” and to say “no” whenever the person asking the question did “not smile”. The participants were only allowed to ask yes or no questions. The purpose of the exercise was, first, to show the power of the nonverbal in a culture and, second, to show how the non-verbal’s often reflected deep, tacit assumptions that people are not aware of. This lack of knowledge of the participants of the deep rules of the other culture (or the other diverse group, like women, disabled, etc.) led to confusion. The point was well made; confusion resulted and everyone had a good laugh.

Another exercise too entailed verbal and nonverbal written examples of communication styles to the participants. The participants examined these communication styles and then were asked what “cultures” they thought they were derived from. They were then told to their surprise that these did not represent national cultures but rather the cultures or communication styles of American men and American women. One participant guessed right. The others all thought of national cultures spontaneously, tacitly assumed. The purpose of this exercise was to show that diversity management and intercultural communication are actually very closely intertwined and that the common reified distinction between national culture and diverse cultures of women, ethnic minorities, homosexual, etc. is not warranted. This was learned in the USA in the early 1970s when Thomas Kochman wrote a classic on the African-American communication style.

In the discussion that followed the attention moved to the common observation of different communication styles reflected in different Irish accents. From an accent they can guess the origin and education of the speaker. The problem here in Ireland is that people do not acknowledge that there are class differences (e.g. private schools for the rich).

The fable of the giraffe and the elephant by R. Roosevelt Thomas was read by the group and feedback was given. The purpose of this story is to demonstrate the different aspects of diversity in terms of assimilation, accommodation and integration. When the elephant is asked to change so he can fit into the Giraffe’s house, then this is assimilation (a common limit in Equal Opportunity). When the giraffe is asked to do most of the changing of his house, this would be accommodation, also not very realistic when carried over to a real company situation. When the giraffe and the elephant finally realize that they both have to make some adjustment, then this would be integration, the main goal of dm. These

three terms have to be clarified because in the government led discussions about integration (e.g. of foreign workers, disabled, etc.), they tacitly assume and expect assimilation as a one-way street. Then they wonder why they fail.

Some other points which can be derived from the fable are:

1. Each time we choose then you exclude some, you have to prioritise.
2. Diversity can be good and enjoyable but it can also be very frustrating.

These contradict the idealism of Equal Opportunity. It is unrealistic to think that we do not exclude. Every time we decide to include, we also decide to exclude. Cheering for diversity is also only one side of the story. Diversity can be terribly destructive (e.g. Apartheid system); that is why it has to be managed. There are also realistic situations in which assimilation (e.g. after a decision has been made) and accommodation (e.g. to a customer) are necessary.

One of the participants noted that the reality in many companies who brag about 'meeting the quotas' is only paying lip service. Diversity is still a problem in Ireland; e.g., the Irish are not given time off for Christmas holidays; yet, people from Eastern Europe are given this.

The participants also noted that racist attitudes still exist in Ireland; there are still stereotypes and misconceptions about asylum seekers and refugees. The recent migration bill was rather divisive. One issue concerns the Irish 'Travellers' (an itinerant group of approximately 25,000 people some have lived in Ireland for many generations) who are excluded from top government offices as well as jobs in the public eye. If they have a job then it is a contract, not a permanent job. There is a need for political will to put things into practice.

People with high qualifications are doing low paying jobs locally called the *3 Ds* to mean "*Dirty, Difficult and Dangerous*", cannot get out of social welfare, and yet they have to find a job for the sake of meeting citizenship requirements. This was noted to have far reaching implications based on gender and childcare issues.

Much as the companies want to embrace diversity, they face a difficult task. Perhaps this can explain why none turned up for the diversity management training despite the efforts of the seminar organiser.

### **Evaluation of the seminar**

A majority (83%) felt that the seminar lived up to their expectations compared to 17% who were not certain. All participants indicated that the training was relevant to their job with 42% agreeing compared to 58% strongly agreeing.

The design of the seminar was highly evaluated. More than 70% agreed that the seminar's objectives were clear, with more than 80% acknowledging that the activities stimulated their learning, 92% responded that the activities gave sufficient practice and feedback compared to 18% who were not certain. A majority (84-92%) indicated that the difficult levels and pace were appropriate compared to 8% who disagreed.

The participants rated the trainers very highly.

The training environment was very conducive for the training according to the trainers. More than 90% of the respondents found the venue very comfortable, good for learning, had necessary training materials. The venue had no wheelchair access since none of the participants had disability. 57% were happy with the food prepared compared to 8% who were not certain? More than 80% indicated that they would put in use what they had learnt from the seminar.

## **Main lessons learned**

During the day reference was made to Dublin Bus and SIPTU experience and there the participants gave many good examples. In general, there was a feeling that for companies' diversity management only refers to Equality Legislation. One of the main issues of the day was:

- How can we make companies and human resource personnel more aware that diversity management is not just an added burden?
- How can we show that a clear diversity management policy will impact positively on the bottom line?
- Diversity and diversity management still are a challenge not only to the policy makers and Irish community but also to the migrants. At the time of training the opinion of the business sector could not be got given the fact that they did not turn up for the seminar. However from the participants' (Diversity trainers) point of view, they have a lot to do to accommodate the needs of everyone, while from the migrants point of view, especially the most hit ethnic group is the people from Africa, who experience most racism and discrimination compared to other migrants, have a role to play in the integration process.
- While it is important that diversity is acknowledged, it requires concerted effort to overcome and mitigate the negative impact that comes with it. Migrant workers need to be protected as they experience the most negative effects of immigration; their human rights need to be protected not only by designing good practice models but also putting in place enforcement logistics.
- More sensitization of the general population is deemed necessary as many have mindsets that whoever is seen in the streets in an illegal migrant, refugees, who has come to take away their job, who have come abuse their social welfare system. They are not well informed that actually the migrants have and still contribute to the booming economy.

## 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.