



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

INSTITUT DE FORMATION SOCIALE

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

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

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The national activities were carried out by the Institut de Formation Sociale (www.ifs.lu).

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II. Introduction

The Institut de Formation Sociale (Social Training Institute) was the coordinator of the project for the Grand Duchy of Luxembourg. The Institut de Formation Sociale is a not-for-profit organisation. Its main activities are training, courses, education projects and university diplomas for adults. In addition, the institute conducts studies and research on social and political topics such as the sociology of work, studying societal ethics and values, the integration of migrants and comparing migration policies at European level, as well as discrimination studies.

As planned, the Institut de Formation Sociale organised one anti-discrimination (AD) seminar (22-23 November 2007) and one diversity management (DM) seminar (15 February 2008).

III. Anti-discrimination seminars

a) National activities anti-discrimination seminars

From the start we planned just one AD seminar in Luxembourg, because of the size of the country. We initially planned to have 30 participants from NGOs, associations and trade unions.

Design of the training

There were lots of expectations for this seminar, because it was the first one of its kind in Luxembourg. The objectives were achieved and the methods and teaching were adapted for the participants.

The team of six trainers plus the coordinator had several meetings to discuss the organisation of the seminar. Training issues and concepts were discussed and negotiated. The roles of the different partners were very clear.

The first task for the six trainers was to create adapted documents: presentations, case studies and scenarios. This was a very important investment for the trainers and required a great deal of time.

All the documents were distributed to the participants. The presentations PowerPoints are also available in electronic format on the website of the Institut de Formation Sociale: www.ifs.lu/

Preparation of the seminar

The coordinator and three trainers took part in the training the trainers seminar in Lyon, which was very useful with regard to the organisation of the national seminar. The coordinator and trainers (including the national expert) were very motivated to tackle this challenge and collectively prepared the seminar during five working sessions. The objectives and methods were discussed, as were issues of educational approaches. There was good communication between the trainers and the coordinator. The number of hours spent on the organisation and on producing content (presentations, materials) was far greater than that covered by the fees allocated to the trainers and the coordinator.

According to Sophie Latraverse (international trainer/observer), “The organising team put a great deal of effort into tackling the issues and identifying actors for the creation of a long-term network. Although brought together for the purpose of this project, they appeared as a team ready to work together with the prospect of future activities.”

The seminar was announced in different ways:

A flyer was printed and distributed to around 500 addresses (NGOs, associations, trade unions) with an invitation letter. We presented the seminar twice on the radio (Radio Latina, one-hour programmes discussing the concepts of discrimination, the political debate and the interest for participants).

Many individuals and selected participants were contacted personally and their awareness raised (through emails or phone calls). For this process, we selected one representative from each organisation or association to ensure that at least one person per organisation had the information and that all five grounds of discrimination were covered.

The training facilities were very convenient and provided a location for a very well-organised seminar with the benefit of a wide PowerPoint screen, flipcharts for participants, separate rooms for workshops and a high level of comfort. The room was decorated with an exhibition on diversity borrowed from ASTI (national NGO).

Carrying out the seminars

There were 33 people from NGOs and six from trade unions. We were very successful with (and surprised by) the number of participants, which was quite high for a small country such as Luxembourg without any particular experience and knowledge of discrimination concepts and laws. However, there were only a few participants from trade unions.

After the first day it seemed that the participants were still having difficulty using the key concepts. So the team of trainers decided to focus on these points once again during the morning session of the second day, but with examples to illustrate the concepts. Thus, after this two-day learning process, the participants were able to use and deal with the concepts.

For most of the participants, it was the first time they had participated in a seminar dealing with discrimination issues. Most of them particularly appreciated working on scenarios and case studies instead of presentations in plenary.

Some participants expressed the need for a follow-up or a three-day instead of a two-day seminar.

There was good interaction and participants asked for ongoing networking after the seminar (using a website for instance or another platform).

In order to discover whether participants make use of what was presented and discussed during the seminar (knowledge transfer on a long-term basis), it would be necessary to evaluate the seminar over a longer period.

Other findings:

- Spread the information among the associations; utilisation in practice (consultancy)
- Spending more time on scenarios in workshops
- Working on a scenario from the very beginning (identifying the discrimination) to the end (sentence from the court) with participative methods
- Follow-up training
- Networking after the seminar with the *Centre de l'égalité de traitement* (the Luxembourg equality body, established in December 2007).

As there is no network of NGOs or associations, it was difficult to contact them all and to be sure that everyone received the information. We also noticed that it was more difficult to motivate and raise awareness among people from trade unions. The six participants from trade unions were all currently involved in discrimination issues.

Finally, for some participants, two days was too short: they felt three days would be better.

Main lessons learned – seminars

According to the participants, this seminar was the first of its kind in Luxembourg, as Luxembourg was late with the transposition of the Directives (November 2006) and with the creation of the Centre for Equality (*Centre de l'égalité de traitement*), which had not yet been established by the time the seminar was held. The backgrounds of the participants were different and some of them did not know anything about the EU Directives. The participants asked for the training process to be continued with different seminars, going into the issues in more depth. Both the participants and the IFS do not want the seminar to be a 'one-off' experience.

Pictures:
Anti-Discrimination seminar: 22nd -23rd November 2008







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

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

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

In Luxembourg, there are only a handful of NGOs and trade unions working on anti-discrimination. This is due to the smallness of the country and the limited human and financial resources available.

Two main NGOs are working on this topic, namely ASTI (Association de Soutien aux Travailleurs Immigrés a.s.b.l.) and C.L.A.E. (Comité de Liaison et d'Action des Etrangers). They are both working on race and ethnicity, in particular all issues relating to immigration.

One can name also SESOPI-Centre Intercommunautaire, which is a Church-linked NGO, which is mainly active in research and studies.

For the defence of rights of gay and lesbians several associations like CiGALE-[Centre d'Information Gay et Lesbien](#) or Rosa Lëtzebuerg exist. [Rainbow Girls](#) is an association for lesbians.

Besides, several other bodies work on anti-discrimination, without being as such independent NGOs. This is the case for the national branch of ENAR (European Network Against Racism).

Other, public, institutions dealing with anti-discrimination include the Ombudsman, the Commission Spéciale Permanente contre la Discrimination Raciale (a special Commission of the National Council for Foreigners) or, in term of legal opinions, the Commission consultative des Droits de l'Homme (Consultative commission on Human Rights). They are not be included in the category of NGOs or trade unions but are actors in the area of the fight against discrimination.

As far as trade-unions are concerned, the two main national ones are involved in anti-discrimination, namely LCGB (Lëtzebuenger Chrëschtliche Gewerkschafts-Bond) and OGB-L (Onofhängege Gewerkschaftsbond Lëtzebuerg).

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

NGOs actually cover all the grounds without restriction. They are more focused on issues relating to foreigners so that discrimination based on race or ethnic origin remains very high in their agenda.

As discrimination in the employment area is the most frequent, they refer to it frequently. However education is a big concern as well, so as equal access to goods and services. Disability is a ground covered by more specialised NGOs. Some religious groups or institutions focus on religious discrimination, mainly when there is an incident like anti-Semitism or islamophobia.

Sexual orientation is a concern specifically for associations like CIGALE and Rosa Lëtzebuerg.

No NGO could be found specifically as far as the ground of discrimination based on age is concerned. However the national association AMIPERAS takes generally care of question relating to elderly persons, although it has been faced with serious problems internally for the last few years.

The trade-unions tackle the employment area. They work on discrimination mainly based on gender. However they have taken up all the different grounds which are covered by Directives 2000/43 and 2000/78.

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

Anti-discrimination is only a small part of the work of the NGOs or trade-unions.

The NGOs focus generally on integration of foreigners and discrimination is a side-object of their activity, although being a permanent worry for these associations.

Trade-unions also deal with many other issues relating to the employment world, so that anti-discrimination is a very small part of their activities, often not very visible.

Both work on anti-discrimination, in awareness-raising matters, support of victims or for trade-unions, in drafting clauses in collective work agreements.

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

These NGOs are indeed registered as non-profit associations in the national trade register of Luxembourg. CLAE as such is a platform of different foreigner's associations and not a real non-profit association (ASBL) as such. However it uses such a formal association called CLAE-Services when needed, for legal protection purposes of its activities.

Trade-unions are not officially recognized structures, as no law has formally recognized trade unions. However, a law of 11 May 1936 guarantees freedom of association. This law was actually enacted to guarantee precisely the freedom of association of workers. Also the Constitution does guarantee the freedom of constituting trade-unions (called 'libertés syndicales').

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

The NGOs have a few hundred members.

The trade-unions have a membership of approximately 58.000 for OGB-L and 40.000 for LCGB.

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

As it was said, CLAE is already a national network of associations. ASTI is working on its own. As for the trade-unions, both OGB-L and LCGB are members of the European structure ETUC. Caritas and the Socialist party are also members of the European AGE platform

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

NGOs are based in the capital Luxembourg-city.

The trade-union OGB-L is based in the second city of the country, Esch-sur-Alzette. The trade-union LCGB's offices are in Luxembourg-city.

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

Yes indeed. This is logical for a small country like Luxembourg.

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

NGOs are relatively well known in civil society by the general public and the political world. They often intervene in the public debate and are cited regularly in the newspapers. Their reactions are sought when some issue arises around their area of expertise.

Trade-unions are well-known and intervene regularly in the national debates on employment issues. They participate in the political life by negotiating collective agreements. They are also member of a Committee (namely Tripartite) which regularly discusses and negotiates great social and economical tendencies, together with the Government and Employer's federations.

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)

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

As far as we know, neither the NGOs nor the trade-unions are working together on discrimination issues but they work separately. Only if somehow forced, through a larger project in which several NGOs or trade-unions participate, for example when there is a European-sponsored campaign, do they occasionally participate in the same kind of activities.

NGOs and trade-unions usually do not mix and organise activities together in anti-discrimination.

11. How are these NGOs funded?

a. Do they receive state funding?

Yes, they receive state funding, either as a general support or for specific projects.

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

To be officially registered in the trade register and to report on their activities.

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

They also apply for private funding.

d. Do private funders impose any restrictions or conditions?

Private funders decide, per definition, what criteria the receivers shall fulfil to get a grant.

12. How are these trade unions funded?

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

No they do not receive state funding.

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

They are not officially funded by political parties.

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

Yes, they get membership fees from their members.

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

Yes, nothing shall prevent them from doing so.

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?

As such the lack of funding plays a role in the restriction of activities but not a significant one, in our view.

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

a. Neighbouring countries?

Yes, NGOs and trade union work together with similar structures in neighbouring countries, specifically with the neighbours of Luxembourg like France, Belgium and Germany on the same topics or concerns.

b. Other new EU Member States?

Yes, NGOs and trade union work together with similar structures in other European countries on the same topics or concerns.

c. Others?

Sometimes the cooperation may also cross the borders of the EU.

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

Yes, the NGOs participate in European campaigns in discrimination issues.

The trade-unions participate in European-funded campaigns, but for activities that take place mainly in Luxembourg. They are also members of European and international networks of trade unions such as the European Trade Union Confederation.

16. Can they work in English?

Yes, they can work in English, although with selected personnel.

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?

The involvement or non-involvement of the political party does not have an impact on the trade union's ability to work on anti-discrimination.

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

This could be possible.

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

19. What kind of work do they do?

NGOs organise campaigns of information, they lobby political parties for better legislation, they give advice to victims. ASTI supports victims in court in discrimination/racism matters. They organise lectures or events around discrimination. They participate sometimes in studies or training activities.

Trade-unions organise training actions for their members. They participate in campaigns and advise their members on discrimination issues and legislation. They negotiate the inclusion of anti-discrimination provisions in collective agreements and support victims of discrimination at work.

20. Do they take up complaints of discrimination?

Yes they do and try to help the victims, each structure within their scheme of operation. This applies to NGOs and trade unions as well.

21. Do they focus on their own community?

Yes, NGOs focus on their own community.

Trade-unions focus on employment matters and victims who are employees.

22. Do they work with victims directly?

Yes, they both advise victims and support them in court when necessary.

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

Trade-unions represent their own members but through the delegations of workers, they may represent any worker in such issues.

24. Do they do 'case work'?

Yes, they do 'case work' for employees who are victims of discrimination.

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

Not as such.

26. Does this include legal representation?

For NGOs it does not include legal representation, but for trade unions it may well be, according to their decision to send a delegate of the trade union in court.

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

Yes, according to article 7 of the law of 28 November 2006, associations which are recognized by the Ministry of Justice as being nationally representative in the field of anti-discrimination, and which have existed legally for 5 years may assist a victim of discrimination before civil and administrative courts, if a damage has been made to the cause it promotes. For individual victims, the consent of such victim must be given in written.

According to the same law, trade unions may also assist their members in the same way.

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

Class actions are unknown in Luxembourg.

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

They do give advice to their members.

30. Do they advocate changes in legislation and policies?

Yes, NGOs take a public stand on legislation and on the application of legislation.

Trade unions are less vocal in discrimination matters, although they would be in their role to take a public stand on such issues.

31. What are their relations with the central government?

NGOs are criticising the government quite a lot and so the relationship is sometimes somehow tensed, although the government does recognize the role these NGOs play in advocating the issues they stand for.

Trade-unions are also criticising regularly the government positions in general. In discrimination matters they have not been vocal. The government respects the role of the trade unions in general.

32. With regional governments or municipalities?

The relationship is fair.

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

There are tensions with the employers organisations in general, each party advocating their own positions. However there have been no public controversies on discrimination issues so far.

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

The specialised body –the Center for Equality of Treatment - does not exist yet. NGOs have a relationship with the Special Commission Against Discrimination, in which representatives of NGOs are elected.

Relations with the Ombudsman may take place occasionally, including for trade unions.

35. What are the qualifications of the staff?

The staff of both trade unions and NGOs is working on many issues and is trained internally by the relevant organisations themselves. The members of the staff are not recruited specially for being experts in discrimination matters.

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

The training may be very different from case to case, from one structure to the other. Some basic training exists for some staff, especially in the legal field.

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

In some NGOs or trade-unions such a training exists, but there is no general training for all personnel.

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

There is a general internal evaluation process that is different from case to case. Sometimes it is measured through the fact that proposals are being taken into account in the modification of legislation.

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

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

The main problem is that officially no discrimination seems to exist in Luxembourg. It means that discrimination is hidden and therefore there is no public pressure to act visibly against discrimination. Also it is difficult to find evidence to fight discrimination in individual cases.

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

Not as such, but more the problem of little awareness-raising of anti-discrimination legislation and policies.

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?

Although not necessarily acknowledged, some staff may not be adequately trained and therefore the actions against discrimination may be less strong for that reason.

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

Some more in depth legal training and also some training, in supporting victims in very precise situations of discrimination.

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

In general the staff is correctly trained as far as national anti-discrimination legislation is concerned.

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

In general the staff is relatively correctly trained as far as national anti-discrimination legislation is concerned.

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

Yes, indeed such training exists but also the experience of some staff after years of advocating for their structure helps in formulating policy proposals or legislative proposals. Some trade-unions may have the need to develop such training in discrimination matters.

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

Probably yes, in order to enhance their role in the general awareness building measures of anti-discrimination.

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

Certainly there would be a need to more support victims of discrimination, who do not know how to react or do not dare fight against discrimination. These victims may be members of the NGOs or trade unions. Actually age discrimination is a new issue in Luxembourg and needs to be more supported than discrimination based on other grounds, as it is dealt less with than other grounds.

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

As such there is no need to do more to increase their credibility. In general the public must be made aware of the necessity to fight discrimination.

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

Yes, they would need to put discrimination matters higher on their agenda to push more employers or companies to take the issue seriously.

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

Certainly yes, but the Government should also be much more visible in promoting the fight against discrimination. The NGOs and trade-unions could then join in more efficiently.

51. What would they need to develop?

They would have to develop more visible actions and a skill to react promptly to discrimination cases.

c) National legislation in the field of anti-discrimination

1. The transposition of the Directives into national law

The implementation process of the Directives 2000/43/EC and 2000/78/EC has been long and tortuous. This process started on 21 November 2003, when two draft bills were deposited at the Parliament (*Chambre des Députés*). A first bill, with the Nr. 5248, was introduced by the Minister of Justice and was about the transposition of Directive 2000/43/EC. The second bill, with the Nr. 5249 was submitted by the Minister of Labour and concerned the transposition of Directive 2000/78/EC. This bill also included the prohibition of discrimination based on racial and ethnic origin.

Although the two laws used the very definitions contained in the two directives, concerning direct and indirect discrimination, harassment and instruction to discrimination and thus they were satisfactory in respect of the use of the legal definitions, many points were unsatisfactory. The Council of State's issued a very critical opinion on the two draft bills on 7 December 2004, declaring that the methodology used to transpose the directives was not adequate. It also stressed, as far as the contents were concerned, that the bills were far from taking over all the requirements of the directives, stressing for example no independent body for the promotion of equal treatment had been foreseen or that the whole area of public service had been omitted.

These texts were criticized as well by some NGOs, which felt that the Directives were not properly transposed. Especially associations defending the rights of foreigners or immigrants were following this transposition process.

The attempt of transposition failed and this first draft was abandoned by the Government in spring 2005. As a consequence, a redrafting process followed and a new, single draft bill N°5518 was submitted to the Parliament on 22 November 2005. After the opinions of the professional chambers and another – less - critical opinion of the Council of State, the Chamber of Deputies adopted the bill on 13 July 2006.

However, the Council of State refused to exempt the Chamber of Deputies from the second constitutional vote (this exemption being the rule in practice), mainly because civil servants were not included in this bill and because the amendments to the general statute of civil servants – included in a separate bill - had not been adopted at the same time. This meant that the Chamber of Deputies had to revote during the autumn session of 2006 on the draft bill and decide whether to amend it or not. After a few technical amendments, including the inclusion of provisions relating to the employment area in the new Labour Law Code, the law was definitely adopted.

Thus on 24 October 2006, two bills were adopted as a transposition of Directives 2000/43/EC and 2000/78/EC, i.e. bill Nr.5518 on private relations, including employment and bill Nr.5583 on public service.

The first one is the law of 28 November 2006 which covers the entire scope of both directives and all the grounds of the two directives (even race and ethnic origin in the employment area) outside the public sector and the second one, the law of 29 November 2006 covers all public employees and employers (state administration, municipalities etc.) and all grounds covered by both directives.

The transposition process was so slow that it was way over the time limit of transposition, namely July 2003 (Directive 2000/43/7EC) and December 2003 (Directive 2000/78/EC). Also, Luxembourg was one of the last countries to transpose the Directives and the country was condemned twice by the Court of Justice of the European Communities for this late transposition.

The new legislation may be seen as a clear improvement compared to the former anti-discrimination legislation, which was lacking many of the requirements of both Directives 2000/43 and 2000/78. Not the least is the introduction of the concept of indirect discrimination, as well as the one of harassment, which did not exist yet.

The shortcomings of this legislation are:

- the absence of new civil sanctions (defence of rights and victimisation) outside the employment area;
- the penal sanctions do not cover all the scope of the Directives;
- the control mechanism in the employment area, entrusted to the Inspection du Travail et des Mines, is rather weak;
- the Equality body, named Centre for Equality of Treatment is a rather weak structure;
- there is no clause relating to social dialogue and dialogue with the trade unions;
- the rather weak protection of disabled persons.

However in general, the Directives improve a lot the current legislation, namely articles 454 to 457 of the penal code, especially because the transposition process has gone further than what is strictly required in forbidding discrimination based on race and ethnic origin also in the employment area. These articles of the penal code were introduced by the law of 19 July 1997, forbidding discrimination against persons based on the grounds of their racial or ethnic origin, skin colour, sex, sexual orientation, family situation, state of health, disability, customs, political or philosophical opinions, trade union activities, their membership, actual or supposed, of an ethnic group, nationality, race or specific religion.

The principle of equal treatment can also be found in the general legal principle found in article “10 bis” of the Constitution, according to which all Luxembourgers are equal before the Law. This implies that no discrimination shall apply for whatever ground. However this principle applies only *stricto sensu* to the Luxembourg nationals and not the foreign citizens.

The creation of the Equality body, Centre pour l’Egalité de Traitement, is a positive movement, but it has not been set up yet. It is also competent for discrimination in the public sector.

The Centre is independent and governed by a body of 5 members including a president. They are nominated for 5 years by the Grand-Duke on the proposal of the Parliament (Chambre des Députés) according to their skills in antidiscrimination matters. Once a year, a report must be submitted to the Gouvernement and to Parliament. Funding comes out of the general state’s budget.

The competences of the centre are more particularly, to:

- publish reports, issue opinions and recommendations and conduct surveys on all questions linked to discriminations;
- issue and provide every information and every documentation that are useful in the course of its mission;
- provide assistance to persons who think they are victims of discrimination by putting at their disposal an office for counsel and orientation in order to inform victims on their individual rights, on legislation, case law and the means to uphold their rights.

It will deal with issues relating to discrimination based on race, ethnic origin, gender, sexual orientation, religion or belief, handicap and age. The Centre may provide assistance to victims by advising and orienting them in order to inform them on their rights, the legislation- including the available procedures and the case-law. It may also publish report and opinions and give recommendations, conduct surveys on issues relating to discrimination.

In general the new laws introduced a number of provisions with more protection against discrimination, such as indirect discrimination in civil matters, harassment or instruction to discriminate.

Also it is the first time that age has been included as a forbidden ground of discrimination. The introduction of the mechanism of sharing of the burden of proof is also very positive, as well as some protective measures in the labour area, like protection against dismissal in case of a denunciation of discrimination. Also the right given to specialized NGOs or trade unions in order to assist victims in court is a notable improvement.

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

2.A Employment and occupation related - all grounds

When a person or a group is the victim of discrimination, the mechanisms available to victims of discrimination are either judicial procedures or the use of mediation.

A person may act alone and lodge a criminal complaint in court. The state prosecutor will however decide if the case is worthwhile proceeding with (art. 23-1 of the Criminal Procedure Code). It may take a long time until the case is brought to court. Also finding evidence is a crucial problem, which may hinder proper prosecution of the author of discrimination.

The victim may also apply directly to the examining judge (*juge d'instruction*) if he/she claims to have suffered discrimination; in this case, it is up to the victim to estimate the extent of the loss and claim damages in criminal proceedings. Also often the judge requires the plaintiff to pay a guarantee.

A law of 6 May 1999 on penal mediation enables the State Prosecutor to use mediation, where it appears that such a remedy is likely to ensure that compensation or damages are paid to the victim, or indeed to bring a conclusion to the disturbance resulting from the offence, or in addition contribute to the rehabilitation of the person committing the offence. Such a procedure is however non-binding.

The victim may also claim damages in a civil court based on the criminal law, the sharing-of-the-burden-of-proof mechanism being a good tool to be used in this context. The proceedings must be filed within three years of the offence (article 638 of the Criminal Code).

As far as work and labour are concerned, the Inspectorate of the Ministry of Labour, *l'Inspection du travail et des mines et l'administration de l'emploi* is competent to control the respect of labour law regulations and may impose fines to parties which do not respect the legislation.

A victim of discrimination may submit a case to the labour courts in order to get any discriminatory clause in a contract or a collective agreement annulled or in case of victimisation. A new summons procedure (*référé*) for illegal dismissal based on discrimination, for example due to the denunciation of discrimination, is available to victims of discrimination.

As far as the public sector is concerned, the civil servants may act in the administrative courts, if they feel discriminated against by colleagues. Also article 33 of the general statute enables the civil servants to complain against a misbehaviour of another civil servant. Such a procedure is administrative, but can lead up to the administrative court (*tribunal administratif*), if the complaint has been rejected by the higher hierarchy. It can only lead to administrative/financial sanctions against the author, not to civil or penal sanctions.

The law of 29 November 2006 on public service introducing the same anti-discrimination procedures as for private relations, a civil servant may make use of the penal procedure or of civil proceedings in court or even complain against other civil servants and try to obtain disciplinary sanctions against a discriminator who would be a civil servant.

Trade unions are allowed to negotiate the inclusion of anti-discriminatory legislation in collective agreements and may as well act in court for this purpose or to support a victim of anti-discriminatory provisions in such collective agreements.

Finally complaints may be lodged at the new Equality Body, the Centre for Equality of Treatment, as soon as it will be set up or for cases relating to public administration, to the Ombudsman.

Situations in which such legislation may be used, include all work-related areas, such a recruitment procedures, including the advertising of posts and selection procedures. They further relate to the terms and conditions of the working relationship, to pay issues, to situations of discrimination in the workplace and working hours.

They involve protection for promotion, for allowances and bonus payments, to workplace disciplinary procedures and to dismissal (procedural and substantive).

They should apply to dress codes, tend to protect suspect groups e.g. part time workers and include occupational pensions. They finally cover access to vocational training.

However according to article 455 of the penal code, only following cases of discrimination are criminally punishable:

- the obstruction of the normal exercise of any economic activity;
- the refusal to employ, sanction or dismiss any person;
- the subjection of an offer of employment to a discriminatory condition
- the subjection of access to work, training or working conditions or the membership of, and involvement in, an organisation of workers or employers to a discriminatory condition

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

Essentially the remedies are the same as for the employment area, apart from the specific remedies linked to the work contract and the collective agreements.

Therefore, whilst referring to the more detailed explanations under 2A, one can name following remedies:

- A criminal complaint with the instructing judge or at the state's prosecutor;
- the lodging of a civil case in court, with or without the support of a specialised NGO;
- the use of mediation;
- a complaint to the Ombudsman when discrimination concerns the relations between public administrations and the public;
- a complaint at the Center for Equality of Treatment (still to be set up);
- One can also petition the Chamber of Deputies in all matters, individually or collectively.

Furthermore, there is a possibility to lodge a complaint at the only currently functioning body, in accordance with the UN Convention on the Elimination of all Forms of Racial Discrimination: the Special Permanent Commission against Discrimination (CSP-RAC), a body of the National Council for Aliens (CNE). It is competent to consider petitions from persons or groups of persons within the jurisdiction of Luxembourg who claim to be victims of discrimination. This body may only propose solutions but not enforce them. However these petitions cannot be considered until all other available local remedies have been exhausted, so that it cannot be seen as equivalent to an equality or independent body as set out in the Directive.

In civil cases, the situations in which the protection may be evoked include social protection including social security and health care, social advantages (like children or sickness allowance for example), education, housing, access to and provision of goods and services provided to the public, including welfare services, banking, insurance etc and access to premises open to the public, e.g. restaurants, hotels or leisure facilities.

However it must be noted that for criminal cases, the penal code applies only to following areas:

- 1) the refusal of supply or enjoyment of goods; the refusal to supply a service;
- 2) to make the supply of goods or services conditional on grounds of any of the elements specified in Article 454, or to exercise any other form of discrimination at the time of supply, on grounds of any of the elements specified in Article 454;
- 3) the indication in any advertisement of the intention to refuse goods or services or to practise discrimination at the time of supply of goods and services, on grounds of any of the elements specified in Article 454;

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

In choosing the kind of complaint used, an NGO or a trade union must weigh the advantages and disadvantages of each procedure. Each case that is won may get some public attention, which will help the general fight against discrimination.

However, a complaint in court is quite a heavy mechanism. A lawyer must be recruited or the NGO or trade union should decide to assist the victim.

When using a criminal complaint, there is no way to ensure that the procedure will end with a judgement, as the state's prosecutor may decide not to pursue the matter. Also civil damages may be rather low in a criminal court.

All discrimination matters relating to employment may be brought before the Labour courts. If the case is brought to the attention of a court, it must be made sure that enough evidence exists of the alleged discrimination.

Indeed, if the case is being lost, there is a risk that an employee may be badly treated, at least in moral terms, for having unsuccessfully sued the employer. If the case is won, damages may be low but the employee may be under constant scrutiny later.

It is clear that in case of heavy menaces or of "hardline" measures like dismissal, the only way to defend oneself is the Labour court (*tribunal du travail*). In such case, the summons procedure must be used, for the employee to be reintegrated in his job, if desired.

Also, the same summons procedure before the president of the Labour court may be used in order to act against victimisation, as it is forbidden to discriminate against a person who has testified of discrimination or who has denounced discrimination.

The advantage of a civil case (including the Labour courts) is that the mechanism of the sharing of the burden of the proof may be used, unlike in criminal matters. This means that the alleged victim of discrimination has to prove some facts that make the allegation of discrimination likely and the respondent must then submit evidence that these facts do not prove discrimination.

2.D Technical procedural requirements of each available remedy

Each procedure has its own technical procedural system.

As far as time limits are concerned:

- a criminal complaint must be lodged within three years of the incident.
- a civil case may be introduced without specific time limit.
- For cases relating to work and employment, the time limit depends on the case. For dismissals, the generally applicable deadline is three months. The special summons' procedure for dismissals due to discrimination or in case of victimisation is limited to a deadline of 15 days.

- administrative complaints for civil servants may also be submitted within three months of the discriminatory deed.

In general one must prove the discriminatory facts by all kinds of written evidence. In criminal cases any kind of evidence may be taken into consideration.

In the labour courts, it is needed to provide written documents, whereby original documents are requested. In case of a lack of original documents, like contracts for example, one can offer to prove the contents by hearing witnesses or by written witness' statements if the other party denies the allegations of discrimination.

In civil cases, one must provide original documents. One can also add witness' statements. Other elements may be submitted to the judge, like enquiries of journalists for example but only facts that are proven by the claimant are relevant as far as evidence is concerned.

2.E Existing support and obstacles at national level

In general, lack of information on the existing rights contained in the national legislation may be called an obstacle, as discrimination matters are rarely highlighted publicly.

Other obstacles include:

- the current non existence of the Centre for Equality of Rights;
- the insufficient knowledge of the Directives and/or national anti discrimination provisions on the part of lawyers or, judges;
- the costs of a lawyer in case of a court procedure;
- the fear of victimisation despite the existing legislation.

Support may be given either by:

- asking a specialised NGO to assist you in court or, for employment matters, to ask a representative trade union for the same kind of assistance. The same assistance may be asked in order to get information on the rights of citizens against discrimination or in order to mediate between parties.
- a specialised lawyer may be consulted in order to get legal assistance or representation in court. Legal aid may be requested at the Luxembourg or Diekirch bars, when the claimant does not have sufficient financial means to pay for his/her own lawyer.

2.F Referrals to the European Court of Justice

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

This may be a highly effective procedure because:

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

- The European Court is the only body that can give a **definitive** interpretation of the terms used in the Directives.

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

2.G Petitions to the European Parliament

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

2.H Alerting the European Commission to discriminatory administrative practices

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

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

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

2.I Complaints to the European Court of Human Rights

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

This can be done under Article 14 of the Convention provided another Article is also engaged or, if the country has ratified it, under Protocol 12 to the Convention which is the case of Luxembourg that has ratified Protocol 12 on 21 March 2006.

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

2.J Other international remedies

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

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

2.K Professionalism

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

3. Societal issues

Discuss the concepts of tolerance and plurality in the context of the issues which exist nationally. Discuss the need to be willing to face sensitive and difficult issues.

One of the great distinctive features of Luxemburg is the high level of foreigners living in Luxemburg. In fact, about 40% of the population are foreigners, mainly coming from Portugal but also Italy, France or Belgium.

On the labour market, figures show also a very specific situation: from a population of 300.000 workers and employees, 41 % are cross-borders workers (coming from the borders regions in France, Belgium or Germany), 31% are Luxemburgish and 27% are foreigners living in Luxemburg.

The labour market is very segmented: one third of the Luxemburgish are currently working for official public administrations and much more if we count companies or organizations where the State has some kind of financial investments such as transports, energy, education or social and health sectors. Portuguese living in Luxemburg are mainly active in the building sector and are often unqualified people (90% are workers).

Cross-borders workers are both workers or employees. Workers are active in the building or manufacturing industries. Private employees are partly active in banking, insurances and services. This important segmentation of the labour market do not promote the social mobility and the cultural exchange between sectors and communities. Further more, the specificities of the education system in Luxemburg give less chances to the children of Portuguese especially to obtain a higher degree of education by promoting some kind of social reproduction (see PISA studies).

In such a context, discrimination related to race or ethnic origin is a very important issue, as well as work discrimination.

Tolerance and plurality in Luxemburg can be approached using the results of the European Values Studies for which some members of the luxemburgish trainers'team have been and are currently always working on. Here are briefly some of these figures, which are useful to discuss tolerance and plurality:

One of the questions is defined as follows: "When jobs are scarce, employers should give priority to Luxemburgish people over immigrants?".

Globally, 44% of the people living in Luxemburg agree with that, comparing to 54% in France and 51% in Belgium. But if we only consider the Luxemburgish people (and not the other nationalities in Luxemburg), the score rises up to 58%.

People were also asked to sort out, in a list, any that they would not like to have as neighbours? People mostly rejected « Political extremists (left and right) », « Drug addicts », « Heavy drinkers » and « People with a criminal record ». Then people less rejected « Gypsies » (25%), « Homosexuals » (19%), « Refugees and muslims » (14%), and still less « Immigrants », « Jews », and « People with a different race ». The analysis shows that the high or weak degree of tolerance is strongly linked to the level of education and social classes.

Different studies or network in Luxemburg may also approach these questions such as RAXEN or ENAR.

In 2005, different research centres and NGOs in Luxemburg have conducted a study on discrimination related to employment. This study was based on a quantitative analysis of questionnaire sent to union representatives, and qualitative interviews with representatives of companies, NGOs, associations. It appears that the first reason of discrimination in Luxemburg is “Age” and then in decreasing order “Nationalities”, “Ethnic origins”, “Cross-borders”, “Disability”, “Sexual orientation”, “Religion”.

Another conclusion is that there are really only a few visible discriminatory practices and prosecution. But reality seems to be different: the interviews show that for instance language skills are often asked for a job but they are not necessary, the labour market is segmented so that there is a kind of homogeneous recruitment, there are great differences of wages

Apart from that, it's quite difficult to give an objective description of vulnerable groups in Luxemburg as there is currently no Centre for Equality.

d) Funding opportunities in the field of anti-discrimination

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

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

a) *European-level NGOs*

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

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

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

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

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

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

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

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

b) European Trade unions

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

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

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

2. EU funding for national NGOs/Trade Unions

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

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

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

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

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

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

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

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

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

The delegation of the European Commission in Luxembourg does not have any budget relating to anti-discrimination and does not fund anything in relation to this topic.

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

The Minister of Family is in charge of anti-discrimination policies and may be approached for funding. More informations can be found at the web site of the "Government Commission for Foreigners":

<http://www.cge.etat.lu/>

A budget of 2*120.000 euros (funded both by the national government and the EU) is foreseen for projects during the European Year of Equal Opportunities for all in 2007.

The national strategy to fight discrimination and a list of activities and projects during 2007 can be found at:

http://www.cge.etat.lu/publi/strat_nat_lux.pdf

It is also possible for trade unions to approach the Ministry of Employment and Labour (<http://www.mt.etat.lu>) for funding of trade-union activities.

Informations about the Equal Programm in Luxemburg (Activities reports, description of projects) can be found at:

http://www.fse.public.lu/documentation/pic_equal/index.html

Some projects have been extended in 2007.

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 Ministry of Family is the coordinating party for the European action programme to combat discrimination (2001-2006). It also asked to become the coordinating party for the programme Progress starting in 2007 and is waiting for the agreement of the European Commission.

Within these programmes, a budget line exists that allows for the Ministry to co-sponsor some activities of associations or NGOs. However NGOs have never asked this Ministry for any funding in this respect.

A conference was organized in 2006 on discrimination at work by the Ministry of Family together with the trade unions and employers' organizations, but it was completely paid from the Ministry's budget.

The Ministry does not have any specific budget line linked to national projects and funded entirely through national monies. The only possibility for an NGO to ask for funding is to ask more than a year in advance, so that the Ministry may put this request in its provisional budget for the following year, but the Government must approve this budget.

This funding is project-based. In principle there is no core funding. Some rather small subsidies are however allocated, through a convention, to some NGOs like ENAR. Also, in 2007, a brochure explaining the new legislation will be prepared by ENAR and the Ministries of Employment and Family and funded by the Government.

Other possibilities, like providing NGOs meeting room or conference room for free may be envisaged.

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

According to the Ministry of Family, it is easy to submit a financial request. The projects must fit into the general principles outlined under point 3) and be accepted as being worthwhile funding. Usually, if the project is in line with the budgetary principles, it will be accepted, when promoting anti-discrimination actions.

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

N/A

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

NGOs may ask for municipal subsidies for their activities, which may include anti-discrimination projects (but this seldom happens). Why do you specify in theory, does that not work in practice. you are right: it is only because it seldom happens

Also, the Minister of Family has, for example, in the past paid 50% of a project that actually was funded also at 50% by a municipality, so that a mixed governmental-municipal funding scheme may be envisaged for specific projects.

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?

In theory private foundations could be approached to give funding to projects relating to anti-discrimination actions. However no concrete example of such funding could be found.

Some parastatal institutions could be approached like maybe 'Loterie nationale' (national Lottery). It is however unknown whether some funding would be granted to such projects.

8. Are there any other source of funding?

No specific other source of funding could be identified.

IV. Diversity Management seminar

Design of the DM training

The selection of the national trainer was made using the resources of a consultancy company in Luxembourg. Contacts between the organiser, the national trainer and the international trainer were initially made by email. Next both the national and the international trainer had a workshop in Switzerland and the organiser and the national trainer had a meeting in Luxembourg to prepare and discuss the design of the seminar, the target group, the announcement of the seminar and the business case.

Preparation of the seminar

It is a particular trait of Luxembourg that the working population consists of Luxembourg citizens (around 30%), foreigners residing in Luxembourg (30%) and cross-border commuters (40%). Luxembourg citizens, who are often in the minority in the workplace, sometimes also feel discriminated against. The employment market is very segmented: in short, Luxembourg citizens mostly work for the public administration, the Portuguese community (with lower levels of qualifications) works in the building and industrial sectors and cross-border commuters work in the financial sector.

Compared to findings in other European countries, companies and employees in Luxembourg seem to have a more tolerant and welcoming attitude to diversity (see European Values Studies). However, diversity issues do still exist.

According to a Eurobarometer survey, 75% of Luxembourg citizens think that being disabled tends to be a disadvantage. The figures for being of Roma origin, aged over 50, of a different ethnic origin or homosexual are 74%, 64%, 50%, and 42% respectively.

The Luxembourg government has been quite active in addressing diversity issues, mainly with the objective of battling discrimination. The Ministry for Equality has various projects, all related to gender equality, such as 'Gender training', 'Women in leadership' and the 'Award for positive action'.

As in most large companies worldwide, the larger Luxembourg enterprises have already started to manage diversity. However, only a few companies have their own practices or strategies to implement equality or combat discrimination. In large multinational companies these strategies are often discussed at the head office, generally abroad.

The trainer took part in the train the trainers seminar in Cologne.

An interview was given to the largest economic and financial newspaper, to raise people's awareness about the topic of 'diversity management' and to announce the seminar. The interview was published and is also available on the internet:

www.paperjam.lu/archives/2007/12/NL_2112_Diversite/index.html

The seminar was conducted in collaboration with the Union des Entreprises Luxembourgeoises (the largest employers' association in Luxembourg).

The Union is very involved in promoting corporate social responsibility and provided us with a list of individuals in companies who had taken part in different meetings and conferences about corporate social responsibility.

The seminar was also announced in a number of daily newspapers.

Professionals studying for an open university diploma (Human Resource Management Masters, Chambre des Employés Privés-Luxembourg, University of Nancy, France) were invited. They also work in HR departments or training departments in private and public companies in Luxembourg.

The other participants were attracted through the announcement of the seminar.

The seminar took place in a hotel seminar room, which was fully equipped with a video projector, wide screen, flipcharts etc. The layout of the room was arranged in order to promote interaction between participants.

Carrying out the seminar

Together with the national trainer, the international trainer and the organiser, we decided to focus on a business case about 'age diversity', which seems to be a very important issue in Luxembourg (according to observations and a study about discrimination in Luxembourg (*'Discrimination à l'emploi*, publication by the Commissariat du Gouvernement aux Etrangers, 2005). Les Assurances Le Foyer (the largest insurance company in Luxembourg) presented their best practice as selected by the European Foundation for the Improvement of Living and Working Conditions. See:

www.eurofound.europa.eu/areas/populationandsociety/cases/lu002.htm

Foyer S.A. has initiated innovative training and qualification measures aimed at boosting the employability of employees of all ages throughout their life. The pilot project in the field of knowledge management is primarily geared to the skills and capabilities of older employees and to their importance to the company.

The particular aim of the project is to preserve the experience and knowledge of older employees for the company and to make it accessible to other staff members before the older employees retire. Special emphasis is placed on incorporating individual approaches to problem-solving and organisation in the work process and on simplifying the knowledge transfer within the company by standardising the documentation procedure. Currently, the measure is targeted at employees aged over 55.

The Director of the training department presented this project and other ones in progress. There was also time for discussion with the participants.

There were 30 participants:

- 14 from private companies
- eight from public service providers
- four from training or consulting companies

The programme and objectives of the seminar were presented by the Institut de Formation Sociale. Then there were presentations by the national trainer, followed by the business case.

The workshops were facilitated by the national trainer with the help of the international trainer. There was good interaction and networking between participants.

The seminar was interesting but the participants asked for more 'best practices' and presentation of concrete examples as well as for more theoretical information. The 'World Café' was very dynamic and participants had plenty of time to discuss the issues of discrimination and the fight against it in their organisations.

The main effect of the seminar was to raise awareness and provide basic information for use in practice (within the framework of consultancy or within the participant's own company).

As a follow-up, some participants recommend seminars in schools, best practices, internet links and mailings to HR departments.

Main lessons learned – seminar

Two business cases instead of one would be better, but it was extremely difficult to find a professional and experienced business case in Luxembourg. Often diversity management strategies in companies based in Luxembourg are defined by the multinational head office in a foreign country.

Diversity Management Seminar: 15th February 2009





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.