



Občan a demokracia

NATIONAL ACTIVITY REPORT SLOVAKIA ANTI-DISCRIMINATION AND DIVERSITY TRAINING

**Citizen and Democracy
(Občan a demokracia)**

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

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

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II. Introduction

The first anti-discrimination Seminar in Slovakia carried out within the framework of this project took place in Tatranska Strba and was entitled, 'Non-Governmental Organisations and Trade Unions Combating Discrimination'. It was held on 22-23 November 2007 and was attended by 36 participants, of whom 29 per cent were men and 71 per cent were women. Of these 36 participants, 31 per cent represented NGOs from the capital and 69 per cent were from NGOs from outside the capital. The ratio of NGOs to trade unions was 74 per cent to 26 per cent. The majority of participants represented NGOs which deal with discrimination based on age (89%) and disability (80%), half of the organisations deal with race and ethnic origin, and organisations which deal with discrimination on the ground of sexual orientation (31%) were also represented quite satisfactorily. Organisations dealing with discrimination based on belief (23%) and disability (57%) also had a fair representation at the seminar.

The second seminar was held in Poprad on 12-14 March 2008. It was attended by 43 participants, of whom 23 per cent were men and 77 per cent were women. Of these 43 participants, 31 per cent represented NGOs in the capital and 69 per cent represented NGOs from outside the capital. The ratio of NGOs to trade unions represented was 93 per cent to 2 per cent. The majority of participants represented NGOs which deal with discrimination based on race and ethnic origin (56%) and disability (63%), half of the organisations deal with age (51%), and organisations that deal with discrimination on the ground of sexual orientation (24%) were also represented quite satisfactorily, as well as those dealing with discrimination based on belief (17%).

Most organisations represented in the seminars undertake non-legal activities (up to 100%), whereas legal activity was only undertaken by 49 per cent of the organisations attending. More than 80 per cent of the organisations attending conduct awareness-raising activities and about 30 per cent of organisations either provide support to individual victims and/ or are engaged in monitoring policy and the law. Around 20 per cent of organisations are engaged in litigation activities.

The Diversity Management Seminar took place in Bratislava on 12 February 2008. It was attended by 25 participants, of whom 24 per cent were men and 76 per cent were women. Of these 25 participants, 32 per cent represented companies, 32 per cent training or consultancy organisation and 36 per cent public service providers. Most of the participants (32%) were from organisations with 50-249 employees, 12 per cent from organisations with one to nine employees, 20 per cent represented organisations with 10-49 employees, 12 per cent represented organisations of 250-400 employees and 16 per cent represented organisations with more than 500 employees.

III. Anti-discrimination seminars

a) National activities anti-discrimination seminars

Design of the training

Before the seminars took place, the coordinator gathered quite detailed information about the participants' organisations, as well as about the experiences of discrimination the representatives of their target groups encounter most frequently. Apart from the manual provided by the European Commission, each participant received additional materials published by Občan a demokracia, in particular publications covering the basic issues of the law of the European Union, including protection of human rights within EU legislation, with information on protection against discrimination within Slovak and EU legislation.

At both seminars representatives took part from the institutions responsible for the implementation of anti-discrimination legislation at governmental level, the Slovak National Centre for Human Rights (regional office) having significant monitoring and awareness-raising tasks in the field of anti-discrimination, as well as tasks concerning assistance to victims of breaches of the principle of equal treatment. The seminars were also attended by a representative of the Office of the Public Defender of Rights. The seminars attracted the attention of the media by issuing a press release and organising several meetings with journalists.

The seminars started by introducing the participants and the trainers, as well as the aims of the seminar and its content. As this part of the seminar was already interactive, the participants had an immediate opportunity to start networking. The introductory part of the seminars was also an opportunity for the official representatives to introduce their tasks in the field of anti-discrimination. The introductory part of the second seminar was followed by the presentation of the results of the research implemented throughout the project with the participating NGOs and trade unions.

At the first seminar the programme continued with key concepts and discrimination in the national context. Participants had the opportunity to obtain background information to the EU anti-discrimination directives and to the concepts of discrimination covered by these directives. The trainers prepared model situations in which participants had to identify the grounds and forms of discrimination involved in each of the case and discuss them in detail. The programme continued with a session concerning the roles of NGOs in combating discrimination focused on civic participation and societal responsibility. Later on the participants identified the key roles and key activities which NGOs in general have in the field of combating discrimination. The second day of the seminar was focused on the additional modules of the role of NGOs and trade unions in combating discrimination. One of the sessions was focused on remedies at the national and European levels. Participants role-played a situation that established a ground for initiating legal proceedings connected to discrimination, which was followed by a detailed presentation of possible remedies and the institutions which may be involved at the national and EU levels.

At the second seminar, after the introductory session, the programme continued with examples of good practice in cooperation between NGOs and the public sector. The presentation by the legal expert focused inter alia on current amendments (2008) to anti-discrimination legislation in Slovakia. Participants discussed in detail the scope of protection and how the law was amended during the course of 2007. Next there was a session concerning the roles of NGOs in establishing preventive measures and policies in combating discrimination focused on civic participation and societal responsibility. Participants were exposed to a model situation discussing and developing an anti-discrimination policy at local level – in a school. After the session the participants were given a lecture on the role of preventive policies in equal treatment. The final session of the second seminar was devoted to providing space for communication between participants after the training, including using as a tool the website www.diskriminacia.sk.

Preparation of the seminar

In the course of the preparation of the first seminar between September and November 2007, the trainers met several times to discuss the content of the seminar in detail and the corresponding allocation of tasks, taking into consideration the backgrounds of the participants. The trainers also met several times when preparing the programme for the second seminar. This programme was developed using data gained from the questionnaires for NGOs. The trainers were concerned that the national, ethnic, gender, cultural, religious and other minority specificities should be duly respected. Taking into consideration the evaluation by the participants of the previous seminars, it was decided that the whole seminar should be dedicated to practical issues of working in the field. Thus the trainers felt that there was enough flexibility in the composition of the training modules and the content of the seminar sessions.

Carrying out the seminars

The trainers thought the participants were very active and engaged and thus learnt very efficiently to distinguish between different forms of discrimination and identify the steps to remedy discriminatory behaviour. In terms of weaknesses in the first seminar, one might point to the differences in the level of understanding of anti-discrimination issues as well as awareness of the issue among representatives of NGOs and trade unions. Trainers encouraged participants to work in smaller groups and to discuss continuously the issues connected with the role NGOs can play in the fight against discrimination. The intention was to define necessary actions and to analyse the needs for education and training. Another important goal was to talk about conditions for legal assistance for victims, social assistance, monitoring, community work and campaigns and research.

The differences in the level of understanding of anti-discrimination issues as well as awareness of the issue among representatives of NGOs were lower in the second seminar. This could be considered as a strength of the second seminar, as even the small groups of participants were more balanced and thus training sessions proceeded smoothly and efficiently. A weakness of the second seminar might be considered to have been the absence of trade unions (there was only one representative), although they seemed to be a very highly motivated group in combating discrimination at the first seminar in November 2007.

Almost all the participants at both seminars expressed the view that they had achieved the objectives of the seminars and in this regard the seminars were effective. The participants also considered the information pack and all the other materials they obtained to be very useful. Trainers made references to the training manual at the beginning of both seminars and also several times during the seminars.

Participants were diverse with regard to the protected groups they work with, to their focus and to the activities of their organisations as well as to their knowledge and experience. Most of the organisations represented generally undertake non-legal activities. The country coordinator was successful in securing the participation of disabled and gay organisations or participants. The presence of the Roma community was relatively high. There were several Roma women among the participants who focused the attention of the group on to the problem of multiple discrimination.

For follow-up activities the database of NGOs working on anti-discrimination issues is available and has recently become accessible on the website www.diskriminacia.sk. It could serve as a useful and efficient networking tool for all participants and many other actors active in the field of anti-discrimination and equal opportunities policy development.

Main lessons learned – seminars

The range of themes introduced in the first seminar was perceived to be very wide by the trainers, given the time that was allocated to the training. For two days of training there were too many objectives that could not be fully met. One of the consequences of this broad focus was that trainers could not go into much depth in the seminar and could not answer all the questions that were raised by the participants. After the first seminar the trainers recommended reducing and reorganising the training priorities to make them even more tailored to the needs of participating NGOs and to focus on selected areas. They felt certain topics should be dealt with in more depth and more detail. The time allocated to the respective training sessions should be adjusted to match the training priorities and to the level and scope of information to be delivered.

After the first seminar the participants expressed the opinion that they would have appreciated more examples from practice being presented, particularly those of indirect/ hidden /multiple / institutional discrimination. Furthermore, they would have liked to learn more specific methods for coping with discrimination, ‘enforcement of anti-discrimination in collective bargaining’ and ‘active precautions and strategies for coping with discrimination at the organizational level’.

The range of themes introduced in the second seminar was narrower. This was perceived by the trainers to be an advantage, enabling them to go more deeply into certain themes or to develop specific skills in a more complex manner. The number of objectives for two days of training was more appropriate than in previous seminars and thus the aims could be fully met.

The needs and expectations as well as the experience of particular NGO representatives were monitored in advance. Thus their current situation was taken into account when designing the concepts for the various sessions of the second seminar. As was seen in the second seminar, tailoring the training to the needs of participating NGOs and focusing on selected areas was not only more efficient and more useful but also offered greater potential for networking and further cooperation. If certain topics are dealt with in more detail and the time allocated to the different training sessions is adjusted to the training priorities, the level and scope of information to be delivered and the skills to be developed could be better defined and in the end more efficiently absorbed by the participants.





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

This template is an update of an analysis that was produced in 2005 as a result of ten interviews conducted separately with ten representatives of Slovak NGOs dealing with anti-discrimination, and as a result of a training for representatives of Slovak NGOs dealing with anti-discrimination that took place in June 2005. The update also incorporates a survey that was carried out with 24 Slovak NGOs dealing with anti-discrimination in February and March 2007. In relation to NGOs, the template also reflects some previous work the author has done on the topic of equal treatment and anti-discrimination, on the knowledge and experience of the Citizen and Democracy Association that is active in the field of anti-discrimination and that, being involved in the *Mapping Capacity* project, conducted the surveys and cooperates with other NGOs dealing with anti-discrimination, and on personal knowledge and experience of the author who herself works with the topic of anti-discrimination as an NGO expert.

As regards the information on trade unions, this template incorporates answers received from 5 Slovak trade unions, out of 38 addressed through in-depth questionnaires. As information on trade-unions' work on anti-discrimination is not publicly available (the topic is, for example, not dealt with by the media) and the author has no personal experience with work with trade unions nor any other information on the way they operate in the field of anti-discrimination, the reliability and universal applicability of the information gained and described is rather questionable.

The report also encompasses information on organisations that deal with discrimination on grounds of sex and gender and other grounds apart from the ones contained in the Framework and Race directives, so that it can provide a more complex overview of the situation in Slovakia (the Slovak Anti-Discrimination Act also prohibits discrimination on ground of sex and gender, as well as on other grounds that are not covered by the Race and Framework Directives).

I. Profile of NGO's working to combat discrimination

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

Most of the NGOs working on anti-discrimination in Slovakia have the legal form of civic associations. There are also a few foundations existing in Slovakia that deal with anti-discrimination. There are also a few non-formal non-registered organisations that do some kind of anti-discrimination work.

Generally speaking, Slovak trade unions are not very active in the field of anti-discrimination. Out of those who responded to our survey (Confederation of Trade Unions of the Slovak Republic, Fire Brigades Union, Slovak Trade Union of Posts and Telecommunications, Council of Ground Organisations of the Slovak Trade Union of Employees Education and Science, Communication Workers' Union), the principle of equal treatment is mostly included in their founding documents but trade unions are only rarely dealing with issues of anti-discrimination in their activities.

2. What ground (s) of discrimination, scope or sector are they concerned with?

There is no ground of discrimination covered in the anti-discrimination directives that would be omitted by the Slovak NGOs, although the amount of attention that is devoted to each particular ground varies (as far as the specific grounds are concerned, the most attention is devoted to sex and gender, race and ethnicity and to disability; a bit lower number of NGOs are dealing with sexual orientation and age; the least NGOs deal with discrimination based on the ground of religion. Some NGOs deal with more grounds at the same time. Only a few deal with all the reasons covered by the European anti-discrimination directives.

As regards the fields of anti-discrimination protection in which these NGOs operate, the most of them deal with discrimination in the labour market, education and social welfare. A bit less attention is devoted to health-care, and the least to access to goods and services. However, most organisations focus on more areas at the same time (only three organisations answered that they deal with one field where discrimination occurs only).

The responding trade unions only dealt with limited number of grounds – sex and gender and age occurred in the answers three times each, and sexual orientation and disability occurred in the answers once each. Race, ethnicity and religion were not dealt with in the trade unions who responded to our survey. Out of the responding trade unions, the most active trade union active in anti-discrimination was from the field of education.

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

If the question is interpreted in a way which adopts a very broad definition of discrimination, then many activities of NGOs concern discrimination. Also, for many NGOs elimination of discrimination is one of the main philosophical concepts and a departure point for their aims, missions and activities. If, however, a more restrictive definition of discrimination is adopted (corresponding to the definition of discrimination contained in the European directives), then anti-discrimination mostly covers a small part of activities NGOs are performing (only 7 out of the 24 responding NGOs stated anti-discrimination is the main aim and content of their activities).

If trade unions deal with anti-discrimination at all, anti-discrimination only represents a tiny part of their activities.

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

Yes, they are usually registered (apart from a few non-registered non-formal NGOs that exist in a few cases – but these are impaired from fundraising money [as non-existent legal entities] and have to work on a strictly voluntary basis; there may also be some trade unions that have no legal capacity as they are not registered). The legal conditions for registering a trade union are the same as the conditions for registering a civic association (registered trade unions are operating as civic associations).

In general, it is not difficult to register as a civic association. Once all legal requirements have been met by the founders, the Ministry of Interior (which performs the registration) has no discretion whether to register this NGO or not. Nevertheless, for some potential founders (especially those coming from disadvantaged backgrounds – in case of NGOs -, or for employees of small enterprises) it might be difficult to get familiar with all legal requirements for establishing and/or running and funding an NGO and to understand all inevitable processes and acquire the inevitable skills. Therefore, although legally there is no obstacle to establish a civic association (once a person interested meets the legal requirements which are based on a registration and not a permission principle), in practice it might be difficult for some persons to establish a civic association and/or run it in the future.

As far as other legal forms are concerned, the conditions for establishing and administering a foundation are much more strict and complicated than in case of civic associations (these conditions also impose economic requirements on the founders).

5. Generally how large are these NGOs/trade unions?

This varies both in case of NGOs as well as in case of trade unions. The amount of full-time employed and paid staff in NGOs ranged from 0 to 120, the amount of volunteers ranged from 0 to 400.

The amount of part-time staff in NGOs varied from 0 to 15, the amount of external or casual co-workers ranged from 0 to 350. In general, NGOs operating on central level have more paid staff than NGOs operating on local levels.

The amount of members of trade unions varies, but generally speaking they have more members than NGOs (the biggest out of the responding trade unions has 3,400 members). The amount of their staff is, however, lower than in case of NGOs (the highest number of staff of these trade unions recorded was 31 full-time paid employees; tasks of trade unions are also carried out by volunteers).

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

About half of the NGOs respondents work in networks. Trade unions also often work in networks (associated according to the branch of industry or service or other field of employment they deal with).

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

Out of the 24 respondent NGOs, 13 were based in the capital. Those based in the capital are usually dealing with anti-discrimination in a more general and conceptual manner, and target on more grounds of discrimination. They also work more on international level. Those based in regions, municipalities or communities are often dealing with direct assistance to victims of discrimination and focus on less grounds of discrimination per organisation (but their focus on particular groups/grounds of discrimination is usually more intensive).

Trade unions are spread all around the country but if they function as associations of trade unions operating in a particular field of industry, service or other area of work, then they usually reside in the capital.

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

Yes (this is the case for both NGOs and trade unions). The branches of most of the respondents can do anti-discrimination work even if the headquarters do not.

Also NGOs in the capital/NGOs with headquarters in the capital but with branches in the regions sometimes carry out projects that are region-specific (mainly organisations dealing with discrimination on ground of ethnic origin). These projects are then performed in certain areas/regions of Slovakia only.

Where NGOs/trade unions operate in networks the headquarters usually also carry out the conceptual work.

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

NGOs are the most active players in the field of anti-discrimination in Slovakia. The most of distinguished anti-discrimination experts come from the non-governmental sector, and they also do the most work in the field (educating the general and professional public, strategic litigation, campaigning, publishing and researching on equal treatment and discrimination etc.). NGOs are also very active in legislation and policy-making – although the government puts quite many obstacles to NGOs who want to take active part in these processes.

This is quite different with trade unions. The general public actually knows little about how trade unions operate and how they can be helpful in combating discrimination (and actually trade unions themselves are not very active in informing the public about their possibilities and achievements, if any, in this field).

The Slovak trade unions, however, currently seem to be very positively affiliated with the contemporary Slovak government. It is, however, questionable whether they are going to use this assumed influence to combat discrimination.

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

Yes. Most of the NGOs active in anti-discrimination cooperate with other NGOs, and trade unions also cooperate with each other. However, only a very few NGOs cooperate with trade unions (only about 10 percent).

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

Between NGOs, a significant part of the cooperation lies in non-formal communication and in exchange of information, as well as in exchange of expertise (e. g. by sharing or inviting experts). They also often co-operate on “joint actions” – which are mainly cases of commenting draft laws and winning public support for them, as well as negotiating about them with the government, generating common attitudes and reactions to significant social and/or political events - mostly on an *ad hoc* basis, often with the help of the media). Some NGOs co-operate directly on their projects. Some NGOs also co-operate on dissemination of their publications (or other products). Oftentimes NGOs refer their clients to other NGOs active in the field of anti-discrimination. NGOs sometimes also gain financial support from other NGOs.

Trade unions cooperate mainly with the Confederation of Trade Unions of the Slovak Republic (but they also cooperate among themselves). However, this cooperation mostly lies in non-formal contacts (only the Confederation of Trade Unions reported that it cooperated on projects – both with other trade unions as well as with NGOs).

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

This is very difficult to say because it very much depends on what we understand under collaboration and on how we interrelate different types of collaboration (some NGOs for example may have never participated in a common project but communicate frequently and efficiently on a non-official basis). In general, however, it can be said that some of the NGOs dealing with discrimination on ground of racial and ethnic origin co-operate quite intensively, and so do women’s NGOs. It is also important to say that NGOs dealing with different types of discrimination also tend to co-operate (the most recent example is a common movement and a massive support of very different NGOs with a very different anti-discrimination scope [as regards the grounds covered] given to comments to a governmental draft proposal for amendment of the Anti-Discrimination Act that were submitted to the government by a coalition of different NGOs active in the field of anti-discrimination).

Given the very few trade unions who responded to our survey, it is not possible to answer this question with regard to trade unions.

11. How are these NGOs funded?

a. Do they receive state funding?

Only very few NGOs are supported directly from the state budget. However, many NGOs receive state funding in the form of combined funding of the European Community and the state (e.g. from the structural funds; these are, however, so badly administered on the side of the Slovak government that they have become a real burden or even a life-threatening matter for many Slovak NGOs). The government sometimes also announces special calls for proposals where NGOs are invited to apply.

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

It depends what kind of funding it is (whether it is state funding or EU funding or another type of funding from public budgets of other countries) but in general the basic condition is to submit a project for approval that falls within the ambit of a particular call for proposal and then to carry out the project in accordance with the project approved. Another condition is often some basic level of stability of the NGO that receives funding (legal – the NGO must be a legal entity (either a civic association or a foundation or other type of non-profit organisation with legal capacity – i.e. non-registered NGOs are not eligible for funding), financial, institutional (the NGO supported must be existent for some minimum period of time plus often must have some minimum number of staff employed on full-time basis).

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

Yes, most of them apply for private funding. This private funding that NGOs are receiving in Slovakia are mainly finances from private foundations (both domestic and foreign) or from individuals or businesses that can choose to donate 2 per cent of their annual tax to any not-for-profit organisation in Slovakia (however, for most NGOs in Slovakia dealing with discrimination, these assigned taxes do not represent a significant source of financing; besides, the conditions of this private funding mechanism have recently become more restrictive and many NGOs dealing with anti-discrimination will soon be not eligible for this kind of support). Other forms of private funding (mainly individuals and businesses continuously supporting these NGOs, membership fees) are still less frequent.

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

In case of the taxpayers who allocate the 2 per cent of their taxes to NGOs of their choice: these donors cannot impose any conditions on how their money is going to be spent by the beneficiary (these are free sources an NGO can use as it deems appropriate once it gets them). As far as other private funding is concerned, here donors very often (and in case of projects supported under project schemes always) determine on what aims (and sometimes also activities) a particular project should focus or what it should comprise and what rules of expenditure the project should follow.

12. *How are these trade unions funded?*

a. *Do they receive state funding?*

Trade unions do not receive state funding as a rule, but as trade unions are actually NGOs (if registered, they operate in the legal form of civic associations), they are sometimes eligible for state funding (mainly through project schemes).

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

None of the respondent trade unions stated they would be supported by a political party. It is therefore hard to say whether this is the case or not (the respondent NGOs admitted cooperation with political parties but it is hard to say what particular content this cooperation has and to what extent this cooperation makes trade unions adhere to political parties' lines).

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

Yes, all of the respondent trade unions mentioned that their major source of financing comes from their members' fees.

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

Yes, if they are registered (and so operate as civic associations), they are also eligible for applying for these private sources, in a similar way as NGOs (see also answer *a*) to this question).

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?

For most NGOs lack of funding is a significant factor, mainly for the civic associations that are smaller in size and staff (because the amount of staff they can hire is directly proportionate to the resources they have at their disposal). Also, the amount of funding is directly proportionate to the activities they can perform. The problem becomes even more significant with regard to the fact that European structural funds – which represent a significant financing opportunity – are administered very badly and inefficiently by the Slovak government, which endangers the functioning and even the existence of the Slovak NGOs.

The respondent trade unions also noted that lack of financial resources means a significant problem to them.

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

Yes, more than a half of the NGOs co-operate/are in contact with similar NGOs in other countries. Some NGOs are even members of international networks.

a. Neighbouring countries?

In many cases the co-operation takes place with neighbouring countries (Czech Republic, Hungary, Poland, Austria).

b. Other new EU Member States?

The abovementioned neighbouring countries (apart from Austria) are also new EU member states. Slovak NGOs also cooperate with NGOs from Slovenia, Bulgaria, Romania, Latvia

c. Others?

Some NGOs indicate they are cooperating with these countries: “old” EU member states (Spain, Greece, Italy, Scotland, Netherlands, UK, Finland, Denmark, Germany...), USA, Bulgaria, USA, Ukraine, Serbia, countries within the Open Society Institute network and many other countries from all around the world.

Slovak trade unions may cooperate with other trade unions from countries mention in this question but the respondent trade unions (three of them) only mentioned cooperation with “old” EU member countries.

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

More than a half of NGOs work on international level (e.g. in common projects with foreign NGOs, through informal contacts and exchange of expertise and experience - mainly through attendance of conferences, writing reports and publications and their exchange, sometimes campaigning etc.).

Three of the respondent trade unions also stated they are having some international bonds but it is hard to say what this cooperation comprises (and it is also hard to generalise for all Slovak trade unions).

16. Can they work in English?

About a third of the respondent NGOs can work in English on a regular basis, about a third have English-speaking staff in case of need, and about a third do not have such staff at all (this is probably mostly the case of small regional/local NGOs).

Four of the responding trade unions stated they have English-speaking staff in case of need, although they do not have it on a regular basis (it is hard to say what are the language capacities of other Slovak trade unions).

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

Although some trade unions admitted cooperation with political parties, neither of them mentioned direct linkage to them. It is therefore very difficult to estimate this impact.

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

This probably varies from trade union to trade union. One of the respondent organisations mentioned this is possible, one mentioned the contrary, one mentioned that activities on central and branch level are coordinated and the other two have not responded.

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

19. What kind of work do they do?

The types of activities performed by NGOs vary from organisation to organisation. Most organisations (about 70 per cent) carry out advocacy activities. Some of these provide legal representation of victims of discrimination before courts, some do counselling and some are involved in campaigning. More than a half deal with education and training, about a third deal with research and about a quarter of NGOs provide material or other direct help (psychological aid was also mentioned). Some NGOs are working on policy level to influence public policies and/or try to lobby. Some NGOs are dealing with one of the listed activities only and some are dealing with more at the same time (in some cases the activities even overlap with each other).

Trade unions do mostly collective bargaining. Three of the respondent organisations also mentioned providing legal aid for victims/potential victims of discrimination, two mentioned performing controls at employers' premises, educating their own members and generating sample documents. One organisation mentioned research, one mentioned campaigning and one representation of victims before courts.

20. Do they take up complaints of discrimination ?

NGOs are not legally entitled to take up complaints of discrimination (they can only assist/represent victims if the victims wish so).

Trade unions have a general competence to control the observance of labour legislation and obligations contained in collective agreements. In order to exercise this competence (which may even be exercised following an employee's complaint on a breach of the equal treatment principle), trade unions are mainly entitled to enter the employer's premises, to ask for information and documentation from employers, to file proposals for working conditions improvement and to require employees that they give instructions to eliminate the identified deficiencies.

21. Do they focus on their own community?

Yes, some of the NGOs do, mainly those who were established to protect the interests of/support their own community (such as gay and lesbian organisations, some Roma organisations or some women's organisations, as well as some organisations that deal with the disabled or with the elderly).

22. Do they work with victims directly?

Majority of the NGOs yes. Here they provide mainly legal, social and psychological kind of help/assistance.

Some trade unions are probably also working directly with victims (two of the respondent trade unions also answered this question in affirmative).

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

Trade unions can represent any worker.

24. Do they do 'case work'?

Only a very few NGOs do case work (case-work usually requires qualified lawyers or other professionals and only a very few NGOs have them or are able to contract them). The situation may be theoretically better with trade unions as they often provide legal aid to its members; it is, however, hard to tell whether this aid is being regularly offered in the field of equal treatment).

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

There are no particular state funding schemes that would be designed specifically to support anti-discrimination casework. However, this kind of casework may be one of activities eligible for funding under the structural funds where the state also contributes.

26. Does this include legal representation?

In a very few cases with regard to NGOs, as legal representation often requires good legal knowledge and experience, which most NGOs are lacking. This may be better with trade unions who often provide legal representation for their members (although no cases where trade unions would successfully litigate on behalf of their members are known).

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

Yes. Article 10 (1) b) of the Anti-Discrimination Act (adopted on 20 May 2004, in effect from 1 July 2004) states that "in proceedings concerning a breach of the principle of equal treatment, a litigant can also be represented by a legal body the aim of which or activities of which concern protection against discrimination." (this article refers to judicial proceedings – the law does not provide for any possibilities of specific administrative proceedings in cases of breaches of the equal treatment principle).

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

No. This possibility is not given to NGOs or trade unions.

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

Yes, some NGOs are doing practical work (as has already been indicated in answer to question 15) – e.g. women 's, religious/charity organisations, some Roma organisations, organisations supporting the disabled or some organisations with a more general social profile. They offer social assistance, counselling, psychological support, health-care assistance, inviting experts (mainly lawyers) to training and workshops where they can provide their target group with legal advice, writing brochures and booklets with practical legal advice on what to do when discrimination occurs. Some organisations that are not able to help or assist their clients themselves provide advice/support on where to find the help or the assistance.

Trade unions are doing less practical work than NGOs.

30. Do they advocate changes in legislation and policies?

Yes, some of them do. They are mainly trying to impose pressure on policy- and legislation-makers through media, are active in research and/or writing reports (or shadow reports) that cover issues of (anti-)discrimination and that often contain recommendations, are actively involved in lobbying etc. In spring 2007, NGOs were also very active in drafting comments to the governmental draft amendment of the Labour Code, requiring adoption of family-friendly policies, and to the governmental draft amendment of the Anti-Discrimination Act where they requested better transposition of the European anti-discrimination directives and a better implementation of the act in everyday life.

To our knowledge trade unions are not very active in anti-discrimination policy- and legislation making.

31. What are their relations with the central government?

Most NGOs have some kind of informal relations with the central government and many of them also cooperate on drafting or commenting policy documents. A lower proportion of NGOs mentioned commenting of legislative proposals (although it is hard to tell whether this really happens in cooperation of NGOs and the government or whether NGOs only use their legal entitlement to comment laws in the legislative process). A few NGOs also have common projects with the government and some mentioned direct support from the government.

The Confederation of Trade Unions listed all of the abovementioned forms of cooperation. It is hard to be accurate with the rest of trade unions as the questionnaires received only indicate one case of informal cooperation and one case of direct support from the government (two trade unions did not provide their answers at all).

32. With regional governments or municipalities?

Again, in most cases the cooperation between NGOs and regional governments and municipalities is informal. Some organisations also cooperate on drafting policy or legislative documents. About 30 per cent of the respondent NGOs mentioned common projects with municipalities/regional governments. Almost a half of NGOs receive support from them.

The Confederation of Trade Unions again listed all of the abovementioned forms of cooperation. The rest of the trade unions did not provide answers to this question, apart from one trade union that mentioned informal contacts and support from regional/municipal governments.

33. For trade unions, with the employers organisations?

The relations are in the form of collective bargaining and negotiations (although it is not clear whether this is also true of the field of anti-discrimination).

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

The relations of Slovak NGOs with the ombudsman or with the Slovak National Centre for Human Rights are not very intensive. Few NGOs (about 30 per cent) have informal relations with the ombudsman and two organisations reported they provide him with concurrence if requested. Two NGOs also mentioned that they filed complaints to the ombudsman. No other form of cooperation with the ombudsman occurred.

The case is similar with the Slovak National Centre. Although about 50 per cent of the NGOs questioned reported informal contacts, only three mentioned cooperation when commenting policy documents, two mentioned common projects, one organisation mentioned support from the Centre and 2 pointed to cooperation when providing legal aid to victims of discrimination.

Out of the respondent trade union, only two trade unions mentioned their informal contacts with the ombudsman, and with regard to the Slovak National Centre, only the Confederation of Trade Unions responded they have informal contacts with the centre.

35. What are the qualifications of the staff?

Most NGOs reported university degrees from the field of humanities or economy.

Trade unions were not very specific when answering this question.

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

Some members of the NGOs' staff have gone through trainings focusing on anti-discrimination (both on national and international level - seminars/workshops/courses where legal, social and psychological aspects of discrimination were part of the agenda). Only about a quarter of NGOs indicated a lack of qualification in the field of anti-discrimination.

Trade unions did not mention any or only a minimum in this field (one trade union reported that their members have gone through international seminars). Majority of trade unions stated they would need anti-discrimination training.

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

Many NGOs are skilled in the field of writing project proposals and in reporting but far from all of the staff involved in fundraising has gone through special trainings – they have simply learned how to do fundraising through their own experience. For many NGOs, however (probably mainly for small local ones), writing project proposals/fundraising is one of the major problems they encounter (about 50 per cent of NGOs noted they would need training on writing project proposals).

Some trade unions also indicated they would need this kind of training.

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

Only one out of the 24 NGOs that responded to our survey assessed their rate of success of their anti-discrimination work as very high. Most organisations consider their successfulness as high, taking into account the conditions under which they are operating.

About one fifth of organisations are not very sure of their success (although the success/lack of success may not be in direct proportion with the quality of their anti-discrimination work).

Trade unions were less satisfied – in two cases, the success and quality of work were not very satisfactory, and in the rest of the cases, the rate of success was quite satisfactory when the opportunities and external conditions are taken into consideration.

III. Needs and problems of NGOs working to combat discrimination

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

The main problem of vast majority of NGOs is a lack of funding and problems with gaining and administering financial resources. This is especially problematic of the European Structural Fund where the government has not managed to exercise its responsibility to set up proper and efficient mechanisms for administration. This often even endangers the existence of the NGOs.

Another problem of NGOs is a badly functioning cooperation with the central government and with the local and regional governments.

The problem with funding and administering financial resources is also valid for trade unions. With regard to the trade unions, one of the biggest problems was also unwillingness of employees to pursue the equal treatment principle.

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

Yes, it is. These deficiencies are usually very closely interconnected: Lack of money either means that in many organisations, administrative work is often not covered or covered only to a very small extent by available funding (which means that experts often have to waste their capacity), or it means that experts and other people devoted to the missions of their organisations often have to do other activities somewhere else to earn their living. It also means that NGOs often cannot afford to pay highly qualified professionals, mainly lawyers or other experts with good knowledge and experience in a particular field.

The NGOs also face lack of qualified staff with sufficient capacity, lack of possibilities to perform projects and activities, burn-out syndrome in cases of staff who want to sustain their organisations in the framework of their missions but at the same time have to deal with existential matters. Especially for NGOs that would like to deal with issues of equality and anti-discrimination in a conceptual manner and on a long-term basis, this personal and financial instability is very problematic and exhaustive and serves as a real barrier to efficient anti-discrimination.

Trade unions hinted to similar problems in relation with regard to qualified staff in relation to sufficient funding.

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?

Yes, for many NGOs lack of qualified staff is a problem. This question is also connected to the previous one – limited resources mean limited possibilities to hire highly qualified people.

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

Trainings on legal aspects (both substantive and procedural) of equal treatment and anti-discrimination, trainings comprising communication and negotiation (both in the general sense and in the sense of communication with the government and other representatives of the public sphere, as well as with employers), principles and means of advocacy, policy-making and lobbying, trainings (with regard to anti-discrimination) with model situations that occur in real life where practical experience could be gained by the trainees, trainings on project preparation and realisation in the field of anti-discrimination, time-management, public speaking, language courses, advocacy, human rights topics etc.

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

As regards NGOs, this varies from organisation to organisation – but in general about half of organisations said they would need training in national anti-discrimination legislation. Three out of five respondent trade unions indicated that they would need training in this field.

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

This also varies – but in general about a third of organisations said they would need training in national anti-discrimination legislation. Three out of five respondent trade unions indicated that they would need training in this field.

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

In a very few exceptional cases. The problem may be that specific trainings of this kind are not even available in Slovakia, or only in a very few cases. But some NGOs experts nevertheless have capacity to formulate policy proposals they have either gained in courses/trainings/studies abroad or they have gained as a results of their long-term practice. This is to a certain degree also valid for gaining capacity to formulate legislative proposals.

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

There is never enough being done. NGOs are important and strong key-players for various well-known reasons – their ability to exert pressure on the government and on other public representatives, their closeness to communities and ability to communicate with them, the big amount of professionals who represent them, their flexibility (both internal and external) and their independence. About three quarters of responding NGOs indicated they would need to communicate their missions and activities to the public, and about 40 per cent allege they would need to carry out more activities. Some of them (about a quarter) would also like to work with their clients more intensively.

Trade unions mentioned they would welcome a more intensive cooperation with the Confederation of Trade Unions. Three of them would also like to cooperate more intensively with political parties, with the government and with the Slovak National Centre for Human Rights. Voices for a more intensive cooperation with their members, with victims of discrimination, with trade unions abroad and with the ombudsman were also raised.

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

Yes. See answer to the previous question.

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

Yes, especially the NGOs would like to intensify their contacts and cooperation with the government. However, this is not motivated by their desire to increase their credibility and status (which is oftentimes very high) but by the need to their work efficiently and with a real positive impact on disadvantaged individuals and groups and with a real chance to achieve structural changes. At present, the Slovak government is not cooperative enough to create conditions for these needed changes to happen – it excludes NGOs from important legislation and policy-making (it is, for example, very rare that the government would invite NGOs to cooperate on creation of legislation from the initial stages of the legislative process; usually, this involvement only comes when the NGOs use the legislative process mechanisms and use the legal possibilities to enter it at a latter stages – when it is already much more difficult to shape and influence things) and it is far from supportive in maintaining a stable environment for NGOs to perform their work efficiently and systematically.

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

This has not been explicitly mentioned by the respondent trade unions but they would definitely benefit from this kind of intensified cooperation.

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

Yes, especially for NGOs this is one of the crucial things (see answer to question 46).

51. What would they need to develop?

This again differs according to what each organisation is doing but in general Slovak NGOs in national (about 50 per cent) and European and international (about 30 per cent) anti-discrimination law. About a half of NGOs would also like to develop their capacities in writing project proposals and some would also like to receive training in the field of formulating legislative and policy proposals. More than a half of NGOs would welcome consultations and supervision from experts in this field. Trade unions would also welcome training in the field of national, European and international anti-discrimination law. They would also appreciate supervision and counselling from anti-discrimination experts. They also expressed their interest in training in the field of project proposal writing.

c) National legislation in the field of anti-discrimination

1. Transposition of European anti-discrimination directives into Slovak legislation

A certain portion of European anti-discrimination laws was incorporated into Slovak legislation already during the process of harmonisation of Slovak laws with *acquis communautaire* prior to Slovakia's entry to the EU. In particular, provisions prohibiting discrimination in employment relations on several grounds were included in the Labour Code as early as in 2000, even exceeding in quantity the grounds specified in the anti-discrimination directives (on the other hand, the Labour Code did not prohibit discrimination on grounds of sexual orientation). Similarly, the Consumer Protection Act also contained a general provision prohibiting consumer discrimination.

A crucial moment in the transposition of the Race and Framework Directives was the adoption of Act No. 356/2004 Coll. on equal treatment in certain areas and protection against discrimination and amendments to certain acts (the Anti-discrimination Act). Adopted on 20 May 2004, the Anti-discrimination Act became effective on 1 July 2004. Although the amended Equal Treatment Directive has not yet been officially transposed in Slovakia, it has been *de facto* transposed to a significant degree.

The adoption of an amendment to the Anti-discrimination Act on 20 June 2007 (Act No. 326/2007 Coll. effective as of 1 September 2007) was another important moment in the transposition process of anti-discrimination legislation. The amendment removed some of the shortcomings for which the Slovak government had faced criticism from the European Commission.

Further amendments to the Anti-discrimination Act are currently being prepared in order to transpose Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services as well as to incorporate further necessary changes. This process involves also Občan a demokracia (Citizen and Democracy), an NGO whose member is a general public representative of an interdepartmental committee for amending the Anti-discrimination Act.

Although the existing Slovak anti-discrimination legislation provides a protection framework more or less compatible with the requirements of anti-discrimination directives, there is still rather large room for making the protection against discrimination even more efficient, and for more consistent transposition of European anti-discrimination directives. Slovakia, for example, still lacks a blanket protection against discrimination on grounds of sexual orientation; the definition of disability as specified in the Labour Code contravenes the case-law of the European Court of Justice (ECJ - which has defined disability for the purposes of protection against discrimination in employment) as far as anti-discrimination purposes are concerned; an exemption from the equal treatment principle in connection with genuine and determining occupational requirements is not applicable on grounds of sex; in services, discrimination is prohibited only on grounds of sex and race, national or ethnic origin - which is in contradiction with the transposition requirements of the European anti-discrimination directives because it narrows down the scope of formerly guaranteed general protection against discrimination in the field of services.

Incorporating the right to equality and the equal treatment principle in the Slovak legal order

A basic framework document in which the equality principle and prohibition of discrimination are specified in Slovakia is the Constitution of the Slovak Republic. Article 12 of the Constitution stipulates that people are equal in their dignity and rights. It further states that fundamental rights and freedoms are guaranteed in the Slovak Republic to everyone regardless of sex, race, colour, language, belief and religion, political affiliation or other conviction, national or social origin, nationality or ethnic origin, property, descent or any other status. No one shall be aggrieved, discriminated against or favoured on any of these grounds.

The Anti-discrimination Act specifies the application of the equal treatment principle and defines the means of legal protection that may be used when the principle is violated. The act lays down a general framework for the application of the equal treatment principle. In particular, it defines the basic terms such as the equal treatment principle and discrimination, specifies persons who are obliged to comply with the equal treatment principle, lists areas where this principle must be complied with and, for each area listed, it specifies grounds on which the equal treatment principle must be followed. Also, the act sets exemptions from the equal treatment principle and details on the possibility to file an action with a court if the principle is not complied with.

The Anti-discrimination Act as such stipulates that the equal treatment principle is applicable in social security, healthcare, provision of goods and services, education, and employment and similar legal relations. In social security, healthcare, provision of goods and services and in education, the equal treatment principle is guaranteed to all persons regardless of their sex, race, and national or ethnic origin. In the area of employment and other similar legal relations, discrimination on grounds of sex, religion and belief, race, national or ethnic origin, disability, age and sexual orientation is prohibited. For majority of the aforementioned areas, separate laws further widen the scope of reasons on which Slovak legislation prohibits discrimination. For example, the Act on Universities and the Act on the System of Elementary and Secondary Schools (the School Act) guarantee the rights stipulated by these acts in compliance with the equal treatment principle to all persons regardless of their sex, religion or belief, marital and family status, colour of the skin, language, political or other opinions, trade union activities, national or social background, disability, age, property, gender or other status.

In addition, the equal treatment principle is further specified in the following laws (some of them specify additional means of legal protection):

- Act No. 311/2000 Coll., the Labour Code, as amended
- Act No. 312/2001 Coll. on Civil Service and amendments to certain acts, as amended
- Act No. 552/2003 Coll. on Works Performed in Public Interest, as amended
- Act No. 200/1998 Coll. on Civil Service of Customs Officers and amendments to certain acts, as amended
- Act No. 370/1997 Coll. on Military Service, as amended
- Act No. 73/1998 Coll. on the Civil Service of Members of the Police Force, the Slovak Intelligence Service, the Court Guards and Prison Wardens Corps and the Railway Police, as amended.
- Act No. 315/2001 Coll. on Fire and Rescue Service, as amended
- Act No. 455/1991 Coll. on Small Trade Business (the Trade License Act), as amended
- Act No. 154/2001 Coll. on Prosecutors and Candidate Prosecutors, as amended
- Act No. 5/2004 Coll. on Employment Services and amendments to certain acts, as amended by Act No. 191/2004
- Act No. 131/2002 Coll. on Universities and amendments to certain acts, as amended
- Act No. 386/1997 Coll. on Further Education, as amended
- Act No. 29/1984 Coll. on the System of Elementary and Secondary Schools (the School Act), as amended
- Act No. 461/2003 Coll. on Social Insurance, as amended
- Act No. 195/1998 Coll. on Social Assistance, as amended
- Act No. 328/2002 Coll. on Social Security for Police Officers and Soldiers and amendments to certain acts, as amended
- Act No. 277/1994 Coll. on Healthcare, as amended
- Act No. 273/1994 Coll. on Health Insurance, Financing of Health Insurance Company and on the Establishment of Sector, Branch, Enterprise and Civil Health Insurance Companies, as amended
- Act No. 634/1992 Coll. on Consumer Protection, as amended

In order to make clear the relation between the Anti-discrimination Act and other aforementioned acts that contain the equal treatment principle, the Anti-discrimination Act stipulates that provisions of the Anti-discrimination Act and provisions of separate acts, where such acts specify further reasons based on which discrimination is prohibited, apply to the implementation of the equal treatment principle.

Equal treatment principle and discrimination – definition of basic terms

Generally speaking, the definition of the equal treatment principle and prohibition of discrimination contained in the Anti-discrimination Act is broader and more complex when compared to the definitions of equal treatment and discrimination specified in the anti-discrimination directives. Compared to the directives, the equal treatment principle does not only include the prohibition of discrimination but, in order to increase protection against discrimination, it also requires that good moral be taken into account and even contains a preventive feature, i.e. an obligation to adopt measures for the protection against discrimination. The notion of discrimination consists of more forms than as specified in the anti-discrimination directives and also reflects relevant anti-discrimination-related case-law.

Entities obliged to comply with the principle in the areas governed by the Anti-discrimination Act include state administration authorities, local self-administration bodies, professional organisations, natural and legal persons.

Pursuant to the Anti-discrimination Act, discrimination does not only comprise direct discrimination, indirect discrimination, harassment and an instruction to discriminate as laid down in the anti-discrimination directives but the definition also covers adverse treatment (victimisation) and encouragement to discrimination. Further, the act introduces the notion of discrimination against legal persons which is also a novelty when compared to the anti-discrimination directives.

Direct discrimination is defined almost identically to the definition contained in the anti-discrimination directives. According to the definition, direct discrimination means an act or omission causing that a person is treated less favourably than another person is, has been or would be treated in a comparable situation.

Indirect discrimination is defined in accordance with the anti-discrimination directives as a situation where an apparently neutral provision, decision, instruction or practice put a person at a disadvantage compared with other persons, unless such provision, decision, instruction or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Harassment is defined as a conduct that results or may result in intimidation, hostility, degradation, humiliation or offence against a natural person and whose purpose or effect is or may be a violation of freedom or dignity of a person.

Under the Anti-discrimination Act, an instruction to discriminate is a conduct consisting in the abuse of subordinate position of a person for the purpose of discriminating against a third person.

Encouragement to discrimination means persuading, affirming or encouraging a person to discriminate against a third person. A difference between the instruction to discriminate and encouragement to discrimination lies, generally speaking, in whether the instructing or encouraging person and the person instructed or encouraged are in a subordinate or equal position. The Anti-discrimination Act defines the instruction to discriminate against persons in more detail than the anti-discrimination directives and, unlike the directives, the Anti-discrimination Act holds that encouragement to discrimination is also a form of discrimination.

Adverse treatment (often also referred to as victimisation) is, unlike under the directives, deemed discrimination under the Anti-discrimination Act, i.e. that adversely treated (or victimised) persons are entitled to the same protection as persons subject to other forms of violation of the equal treatment principle (see below). Victimisation is defined as any action or omission which has adverse consequences for the person affected and is directly connected with

- a) seeking legal protection against discrimination on one's own behalf or on behalf of another person, or
- b) provision of a testimony or explanation.

Discrimination covers also discrimination against legal persons; such discrimination occurs where the equal treatment principle is not complied with e.g. in relation with members, partners, employees or shareholders of a legal person.

According to the Anti-discrimination Act, when examining whether discrimination has occurred or not, no account is taken of whether the reasons that led to discrimination were based on actual facts or misassumption.

Pursuant to the Anti-discrimination Act, discrimination on grounds of race, national or ethnic origin also comprises discrimination based on a relationship with a person of certain race, national or ethnic origin. The act includes similar provisions that govern equal treatment in employment; under these provisions, discrimination in relation to a person with certain religion or belief is also deemed discrimination. The same concept is apparent in the provisions that state that discrimination also means discrimination on grounds of previous or anticipated disability, or in the provisions specifying that discrimination on grounds of sex also covers discrimination on grounds of pregnancy or maternity as well as discrimination based on sexual or gender identification.

The act takes a specific approach to the application of the equal treatment principle in relation to disabled persons. Employers are obliged to adopt measures which enable a disabled person to have access to a certain job, performance of a certain work activity, promotion or other advancement or professional training. The foregoing however does not apply where the adoption of such measures could represent an unreasonable burden for an employer.

Exemptions from the prohibition of discrimination

The Anti-discrimination Act specifies several exceptions when different treatment of persons is not considered discrimination. For example, different treatment based on religion or belief, disability or age, sexual orientation, race or ethnic origin¹ is not deemed discrimination provided that it is justified by the nature of the occupational activities or circumstances under which these activities are performed if this particular reason constitutes a genuine and determining occupational requirement, provided that the aim is legitimate and the requirement is proportionate.

Another exception when different treatment is permitted is related to age and applies to situations where such different treatment is justified by a legitimate aim and the means of achieving that aim are necessary and proportionate if specified so in a separate legal act.

Such permitted exceptions are, in particular:

- a) setting the minimum and maximum age as a condition for recruitment;
- b) laying down special conditions for access to employment or vocational training and special conditions for the performance of job, including remuneration and dismissal, in connection with

¹ The amended Anti-discrimination Act no longer permits to apply this exemption in relation to sex and other reasons based on which the Slovak legislation prohibits discrimination (though prior to the 2007 amendment, the possibility to use this exemption applied generally to all reasons in respect of which the Slovak legislation sets an obligation to comply with the equal treatment principle). In our opinion, the amendment narrowed down the scope of the protection guaranteed formerly.

- persons of a certain age group or persons with caring responsibilities if the purpose of such special conditions is to promote vocational integration of such persons or their protection;
- c) setting the minimum age limit, professional experience or seniority as a condition for access to employment or certain advantages in employment.

The Anti-discrimination Act also allows registered churches or religious societies to ignore the prohibition of discrimination and apply different treatment on grounds of religion or belief as far as the employment in such organisations or performance of activities for such organisations is concerned, provided that in line with the nature of such activities, or in the context in which they are carried out, religion or belief of a person constitutes the fundamental legitimate and justified criterion of employment.

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

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

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

2.A +2.B Means available for challenging violations of the equal treatment principle

2.A Employment and occupation related - all grounds

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

The Slovak anti-discrimination legislation provides more or less universal and identical protection against discrimination based on all the grounds covered by the directives (including the gender equality directives) and also on other grounds that are not mentioned in the directives (such as marital and family status, colour of skin, language, political or other opinion, trade union activities, affiliation with a national minority, national or social origin, property, gender, or other status²), and in all areas covered by the directives. This includes the same means of redress available when the principle of equal treatment is breached in any of the areas covered by the directives and the Slovak legislation and in relation to any of the grounds protected. Some of the means available (in particular the complaints to the persons responsible for observing the equal treatment principle and the complaints to the various inspections) may slightly differ according to the area of protection and its legal coverage.

For this reason, questions No 2.A and 2.B have been answered together, indicating in the texts the specifics in individual areas of protection if there are any.

Victims of unequal treatment as well as NGOs engaged in fighting against discrimination have a wide scope of means at their disposal that can be used where the equal treatment principle has been breached in any of the areas covered by the directives and the Slovak anti-discrimination legislation, ranging from an informal redress to national and international means of legal protection, including judicial protection.

² There are some minor differences between the particular protected grounds contained in the individual areas of protection. For example sexual orientation is not an explicitly protected ground in the area education, although this protection is implicitly contained in the relevant legislative provision and it can also be invoked by using the Slovak constitutional law. Similarly, grounds such as age or sexual orientation are not contained as protected grounds in legislation covering access to goods and services, although the protection could be achieved by invoking EC law.

1. *Informal redress*

An informal redress of a situation where the equal treatment principle has been breached may theoretically occur in any case but in practice the use of informal redress will be most effective where the equal treatment principle has been breached unintentionally and unknowingly and in those cases where the executive bodies of institutions in which the breach has occurred are firmly determined to comply with the principle. Some companies, public institutions and other entities obliged under the Anti-discrimination Act have so-called codes of conduct in place which may include provisions laying down an obligation to comply with the equal treatment principle and prohibition of discrimination. In such cases, one may refer to these codes.

2. *Mediation*

Mediation is a way of alternative dispute resolution in which two parties involved in a dispute seek to find a mutually acceptable agreement with assistance from a professional mediator. The mediator is an impartial person not involved in the dispute who helps the two parties negotiate an agreement.

Mediation, however, is not an appropriate solution to all cases of discrimination, as it requires equality of the parties to the dispute being resolved (which is not the case in all cases of discrimination, for example in ones where one person is dependent on another).

3. *Complaint*

In case of a violation of the equal treatment principle in employment, an employee is entitled to submit a complaint to her/his employer. The employer is obliged to reply to the complaint without undue delay, redress the situation, refrain from any conduct which caused the breach of the equal treatment principle and remedy its consequences.

One may also file a complaint against the breach of the equal treatment principle under the Act on Employment Services. A complaint is filed with an office of labour, social affairs and family. The office is obliged to provide a reply without undue delay, take redress and refrain from any unlawful conduct and remedy its consequences.

If the equal treatment principle is breached by a public administration authority when discharging its duties (e.g. a mayor, a municipal office, the Social Insurance Company) a complaint may also be filed under the Complaints Act. Such a complaint is examined by a chief officer of the body against which the complaint has been filed.

4. *Petition to a labour inspectorate and the Slovak Trade Inspection*

As regards employment relations there is an option of filing a complaint with one of the labour inspectorates responsible for overseeing the compliance with labour laws, hence also the compliance with the equal treatment principle. Where the breach of law is ascertained, an employer may be fined up to SKK 1,000,000.

If the equal treatment principle is violated in legal relations governed by the Consumer Protection Act, redress may be sought via a petition submitted to a respective inspectorate of the Slovak Trade Inspection (STI). STI may impose a fine up to SKK 100,000 to a vendor or service provider who has breached the law and failed to comply with the measure immediately.

If the breach of obligation occurs repeatedly within one year from the date on which the fine was imposed, a fine of up to SKK 200,000 may be imposed.

5. *Legal action*

If an entity affected by the breach of the equal treatment principle is not satisfied with the solution delivered on the basis of a complaint, or if it decides not to file such a complaint, anyone who believes that her/his rights, interests or freedoms protected by law are or have been affected may have recourse to a court. She/he may in particular demand that the person who has breached the equal treatment principle refrains from such action, remedies the unlawful state of affairs, if possible, or provides a reasonable satisfaction. If the reasonable satisfaction is insufficient, especially if the non-compliance with the equal treatment principle has significantly impaired dignity, social respect or social status of the affected person, such a person may even claim financial compensation for non-pecuniary damage. The amount of the compensation is determined by a court, taking into account the gravity of the non-pecuniary damage sustained and all circumstances under which it has occurred.

6. *Action seeking protection of personality rights*

Another option available to a person who believes that the purpose or effect of a discriminatory conduct aimed against her/him is violating her/his dignity, privacy or credit is to submit to a court an action for the protection of personality rights. Such an action may in particular be filed to seek that an unlawful interference with the right to the protection of personality is abandoned, consequences of such interference are removed and a reasonable satisfaction is provided to the affected person. Where dignity or social respect of a person is significantly degraded, the affected person is also entitled to claim financial compensation for non-pecuniary damage. The amount of the compensation would be set by a court taking into account all circumstances of the case. However, unlike those cases where a court decides about the breach of the equal treatment principle, a reversed burden of proof is not applicable in the proceedings concerning an action for the protection of personality rights.

7. *Notification to the Gender Equality and Equal Opportunities Department of the Ministry of Labour, Social Affairs and Family*

The Gender Equality and Equal Opportunities Department is also responsible for the performance of a number of tasks related to the enforcement of the Anti-discrimination Act. Among other things, this department:

- drafts state family and gender equality policies
- prepares strategic and conceptual materials related to gender equality
- in cooperation with the Employment Strategy Department provides conditions for the implementation of the work and family-life reconciliation policy
- oversees the preparation of the state anti-discrimination policy falling within the authority of the Labour Ministry and cooperates with the Social Inclusion Department and the Department for Integration of Disabled Persons and Social Services in monitoring the compliance with the Anti-discrimination Act
- inspects the compliance with the principle of equal treatment on grounds of sex, sexual orientation, religion and belief
- coordinates a nation-wide equal opportunity system for women and men
- cooperates with the Legislative Section in preparation of opinions and generally binding legal acts falling within its authority
- monitors and evaluates equal opportunities for men and women in employment, politics and family relations, including ESF programmes and projects
- examines and updates governmental documents related to family, women and equal opportunities for men and women
- participates in the implementation of EU law and international conventions on equal opportunities

- discharges duties arising from Slovakia's membership in the European Union and other international organisations
- provides and issues interpretations of general binding legal acts falling within its authority.

In addition to those mentioned above, there are also other means available to the victims of discrimination in order to address situations where unwanted, humiliating and discriminating conduct impairs their dignity. It does not necessarily have to include the conduct against which the Anti-discrimination Act affords protection, it may also involve any other actions which the affected person perceives, on whatever grounds, as being discriminating or humiliating.

8. *Misdemeanour procedure*

One of the options is to initiate a misdemeanour procedure by submitting a notification that an offence against neighbourly coexistence has occurred. Such an offence is committed by a person who harms another person's credit by offending or ridiculing her/him, or who deliberately violates neighbourly coexistence by threatening to cause bodily harm, minor injury, wilful or other type of indecent behaviour. A fine from SKK1,000 to SKK3,000 may be imposed.

9. *Petition to the Constitutional Court*

Where discrimination is caused by decisions delivered by state administration authorities, self-administration authorities or courts, the affected individual may seek redress with the Constitutional Court.

10. *Important websites and institutions that can provide help, assistance or further information:*

www.altera.sk

Website of lesbian and bisexual women's organisation Altera. Altera carries out supporting activities aimed at the lesbian community and promotes the community's interests in public.

<http://diskriminacia.altera.sk>

An internet portal discussing the issues of discrimination, social status and civil rights of sexual minorities in Slovakia.

www.aspekt.sk

Website of a feminist educational and publishing project - Aspekt.

www.concourt.sk

The Slovak Constitutional Court website.

www.diskriminacia.sk

An internet portal of various NGOs providing wide range of information on discrimination.

www.diskriminace.cz

A Czech information internet portal addressing discrimination-related issues and problems.

www.echr.coe.int

The European Court for Human Rights' official website. Among other things, it provides information on how to file an application with the ECHR (also available in Slovak).

www.interights.org

Website of a UK-registered charity engaged in human rights protection activities in particular regions, including the protection against discrimination.

www.justice.gov.sk

Website of the Slovak Justice Ministry with information about citizen services, e.g. on how to get free-of-charge legal advice, on fee exemptions, on how to file actions, appeals, etc. It also contains information about the European Court for Human Rights and on how to contact it. It provides a link to the Legal Aid Centre, an organisation that provides legal aid to people in material need.

www.oad.sk

Občan a demokracia (OAD – Citizen and Democracy) official website. OAD carries out education and publishing projects in the field of human rights, including anti-discrimination. It also provides legal assistance in cases of human rights violations, in particular where a positive precedent solution may lead to improvement in practices applied by courts and other public administration authorities in decision-making in the field of human rights and public interest.

www.poradna-prava.sk

Website of the Centre for Civil and Human Rights, a Slovak NGO that deals also with issues of discrimination.

www.poradna-prava.cz

Website of Czech-based Counselling Centre for Citizenship, Civil and Human Rights; provides also information about successfully resolved discrimination cases.

www.rasizmus.sk

Website of the People Against Racism, an organisation fighting racism, discrimination and prejudice and promoting tolerance and values of a multicultural society.

www.safework.gov.sk

Website of the National Labour Inspectorate with links to individual labour inspectorates. Labour inspectorates accept petitions in cases of the equal treatment principle violations in employment, as well as requests for free advice concerning, *inter alia*, the observance of labour laws and regulations, hence also the principle of equal treatment.

www.snslp.sk

Website of the Slovak National Centre for Human Rights. Its tasks involve providing legal assistance to victims of discrimination and intolerance, monitoring and assessment of the compliance with the equal treatment principle, research and surveys in the field of human rights. The website also contains a brief address list of organisations that provide consultancy and advisory services in various fields.

www.stop-discrimination.info

A website of the EU initiative “For Diversity. Against Discrimination.”

www.un.org

United Nations Organisation website.

www.vop.sk

Slovak ombudsperson’s website.

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

Where a choice of avenues for raising complaint exists, it is important to identify the purpose of making the complaint. There are numerous criteria that should be used by NGOs/trade unions to select the mechanism appropriate to the identified purpose(s). At any time, it is important to bear in mind the best interest of the client.

The criteria that should be considered before selecting the particular mechanism are the following:

- What outcome does complainant want?
- What is the object of complaint? Is it justice for the individual or raising awareness of discrimination?
- What is the urgency of resolution of the complaint and the time likely to be taken for procedures to be completed?
- What are the time limits applicable to different procedures? Can the complainant comply with them?
- Is there a possibility of quashing the adverse decision complained of?
- Is a legally binding solution sought and required, and available?
- What are the facts available? Do they match to the requirements of remedies?
- What is the available evidence? Is it appropriate and sufficient for the mechanism to be used?
- Is legal representation required or highly desirable?
- Is legal assistance available?
- Is there a possibility of financial compensation for victim(s)?
- Is there a possibility of re-instatement or re-engagement (if desired in employment cases)?
- Is the complaint suitable for awareness raising?
- What is the potential impact of the mechanism considered on public opinion?
- Is there a possibility of group complaints?
- What would be the possible costs and fees incurred by using a particular mechanism?
- What would be the potential consequences on the complainant (e. g. in case of internal complaint within the company brought by a trade union)?

2.D What are the technical procedural requirements of each available remedy?

There are some procedural requirements that have to be fulfilled in order to use the available mechanisms efficiently and successfully. Some of them are of general relevance and some are specific for individual types of remedies.

The following requirements have to be met generally in case of any of the available mechanisms:

- The person submitting the complaint has to be qualified to do so. In case of some mechanisms (e. g. a suit brought to the court), the complainant has to deem herself or himself to be affected by a breach of the principle of equal treatment. In case of some other remedies – e.g. complaints in the field of labour or in the field of action of public bodies –, the complainant can be anyone who sees breaches of the law.
- If the law sets time limits for bringing claims, these limits have to be observed.
- All claims should be substantiated. In general, anything that can help to illuminate the state of facts can serve as evidence. The most standard examples of evidence are:
 - documents and papers (e. g. labour contracts, payslips, published advertisements of employers, codes of conduct or written conditions of providing services that reveal discriminatory practices etc.) – ordinary copies are sufficient
 - witness testimonies
 - photographs (e.g. showing unfavourable and discriminatory conditions in hospitals, physical injuries of discriminated persons, express or implicit prohibition of entries of some groups - such as Roma - to places providing services etc.)
 - expert opinions of court experts

In some proceedings that concern breaches of the equal treatment principle, the following means of evidence can also be used:

- research and statistics contained e.g. in official and shadow reports – mainly in cases of proving indirect discrimination
- expert opinions of NGO experts or of the Slovak National Centre for Human Rights (which is the national equality body)

Some examples of specific requirements in cases of particular remedies are as follows:

In case of employment complaints, the law does to specify the contents of the complaint in detail. However, in order for an employer to be able to objectively examine the complaint and remedy the situation, the complaint should contain a description of the conduct that led to the breach of the equal treatment principle and identify the person or persons who the complainant believes are responsible for the breach. The law does not stipulate that the employee entitled to file a complaint must be a victim suffering from the breach of the equal treatment principle. The above implies that the complaint may be filed by any employee who has been a witness to discrimination.

Also, the law does not stipulate that the complaint must not be anonymous (though an anonymous complaint would in practice preclude the employer from answering it, however it would not prevent the employer from examining it and taking redress and measures to ensure that the breach of the equal treatment principle would not recur in the future).

In case of a complaint filed to a public administration authority for breaches of law when exercising its duties, the complaint must contain the first name, surname and address of the complainant. Also, the subject-matter of the complaint and what the complainant seeks must be clearly specified. The complaint may be anonymous and does not necessarily have to be filed by a person directly wronged by the violation of law. The authority with which the complaint is filed must examine and address it within 30 days and notify the complainant of the outcome of the examination in writing, including a statement whether the complaint is legitimate or not. If the complaint is legitimate, the notification must also specify measures adopted in order to remove the shortcomings.

In case of civil legal actions, judicial proceedings are governed by the Code of Civil Procedure that lays down the procedure to be followed by courts and parties to the proceedings. The proceedings commence upon the submission of a petition by the person affected by the non-compliance with the equal treatment principle, called an action. The action is submitted to a court with jurisdiction over the place of residence or permanent place of work of the person against whom the action is filed. The action must include identification data of both the plaintiff and defendant, a true account of decisive facts and indication of evidence referred to by the plaintiff. The action must also clearly state what the plaintiff seeks – i.e. whether she/he seeks an apology or financial compensation for non-pecuniary damage.

The indication of evidence by the plaintiff plays a very important role. If the plaintiff presents the court with evidence based on which the court may reasonably presume that the breach of the equal treatment principle has occurred, the defendant is obliged to prove that she/he has not violated the principle.

In addition to a lawyer or other person chosen by the party to the proceedings concerning the breach of the equal treatment principle, the party to the proceedings may also be represented by the Slovak National Centre for Human Rights which provides legal assistance to victims of discrimination and expressions of intolerance. The party to the proceeding may also be represented by another legal person (such as a civic organisation or a trade union) whose aim or field of action is the protection against discrimination.

The plaintiff in the proceedings on the breach of the equal treatment principle is not automatically exempt from judicial fees. The judicial fee is 3 000 SK (if pecuniary compensation of non-property damage is not sought) or 6 % of the sum requested by the plaintiff as pecuniary compensation of non-property damage.

In case of a misdemeanour procedure, a misdemeanour notification may be submitted to the police or at a respective district office. It may be submitted in person or in writing, or via telephone or fax. If submitted via phone or fax, it must be supplemented in writing or orally for the record within 3 days at the latest. The person who submits the notification has the right to request that an administration authority informs her/him of adopted measures within one month.

A petition to the constitutional court may only be lodged if all available remedies have been exhausted. The petition must be delivered within two months from the last decision, procedure or measure in respect of which it is filed. However, the Constitutional Court deals only with petitions contesting the breach of the equal right principle which has occurred in connection with the fundamental rights and freedoms laid down in the Constitution of the Slovak Republic. The petitioner must be represented by a counsel.

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

In general, victims or potential victims of discrimination are facing numerous obstacles when seeking redress once discrimination has taken place. These obstacles can include for example:

- lack of legal aid
- lack of pro bono legal assistance
- lack of familiarity with the directives and/or national anti discrimination provisions on the part of judges or administrative review bodies
- high judicial costs (and the risk of losing the paid money if the case is lost)
- access to courts and court procedures (physical access – where are the courts in relation to where the complainant lives, what facilities for disabled access, for interpreters, etc.)
- lack of psychological and/or social support in cases of discrimination
- fear from confronting an authority or a subject upon which a victim or a potential victim of discrimination is dependent etc.

These impediments can be partly overcome by the assistance of the following institutions:

Non-governmental organisations

Apart from providing various types of assistance NGOs can offer to victims or potential victims of discrimination, NGOs can also represent plaintiffs before courts (in proceedings related to breaches of the equal treatment principle).

Trade unions

Those interested to seek redress in cases of breaches of the equal treatment principle may also seek assistance and/or representation from trade unions.

Slovak National Centre for Human Rights

The Slovak National Centre for Human Rights is legally obliged to monitor and assess the observance of human rights and the equal treatment principle under the Anti-discrimination Act, collect and provide information on racism and xenophobia, conduct research and surveys in the field of human rights, provide legal assistance to victims of discrimination and deliver expert opinions concerning the compliance with the equal treatment principle. In addition, the Centre is entitled to represent a party to the proceedings concerning the breach of the equal treatment principle. The Centre also prepares and publishes annual reports on the observance of human rights in Slovakia.

Public defender of rights

Yet another, though partly limited, option is to contact the public defender of rights (ombudsperson) who is engaged in the protection of fundamental rights and freedoms of natural and legal persons affected by the conduct, decisions or inactivity of public administration authorities if their conduct, decisions or inactivity contravene the laws and principles of a democratic state and the rule of law. In this context, if the conduct, decision or inactivity of a public administration authority results in discrimination, the affected person may file a petition with the ombudsman. The ombudsperson examines the petition and if a violation of the fundamental rights and freedoms is ascertained, he or she will suggest remedy measures to be taken by the public administration authority acting in breach of these rights and principles. In addition, the ombudsperson informs the Parliament about his or her activities and about the observance of the fundamental rights and freedoms in the form of annual reports.

2.F Referrals to the European Court of Justice

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

This may be a highly effective procedure because:

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

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

2.G Petitions to the European Parliament

Individuals who believe that their rights guaranteed by the European Union are not fully respected have the right to petition the European Parliament; petitions are examined by the Committee on Petitions. However, they may also address the European Parliament on other issues falling within the jurisdiction of the European Union.

2.H Alerting the European Commission to discriminatory administrative practices

If a Member State fails to fulfil its obligations under the Treaty (including also the obligation to implement / duly implement directives), the European Commission may initiate so-called infringement proceedings under Article 226 through 228 of the EC Treaty that may even result in a penalty payment being imposed on the Member State by the ECJ. The European Commission may be notified of the failure of a Member State to fulfil its obligation by any citizen or organisation.

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

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

2.I Complaints to the European Court of Human Rights

Once all effective domestic remedies have been exhausted, protection may be sought from the European Court of Human Rights (ECHR) in Strasbourg. 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 (Slovakia has signed but not yet ratified Protocol 12). Similarly to the Constitutional Court, the ECHR would address only such applications which contest the violation of the prohibition of discrimination provision which has occurred in connection with a violation of rights referred to in the European Convention for the Protection of Human Rights and Fundamental Freedoms. The application is filed against a Member State that has allegedly violated some of the rights of the applicant guaranteed under the Convention. The application must be sent to the ECHR within six months from the day on which the last decision in the case in question was served upon the applicant. Collective complaints can also be made under the Council of Europe's European Social Charter.

2.J Other international remedies

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

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

2.K Professionalism

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

3. Societal issues

In 2005-2007, a few research studies have been undertaken by various institutions in Slovakia (Slovak National Centre for Human Rights, Institute for Public Affairs, Citizen and Democracy Association). These research studies revealed many interesting societal issues related to discrimination, in particular perceptions of discrimination by the public and by non-governmental organisations. Here are some of the most interesting findings:

- For 52 per cent of the Slovak population, human rights are important but at the moment there are other priorities – such as economy or health care - that are of higher importance. Those who find human rights to be the basic pillar of democracy represent only 39 per cent of the population.³
- 78 per cent of more than 50 NGOs who participated in a research carried out by the Citizen and Democracy association in 2007 find the situation in the field of discrimination and with observing the principle of equal treatment as rather bad or very bad. No-one said the situation would be good. 22 per cent of respondents assessed the situation as being neutral (neither good nor bad).
- According to the findings of the Institute for Public Affairs, 65 per cent of respondents think that people are very often discriminated in the labour market because of their age. 49 per cent think that this very often happens because of people's disability, 37 per cent think that this happens very often due to pregnancy of motherhood, 32 per cent of respondents find race and disability as reasons for very frequent discrimination, 22 per cent think that discrimination often results from responsibilities to other members of the family and 18 per cent of the questioned believe that gender is a ground on which discrimination takes place very often.⁴
- Another employment-related research question inquired into by the Institute for Public Affairs revealed that the individuals for whom it is most difficult to get a job with a private employer are older women (74 per cent of the respondents thought so), older men (72 per cent of the respondents) and middle-aged women (opinion of 53 per cent of the respondents).⁵
- Very interesting are also the findings regarding the opinions of the public about specific social groups. When asked whether they would like to have a representative of a particular group (e. g. Roma people, people with disabilities, gays and lesbians, Moslems, Jews, immigrants etc.) as their neighbour, people answered in the following ways:
 - less than 5 per cent would not like to have people with disabilities as their neighbours, but as much as almost 50 per cent would not like Moslems living next doors.
 - The negative number gets even higher with Roma people where about 70 per cent of respondents answered they would not like Roma to be their neighbours.

³ Slovak National Centre for Human Rights: Final Report from the Project *Representative Research on the Perceptions of Human Rights and of the principle of Equal Treatment by Adult Population in the Slovak Republic (Záverčná správa projektu Reprezentatívny výskum vnímania ľudských práv a zásady rovnakého zaobchádzania u dospelaj populácie v SR)*. Bratislava, 2007, p 18. The document is available at

http://www.snslp.sk/rs/snslp_rs.nsf/0/8B35ABD23C0AB345C1257310002A0A96?OpenDocument (last time accessed on 22 December 2007).

⁴ Institute for Public Affairs, 2005.

⁵ Institute for Public Affairs, 2005.

- Almost 40 per cent of the questioned would not like gays and lesbians to live next doors and 20 per cent would not like Jews to be their neighbours.⁶

It is important for NGOS, trade unions and other actors involved in combating discrimination to be aware that equality and the principle of equal treatment are universal principles that have to be applied no matter what particular characteristics a person has and no matter under what particular circumstances a person finds herself or himself. We all possess a combination of identities we were either born with (sex, colour of skin, sexual orientation, disability - in some cases) or that we have acquired throughout our lives usually without the possibility to really influence these possessions (increasing age, religion, in some cases disability).

It is important to be aware of the fact that although we primarily focus on one of the potentially discriminatory characteristics in our goals and activities, the people we work with or we may work with always possess numerous characteristics that may differ from those of our primary focus but that alter and/or aggravate their situation. Therefore it is important to be sensitive to this fact and to perceive disadvantage, equality and discrimination in their complexity and without biases.

⁶ See footnote No 2, p. 23.

d) Funding opportunities in the field of anti-discrimination

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

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

a) *European-level NGOs*

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

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

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

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

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

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

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

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

b) European Trade unions

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

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

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

2. EU funding for national NGOs/Trade Unions

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

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

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

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

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

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

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

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

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

The Delegation of the European Commission in Slovakia does not provide any specific funding for NGOs/trade unions working on anti-discrimination at the moment (and it does not provide any funding for any NGOs/trade unions whatsoever). Supporting Slovak NGOs by the Delegation of the European Commission in Slovakia ceased once the Slovak Republic acceded the European Union on 1 May 2004 (before this date, the delegation was supporting NGOs including those working on anti-discrimination).

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

There are various channels through which the Slovak government provides specific funding for NGOs and trade unions dealing with anti-discrimination.

The funding is never automatic and is always based on competition, usually through grant schemes directed at anti-discrimination and/or employment, education and social inclusion.

The opportunities of trade unions are in general worse than that of NGOs. Besides, if a trade union is a subject eligible for funding based on a call for project proposals, it can usually apply for such funding only as a sectoral trade union, associating more trade union organisations operating at different employers of the same sector.

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?)

Directly, the Slovak government supports NGOs through biyearly or triennial action plans on prevention of all forms of discrimination, racism, xenophobia, anti-Semitism and other manifestation of intolerance. This source, however, represents only a very negligible source of funding for Slovak NGOs dealing with anti-discrimination.

Although the participation on the realisation of the 2007 action plan (through projects supported by the government) was open also to trade unions (even though this possibility was not explicit), no trade union applied for support under this scheme. The call for project proposals for 2008 was not published yet (in January 2008 when this text was finalised).

The action plans are administered by the Section of Human Rights and Minorities at the Slovak Republic Government Office. More information can be found at <http://www-8.mensiny.vlada.gov.sk/index.php?ID=488>.

Another channel that the government directly uses to support NGOs active in the field of anti-discrimination is the European Year of Equal Opportunities which the Slovak government administers in Slovakia.⁷ The government also bound itself to co-finance the EYEO in Slovakia by 50 per cent from the state budget. All projects (out of which 7 are being carried out by NGOs and one by the Slovak National Centre for Human Rights – although the scheme was also open for sectoral associations of trade unions) were supposed to start (and indeed started) at the beginning of 2007 and their duration could not exceed the end of 2007. In spite of this, the Slovak government has only been able to sign contracts with NGOs whose projects had been approved. The contracted money arrived even later.. This situation was very paradoxical – the government was forcing the NGOs to carry out the project activities as if everything had been running smoothly from the government's side (promising from January that it was only a matter of a couple of days till everything would be administered and the financial resources provided), arguing that the project activities could not be postponed. This approach of the Slovak government had an unfavourable and disadvantageous impact on the NGOs carrying out the projects or on the projects themselves (many of the NGOs did not have sufficient resources of their own and therefore had to adjust their project activities correspondingly, and/or this situation was endangering their existence).

For more information about EYEO in Slovakia, see <http://www-8.mensiny.vlada.gov.sk/index.php?ID=4094>.

⁷ The EYEO is again administered by the Section of Human Rights and Minorities at the Slovak Republic Government Office.

The Office of the Plenipotentiary of the Slovak Government for Roma Communities is also annually supporting projects that are aimed at integration of Roma communities and at an implementation of a governmental complex development programme of Roma settlements. Unfortunately again, the government has not yet (as of the end of July 2007) been able to provide financial resources to support projects that were submitted to it by NGOs (and by municipalities as eligible applicants) by the end of January 2007 and approved.

The government also bound itself to co-fund an anti-discrimination project of a coalition of four Slovak NGOs within the EU Progress scheme that was approved by the European Commission at the end of 2007.

Through the Ministry of Labour, Social Affairs and Family and through the Ministry of Education, the Slovak government is, through administering the European structural funds and contributing to them with the Slovak budgetary resources, also supporting NGOs (and other subjects of law) in initiatives concerning equality and anti-discrimination (e. g. through the operational programmes Equal or Human Resources). Again, the ministries are, by having difficulties with administering the project schemes, by breaching the contractual conditions and by being late either with advance payments or reimbursements, or both, endangering the projects in progress as well as the NGOs that are carrying them out.

Some of the operation programmes within the structural funds are also designed for trade unions as eligible applicants – although these again have to be sectoral associations of trade unions (e.g. not trade union organisations at an individual workplaces).

For more information about the structural funds see:

- www.strukturalnefondy.sk
- <http://www.nsrr.sk/operacne-programy/zamestnanost-a-socialna-inkluzia/> (for the operation programme Employment and Social Inclusion, administered by the Ministry of Labour, Social Affairs and Family)
- <http://www.nsrr.sk/operacne-programy/vzdelavanie/> (for the operation programme Education, administered by the Ministry of Education)
- <http://www.esf.gov.sk/esf/index.php?SMC=1> (website of the European Social Fund in Slovakia)

Within the Structural Funds, there is also a special initiative called EQUAL that is aimed at elimination and reduction of all forms of discrimination and inequalities at labour market. Both NGOs and trade unions are eligible for support under this initiative (although trade unions in a smaller extent, and again only in sectoral associations. More information about the Community Initiative EQUAL can be found at www.equalslovakia.sk. The body responsible for its implementation is the Ministry of Labour, Social Affairs and Family.

The Ministry of Labour also established the Social Development Fund, a state organisation partially funded by the state budget (www.fsr.gov.sk). Its activities are funded by the European Social Fund and its aim is to improve the inclusion of groups at risk and marginalised groups and communities via community development, and enable access to economic opportunities and social services. NGOs are eligible to apply for its support.

The Social Development Fund offers an opportunity to establish social inclusion partnerships and provide methodological help in the area of identification of needs, objectives and micro projects with an aim to achieve the project aim. It also provides financial support, monitoring and evaluation of micro projects and funding of local infrastructure development projects.⁸

⁸ See www.fsr.gov.sk.

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

In general, the conditions for obtaining the above described resources are very demanding – especially the administrative side of the projects that are co-financed by the European Community (the government sometimes even applies double burden to the applicants, such as in case of the Progress scheme where it required the applicants to submit bilingual application – which undoubtedly excluded smaller NGOs or smaller trade unions from competition).

Once the financial resources are approved and officially granted to the applicant NGOs, the government is often unable to administer the project schemes properly. For example, it changes (even retroactively) conditions for reporting and is often enormously belated with advance payments and reimbursements. It also has inefficient control mechanisms (which is one of the causes of the belated payments). This taken altogether endangers NGOs and their projects and makes the fight against discrimination less efficient.

The situation with trade unions is even more complicated. Not only they are probably facing all the problems mentioned above in this section, but they are often not eligible for funding or their funding eligibility is only implicit. This undoubtedly serves as a barrier for trade unions to receive public funding for their anti-discrimination activities.⁹

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

This question is not applicable; Slovakia is not a federal country.

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

In principle such funding is possible. Some municipalities and even some higher territorial units (these are operating on regional level) support NGOs (mainly the local and regional ones) in their efforts including the ones in the field of anti-discrimination. However, these contributions are rather modest and do not represent long-term policies and strategies. In case of trade unions, it is in principle also possible that regional or local bodies support trade unions for some purposes related to anti-discrimination. Examples of this kind of support are, however, not known.

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?

There are some domestic and foreign private foundations that also support activities of NGOs combating discrimination (such as the Open Society Foundation residing in Bratislava, the Open Society Institute, the CEE Trust for Civil Society etc.). In general, their project schemes are much more “user-friendly” than the governmental ones, they are more responsive to the needs of NGOs and more flexible in terms of the needs of the target groups and of the environments in which these NGOs and their target groups are operating.

⁹ It is, however, not known how many trade unions are receiving public funding. Out of the respondents who participated in a research carried out by the Citizen and democracy Association in 2007, none of the respondents was a public funding recipient. On 10 January 2007, an employee of the Section of Human Rights and Minorities at the Slovak Republic Government Office, responsible for coordination of the Action Plan on Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Manifestation of Intolerance 2007 confirmed that no trade union applied for funding under the action plan, although trade unions were formally eligible (although not in an explicit way). For the 2008 action plan (the call for proposals has not been published yet) trade unions should be eligible. It is unknown how many trade unions have applied under relevant ESF schemes – although no trade union has been found to be a direct beneficiary of a relevant ESF project scheme.

Private companies are from time to time supporting initiatives of NGOs aimed at combating discrimination but their contributions are still marginal in terms of the overall support needed for efficient anti-discrimination programmes and activities. Gaining private commercial funding for non-governmental activities is still uneasy and rather exceptional in Slovakia. This is also true of trade unions which are not known for being funded through any private donations whatsoever (if we omit membership fees which are the most common and almost exclusive sources of finances of Slovak trade unions) – although theoretically the possibility of trade unions to receive funding from private sources exists.

8. Are there any other sources of funding?

Until recently, all taxpayers could donate 2 per cent of their paid taxes to any non-profit organisation for realisation of its goals (provided that the 2 per cent would not be lower than 20 SKK, approximately 0,6 Euro). As of 2007, the rules for granting two per cent of paid taxes got stricter and some NGOs that are carrying out anti-discrimination activities might not be eligible for such funding any more (the 2 per cent of the paid taxes can now be assigned for selected purposes only – namely for activities related to health, sports, social aid, cultural values, and education). Therefore if some NGOs would be combating discrimination exclusively through providing legal aid or through development of policies (if they would not at the same time carry out e. g. educational activities or providing social aid), they would now not be eligible for this type of funding. In any case, the resources from 2 per cent of paid taxes donated to NGOs cannot be used for providing legal aid or for involvement in development of anti-discrimination public policies, even if an NGO would be eligible for this type of funding. Besides, the minimum pecuniary limit from which the 2 per cent can be donated to a non-profit organisation has now risen to 100 SKK (approximately 3 Euro) in case of natural persons and to 250 SKK (approximately 7 Euro) in case of legal persons.¹⁰ This taken altogether has undoubtedly limited the chances of NGOs to get funding for anti-discrimination activities and also the chances of individuals and firms to support them.

Trade unions are not eligible to get funding from this mechanism.

¹⁰ See Section 50 para 1-3 of the Act No 595/2003 Coll. on the income tax, as amended.

IV. Diversity Management seminar

Design of the training

The training in diversity management seminar in Slovakia consisted of three main parts. The aim of the first was to stimulate individual diversity and minority awareness in order to be able to identify sources of discrimination. The next section spanned the topics and went to the core of diversity management, its background, potential, possibilities and mission. The last part of the training covered specific DM plans and programmes created by participants for concrete organisations. Generally they emphasised protective, anti-discrimination aspects and managerial actions. Summarising the content of the training, we can conclude that it fulfilled the goals and objectives which had been defined before it.

The presentation by Dr Kazuma Matoba was a valuable contribution to the training design. His explanation of diversity management was of great help, especially his clear and inspiring description of DM concepts in the PowerPoint presentation he gave during the course of the training. We were very satisfied with the activity and contribution of the participants. All of them took part in the discussions and through their active participation and engagement they broadened and enriched the content of the training.

Participants came from different areas – private, public (state and municipal) and non-profit organisations. Most of them already had a certain level of experience in the diversity management sphere, at least being aware of the Slovak legal framework in relation to anti-discrimination. From this point of view the training emphasised more an interactive and participatory approach than a traditional learning process. The level of awareness and the discussion among participants helped the trainers to go more deeply into the topic, rather than just offering a basic level of information.

The number of participants was smaller than expected. Originally 36 managers had applied for the seminar but in the end 25 people participated in the seminar.

Preparation of the seminar

The preparation phase consisted of four meetings, each of them with a slightly different focus. We started with basic ideas and recruitment issues and later proceeded through an analysis of potential trainees' needs, setting a venue, studying materials received from IDM and Dr Kazuma Matoba, producing a training manual and preparing the concrete training programme. The preparation process was fluent and fruitful.

The cooperation between the national coordinating body and the national trainer was excellent. They had previously worked together on several long-term projects with a high level of effectiveness and success. Slovak anti-discrimination law formed the background for one part of the programme. The team of trainers consisted of trainers experienced in diversity issues, democratic action, managerial training and programme design. The participation of the international expert was of great assistance.

The recruitment of trainees could have been focused more on organisations operating outside the capital of Slovakia. In that case it would have been better to have a two-day training schedule because people need at least half a day for travel, thus a one-day schedule would not be sufficient for them. On the other hand, managers working in Bratislava are often overfaced by a vast offering of training and seminars from all sides.

Summary of the DM needs analyses

Most of the organisations – from both the private and public sectors – lack a clearly formulated strategy of diversity management and do not have any documents articulating their attitudes or principles of equality in the area of personal management.

They do not have well-identified measures of the internal climate / culture / satisfaction of employees (access to education, space for discussion, barrier-free environment, multilingual communication, respect to privacy and cultural differences, non-discrimination, etc).

There is a lack of (specialised) social programmes for employees e.g. for women on maternity leave, but there is also a deficit of preventive medical examinations, work and life balance programmes.

Teleworking and home office programmes are rarely introduced into Slovak enterprises and public institutions and this is also true of part-time work / divided workplace.

There is an absence of efficient internal communication (both vertical and horizontal) and of control mechanisms (e.g. regular feedback, forums, letter box for anonymous evaluation).

The technical conditions are often inadequate, not only from the point of view of barrier-free access, but also according to working conditions standards in general.

Only in the international enterprises is there either implementation of elements of diversity such as codes of ethics (AT&T, Hewlett Packard, Allianz, SABMiller) or development (and formulation) of a strategy for diversity and inclusion (IBM).

IBM Slovakia could be considered as a national example of good practice. At IBM, traditionally, few principles are more important than diversity. IBM strives to be the most diverse and inclusive organisation in the country because one of its core values is innovation and difference is what drives this. At IBM employees are valued for their individuality, their uniqueness and their difference because it is believed that creativity flows when diverse minds meet; when people with a broad range of experiences work together to find a solution. The commitment of IBM to valuing diversity and an inclusive ethos has its foundations in the very roots of the corporation over a century ago in the USA, when the first female and black employees were welcomed into the company in 1899.

At IBM Slovakia inclusivity and equality in the workplace are championed proactively as a business imperative. This is driven as strategy company-wide by senior management. Permanent social programmes are being implemented for women, people with disabilities and people from the lesbian, gay, bisexual and transgender (LGBT) community (international anonymous discussion groups).

A good example of a programme for people with disabilities is the common educational project (oriented towards developing IT skills and improving English skills) with the National Council for Citizens with Health Disabilities. This was for 50 participants – potential employees of IBM – and was implemented from September to December 2007 in Bratislava.

Benefits at IBM are tailored and the working policy is flexible, helping each individual maintain their individuality, managing the demands of a successful career and business requirements with those of their personal lives. Employees are actively involved in IBM-funded programmes in the community: from hosting technology-based summer camps to sponsoring and volunteering with charities and being involved in raising the bar nationwide for inclusivity and diversity. Inclusivity is embedded at the very heart of IBM – it includes everyone and excludes no-one, creating a truly diverse and vibrant community of employees.

Carrying out the seminar

The dynamics of the training group was appropriate to the length of the seminar. In the course of such a short time the group was able to discuss relevant topics, members of the group expressed high levels of tolerance and collaborative behaviour exceeded sporadic displays of competition. Subgroup work was effective, people were willing to share their own experience and knowledge and a friendly atmosphere helped trainees and trainers to communicate openly and clearly.

Joint work on the final model projects developed by the participants encouraged some of them to exchange their addresses and agree on future mutual cooperation.

The outcomes could be summarised in several categories: knowledge about diversity, diversity management, legal framework for anti-discrimination, basic skills for diversity management and minority protection, how to involve higher level management and opinion makers in diversity management issues and a pragmatic diversity management model project developed during the training.

Main lessons learned – seminar

For the future DM seminars participants mostly wanted more concrete examples and case studies. Some also suggest inviting more experts from abroad, having more interactive discussions or preparing an online portal to exchange information and evaluate projects already undertaken, adding to the invitation references from companies who have already taken part at similar trainings, as well as examples of how to use this information in management work. Participants suggested a shorter and more effective questionnaire, more discussions between the participants and a survey of the concrete steps the invited companies have already taken. Participants also proposed outdoor activities, a different timetable for the training (evening or half-day training, weekend training) or and a long-term set of periodically implemented meetings leading to the development of one concrete project.

In principle participants suggested continuing to develop a model of diversity management training for Slovakia by preparing concrete diversity management projects specified for different organisations. Follow-up diversity management training could cover education and exchanges of experience, a specific approach to advertising diversity management ideas, verified concepts of diversity management and an international exchange of diversity management experience.



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.