



NATIONAL ACTIVITY REPORT MALTA ANTI-DISCRIMINATION AND DIVERSITY TRAINING

National Commission for the Promotion of Equality

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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

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

The national activities were carried out by the National Commissson for the Promotion of Equality (www.equality.gov.mt)

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II. Introduction

The National Commission for the Promotion of Equality (NCPE) as the Maltese coordinator for the project ‘VT/2006/009 – Anti Discrimination and Diversity Training’ was responsible for the organization of two two-day seminars to promote anti-discrimination among local NGOs and Trade Unions and another one day seminar to promote Diversity Management among employers’ organizations and large companies and SMEs both within the private and public sector.

The first two-day seminar to promote anti-discrimination among local NGOs and Trade Unions was organized on Friday 16th and Saturday 17th November 2007 at the Phoenicia Hotel Floriana, Malta. For such training forty individuals representing both local NGOs and Trade Unions had registered to attend, out of which thirty-four attended for the Friday session while thirty attended for the Saturday session.

Next to be organized was the one day seminar to promote Diversity Management among employer’s organization, large companies and SMEs. This was held on Tuesday 5th February 2008 at the Phoenicia Hotel, Floriana, Malta. Seventy individuals coming both from the private and public sector had registered to attend out of which fifty-five turned up on the day.

Finally on Friday 15th and Saturday 16th February 2008, a follow up seminar of the initial training seminars that were held in June 2005 and November 2007 was organized also at the Phoenicia Hotel, Floriana, Malta. Since this was a follow up seminar, registration was only available for those individuals who had already participated in the June 2005 and November 2007 sessions. Consequently only thirty-one individuals had registered to attend out of which twenty-one attended for the Friday session and twenty attended for the Saturday session.

III. Anti-discrimination seminars

a) National activities anti-discrimination seminars

Anti-Discrimination seminar – 16th and 17th November 2007

Design of the Training

A preparatory meeting for the November seminar was held at the NCPE office on 8th October 2007. The six national trainers that were responsible for the delivery of this seminar were, Ms. Sina Bugeja, Dr. Therese Comodini Cachia, Dr. Romina Bartolo, Dr. Charmaine Grech, Dr. Roberta Calleja and Ms. Therese Spiteri. All these six trainers were present for this meeting during which the programme for this seminar was discussed and developed.

Reference was made to the training material that was used during a similar seminar held in Malta in June 2005 and also to an EU publication “*Combating Discrimination – a training manual*” (2005). However appropriate amendments to this material were carried out owing to the fact that new legislation had been passed and the seminar target group was now being extended also to Trade Unions. Finally it was decided that the following topics would be covered during this two day seminar included;

- Introduction to the Key concepts (The EU Institution, the general principles and sources of EU law and the concept of discrimination in EU law and policy)
- Various methods to combat Discrimination
- Monitoring and Influencing Policy
- Law Development and Support Litigation to combat Discrimination
- Alternative dispute resolution
- Familiarizing with the National Legislations
- Skills and Tools when working towards combating Discrimination
- The Role of NGOs and Trade Unions in Combating Discrimination
- National Strategies

Ample time for workshops and small group discussions was made available during both days of the seminar.

Preparation of the seminar

The Anti Discrimination seminar held in November 2007 targeted NGOs and Trade Unions that were active or wanted to become active in combating discrimination on the grounds of Race or Ethnic Origin, Age, Disability, Religion or Belief and Sexual Orientation. Thus it was aiming at developing the capacity of civil society dealing with anti-discrimination.

In order to announce this seminar, a list of all local NGOs and Trade Unions was compiled. An invitation letter, an official programme and a registration form were developed and send by email to all these contacts. Information on this seminar together with the registration form and the programme were also uploaded on NCPE official website.

By the registration closing date, forty individual had applied to attend. Although initially we were targeting only for thirty participants, all registrants were accepted to attend since there was enough money to cover the cost for this seminar. Beside this, all registrants were also satisfying the criteria of attendance that was stipulated by the consortium of this project.

In order to find a venue for these seminars, a departmental tender for venues and refreshments was issued on the 9th September 2007. By the closing date only two bids were received.

On the 27th September an adjudication meeting was set up at NCPE premises and the Phoenicia Hotel was awarded this service contract. During the selection process a lot of importance was given to the accessibility of the venue proposed and to the gender and environmental policy of the interested bidders. Following this decision various correspondences and various meetings were held between the management of the Phoenicia Hotel and NCPE so that to ensure that everything in relation to venue and refreshments would be up to standard. Finally a contract between both parties was signed in which the Phoenicia Hotel was bound to be the sole provider of an accessible venue, two coffee breaks and a lunch break per day, for the five full days of training.

Carrying out the seminars

Ratio of participants

The thirty-four participants that were present during the Anti-Discrimination seminar held in November 2007 were representing fourteen NGOs and two Trade Unions. The NGOs that were being represented were Caritas, Children's Homes, Daritama, Jesuit Refugee Service, Kare4Kenya, Mental Health Association, Mid-dlam għad-Dawl, National Council of Elderly, NCW (National Council of Women), Oasi Foundation, Organisation for the Promotion of Human Rights, Razzett tal-Hbiberija, Richmond Foundation and YWCA (Young Women Christian Association). While the two Trade Unions represented were the General Workers Unions and UHM (Union Haddiema Magħqudin) the two largest Unions on the island. Members of staff from NCPE were also present during this seminar.

Thus out of thirty-four participants, 68% of the participants were representing NGOs, 21% were representing Trade Unions and 11% were coming from an Equality Entity.

Process during the day

During this seminar, all the six trainers showed that they were well prepared and that they really knew what they were talking about. Power point presentations, case studies and other tools were all the time being used to facilitate what was being said and explained. The trainers were also very supportive towards the participants and whenever a question was posed, effort was done to give a full answer.

On the other hand participants were very interested in the material that was being presented to them. From their reaction towards the seminar content, it was clearly show that more training on this particular area needs to be organised.

According to the evaluation sheets that were filled by the participants at the end of this seminar, it was shown that some of the content presented during the first session of day one was rather technical. However participants were quite happy with the rest of the content that was presented to them during the other sessions. The fact that participants had ample time dedicated to small group discussion gave them a chance to express their opinion and experiences.

Evaluation of Seminar

On day one, participants were welcomed with a brief introduction from Ms. Sina Bugeja in which she explained the scope of the seminar and the objectives to be achieved. This was followed by a presentation by Dr. Romina Bartolo where she explained the role of the EU Institutions, the general principles of EU laws and the concept of discrimination found in EU Law and policies. After the presentation, participants were divided into smaller groups in order to develop a discriminatory case-study to put forward all the participants of the seminar. The exercise was very helpful for all participants to put into practise issues arising from Dr. Bartolo's presentation.

Ms. Sina Bugeja's presentation described the thematic subjects including awareness raising, monitoring the development of policies and law, influencing policy, support to individual victims, litigation and alternative dispute resolution.

Ms. Bugeja concluded her presentation by inviting participants to re-convene into smaller groups and discuss a set of questions related to some of the thematic subjects. After this group work the following issues were highlighted:

- Not every participant was completely aware of his/her NGOs/Trades Union's objectives;
- As regards to ways to raise awareness, many of the NGOs/Trade Unions tend to make use of various media such as education in schools, training and by word of mouth;
- All rapporteurs agreed that should a client request a service/support which the NGO/Trade Union is unable to offer, the best solution would be to refer and/or redirect the client to another NGO/entity etc;

Dr Charmaine Grech was the last trainer of the day. During her presentation, the participants had the opportunity to familiarize themselves with the National Legislation in regards to all types of discrimination. Her presentation was also followed by group workshops. At the end of the workshop it transpired that not every participant had a clear idea of what discrimination is, especially when related to discrimination based on the grounds of race, ethnicity and sexual orientation.

On the second day of the seminar, the morning session was initiated by Ms. Therese Spiteri who delivered a presentation illustrating the skills and tools needed by NGOs and Trade Unions when working towards combating discrimination. During the workshops, participants had the opportunity to further develop their knowledge and share their own experiences.

The workshop was followed by a presentation and a discussion led by Dr Therese Comodini Cachia on the role of NGOs and Trade Unions in Combating Discrimination. During this session, participants were asked to give their opinion. Here it was clearly shown that although many of the participants were very aware of the concept of discrimination, a few of the participants had some problems in identifying particular types of discrimination especially those based on the ground of race and ethnicity.

The seminar was concluded by Dr Roberta Calleja's presentation which ensured that all the material covered during both days was understood in order for participants to make good use of it within their respective NGOs and Trade Unions.

Main lessons learned

- Many of the participants recognised that the information and skills obtained during the seminar will be very helpful to develop and challenge policies.
- It transpired that all NGOs and Trade Unions face the same problems when dealing with issues of discrimination and this was recognised by all participants. The organisations present realised that working together could give better results and outputs but unfortunately most were mainly concerned with their own individual perspectives rather the wider social context.

Anti-Discrimination follow up seminar- 15th and 16th February 2008

Design of the Training

The first thing that was done while we were preparing for the Anti-Discrimination follow up seminar was that of contacting our International Trainer Mr. Maria Miguel Sierra. Such correspondence was very essential since Ms. Sierra was very helpful when we were planning our local training.

Beside this correspondence, a train the trainer's seminar was held at the NCPE office on 22nd January 2008. Since this seminar was a follow up of the November seminar the same six national trainers were again responsible for the delivery of this seminar content. During this meeting reference was made to the "Anti-Discrimination and Diversity Training VT/20206/009 – Tender proposal".

This publication paved the way for the trainers to ensure that what was expected to be carried out during the follow up seminar was actually achieved. Adding to what was expected from this tender document, the trainers decided also to include what was proposed by the participants in their evaluation during the November seminar. Finally the six trainers in consultation with the international trainer agreed on the following training programme:

- Expose the Participants to the Employment Directive 2000/78/EC and the Race Directive 2000/43/EC and ask them to compare both directives.
- Invite participants to find ways of how they can lobby government to widen the concepts of the Employment Directive and bring it to a similar level as the Race Directive and to propose ways of how they can apply these ideas.
- Explore types of mechanisms that need to be developed in order to combat discrimination. (Group work)
- Expose participants to various case studies through out the day.

Preparation of the seminar

The Anti Discrimination follow up seminar held in February 2008 was aimed at building on the initial training seminars that were held in June 2005 and November 2007. Thus it was targeting the same participants who had already participated in the above mentioned seminars.

As was done for the November seminar, an invitation letter together with an official programme and a registration form were developed. Participants who had attended for the June 2005 seminar were contacted. However many of these participants could not be reached at all as most of them had moved from the original organisation. Next to be contacted were those participants who had attended the November seminar.

By the registration closing date, only thirty-one individual had applied to attend. This time round there were no selection criteria since those who were invited to attend were all past participants.

As explained earlier, the provision of venues and refreshment for this training was catered for by the Phoenicia Hotel who had entered into an agreement with NCPE to provide such service.

Carrying out the seminars

Ratio of participants

The 21 participants that were present during the Anti-Discrimination Follow up seminar held in February 2008 were representing eight NGOs and two trade Unions. The NGOs that were being represented were Caritas, European Network Against Racism (ENAR), Malta Federation of Organisation Persons with Disability, Mental Health Association, NCW (National Council of Women), Razzett tal-Hbiberija, Richmond Foundation and YWCA (Young Women Christian Association). While the Two trade Unions represented were the General Workers Unions and UHM (Union Haddiema Maghqudin). Members of staff from NCPE were also present during this seminar.

Thus out of twenty-one participants, 67% of the participants were representing NGO, 10% were representing Trade Unions and 23% were coming from an Equality Entity.

Process during the day

This time round, all the six trainers showed again that they were well prepared. The fact the all trainers had already worked together during the November seminar, had contributed to a better coordination of the training. The input of the international training was also very helpful and fruitful.

On the other hand participants were very eager to learn and to participate during each and every session. Nevertheless, still some of the participants were focusing only on the problems that exist within their own organization without realizing that similar NGOs which offer the same services might be facing similar problems.

According to the evaluation sheets that were filled by the participants at the end of this seminar, it was shown that the seminar content was well distributed throughout both days of the seminar. Having a good explanation of both race and employment directive during the first part of day, had helped the participants to gain a thorough knowledge of these legislations. This time round, since the participants had also been given a copy of both directives prior to the seminar, they were finding it easier to understand the session's explanation.

Evaluation of Seminar

On day one, participants were welcomed with a brief introduction from Ms. Sina Bugeja in which she explained that the scope of the seminar and the objectives to be achieved. This was followed by a presentation by Dr. Romina Bartolo where she explained the salient points emanating from the Employment Directive 2000/78/EC and the Race Directive 2000/43/EC and also pointed out the difference between the two. During this presentation, participants reacted positively and took active part in the discussion by asking pertinent questions regarding the particular field that they came from.

Ms. Sina Bugeja's presentation described how the 2002/73/EC Directive is linked to the Employment Directive and the Race Directive and pointed out the similarities that exist between the three of them. Ms Bugeja concluded her presentation by inviting participants to convene into smaller groups and discuss a set of questions related to what was presented during both presentations. After this group work the following issues were highlighted:

- Participants believe that the Employment Directive should be as comprehensive as the Race Directive, and this can be only brought about through education and networking of organisations in concern.
- Participants concluded that they can lobby government to widen the concept of the Employment Directive through media, word of mouth and developing a green paper.

Ms Therese Spiteri was the last trainer of the Friday session. During her session participants were asked to explore types of mechanisms that need to be developed in order to combat discrimination. At the end of the workshops the following was proposed; education on anti-discrimination at primary level, more media coverage, develop multi lingual information on the subject, make more use of EU funded projects and better networking between the existing NGOs and Trade unions.

The day session was concluded by a brief speech from the international trainer Ms. Maria Miguel Sierra who was present during both days of the seminar. During her speech she expressed her satisfaction for the local work that is already being carried out in relation to Anti-Discrimination and while she explained the way forward she encouraged every one to keep up the good work.

On the second day of the seminar, Dr. Roberta Calleja and Dr. Charmaine Grech challenged the seminar participants with various case studies that covered all the six grounds of discrimination. After each case study participants had the possibility to share with the whole group their own opinions. It was clearly evident that the participants' way of thinking while dealing with Anti Discrimination was improved and had matured.

This follow up seminar was concluded by Dr. Therese Comodini Cachia who presented an interactive session during which she went through all the relative principles that were discussed during the first and second seminar and asked the participants to apply such principles to a practical situation. This session was appreciated by everyone since participant had a final chance to clear out any questions or any problems.

Main lessons learned

- Participants discovered the important of networking between local NGOs and Trade Unions
- Learning together is not a threat but it is a way forward
- Participants showed that they had grasped a clearer understanding of the subject.
- Although the participants had practiced in applying the Anti-discrimination principles to factual situations they still need further training.

Photos Anti-discrimination seminars



Anti-Discrimination Seminar 16th and 17 November 2007
(Introductory session)



Anti-Discrimination Seminar 16th and 17 November 2007
(During one of the workshops)



Anti-Discrimination Seminar 16th and 17 November 2007
(Ms. Sina Bugeja giving her presentation)



Anti-Discrimination follow up seminar 15th and 16th February 2008
(Ms. Sina Bugeja, Ms. Maria Miguel Sierra and Dr. Romina Bartolo)



Anti-Discrimination follow up seminar 15th and 16th February 2008
(Dr. Charmaine Grech giving her presentation)



Anti-Discrimination follow-up seminar 15th and 16th February 2008
(During one of the workshops)

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

I. Profile of NGO's and Trade Unions working to combat discrimination

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

NGOs

It must be stated at the outset that there is no legislation regulating NGOs in Malta. A bill has been drafted and this is currently at the office of Attorney General for his review and comments. This draft has not been published. Although NGOs have been active in Malta for many years, there is no legal regulation of them and these are mainly run on a volunteer part-time basis by their members.

The principal NGOs in Malta are ground specific and in fact work towards combating discrimination in specific areas only. NGOs act very subjectively and independently of each other and it is therefore rather difficult to obtain objective information from the NGOs. Nonetheless, it must also be said that NGOs are increasingly aware that they need to fight discrimination on a common front, both as a result of EU anti-discrimination legislation and EU projects and programmes. There are various examples of this. The European Anti-Poverty Network (Malta) is a platform of organisations fighting poverty, social exclusion and discrimination which has a considerable list of members (*see ANNEX 2*). Partnerships are also being formed for the purpose of the management and coordination of EU financed projects as in the case of a recent submission, *Mosaic – one in diversity* which included various organisations fighting discrimination in its partnership. Finally, there is a small NGO named Integra Foundation which intends to fight all forms of discrimination together.

Disability

Most NGOs combating discrimination on the grounds of disability in Malta are impairment led and their primary area of concern is support, or service provision for the particular impairment (eg., Down syndrome, spina bifida, etc) they focus on. More recently, the Maltese Council of Disabled People (MCODP) was set up to combat discrimination on the basis of disability. The Council was set up in May 2003 and is the only cross-impairment group in Malta, made up entirely of disabled people.

Sexual Orientation

The Malta Gay Rights Movement (MGRM) is a socio-political, non-governmental organisation which has, as its central focus, the challenges and rights of the Maltese lesbian, gay, bisexual and transgender (LGBT) community. It aims to educate society with a view to challenge myths and common misconceptions about different sexual orientations; to identify, address and prevent acts of discrimination on the basis of sexual orientation; to act as a lobby group promoting legislative changes to achieve equality for gays and lesbians within society; to provide support services for gays, lesbians, their families and friends; to provide information on gay and lesbian issues; to set up and run an information centre for the general public on gay and lesbian issues and to ensure an active presence in society by networking with government and non-governmental organizations.

Age

The National Youth Council (NYC) is a voluntary non-governmental organization and a leading player and effective contributor to the civil society, more so to the young Maltese people. The mandate of the NYC is to effectively represent the interests of all young people through its member organizations. The NYC recognises the fact that there is a minority group of youths who for one reason or another are disadvantaged and are being underrepresented.

The aims of the National Youth Council include: to be a consultative body for the state on all issues relevant to young people and to youth organisations; to promote cross-sectoral youth policies; to influence effective youth policies both local and international; to increase the participation of young people and youth organisations in society as well as in the decision-making process and to promote the exchange of ideas and experiences, mutual understanding, and equal rights and opportunities among young people.

The Malta Council for the Elderly seeks to protect the elderly from discrimination on the ground of age and thus seek to address social exclusion and marginalisation. It also promotes the integration of the elderly in the world of work and other sectors of society in which they can provide a valid contribution.

Race

The Jesuit Refugee Service (JRS) Malta is the national branch of JRS International, a worldwide non-governmental organisation created by the Jesuits in 1980 to support forcibly displaced people who are forgotten or not assisted by others, a mission undertaken in over 50 countries.

UNIONS

The General Workers' Union is the largest trade union in Malta with a membership of 36,000 workers. It was officially founded on the 5 October 1943, which date is recognized and celebrated as Union Day. The Union's strength lies in its membership. Its representation is wide and reaches all sectors of the Maltese economy. It represents the interests of 55% of the total organized labour force which amounts to 67% - 70% of total labour force. It comprises 9 Trade Sections and 2 associations, and is active both on a national and international level. The GWU national secretaries work on any complaint related to discrimination on all grounds and free legal advice and assistance is provided to its member. The GWU has an Association for Disabled Workers, a Migrants' Committee and the Pensioners Section which deals with age discrimination and issues related to pensioners, as well as a Youth Section. The GWU is also a member of the MCWO and the NCW.

The UHM (Uniona Haddiema Magħqudin) was founded in 1966 and its objectives are to unite workers into one strong homogeneous body; to enhance the dignity of the worker and to improve his conditions of work as well as his economic and social standing; to gain proper representation on bodies where its presence would further the interests of its members; to achieve and maintain unity of purpose and action among members; to foster trade unionism among all workers and at all levels; to educate workers in those matters that affect them; and to ascertain a good standard of living for pensioners and those who retire from work.

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

MCOPD is concerned with combating discrimination against persons with disability. The Malta Gay Rights Movement (MGRM) has as its central focus the challenges and rights of the Maltese lesbian, gay, bisexual and transgender (LGBT) community. The National Youth Council seeks to promote greater equality and inclusion of youths in society and the Malta Council for the Elderly seeks to combat discrimination on the ground of age. The Jesuit Refugee Service fights against discrimination on the ground of race/ethnic origin. There is not as such a single organization that fights discrimination on the grounds of religion however, instead there are several organizations that are faith based which also seek to promote greater tolerance and acceptance of their faith.

All NGOs seem to stress the need of further education with regard to discrimination and conduct various campaigns and public events to disseminate information and tackle discrimination.

UNIONS

The UHM is concerned with all grounds of discrimination in so far as these effect employment of these persons.

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

NGOs

Anti-discrimination is the main area of work of these NGOs. They are principally engaged in awareness raising and support services for people who have been discriminated against on the ground on which such NGOs are focused.

UNIONS

GWU works on all areas related to employment as well as anti-discrimination. The UHM does work on anti-discrimination but it is not the only area in which it works since the Union also negotiates collective agreements and represents workers in the industrial tribunal among other things. Not all cases put forward by members concern discrimination.

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

NGOs

As stated above, there is no legislation yet in force in Malta to regulate NGOs. Consequently, there is no national register of NGOs. NGOs in Malta have been appealing to government to enact the necessary legislation which would provide for their registration and monitoring via a national inspectorate of NGOs. To this effect, a draft document has been prepared for consultation purposes.

UNIONS

Both GWU and UHM are registered according to law with the Registry of Trade Unions. As long as a trade union satisfies the criteria laid down by law, then it is not problematic to register as a trade union.

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

NGOs

As there is no register of NGOs there is no reliable data on the number of members of NGOs in Malta. In general, however, it may be said that in membership in Maltese NGOs can vary from less than five to over 300 members.

UNIONS

The GWU represents the interests of 36,000 workers which amount to 055% of the total organized labour force which amounts to 67% - 70% of total labour force.

The UHM has over 26,000 persons registered as members.

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

NGOs

Eighteen out of the over seventy disability NGOs are members of the Malta Federation of Organisations Persons with Disability. The rest work on their own. The Maltese Council of Disabled People is not a member of this Federation. The only other major network is the European Anti-Poverty Network (EAPN - Malta) which brings together various organisations fighting social exclusion and discrimination. All the other NGOs tend to work on their own other than in specific projects as mentioned above.

UNIONS

The GWU is affiliated to the European Trade Union Confederation (ETUC) and various European Sectorial Federations, as well as the International Confederation of Trade Unions (ITUC). The UHM forms part of the Confederation of Malta Trade Unions and it is the largest union within the Confederation.

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

NGOs

The NGOs in Malta are spread around the Maltese islands but mostly concentrated around the more densely populated harbour area conurbation. This is so particularly due to the small size of the country (27 kms x 14.5 kms).

UNIONS

The GWU has its headquarters in Valletta and another office in Gozo. The UHM is not based in the Capital but very close to the capital in Floriana although it also has an office in Gozo.

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

N/A – see above.

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

NGOs

The weight of NGOs at national level varies, however it is usually not very strong since NGO activity is mainly on voluntary basis.

UNIONS

The unions in Malta have a strong political and societal weight. In fact they are represented on various Boards constituted by Government, such as the Employment Relations Board which discusses issues related to employment, the Board of Directors of the Employment and Training Corporation and the Malta Council for Economic and Social Development which is a tripartite council composed of social partners.

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?**

NGOs

Sometimes the different NGOs work together but not very often. Usually this happens when there is a real, or perceived, threat on a particular matter; or when trying to create awareness (e.g. in December, 2004 there was a conference where people from the different NGOs recounted their various experiences on how they were being discriminated against.)

However, what resulted from the national seminar organised under the European project “Mapping capacity of civil society dealing with anti-discrimination in the 10 new member states, Romania, Bulgaria and Turkey” by hec and MPG, which took place on the 18th and 19th June 2005, was that many NGOs agreed that it would be extremely helpful if NGOs were to establish dialogue between themselves as well as with the authorities in order for there to be a better exchange of information and in order to facilitate assistance.

NGOs also noted that the existent lack of networking is a difficulty which needs to be overcome due to the many positive aspects of networking. Therefore, most NGOs seem to be overcoming the fear they had of networking, even though this process is still at its early stages and only time will prove if this is really the case.

Issues which are common to particular trade unions and NGOs are sometimes dealt with together with the NGOs concerned usually for seminars and meetings.

UNIONS

The GWU has in fact worked with NGOs on several occasions.

11. How are these NGOs funded?

a. Do they receive state funding?

In view of the fact that no NGO in Malta currently has legal status, most Non-Governmental Organisations face financial difficulties.

As there is no legal framework regulating NGOs and their registration in Malta, difficulties are encountered when they try to apply for EU funds. In fact they cannot provide official evidence that they are legally registered and in some instances they get a letter confirming their existence from the relevant authorities in Malta.

In applications for EU funding, insistence is made that each applicant indicate its registration number and whether the organisation has a legal status. Some applications submitted to the EU for funding have been turned down because the organisations were not able to provide a registration number. Most of the organisations have to wait for the enactment of an NGO law in order for them to be in a better position to apply for EU funding. During 2006 however, a number of NGOs have been able to submit project proposals with regard to funding that is being made available for the celebration of the Year of Equal Opportunities and also with regard to ESF Funding. Funding for the period 2007-2013 should also be available for NGOs. Their major difficulty with regard to such funding remains co-funding since the vast majority depend entirely on fund-raising.

With the launch of the European Social Fund's EQUAL Community Initiative, on the 18th October, 2004, interested prospective Partnerships, including NGOs, were given the chance to submit their application forms (prior to the 18th November, 2004) to the Ministry's ESF Unit in order to qualify for the ESF co-finance available for the selected project. Most NGOs however did not apply for such funding since they were not made aware that they were meant to submit their applications before that date. A few NGOs which offer services are funded through government grant, but only for services rendered.

Also, Maltese NGOs that are registered for VAT are also encountering difficulties since the VAT department is refusing to apply refunds when NGOs carry out campaigns using EU funds. They are not able to claim VAT back if they do not carry out an economic activity and since their activities are clearly not economic, they lose their right to such refunds. NGOs cannot even benefit from bank guarantees.

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

Public funding in Malta is mainly awarded to NGOs that provide welfare services, namely with regard to disability and drug addiction as per the NAP. NGOs working against discrimination may apply for funding for specific projects. However the funding available is not much especially because there are usually a lot of applications.

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

Private funding is limited since such funding is only made available by a handful of the major private organisations which tend to sponsor mainstream projects and events.

d. Do private funders impose any restrictions or conditions?

Restrictions and conditions may apply. Most often such funding is made available for very specific events or tasks.

12. How are these trade unions funded?

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

Generally speaking, trade unions do not receive state funding. Trade Unions however, receive a sum of money in co-financing from Government for projects related to EU affairs. This funding is available through the Civil Society Fund of Forum Malta fl-Ewropa.

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

Trade unions do not receive funding from political parties.

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

The main source of funding of trade unions is from membership fees.

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

See reply to question 12.a.

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?

NGOs

Funding does not directly impact on size although it does, in most instances, impact on the scope and scale of activities. Should NGOs be adequately funded then they could have adequate staff complement and be in a position to organise their activities in a more professional manner.

UNIONS

The larger the trade union, the more funds there are since there are more membership fees but with a creative mind you can do a lot with little. However, funding helps to organise more activities in order to reach out to more persons.

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

a. Neighbouring countries?

NGOs

In general NGOs work on their own. However, the main NGOs do work or are in contact with NGOs in other countries particularly through their international affiliations.

b. Other new EU Member States?

NGOs

The Malta Gay Rights Movement networks with other organisations and entities on an international level, and has attended various international conferences and seminars. With regards to the Malta Council for the Elderly, this is affiliated to AGE, the European Older People's Platform, whereas the National Youth Council is a member of the European Youth Forum.

UNIONS

GWU's European and International affiliations as well as participation in EU funded projects helps to facilitate this contact and cooperation. The UHM is affiliated to the Eurofedop and is the largest trade union within the CMTU which is in turn affiliated to the ETUC and WCL.

c. Others?

NGOs

The Jesuit Refugee Service is the Malta branch of JRS International, a worldwide NGO created by the Jesuits in 1980.

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

NGOs

Maltese NGOs are active on the national level and while some international work may be undertaken this would certainly be sporadic and project based rather than strategic.

UNIONS

GWU works at the international and European level by being active through the International and European federations, social dialogue meetings, representation on ECOSOC and Eiro Foundation. UHM work at international level through their affiliations.

16. Can they work in English?

Yes. English is an official language in Malta and is spoken by the great majority of the population.

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?

No trade unions in Malta are affiliated to political parties.

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

There are no regional branches of trade unions in Malta.

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

19. What kind of work do they do?

NGOs

As stated above Maltese NGOs are mainly engaged in awareness raising and in lobbying with the authorities. However some NGOs also offer counselling services to victims of discrimination.

UNIONS

Mainly awareness raising and representing workers at tribunal level in cases of breach of discrimination.

20. Do they take up complaints of discrimination?

NGOs

There have been some instances where complaints of discrimination have been taken up with local entities/authorities. However, no specific information is available.

UNIONS

As stated above, the unions deal with all kinds of work related to employment. They lobby with authorities on matters of anti-discrimination and also involve themselves in projects related to such.

21. Do they focus on their own community?

NGOs

As they are ground specific, they focus on their own community only.

UNIONS

No, as long as the complaint is related to employment then they offer their full services.

22. Do they work with victims directly?

NGOs

The main NGOs do provide assistance, principally counselling, to victims of discrimination who turn to them for assistance.

UNIONS

Yes. However, sometimes trade unions have to represent also persons accused of committing discriminatory treatment – mainly those who are their members and accused of committing sexual harassment.

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

As long as the trade union has what is known as recognition (i.e. 50% + 1 of workers are members) it conducts collective bargaining on behalf of all employees. However, the trade union cannot represent a worker who is not a member on any individual complaint.

24. Do they do ‘case work’?

NGOs

Certain NGOs in Malta do assist victims of discrimination by taking up their cases with the relevant authorities/entities in Malta.

UNIONS – Yes

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

NGOs

There are limited funds that are periodically made available. Additionally, NGOs can accede to ESF and other funding if they can provide for the co-financing funds needed for their projects.

UNIONS – No

26. Does this include legal representation?

In terms of Maltese law, in principle it is not possible for a person to bring an action on behalf of another, unless the former can prove that he has a legitimate interest in the action. To date no judicial action has been brought by an association or other entity on behalf of a person complaining that s/he has been subjected to discriminatory treatment on the grounds mentioned in the Directives. With regards to administrative procedures, there is nothing at law that prohibits an association or other entity from intervening with the administrative authorities on behalf of a person complaining that he has been subjected to discriminatory treatment.

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

See reply to question 26 above.

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

No, class action does not appear to be possible in Malta.

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

NGOs

As stated above, certain NGOs, such as the Malta Gay Rights Movement and the Jesuit Refugee Service do assist victims of discrimination, principally by counselling. As most members of such NGOs are volunteers, such NGOs mostly depend on volunteer work. Furthermore, the financial constraints of such NGOs hinder the extent of their assistance to the victims.

UNIONS

Sometimes victims decide not to pursue a complaint but decide to get a transfer from their workplace which the trade union helps to carry out.

30. Do they advocate changes in legislation and policies?

NGOs

This is sometimes done. For example, the Malta Gay Rights Movement lobbied with the Maltese government in connection with the transposition of EU Council Directive 2000/78/EC so that explicit reference be made to sexual orientation discrimination in the Employment and Industrial Relations Act and the legal notices issued thereunder.

UNIONS

Yes. Trade Unions lobby for changes to the labour laws especially.

31. What are their relations with the central government?

The relations of trade unions and NGOs with the government are cordial.

32. With regional governments or municipalities?

Due to the small size of the country, this is not really applicable. However, relations with local councils are good for both the trade unions and NGOs.

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

Relations with employers organisations are good.

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

NGOs

As there is no specialised body on discrimination as yet, they deal with the ombudsman when required. The *Mosaic Project* mentioned above brings together a good representation of the NGOs working in the field and the National Commission for the Promotion of Equality. This project will tackle multi-ground and ground specific discrimination on all six areas of non-discrimination identified by the EU. In any case, it shows that the relationship between the NCPE and the respective NGOs is good and based on mutual trust.

UNIONS

The trade unions have good relations with the National Commission for Equality and also with the National Commission Persons with Disability, (i.e. the the bodies working at national level).

35. What are the qualifications of the staff?

NGOs

Most NGOs are run by volunteers on a part-time basis. Therefore it depends on the qualifications of the volunteers. However, some of the larger NGOs engage the service of professionals, such as, physio-, speech-, occupational-therapists, counsellors etc.

UNIONS

National secretaries vary as regards qualifications however most of the support staff of trade unions are qualified with a university degree. Staff is mainly qualified on industrial relations.

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

NGOs

It appears that to date no such training has been given other than the training provided through the Mapping project during 2005. With regards to staff members of the National Commission for Persons with a Disability working on anti-discrimination, have benefited from a brief placement with the British Disability Rights Commission. Even though the National Commission for Persons with a Disability is not an NGO, it works closely with the Malta Council for Disabled People.

UNIONS

The GWU staff have participated in informal training related to anti-discrimination. The shop stewards also attend seminars and lectures on various topical issues related to current issues in Malta, amongst which discrimination and equality are one of the topics. Training is given through seminars organised both at national and at European level. The UHM has also participated in a Youth project regarding gender where training was given to young men and women.

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

NGOs

No formal training is available and it is therefore dependant on the training which the volunteers have due to their employment.

UNIONS

The international department of the GWU is training in writing funding proposals and reporting. With regard to UHM, training is organised by the ETUC and sometimes also at national level

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

NGOs and trade unions evaluate success subjectively - there are no established criteria.

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?

Please refer to answer to Q. 40 below

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

NGOs

Yes, as explained above, since NGOs do not have legal status and are not registered they have problems getting funds. Also, funding is a problem since fundraising is difficult given the fact that the general public is more likely to donate funds for a specific matter, rather than for ‘anti-discrimination’, which is deemed to be a vague term. The problem of not enough or any staff is shared by all NGOs due to the fact that the staff is mostly voluntary in certain cases, more often than not this results in lack of staff, which raises more difficulties for the NGOs to function properly.. Expertise varies from one organisation to the other mainly depending on the expertise and links/contacts of individual members.

UNIONS

Due to the large amount of work involved in a trade union, more often than not the attitude is one of crisis management. (i.e. they deal with an issue however they do not do much awareness raising due to lack of resources). If funding were to be provided, it would allow for a person/s to work specifically on issues of discrimination. As things stand, issues of discrimination are treated together with others.

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

NGOs

Yes this seems to be one of the main problems.

UNIONS

This could be the case with some of the staff but there is staff who have the necessary knowledge and skills.

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

NGOs

They would require more administrative skills in the efficient running of an NGO as well as a sounder background in legal and human rights matters. Sound knowledge of project proposal development is another skill that would significantly help NGOs.

UNIONS

Usually, there are persons trained on these issues but having someone dealing specifically with these issues would be beneficial.

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

NGOs - No.

UNIONS - Yes.

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

NGOs - No.

UNIONS - Yes.

45. Are their staff trained in relation to advising government: formulating policy proposals? legislative proposals?

No such training is available on this.

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

Yes more needs to be done, in particular by improving their credibility with the general public.

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

NGOs and trade unions feel that given their current resources, both human and financial, they are doing “their best” for their clients or potential clients. However it is felt that with appropriate resources much more could be done.

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

NGOs - Yes, most definitely.

UNIONS – No.

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

No, as they already work a lot in this sense.

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

NGOs

Although certain awareness raising has been done, a lot more has to be done for this to be really effective. When running a campaign they get some media exposure but this is soon “forgotten”. Much more awareness raising needs to be done.

UNIONS

They do this through radio, televisions and other forms of media but still there is always more that can be done.

51. What would they need to develop?

NGOs

As stated several times above, lack of financial and human resources and the lack of a regulated environment for NGOs are major issues. Should these occur, these NGOs would definitely develop further.

UNIONS

Availability of funds would make campaigning easy.

ANNEX 1

List of Abbreviations:

CMTU	Confederation of Malta Trade Unions
EAPN	European Anti-Poverty Network
ECOSOC	Economic & Social Council
ESF	European Social Fund
ETUC	European Trade Union Confederation
EU	European Union
GWU	General Workers Union
ITUC	International Confederation of Trade Unions
JRS	Jesuit Refugee Service
LGBT	Lesbians, Gays, Bisexual and Transgender
MCWO	Malta Confederation of Women's Organisations
MCODP	Maltese Council of Disabled People
MGRM	Malta Gay Rights Movement
NCPE	National Commission for the Promotion of Equality
NCW	National Council of Women
NGO	Non-Governmental Organisation
NYC	National Youth Council
UHM	Union Haddiema Magħquda
VAT	Value Added Tax
WCL	World Confederation of Labour

ANNEX 2

European Anti-Poverty Network (EAPN) members list:

AD/HD Family Support Group
Arka Foundation
Association of Men's Rights (Malta)
Caritas Malta
Dar L-Emigrant
Dar Merħba Bik
Dar Qalb ta' Ģesù - Second Stage shelter
Dar it-Tama
Deaf People Association
DISCERN
Disabled by Accident
Down Syndrome Association Malta
Eden Foundation
'Ejjew Għandi' Children's Homes
Foundation for Respite Care Services
Fondazzjoni Nazzareth
Fondazzjoni Wens
Id-Dar Tal-Providenza
Integra Foundation
Jesuit Faith and Justice Centre
Jesuit Refugee Service
Kumitat Problemi tal-Qalb
Kummissjoni Hidma ghall-Morda u Persuni B'Diżabilità
Malta Confederation of Women's Organisations
Malta Council of Disabled Persons
Malta Federation of Organisations of Persons with Disability
Malta Gay Rights Movement
Malta Resource Centre for Civil Society NGOs
Malta Society of the Blind
Maltese Association of Social Workers
Mental Health Association
Movement in Favour of Rights of Person with Disability
Moviment Era Ġdida
National Council for the Elderly
National Parents' Society for Persons with Disability
OASI Foundation
Paulo Freire Institute
Richmond Foundation
Saint Jeanne Antide Welfare Campaign
Social Action Movement
Social Assistance Secretariat - Catholic Action Movement
SOS Malta
Step by Step Foundation
Tobit Foundation
YMCA Valletta
Żgħażagħ Haddiem Nsara

c) National legislation in the field of anti-discrimination

1. The Transposition of the Directives into National Law

Malta has introduced a number of specific legislative acts to implement Council Directives 2000/43/EC¹ and 2000/78/EC². In particular, Malta introduced the *Employment and Industrial Relations Act*³ which provides a non-exhaustive list of grounds of non-discrimination in its definition of discriminatory treatment as meaning “any distinction, exclusion or restriction which is not justifiable in a democratic society including discrimination made on the basis of marital status, pregnancy or potential pregnancy, sex, colour, disability, religious conviction, political opinion or membership in a trade union or in an employers’ association.” The *Equal Treatment in Employment Regulations*⁴ augmented protection against discrimination on the grounds of religion or religious belief, disability, age, sexual orientation, and racial or ethnic origin in the field of private sector employment by providing protection from direct and indirect discrimination, harassment, and instructions to discriminate. It also provided for the reversal of the burden of proof and gave associations, organizations or other legal entities having a legitimate interest in a case/s to participate in these proceedings either on behalf of or in support of the complainant. More recently, the coming into force of *Extension of Applicability to Service with Government (Equal Treatment in Employment) Regulations*⁵ extended the protection afforded in the previous Regulations to employees of the public sector, while *Equal Treatment in Self-Employment and Occupation Order*⁶ further extended the protections to cover persons in self-employment and occupation from discrimination.

Furthermore, the *Equal Treatment of Persons Order*⁷ catered for the implementation of the provisions not related to employment and training that emanate from Council Directive 2000/43/EC. This Order in fact, provides protection on the grounds of racial and ethnic origin with regard to social protection, including social security and healthcare; social advantages; education; access to and supply of goods and services which are available to the public, including housing; and access to any other service as may be designated by law. This *Order* also indicates the National Commission for the Promotion of Equality⁸ as the body that is designated to receive and process complaints on the grounds of racial and ethnic origin in addition to the grounds previously covered.

Prior to the implementation of the Directives, the *Persons with Disability (Employment) Act*⁹ had established legal provisions with regard to the setting up of a national register for persons with disability, and the setting up of a quota system for the employment of persons with disability. The *Equal Opportunities (Persons with Disability) Act*¹⁰ had then prohibited discrimination in employment, education, access to premises, provision of goods, facilities or services. This Act officially set up the National Commission for Persons with Disability¹¹ and its various structures. The *Procedure for the Investigation of Complaints Regulations*¹² outlines the procedures and timeframes to be adopted when the Commission carries out its investigations.

¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

² Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

³ Laws of Malta Ch 452

⁴ Legal Notice 461 of 2004

⁵ Legal Notice 54 of 2007

⁶ Legal Notice 86 of 2007

⁷ Legal Notice 85 of 2007

⁸ The National Commission for the Promotion of Equality (NCPE) was set up in 2004 by Equality for Men and Women Act (Laws of Malta Ch 456).

⁹ Laws of Malta Ch 210

¹⁰ Laws of Malta Ch 413

¹¹ The National Commission for Persons with Disability (KNPD) was established in 1987.

¹² Legal Notice 13 of 2001

Reference to the principle of equal treatment is also found in the *Constitution of Malta*, the *European Convention Act*¹³ and the *Criminal Code*¹⁴. The principles of equality of treatment and non-discrimination under Article 45 of the *Constitution of Malta* relate to the protection from discrimination on the basis of race, place of origin, political opinions, colour, creed or sex. This provision also provides that no law shall make any provision that is discriminatory either of itself or in its effect. The *Constitution of Malta* does not make specific mention of the words ethnic origin in Article 45. Despite this it is to be expected that with the use of the concepts of race, place of origin, colour and creed and since the domestic courts have given a wide interpretation to these concepts, one could still obtain a remedy under this provision. Furthermore, it must also be brought to attention that through the *European Convention Act* the protection given under the European Convention for the protection of human rights and fundamental freedoms is rendered justiciable before the domestic courts. Consequently one may also find protection within the domestic judicial system under the European Convention.

Background Information about the Process of Implementation

During the implementation process, the full implementation of the Council Directive 2000/78/EC in national legislation was queried on a number of occasions through parliamentary questions (mainly asked by an Opposition MP to the Minister during the period December 2003 – March 2004). In his questions the Opposition MP had focused on the implementation of the Directive with regard to the sharing of the burden of proof, the rights of same-sex couples to equal treatment as different sex couples and the recognition of cohabitating couples. No questions with regard to the implementation of Council Directive 2000/43/EC were ever made at that time. Instead, the inadequate implementation of Directive 2000/43/EC was raised on the agenda of the Permanent Committee on European and Foreign Affairs during February-March 2007 with regard to the *Communication from the Commission to the Council and the European Parliament on the Application of Directive 2000/43/EC of 29 June 2000 implementing the Principle of Equal Treatment between Persons irrespective of Racial or Ethnic Origin (COM (2006) 643 Final)*.

Other than these Parliamentary discussions, little public discussion has taken place as the introduction of the various Legal Notices did not gather much media attention. In addition there were no high-profile discrimination cases that were adjudicated in the Industrial Tribunal either. As a result, public awareness of these two Directives and their implications remain rather limited. It is to be said however, that some NGOs tend to be relatively more aware than others of the provisions of the Directives and there have been cases when they have lobbied the National Government, the EU Commission and their European umbrella organisation to put pressure on the government to comply with certain provisions.

It is notable that while Maltese Law in most cases tends to implement the minimum standards laid down in the Directives, without providing further and going beyond what is stated in the Directives, these Directives have nonetheless managed to introduce a number of very important concepts in Maltese Law, and have therefore enhanced the scope of local employment and industrial relations legislation. Furthermore, the Directives introduced express protection on the grounds of age, sexual orientation and ethnic origin for the first time in local legislation and are thus helping to raise awareness to certain aspects of discrimination that were previously neglected. One could also argue that since the employment and training provisions of the Directives were implemented in subsidiary legislation to the *Employment and Industrial Relations Act*, the grounds listed in the main Act and the Legal Notices apply for both, and thus Malta has extended protection against the form of discrimination treated in the Directives to a significant number of other grounds as well.

¹³ Laws of Malta Ch 319

¹⁴ Laws of Malta Ch 9

Grounds of Non-Discrimination covered in National Legislation

The grounds of discrimination or discriminatory treatment that are found under the Maltese legal instruments are:

- a) *Constitution of Malta* - race, place of origin, political opinions, colour, creed or sex. It is to be noted that there is no definition of the terms “race” and “colour” under the Maltese Constitution;
- b) *European Convention Act* - any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
- c) *Employment and Industrial Relations Act*, the Legal Notices issued there under, and *Equal Treatment in Self-Employment and Occupation Order* - marital status, pregnancy or potential pregnancy, sex, colour, disability, religious conviction, political opinion, membership in a trade union or in an employers’ association, racial or ethnic origin, age and sexual orientation;
- d) *Equal Opportunities (Persons with Disability) Act*, - disability on the basis of physical and/or mental impairment.
- e) *Equal Treatment of Persons Order* – racial and ethnic origin

Council Directive 2000/43/EC and Council Directive 2000/78/EC prohibit discrimination on the basis of religion or belief, disability, age, sexual orientation, race or ethnic origin. It may therefore be noted that Maltese law provides for marital status, pregnancy or potential pregnancy, sex, political opinion, membership in a trade union or in an employers’ association as grounds of discrimination, besides those mentioned in the Directives, and may be open to additional grounds in line with judgements by the European Court on Human Rights and the case-law of the Industrial Tribunal.

Furthermore, The National Commission for Persons with Disability has existed for the past 20 years and national legislation protecting against discrimination on this ground goes much further than the minimum criteria laid out in the Directives. The extension of the remit of the National Commission for the Promotion of Equality to cover racial and ethnic origin during April 2007 has also brought Malta in line in this area with Article 13 of Council Directive 2000/43/EC.

Research Results and Reports Published with regard to Discrimination

It must be noted, that the studies that have treated discrimination in any of its forms over the years have been sporadic and most often as part of wider studies regarding specific issues and area. The treatment of discrimination as an area that merits investigation *per se* is a recent development in Malta. The accent placed by the European Social Fund and other EU funding sources on research in the social sphere has had many benefits in this area and has fomented the creation of greater awareness to the need of further research. There are various examples of these initiatives, amongst which the specific research on all grounds of non-discrimination which shall be undertaken as part of the National Implementing Body’s actions during The Year of Equal Opportunities.

To date, however, the recent Eurobarometer’s investigation of the levels of discrimination in Europe (including Malta), is perhaps the only published study that fully covers all grounds of non-discrimination. Other works include the publication of the document entitled *Anti-Discrimination, Inclusion and Equality in Malta* during 2005 that was coordinated by the European Documentation and Research Centre (University of Malta) in which publication various NGOs wrote papers regarding the state of affairs with regard to their interest group/s. Other specific reporting includes report compilation in line with Malta’s obligations such as the RAXEN reports which are compiled by the Centre for Faith and Justice for the EUMC.

As a result of the little research that has so far been conducted in this area, there is no clear indication on whether there are any other grounds on which discrimination is commonplace.

However, it appears that the main concern of the various NGOs working in the field of non-discrimination most often relate to what they claim to be inadequate protection or provision of services to their interest group/s rather than a group/s that are denied legal recognition. Despite this concern, it is however curious to note that proceedings before the domestic courts claiming discrimination are rather rare and there has only been one such case instituted against Malta before the European Court of Human Rights, which dealt solely with gender discrimination.¹⁵

On a different note, the reports that Malta submits to human rights committees are not usually publicised.

2. Procedures – Administrative and Legal Channels Appropriate for Challenging Violations of Anti-Discrimination Legislation

2.A Employment and Occupation – all grounds

Remedies that Exist at National Level

Maltese legislation provides various procedures that one may follow should s/he feel that s/he has been subjected to discriminatory treatment. Apart from recourse to action before the Civil Court, First Hall, sitting in its Constitutional jurisdiction and before the Constitutional Court, there exist other specific fora and other procedures that can be followed. These include:

- a) The Industrial Tribunal, established under Article 73 of the *Employment and Industrial Relations Act*. Article 30 of the Act provides that if a person alleges that his employer is, or that the conditions of employment are, in breach of Articles 26 to 29, s/he may lodge a complaint to the Industrial Tribunal as described in more detail above.
- b) The National Commission, Persons with Disability, established under Article 21 of the *Equal Opportunities (Persons with a Disability) Act*. Amongst the various functions of the Commission, one finds the power to carrying out general investigations with a view to determining whether the provisions of the Act are being complied with; the investigation of complaints as may be made to them regarding a failure to comply with any provision of the Act; the provision of assistance, including legal and financial assistance, to persons with disabilities in enforcing their rights under the Act; and the keeping under review the working of the Act. The Equal Opportunities Compliance Unit within the Commission is responsible for investigating allegations of discriminations in the basis of disability.
- c) The function of the National Commission for the Promotion of Equality are established under Article 11 of the *Equality for Men and Women Act*. Amongst these functions one finds the carrying out of general investigations with a view to determine whether the provisions of the Act are being complied with; the investigation of complaints of a more particular or individual character to determine whether the provisions of this Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints; to inquire into and advise or make determinations on any matter relating to equality between men and women as may be referred to it by the Minister; and the provision of assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under this Act; Through Article 10(2) of the *Equal Treatment of Persons Order*, the above functions have extended, and apply *mutatis mutandis*, to include the ground of racial or ethnic origin.
- d) The Public Service Commission, set up in terms of Article 109 of the *Constitution of Malta*. The PSC has a duty to ensure that recruitment into and all promotions or appointments within the public service are made in an equitable and impartial manner; are free from patronage and discrimination and are based on the principle of merit. It is also the duty of the Commission to ensure that disciplinary action against public officers is fair, prompt and effective,

¹⁵ Zarb Adami v. Malta, European Court of Human Rights, 20th June 2006

- e) The Ombudsman, appointed in accordance with Article 3 of the *Ombudsman Act*.¹⁶ In accordance with this Act, should a person feel that s/he has been subjected to discriminatory treatment at the hands of the Government of Malta, any statutory body or partnership in which the Government or said body has effective control as well as at the hands of any local council and their committees including officers and staff members, such person can also request the Ombudsman to investigate this matter in terms of the *Ombudsman Act*.
- f) The Broadcasting Authority, established in terms of Article 118 of the *Constitution of Malta*. The Broadcasting Authority is to ensure that in the provision of broadcasting services impartiality is preserved in respect of matters of political or industrial controversy or relating to current public policy and that broadcasting facilities and time are fairly apportioned between persons belonging to different political parties.
- g) The Employment Commission, which is established under Article 120 of the *Constitution of Malta*,
The function of this Commission to ensure that, in respect of employment, no distinction, exclusion or preference that is not justifiable in a democratic society is made or given in favour or against any person by reason of his political opinions.
- h) Also there are a number of trade unions in Malta which protect the rights of the employees.
- i) With respect to the protection of the rights of the employers, one finds the Malta Employer's Association and the General Retailers and Traders Union.

All the above remedies, unless otherwise stated, apply equally to both the public and private sectors.

Applicable Situations

The provisions referred to in the section above are applicable to: (a) advertising of posts, (b) recruitment procedures, (c) selection, (d) terms and conditions, (e) pay, (f) discrimination in the workplace, (g) sexual harassment, (h) working hours, (i) suspect groups e.g. part time workers, (j) promotion, (k) allowances and bonus payments, (l) dismissal, (m) occupational pensions, (n) access to vocational training, and (o) reasonable accommodation.

Internal or Administrative Remedies

Regulation 9 of *Legal Notice 461 of 2004* states that the person making the allegation, shall have the right to send a written notification to the employer or any person or organisation to whom these regulations apply, of the alleged discriminatory treatment received, giving any relevant details and requesting a reply. On receipt of such notification, the respondent shall submit a written reply within ten working days of the date of receipt of such notification, giving the respondent's version of events and any grounds for disputing the allegations, as well an explanation of any relevant procedures adopted by the respondent to prevent discriminatory treatment. This, however, shall not apply if proceedings had already been initiated on the matter in front of the Industrial Tribunal or other Court. The Director of the Department for Industrial and Employment Relations can also act as a mediator.

Article 75 (2) of the *Employment and Industrial Relations Act*, also permits action to be taken on behalf of a person who is the subject of alleged discriminatory treatment. This provides that where it is alleged that a worker has been unfairly dismissed by an employer, or where there is an alleged breach of any obligation under Title I of the Act (thus including discriminatory treatment) or any regulations prescribed there under, the matter shall be referred to the Industrial Tribunal for a decision by means of a referral in writing made by the worker alleging the breach, or by some other person acting in the name and on behalf of such worker.

¹⁶ Laws of Malta Ch. 385

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

Maltese legislation does not apply to discrimination on the ground of race and ethnic origin in the non-employment field in the same way as it does in the employment field. In fact, a clear separation has been made in the implementation of the employment related provisions and the rest of the areas provided for in Council Directive 2000/43/EC as highlighted in Section 1 of this report.

The bodies that were designated to provide a remedy with regard to the employment provision and the other areas are the Industrial Tribunal and the National Commission for the Promotion of Equality respectively. Further to these remedies, a complaint presented before the Ombudsman may relate to any area as long as the action being investigated is one carried out by a Public Authority.

An individual may seek redress for discriminatory treatment on the basis of race and ethnic origin both under the *Constitution* and under the *European Convention*. This would require the individual to institute proceedings before the First Hall of the Civil Court, in its constitutional jurisdiction with an appeal before the Constitutional Court. Of course such proceedings may only review an action of a public authority or a person acting in some public function and cannot review an action carried out by a private individual, except to the extent that the European Court has applied positive obligations on the Member States.

The procedure of judicial review may also be attempted before the ordinary courts in so far as this may be argued to be in violation of the human rights protected by the *Constitution* or the *European Convention*.

The offence of harassment or causing others to fear that violence will be used against them established under Sections 251A and B are considered to be aggravated if these are religiously or racially motivated. It seems that for such a prosecution to take place the complaint of the victim is required. However once a complaint is presented, although the victim may participate as a party to the proceedings, the prosecution is carried out by a public prosecutor.

Besides the recognition of crimes against humanity and war crimes carried out against persons of different racial or ethnic origin, a number of provisions inserted in the *Criminal Code* have criminalised a variety of actions related to discriminatory treatment practiced not only by public officers but also by private persons. Section 139A established the crime of affecting torture, degrading or humiliating treatment or punishment for reasons based on discrimination. There are no qualifications as to the grounds of discrimination and therefore this would also apply to discriminatory treatment in relation to race or ethnic origin, however this crime refers to actions imposed by a public officer or a person acting in official capacity.

Section 82A provides for the crime of racial incitement committed by any person, whether a public officer or a private individual. The action used may be “any threatening, abusive or insulting words or behaviour, or displays any written or printed material which is threatening, abusive or insulting, or otherwise conducts himself in such a manner,” as long as there is the intention to stir up racial hatred.

In regulating the punishment due for crimes committed against a person, and therefore crimes that include injury to a person, the *Criminal Code* has introduced an increase in punishment if the act is religiously or racially aggravated and that is if the offence is motivated by hostility towards a race or if the offender demonstrates hostility towards a victim because the later is a member of a different race or religion.¹⁷

¹⁷ Laws of Malta, Ch 9, Section 222A

The prosecution of these offences is done always through the public prosecutor, that is representatives of the Police or the Attorney General's office, and do not require the complaint of the victim for their institution. Despite this, the victim may seek authorization to participate in the proceedings as an interested party.

The other remedy that was instituted in compliance with Dir 2000/43/EC and that is available is the presentation of a complaint to the National Commission for the Promotion of Equality in line with the procedures outlined in the *Equal Treatment of Persons Order*. During such proceedings, the burden of proof is reversed. Should the Commission establish that a case of discrimination has actually taken place, it may refer the case to the police or take the case to Court along with a report of the facts that it establishes. Alternatively, one (or any association, organisation or other legal entity having a legitimate interest) may seek redress in front of a competent court. This remedy applies to the following situations:

- a) social protection, including social security and healthcare,
- b) social advantages,
- c) education,
- d) access to and supply of goods and services which are available to the public, including housing, and
- e) access to any other service as may be designated by law for the purposes of the *Equal Treatment of Persons Order*.

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

When a complaint is put forward to a trade union, the latter discusses all the available avenues with the complainant, and usually the complainant is advised to consult a legal adviser. Most trade unions have their own legal advisor and they offer his/her services for free to their members. Trade unions also assist their members for free, should they decide to take their case to the Industrial Tribunal.

A complainant could also refer to the Equality Commissions. Oftentimes, it is noted that the complainant seeks justice as the principle objective of his/her complaint and on some occasions also compensation for damages. In the case that the person simply wants to raise awareness, s/he normally does not put forward a complaint but would want to remain anonymous, while at the same time recounting his/her experience of discrimination.

Importantly, it is to be noted that the time limits applicable for the presentation of a complaint vary from one remedial procedure to the other. Nonetheless the trade unions help complainants to comply with such time-limits. Furthermore, the urgency of resolution often depends on the facts of the individual cases and the evidence that may need to be considered. Evidence in such cases includes witnesses. Once a conclusion is reached, appeals can only be made on point of law.

The Union can provide legal assistance which expenses are catered for by the same trade union. Alternatively, legal advise may be sought, but it might be expensive depending on the lawyer concerned. However, if the complainant makes use of trade union lawyer, the expenses incurred would be negligible if not nil. Legal representation is not required but possible.

Victims can receive compensation but this is decided on a case by case basis. While technically there is the possibility of reinstatement, the complainants usually do not want to go back to same workplace. Moreover, the complainant may lose his/her job if after such compliant s/he decides to quit said job.

Since Malta is a very small country, it is very easy to identify people and therefore, most complainants would want to remain as anonymous as possible. This raises difficulties with the possibility of using cases as a means of education. Cases are hardly ever reported on the media and thus the adjudication of cases has little effect on public opinion.

2.D Technical Procedural Requirements of Available Remedies

Employment Discrimination – all grounds

The Industrial Tribunal Procedure Rules, 1957, lay down the procedural requirements for the hearing of a case once a complaint is lodged with the Tribunal. On receipt of a reference the Secretary informs the Chair who fixes a date for the hearing of the reference or for its consideration as the case may be. The Secretary then informs the parties to the dispute under reference of the date of hearing, and asks them to provide five true copies of the statement of case to reach the Secretary in a sealed cover seven clear days before the day set for the hearing. On receipt of the said documents, the secretary gives a copy of the statement of each party to the Chair and one copy of the statement of each party is to be served on the other party to the case at his last known address. Copies of the statements shall also be given to each of the other members of the Tribunal at the same time or as soon as they are nominated. At this point the parties must inform the Secretary as to who is going to represent them at the sittings. The statement of case must contain a list of all the witnesses that the party intends to produce in support of his case. Besides the name and address of each witness such list must contain an indication of the proof that it is intended to make by the production of each witness. Witnesses not mentioned in the list of witnesses may not be produced to give evidence, unless the Tribunal is satisfied that the omission of the name of such witness is justified on the grounds that the party intending to produce such witness did not know of such evidence on the date of the submission of the statement of case, or that the need to produce such evidence arose after the submission of the statement of case or for any other reason to the satisfaction of the Tribunal. The party making the claim or seeking to alter the *status quo* shall open the case. On conclusion of the opening statement, the evidence is to be put forward. Following this, the opposite party will then open his case, commenting, if necessary, on the case made by the other party, and thereafter shall call his/her evidence. If any further evidence is then necessary or a further statement is to be made, the Tribunal shall, at its discretion, allow such proceedings to take place. The party which opens the case shall have the right to reply, however if further points are raised, it will be open to the Tribunal to allow the other party to reply. Where the question in dispute is of a nature that neither party can be said to be making the claim or seeking to alter the *status quo* but is one which both parties are raising for settlement, the Tribunal shall decide which party should begin, as well as the procedure generally. Finally, it should be noted that decisions and awards of the Tribunal shall be in writing and shall not specify in detail the reason for such decision or award, but may make reference to the main evidence heard. The Tribunal, however, shall make it quite clear from its decision or award that all the relevant arguments put forward by both sides shall have been taken into consideration. In cases where the Tribunal decides that the employee has been unfairly dismissed, if there is no specific request for reinstatement or re-engagement or the Tribunal decides not to make an order for reinstatement or re-engagement, the Tribunal shall make an award of compensation, to be paid by the employer to the complainant, in respect of the dismissal.

Contact Details:

Mr Vincent Micallef

Industrial Tribunal

Tel: +356 2123 9821

Fax: +356 2122 3818

Email: vincent.a.micallef@gov.mt

Racial or Ethic Discrimination – all areas other than employment

The National Commission for the Promotion of Equality Complaints Board meets regularly to process complaints received from the general public with regard to gender discrimination. The Commission's widening of the remit through *Equal Treatment of Persons Order* means that it will equally be looking at cases of racial and ethnic origin discrimination that arise after 3rd April 2007 in line with the non-employment provisions of Directive 2000/43/EC.

The NCPE has bound itself in its *Quality Service Charter* to follow strict procedures in the handling of complaints and requests for information that are received from the general public. Furthermore, while the Commission is yet to develop a specific Complaints Form for the grounds of racial or ethnic origin, such a form is already available for the grounds of gender and can serve as a good reference for complainants on the grounds of racial or ethnic origin. The procedures of the Commission state the following:

- a) The National Commission for the Promotion of Equality (NCPE) can only act upon complaints made in writing. Where it is not possible for the complainant to write a letter of complaint, the NCPE will appoint an officer to write down a statement made by the complainant. The statement is then read to the complainant who will sign in order to confirm all that is written are his/her version of the facts. This will be done in front of another witness who will also sign the complainant's declaration (complainant, officer who writes statement and another witness).
- b) NCPE ensures that each case presented for investigation is managed with confidentiality.
- c) Every complaint is acknowledged in writing within 3 working days of its receipt at the office of NCPE.
- d) The NCPE's Complaints Sub-Committee, circumstances permitting, shall endeavour to meet for the purpose of discussing the complaint within 10 working days from the receipt of the written complaint.
- e) After viewing the complaint, NCPE proceeds to write to the parties against whom the complaint was made, informing them of the allegations made and asking for their version of the facts within a stipulated timeframe.
- f) In order to investigate each case, NCPE may send for any person/s who may throw light on the case, and are questioned by members of the Complaints sub-committee at the NCPE premises during the Sub-Committee's meeting.
- g) At this stage, the Commission, may at its earliest possibility, endeavour to summon both parties and mediate to find a solution acceptable to all involved, subject to consent from both parties.
- h) The NCPE reserves the right to take any necessary action deemed fit, within the provisions of the law, if a person summoned refuses to comply with the above. Furthermore in the case when a person/s refuses to submit his/her/their position when requested, NCPE reserves the right to proceed on the matter at hand, even though without the statement of the alleged offenders, thus coming to a conclusion according to the circumstances and the information available.
- i) NCPE shall make an effort to ensure that each complaint is dealt with in the least possible timeframes. Nevertheless, this may at times prove to be challenging in view of the fact that feedback in connection with each complaint made may be requested from other entities, who then have their own procedures.
- j) NCPE has the right to investigate a complaint or otherwise on the grounds set out in the provisions of *Equality for Men and Women Act* and *Equal Treatment of Persons Order*. The final decisions taken by the NCPE regarding each complaint are not open to questioning.

Contact Details:

Executive Director,
National Commission for the Promotion of Equality (NCPE),
Gattard House,
Blata l-Bajda HMR 02
Tel: +356 2590 3850
Fax: +356 2590 3851
Email: gender.equality@gov.mt
Website: www.equality.gov.mt

Disability Discrimination

Procedure for the Investigation of Complaints Regulations provide for the procedure which is to be followed in cases in which the National Commission Persons with Disability receives a complaint from an aggrieved person, including instances of alleged discrimination.

In terms of this Legal Notice, the Commission shall first try and find an amicable solution to the matter. If, however, this is not forthcoming, the Commission is empowered to refer the case to the Civil Court, First Hall. When commencing an investigation, the Commission shall notify by means of a registered letter all the parties concerned that it intends to carry out an investigation. In the letter to the person who allegedly is responsible for the unlawful act of discrimination the Commission informs the person that it has reasons to believe that that person allegedly committed or is committing an unlawful act, and grants him seven days from the service of the letter referred to in this regulation within which to state in writing to the Commission whether he considers the complaint justified, and which course of action he will be taking to remedy the situation. The Commission may request any information as may be required to carry out its investigation. By means of a written notice, the Commission may request any person –

- a) to provide it with any information that may be described in the said notice;
- b) to attend and give oral information about the matter specified in the notice and to produce all documents in his possession or control relating to any such matter.

It should be noted that a person shall not be obliged to give information or produce a document requested by the notice if that person is deemed to be exempt from providing that information or producing the document before the Court in civil proceedings. However, if the person concerned fails to provide, or if the Commission has reason to believe that that person has decided not to provide, the written information, the Commission may request the Court, by means of an application before the Civil Court, First Hall, to order the person referred to in sub-regulation (2) to comply with the said notice. The Court may also be requested to give any other order which it may consider appropriate and required according to the specific circumstances of the case. When the Commission concludes that an unlawful act constitutes a breach of any provision of the Act, it shall communicate its conclusion to the interested parties by means of a registered letter requesting the said parties to undertake that remedial action necessary in the circumstances within a specified time limit and intimating them that in default, judicial action will be taken. The interested parties may request the Commission to extend the time limit if the circumstances of the case so warrant. Such a request shall be made within fifteen days of receipt of the registered letter referred to in this regulation. In the event that the interested parties, having been served with a registered letter fail to take the necessary remedial action within the specified time limit, or the time limit mutually agreed upon, the Commission may request the Court, by means of an application to be filed before the Civil Court, First Hall, to order the person to undertake all necessary remedial action.

Contact Details:

The Equal Opportunities Compliance Unit
National Commission Persons with Disability (KNPD),
Istituto Vincenzo Bugeja,
Centru Hidma Socjali,
Trik Braille,
Santa Venera HMR18
Tel: +356 2148 7789
Fax: +356 2148 4609
Text tel: +356 2144 6536
Email: helpdesk@knpd.org
Website: www.knpd.org

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

The National Commission for the Promotion of Equality is empowered to assist complainants on the grounds of racial and ethnic origin (besides the grounds of sex and family responsibilities [gender]). Furthermore, persons alleging discrimination have the faculty to seek redress in front of a competent Court and to be assisted by any association, organisation or other legal entity during such proceedings.

The National Commission Persons with Disability is empowered to assist a complainant of alleged discriminatory treatment on the grounds of disability. This Commission is empowered to provide, where appropriate, assistance, including legal and financial assistance, to persons with disabilities in enforcing their rights under the Act. Furthermore, if it appears to the Commission that a person wishes to make a complaint under Article 32(2) of the Act and that person requires assistance to formulate the complaint orally and/or in writing, it shall be the duty of the Commission to take reasonable steps to provide appropriate assistance to that person.

It should be noted that, the Employment and Industrial Relations Act does not make mention of mediation. However, a Bill was introduced on the 17th September, 2004, in order to encourage and facilitate the settlement of disputes in Malta through mediation, to establish a Malta Mediation Centre as a centre for domestic and international mediation, and to make provisions regulating the conduct of the mediation process.

Furthermore, proceedings in the Industrial Tribunal are less time consuming and opening proceedings are free of charge therefore making such proceeding more favourable to the complainant than proceedings in the Civil Court or Constitutional Court. Also, the fact that the complainant is still entitled to bring an action under any other law, even after he has lodged a complaint with the Industrial Tribunal, is to the complainant's advantage. It should be noted that, the time limit within which to lodge a complaint is not strict since the person who alleges that there has been discrimination has four months within which to lodge the complaint. In addition, lawyer's fees are stipulated by law and cannot exceed Lm 40.

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:

- a) 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.
- b) 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.
- c) 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.

It does not appear that this procedure has so far been used against Malta.

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.

It does not appear that this procedure has so far been used against Malta.

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):

- a) 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.
- b) 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.
- c) 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.
- d) 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

It should be noted that the European Convention on Human Rights is part of our law through the *European Convention Act*, and therefore the protection offered under Article 14 of the Convention is directly justiciable before the domestic courts. However in claiming a violation of Article 14 some connection to any of the other protected rights is required. There has only been the case of *Zarb Adami* which relates to gender discrimination that has been decided by the European Court against Malta. Nonetheless no other grounds of discrimination has been argued in any such proceedings so far. It needs to be said that to date, Malta has neither signed nor ratified Protocol 12.

The *European Convention Act* lays down in Article 4 that any person who alleges that any of his human rights and fundamental freedoms, has been, is being or is likely to be contravened may apply to the Civil Court, First Hall, for redress. The Civil Court, First Hall, has original jurisdiction to hear and determine any application made by any person in the above mentioned situation, and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement, of the human rights and fundamental freedoms to the enjoyment of which the person concerned is entitled. However it should be noted that the court may decline to exercise such powers. Furthermore, any party to proceedings brought in the Civil Court, First Hall, shall have a right of appeal to the Constitutional Court.

Where it is alleged that any of the Human Rights and Fundamental Freedoms and any of the provisions of articles 33 to 45 (inclusive) of the Constitution has been, is being or is likely to be contravened, the demand for redress or the reference to the Civil Court, First Hall, in accordance with article 46 of the Constitution and the European Convention may be made in the same application or reference. Where an application for redress or any reference to the Civil Court, First Hall, is made exclusively either under article 46 of the Constitution or under this article and is still pending before the Civil Court, First Hall, or the Constitutional Court, the court may examine whether or not the facts complained of are in violation of the corresponding Human Rights and Fundamental Freedoms, in the first case, or of the corresponding Fundamental Rights and Freedoms of the Individual enforceable under the Constitution, in the second case; and if the court so finds, it may order accordingly the redress it may deem appropriate under any of the aforesaid laws.

The *European Convention Act*, in Article 4A (2), sets the maximum compensation payable under article 3 of the Seventh Protocol to the Convention at Lm10,000 (equivalent to €23,293). 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 Article 6 of the Act furthermore states that any judgment of the European Court of Human Rights may be enforced by the Constitutional Court in Malta, in the same manner as judgments delivered by that court and enforceable by it, upon an application filed in the Constitutional Court and served on the Attorney General containing a demand that the enforcement of such judgment be ordered.

2.J Other international remedies

Malta is a party to the 1st Optional Protocol to the International Covenant on Civil and Political Rights, and 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 can also alert the Committees which examine the State's periodic reports under the ICCPR, CEDAW and the Convention on the Rights of the Child to instances of discrimination.

Nonetheless, it does not appear that any of the procedures highlighted above have so far been used against Malta.

2.K Professionalism

Everyone in an 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

Maltese society has different levels of social acceptance with regards to the five grounds of non-discrimination under review. It appears that Maltese society is more tolerant and ready to address the needs of disabled persons than persons of a different racial or ethnic origin, or sexual orientation as has also been shown in the Eurobarometer survey.

The Maltese used to think of themselves as a rather tolerant nation until the onset of illegal immigration in Malta. Initially there were very few irregular immigrants but over the past five years the numbers have increased to such an extent that the authorities have problems finding adequate accommodation for them. This has led to a sizable number of Maltese protesting against the fact that these people were on our island and do not look too well on any rights given to them.

Whereas Malta boasts of its history of hospitality, present times have shown us to be intolerant when facing difficult issues.

As stated above in the research section, the lack of studies on the levels of discrimination greatly hinders the knowledge of the societal issues and oftentimes it is difficult to back claims of discrimination with adequately researched figures. In any case, such vulnerable groups include African immigrants, the aged and the young, disabled persons, Muslims and other religious minorities, transgender persons, transsexuals, gays and lesbians. The levels of real or perceived discrimination may be higher in certain occupational fields than others and across social classes.

d) Funding opportunities in the field of anti-discrimination

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

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

a) European-level NGOs

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

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

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

Until the end of 2006, the European Women's Lobby received running cost support through the Gender Equality Programme with an annual amount of around €800,000.

A number of NGOs working to tackle social exclusion (European Anti-Poverty Network, European Federation of National Organisations Working with the Homeless, European Transregional Network for Social Inclusion, Eurochild, European Social Network, Caritas-Europe) received funding from the Community Programme to Combat Social Exclusion with a total of €3,600,000 between 2005 and 2007.

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

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

Calls for proposals and tenders under PROGRESS are published on the Calls for Tender/Calls for Proposals website of DG Employment, Social Affairs and Equal Opportunities on:

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

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

b) European Trade unions

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

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

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

2. EU funding for national NGOs/Trade Unions

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

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

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

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

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

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

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

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

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

The European Commission Representation in Malta may make some funding available for NGOs/trade unions with regard to issues that are of direct interest to the European Commission. Thus funding for such organisations with regard to non-discrimination may be made available. It may however need to be requested several months in advance or perhaps in the preceding budget year to the one in which the activities are scheduled to be carried out, due to lack of available funding in certain budget lines.

The local trade unions have, however, claimed that the funding procedures of the European Commission representation are not easy to access and, for example, it took them a long time to access funding for a familiarisation visit to Brussels.

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

Yes, Forum Malta fl-Ewropa (which is a semi-autonomous body that falls under that Ministry of Foreign Affairs) funds its own Civil Society Fund which assists civil society projects. NGOs and trade unions working on anti-discrimination will have to compete for such funding along with other civil society organisations that have other priorities as well.

So far this fund has provided funding to General Workers' Union (GWU), Union Haddiema Magħqudin (UHM) and other trade unions for internal expertise, social dialogue and overseas assignments, as well as a small amount for education. The major trade unions get a larger sum of money than other smaller sectorial trade unions. Some anti-discrimination NGOs have also taken advantage of this Fund.

Furthermore, NGOs that provide welfare services can access funding that is made available specifically for certain areas such as disability services and drug addiction prevention and rehabilitation as per the National Action Plan. Some of these funds are indirectly used for the promotion of anti-discrimination. Such funding is not open for trade unions since they do not as such provide welfare services. Finally, youth organisations can access funding from the Youth Support Programme that accepts applications for such funding twice a year.

The last rounds of EQUAL and European Social Fund (ESF) were not open for NGOs directly. However, a number of NGOs and trade unions formed part of the partnerships that were established by the governmental bodies that applied for funding. In the second round of ESF, however, they could apply directly as long as they could provide the local co-funding themselves.

The National Implementing Body (NIB) of the year of Equal Opportunities falls under the Ministry for the Family and Social Solidarity. NGOs could apply for funding directly or as part of a network. Read more at: <http://www.gov.mt/newsletterarticle.asp?a=355&l=2>

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?)

Civil Society Fund covers up to as much as 80% of the total eligible costs. There are two types of funding: core funding and project funding. The amount of money available for the former is greater than that available for the latter since the sum of money available must be shared between all the organisations.

The funds that are made available to welfare NGOs and through the Youth Support Programme cover up to 100% of the total eligible costs.

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

An application is issued every year and the entity wishing to access these funds has to prepare a proposal with details of how these funds are to be utilised. The conditions for the accessibility of these funds is that they have to be used for EU related matters, for example, the educational materials developed have to be related to EU Directives.

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?

Malta is a very small country and is not divided into regions. On the other hand, Local Councils are not allowed to make funds allocated to them available for third party organisations.

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

Private funding possibilities do not appear to be possible.

8. Are there any other source of funding?

Yes, other funding is made available by the European Commission and is available directly from the DGs such as DG Justice and Home Affairs and DG Education and DG Employment, Social Affairs and Equal Opportunities. Only trade unions are able to access such funds however, as since there is no national legislation regulation NGOs as yet, NGOs do not have the facility to accede to such calls for proposals.

Additionally funding is also made available from the European Union Programmes Unit. This funding is however, project based and does not cover 100% of the expenses incurred.

IV. Diversity Management seminar

Diversity Management Seminar – 5th February 2008

Design of the Training

In June 2007, Dr. Roberta Lepre was appointed by NCPE to act as the national trainer for the Maltese Diversity Management seminar. Following this appointment Dr. Lepre was invited to attend for a training seminar on Diversity Management in Cologne. It was there that she met with the international trainer Mr. Hans Jablonski who was very supportive throughout the whole process of preparation for the Maltese Diversity Management seminar.

In continuous communication with the international trainer, Dr. Lepre was able to develop a one day programme focusing on Diversity Management. All the sessions within this day seminar were planned through the trainer's manual provided by the project consortium and were selected bearing in mind the Maltese cultural context and the target groups involved. Reference was also made to the 'Training Manual for Diversity Management' issued by all the international trainers in September 2007.

This one day seminar was targeting employers' organizations, large companies and SMEs both within the private and public sector. During this seminar Dr. Lepre focused on explaining what is understood by Diversity and Diversity Management. She presented a local case study and snap shots of Diversity Management from across Europe and inviting participants to make Diversity Management concrete.

Preparation of the seminar

During the training session in Cologne Dr. Lepre gained further insight into Diversity Management and was able to network with other diversity management consultants.

Following this training reference was also made to the Maltese Country Needs Assessment that was compiled with the intention to identify the local needs as regards to Diversity Management Training. Such report outlined that:

- Locally there are only a few organisations which are slightly familiar with Diversity Management and these are usually large multi-national companies;
- Gender issues are at the forefront of the debate when discussing Diversity Management, however other issues such as race, religion, sexual orientation and disability are also being included;
- Catholic beliefs in Malta influences a lot the shaping of public opinion thus many people are sometimes confused in accepting particular aspects of diversity;
- Only few organisation have realised that through Diversity Management one would increase profits and productivity;
- Presenting a clear definition of Diversity Management, allowing sharing of ideas and outlining other successful business cases would be the right mix of components for having a successful seminar.

Various meetings were held between the national trainer and the NCPE staff during which important decisions on the preparation of this training were taken. A list of all local employers' organizations and companies both within the Private and Public Sector was complied. An invitation letter, a registration form, a programme together with some background information on this project were developed and sent to all contacts within the compiled list.

In order to further announce this seminar the Malta Employers' Association was selected as a local partner with the aim to further advertise the Diversity Management seminar among its members. Information on this day seminar was also uploaded on the NCPE website.

By the registration closing date, seventy individuals had applied to attend. Although initially we were targeting only for thirty participants, finally all registrants were accepted to attend since there was enough money to cover the cost for this seminar. Besides this, all registrants were also satisfying the criteria of attendance that was stipulated by the consortium of this project.

As explained earlier, the provision of the venues and refreshment for this training was catered for by the Phoenicia Hotel, Floriana who had entered into an agreement with NCPE to provide such service.

Carrying out of the seminar

Ration of Participants

The fifty-five participants that were present during the Diversity Management Seminar in February 2008 were representing twenty-four Public Entities (including Ministries and Departments) and twenty-three Private Companies. Out of fifty-five participants, 47% of the participants were representing the private sector while 53% were representing the public sector.

Process during the day

Present during this seminar, beside Dr. Lepre who was coordinating the overall delivery of the sessions, there were also Ms. Sina Bugeja the Executive Director of NCPE, Mr. Hans Jablonski as the International Trainer and Ms Charlotte Camilleri on the behalf of the Malta Employer's Association (MEA). Both Dr. Lepre and Mr. Jablonski who delivered particular sessions during the day were very well prepared as they were talking about.

On the other hand participants were quite interested throughout the whole day because all the subjects that were being discussed were relevant to their every day situation at work/business environment. The fact that many participants were continuously asking question to those who were delivering the session showed that they were eager to learn more on the subject.

According to the evaluation sheets that were filled by the participants at the end of this seminar, it was shown that the seminar contact was well planned and distributed through the whole day. Beside the information that was given on Diversity Management, the participants had also appreciated the fact that they had time to express and share their own experiences in relation to the subject. Another thing which was considered valuable by the participants was the local case study on how Diversity Management is being catered for.

Business cases

As mentioned above, a local case study on Diversity Management was present by Ms Louise Agius Head of Diversity, Learning and Development at HSBC Bank Malta. During her presentation, Ms. Agius outlined a list of actions that were taken by her department in order to promote Diversity Management within all the branches of HSBC Bank Malta. Among the actions taken Ms. Agius mentioned: the launch of a Diversity Policy, the organisation of Disability Awareness workshops, the introduction of Family Friendly measures, the launch of a Harassment and Discrimination Policy and the introduction of a new internal job vacancies/promotion procedures. This case study was a clear example that Diversity Management is being applied in Malta.

Evaluation of the Seminar

On the day of the seminar participants were welcomed with a brief introduction from Ms. Sina Bugeja in which she explained the scope of the seminar and the objectives to be achieved. Following Dr Charlotte Camilleri gave a brief speech on the importance of Diversity Management.

In order to get involved, participants were asked to do some brain storming on what they understand by Diversity and it turned out that they were quite responsive. The next thing that was on the agenda was that of defining Diversity Management. This part was really appreciated by the participants because they had the possibility to enhance their knowledge. As a continuation of the session Mr. Hans Jablonski delivered a presentation on how the concept of Diversity Management is continuously getting more popular across all Europe. During this session participants posed several questions owing to the fact that the international trainer was explaining how other countries were experiencing success in the implementation of Diversity Management.

In the afternoon session Ms. Louise Agius presented the case study during which she outlined how HSBC Malta was applying the concept of Diversity Management at the place of work and how such action was turning into a positive and gainful experience. For the participants this session had served as an encouragement to apply into practice the concepts that were being discussed during this seminar.

The next step forward was that of seeing how participants could make Diversity Management more concrete. Thus through using the 'World Café' method, participants were asked to come up with the ideas and suggestions. From this session valid point were highlighted and were shared among the participants. Finally the day session was concluded by going through the importance of maintaining networking and support between all organisations. During this seminar all the participants were given a copy of the 'Training Manual for Diversity Management' (2007).

Main lessons learned

- For Diversity Management to take place we need to have a managed mixture of acceptance, respect, understanding and education
- Diversity is a problem when a value of judgement is attached, thus diversity is not only made up of differences but also of similarities.

Photos Diversity Management Seminar



Diversity Management Seminar 5th February 2008
(Dr. Roberta Lepre, Dr. Charlotte Camilleri, Ms. Sina Bugeja and
Mr. Hans Jablonski)



Diversity Management Seminar 5th February 2008
(Dr. Charlotte Camilleri, Ms. Sina Bugeja and Mr. Hans Jablonski)



Diversity Management Seminar 5th February 2008
(Workshops during seminar)



Diversity Management Seminar 5th February 2008
(Ms. Louise Agius (HSBC) presenting a local case study)

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.