



NATIONAL ACTIVITY REPORT PORTUGAL ANTI-DISCRIMINATION AND DIVERSITY TRAINING

IED – Instituto Estudos para o Desenvolvimento

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

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

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 IED – Instituto Estudos para o Desenvolvimento (<http://www.ied-pt.org/pt/>)

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II. Introduction

The Seminars which were held in Portugal under the scope of this project were as follows:

Anti-discrimination (AD) Seminar in Lisbon – 26/27 October 2007, Hotel Altis Park, 45 participants from NGO's, trade unions, judges, General Inspectorate of Labor, Commission for Religious Freedom

Diversity Management (DM) Seminar in Cascais – 11 February 2008 – Hotel Albatroz, 37 participants, SME's and Presidency of the Republic, Ministry of Labor, DHL, Pitney and Bowes, the Portuguese Industry Confederation, Deloitte, Town Council, Bank, transports

AD Seminar in Porto – 22/23 February 2008 – Hotel Vila Galé, 35 participants, NGO's and trade unions, Public Prosecutor, judges, General Inspectorate of Labor, Town Hall, Faculty of Medicine

The beneficiaries of these trainings were non-governmental organisations (NGOs) and trade unions were the key target audience, playing the dual role of representing individuals who have faced discrimination and contributing to development of policy and action in the area and judges and other legal professionals who handle discrimination cases were also included.

Business also had a huge participation in the DM Seminar training for employers which aimed to inform on equal opportunities, as well as on the opportunities and benefits of having a diverse workforce.



III. Anti-discrimination seminars

a) National activities anti-discrimination seminars

Design of the training

- a. The design of the training was undertaken on the basis of the trainers' seminar held in Madrid. The manual delivered to the participants was 'Combating discrimination – a training manual' to which we added the Portuguese texts produced by the Portuguese country expert:
 - 'Mapping Exercise: NGOs/trade unions working to combat discrimination in Portugal', the main focus of which was on the types of NGOs/trade unions working on anti-discrimination, the ground (s) for discrimination, the scope or sector they are concerned with, how NGOs and trade unions deal with these issues in Portugal and whether they cooperate together, e.g. in the exchange of expertise, collaboration on case work or campaigns, organising events jointly and also the conditions of funding for NGOs and trade unions.
 - 'Discrimination in the national context – Portugal', which covered, among other things, information on the transposition of EU Directives 2000/43 and 2000/78 into national law; procedures: administrative and legal channels appropriate for challenging violations of anti-discrimination legislation; complaints and remedies, access to justice; existing support and obstacles at national level and societal issues.
 - 'Portugal funding section', which focused, among other issues, on the EU funding for national NGOs/trade unions, the funding opportunities for NGOs and trade unions working on anti-discrimination at national level and the forms that these funds may take, such as core funding, project funding, facilities, private funding, etc.
 - 'The role of trade unions in combating discrimination', for instance with regard to 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 policy and practice, challenging employers, organisations and authorities to combat discrimination, monitoring, documenting and denouncing discrimination and ensuring that equality is prominent on the political agenda and encouraging campaigns and action to eliminate discrimination and promote equality.
- b. Target groups were mainly NGOs and trade unions. Other target groups were included, such as legal professions, young people, teachers, healthcare professionals, police forces and business.
- c. Regarding the role of the international trainer during our first AD Seminar held in Lisbon, he intervened on several occasions to reinforce the matters on discussion and give new points of view, especially related to the EU Directives.
- d. As far as the AD trainers are concerned, all the trainers were selected as being highly qualified and possessing the most suitable skills to take part in these anti-discrimination seminars. Each trainer had different experience in this field through participation in an NGO, an equality body or as a member of a network dealing with these issues, and they all met the given criteria and were able to produce high- quality training at the AD seminars. We must stress the valuable participation of the country expert at all the trainer's meetings and seminars.
- e. In order to boost action at national level, raise awareness about the European and national anti-discrimination legal framework and demonstrate the benefits of diversity to businesses and society at large (NGOs and trade unions), IED – Instituto de Estudos para o Desenvolvimento, took part in this project as the organiser of all seminars.

Further information on IED is available at: <http://www.ied-pt.org/>



Preparation of the seminar

Train the Trainers Seminar

The Train the Trainers Seminar was held in Madrid in April 2007 and its agenda comprised the discussion of broad objectives and intended learning outcomes by participants: agree learning objectives, the introduction of training materials to be used during the AD seminars, an introduction to the main definitions contained in the EU Directives and additional key concepts including questions related to the burden of proof, NGO capacity to support/act on behalf of victims; the role of NGOs and trade unions, thematic subjects, skills and tools, introduction and group discussions on selected topics, reporting back and feedback, introduction to role play required by the group to plan for presentation, introduction, drafting of case studies, using case studies, critique and feedback, training methodologies – designing and planning, oral learning methodologies and the oral/interpersonal skills required to deliver them, facilitating a group, including managing difficult members, introduction to training methodology topics, group discussions, reporting back and feedback. In addition, an introduction was given and a discussion held in national groups on the national legislation and administrative and legal means to challenge violations of national anti-discrimination legislation. This provided an insight into how these matters have been dealt in other Member States. Trainers also planned the National Seminars.

Announcement of the seminars

We sent by mail to the participants the draft announcement of the Seminars translated into Portuguese according to the guidelines given by Human European Consultancy. In addition, these seminars were announced through national and European websites, such as:

Comissão para a Igualdade e Contra a Discriminação (CICDR) – Commission for Equality and Against Discrimination (CEARD) website:

<http://www.cicdr.pt/content/view/14/1/>

ANIMAR – Associação Portuguesa para o Desenvolvimento Local:

http://www.animar-dl.pt/ver_agenda.php?id=28

Blog da REDE Jovens e Igualdade:
<http://redejovensigualdade.org.pt/blog/?p=467>

European Commission:
http://ec.europa.eu/employment_social/fundamental_rights/spot/july07_en.htm#trainac

European Commission EYEO:
http://ec.europa.eu/employment_social/eyeq/index.cfm?page_id=328

IED – Instituto de Estudos para o Desenvolvimento:
<http://www.ied-pt.org/pt/default.asp?Pg=bem-vindo.htm>

Médicos do Mundo:
<http://www.medicosdomundo.pt/page.jsp;jsessionid=A0B6500083EDCB8C5DA41E96E2321845?pageld=noticias&newsId=137>

OI – Observatório da Imigração:
<http://www.oi.acime.gov.pt/modules.php?name=News&file=article&sid=1504>

Projecto TiO – Terceira Idade Online:
<http://www.projectotio.net/portal.php?Zona=0&Tipo=1>

Stop Discrimination:
http://www.stop-discrimination.info/index.php?id=1867%20_top
Númena – Centro de Investigação em Ciências Sociais e Humanas
<http://www.pontemargem.org/agenda.php?id=298>
Associação Sindical dos Juízes Portugueses
www.asjp.pt

Attracting and selecting participants

It was not difficult to attract NGOs, trade unions and other entities for these seminars as they all believe that raising awareness about discrimination issues and rights and obligations related to recently passed anti-discrimination legislation in Portugal is currently a matter of the utmost importance. The selection procedure was conducted through the evaluation of applications. In order to have represented at the Seminars different groups of people dealing with these issues on different grounds of discrimination (race or ethnic origin, religion or belief, disability, sexual orientation and age) a wide variety of institutions was chosen. This variety of participants enabled a wider debate to be held.

Logistical arrangements

- a) For the logistical arrangements, the Seminar organiser gathered (in addition to the Manual and the Portuguese legislation on the subject) relevant material on the subject to be distributed to the participants such as:

Age Platform:

*Tackling multiple discrimination in the EU
Towards a society of all ages*

Office for Official Publications of the European Communities:

Equality and non-discrimination: Annual report (November 2006)

Inclusão das pessoas com deficiência – Estratégia comunitária sobre a igualdade de oportunidades

[2007 Ano Europeu da igualdade de oportunidades para todos](#)

[Igualdade e não-discriminação – Relatório anual 2005](#)

[A guide to good practice in age management](#)

[The employment of seniors in the European Union](#)

[Employment guidance services for people with disabilities](#)

Religion and belief discrimination in employment – EU law

EIRO – European Foundation for the Improvement of Living and Working Conditions

Employment guidance services for people with disabilities

Age and employment in the new Member States

Relatório Anual 2006 (Portuguese) (annual report)



EIRO/ FOUNDATION FOCUS:

Foundation focus – Issue 2 – Age and employment (September 2006)

Foundation focus - Issue 3: Equal opportunities – the catch-up game (May 2007)

Stop Discrimination and the European Commission:

The Stop Discrimination toolbox – in Portuguese (*Caixa de Ferramentas*)

The prohibition of discrimination under European human rights law

Equal rights in practice – *A prática em matéria de igualdade de direitos* (in Portuguese)

Fighting discrimination in the EU – *Combater a discriminação na UE* (in Portuguese)

Putting equality into practice – *Pôr em prática a igualdade* (in Portuguese)

Eurobarometer Info Sheet on discrimination in Portugal

Comissão para a Cidadania e Igualdade de Género

AEIOT: (EYEO)

150 leaflets

150 postcards

20 posters

Media Consulta International Holding AG:

Name tags
Toolboxes and brochures in Portuguese (FDAD)
EYEO notepads and pens
EYEO posters

Portuguese Social Security

Leaflets on disability
IEFP – Instituto Emprego e Formação Profissional – (Employment and Professional Training Institute)
Information on disability at work

ACIDI – High Commissioner (formerly ACIME) – Equality Body

Seminário Cidadania e Discriminação (2004)
Folheto CICDR (leaflet on CEARD – Commission for Equality and Against Racial Discrimination)

b) Regarding the seminar venues, we selected the following hotels for the AD Seminars:

Lisbon – Altis Park Hotel (near the subway – an easy location for participants)
http://www.altisparkhotellisbon.com/?gclid=CLLW16nE2pICFRCoQwodZAQK_g
Porto – Hotel Vila Galé (in the city centre)
<http://www.vilagale.pt/pages/hoteis/?hotel=9>

- c) At both Seminars the participants were gathered in a plenary room on the first day and on the second day there was also another large meeting room with five round tables for five working groups and discussion.
- d) All rooms were equipped with flipcharts, screen and rear projector. PowerPoint presentations were prepared for these AD trainings.
- e) There was ongoing communication between the training coordinator and the national trainers. We had regular meetings to decide logistical issues and define the most appropriate methodology to create and discover technical skills without minimising social and personal development. We also ensured that the talk on diversity was given by a diverse group of trainees involved in different areas.

Three coffee breaks and lunch on the second day were served to the participants. For those who lived outside Lisbon and Porto the cost for one night's hotel stay was paid.

Carrying out the seminars

a) Ratio of participants:

Lisbon Seminar	– Male – 31%	Female – 69%	NGOs – 78%	Trade unions – 9%
Porto Seminar	– Male – 38%	Female – 62%	NGOs – 72%	Trade unions – 28%

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

Both seminars took place in a friendly atmosphere with solid cooperation between trainers and participants. The PowerPoint presentations helped to better present the main goals of these activities and the content of the programme.



The trainers were highly qualified for these actions and, due to their skills and experience, good teamwork was achieved.

We must emphasise:

- The active participation of the entire panel and also of the participants during the seminars
- The knowledge gained by participants of the subjects covered through a detailed working programme
- The evaluation of practical cases and their analysis in accordance with the legal concepts.
- The sharing of concepts, the debate, the working group, the exchange of ideas and practices, new perspectives on discrimination and its impact at national level, the dissemination of relevant information.
- The contact between other institutions dealing with discrimination based on different grounds.
- The quality of trainers and speakers as well as participants.
- The diversity of participants and of opinions leading to very interesting debates and awareness raising
- The possibility of contacting the other institutions from now on (networking)
- Practical application of the relevant Portuguese and European legislation

As far as the Seminar Programme is concerned these are some of the topics we presented:

Brief explanation of the objectives of the project

Participants' expectations after having received the material

Brief presentation on European Union institutions

European Union Directives and national law

How to identify discrimination

Key concepts: direct discrimination, indirect discrimination, reasonable accommodation, evaluation/identification of multiple discrimination, the burden of proof.

Evaluation of the groups at risk in Portugal

Who to complain to about discriminatory conduct, legal procedures – access to justice

Sanctions

Equality bodies in Portugal

Role of NGOs and trade unions in Portugal in this field

Victimisation and support of the victims by NGOs and trade unions – role and improvement

Case studies – table of fictional cases of discrimination presented and delivered to participants (on both days) in order to be evaluated as non-discrimination, direct discrimination or indirect discrimination. Discussion and evaluation (groups identified by colours)

Role play (five groups identified by colours on the five grounds of discrimination: race or ethnic origin, religion or belief, disability, sexual orientation and age and also playing the role of NGOs, trade unions, state authorities and the police, city halls and civil society – citizens).

Interaction between institutions – lobbying for legislative and policy change

Funding opportunities

Involvement of participants in combating discrimination

After the conclusion of the Seminars, a brief questionnaire about the outcomes and about what could be improved in Portugal in this sphere was given to the participants.

Evaluation of the Seminars

The great majority of participants gave a positive evaluation of these training sessions and wished that they had lasted longer (at least two days).

Most of them proposed that a new session be developed, focused on each ground of discrimination.

The participants appreciated the structure of the presentation, the material provided and the venue where the seminars took place.

Through these training sessions they improved their knowledge about discrimination, key concepts and Portuguese and European legislation. They found the role plays very useful as well as the ‘case-studies’.

With regard to the interaction between participants, the atmosphere created during the sessions was very good and our principles of communication were as follows: we can talk seriously about serious issues without unnecessary formalisms; horizontal and face-to-face communication respecting others’ timing and points of view; all contributions are a good starting point for discussion; we are all here to share, review and re-imagine ideas and practices.

The participants felt the Seminars raised awareness about the multiple types, positive and negative facets of discrimination based on ethnicity (‘race’), disability, gender, religion, age and sexual orientation. They also pointed out various meanings of discrimination, its legal effects (especially in the work and employment environment) and ethical implications and reinforced empathy towards discrimination issues by humanising it.

The trainers and trainees acknowledged personal experiences and were keen to translate them into collective issues which can be changed through joint efforts promoted their repositioning into collective issues that can be changed by joining efforts (action-oriented and entities roles). Reinforced empathy towards discrimination issues by humanising it – most trainees agreed that at some point in life they suffered from discrimination and shared their experiences.

The trainees understood the conceptual, legal (namely in European directives) and concrete meaning of discrimination; acknowledged the importance of self-reflection about being discriminated against and perpetrating discrimination as an important tool in embracing and promoting diversity; learned or refreshed ways to handle discrimination and manage diversity (e.g. outlining action plans, sharing fundraising know-how). The trainees and trainers improved a consensual vocabulary for talking about discrimination and diversity. Also, the country expert contributed greatly to the quality of the seminars.



Main lessons learned

We feel that almost every participant demonstrated themselves to be very involved in this action, participated actively in the tasks delivered (role play) and also in the discussions held during the seminar.

The feedback after this seminar was very good and showed that some of the participants would like have liked it to last longer or even to be repeated under the same structure or based on the individual grounds of discrimination.

Analysis is needed for further training on professional anti-discrimination and diversity management tools adapted to the Portuguese reality of discrimination on the grounds of age, sexual orientation, disability and ethnicity (especially in relation to Roma communities, as this is still a major problem in Portuguese society).

It became clear that anti-discrimination action cannot only react to problems but must be proactive and transversal (e.g. participative intervention with people plus awareness campaigns targeted at stakeholders).

There are still challenges faced in terms of finding synergies and overcoming 'territorial' postures towards discrimination issues. The incidence and high persistence of discrimination on the ground of ethnicity (Roma) needs further analysis. Disabled people are still facing serious problems in Portugal with regard to accessibility and discrimination on the ground of sexual orientation is still a taboo, especially in relation to marriage and parenthood issues.

There is also too little awareness of discrimination on the ground of age (e.g. negative images of adolescence, stereotypes of the elderly as a burden to families and society) to define strategies. All these grounds of discrimination demand deeper discussion.



Conclusion

The Seminar for Diversity, Against Discrimination is an opportunity to learn and to share and exchange ideas that can translate into personal and collective initiatives through and in favour of social diversity.

Vale de Almeida (one of the trainers) wrote that quite often the references to discrimination are the fruit of personal experience based on the functioning of an abstract and disempowering system that affects our daily life. Discrimination has political significance and the fight against discrimination cannot be limited to changing mentalities and symbols. In the case of immigration, for example, the element of irritation is not merely individual or interpersonal discrimination but also - or rather - the structural inequality that immigrants have to face. Thus, Vale de Almeida has concluded that, in the fight for diversity, the chief question is to know who fosters the various forms of discrimination and for what purpose and who benefits from it.

Among the ideas that arose during the discussions of the (fictional) case studies of discrimination and *role playing*, special attention was drawn to attitudes of fake empathy towards victims of discrimination, discriminatory attitudes that seem reasonable and justified (the so-called 'reasonable arguments') – for example, in access to services – by 'house rules' that are clearly discriminatory or the lack of any provisions for a mandatory, institutional anti-discrimination culture. Subjective factors must also be taken into account in direct and indirect discrimination, harassment and retaliation, such as, for example, the 'Pygmalion effect', whereby negative appraisals and other similar situations damaging personal dignity ('insulting humiliation') may cause the victims of discrimination to have a distorted perception of reality and be inhibited from reacting, due to the degradation of their self-

esteem and the weakening of their expectations. Discrimination on the grounds of sexual discrimination has been identified by the Europeans (Eurobarometer, 2006/2207) as one of the most common and gross forms of discrimination. On the one hand, it is very often camouflaged (for example, by the 'social invisibility and silence' of homosexuals, because in most cases the general assumption at the workplace is that employees of one gender have a partner of the opposite sex). On the other hand, it is also explicit in legal instruments (for example, the statutory prohibition of marriage and adoption, in Portugal). The '*don't ask, don't tell*' attitude (which also concerns sexual orientation) together with the lack of knowledge about other religions (for example, as if 'Allah' were some spiritual entity other than 'God'), the religious hegemony existing in Portuguese society (reflected, for example, in a (pre-)selected religion for spiritual assistance in hospitals, in the official



holidays, in the lack of food choices and in school menus) lead to discrimination and are triggered by the external signs of religion and by the associated social significance (class, stereotypes). Also the difficulty for religion classes other than Catholic is still a matter to be evaluated.

There has been some progress in the fight against discrimination on the grounds of disability, namely in the construction of buildings and access (among other reasons because the State supports the adaptation of workplaces), rather than in changes in the culture of organisations, where disabled people are still seen as workers with a 'physical or mental impairment' and in employment where more easily the lack of professional experience is used to reject a candidate. Discrimination on the grounds of age (for example, the association of youth with irresponsibility and of old age with fragility); the negative stereotype and systematic discrimination of older people in the workplace and in social welfare and health services (with infantile treatment and other serious forms of institutional violence) often translates into 'a self-fulfilling prophecy, with disheartening self-perceptions' and the non-confirmation of prejudices is seen as an exception or simply ignored, opening the way to the general practice of discriminatory acts and attitudes on the grounds of age.

Of the various ideas and projects for proposed action for diversity and against discrimination several are worth special attention, such as training courses to provide information to raise awareness among workers and business leaders of the respect and exercise of rights and duties in the human rights and labour fields, focusing on themes such as health, hygiene and safety at work, civil rights, participation, the 'right to take offence', equal opportunities and diversity. Full democratic participation in local government should be encouraged, such as the rallying of informal groups and institutions

representing religions or other spiritual choices and the establishment of a local inter-faith council with an office at the town council. In the fight against sexual orientation discrimination there was agreement on the need to increase awareness and training of the police through training courses focusing on key concepts, professional ethics, procedures and methods of victim support, the promotion of regular meetings with organisations representing the lesbian, gay, bisexual and transsexual communities and the creation of a pro-active advocacy service for victims, as well as the recording and treatment of any charges, complaints or situations and community work with clear anti-discrimination messages. The idea of inter-age holiday camps was put forward as a means of developing positive interactions between children and older people, living together and forming groups engaged in activities 'seemingly' typical of a particular generation but which can be shared (e.g. the use of computers, story-telling, looking after vegetable gardens) where older people can become activity leaders. The work in multiracial communities could be directed by information, orientation and training offices, especially focused on the learning of the Portuguese language. Attention was also drawn to the need to promote the learning of different languages in schools and for NGOs to play the role of political advocates and to disseminate the idea of social inclusion and not only integration as a development process in one has to adapt.



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

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

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

In Portugal the situation of NGOs and trade unions presents in many aspects considerable differences. NGOs, in general, have fewer possibilities, lacking of personnel and funds. Only a few benefit from public recognition at national level.

The type of NGOs working on anti-discrimination are mainly immigrants associations like Associação Cultural Moinho da Juventude, Associação Solidariedade Imigrante, Associação dos Imigrantes nos Açores, Associação de Estudo Cooperação e Solidariedade “Mulher Migrante”, Casa do Brasil em Lisboa among others. In what concerns Roma community we stress out the creation of GACI – Gabinete de Apoio às Comunidades Ciganas (Cabinet for the Support of Roma Communities) in the ACIME (High Commissariat for Immigration and Ethnic Minorities) and some associations such as APODEC (Associação Portuguesa para o Desenvolvimento da Etnia Cigana), Associação Cigana de Coimbra, Associação Ciganos Hoje e CIGLEI (Associação Cigana de Leiria). In what relates religion OCM – Obra Católica Portuguesa de Migrações, Caritas, Serviço Jesuíta dos Refugiados, Obra Nacional para a Pastoral dos Ciganos.

There is a broad range of NGOs working on anti-discrimination issues at a national level for example SOS Racismo especially on grounds of race and ethnic minorities’ discrimination. There are several NGOs working in the area of disability such as APD – Associação Portuguesa de Deficientes (Portuguese Disabled Association), ADD - Associação Desportiva para Deficientes (Sports Association for the Disabled) and ADFA - Associação dos Deficientes das Forças Armadas (Association for the armed forces disabled people). In the sexual orientation there are, for example, ILGA, PortugalGay, OPUS GAY, Portugal Pride and Clube Safo (lesbians) and in what concerns age there are several Elderly Associations.

In what concerns trade unions working on discrimination we must stress out CGTP-IN – Confederação Geral dos Trabalhadores Portugueses (the General Confederation of Portuguese Workers – National Trades Union), UGT – União Geral dos Trabalhadores (the General Workers’ Union), FENPROF – Federação Nacional de Professores (Professors National Federation) and SNQT – Sindicato Nacional dos Quadros Técnicos (National Technical Staff Trade Union) which have national recognition and are respected by the political powers in matters of labour law and social security.

Anti-discrimination is only among many other subjects of trade unions work and concern.

From these above mentioned, the main trade unions working in the anti-discrimination area are CGTP-IN and the UGT which are represented in the CITE - Commission for Equality in Labour and Employment, a tripartite entity composed of representatives from government and social partners under the authority of the Minister of Labour and Social Solidarity.

NGOs and trade unions are committed to anti-discrimination and the promotion of equality and diversity. Individual trade unions pursue equality and diversity policies and programmes to varying degrees but, generally, there is an understanding of the overall legislative framework for anti-discrimination and a public commitment to equality, diversity and human rights.

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)?

Immigrants associations and NGOs like SOS Racismo deal mainly with racial discrimination. Other NGOs such as APD, ADD and ADFA deal on specific ground of discrimination: disability. ILGA and PortugalGay deal mainly on discrimination on grounds of sexual orientation. There are also Associações de Idosos (Associations of elderly) some situated in small municipalities and linked to retired people. Their purpose is to create a better way of living for this kind of local population. They are mainly focused on the basic needs of older persons (such as food, social support and homecare to fight poverty) but none it's entitled by the government or by other public institutions to represent, to promote and to protect the rights of elder people. This lack of official representation leads to some peculiar situations. For example, the interest of elderly people had not been considered in the National implementing body for the "European Year of Equal Opportunities for All", in Portugal. However, a growing number of municipalities are providing leisure and recreation activities to older persons.

Trade unions, in general, deal with all grounds of discrimination, for instance, in the case of CGTP-IN they have several organisations dealing with discrimination issues such as Interjovem (Youth), Comissão para a Igualdade dos Homens e das Mulheres (Commission for Equality between Men and Women), Inter-reformados (retired people) and the programme "Agir para a Igualdade" (Act for Equality). Trade unions are beginning to adopt a more generic approach to equality and anti-discrimination emphasising the rights of women, immigrants, black and minority workers. Trade unions work in specific areas such as education, health, social security and welfare.

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

Anti-discrimination is only a small part of their work. This refers to trade unions and to immigrants associations. Anti-discrimination work is complemented by promotional and educational work. Some NGOs focus only on monitoring projects addressing racial discrimination. Trade unions do not concentrate their efforts in discrimination but they work with NGOs and cooperate in some projects.

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

These NGOs and trade unions are registered on a national level in accordance with association laws. Their work depends on the funding. It is easy to register as an NGO or trade union. Among the supporting documentation that is required are articles of association notarized, published and registered. This involves some paper work and fees for the payment of the notary and of the registration. It is intention of the Government to introduce a faster procedure for the register of Associations and NGOs called: "Associação na Hora" (Quick Association). The register costs will be significantly reduced, the procedures will be quicker and all the data will be afterwards transmitted to the other public administration institutions. These procedures will also apply to trade unions.

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

NGOs are normally not big. They have between 10 up to hundred members. For trade unions, the figures available are for example CGTP-IN with approximately 670.000 members and UGT with approximately 505.000 members.

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

UGT, CGTP-IN and Federação Nacional dos Professores are the umbrella organisations of other trade unions. They work in cooperation with these trade unions. NGOs fighting race discrimination work in an informal network called RAR - Rede Anti Racista (Anti Racist Network).

NGOs dealing with disability are organised in the CNOD – Confederação Nacional dos Organismos de Deficientes (National Confederation of the Organisms dealing with Disability).

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

The trade unions are mainly based in the Capital (Lisbon) and in Porto but they are also spread out in the country as they may also have regional offices. NGOs are mainly based in the Capital but there are others with more regional or community based around the country, for example in Coimbra, Braga, Faro and Leiria.

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

NGOs are doing a different type of work from trade unions. NGOs are devoted to their specific aims and trade unions work sometimes in the field of anti-discrimination or for some specific anti-discrimination projects. The development of regional autonomy in the Azores and Madeira has provided an opportunity for the work on a regional level. The type of work NGOs and trade unions are doing is similar in the capital and in the rest of the country. The differences results of the means they have at their disposal. Normally, NGOs and trade unions which are located out of the capital have less funds and personnel. However, in Porto there are very strong trade unions and federations.

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

Trade unions have a big weight on the national level towards the general public, the civil society, the companies/employers and the government. However, their impact in the specific field of anti-discrimination is not as important as when they are dealing with specific matters related to employment, unemployment, salaries, dismissals and collective bargain. The influence of CGTP-IN and UGT can be considerable – it can have the ear of government and influence legislation and policy for the benefit of workers. NGOs have less impact towards the general public, the civil society, the companies/employers and the government. Sometimes the government pays attention to the NGO's opinions mainly when before passing a law the government asks for the opinion and comments of NGOs on the project. NGOs, too, can often persuade Government to take a particular policy approach or amend legislation and can mobilise public opinion in relation to issues around equality and human rights.

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)

NGOs cooperate with trade unions together and also NGOs with other NGOs and trade unions with other trade unions. They may regularly participate in partnerships to raise awareness around diversity and equality.

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

For exchange of expertise, collaboration on case work or campaigns mainly the jointly organisation of events. Trade unions work alongside NGOs on issues of mutual concern, including anti-discrimination and equality matters and on the rights of the disabled and may co-operate with employer organisations on particular initiatives, for example working with the statutory equality bodies to produce guidance for workers and others.

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

The collaboration is greater on matters like racial discrimination but other grounds are also considered like age discrimination and disability discrimination. They also raise awareness in immigrant workers rights and harassment especially at workplace.

11. How are these NGOs funded?

a. Do they receive state funding?

NGOs receive state funding normally for specific actions. In the case of immigrants associations some receive annual funds from the state through the ACIME. NGOs do not normally receive funding for their functioning. They are funded from a variety of sources including grants from local authorities. In the case of race equality councils:

Central government provides specific funding mainly through ACIME (Alto-Comissariado para a Imigração e Minorias Étnicas) to NGOs acting on anti-discrimination areas. ACIME covers both immigration and anti-discrimination issues on race, ethnic origin, colour and nationality. Roma and immigrants are the most vulnerable groups in terms of discrimination. Funding of immigrants associations in relation to anti-discrimination actions is covered by Law 115/99 of 3 August 1999. According to this law, the support will be given to the immigrants associations, among other activities to the study and investigation of cases and measures of social integration and of discrimination based on race, colour, nationality or ethnic origin and also in view to the elimination of all forms of discrimination based on race, colour, nationality or ethnic origin.

There is no specific funding for NGOs working with sexual orientation issues. The only funding which the government provides so far to these NGOs is for specific cases related to the prevention against AIDS and are supported by the Coordenação Nacional para a Infecção pelo VIH/SIDA (National Coordinator for the AIDS infection).

Funds are granted to NGOs dealing with religion issues through the Secretaria de Estado da Administração Local. Several subsidies have been granted by the Secretário Geral da Presidência do Conselho de Ministros to the Catholic Church, for instance to the Obra Nacional para a Pastoral dos Ciganos. Churches may benefit from some tax benefits. The central government provides specific funding to NGOs working on disability issues. The central government has specific programmes to older people but funds to NGOs dealing with this issue are based on specific projects.

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

In general, access to such funding requires a lot of paper work. The projects must be well defined and correspond to the aim of the anti-discrimination fight campaign having in mind the civil society information on these issues. NGOs must present their previous year Activity Report approved by a General Assembly and according to the law on associations. Sometimes funding is subject to concourse.

Some NGOs complain that the procedures of access to those funding is very bureaucratic and the rules and evaluation methods are too techniques and in certain cases not too transparent.

This funding takes the form of annual subsidies and project funding in what concerns anti-discrimination. These funding possibilities are part of the ACIME programme supporting initiatives and cultural events such as exhibitions and films related to the fight anti-discrimination which is promoted in collaboration with the ACIME. Also debates, seminars and conferences on the subject are held within the project funding of the ACIME.

In what concerns the Roma community ACIME is active in their actions accompanying the Roma associations by promoting debates and publications on the ROMA integration, by visiting several

Roma associations in the country and also by spreading the knowledge of their culture among the civil society. The publications “Guia de Apoio ao associativismo nas comunidades ciganas e de recursos de combate à discriminação racial” (Guide to support associative in the Roma community and of resources for the fight against racial discrimination) a project which involved Roma NGOs and also the “Manual de Boas Práticas Roma EDEM – Combatendo a discriminação das Comunidades ciganas/Viajantes no âmbito da educação e emprego” (Manual of Good Practices EDEM – fighting the Roma community discrimination/Travellers in the scope of education and employment) have been subsidised by the ACIME. The funding given by the ACIME to immigrants NGOs may go up to 35,000 euros per year.

In what concerns NGOs combating discrimination on grounds of sexual orientation, the only support given is, as already mentioned, to the divulgation of material related to the AIDS disease through the Ministério da Saúde (Ministry of Health). In what concerns religion the funding has also taken the form of a co-participation in buildings repairing within the scope of the Programme - Equipamento Religioso” (Religious Equipment). In the area of disability, the funding given to NGOs may reach 20 to 25 percent of the total amount spent per year. There may be also other kind of supports namely to culture and sports.

No funding is known to NGOs dealing with age discrimination issues with exception of personnel put at their disposition under anti-unemployment programmes and some municipal subsidies.

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

Most of the NGOs dealing with these anti-discrimination issues subsist due to the contributions of their associated members, by the donation of some private persons and by the selling of merchandising. The main private funding and support possibilities come from foundations, the most important being Fundação Gulbenkian, Fundação Oriente, Fundação Luso-Americana and Fundação Friedrich Ebert. Some private companies cooperate in anti-discrimination projects and campaigns such as DHL, Delta cafés, IBM and PT – Portuguese Telecom who collaborated together with ACIME on the First Social Fair held in 2005 and also the NIKE Found supporting some disabled initiatives.

d. Do private funders impose any restrictions or conditions?

Private funders do not normally impose any restrictions or conditions. They only give funds if they agree with the projects they are going to fund. The conditions imposed by private funders varies but can include funding only projects that are not already supported by mainstream funding; work that has not already been tested; projects that benefit marginalised groups and involve those who will benefit and projects that influence social change. Other restrictions could relate to the geographic location of the project; or limits on projects that are related to business development.

12. How are these trade unions funded?

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

Trade unions generally speaking do not receive state funding. They may receive funds for some specific projects. The only state funding they receive (CGTP-IN and UGT) is the one which is given to employers’ associations for the participation in the Conselho de Concertação Social (Commission for Social Dialogue) around 38.000 Euros. They can also receive funds through the participation on national and European programmes inclusive on anti-discrimination issues

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

Trade unions have not been directly funded by political parties. There has been, however, an historical relationship between CGTP-IN and the PCP (Communist Party) and UGT with PS (Socialist Party) and PSD (Social Democrat Party).

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

They function mainly on their members' fees.

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

They are able to receive private funding and/or participate in project funded by European/international institutions. They can also apply for project work or joint funding with an NGO. They present projects and if they are approved they receive the corresponding funds. However, small NGOs especially those dealing with the elderly are not aware of EU funding possibilities and do not know how to apply for that funding.

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?

The lack of funding is a significant factor in the size of NGOs and it restricts the scope or scale of their activities. The lack of funding for trade unions has not so far been a factor of restricting the scope or scale of their activities. It is difficult for NGOs to sustain programmes of work over longer periods, resulting in a lack of continuity and loss of staff and expertise. CGTP-IN and UGT have good staff and expertise but they do not have enough funds to allocate many resources to anti-discrimination specific campaigns.

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

They have contact with similar NGOs/trade unions. Many NGOs working on equality and diversity are linked to others across Europe including membership or involvement with the European Network against Racism or the European Women's Lobby and are represented in the CES – Conselho Económico e Social (Social and Economic Council) and also the AGE - European Older People's Platform (represented in Portugal by VIDA (Associação Valorização Intergeneracional e Desenvolvimento Activo)), the International Lesbian and Gay Association and the EDF – European Disability Forum (represented in Portugal by CNOD – Confederação Nacional dos Organismos de Deficientes). In what concerns trade unions both CGTP-IN and UGT are members of the ETUC-European Trade Union Confederation.

a. Neighbouring countries?

NGOs and trade unions work with Spain.

b. Other new EU Member States?

Not specifically with the new Member States as Portugal is a bit far from them.

c. Others?

Trade unions maintain several contacts with trade unions belonging to the former Portuguese colonies (PALOP) such as Angola, Mozambique, Cape-Vert, Guinea-Bissau, S. Tomé and also with Brazil. Some NGOs work with them as well in an informal way or in some specific projects, for example, IED – Instituto de Estudos para o Desenvolvimento and OIKOS – Cooperação e Desenvolvimento.

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

Both trade unions and NGOs work on international level when their work is requested. In the case of trade unions, they are sometimes very active in the international cases. Beyond this, international work might include campaigns around women and children's rights; trafficking; refugee integration and asylum policy. Both specialist NGOs and trade unions have an interest in these areas and some with particular expertise on human rights.

16. Can they work in English?

Normally, they can work in English but in some cases it may be difficult for small NGOs.

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?

In Portugal, there is a connection of political parties with trade unions even if it does not formally exist, this link is normally referred as CGTP connected with the Communist party (PCP) and UGT is connected with the Socialist Party (PS) and with the Social Democrat party (PSD) already mentioned above.

However, in the specific case of ability to work on anti-discrimination these political connections have no effect and do not prevent them from working on these issues. There are no references of connections of NGOs working on anti-discrimination with political parties. Trade unions have supported government initiatives when these have developed the cause of equality but have not shied away from critical comment where this has been appropriate.

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

The regional branch of a trade union can work on anti-discrimination even if headquarters does not provided that they have the means and the will to do that.

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

19. What kind of work do they do?

NGOs and trade unions work on education, prevention and anti-discrimination campaigns. They raise the attention of the general public to some discrimination situations and they openly criticize government, police and other bodies. They are involved in education programmes, lobbying, campaigning, research, consultation and advocacy on behalf of individuals. They provide advice to members on discriminatory practices and may assist or represent members who are pursuing claims of unlawful discrimination. They may also become involved in legal interventions, such as judicial review, and participate in working groups and advisory panels for equality and anti-discrimination initiatives.

20. Do they take up complaints of discrimination?

NGOs and trade unions take up complaints of discrimination and they pass them to the organs that are involved in the prosecution, for example ACIME and IGT – Inspeção-Geral do Trabalho (General Labour Inspectorate) or CITE.

21. Do they focus on their own community?

NGOs like SOS Racismo focus on all the communities. Immigrants associations are mainly concerned with their own communities.

NGOs working in the anti-discrimination field will focus on the area or areas of discrimination in which they have expertise at national, regional or local level; for example, race, religion, sexual orientation or age. Some immigrants NGOs focus on their communities. Trade unions represent the interests of their members irrespective of the 'community' from which they come.

22. Do they work with victims directly?

They work with the victims directly and try to give them support. Some NGOs - for example, SOS Racismo - work with victims of harassment and race discrimination, providing support, advice and occasionally referral for legal assistance. The extent of these services, however, is dependent upon the resources and expertise available.

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

Within the company trade unions represent only their members but in practice they are often accepted to represent any worker. The outcome of negotiations or educational or promotional programmes will apply for the benefit of all workers.

24. Do they do 'case work'?

Trade unions do "case work".

Some TU representatives do take up cases on behalf of individual members and some NGOs have casework functions. Where neither can assist they will endeavour to make appropriate referrals for individuals. It is worth noting that resources to support casework and organisations, such as law centres, that deliver it, are diminishing and it is not clear how or to what extent individuals will be able to access remedies for unlawful discrimination in the future.

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

They are not able to access state funding for casework but they can help the victims to have access to legal aid or to the free assistance of the Ministério Público (Public Prosecutor) in criminal and labour cases. Funding for NGOs comes from a variety of sources and may include grants from local authorities or 'state' programmes. The CICDR – Comissão para a Igualdade e Contra a Discriminação Racial (Commission for Equality and Against Racial Discrimination) and CIDM – Comissão Internacional Direitos das Mulheres (International Commission for Women's Rights) are able to provide grants to NGOs.

26. Does this include legal representation?

Members of trade unions can have access to legal representation free of charge. The Ministério Público (Public Prosecutor) represents all the workers in cases before the Tribunais do Trabalho (Labour Courts). The Legal Aid may be available for discrimination complaints before courts such as those on the provision of goods, facilities, services, housing and education or appeals or other interventions to higher courts. The CICDR can provide legal representation for individual complaint. **Some NGO's help their members to obtain legal assistance and in some cases have contact with lawyers working *pro bono*.**

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

It is possible for trade unions to engage in some cases on behalf or in support of victims of discrimination in judicial or administrative procedures according to the Código do Trabalho (Labour Code) and Código do Processo do Trabalho (Labour Procedure Code). In what concerns NGOs the situation is more complicated.

We can say in general that they can engage in support of the victims in criminal judicial procedures but they can not engage on behalf or in support of the victims in administrative procedures. Legal entities (NGO's and associations) representing disabled people interests have legal standing in Court to take cases on behalf of disabled individuals.

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

Trade unions are able to pursue class actions under the Código do Trabalho (Labour Code) and Código do Processo do Trabalho (Labour Procedure Code). NGOs do not have possibility of pursuing class actions.

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

Trade unions assist the victims or potential victims in cases involving labour law. NGOs assist victims or potential victims when they are able for that. They do not normally do social assistance; they guide the victims to the social assistance.

30. Do they advocate changes in legislation and policies?

Trade unions advocate changes in legislation and policies mainly in what concerns the labour code and some other legislation.

NGOs acting on anti-discrimination field claim for more possibilities to pursue class actions, to engage on behalf or in support of the victims and for a more effective procedure to impose fines on infringers. There is no effective lobbying in matters related to age discrimination as there are no NGOs dealing with this issue at national level. NGO rights as concerns labour law are not set out in Portuguese law in an adequate manner. The protection of independent workers and the self-employed is not sufficiently granted. They are also involved in international treaty monitoring or national reporting such as SOS Racismo and Númena – Centro de Investigação em Ciências Sociais e Humanas (Social and Human Sciences Research Center).

31. What are their relations with the central government?

The central government consults normally trade unions. The relations can be more or less tense but the possibility of mobilisation public in the streets on demonstrations is an importance force of the trade unions. NGOs are heard by the members of the government but they have very little impact on the government policies. Some national NGOs have developed effective relationships at central Government level which ensures that they have the ear of some Government representatives. Specialist NGOs often make submissions to Government on equality and anti-discrimination matters.

32. With regional governments or municipalities?

The regional governments of Azores and Madeira follow the same lines of the central government in what concerns the relations with NGOs and trade unions. The government hears them but they rarely follow their advices when those are against the regional government's opinions. The municipalities tend to pay attention to NGOs working in the anti-discrimination area and to have representations of NGOs within their activities. The relations with trade unions are rare at municipal level.

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

Trade unions and employers organisations deal directly in some aspects and in what concerns anti-discrimination issues there is no major conflict with employers organisations. While they may agree on the principles behind the pursuit of equality and anti-discrimination initiatives there is often a difference of opinion on how and to what extent such measures should be implemented.

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

The Portuguese Ombudsman pay attention to any complaint duly founded presented by trade unions and NGOs makes the necessary investigations. NGOs and trade unions have varying degrees of engagement with the Portuguese equality bodies: CICDR – Comissão para a Igualdade e Contra a Discriminação Racial (CEARD) an organ from ACIME, CITE – Comissão para a Igualdade no Trabalho e no Emprego (Commission for Equality in Labour and in Employment) and CIDM – Comissão para a Igualdade e para os Direitos das Mulheres (the Equality Commission for Women’s Rights).

35. What are the qualifications of the staff?

Trade unions have a considerable staff of economists and legal advisers. NGOs depend a lot on voluntary work and they have sometimes legal advisers, economists and social workers as in the case of CPR – Comité Português para os Refugiados (the Portuguese Committee for Refugees). Other NGOs volunteers act as community based advocates or grassroots activists. Some NGOs, which have the resources, provide their own training; others are supported by guidance and advice from umbrella groups.

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

There is no specific training in anti-discrimination work in trade unions or in NGOs in general. Only in very specific NGOs like SOS Racismo and CPR - Conselho Português para os Refugiados (the Portuguese Council for Refugees) there is some training on this area. This will depend on the resources available to an NGO or trade unions or their ability to access training offered by others. Some larger NGOs have training departments or can fund external experts but the anti-discrimination element of their training programmes may vary from non-existent to more comprehensive depending on their work programme and strategic objectives. Other specialist NGOs provides regular updates on the law to staff or the opportunity for staff to update themselves through reading time or research. Information, advice and guidance are available from a variety of sources including the current equality bodies.

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

There is no specific training in writing funding proposals and reporting. The level of training staff will have in relation to preparing funding proposals and reporting will depend on resources available to an NGO or trade union. Smaller NGOs will not have access to or be able to provide this kind of training.

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

They are very pessimistic in what concerns their “success” on combating anti-discrimination. They evaluate very well their anti-discrimination work. NGOs seeking funding from external providers need to identify the objectives they are seeking to achieve and report on outputs and outcomes against these objectives. Larger or better funded NGOs have strategic plans and business objectives together with performance management frameworks to facilitate measurement and evaluation.

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

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

The main problem faced by trade unions is that they work on several issues and anti-discrimination is only a small aspect of their work. NGOs have not many legal possibilities of combating anti-discrimination. The main problem is the lack of funding and thus the lack of staff and expertise. Many NGOs are unable to access resources year on year and are forced to divert time and effort to fund raising on an annual basis.

In what concerns trade unions there can be conflicting priorities across the range of employment rights reducing the time available for anti-discrimination work. NGOs and trade unions need for training including refresher training.

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

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

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

For some NGOs this is the case, particularly those that have a generalist advice brief which can include many issues other from anti-discrimination work, such as social security, housing and debt. For others, despite specialising in anti-discrimination work, staff time and effort can be diverted to trying to source funding leaving less time for regular skills and knowledge updating.

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

It would be necessary more easily available documents containing the Portuguese, European and international legislation against discrimination, to collect court precedents at national, European and international level and to discuss these documents with members of NGOs and trade unions working in the field. These discussions should be held together by judges, public prosecutors, lawyers, law enforcement agents and employers associations' representatives. Both NGOs and trade unions require human rights training. For both NGOs and trade unions regular updates on changes in legislation and case law is required. For others there will be an ongoing need for comprehensive training programmes on the law, remedies and service delivery principles and mechanisms to ensure that staff and volunteers are competent to perform their actions.

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

We can say in general that staff is not sufficiently trained in relation to national anti-discrimination legislation. In some cases yes - those with a specific anti-discrimination or human rights brief, for example, or the larger trade unions but not in others. The ACIME, CITE and CIDM provide guidance via websites and in some cases on a one to one basis or through helplines such as the one from ACIME – SOS Imigrante in 5 different languages (line 808 257 257) from CITE with the maternity and parenthood (line 800 204 684) and the helpline from CIDM on information to victims of domestic violence (line 800 202 148).

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

Their staff for both NGOs and trade unions is not sufficiently trained in what concerns European anti-discrimination legislation and ECJ or ECHR jurisprudence with exception of some lawyers in the legal departments of CGTP-IN and UGT. Many NGOs and trade unions would benefit from regular bulletins on European case law and practical guidance on concepts such as the burden of proof or indirect discrimination as well as on any new provisions that are planned. However, more than provide access to EU information it is mandatory to break the language barriers. Despite the anti-discrimination European website is in Portuguese we must stress that for example, older people do not have access to the internet alike some smaller NGOs.

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

They are not trained to advise the government in formulating policy proposals or legislative proposals. They often do it but not in a very professional manner. Opportunities to network with other NGOs in Portugal and abroad across the range of equality issues would be an advantage. Trade unions are better prepared to discuss and to make legislative proposals involving labour law. They often do it.

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

They need to promote their anti-discrimination role in order to be respected by the public opinion and to promote the work they do on national or regional level. This would certainly be the case with the 'newer' strands of sexual orientation, religion and belief and age, bearing in mind that greater awareness raising and promotion activity can generate a demand for services that some NGOs or trade unions may find it difficult to meet.

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

It is essential that trade unions and NGOs can help in a more effective way victims, clients or potential clients, members or potential members.

We feel it of the greatest necessity. Specialised persons and funds are necessary to improve their help and also changes in the legislation must be made in order that NGOs can act on behalf of the victims. More work is needed on age discrimination, including younger people and children and also on religion and belief and sexual orientation. Also on the grounds of disability and race more work should be done.

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

They need to “do more” with government to increase their credibility and status. If Government engaged more with NGOs and trade unions its views would be more likely to be informed by grassroots opinion, particularly at a regional level. NGOs in particular could be assisted in this through greater funding which would facilitate more effective engagement without taking away from core work. This would also help to ensure that the perspective of communities and trade unions would be factored into the decision making process.

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

Trade unions are already respected by companies and employers organisations but if they have a better staff and more funds they would be more respected by them. Trade unions and employers can be a powerful influence on Government. On equality and anti-discrimination matters there may be different views on how best to pursue the 'business case' for equality and trade unions and employers often find themselves on opposite sides of the argument around new initiatives such as paternity leave or flexible working. Some employers have taken more comprehensive steps to embrace the equality and human rights agendas and trade unions should find these employers as more willing partners in taking this work forward.

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

They need to “do more” with public opinion and raise awareness on these issues by campaigning and answering to NGOs campaigns. This depends on the availability of resources and expertise to support campaigns, education programmes and other initiatives.

51. What would they need to develop?

To develop they need:

- a) Funds
- b) Specialized staff
- c) Training
- d) Access to information

This could include education programmes, materials and initiatives for younger people, expertise in governance to enable greater participation, consultation, education, staff training, volunteering, human rights training and effective use of the media. It would be of interest a specific work with the Police trade unions, the Associação Profissional da GNR (the Professional Guards Association) and the Associação dos Sargentos da GNR (the Sergeants Guards Association). Associations should have greater rights to intervene in labour, administrative and judicial procedures

c) National legislation in the field of anti-discrimination

1. The transposition of the Directives into national law

The Directives have been transposed through several legislative diplomas:

Directives 2000/43 and 2000/78 have been expressly implemented by Law 18/2004, the Labour Code and Law 35/2004.

Law 18/2004 of 11 May 2004 has transposed Council Directive 2000/43 of 29 June 2000 into Portuguese law, and establishing the principle of equality of treatment between persons irrespective of racial or ethnic origin and a legal framework to combat discrimination on the grounds of racial or ethnic origin. This law goes beyond the Racial Equality Directive, as it prohibits discrimination based on nationality and colour. Article 3(1) provides that “For the purpose of this law the principle of equality of treatment means the absence of any discrimination, direct or indirect, based on racial or ethnic origin”. Article 3(2) states that “All actions or omissions affecting persons on the grounds of race, colour, nationality or ethnic origin, which violate the principle of equality, are considered as discriminatory practices. This law covers the private and public sector in the following areas: social protection, social services, benefits, education, access to goods and services and the provision of these goods and services, as well as contracts of employment. It defines direct and indirect discrimination and victimisation. The law states that associations whose purpose is to combat racial discrimination may take part in court proceedings as representatives or assistants of the victim, with his or her consent.

Law 99/2003 of 27 August 2003 adopting the Labour Code has transposed Directives 2000/43 and 2000/78.

The Labour Code implements the Framework Employment Directive 2000/78 but it prohibits discrimination also on grounds not foreseen in this Directive. Article 23 of the Code deals with anti-discrimination and forbids the practice of any discrimination, direct or indirect, based namely on ancestry, age, sex, sexual orientation, civil status, family situation, genetic patrimony, reduced capacity to work, disability or chronic disease, nationality, ethnic origin, religion, political or ideological convictions and membership of a trade union.

Law 35/2004 of 29 July 2004 which regulates Law 99/2003 of the Labour Code transposes Directives 2000/43 and 2000/78.

Other related legislation:

The above referred diplomas have to be considered within the Portuguese legal system, namely: The Constitution of the Portuguese Republic of 2 April 1976: Article 1 – dignity of all persons; Article 8 – international law as integral part of Portuguese law; Article 13 – principle of equal treatment, prohibition of discrimination on a non-exhaustive list of grounds: ancestry, sex, race, language, country of origin, religion, political or ideological convictions, education, economic situation, social condition and sexual orientation; Article 15 – equal treatment of aliens and stateless persons; Article 18 – fundamental rights binding on both public and private bodies; Articles 58 and 59 – equal treatment of all workers without discrimination; Article 69 – child protection; Article 70 – protection of young people; Article 71 – rights of disabled people; and Article 72 – rights of elderly people.

The Criminal Code of 3 September 1982: Articles 132 and 146 – homicide and assault motivated by racial or religious hatred; Article 239 – genocide; Article 240 – racial and religious discrimination; Articles 251 and 252 – insults on grounds of religion, defame or insult connected with racism (Articles 180, 181, 187 and 188 of the Criminal Code).

Law 16/2001 of 22 June 2001, the Law on Religious Freedom.

Decree-law 163/2006 of 8 August 2006 which approves the accessibility regime to buildings and public premises.

Law 46/2006 of 28 August 2006 prohibiting and punishing discrimination based on disability and on the grounds that a person has a pre-existing aggravated risk to their health (*risco agravado para a saúde*). The objectives of this law are to prevent and forbid direct or indirect discrimination on grounds of any kind of disability and on the grounds that a person has a pre-existing aggravated risk to the health of the person and to sanction the practice of acts which may constitute violation of any fundamental rights, or the refusal or restriction of the exercise of any economic, social, cultural or other rights, by any persons on the basis of any kind of disability.

Equality body

The required institutions for the promotion of equal treatment regardless of racial or ethnic origin set up in accordance with Article 13 of Council Directive 2000/43/EC are:

The ACIME¹ - High Commissariat for Immigration and Ethnic Minorities (*hereafter* as ACIME). According to Article 8(1) of Law 18/2004 of 11 May 2004 as amended by Decree-law 86/2005 of 2 May 2005, it is the responsibility of the ACIME in accordance with the regulations under Decree-law 251/2002 of 22 November 2002 amended by Decree-law 27/2005 of 4 February 2005, to promote the equality of treatment among all persons, without any discrimination on grounds of racial or ethnic origin.

The CEARD² – Commission for Equality and Against Racial Discrimination which is an organ from ACIME (*hereafter* as CEARD). This body has the general competence for racial discrimination. For the other grounds of discrimination is the IGT³ – General Labour Inspectorate, the competent one (*hereafter* as IGT).

ECRI comments

At international level the most important comments on discrimination issues have been made by ECRI⁴ who encouraged the Portuguese authorities to ratify Protocol No. 12 to the European Convention on Human Rights (ECHR) as rapidly as possible. ECRI notes with interest, however, the setting up on 17 November 2004 of the UVIDRE⁵, the Victim support unit for immigrants and others who have suffered racial or ethnic discrimination. The new unit run by an NGO, the APAV⁶ - The Victim's Support Association and funded by the office of the ACIME is tasked with helping victims free of charge, by providing psychological, social and legal assistance through personalised, human counselling by qualified staff. ECRI recommends that the Portuguese authorities significantly reinforce their efforts in terms of training for the police, prosecutors, judges and future legal professionals as regards the application of the legislation on racist offences and in particular Article 240 of the Criminal Code. It also recommends that the Portuguese authorities inform the public about the existence of provisions for sanctioning racially motivated acts.

For research being carried out in national academic institutions, see OI – the Immigration Observatory⁷ who deals also with minorities.

¹ ACIME – Alto Comissariado para a Emigração e Minorias Étnicas website: <http://www.acime.gov.pt/>

² CICDR – Comissão para a Igualdade e Contra a Discriminação Racial website: <http://www.acime.gov.pt/modules.php?name=Content&pa=showpage&pid=46>

³ IGT – Inspeção-geral do Trabalho website: <http://www.igt.gov.pt/>

⁴ ECRI – European Commission against Racism and Intolerance website: http://www.coe.int/t/E/human_rights/ecri/

⁵ UVIDRE – Unidade de Apoio à Vítima Imigrante e de Discriminação Racial ou Étnica website: <http://www.apav.pt/>

⁶ APAV – Associação Portuguesa de Apoio à Vítima website: <http://www.apav.pt/>

⁷ Observatório da Imigração website: <http://www.oi.acime.gov.pt/>

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

The implementation of the Directives has increased the level of protection already provided in national law, namely by the adoption of the definition of direct and indirect discrimination, harassment, victimisation, burden of proof.

According to Portuguese legislation an order or instruction with the purpose of disadvantaging any persons by reason of one of the grounds referred to in Article 23(1) of the Labour Code shall be deemed to constitute discrimination.

The law on disability considers the following to constitute discriminatory practices against disabled persons: the adoption of procedures, measures or criteria directly by the employer or through the instructions given to workers or job centres, which may make the recruitment of employees and the termination of the work contract conditional upon factors of a physical, sensorial or mental nature. Also the production or publication of job advertisements or any other kind of publicity connected to the pre-selection or recruitment of workers which may, directly or indirectly contain any specification based on discriminatory factors on the basis of disability.

The employer has a duty to provide reasonable accommodation for disabled people. The State has a duty to give support to the employers.

The employer shall adopt appropriate measures of positive action to enable a person with a disability or a chronic disease to have access to, participate in, or progress in his or her career, or to undergo training, unless such measures would impose a disproportionate burden on the employer. The burden shall not be considered disproportionate when it is sufficiently remedied by legal measures that exist within the framework of the national disability policy. The burden will not be considered disproportionate when it is compensated for by the State in terms still to be provided for in special legislation.

National law provides an exception for genuine and determining occupational requirements. It states that conduct (behaviour) based on race and ethnic origin does not amount to discrimination when, due to the nature of the activities or the context of their execution, such a favour constitutes a justifiable requirement and is determining for its exercise, but the objective must be legitimate and the requirement proportionate.

The Labour Code prohibits in effect all practices of direct and indirect discrimination by the employer on the grounds referred in the Directives. According to the same Code, a difference in treatment which is based on a characteristic related to any of the grounds listed shall not constitute discrimination if, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a justifiable and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

The administrative channels appropriate challenging violations of Directive 2000/43/EC are ACIME and CEARD.

For violations of Directive 2000/78/EC is competent the IGT.

No special formalities are required. The eventual victims may address directly to the ACIME or to IGT or through any police force PSP⁸ or GNR⁹.

The victims can also address their complaints to the Ombudsman¹⁰.

⁸ Polícia de Segurança Pública website: <http://www.psp.pt/>

⁹ Guarda Nacional Republicana website: <http://www.gnr.pt/default2.asp>

2.A(1) Employment and occupation related - all grounds

In employment and occupation related cases when the ground is racial discrimination the competent authority is the ACIME / CEARD which will send the case for IGT for investigation. For all other grounds IGT has its own competence.

A worker, preferably with the support of an NGO or of a trade union, may:

1. File a complaint at IGT, which will make the investigations and will decide on the consequences;
2. Ask the Public Prosecutor (Ministério Público) to file an action at the labour courts or file an action with the support of a lawyer either through the trade unions or by legal aid. It is also competent for the workers' representation in labour courts.
When discrimination is connected with a crime, complaint must be filed at the Public Prosecutor office. In case of private criminal prosecutions (defame or insult) the representation of a lawyer is needed.
3. Instruct a lawyer with the support of legal assistance if necessary.

When a public authority is accused of discrimination:

1. The administrative remedies are to appeal to the hierarchical superiors, including the Ministry in charge and complain to the Ombudsman (they are not exclusive);
2. Appeal to the administrative courts asking for the discriminatory act to be declared null and void and for the payment of damages.

If a private body is accused of discrimination:

When the ground is racial discrimination, the victim may:

1. Complain to the ACIME / CEARD directly or at any police force (PSP, GNR) that will send the case to ACIME / CEARD.
2. If discrimination is connected with a crime, the victim may complain at the offices of the Public Prosecutor or any police force (PSP, GNR).
3. Racial discrimination can also be sued in civil courts for damages or other remedies adequate to the situation.

On other grounds of discrimination (age, disability...), the complaint may be filed at IGT, police forces (PSP, GNR) or at labour courts.

Informal resolution is dealt by ACIME and by IGT and also at labour courts by the Public Prosecutor and even by the trial judges. Internal grievance procedures are used when the labour department of the firm is well organised. It does not occur in small companies whether it is more the informal resolution of disputes that occurs. Complaints to IGT are frequently.

For legal cases in the sphere of employment there are specialised Labour Courts (Tribunais do Trabalho). They are part of the common jurisdiction but deal only with labour law cases concerning employment relationships, accidents and professional illness and conflicts concerning social security rights. They deal with all questions arising from the drafting, execution and termination of employment contracts.

¹⁰ Provedor de Justiça website: <http://www.provedor-jus.pt/>

The jurisdiction of the Labour Courts is set out in Article 85 of the Courts Act of 1999. These courts are staffed with professional judges. These courts also deal with appeals regarding sanctions imposed by IGT for non-compliance with employment laws.

No specific procedures for mediation in relation to discrimination are provided for in the Labour Code. However, the procedure rules for the Labour Courts make it mandatory for the judge presiding over a case to hold at least one conciliation conference between the parties before trial and require him to try and mediate in any labour dispute coming under his jurisdiction (Articles 32(2), 36(2), 51(1)(2), 55(2) and 70(1) of the Code of Procedure in Labour Courts). Article 541(f) of the Labour Code also states that collective agreements should include mechanisms for conciliation (Articles 583, *et seq.*), mediation (Articles 587, *et seq.*) and arbitration (Articles 564, *et seq.*) regarding labour disputes.

In cases of employment discrimination, the case will be instructed and investigated by the IGT which will check the facts that have been reported by the victims or any other person.

Racial discrimination in public bodies is subject to disciplinary measures against the discriminator and the sanctions may go as far as dismissal, however the victims have no right to intervene in the disciplinary procedure.

According to Article 614 of the Labour Code, any violation of its provisions amounts to an administrative offence (*contra-ordenação*), for which an administrative fine (*coima*) can be imposed. The Labour Code classifies these administrative offences according to their degree of gravity as either as minor (*leves*), serious (*graves*) or very serious (*muito graves*) offences. A violation of the provisions on equality and non-discrimination is considered a very serious offence. Other offences related to the application of Directive 2000/78/EC may be considered as minor or serious offences.

Many court buildings have not been adapted to facilitate access for disabled people, and in most cases old buildings are very hard to access. Decree-law 163/2006 provides for the removal of architectural barriers but establishes a delay up to 8 years (Article 23) for the removal.

Mediation by the High Commissioner of Immigration and Ethnic Minorities is not binding. However, mediation by Labour Courts is.

NGOs and trade unions intervention:

Article 5 of Law 18/2004 states:

“The associations that, according to their by-laws, have as their objective protection against discrimination based on racial or ethnic origin have the right to intervene in support or on behalf of one or more complainants and with their approval in the respective legal procedures”.

Also Law 46/2006 in Article 15(1) foresees to disabled people associations and other similar organisations defending the rights and interests of disabled people, the right to intervene in support or on behalf of the complainant in his/hers respective legal procedures. Those entities have the right to follow the administrative procedure aiming to impose fines based on the practice of any discriminatory act referred to in this law. In case of a crime committed against a disabled person these entities have the right to be assistants in those crime lawsuits.

Also Decree-law 163/2006 on accessibility for the disabled foresees that legal entities (NGO's and associations) representing disabled people interests have legal standing in Court to take cases on behalf of disabled individuals.

However, in cases of minor offences (*contra-ordenações*) they have only the right to denounce and to file a complaint with the CEARD and the ACIME.

They do not have the right to appeal if the complaint is dismissed nor the right to answer the appeal of a guilty person against a decision imposing a fine as the law on the appeal procedure in case of minor offences (contra-ordenações) only grants the right of appeal to the guilty person or the Public Prosecutor.

Article 9(2) Directive 2000/78/EC is covered by Article 477(d) of the Labour Code but only trade unions have the right to intervene in the defence and protection of their members.

Furthermore Article 640 of the Labour Code grants legal standing to trade unions in administrative procedures imposing fines in cases of violation of the anti-discrimination rules of this Code with the right to file an appeal or to answer the appeal of the guilty person. Article 5 of the Labour Procedure Code (Código de Processo do Trabalho) (the Code containing rules of procedure for labour actions in accordance with Decree-law 480/99 of 9 November 1999) allows the intervention of trade unions in employment cases. Other NGOs do not have these rights.

Trade Unions and NGOs in cases referred above have the right to act on behalf of one or more complainants. Class actions, in the sense of collective actions, i.e. actions with several complaints are possible in civil, criminal and labour procedures under Article 5(2)(c) of the Labour Procedure Code stating that trade unions may file actions, in representation of their members who authorise them to do so in cases related to the general violation of individual rights of identical nature. Article 5(3) states that the authorisation is presumed if the member does not manifest any opposition after being informed by the trade union of its intention to file the action.

Complaints to ombudsperson:

The Ombudsman main tasks are to defend and promote the rights, freedoms, safeguards and lawful interests of citizens, by ensuring, through informal means (that is without any judicial procedure), that the authorities exercise their powers fairly and in compliance with the law. The Ombudsman has intervened in a number of matters concerning racism.

The main practical difficulties in enforcing legislation relate to the coordination between the CEARD, the High Commissioner and the General Inspectorates responsible for investigations as well as the offices of the Public Prosecutor. It is very difficult to obtain evidence on discriminatory acts and the procedures tend to be very long.

Complaints can be filed to both bodies by individual citizens, NGOs, employees' organisations, etc. They benefit from the support of High Commissariat staff, who receive the complaints and pass the file to the CEARD. They do not conduct investigations on individual complaints themselves. They provide legal assistance to the victims in their offices and in cooperation with the Bar Association¹¹. Practical assistance is provided by UAAVIDRE.

Civil damages can be awarded for all types of discrimination under the general principles of Articles 483, 484, 496 of the Civil Code. In labour law, it should be noted that Article 26 of the Labour Code expressly states that the occurrence of any discriminatory act gives the worker or job applicant the right to be compensated for pecuniary or non-pecuniary damages in accordance with the general provisions of civil law (i.e. Articles 483; 496; 799 and 800 (1) of Civil Code).

¹¹ Ordem dos Advogados website: <http://www.oa.pt/>

2.A(2) Identify applicable situations, e.g.

Discrimination is forbidden in all employment and occupation related situations such as advertising of posts, recruitment procedures, selection, terms and conditions, pay, discrimination in the workplace, dress codes, working hours, part-time workers, workplace disciplinary procedures, promotion, allowances and bonus payments, dismissal (procedural and substantive), social security payments, occupational pensions, issues of permits and licences, access to vocational training, including vocational training in prisons.

In what concerns dress codes special requirements for some jobs are accepted such as in hotels, airline companies where the employees are bound to some special rules when in contact with the general public and must use a uniform.

Which internal or administrative remedies (if any) have to be exhausted before recourse can be had to the remedies set out at (5) to (9) above?

Internal or administrative remedies do not have to be exhausted before recourse to courts.

2.B(1) Non-employment or occupation related - race and ethnic origin

Informal resolution is done by the ACIME but it can also be done by other authorities and police forces.

Complaints to Equality bodies and Commissions:

Any person or institution having knowledge of a situation which may be considered to be infringing the law should bring the case to the attention of one of the following entities:

- A Member of the Government whose responsibilities include the area of equality;
- The High Commissioner for Immigration and Ethnic Minorities (Alto-Comissário para a Imigração e Minorias Étnicas);
- The CEARD - Commission for Equality and Against Racial Discrimination (Comissão para a Igualdade e contra a Discriminação Racial);
- The relevant Inspectorate General concerning the matter, for example, IGT, IGAL, IGAT and IGAI – General Internal Administration Inspectorate (Inspeção Geral da Administração Interna).
- The police forces (PSP and GNR)

Dammages

Law No. 18/2004 merely introduces an administrative procedure which punishes the discriminator and makes no specific provision for the victim, e.g., in order to obtain compensation, victims of racial discrimination, in general, must invoke Article 483 of the Civil Code (general civil liability in the case of illegal acts causing injury) in the civil courts. As concerns Article 70 of the Civil Code, it may be invoked in order to prevent an illegal infringement of the physical or moral integrity of an individual. All the situations of social protection including social security and health care, social and also education, housing, access to and provision of goods and service provided to the public, including welfare services, banking, insurance, access to premises open to the public, e.g. restaurants, hotels, leisure facilities are covered by the legislation against race discrimination.

For the offences committed under Law 18/2004, the High Commissioner for Immigration and Ethnic Minorities has the authority to impose penalties. He initiates an administrative procedure and after having heard the parties and the Permanent Committee of the Commission on Equality (CEARD), decides whether a fine should be imposed and the amount of it. The respondent has the right to appeal to the courts against the fines imposed by the ACIME.

Neither the victim nor associations have the right to appeal or to intervene in the appeal procedure. The victims have the right to sue for damages in court.

Internal or administrative remedies do not have to be exhausted before recourse to the Tribunal.

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

The object of the complaint is normally justice for the individual. Only for NGOs is raising awareness of discrimination.

NGOs or trade unions must identify the purpose of making the complaint namely what outcome the complainant can expect.

Normally the complainant wants a practical solution; for example, avoid dismissal or obtaining the renting of an apartment or compensation of the damages.

There is the possibility in civil and labour disputes; if there is a specific reason for urgency in the resolution (*periculum in mora*) it is possible to ask for urgent measures/interim measures.

The assessment of facts and the assessment of available evidence is one of the greatest problems. The evidence is normally by testimonies and it is difficult to obtain testimonies in these cases and often the authorities do not pay attention to the question of the burden of proof.

Rules on victimisation protect the complainant even in case of internal complaint within the company brought by a trade union.

The most important matter in discrimination cases is evidence of the discriminatory acts: any type of evidence is accepted, it is even possible to register the evidence before filing the action (*probationem ad perpetuam nei memoriae*).

In principle, according to the rules on victimisation there should be no consequences on the complainant or of its witnesses in case of internal complaint. However, retaliation is often possible and it often occurs that the witnesses refuse to be present in court afraid of retaliation by the company.

The legal representation is highly desirable and in some cases is required but here it is possible in employment cases for the worker to have the support of the Public Prosecutor or of the trade unions' lawyers.

Legal assistance is quite easy for a worker to obtain at the Bar Association has a group of lawyers working with ACIME to assist the victims. The right to legal aid/judicial is under Decree-law 71/2005 of 17 March 2005, completed the transposition of the Council Directive 2002/8/EC of 27 January 2003. Foreigners with a valid residence permit even in another Member State and who have insufficient economic means for payment are now also entitled to legal aid. If the parts do not benefit from legal assistance they have to support the cost if they loose their case. The competent authority to decide on the request validity is the Portuguese Social Security services.

The parties must be well aware of the time limits to file the court actions.

2.D Technical procedural requirements of each available remedy

Victims must keep in mind that the legal action must be taken within a certain period of time. The time limit applicable to contra-ordenações is 1, 3 or 5 years depending on the type of the infraction (Article 27, Decree-law 244/95 of 14 September 1995).

In criminal court cases the time limit is 2, 5, 10, 15 years depending on the type of crime (article 118 of the Criminal Code).

In labour court cases the time limit is 1 year after contract termination and in some cases after 5 years (Article 381 of the Labour Code).

In civil court cases for damages the time limit is 3 years (Article 498 of the Civil Code).

The formal requirements depend on the type of procedure but it is very easy to obtain notarisation of documents and only in some cases is required certified copies or the originals; normally photocopies are accepted.

Specific or general evidence can be included even specific or background newspapers reports but this will be evaluated by the courts and by the administrative bodies.

The ACIME, CITE¹² - the Commission for Equality in Labour and in Employment and CIDM¹³ - the Equality Commission for Women's Rights provide guidance via websites and in some cases on a one to one basis or through helplines such as the one from ACIME – SOS Imigrante in 5 different languages (line 808 257 257); from CITE with the maternity and parenthood (line 800 204 684) and the helpline from CIDM on information to victims of domestic violence (line 800 202 148).

We can also mention the Bar Association, CGTP-IN - the General Confederation of Portuguese Workers – National Trades Union¹⁴ (trade union), UGT – the General Workers' Union¹⁵ (trade union) and SOS Racismo¹⁶ or Soliciedade Imigrante as some of the NGOs dealing with these issues.

There are no special requirements but the parties have interest in presenting all the evidence available when filing the complaint, preferably with the help of an NGO, trade union or UAVIDRE.

2.E Existing support and obstacles at national level

Parties complaining from discrimination can normally without difficulty benefit from legal aid in the form of assistance of a lawyer and exemption from the payment of costs. The costs can not, in general, be considered as an obstacle to the different procedures.

Lack of familiarity with the Directives and with national anti discrimination provisions on the part of judges, public prosecutors, administrative bodies, police forces (PSP/GNR) and so on is really a problem. The Ombudsman is well aware and familiar with the Directives and with the national anti discrimination provisions.

Access to courts may be a problem in some cases when courts are a bit far from the residence of the complainant mainly outside Lisbon and Porto. Some labour courts do not have facilities for disabled access and the same happens to criminal and civil courts.

Court procedures may have interpreters and translators when necessary and they are paid under the legal assistance. Information in Braille should be provided as well as sign language interpretation if necessary.

¹² Comissão para a Igualdade no Trabalho e no Emprego: Email: cite@cite.gov.pt Website: www.cite.gov.pt Phone: 21 780 3700

¹³ Comissão para a Igualdade e para os Direitos das Mulheres: Email: cidm@mail.telepc.pt Website: www.cidm.pt Phone: 21 798 3000

¹⁴ CGTP-IN – Confederação Geral dos Trabalhadores Portugueses website: <http://www.cgtp.pt/>

¹⁵ UGT – União Geral dos Trabalhadores website: <http://www.ugt.pt/>

¹⁶ SOS Racismo website: <http://www.sosracismo.pt/>

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 Justice¹⁷ in Luxembourg under Article 234 of the Treaty. The parties to the proceedings can ask the national judge to grant a request for such a referral, or the judge can decide spontaneously to refer the case. Any court may make a referral, but only the national court of last instance is obliged to do so.

This may be a highly effective procedure because:

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

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

2.G Petitions to the European Parliament

The Committee on Petitions of the European Parliament¹⁸ can receive petitions from Citizens of the Union who wish the Committee to investigate their complaint/s that their rights under European Union law are not being properly respected.

2.H Alerting the European Commission to discriminatory administrative practices

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

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

- Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
- This right includes
 - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
 - the right of every person to have access to his or her file, while respecting the legitimate interest of confidentiality and of professional and business secrecy;
 - the obligation of the administration to give reasons for its decisions.
- Every person has the right to have the Community 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.

¹⁷ European Court of Justice website: www.curia.europa.eu

¹⁸ European Parliament website: <http://www.europarl.europa.eu/>

- 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.

Some NGOs/trade unions/citizens do not hesitate to complain to the Commission. Also through the Citizens Signpost Service ¹⁹, an advisory service, citizens are, in some cases, advised to write to it. Citizens can also use the SOLVIT ²⁰ network for conflicts with public administration.

The NGOs/trade unions/citizens must also bear in mind that if they do not have an answer from the Commission or consider that it is not correct they can complain to the European Ombudsman²¹

2.I Complaints to the European Court of Human Rights

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

This can be done under Article 14 of the Convention provided another Article is also engaged or, if the country has ratified it, under Protocol 12 to the Convention. Portugal has signed but not yet ratified Protocol 12 but according to the ECRI report the Government is going to ratify it in a short delay.

Collective complaints can also be made under the Council of Europe's European Social Charter. Complaints to the European Court of Human Rights ²² have been filed but so far they were not connected with discrimination; most of them were concerned with the problem of delays in courts. Portugal has ratified the Revised European Social Charter on 30 May 2002 but so far no collective complaints have been filed by NGOs or trade unions.

2.J Other international remedies

Portugal has ratified the International Convention on Economic, Social and Cultural Rights on 31 July 1978, the Convention on the Elimination of All Forms of Racial Discrimination on 20 July 1988 and the Convention on the Elimination of Discrimination against Women on 3 September 1981.

Reports making references to Portugal may be found at:

CEDAW-Committee on the Elimination of Discrimination against Women website:

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/409/11/PDF/N0640911.pdf?OpenElement>

ICCPR – Human Rights Committee - International Covenant on Civil and Political Rights website:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/c12062b162139931c1256c72003d7282?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/c12062b162139931c1256c72003d7282?Opendocument)

At the website of the Office of the United Nations High Commissioner for Human Rights one can find with information on Portugal and UN Treaty Bodies such as the Committee on the Elimination of Racial Discrimination; Human Rights Committee; Committee on the Elimination of Discrimination against Women; Committee on the Rights of the Child; Committee on Economic, Social and Cultural Rights and the Committee Against Torture:

<http://www.ohchr.org/english/countries/pt/>

¹⁹ Citizens Signpost Service website: http://ec.europa.eu/citizensrights/front_end/index_en.htm

²⁰ SOLVIT network website: http://ec.europa.eu/solvit/site/index_en.htm

²¹ European Ombudsman website: <http://www.ombudsman.europa.eu/home/en/default.htm>

²² European Court of Human Rights website: <http://www.echr.coe.int/ECHR/>

2.K Professionalism

We must remember that NGOs and trade unions must also respect a high standard of professionalism: respecting appointment hours, giving neutral and objective advice and some practical guidance, for example, the individual must be advised to keep copies of all documents, namely post and communications. In some cases they must send the complaints by recommended letter. Remember individuals that they must ask for advice before filing a complaint or an appeal or about answering to convocation. They must inform them that they have the right to be accompanied by a lawyer when going to contact any administration.

Trade unions normally provide relevant information and referrals to other agencies when necessary and quite often they give not only advice and support but also legal assistance.

3. Societal issues

The concepts of tolerance and plurality are generally well accepted in the Portuguese society.

Religion is a sensitive and difficult issue but there are no great problems, in general, between religions. The Catholic Church is by far the predominant religion but it has, in general, an attitude of tolerance to other religions and in some cases they even cooperate.

Vulnerable groups in Portugal are coloured immigrants or coloured Portuguese citizens many coming from the former colonies in Africa, and the Roma. The situations are different but both groups are vulnerable groups.

Immigrant women mainly Brazilian, Ukrainian and Cape Verdian are a special vulnerable group. The social discrimination of the Roma community is a major problem, so as their access to economic, social and cultural rights. Many children from the Roma community are still not attending school or leave it without accomplishing the primary school; complaints of discrimination occur. People with disabilities are also a vulnerable group.

Trade unions and some NGOs are not immunised against affecting prejudices to the vulnerable groups.

According to national law, there is a quota of 5% for people with disabilities whenever there is an external tender for more than 10 vacancies. Taking into consideration that there has been a drastic diminution in these kinds of tenders, there has also been a small impact of the quota system for people with disabilities. The Government budget difficulties have had an impact on the adoption of positive measures.

Materials:

1. The text of the two Directives
2. Extracts from the relevant legislation.

d) Funding opportunities in the field of anti-discrimination

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

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

a) European-level NGOs

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

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

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

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

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

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

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

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

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

b) European Trade unions

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

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

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

2. EU funding for national NGOs/Trade Unions

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

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

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

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

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

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

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

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

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

The European Commission delegation in Portugal provides projects subsidies. The formalities to access to such funding when available require the presentation of a detailed project with a budget in accordance with EU rules. Normally it is required that the NGOs/trade unions have a good record of past activities.

Project subsidies occurs:

- within the scheme of a certain project of the Commission
- occasionally when a NGO presents a specific project which is deemed to deserve a subsidy
- Furthermore, the delegation makes its rooms available upon request and helps NGOs/trade unions to find speakers and experts free from payment.

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

Central government provides specific funding mainly through ACIME²³ (Alto-Comissariado para a Imigração e Minorias Étnicas) to NGOs acting on anti-discrimination areas. ACIME covers both immigration and anti-discrimination issues. Roma and immigrants are the most vulnerable groups in terms of discrimination. Funding of immigrants associations in relation to anti-discrimination actions is covered by Law 115/99 of 3 August 1999 regulated by Decree-law 75/2000 of 9 May 2000 which establishes the right to the immigrants associations and their descendents benefit from technical and financial support from the State. (Lei 115/99 de 3 Agosto, regulamentada pelo Decreto-lei 75/2000 de 9 de Maio, estabelece o direito das associações representantes dos imigrantes e seus descendentes de beneficiar de apoio técnico e financeiro por parte do Estado). According to this law, the support will be given to the immigrants associations, among other activities to the study and investigation of cases and measures of social integration and of discrimination based on race, colour, nationality or ethnic origin and also in view to the elimination of all forms of discrimination based on race, colour, nationality or ethnic origin.

There is no specific funding for NGOs working with sexual orientation issues. The only funding which the government provides so far to these NGOs is for specific cases related to the prevention against AIDS and are supported by the Coordenação Nacional para a Infecção pelo VIH/SIDA (National Coordinator for the AIDS infection).

Funding to NGOs dealing with immigration is given by the ACIME and based on their own activities and projects.

Funds are granted to NGOs dealing with religion issues through the Secretaria de Estado da Administração Local.

Several subsidies have been granted by the Secretário Geral da Presidência do Conselho de Ministros to the Catholic Church, for instance to the Obra Nacional para a Pastoral dos Ciganos²⁴.

²³ ACIME website: <http://www.acime.gov.pt/>

²⁴ Obra Nacional para a Pastoral dos Ciganos website: <http://www.ecclesia.pt/pnciganos/>

Church may benefit from some tax benefits.

The central government provides specific funding to NGOs working on disability issues.

The central government has specific programmes to older people but funds to NGOs dealing with this issue are based on specific projects.

European Year of Equality: Resolution 88/2006 of the Council of Ministers created a mission structure for the European Year on Equality – AEIOT – Ano Europeu da Igualdade de Oportunidades para Todos e Todas²⁵. The National Action Plan for the European Year on Equality has been published in January 2007²⁶. It creates a structure to articulate the work of the different government institutions (CIDM – Comissão para a Igualdade e Direitos das Mulheres²⁷ (Commission for Equality and Women’s Rights), IEFP – Instituto de Emprego e Formação Profissional²⁸, ACIME, SNRIPD²⁹, Ministry of Labour and Social Solidarity³⁰ and Ministry of Education³¹) and NGOs covering all the grounds of discrimination. It is possible under this Plan for NGOs to ask for support for some actions within the framework of the Plan. This Plan foresees actions all over the country with the cooperation of the Municipalities and the *media* including exhibitions, prizes for the best practices and schools’ awards, seminars and the publication of related studies and the creation of a website.

EQUAL: Also EQUAL³² has some actions related to Equal Opportunities and supports to the projects of NGOs in the area of racial and ethnic discrimination and of discrimination in employment. EQUAL is funded by FSE – Fundo Social Europeu (European Social Fund) and by the Portuguese government. They work in partnership with Portuguese NGOs and entities from other EU Member States.

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?)

This funding takes the form of annual subsidies and project funding in what concerns anti-discrimination.

These funding possibilities are part of the ACIME programme supporting initiatives and cultural events such as exhibitions and films related to the fight anti-discrimination which is promoted in collaboration with the ACIME. Also debates, seminars and conferences on the subject are held within the project funding of the ACIME. In what concerns the Roma community ACIME is active in their actions accompanying the Roma associations by promoting debates and publications on the ROMA integration, by visiting several Roma associations in the country and also by spreading the knowledge of their culture among the civil society. The publications “Guia de Apoio ao associativismo nas comunidades ciganas e de recursos de combate à discriminação racial” (Guide to support associative in the Roma community and of resources for the fight against racial discrimination) a project which involved Roma NGOs and also the “Manual de Boas Práticas Roma EDEM – Combatendo a discriminação das Comunidades ciganas/Viajantes no âmbito da educação e emprego” (Manual of Good Practices EDEM – fighting the Roma community discrimination/Travellers in the scope of education and employment) have been subsidised by the ACIME.

The funding given by the ACIME to immigrants NGOs may go up to 35,000 euros per year.

²⁵ AEIOT website: <http://www.igualdades2007.com.pt/>

²⁶ National Action Plan for the European Year on Equality website : http://www.portugal.gov.pt/NR/rdonlyres/6FE5AA2B-B042-4F2A-AEAE-8AEB100D4830/0/PNA_AEIOT.pdf

²⁷ CIDM website: http://www.cidm.pt/www_vd/frame.htm

²⁸ IEFP website: www.iefp.pt/

²⁹ SNRIPD website: <http://www.snrpd.pt/>

³⁰ Ministry of Labour and Social Solidarity website: <http://195.245.197.214/contactos.asp>

³¹ Ministry of Education: <http://www.min-edu.pt/>

³² EQUAL website: http://www.equal.pt/non_acessibile/sobre_a_equal/index.asp

In what concerns NGOs combating discrimination on grounds of sexual orientation, the only support given is, as already mentioned, to the divulgation of material related to the AIDS disease through the Ministério da Saúde (Ministry of Health).

In what concerns religion the funding has also taken the form of a co-participation in buildings repairing within the scope of the Programme - Equipamento Religioso” (Religious Equipment).

In the area of disability, the funding given to NGOs may reach 20 to 25 percent of the total amount spent per year. There may be also other kind of supports namely to culture and sports.

No funding is known to NGOs dealing with age discrimination issues.

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

In general, access to such funding requires a lot of paper work. The projects must be well defined and correspond to the aim of the anti-discrimination fight campaign having in mind the civil society information on these issues. NGOs must present their previous year Activity Report approved by a General Assembly and according to the law on associations. Sometimes funding is subject to concurrence.

Some NGOs complain that the procedures of access to those funding is very bureaucratic and the rules and evaluation methods are too techniques and in certain cases not too transparent.

Most of the NGOs dealing with these anti-discrimination issues subsist due to the contributions of their associated members, by the donation of some private persons and by the selling of merchandising.

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

Non applicable

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

At regional level:

The regions of Azores and Madeira give occasionally support to NGOs who work on anti-discrimination issues but do not have a specific budget line. In the Azores, the Rede Regional de Apoio ao Idoso (Regional Network for the old people’s support) funded by the Regional Government has several social contact centres, day centres and homes for the old people integration.

Municipalities:

The Lisbon Municipality³³ gives support to some NGOs working in this area: immigrants, anti-racist, disabled, religious and Roma associations. This funding possibilities are namely in the attribution of meeting rooms for actions, organisation of seminars, production of information leaflets and sports activities for the disabled. In case there are some Conventions signed between this Municipality and any NGO, a monetary funding is given specially in the disability and religious areas. For instance, a subsidy was given to the Obra Nacional para a Pastoral dos Ciganos (Roma) and to the Islamic Community (they gave way to buildings sites for the construction of temples beyond a financial support). This Municipality also organises the Arraial Pride which is an NGO dealing with sexual orientation issues yearly initiative. Also the Loures Municipality gave way to building sites to the Islamic community.

³³ Câmara Municipal de Lisboa website: <http://www.cm-lisboa.pt/>

Other Municipalities gave occasionally support to NGOs.

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?

The main private funding and support possibilities come from foundations, the most important being Fundação Gulbenkian³⁴, Fundação Oriente³⁵, Fundação Luso-Americana³⁶ and Fundação Friedrich Ebert³⁷. Some private companies cooperate in anti-discrimination projects and campaigns such as DHL, Delta cafés, IBM and PT – Portuguese Telecom who collaborated together with ACIME on the First Social Fair held in 2005 and also the NIKE Found supporting some disabled initiatives. Trade unions do not have financial capacity to subsidize NGO. When they cooperate with NGOs they normally support part of the expenses incurred in the activities.

8. Are there any other source of funding?

Some Churches cooperate in the anti-discrimination activities. The most important, the Catholic Church has its own organisations such as Caritas³⁸, Obra Nacional para a Pastoral dos Ciganos and normally covers the expenses of these organisations. In the area of persons with reduced capacity (disabled and old people) some telecommunication projects were held with the support of Portugal Telecom, Cruz Vermelha Portuguesa (Red Cross) and others.

³⁴ Fundação Calouste Gulbenkian website: <http://www.gulbenkian.pt/portal/index.html>

³⁵ Fundação Oriente website: <http://www.foriente.pt/entrada.asp>

³⁶ Fundação Luso-Americana website: <http://www.flad.pt/>

³⁷ Fundação Friedrich Ebert website: <http://www.feslisbon.org/site/index.php>

³⁸ Caritas website: <http://www.caritas.pt/>

IV. Diversity Management seminar

Design of the training

- a) The design of the training was undertaken on the basis of the trainers' seminar held in Cologne. The manual delivered to the participants was the translation into Portuguese of the 'Training Manual for Diversity Management' and a copy of Directive 2000/78/EC.
- b) Target groups were mainly SMEs and town councils. Other groups were represented at the DM Seminar, such as public officials, trade unions and banks.
- c) Regarding the role of the international trainer during the DM Seminar held in Cascais, she intervened on several occasions to reinforce the matters under discussion and to give new points of view and also gave a PowerPoint presentation on 'Promoting Diversity in the Workplace', the goal of which was to raise awareness of the opportunities and challenges of diversity management and give practical and concrete tools for putting diversity management into practice. The international trainer also emphasised the need for diversity management and the fact that diversity management is a management approach to ensure a workplace free of discrimination and to consciously foster, make use of and actively appreciate the diversity of the workforce in order to perform better as an organisation.
- d) As far as the DM trainer(s) are concerned, both trainers were selected as being highly qualified and possessing the most suitable skills to take part in these Diversity Management seminars. Each trainer had different experience in this field and they both met the given criteria and were able to provide high-quality training at the diversity management seminar. They have considerable experience in several civil society and community engagement initiatives, with extensive responsibility in the sphere of social partner dialogue, where diversity based on gender, disability, age and race or ethnic origin issues were of the utmost importance. Both trainers have broad experience in management and also as managers in public institutes and government offices in Portugal. In addition, the participation of the country expert was of great value to this Seminar.
- e) The organising NGO in Portugal was IED – Instituto de Estudos para o Desenvolvimento. Further information on this NGO is available at: <http://www.ied-pt.org/>

Preparation of the seminar

1. Training seminar in Cologne

The training seminar in Cologne aimed to provide training to the DM trainers on how to analyse and project into the future the potentially required diversity within an organisation's structure and its environment; how to integrate diversity into all processes and at all levels of the organisation, related to a clear strategy in which diversity is embedded; how to create and foster an organisation's culture based on underlying values, such as valuing diversity, and its added value for the company..

2. Announcement of the seminars

We sent the participants a letter of invitation to the Seminar by courier and also by email. This DM Seminar was also announced on the IED website.

3. Attracting and selecting participants

It was quite difficult to attract SMEs and other entities for this seminar as there is still a widespread lack of concern regarding diversity policies and only a limited number of companies have started to manage diversity in their organisation and, where this is the case, it is fragmented and there is little sense of structure.

Diversity management is not a subject which attracts particular attention from public institutions or the general public.

Where it is the subject of discussion, the most important DM issue is related to ethnic minorities. Also, because in Portugal people aged over 45/50 are often excluded from the labour market, the issue of 'age' is starting to be the subject of debate.

The selection procedure was made through an evaluation of the applications.

4. Logistical arrangements

- a) For the logistical arrangements, the Seminar organiser gathered (in addition to the Manual and the EU 2000/78/EC Directive) relevant material on the subject to be distributed to the participants such as:
Office for Official Publications of the European Communities:
Um Caso Empresarial pela Diversidade - Boas Práticas no Local de Trabalho - 10/2005
(The Business Case for Diversity – Good practices in the Workplace)
Stop Discrimination:
Equal rights in practice, Autumn 2007
- b) Regarding the seminar venue, we selected the Hotel Albatroz (a five-star hotel) in Cascais, near the beach with a stunning view over the Atlantic Ocean.
http://www.albatrozhotels.com/hotel/eng_hotel.htm
- c) The participants were gathered in a spacious room with sea view at eight round tables. The room was equipped with flipcharts, screen, rear projector and sound equipment. PowerPoint presentations were prepared for this DM Seminar by speakers and the international trainer. Two coffee breaks and lunch were served to the participants.



Carrying out the seminar

- a) Ratio of participants:
- | | |
|-----------------|-----------------------------------|
| Male – 36% | Female – 64% |
| Companies – 43% | Public Service/Town Council – 57% |
- b) Process during the day – observations (on trainers, participants, content)

The Seminar took place in a friendly atmosphere with solid cooperation between trainers and participants. We must also stress the valuable participation of the country expert. The PowerPoint presentations by the speakers and the international trainer helped to better present the main goals of this activity. Trainers were highly qualified for these activities and due to their skills and experience there was good team work.

The timing of all the presentations and workshop was good and there was a lot of perceived interaction and discussion among the groups during the workshops. The balance between presentations and workshops was good. A lot of interest was shown by the participants in the themes covered. The idea of mixing industry, especially multinational companies, with public administration was clearly successful, since a lot can be learned from its best practices.

We must also emphasise:

- The active participation of the entire panel and also of the participants during the seminar
- The knowledge gained by participants about diversity management – its meaning, strategy and the managerial process involved in accepting and using the potential of differences and similarities in an organisation
- The sharing of concepts, the debate, the working group, the exchange of ideas and practices, new perspectives on diversity management and its impact at national level, the dissemination of relevant information.
- The quality of trainers and speakers as well as participants.
- The diversity of participants and of opinions leads to very interesting debates
- The possibility of contacting the other institutions from now on (networking)

As far as the Seminar Programme is concerned, these are some of the topics we presented:

Five working groups:

‘Diversity management – entrepreneurial strategies which can help to integrate diversity as an active part of their identity’:

- Group I – How to identify and recognise different types of relevant diversity.
- Group II – How to work with different stakeholders to better understand your own ‘business case’.
- Group III – How to communicate what you are doing to employees, customers, clients, investors, etc.
- Group IV – How to develop policies and practices that reflect and implement your commitment to managing diversity.
- Group V – How to build support and trust among people inside and outside the organisation.

Brief presentation of the European Union 2000/43/EC and 2000/78/EC Directives.

Business cases:

Presentation of examples of ‘diversity management’ best practice in the workplace (with PowerPoint support) by:

DHL is a member of DPWN. The key to its success is:

- equal opportunities in recruitment, training and vocational guidance
- social responsibility
- improving conditions for workers based on several UN and ILO Conventions and the Universal Declaration of Human Rights.

One example of best practice by DHL is to ensure equal treatment and equal opportunities for all workers in all fields, regardless of their gender, age, religion, race or ethnic origin, political affiliation, disability, sexual orientation, etc.

At DHL all workers are enlisted, trained, promoted and remunerated on the sole basis of their professional abilities and they are not subject either to any type of harassment or any other discriminatory practices.

“We consider the diversity of our members as an orienting principle of our policy. This means promoting diversity and difference (...). Ability, performance and ethical behaviour should be the only indicators for the qualification of our workers.”

Website: <http://www.dhl.pt/publish/pt/pt.high.html>

GRACE

‘Diversity management as a factor in entrepreneurial competitiveness and corporate social responsibility’

The GRACE association was formed in 2000 by a group of companies, mostly multinational, brought together by a common interest: to expand the private sector’s role in social development. GRACE was one of the first Portuguese non-profit associations dedicated to corporate social responsibility. Its main goal is to promote and stimulate the participation of companies in their respective social context.

Having initiated from the corporate world and being essentially dedicated to the corporate world, GRACE aims to disseminate socially responsible business practices. It is recognised as a privileged setting for the reflection and promotion of corporate social responsibility, as well as for the creation and sharing of good practice in this area. GRACE’s mission is to promote the concept of corporate social responsibility and citizenship, to create awareness amongst companies and help them manage their businesses in a socially responsible manner, working towards a fair and sustainable society.

GRACE’s projects have been carried out in many different forms such as:

- volunteer programmes
- participation at conferences
- organisation of conferences
- production of many documents
- publication of several manuals

Linked to the issue of corporate social responsibility, GRACE has been promoting diversity within companies through its participation in several initiatives concerning this subject such as:

- Production of the manual, 'Companies, Diversity and Inclusion', in collaboration with the EYEO
- Training workshops on Ethnic Discrimination in Access to Employment in collaboration with ACIDI
- G.I.R.O. Project (Grace – Intervene, Recover and Organise) – social intervention among ethnic minorities in town halls and companies
- ENGAGE 2008 – project on immigration and education
- Execution of the Immigration Integration Plan

The main goal of the 'Companies, Diversity and Inclusion' manual is to raise awareness of the importance of diversity management in companies and to promote equal opportunities within companies and also at the social level.

Website: <http://www.grace.pt/novo/default.htm>

Pitney Bowes:

Diversity is a key element in Pitney Bowes' growth strategy.

Corporate responsibility

At Pitney Bowes we believe that forward-thinking management of economic, social and environmental issues serves the best interests of all our stakeholders, from customers to employees and shareholders. Pitney Bowes is working to improve the environmental performance and enhance the well-being of employees and communities.

Pitney Bowes has been named one of the 100 Best Corporate Citizens and was recently ranked as the number one company for corporate diversity by DiversityInc.

Commitment

At Pitney Bowes there are four key drivers for sustained focus on diversity. This focus ensures continuous strategic advancement in the following critical areas:

Competing and Winning in the Global Marketplace

As competition intensifies, current markets diversify and new markets emerge globally, it is essential that Pitney Bowes is able to navigate and understand the changing marketplace and continue developing products and expertise that exceed our customers' needs. A diverse workforce gives Pitney Bowes a competitive advantage when serving its current and future customer base, discovering critical new suppliers and forging strategic partnerships.

Pitney Bowes recognises that talent does not come in one age, gender, religion, education, race, nationality, ethnicity, family circumstance, marital status, veteran status, sexual orientation, gender identity and expression, physical or mental ability. The company offers a welcoming, inclusive environment that respects differences and supports all people to do their best work. Not only does that mean the recruitment, mentoring and retention of diverse talent, it means that the company must continue to develop managers, leaders and systems necessary for sustaining an enterprise-wide accountability for its talent.

Leadership

Challenging the status quo, having a vision, facilitating and building broad-based coalitions, achieving full impact results and positive change are all vital skills for leaders. Pitney Bowes is dedicated to creating a work environment where such leadership is developed and flourishes.

Furthermore, the company expects the communities in which it operates to benefit from the time, talent and gifts of its leaders.

Setting new standards

Pitney Bowes flourishes because of the ideas and innovations of its people. It cannot afford complacency or inertia. Eliciting, supporting, utilising and rewarding the widest possible spectrum of opinions, talents, life experiences and points of view – as well as encouraging trust, communication and risk-taking – creates a deep well from which our best ideas will emerge to continue to keep us at the cutting edge and a leader in our field.

Nothing accomplishes this objective as well as a culture of inclusion where ideas are welcomed, difference is valued and diversity is leveraged.

Pitney Bowes' commitment to diversity is also consistent with and further supports the company's values and practices.

Website: <http://www.pb.com/cgi-bin/pb.dll/jsp/OurCompany.do>



Evaluation of the Seminar

The great majority of participants gave a positive evaluation of this DM Seminar.

The participants appreciated the structure of the presentation, the material provided and the venue where the seminar took place.

The atmosphere created during the Seminar was very good.

Below are some comments from the evaluation forms we received after the Seminar:

In order to capture all the ideas from the workshops, a common format for group presentations should be given beforehand. As the different workshop members are unknown to each other, an experienced facilitator should be active in leading the discussions and helping the groups to progress.

Greater effort should be made to bring in as many senior people as possible, specifically company directors and top public servants, as these are the people who can really achieve in-roads in policy-making. Some questions should be 'planted' in advance with willing participants, in order to foster discussion. An alternative that could be evaluated would be to change the format to theme presentation, followed by workshop, followed by theme presentation, followed by workshop. A follow-up survey of participants, after three or six months, could help to verify any policy or behavioural change in the participants' organisations, related to the content of the seminar.

Main lessons learned

We think that almost every participant demonstrated themselves to be very involved in this action, participated actively in the tasks delivered and also in the discussions held during this DM seminar.

In the best practice organisations, diversity is a process that is an integrated, ongoing and measurable strategy and in some cases diversity training is provided to the workforce and is not limited to managers. Successful organisations incorporate diversity into mentoring activities, leadership training and management-by-results programmes. All the best practice organisations presented in the DM Seminar use affirmative action models, but each adds creative innovations which achieve results and set their programmes apart.

We should take advantage of the participants' evaluation and try to make improvements for new, related actions in the future.

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.