



## **NATIONAL ACTIVITY REPORT TURKEY ANTI-DISCRIMINATION AND DIVERSITY TRAINING**

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

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## **II. Introduction**

Notwithstanding the fact that there was a Turkish partner in the project (the same organisation as in the previous project) and strong interest from the Turkish national trainers to be trained, it was not possible to carry out the Anti-discrimination training seminars. The national coordinator dropped out of the project at such a very late stage that it has not possible to find another partner in Turkey.

However, the national chapters of the Turkish manual have been up-dated and the new section on funding possibilities has been drafted by Burcu YEŞİLADALI SAVAŞAN.

The organisation of the Diversity Management seminar has been taken over by the national DM trainer, Ferhan Alesi.

### III. Anti-discrimination seminars

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

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

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

The NGOs engaging in anti-discrimination work fall out several categories. There are general human rights groups engaged in the field of anti-discrimination among other rights and freedoms. These organisations started emerging in the beginning 1990s. These are mainly, **Amnesty International-Turkey Branch**<sup>1</sup>, **Human Rights Agenda Association**<sup>2</sup>, **Human Rights Association**<sup>3</sup>, **Organization of Human Rights and Solidarity for Oppressed People**<sup>4</sup> and **Human Rights Foundation of Turkey**<sup>5</sup>.

In addition, there are NGOs working for vulnerable groups, including ethnic and religious minorities, lesbian, gay, bi-sexual, transvestite and transsexual (LGBT) people, the Roma, persons with disabilities, which focus on discrimination among others. Those group-based NGOs are, but not limited to, **Federation of Caucasian Associations**<sup>6</sup>, **CEM Foundation (Alevis)**<sup>7</sup>, **Hacı Bektaş Veli Anatolian Culture Foundation (Alevis)**<sup>8</sup>, **Edirne Roma Culture Research, Development, Cooperation and Solidarity Association**<sup>9</sup>, **Roma Social Culture Fellowship and Solidarity Association**, **Helsinki Citizens Assembly-Turkey**<sup>10</sup>, **Six Dots Blinds Association**<sup>11</sup>, **Kaos Gay and Lesbian Cultural Research and Solidarity Association (Kaos-GL)**<sup>12</sup>, **Lambdaistanbul LGBT Solidarity Association**<sup>13</sup>, **Turkish Association of the Disabled**<sup>14</sup>, **Turkish Federation of the Blind**<sup>15</sup> and **Foundation for Persons with Physical Disabilities**<sup>16</sup>.

With respect to anti-discrimination there are NGOs which have active work in various fields such as, **Economic and Social History Foundation of Turkey**<sup>17</sup> which has conducted a comprehensive human rights education project on textbooks for primary and secondary schools, **Accessible Life Association**<sup>18</sup> which deals with also Roma rights, **Foundation for Society and Legal Studies**<sup>19</sup> which has been conducting projects on the improvement of minority rights and the elimination of discrimination in Turkey. NGOs working with regard to rights of child or the elderly have not engaged in anti-discrimination work or as such.

Trade unions in Turkey do not work on discrimination matters except discrimination on the ground of gender. In general trade unions have no awareness of anti-discrimination and have engaged in no such activities.

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<sup>1</sup> <http://www.amnesty.org.tr>

<sup>2</sup> <http://www.rightsagenda.org>

<sup>3</sup> <http://www.ihd.org.tr>

<sup>4</sup> <http://www.mazlumder.org.tr/>

<sup>5</sup> <http://www.tihv.org.tr/>

<sup>6</sup> <http://www.kafkasfederasyonu.org/>

<sup>7</sup> <http://www.cemvakfi.org/>

<sup>8</sup> <http://www.hacibektasvakfi.org>

<sup>9</sup> <http://www.edrom.org.tr>

<sup>10</sup> <http://www.hyd.org.tr/>

<sup>11</sup> <http://www.altinokta.org.tr/>

<sup>12</sup> <http://www.kaosgl.com/>

<sup>13</sup> <http://www.lambdaistanbul.org>

<sup>14</sup> <http://www.tsd.org.tr/>

<sup>15</sup> <http://www.korlerfederasyonu.org.tr/>

<sup>16</sup> <http://www.fev.org.tr/>

<sup>17</sup> <http://www.tarihvakfi.org.tr/>

<sup>18</sup> <http://www.uyd.org.tr>

<sup>19</sup> <http://www.tohav.org>

None of the existing trade unions displays any interest on anti-discrimination policy or activity. Trade unions have generally been reluctant to pursue any action outside their strict labour relations mandate (other than leisure and services to their members). There are six major trade union confederations, these are: **Turkey Public Sector Workers Trade Unions Confederation**<sup>20</sup>, **Confederation of Employee Unions**<sup>21</sup>, **Confederation of Public Servants' Trade Unions**<sup>22</sup>, **Revolutionary Workers Trade Unions Confederation**<sup>23</sup>, **The Confederation of Turkish Trade Unions**<sup>24</sup> and **Confederation of Turkish Real Trade Unions**<sup>25</sup>. The distribution of labour between these trade unions is not based on the sector in which the different trade unions operate. In a number of sectors (e.g. education) there are more than one competing trade unions and these usually belong to different confederations.

One trade union that has some involvement in anti-discrimination is the **Teachers' Union**<sup>26</sup> affiliated with **Confederation of Public Servants' Trade Unions**, which is the second largest nationally.

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

There is a certain distribution of work among NGOs that work based on different grounds of discrimination. Larger human rights NGOs such as Amnesty International-Turkey, Human Rights Agenda Association, Human Rights Association, Organization of Human Rights and Solidarity for Oppressed People and Human Rights Foundation of Turkey work on various grounds, including race, ethnicity, religion, disability (both mental and physical), gender, age and sexual orientation.

Disability organisations such as Turkish Association of the Disabled, Turkish Federation of the Blind, Foundation for Person with Physical Disabilities, and Six Dots Blinds Association are mostly interested in access to employment and public services. NGOs working for rights of persons with disabilities provide assistance and try to ensure the complete realisation of their rights and their access to public services.

There are two NGOs focusing on sexual orientation, Kaos-GL and Lambdaistanbul, which are located in Istanbul and Ankara. They provide legal assistance to the individuals. However, the LBTT community in Turkey is one of the major groups that face stigmatisation and harassment that hinder many people to act against discrimination.

Age as a ground of discrimination is a new concept and not actually acknowledged by the civil society in Turkey. There are not too many NGOs dealing with this issue. NGOs working for the elderly or the youth or students' organisations generally do not address anti-discrimination.

Those organisations which generally become involved with specific ethnic or religious groups are Federation of Caucasian Associations, CEM Foundation, Hacı Bektaş Veli Anatolian Culture Foundation, Edirne Roma Culture Research, Development, Cooperation and Solidarity Association, Roma Social Culture Fellowship and Solidarity Association etc.

Trade unions are not really concerned with anti-discrimination issues.

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<sup>20</sup> <http://www.kamusen.org.tr/>

<sup>21</sup> <http://www.memursen.org.tr>

<sup>22</sup> <http://www.kesk.org.tr/>

<sup>23</sup> <http://www.disk.org.tr/>

<sup>24</sup> <http://www.turkis.org.tr/>

<sup>25</sup> <http://www.hakis.org.tr>

<sup>26</sup> <http://www.egitimsen.org.tr>

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

There is no NGO specifically working on discrimination matters on the grounds covered by the directives. However there are several NGOs working on discrimination as a part of their broader mission and vision. Some NGOs addressing special groups have a component on anti-discrimination within their internal structure. Other NGOs deal with discrimination when campaigning for their target groups' rights.

The mainstream human rights NGOs have a program on anti-discrimination issues. For Amnesty International-Turkey, Human Rights Association, Organization of Human Rights and Solidarity for Oppressed People and Helsinki Citizens Assembly-Turkey anti-discrimination (particularly ethnic and religious discrimination) has been one of the main working areas. Six Dots Blinds Association, Turkish Federation of the Blind, Confederation of Disabled, Turkish Association of Disabled, Kaos-GL and Lambdaistanbul put anti-discrimination into their scope of work. Human Rights Agenda Association, as a new organisation in the field, aims to work on it more in the future and has recently published a compilation of international standards regarding anti-discrimination.

Trade unions do not carry out projects or activities aiming at raising awareness on anti-discrimination or addressing discriminatory acts. Teachers' Union indicated the right to education in mother tongue in its statute. Due to the decision of the Court of Appeal, the union has repealed the article regarding education in mother tongue in order not to be dismissed.

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

All NGOs/trade unions are registered so far. There exist only two forms of legal entities for NGOs in Turkey: associations and foundations. It is not burdensome to be registered as an association. According to the Law on Associations (Law no. 5253) minimum seven persons are necessary to establish an association and its branches. The right to establish an association can be used by persons without obtaining permission from public authorities. Registration of branches of international bodies in Turkey depends on permission and upon the opinion of Ministry of Foreign Affairs. Then the Ministry of Interior gives the permission (Art. 5 of the Law on Associations). National associations may undertake activities in other countries without any permission of public authorities. Platforms without legal entity are recognised by the law (Art. 25 of the Law on Associations). Trade unions, associations and foundations may establish platforms. Associations are subject to supervision that is done by the Associations Department of the Ministry of Interior and its provincial branches. Trade unions should be established through the Law on Trade Unions (Law 2821). All trade unions are registered without any permission. In case of a lawful registration, authorities are to file a lawsuit in order to get a court verdict to close down.

Foundations are registered without permission of public authorities as well. With respect to foundations, in contrast with associations, the important thing is the assets not be members. The board of trustees which is appointed by the founders holds the management. Foundations are subject to supervision run by the General Directorate of Foundations. The current law has not regulated the registration of representations of foreign foundations; therefore it is difficult for them to have a representation in Turkey. These foundations also have difficulties in getting funds from abroad which is possible with the permission of the General Directorate. A new law was adopted in February 2008 entitled "Law on Foundations", however the new law has not been implemented yet.

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

Regarding the trade unions, numbers of membership and their sectors are transparent and available to all in Official Gazette periodically. Trade unions which are organized in private sector as well as public sector represent a total of nearly three million workers and nine hundred thousands public servants respectively. NGOs vary in size from small organisations to larger ones which have more than 100.000 members. The largest organizations are the nationwide NGOs of persons with disabilities.

As the general situation in Turkey, the NGOs working to combat discrimination are relatively small. Amnesty International-Turkey has groups in eight different cities with 600 active members. Federation of Caucasian Associations has over 50 associations from different regions as member of the federation. Helsinki Citizens Assembly-Turkey and Human Rights Agenda Association are relatively small organisations with limited number of members. Human Rights Association has 34 branches and 14.000 members throughout Turkey. Kaos-GL and Lambdaistanbul have a small group of people in Ankara and Istanbul around 80. Organization of Human Rights and Solidarity for Oppressed People has 5.000 members throughout Turkey and 17 branches/offices in big cities. Six Dots Blinds Association has 11 member associations organized in 48 provinces with 10.000 members. Turkish Association of the Disabled has offices in 67 cities and registered members of more than 100.000 people. The Confederation of Disabled is the federation of disabled and most of the associations are members of the Confederation. Turkish Federation of the Blind have branches in 54 provinces with 12.000 members. Other NGOs are composed of a few dozen members. Mostly the actual number of their activists is usually small.

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

There are no institutionalized networks in many fields including anti-discrimination in Turkey. There have been attempts to build up networks among some NGOs. The latest two initiatives are worth to underline. Through EU Funds, an organization entitled **Civil Society Development Centre (STGM)**<sup>27</sup> was established and has been working in human rights and anti-discrimination fields as well. STGM's aims are to develop capacity of NGOs and to set up networks. The other network established in the area of human rights is **Human Rights Joint Platform**<sup>28</sup> which is an independent platform composed of Helsinki Citizens' Assembly-Turkey, Human Rights Association, Organization of Human Rights and Solidarity for Oppressed People, and Amnesty International-Turkey. Human Rights Joint Platform is an independent medium operating in the domain of human rights and freedoms and development of democracy in Turkey. The work of the platform is of a nature of complementing and reinforcing the activities and efforts of its members. One the main area that the Platform is engaging is anti-discrimination.

There is no network covering all NGOs. Mostly, they work without cooperation. Sometimes and on some issues coalitions are established by these organizations, for example a joint group was working on refugees active in between 1999-2003. In the case of trade unions, the leading confederations have been working closely on labour related issues throughout the country as "Labour Platform". Furthermore, platforms are established by local branches of trade unions in most of the big cities.

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

The NGOs working in the field of discrimination are mainly based in big cities such as Ankara, İzmir or Istanbul. Nevertheless they develop activities at the national level or at the local level and collaborate with NGOs from the rest of the country in combating discrimination. NGOs that seek to influence national policy have a presence in Ankara.

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<sup>27</sup> <http://www.stgm.org.tr/>

<sup>28</sup> <http://www.ihop.org.tr>

The other organizations' headquarters are based in Istanbul or Ankara having branches in many cities. The headquarters of trade unions are located mostly in Ankara and Istanbul however they have branches and regional offices all over the country.

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

The NGOs and trade unions generally do the same work regardless of their location. The regionally based NGOs or trade unions are generally concerned with issues relevant to their location and seek to influence their local and regional society or authorities in order to bring about change. Although the local NGOs and trade unions do not so much concentrate on discrimination, they usually approach victims of discrimination and often provide them with information and assistance.

The NGOs or trade unions in Ankara and Istanbul have some additional work like lobbying, advocacy, making contact with other national or international NGOs, and national and intergovernmental institutions, as well as with the mass media. NGOs in the rest of the country (outside Istanbul and Ankara) usually are not involved in these matters.

**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)**

Due to the centralized governmental structure of Turkey, NGOs cannot often induce government to adopt a policy and approach or amend legislation. This is also caused by the perception of discrimination as a "sensitive" issue by general public and government. Another factor is the lack of credibility of NGOs who deal with anti-discrimination, homosexuality and rights of ethnic or religious minorities. Those are often labelled as "traitors" or "collaborators of imperialism" mainly in case of conducting a project funded by the EU or other relevant institutions. Thus, they usually cannot mobilise public opinion with regard to human rights, particularly anti-discrimination. The anti-discrimination activities of NGOs or trade unions are less attractive to the media and public. In direct contradiction, women NGOs have more influence on policy makers and are more visible.

Although right to strike is very limited and cumbersome in Turkey trade unions have much more influence on decision makers, employers, the general public, particularly when they decide to go on strike. This is also possible with the large number of their members.

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

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

As stated above, there are two nation wide networks; however cooperation is limited to certain NGOs. Joint activities are usually temporary and event based. The forms of cooperation are: collaboration on case work, joint campaigns (e.g. anti-torture campaign by Human Rights Association, Amnesty International-Turkey, Human Rights Association, Organization of Human Rights and Solidarity for Oppressed People, and some other NGOs in the list given above), organizing events (especially in joint activities done on 10<sup>th</sup> of December- human rights day or 8<sup>th</sup> of March- women's day etc.), conducting joint projects funded the by EU (e.g. project on torture prevention), cooperation regarding public awareness raising campaigns etc. NGOs and trade unions working in the same field usually get involved in sending petitions to the local or central authorities.

NGOs also prepare joint reports, particularly "shadow reports" that are submitted to the international human rights mechanisms (e.g. the joint shadow report submitted in January 2005 by the women's rights NGOs to the United Nations Committee on the Elimination of All forms of Discrimination<sup>29</sup>).

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<sup>29</sup> For the report and the list of NGOs see, <http://www.kadinininsanhaklari.org/files/2005TCKKadinPlatformu.pdf>

With respect to trade unions the cooperation usually appears mostly during wage negotiations with public or private enterprises and in other employment related issues.

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

There has been a tradition of NGOs to work in cooperation on certain issues affecting their “community” such as the disability. There has been no collaboration in discrimination field (directives’ scope) with regard to different NGOs so far, except some minor examples. Collaboration in issues regarding the Roma can be observed to some extent; however disputes between Roma NGOs often hinder effective cooperation among themselves. The women NGOs cooperate extensively among themselves with regard to sex discrimination. The most important example of coalition was the one established for the prevention of discrimination against women in Criminal Law during the preparation of the new Turkish Criminal Code (2003-2004).

There is a high level of cooperation between trade unions, however it is limited to mostly sex discrimination. Other grounds appear to be neglected.

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

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

In Turkey most NGOs, except those related with disability, usually cannot get any direct support from government. Some activities of the NGOs are subsidized by the state such as hiring venues for meetings without any charge etc. There is no clear policy for other NGOs about public funding and state tradition do not allow this sort of collaboration between parties. The NGOs involved in anti-discrimination work generally consider state funding a risk factor for their independency and their critical voice towards state’s activities. NGOs are able to receive funding from various EU programmes, UN, foreign embassies or foreign trusts and funds. This channel for funding has been criticised by some political parties and nationalist NGOs, who consider foreign funds to promote attacks against unity of the state.

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

There is no clear policy of the state to allocate public funds to the relevant NGOs and conditions are not set down in order to ease an application for state funds. Currently, as indicated above only international grants are available for the field of combating anti-discrimination.

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

NGOs in Turkey are generally funded by receiving registration and membership fees from their members. NGOs receive or apply for private funding through EU or related funds. However, these private bodies are usually not national. Turkish private bodies provide funds mostly to social assistance projects or in the field of education. They are reluctant to be involved in human rights projects and particularly anti-discrimination.

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

Usually foreign funds such as EU grant programs, UNDP or foreign funders are seeking conditions. The conditions imposed by private funders vary but may include funding only projects that are not already supported so far; projects where beneficiaries are certain marginalised groups and projects that influence social change etc. However for projects supported by the EU or other foreign donors—even for the smaller grants—the methodology for grant application and implementation of a project is cumbersome and bureaucratic. Due to the weakness of the national funding there exist no concrete conditions for an application.

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

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

Trade unions receive state funding neither at the central level nor at the local level. They are voluntary organisations established subject to strict regulations and entirely funded with membership fees.

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

In Turkey, trade unions are not funded by any political party. Depending on their political affiliations, they may have close relations with political parties.

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

Trade unions only function with the membership fees.

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

Trade unions are eligible to apply for private funding to implement projects. They can also participate in or initiate projects funded by the European or international institutions.

**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?**

One of the important problems of NGOs is the lack of adequate resources and it is a big concern for the civil society in general and in particular for NGOs working in the field of anti-discrimination. Time and effort is usually spent on funding issues which takes time besides core and necessary activities. In addition, most funds are based on the duration of the project and consequences are lack of continuity and loss of staff and expertise. It should also be noted that most of the NGOs have been engaging in trainings on capacity building and they are able to develop and manage projects, conduct fundraising activities etc.

In the case of trade unions, resources are larger than NGOs so funding does not take the first place in restricting the scope or scale of their activities.

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

**a. Neighbouring countries?**

**b. Other new EU Member States?**

**c. Others?**

With respect to international cooperation, Helsinki Citizens Assembly-Turkey has contacts with other Helsinki organizations in Caucasian region. Six Dots Blinds Association, Turkish Federation of the Blind, Turkish Association of the Disabled and the Confederation of Disabled have also connections with similar associations in neighbouring countries. As regards Roma NGOs, they have contacts and cooperation with some Roma NGOs in the Balkans. NGOs involved in anti-discrimination on the ground of sexual orientation have relations with the international NGOs as well. The others have not worked together with similar NGOs in neighbouring countries so far.

There are no ties with NGOs in new EU members. There have been meetings with Greek NGOs initiated by Civil Society Development Program (STGP) in the context of peace and dialogue building in two countries. Roma NGOs have relations with Roma NGOs in Central and South Eastern Europe. NGOs indicated above have worked with some NGOs based in France, UK, Netherlands, Sweden, Germany, USA and international NGOs.

Helsinki Citizens' Assembly-Turkey together with Center for Victims of Torture (CVT), USA organized a big symposium in Ankara called New Tactics in Human Rights with more than 600 international participants. The Assembly has many connections and joint work with other European NGOs. Amnesty International-Turkey is doing projects with Amnesty International branches in the Netherlands, Norway, Switzerland and UK on violence against women issues and human rights education.

Human Rights Association is the member of FIDH (*La Fédération Internationale des Droits de l'Homme*). Lambdaistanbul took part in International Lesbian and Gay Association (ILGA) meetings and numerous other local and international projects. Kaos-GL is in cooperation with ILGA. Six Dots Blind Association has ties with European Blind Union and World Blind Union. Turkish Federation of the Blind, Turkish Association of the Disabled and the Confederation of Disabled are members of international organizations in their fields.

Trade unions are members of the International Trade Union Confederation (ITUC), European Trade Union Confederation (ETUC) and other international confederations and they have close relations with other trade unions based in other countries.

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

Amnesty International-Turkey takes part in international campaigns of Amnesty International. It began its campaign on discrimination against foreigners and Roma people in Europe in April 2005. Helsinki Citizens' Assembly-Turkey has joined some supportive activities in democracy building in some Caucasians countries and also has conducted small meetings with young persons belonging to Armenian and Turkish ethnic origin. Trade unions mostly do not work at the international level; they support statements of some European/international campaigns.

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

Due to general lack of knowledge and language education only some of the NGOs are able to work in projects that require English and work in English at a daily basis. Only Amnesty International-Turkey, Human Rights Agenda Association and Helsinki Citizens' Assembly-Turkey have done some work in English. Roma NGOs suffer from lack of a sufficient command of English causing their exclusion from international cooperation and grants.

Some trade unions, due to their international relations, are able to work in English, but most of them do not own this capacity.

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

As stated above there exists no link between trade unions and political parties so it is not applicable in this regard.

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

Despite the fact that trade unions are fairly autonomous from headquarters and the regional branches they are capable to work on any project they want to include on anti-discrimination. However trade union confederations have lack of tendency to involve in anti-discrimination work, except sex discrimination to some extent. Regional branches are also reluctant in involving.

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

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

NGOs use a number of methods in their work of combating discrimination. Some of them are:

- Carrying out investigations at the site of violation, conducting research and presenting the opinion to the public
- Taking up complaints, producing observation and monitoring reports and exposing discriminatory/racist incidents or crimes
- Disseminating these violation reports to reveal the wrong doing in order to raise the awareness of the public in general
- Lobbying and raising awareness by organising conferences, seminars, training seminars, panels, workshops, roundtables in the field of human rights, law, democracy, freedoms and anti-discrimination
- Offering victims of human rights violations or discriminatory acts legal, medical, material or psychological counselling
- Working on minority rights and multiculturalism focusing on civil approaches to conflicts, rule of law and citizen participation
- Producing audio, visual and written materials on the issue
- Emphasising multiculturalism with activities that aim to preserve cultural heritage and cultural diversity for example of the Assyrian community or the Roma
- Conducting activities that aim to improve the life standards of vulnerable groups such as persons with disabilities, the Roma and asylum seekers
- Providing social services and cultural orientation programmes for asylum seekers, refugees and internally displaced people
- Supporting and promoting artistic abilities of vulnerable groups
- Running campaigns for freedom of expression and freedom of religion, belief and thought
- Executing training programmes for the clergy on human rights and anti-discrimination
- Undertaking activities that try to raise the awareness of the public on minorities in Turkey, minority rights and minority foundations
- Providing assistance to Romani families as victims of forced eviction due to urban restoration projects or Kurdish-Alevi families as internally displaced people, preparing guidebooks for them
- Providing training programmes to lawyers for court cases on discriminatory acts/violence
- Providing assistance and training to families of the persons with disabilities
- Formulating recommendations for school textbooks that respect human rights norms and diversity
- Organising demonstrations, marches or festivals on important dates concerning human rights

Some NGOs support victims of human rights violations to take their cases to international mechanisms such as European Court of Human Rights. There are some NGOs that do not prefer to engage in day to day politics. There are a number of youth organisations that organise interactive meetings focusing upon social peace, solidarity, leadership of the youth sometimes by touching upon the issue of discrimination and cultural diversity. There are also a number of non-profit making alternative media portals that have a special focus on multiculturalism and make reports on human rights abuses and discriminatory acts or violence. There are also examples where experienced NGOs support those NGOs with less capacity to raise their capacity for advocacy work, such as newly established NGOs that work for the right of the Roma at the local level. There are a number of NGOs that concentrate on reforming legislation on cultural rights for example for the abolishment of the ban on using regional or minority languages or social rights for example social services to be provided to the persons with disabilities. LGBTT NGOs inform the public about their problems through campaigns, meetings and the Internet. Some NGOs working for the persons with disabilities, undertake lobbying activities targeting political parties and members of the parliament for better services for the disabled.

Some human rights NGOs have taken the Kurdish issue, rights of the minorities and cultural rights as a special focus. Some NGOs particularly focus on the right of the women to carry headscarves as well as rights of the religious minorities. Some LGBTTT NGOs offer a help line for problems or questions on homosexuality and transsexuality, sex, legal matters, military service, etc.

With regard to trade unions there has been no special focus on discrimination issues. Though as mentioned above, Teachers' Union showed efforts on education in mother tongue.

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

A number of human rights NGOs take up complaints of human rights violations, some of the cases concern acts of discrimination. Complaints are usually on language rights, ethnic, racist or religious discrimination. LGBTTT NGOs also take up complaints regarding discriminatory acts involving violence. NGOs established by persons with disabilities are taking up complaints from their members as well. However due to their lack of sufficient funds and staff, these complaints are limited and cannot be pursued so well.

Most of the trade unions have the financial and human resources capacity to deal with discrimination, however, as stated above, lack of expertise and reluctance in general hinder their attempts to combat with discrimination.

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

NGOs usually focus and work for their own community. NGOs, particularly of ethnic communities, religious groups, minorities, disabled people and LGBTTT generally do focus on their own communities. Occasionally, NGOs act together in a spirit of solidarity when there are incidents like the victimisation of a human rights activist. NGOs working on human rights in a broader scope conduct anti-discrimination work for any of the communities.

Trade unions often act on labour related issues and particularly for discrimination based on membership. They mostly focus on only their members instead of focusing on all workers. This is due to their mandate and traditions.

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

Some of the NGOs work directly with victims of discrimination, like the NGOs working for the Roma facing forced evictions, persons with disabilities, victims of homophobic incidents or the Kurds or other ethnic groups as victims of racist acts/violence. Within the limits of their capacity, these NGOs provide legal, material or psychological counselling. Nevertheless, most of the NGOs conducting work on combating discrimination have limited capacity to work directly with victims. This is related with the lack of expertise and trained staff. Some of the complaints are received, evaluated and shared by relevant governmental bodies such as human rights boards in every province and district, but the capacity to work with victims directly is low. As regards the trade unions, this is also the case for them.

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

According to the Turkish law trade unions can only represent their members before the courts or within the company.

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

The level of doing 'case work' among the NGOs and trade unions is very low. NGOs recently realised the strategic litigation approach and began to file cases.

Although Bar associations have expertise on litigation, they are reluctant combating discrimination except some Bar associations in Southeastern provinces of the country mostly on Kurdish issues. Also Alevi and Roma NGOs have been filing cases regarding discriminatory acts, practises or legislation for some years through national courts or European Court of Human Rights.

With regard to trade unions, due to their capacity of representing their members before the courts, they also do case work to some extent. However these cases are mostly on employment related issues. Trade unions also have been carrying out case work before international mechanisms such as International Labour Organization (ILO).

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

NGOs and trade unions are not able to access state funding for casework and only individuals, within very strict eligibility criteria, can receive legal aid during the legal proceedings. According to Turkish law parties do not need to be represented by a lawyer before the courts. The right to free legal aid in civil, criminal and administrative matters stems from the Act of Attorneys (Law No. 1136) and provided by the legal aid bureaus within Bar associations.

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

As indicated above, only individuals are eligible for public financed legal aid service. Fees are reimbursed by the Ministry of Finance; however the allocations are so low that few people can have access to free legal aid. Nevertheless legal aid system did not find much application. The public, including victims, in particular those most vulnerable, are not aware of their rights, or the remedies available to them. In civil and administrative proceedings, persons both have to establish that they cannot afford a lawyer and legal representation for the interests of justice. Among lawyers, there is only little specialization concerning discrimination on the grounds of race or ethnic origin, religion or belief, disability, age or sexual orientation. This is partly due to the law education in Turkey. Only a few law faculties provide a compulsory course on human rights law and in those that provide the course there is little emphasis on discrimination. On the other hand, NGOs do not have sufficient capacity and financial resources to work with lawyers. This is not the case for trade unions and they are able to represent their members before the courts and have the expertise on labour related issues.

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

Turkish law does not fully guarantee the right of associations, organizations or other legal entities with a legitimate interest to engage, either on behalf or in support of victims of discrimination in judicial or administrative procedures. Trade unions, consumer protection associations and association working for the protection and preservation of the environment are the only exceptions. Thus, specialised NGOs do not have legal standing before the courts. NGOs only provide legal assistance and due to restricted funding and professionalism they are not able to take all the cases. There are attempts to build a pro bono assistance scheme by NGOs, however, for the time being, it cannot be said to constitute a significant element of legal assistance.

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

Turkish law does not allow pursuing class action both for NGOs and trade unions as in many other countries. The victims of discrimination may bring an action according to the general rules of procedural laws. Alternative dispute resolution and/or restorative mechanisms such as mediation are either non-existent or not implemented properly (such as in criminal cases), therefore the only consequences is already overburdened, slow and inefficient courts.

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

NGOs that work directly with victims of discrimination and harassment offer them legal, medical or psychological assistance. Some LGBTTT organisations provide assistance via a telephone help line. Some NGOs working with refugees, asylum seekers or internally displaced people provide social and legal assistance to these groups. They prepare guidelines and provide training programmes for their integration. However, NGOs that provide such assistance do it within the limits of their financial resources, which is very limited. Most of the time, this type of practical work is done within the framework of funded projects. Trade unions are in general focused on labour related issues so that assistance to the members only covers legal or social assistance in those issues.

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

Human rights NGOs mainly concentrate on reforming legislation. They promote and make lobbying for changes in the legislation particularly for the principle of equality, freedom of expression, the rights of the minorities and ethnic groups. Organisations of persons with disabilities undertake lobbying work at governmental and legislative levels, for instance they prepared a draft law on disabled covering social rights. Women NGOs are also active in legislation processes and have managed to do some reforms in civil or criminal law.

Trade unions are also active in legislation processes and usually prepare alternative draft laws to impose to legislators.

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

The relation between human rights organisations and the central government was weak in previous years. There was almost no cooperation between the parties. This climate began to change with Turkey's EU accession process. Still both sides are still reluctant to develop relations. In areas such as the rights of ethnic and religious groups NGOs and the government started to develop relations in the short term. Some human rights NGOs are more motivated to establish dialogue with governmental bodies. Some NGOs prefer to cooperate with governmental bodies only when they are approached in a positive manner. There are more than 900 human rights boards established in every province and districts. However leading human rights NGOs did not take part in these boards due to the absence of independency and impartiality due to the fact that governors of each province or district have the seat of the presidency of the boards.

Recently, Parliamentary Working Groups have been established for members of parliament to collaborate with the specialised NGOs. Among working groups are WG for freedom of expression, WG for women's rights and freedoms, WG for disabled rights and WG for human rights. Yet, it is too early to assess the effectiveness of these joint working groups.

Organisations of the persons with disabilities have contacts with the central government. The President of the Confederation of Disabled has the consultant status in the Prime Ministry. On the other hand, Prime Ministry Administration for Disabled People considers NGOs working for the disabled as strategic partners.

Trade unions, depending upon their political affiliations, have relations with the central government. The degree of the relations depends upon the issue negotiated with the government.

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

NGOs working for the persons with disabilities have relations with provincial administrations and municipalities. According to Law on Municipalities one of the priority tasks of municipalities is servicing the disabled groups; however the level of cooperation between NGOs and local governments is at low levels.

In general, human rights NGOs have very little contact with local governments. There are exceptions such as the Diyarbakır Metropolitan Municipality that has established good ties with human rights organisations. Local governments hesitate to establish contacts with LGBTT organisations with the fear of losing public support or their homophobic background. NGOs working on ethnic problems are often excluded by public institutions. Regions in which a certain ethnic group is the majority (like Kurdish population) local governments may exceptionally develop relations with NGOs. Generally speaking, local governance is a new concept for the society in Turkey. Both NGOs and public institutions have only little experience in cooperation.

Trade unions have members, at the same time they are organised in local governments. So they usually have relations with municipalities mainly based on negotiations in labour related issues.

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

Trade unions have relations with employers' organisations which is usually based on working conditions and wages.

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

In Turkey, there is no special body that deals with allegations of discrimination. The Parliament had adopted "The Law on the Institution of the Public Inspection" to establish an office of ombudsperson which was not designed as an equality body, but an institution with a general mandate, however on October 2006, the Constitutional Court ordered the suspension of the implementation of certain articles of the Law until the decision on the merits.

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

NGOs that implement activities to combat discrimination work with volunteer lawyers who do most of the work. The number of the professionals and paid staff is very low. Most of the time, staff can be hired who work only on a temporary project basis. In local branches of national NGOs the work is mainly done by volunteers.

Trade unions usually work with experts and lawyers in terms training members in employment related rights and they are mostly qualified upon their specialization. However anti-discrimination is not a basic theme for them to deal with.

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

There are only few training programmes provided for staff on anti-discrimination work. Only a few number NGOs provide training for their volunteers on dealing with cases of discrimination. In 2005, a training of trainers programme was conducted within the framework of an EU-funded project "Capacity Building Civil Society dealing with Anti-Discrimination" implemented in 13 countries among which Turkey was a project country. With this project a pool of trainers on anti-discrimination for Turkey was designated. With regard to trade unions there has been no training on discrimination.

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

Civil Society Development Centre (STGM), Istanbul Bilgi University NGO Training and Research Centre and a number of other organisations provide training on project cycle management and fundraising. These training programmes have a particular focus on developing projects and logical frameworks and writing grant proposals for EU grant programmes. There is no training programme on reporting discrimination cases.

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

Under the circumstances where NGOs lack resources to conduct their core activities, they become dependent upon grants raised for projects. They also lack resources to measure the effectiveness and efficiency of their anti-discrimination work. In some particular cases, this is done by the funding body as a monitoring and evaluation activity. Internally, NGOs do not have sufficient expertise for evaluating the success of their work.

Although they have adequate funds and staff, trade unions do not deal with discrimination as the NGO's so there is no need to take the issue of evaluation into consideration.

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

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

The most significant problems faced by NGOs working in the field of anti-discrimination are lack of economic resources and funds, insufficient administrative capacity, insufficient project/ activity/ campaign management capacity and experience, lack of experienced and competent staff, low level of professionalism, stereotypes of public institutions, problem of sustainability, insufficient capacity to guide and work with volunteers and the suspicious attitude of the society towards NGOs working in this field. Some NGOs have to face a particular problem related with the media. For example, LGBTT organisations have to tackle problems caused by the homophobic language of some media. On the other hand, NGOs working for the disabled utter the insufficient level of research and academic work on the situation of the disabled in Turkey.

With regard to trade unions, lack of understanding, awareness and knowledge on discrimination and interest to combat discrimination is the main concern. In contrast with the NGOs due to the membership fees funding is not a barrier for trade unions.

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

Lack of staff and lack of funding are two relevant problems faced by NGOs working in the field of anti-discrimination. Also, these two elements are interconnected with each other, i.e. lack of human resources causes NGOs not being able to come up with a fundraising strategy or to conduct effective project development activities. As regards the expertise, NGOs working in this field possess a high level of specialisation on the ground of discrimination they are fighting against. With respect to trade unions, despite funding, they face with the same problems with NGOs.

**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?**

The staff of NGOs working in the field of anti-discrimination has a high level of expertise and knowledge in the area they are working on. On the other hand, the staff of some newly established NGOs or even larger NGOs lack the skills and expertise to raise funds, develop and implement projects, run campaigns and conduct advocacy work and lobbying. This is also the case for trade unions except funding.

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

NGOs involved in anti-discrimination work need training on strategic planning, NGO management, project cycle management, establishing local and regional networks, campaigning, fundraising, lobbying, conflict resolution, negotiation techniques, working with volunteers, communication and public/media relations, leadership, activism, communication technologies, group dynamics, problem and needs assessment, establishing partnerships and anti-discrimination regulations and contemporary approaches in the field.

The consultation meetings conducted by the Civil Society Development Centre (STGM) has revealed the need of NGOs to receive tailor-made training seminars. NGOs express their need of training manuals as well as post-training follow-up and communication. They also prefer training programmes conducted in an interactive way. The need of on-line education and training of trainers programmes are also expressed. Above mentioned points regarding NGOs are also relevant for trade unions.

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

The training programmes provided on national anti-discrimination legislation for the NGOs or trade union staff working in this field are very limited. Occasionally, NGOs working in this field liaise with academic institutions and/or academicians to cover their knowledge deficit.

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

The staff of NGOs and trade unions working in this field is not sufficiently trained on European anti-discrimination legislation. In 2007, EU Fundamental Rights Agency (FRA) has conducted two seminars in Istanbul on the two EU Directives, but the seminars targeted only a limited number of NGOs or trade unions representatives. There is no wider dissemination of information on the European anti-discrimination legislation.

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

Only a few number of NGOs working in this field have the capacity to propose policy or legislation change. Some examples are; LGBTT organisations (proposing the addendum of sexual orientation to the principle of equality outlined in the Constitution), larger human rights organisation (proposing legislative change on freedom of expression) or women's rights organisations (proposing changes in the Criminal Law) etc. Roma NGOs have been, to some extent, pushing government changes concerning forced evictions and discrimination in education. This is also the case for NGOs working in the field of migrants and refugees. Trade unions are usually active in legislation process; however this involvement is limited to employment related issues, particularly social security, employment contracts and wages.

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

NGOs and trade unions dedicated to combat discrimination definitely need to promote their role in anti-discrimination. This particular role has to be acknowledged by the civil society, the larger society as well as relevant public institutions.

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

There is a significant need to conduct work more with victims of discrimination on the grounds of race or ethnic origin, religion, disability and sexual orientation both for NGOs and trade unions. On the other hand, NGOs working in this field need to promote their work in the society by increasing the number of volunteers and members and sustaining their support.

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

In Turkey, the state tradition to suspect NGOs and negative attitudes towards them still persists. Nevertheless, some NGOs express the strong need to increase the communication as well as cooperation with public institutions. On the other hand, some NGOs are highly critical on this issue and consider the cooperation with public institutions jeopardising their independence. Having said that, NGOs have an immediate need to be considered as credible and relevant bodies fighting against discrimination. In terms of increasing credibility, trade unions have more advantages and stronger relations with the government through some channels such as tripartite meetings with employers and government. However, as stated above these meetings are generally related with wages etc.

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

Due to the lack of insufficient safeguards concerning employment contracts and due to increasing number of sub-contractors; trade unions are mostly in a weak position in front of companies/employers. The number of members of the trade unions has been declining every year. There needs to be a legislative action in order to strengthen the position of the trade unions to make them influence employers.

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

For the discrimination grounds of race or ethnic origin, religion or belief and sexual orientation, there is much to do to raise the level awareness of the public. The public first needs to acknowledge the existence of the problem and second be informed about the tools and methods to fight against discrimination.

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

NGOs and trade unions working in this field need to raise their capacity in lobbying, awareness raising, human rights activism, campaigning and project management so as to have stronger ties with the public and gain optimum results. Second, there is need to develop networking and cooperation, and to establish coalitions with NGOs and trade unions working in the same field at the regional, national, EU and international level. Third, there is a need to improve the communication and develop cooperation with public institutions and raise awareness on the concept of mutual gains.

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

### **1. The transposition of the Directives into national law**

Due to the fact that Turkey is not a member of the EU, Council Directives 2000/43/EC and 2000/78/EC are not transposed into Turkish law yet. However, as a candidate country, Turkey has taken some steps to align its legislation with the *acquis* in various areas, including areas covered by the Directives.

Several statutes including the Constitution, Penal Code, Labour Code, Law on Civil Servants and Law on Persons with Disabilities contain equality and/or anti-discrimination clauses, but there is no specific anti-discrimination legislation. According to art. 10(1) of the Turkish Constitution, “All individuals are equal before the law, without discrimination, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.” The Constitutional Court has never interpreted “such considerations”. The Court, without a clear determination on whether the claim falls under “such considerations”, decides whether there has been a violation of the principle of equality or not. The last paragraph of the same article imposes on all state organs and administrative authorities the obligation to comply with the principle of equality before the law in all their proceedings. Consequently, the obligation is not limited in its material scope. According to art. 70 of the Constitution, every Turkish citizen has the right to enter public service and no criteria other than the qualifications for the office concerned shall be taken into consideration for recruitment into public service.

The material scope of art. 122 of the Penal Code is limited. If a person based on a differentiation on the grounds of language, race, colour, sex, disability, political opinion, philosophical belief, religion, sect or on similar grounds:

- i. prevents sale or transfer of a movable or immovable property or provision of a service or prevents others from benefiting from a service or employs / does not employ a person;
- ii. does not provide foodstuffs or refuses to provide a service of public nature, or
- iii. prevents a person from undertaking an ordinary economic activity, that person shall be sentenced to imprisonment for a term of six months to one year or be fined. Ethnic origin, age and sexual orientation are not mentioned in the Penal Code, as prohibited grounds of discrimination. Although the list of prohibited grounds is open-ended, the *principle of legality*, which means general prohibition on the imposition of criminal sanctions for acts or omissions that were not criminal at the time of their commission or omission in criminal law, will render it impossible to include other grounds which are not explicitly mentioned. With regards to employment, the provision only prohibits basing the selection on the grounds listed therein. It does not cover working conditions, pay, vocational guidance, vocational training, advanced vocational training, retraining, dismissals and membership of and involvement in an organization of workers or employers. However, social protection, social advantages and education can be said to be covered by the prohibition, as the article refers to public services. The provision also covers access to and supply of services, With regards to access to goods, the provision only refers to foodstuff. There is no mention of housing.

The Labour Code is applicable only after the employment relationship is established. Art. 5 of the Code prohibits discrimination based on language, race, sex, political opinion, philosophical belief, religion, sex or similar grounds in employment. The same provision prohibits differential remuneration for similar jobs and work of equal value. If the employer violates the obligations under this provision, the employee may demand compensation up to her/his four months' wage, plus other rights which s/he was deprived of. Art. 18 of the Labour Code titled “*Justification of termination with a valid reason*” states that race, colour, sex, marital status, family responsibilities, pregnancy, birth, religion, political opinion and similar grounds cannot constitute a valid reason for termination of the contract.

Although the provisions mentioned above do not specifically include “age”, “sexual orientation” and “disabled persons”, they can be considered to be within the scope of the term “similar grounds” in both provisions. Art. 21 of the Code further adds that “If the court or the arbitrator concludes that the termination is unjustified because no valid reason has been given or the alleged reason is invalid, the employer must re-engage the employee in work within one month. If, upon the application of the employee, the employer does not re-engage him in work, compensation to be not less than the employee’s four months’ wages and not more than his eight months’ wages shall be paid to him by the employer. In its verdict ruling the termination invalid, the court shall also designate the amount of compensation to be paid to the employee in case he is not re-engaged in work”.

Art. 125 of the Law on Civil Servants prescribes that if civil servants discriminate on the grounds of language, race, sex, political opinion, philosophical belief, religion or sect in carrying out their duties, their promotion shall be suspended from 1 to 3 years. The material scope of this provision is not limited. However, ethnic origin, age, sexual orientation and disability are not explicitly mentioned as prohibited grounds of discrimination.

Art. 4 of the National Education Act prescribes that educational institutions are open to everyone irrespective of language, race, sex and religion.

Art. 14 of the Law on Persons with Disabilities protects persons with disabilities against discrimination even before the employment relationship is established. According to this provision, persons with disabilities shall not be discriminated against at any stage of recruitment, including job selection, application forms, selection process, technical evaluation, offered working hours and conditions of work and employed persons with disabilities shall not be treated less favourably than others on the grounds of their disability. The same Article requires that “measures in the employment processes in order to reduce or eliminate the obstacles and difficulties that may be faced by persons with disabilities who work or who apply for a job are taken and physical arrangements in the workplace are done.” Art. 13 of the same Law recognizes the right of persons with disabilities to choose their profession in accordance with their skills; to have access to related vocational training and to receive vocational rehabilitation.”

The provisions referred to above are rather brief and abstract. When compared with the texts of the Directives, a considerable number of gaps can be identified. First of all, except for the Labour Code, indirect discrimination is not explicitly prohibited. The prohibition of direct discrimination does not explicitly cover ethnic origin, age, disability and sexual orientation. The prohibition of indirect discrimination in the Labour Code is limited to sex and pregnancy. Secondly, neither direct, nor indirect discrimination are defined in the legislation. Consequently it is not clear if it is possible to justify a differential treatment, or a neutral provision, criterion or practice putting persons at a particular advantage.

Legislation does not recognize harassment as a form of discrimination. According to art. 24 of the Labour Code, the worker can terminate the labour contract before the expiry of its period or without waiting for the notification period, if the employer tells words that harm the honor and good name of the worker or one of the members of his/her family, behaves in such manner or attempts sexual harassment against the worker; teases or intimidates the worker or one of the members of his/her family or encourages, provokes and drives the worker or one of his/her family members to act unlawfully or commits an offense requiring conviction against the worker or one of his/her family members or makes grave attributions or accusations harming the worker's honor and dignity against the worker and if the required measures are not taken although the worker becomes subject to sexual harassment at the workplace by another worker or third persons and notifies the employer thereof. The prohibition in the Penal Code is limited to sexual harassment. There is no mention of harassment in the Law on Civil Servants.

Instruction to discriminate is not explicitly prohibited in any of the laws mentioned above. Victimization is prohibited only to a limited extent. According to art. 18 of the Labour Code, “application to administrative or judicial authorities against the employer for seeking the rights arising out of laws or the employment contract or participation in a proceeding instituted in this regard is not a valid reason for the termination of the contract.” There are no provisions with regards to civil servants. There are no provisions for positive action aimed at preventing or compensating for disadvantages linked to racial or ethnic origin, age, religion or sexual orientation. The situation is different in regards to persons with disabilities. In the private sector, (only in workplaces where fifty or more employees are working) 4% of the employees should be disabled persons. The percentage in the public sector is 3%.

Regarding the burden of proof requirements, there is a special provision in the Labour Code. According to art. 5 of the Labour Code, the employee is obliged to prove that the employer has discriminated against her/him on prohibited grounds. However, when the employee puts forward a situation strongly suggesting the probability of the existence of a violation, burden of proof shifts to the employer. According to art. 20 of the Labour Code, in cases of the termination of the contract by the employer, the employer is under the obligation to prove that the termination is based on a valid reason. If the employee alleges that the termination is based on discrimination, the employee has to prove such allegation. Other related legislation (including the Law of Administrative Procedure) does not provide for shifting or sharing of the burden of proof. Law on Civil Servants does not contain a special provision on burden of proof, which means that general rules shall apply. Law of Persons with Disabilities does not contain a special burden of proof provision either.

Both public and private employers are under an obligation to provide reasonable accommodation for persons with disabilities.

In regulations on vocational training, re-training, vocational guidance, advanced vocational training, there is no reference to discrimination based on race, ethnic origin, age, religion or sexual orientation. In Turkey, although self-employed and those engaged in a work relationship can be represented by their unions before judicial organs, they cannot be represented by their unions before administrative organs.

Moreover, unlike the unions, associations can only file suits regarding cases that are of interest to all of their members, they are not allowed to participate in the judicial and administrative proceedings on behalf of their individual complainants.

Another relevant law outlining the legal principles of employment in Turkey is the Law on Trade Unions (Law No. 2821). There are no specific provisions prohibiting discrimination. However everyone above the age of 16, can become a member of trade unions irrespective of their race, ethnic origin, disability, sexual orientation or religion.

Finally, the sanctions are far from being effective, proportionate and dissuasive. Except for the Penal Code and the Labour Code, no sanctions are explicitly attached to the violation of the prohibitions.

As the Directives are not transposed yet, there have been no discussions in the Parliament. There is no public debate either, as discrimination is still not on the public agenda. Directives are known only by a very small minority. However, NGOs are making references to the Directives in their trainings on discrimination, to highlight the shortcomings of the Turkish legislation.

In Turkey, there is no special body or agency that deals with allegations of discrimination. The Parliament had adopted “The Law on the Institution of the Public Inspection” to establish an office of ombudsperson, however the former President of Turkey brought the Law before the Constitutional Court, claiming that it is not in compliance with the Constitution. On October 27th 2006, the Constitutional Court ordered the suspension of the implementation of certain articles of the Law until the decision on the merits.

In any case, the office was not designed as an equality body, but as an institution with a general mandate. According to the Law, the office of the ombudsperson would have legal personality and its own budget, as well as one to 10 ombudspersons working. Upon complaints regarding the acts and omissions of administrative bodies, the office would investigate the matter and make suggestions to the administration. The Law states that no organ, authority, office or individual may give orders or instructions to the office of ombudsperson, or send them circulars, or make recommendations or suggestions. With respect to applications, both natural persons and legal entities would be able to apply to the Ombudsperson. For foreigners, right to application would be based on the principle of reciprocity. Applicant has to provide a written request in Turkish, together with her/his full name, signature, residence or business address, or in case of legal persons full name and address and the signature of the official representative. Applications would be free of charge and could also be submitted to local governorships and province authorities. Applications need to be made within 90 days after the act or omission. Ombudsperson could request any document or information from government bodies, and such requests would have to be fulfilled within 30 days. Trade and state secrets are exempted.

Turkey is party to CEDAW, CERD, ICCPR and CoRoC. Initial reports on ICCPR and CERD have not been submitted yet.

Turkey has ratified CoRoC on 4 April 1995, but made a reservation on Articles 17, 29 and 30 which covers “*linguistic needs of the child who belongs to a minority group or who is indigenous*”, “*respect for the child's parents, his or her own cultural identity, language and values*” and “*a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language*”. According to the reservation, “*Turkey reserves the right to interpret and apply the provisions of articles 17, 29 and 30 of the United Nations Convention on the Rights of the Child according to the letter and the spirit of the Constitution of the Republic of Turkey and those of the Treaty of Lausanne of 24 July 1923.*”

International Covenant on Civil and Political Rights was ratified by Turkey on 23 September 2003 and Turkey has made a reservation to Article 27: “*The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.*” All of these reservations are related to the right to education, particularly the right to be educated in mother language. Turkey is a party to the Optional Protocol to the ICCPR since February 2007. However, a reservation was made in terms of Article 26 of the Convention to the effect that communications alleging discrimination can only be made if they refer to rights guaranteed in the ICCPR.

Three reports were submitted to the CEDAW Committee, respectively in 1990, 1997 and 2005. Among others, the Committee is concerned with the lack of mechanisms for monitoring the implementation of the principle of equality between women and men; not satisfied with the claims that “discrimination was foreign to the Turkish temperament”; worried that the low number of women in high-level posts is explained by the “poverty of desire”; finds it inadequate that the lack of concern for women's rights is explained by merely linguistic reasons. The Committee also expressed its concern regarding the lack of an integrated and systematic approach by the national machinery and the relevant ministries to all areas covered by the Convention, in particular with regard to women in rural areas, vulnerable groups such as ethnic minorities, young women and women in prisons. The Committee expressed its deep regrets that no special temporary measures had been put in place to redress the situation of Kurdish women, who suffered double discrimination. The Committee also recommended that the situation of minority women is monitored urgently, and a systematic effort was necessary to ensure for them their full legal rights guaranteed by the Convention. Lack of a definition of discrimination against women in accordance with article 1 of the Convention was also a source of concern for the Committee.

The Committee has expressed its concern at the high rate of female illiteracy and the lower enrolment and completion rates of girls and women at all levels of education, and that these discrepancies are further aggravated by urban-rural, regional and ethnic differences. The Committee is further concerned that girls and women continue to predominate in traditionally female areas of education and are particularly underrepresented in technical and vocational schools. The Committee is concerned about the disadvantages that result from these educational choices for women's professional and employment opportunities. It is also concerned that women and girls whose mother tongue is not Turkish may face multiple forms of discrimination in access to and achievement in education. The Committee is also concerned about the impact on girls and women of the ban on wearing headscarves in schools and universities. The Committee is further concerned that stereotypical attitudes continue to create disadvantages for girls in education.

In its concluding observations on Turkey's state report in 2001, CoRoC Committee expressed its concern that the principle of non-discrimination is not fully implemented for children belonging to minorities not recognized under the Treaty of Lausanne of 1923, in particular children of Kurdish origin; children with disabilities; children born out of wedlock; girls; refugee and asylum-seeking children; children who are internally displaced; and children living in the south-eastern region and in rural areas, especially with regard to their access to adequate health and educational facilities. The Committee recommended that the State party take appropriate measures to prevent and combat discrimination. It also recommended the collection of appropriate disaggregated data to enable monitoring of discrimination against all children, in particular those belonging to the above-mentioned vulnerable groups, with a view to developing comprehensive strategies aimed at ending all forms of discrimination.

Statistical or quantitative research on discrimination in Turkey is scarce and limited to gender and disability based discrimination. However, even those researches are far from providing a detailed picture of the situation. No data exists on race, ethnic origin or sexual orientation and discrimination based on these grounds. As discrimination is not documented through scientific research, there are no action plans to eliminate discrimination covered by the Directives. Denial of the existence of discrimination in Turkey is widespread and lack of data makes it impossible to prove otherwise. A circular issued by the Ministry of Interior in the beginning of 1990s withheld the authority of the State Statistics Institute (now Turkish Statistical Institute) of collecting statistical data on religion and ethnic origin. Today, state organs cannot collect and/or disseminate statistical data on matters of religion and ethnic origin, consequently up-to-date information does not exist. Existing statistical data on other grounds are either not available to the public or not up-to-date.

Statistical data in the field of employment is collected by the Turkish Statistical Institute.<sup>30</sup> The data collected relates to *Employment, Unemployment and Wage*. Data is disaggregated on the basis of sex. This is also true for the *Human Rights Statistics* again collected by Turkish Statistical Institute. The statistics regarding the number of violations of rights are disaggregated based on the sex of the applicants. "Distribution of Application by Violation of Right Claim and Sex 2004-2005" includes categories which could be quite indicative for the status of immigrants, minority groups, refugees, asylum seekers and other marginalized groups in employment such as the categories of *non-discrimination*, freedom to work and sign contracts, and the category of *prohibition of forced labour*.

The only figure that involves discrimination is compiled annually by the Human Rights Presidency through Human Rights Boards in provinces and districts. Human rights violations, including discrimination is compiled. Due to lack of public awareness about the existence and the functions of these boards the figures, the number of applications are limited. In 2006 136 applications (6,6% of the total applications), in 2005 162 applications (7,2% of the total applications) and in 2004 110 applications (6,7% of the total) were submitted to the Human Rights Presidency and to the Boards, with allegations of discrimination.

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<sup>30</sup> <http://www.tuik.gov.tr> (15.02.2008). For the English web site please go to: <http://www.turkstat.gov.tr> (15.02.2008)

The numbers for 2007 are not publicly available at the moment. The existing statistics do not provide any information neither on the grounds of alleged discrimination, nor the rights at stake.

The report of Secretariat General for EU Affairs of Turkey states that the reason for the increase in applications is not because there has been more violations but because the Boards became known by the public. It is also reported that “because of lack of sufficient knowledge among the applicants about what discrimination is, most allegations of discrimination are actually irrelevant.”<sup>31</sup> 2004 ECRI Report on Turkey states that in the absence of any official statistics on hate crimes it is not possible to know the exact number of people who are faced with racism and discrimination.<sup>32</sup>

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

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

In Turkey, depending on the nature of the dispute, discrimination cases are decided by various courts: civil, criminal and administrative courts. The victims of discrimination may bring an action according to the general rules of procedural laws: Criminal Procedure Law No. 5271, Civil Procedure Law No. 1086, and Administrative Procedure Law No. 2577. Alternative dispute resolutions and/or restorative mechanisms such as mediation are either non-existent or not implemented properly (such as in criminal cases), therefore the only option is already overburdened, slow, and inefficient courts. There is no official or unofficial particular body that deals with allegations of discrimination and there is a need for a specialized national body to combat discrimination on any ground.

Discrimination was criminalized for the first time in 2005, through art. 122 of the new Turkish Penal Code. However, criminal law is not the most appropriate tool to combat discrimination. Because of the principles of legality and presumption of innocence, implementation of the provision seems practically impossible. In any case, the material scope of art. 122 is limited. Upon appeal, discrimination cases come before the 2<sup>nd</sup> Criminal Chamber of the Court of Cassation.

In Turkey there are labour courts in every province which deal with employment related issues. In order to obtain a legal remedy, employment related discrimination (art. 5 of the Labour Code) must be brought before a labour court. Upon appeal, employment related discrimination cases come before 9<sup>th</sup> Civil Chamber of the Court of Cassation. The possible remedies for a termination of work agreement based on discrimination may be but not limited to an order to continue employment relationship, payment of lost income, compensation etc. It is important to mention that an existing labour relationship is a precondition for launching a labour law suit and those who are facing discrimination in the recruitment process cannot pursue such a way. As mentioned above, according to art. 20 of the Labour Code, in cases of the termination of the contract by the employer, the employer is under the obligation to prove that the termination is based on a valid reason. If the employee alleges that the termination is based on discrimination, the employee has to prove such allegation.

Judicial control of the acts and actions of administrative authorities are done by the administrative courts. According to the Article 125 of the Turkish Constitution “all acts and actions of the administration shall be subject to judicial review” and “the administration shall be liable for the damage caused by its own acts and actions”. Three principles derived from this provision is as follows: i) lawsuits needs to be filed within a time limit; ii) judicial power is limited to the control of the legality of administrative acts and actions; iii) judicial control cannot eliminate discretionary power of the administrative organs. In cases of acts, if the administrative court finds a violation, it can order the annulment of the administrative act and/or a full compensation. In cases of actions, the remedy is full compensation.

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<sup>31</sup> See, <http://www.abgs.gov.tr/indexen.html> (15.02.2008)

<sup>32</sup> ECRI (2004), *Report on Turkey*, [http://www.coe.int/t/e/human\\_rights/ecri/1-ECRI/2-Country-by-country\\_approach/Turkey/Turkey\\_CBC\\_3.asp](http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Turkey/Turkey_CBC_3.asp) (15.02.2008)

With regard to civil servants, those who face with discrimination may first make a complaint and subsequently file a case in administrative courts. These courts decide disputes arising from discriminatory acts of the governorships, district governorships, local administrative bodies and provincial administration of ministries and other public establishments and institutions concerning temporary appointment or disciplinary suspension of civil servants, their allowances, leaves and residence provided to them by the authorities. The applicant may ask for full compensation only, or a full compensation as well as the annulment of the act. The applicant can appeal to the Council of State. In administrative courts (both first instance and the Council of State) burden of proof rests with the victim of the discriminatory act or action.

With regard to the sufficiency and the effectiveness of judicial protection available to all persons who consider themselves wronged by failure to apply the principle of equal treatment, the authorities state that Article 74 of the Constitution (right of petition), Article 7 of Law No. 3071 on the Right to Petition and Article 91 of the Labour Code No. 4857 are considered to be effective legal provisions providing judicial protection to victims of discrimination.

Along with these official channels for application, there are also “unofficial” means, particularly mediation, that deal with resolution of disputes in civil matters. Collective bargaining by trade unions, internal complaint procedures, administrative channels including referrals to the labour inspectors are also available for those who face discrimination. There is no equality commission, an ombudsperson or other channels such as local councils and according to Turkish law collective actions are not available.

Another option for the victims of discrimination is to apply to human rights boards which are established in every province and districts and Human Rights Inquiry Commission of Turkish Grand National Assembly. Both commissions have the competence to inquire complaints of discrimination in employment. The Human Rights Boards and Human Rights Inquiry Commission of Turkish Grand National Assembly can give a decision that describes the situation as a violation or non-violation of the right to equal treatment and these decisions are not enforceable and are not legally binding.

After the local remedies are exhausted, a person who considers that his fundamental rights as defined in the European Convention on Human Rights have been violated, may institute proceedings within six months before the European Court of Human Rights.

In general, if public authorities are responsible for discriminatory acts administrative and criminal courts and in terms of private bodies civil and criminal courts have jurisdiction. Although there are unofficial agencies working on human rights issues, there are no specific regulations to promote cooperation between official bodies and these unofficial agencies such as NGOs in order to combat discriminatory acts.

With regard to advertising of posts, recruitment procedures, selection, terms and conditions, pay, discrimination in the workplace, dress codes, working hours, suspect groups such as part time workers, workplace disciplinary procedures, promotion, allowances and bonus payments, dismissal, social security payments, occupational pensions, issue of permits and licences, access to vocational training, and including vocational training in prisons Turkish Criminal Code (Law No. 5237), Law on Civil Servants (Law No. 657), Labour Code (Law No. 4857) and Law on Persons with Disabilities (Law No. 5378) embrace possible legal or administrative channels.

If the discriminatory act or action is an administrative act or action, before going to the court, the victim of discrimination has to request compensation for her/his damages from the administrative body responsible for the action.

In cases of denial of reasonable accommodation to persons with disabilities, employers are fined by labour inspectors. However, neither the inspectors nor the labour courts can order the employer to provide reasonable accommodation.

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

Turkey has put reservations particularly in education related issues in most international conventions. These reservations are about the right to education, minority rights and particularly the right to be educated in mother tongue. Hence, the right to education in a language other than Turkish or the right of parents to give their children religious and ethical training in accordance with their own beliefs have been left out. In addition, there are no data available that show the number of people speaking another language other than Turkish.

In 2006, a report on the feasibility studies “mapping” a number of Roma communities in Istanbul has demonstrated the disadvantaged situation of Roma children in education.

In cases of discrimination in education, general rules apply. If the source of discrimination is an administrative act, persons whose interests are at stake should first apply to the relevant administrative body and then the administrative courts for compensation. They can as well ask for compensation. In cases of administrative actions, the victims’ administrative and criminal remedies are available. Although education is not explicitly mentioned in art. 122 of the Penal Code, it is a public service, thus falls under the material scope of the provision. Even private schools are within the scope of this provision, as the provision also refers to “service of public nature”. As the National Education Code prohibits discrimination based on race, administrative channels are open and administrative remedies are available. Private schools are under the control of the Ministry of Education. Consequently the Ministry also has to take necessary action in cases of discrimination. Victims can also apply to the Human Rights Boards in provinces and districts. Minority of the complaints made to the Boards are on education. However the statistics published by the Human Rights Presidency does not contain data regarding the nature of these applications. Thus no information can be provided on the number of allegations of discrimination in education.

In Turkey discrimination on right to housing is not only prohibited under a range of international treaties in effect but the Constitution also recognizes the right to property unequivocally. Law of Settlement Article 4 has been changed, removing the discriminatory statement on “gypsies”. The draft of the new Law on Foundations, also aims to return confiscated properties to minority foundations which have lost numerous real estate after 1974. The “urban restoration” projects carried out by Housing Development Administration of Turkey in cooperation with the municipalities have been highly criticized. The reports suggest that the restoration projects have turned into forced evictions of Roma people. Reports on internally displaced people, usually of Kurdish origin have also attracted attention.

Art. 122 of the Penal Code prohibits prevention of sale or transfer of immovable property. However, this provision only prohibits the acts of third parties. Thus, if a person does not sell a house on the grounds of race or ethnicity, it is not covered by the provision. There is also no prohibition of discrimination in tenants-landlords relationships. Social protection, social advantages and education can be said to be covered by the prohibition, as the article refers to public services. The provision also covers access to and supply of services, with regards to access to goods, the provision only refers to foodstuff.

Social protection, social advantages and all public services are covered by art. 122 of the Penal Code. Administrative channels are open and general administrative remedies are available.

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

Due to lack of an equality body, in cases of allegations of discrimination, the complainants have to follow general administrative and legal venues. If the victim seeks an amicable settlement instead of a court action, alternative dispute settlement methods offered in the Turkish legal system are very limited.

Except in criminal courts, the litigants have to collect all the facts and evidence and they have to prove their case. As the procedure is quite complicated, it is extremely hard for anyone to pursue a case without the support of a lawyer.

Victims of discrimination can ask for the compensation of pecuniary damages, loss of earnings, or damages for pain and suffering, or all. Parallel proceedings are possible with regard to criminal, civil or administrative courts. Persons may simultaneously pursue a civil claim for compensation in civil or labour courts, an administrative application or a criminal complaint.

The advantage of a court proceeding is that, this is the only procedure for the victims, which victim may receive compensation. Before going to an administrative court, the complainant has to apply to the relevant administrative body, and ask for compensation of the damages.

In certain cases, time limits are very short. For example, if the employment contract was terminated on a discriminatory basis, the case has to be brought before a labour court within 30 days after the termination.

In employment cases, courts can (and have) ordered re-instatement where dismissal is found to be discriminatory. This specific remedy derives from the Labour Code (Law No. 4857). If the litigant cannot afford a lawyer, s/he is entitled by law to have representation.

Due to lack of proper fund and staff, NGOs or trade unions have to take a range of factors before a decision is made to support a complaint, beginning with whether or not the complaint is within the time limits specified in the legislation. NGOs and trade unions have limited funds to support victims of discrimination and so may decide priority areas for legal assistance.

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

Depending on the channel pursued, there are different time limits. In civil courts, the claimant has to prove the damages and the judge determines the amount of compensation. With respect to the civil actions, claims can be brought within one year after the date the litigant finds out about the discrimination and the person responsible for it. In any case the person has to bring the claim within 10 years after the date the act of discrimination occurred.

Before filing a lawsuit in administrative courts, the applicant has to apply to the relevant administrative body to request compensation. The day the administrative body rejects the claim, 60 days time limit starts. If the administrative body does not reply at all in 60 days after the claim, the claimant has another 60 days to bring the case before the administrative court. The burden of proof regarding the damages falls on the litigant. Administrative cases shall be brought before the court within one year after the litigant finds out about the violation and in any case the case has to be filed within 5 years after the occurrence of the action. If it is not an action but an act of the administration, the time limit of 60 days again. In these cases the applications can be made to the court directly, before making an application to the relevant administrative body. Administrative courts cannot hear witnesses and they decide the cases on file.

Formal requirements such as notarisation of documents, sworn statements, whether documents have to be originals, copies or certified copies etc. vary depending on the type of the case. In labour courts due to the shifting of burden of proof “soft” evidence may be presented before the courts.

### **NGOs, Trade Unions and other Advisory Bodies**

- Accessible Life Association, <http://www.uyd.org.tr>
- Amnesty International Turkey, [www.amnesty.org.tr](http://www.amnesty.org.tr)
- Boğaziçi University Social Policy Forum, <http://www.spf.boun.edu.tr>
- European Confederation of Alevi Associations, <http://www.alevi.com>

- European Roma Rights Center, [www.errc.org](http://www.errc.org)
- Foundation for Person with Physical Disabilities, <http://www.engelliler.com>
- Health and Social Workers' Union, <http://www.ses.org.tr>
- Helsinki Citizens' Assembly Turkey, <http://www.hyd.org.tr>
- Human Resource Development Foundation, <http://www.ikgv.org/>
- Human Rights Association, [www.ihd.org.tr](http://www.ihd.org.tr)
- Human Rights Foundation of Turkey, <http://www.tihv.org.tr>
- International Organization for Migration Turkey, <http://www.countertrafficking.org/>
- Istanbul Bilgi University Human Rights Law Research Center,  
• <http://insanhaklarimerkezi.bilgi.edu.tr>
- Istanbul Bilgi University Migration Research Center, <http://goc.bilgi.edu.tr>
- Kaos Gay and Lesbian Cultural Research and Solidarity Organization, <http://www.kaosgl.com>
- Koç University Migration Research Program, <http://www.mirekoc.com>
- [Lambdaistanbul LGBTT Solidarity Association](http://www.lambdaistanbul.org), <http://www.lambdaistanbul.org>
- Organization for Human Rights and Solidarity for Oppressed People, <http://www.mazlumder.org>
- Teachers' Union, <http://www.egitimsen.org.tr>
- Turkey Disabled Association, <http://www.tsd.org.tr/>
- United Nations High Commissioner for Refugees Turkey, <http://www.unhcr.org.tr>

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

In Turkey, trade unions are authorized by the Trade Unions Act (Law no. 2821) to act as representatives on behalf of their members in legal proceedings. Turkish law does not fully guarantee the right of associations, organizations or other legal entities with a legitimate interest to engage, either on behalf or in support of victims of discrimination in judicial or administrative procedures. Exceptions are trade unions, consumer protection associations and association working for the protection and preservation of the environment. Thus, specialised NGOs do not have legal standing before the courts. NGOs only provide legal assistance and due to restricted funding and professionalism they are not able to take all the cases.

According to Turkish law parties do not need to be represented by a lawyer before the courts. The right to free legal aid in civil, criminal and administrative matters stems from the Act of Attorneys (Law No. 1136) and provided by the legal aid bureaus within bar associations. Fees are reimbursed by the Ministry of Finance, however the allocations are so low that few people can have access to free legal aid and legal aid system did not find much application. Due to the absence of adequate funds and low fees, most lawyers are not interested in providing their service. The public, including victims, in particular those most vulnerable, do not know their rights, or the remedies available to them. In civil and administrative proceedings, persons both have to establish that they cannot afford a lawyer and legal representation will serve the interests of justice. There are attempts to build a pro bono assistance scheme by NGOs, however, for the time being, it cannot be said to constitute a significant element of legal assistance.

Discrimination is a new concept for Turkish judiciary and mostly comes before the courts in the area of sex discrimination. There have been landmark judgements of high courts with regard to equality between men and women. Other grounds such as race, sexual orientation, religion or belief are alien to the courts.

Law enforcement officials, public prosecutors and judges lack understanding and expertise in anti-discrimination law. Courthouses are located in most of the cities however, mostly inaccessible for disabled persons. Other vulnerable groups are, among others, ethnic and religious minorities, undocumented migrants and the LGBTT persons with respect to unemployment, illiteracy, victimisation, poverty etc.

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

Since Turkey is not a member of EU, this channel is not available.

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

Since Turkey is not a member of EU, this channel is not available.

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

Since Turkey is not a member of EU, this channel is not available.

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

Turkey is a party to the European Convention on Human Rights since 1954 and individual complaints can be lodged since 1987. Turkey has signed the 12th Protocol of the Convention in 2001, however has not ratified it yet. So an application regarding discrimination is limited to those rights enshrined in the Convention and relevant Protocols.

In addition, although Turkey is party to Revised European Social Charter, the Additional Protocol has not been ratified yet; thus collective complaints cannot be made under the Charter.

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

Turkey is a party to the 1st Optional Protocol to the International Covenant on Civil and Political Rights since February 2007. However, when ratifying the Protocol Turkey has made a reservation to the effect that communications under art. 26 of the Convention can only be made regarding the rights recognized in the Covenant. Optional Protocol to Convention on the Elimination of Discrimination Against Women has been ratified, so complaints can be brought to CEDAW Committee. Turkey has not made a declaration under Article 14 of Convention on the Elimination of all forms of Racial Discrimination. Consequently, individual complaints cannot be brought to the CERD.

With respect to periodic reports to the relevant committees, Turkey has submitted periodical reports to the CEDAW and CoRoC, but initial reports to the Human Rights Committee and CERD has not been submitted yet.

NGOs/trade unions may also prepare “shadow reports” in order to bring discriminatory acts and actions to the attention of the relevant Committees which examine the State’s periodic reports under the ICCPR, CERD, CEDAW and the Convention on the Rights of the Child.

## **2.K Professionalism**

Everyone in a NGO/trade union must be aware of the need to observe high standards of professionalism, including confidentiality and efficient management of case files. If the NGO/trade union is not able to assist the victim, the NGO/trade union should be able to provide relevant information and, when possible, refer to another agency that is able to provide further advice and support.

Due to the lack of public awareness and consideration of discrimination as a “sensitive” issue, there is a common ignorance among NGOs and trade unions about the issue. As NGOs and trade unions are not well staffed and skilled in the area of anti-discrimination and they are inadequately funded, there is a lack of professionalism. There is no NGO specifically working on discrimination matters on the grounds covered by the Directives. However there are a few number of NGOs working on discrimination as apart of their broader work.

NGOs are generally concentrated on reforming laws on cultural rights (language rights etc. and social rights (e.g. disability NGOs)) through lobbying and awareness raising. Although they sometimes take cases to administrative bodies or judicial organs their capacity to work with victims directly is rather low and extent of the service they provide to the victims is limited.

### **3. Societal issues**

In Turkey, vulnerable groups include ethnic minorities, people with disabilities, religious minorities, LGBTT people, older and younger workers, refugees, asylum seekers and migrants etc. Various discriminated or vulnerable groups are as follow:

- Elderly persons and particularly ‘older workers.’

Age discrimination in employment causes obstacles in access to vocational training, access to employment, salaries etc.

- Persons with a disability, physical or mental, and particularly persons with multiple disabilities:

The persons with disabilities suffer from unequal access to all public services mainly education and health. They face exclusion in public institutions or private enterprises. Their lack of access to public services and participation is severely restricted due to a lack of social services to support socialisation.

- Homosexuals, transsexuals:

LGBTT people suffer from harassment in daily life in all areas. The LGBT associations suffer from oppressions from public authorities and general public. Homophobic expressions are widely used such in the public arena by as well as in the media and by high-ranking politicians. Despite the fact that homosexuality is decriminalized no recognition of marriages between same sex under Turkish Law.

- The Roma

There is a considerable population of Roma in Turkey differs from 600.000 to 2 millions in different resources. The Roma are subject to direct or indirect discrimination and social exclusion in education, health and housing, racially harassed, forced evictions, long-term unemployment; hate speech, stigmatized, access to justice, access to facilities open to public etc.

- Undocumented migrants, refugees and asylum seekers:

Turkey is a transit country for migrants from Asia and also a destination country for migrants mostly fled from Middle-East and Africa. They are targets of discriminatory acts, racist violence and harassment, including police, and disproportionately hindered from access to civil and social rights.

- Female domestic workers. They are not recognised and documented so that their salaries are below the minimum salaries provided for all other sectors of the economy.
- Trafficked persons mostly forced into prostitution from foreign countries.
- Minorities such as recognized by the state through Lausanne Peace Treaty as Greek Orthodox,

Armenians and Jews as well as which not as Kurds, Circassians, Laz, Arabs, etc. Religious minorities such as Jehovah's witnesses, Catholics, Evangelists, Syrians, Chaldeans, Baha'is, Alevis, Yezidis etc.: Kurds are still subject to prejudice and stereotyping and in the absence of any official statistics on hate crimes it is not possible to know the exact number of people who are faced with racism and discrimination.<sup>33</sup> Increasing number of lynching incidents against Kurdish people from the eastern parts of Turkey have aroused serious concerns about the possible spread of a lynch culture. The fact that the incidents have usually been left unpenalised has further increased these concerns. Minorities that are not covered by Lausanne Peace Treaty cannot use their languages in schools and in relations with the public authorities. School books contains negative stereotypes of minorities. Religious practises are often faces oppresion by public authorities and general public. They are the targets of intolerance, hate speeches and hate campaigns as well as violent attacks.

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<sup>33</sup> ECRI (2004), *Report on Turkey*,  
[http://www.coe.int/t/e/human\\_rights/ecri/1-ECRI/2-Country-by-country\\_approach/Turkey/Turkey\\_CBC\\_3.asp](http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Turkey/Turkey_CBC_3.asp) (15.02.2008)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Since 2001, Turkey has been receiving pre-accession assistance from the EU under the Turkish Financial Instrument. As from 2007, this pre-accession Financial Instrument for Turkey has been replaced by the Instrument for Pre-Accession Assistance (IPA). Delegation of the European Commission to Turkey finances projects in Turkey in the framework of EU pre-accession with the objective of preparation for the EU membership.

Application for EU funding can only be received if linked to a published tender/call for proposal. The European Commission or the Central Finance and Contract Units (CFCU, <http://www.cfcu.gov.tr>) in Turkey can only award projects if there has been a relevant call for proposal or tender announcement.

Among beneficiaries for project funding are:

- The civil society (social partners, NGOs) where funding is provided for projects with themes: gender, environment, human rights, media, culture, etc.
- Unemployed and vulnerable groups especially youth and women to improve their skills, receiving training to find jobs, active employment or social inclusion measures.

In addition, Turkey benefits from the European Instrument for Democracy and Human Rights (EIDHR) since 2002 through the Commission's EuropeAid Cooperation Office in Brussels as well as the Delegation of the European Commission to Turkey. Though not specifically targeted for projects on anti-discrimination, funding is provided for projects that address issues ranging from promotion and protection of human rights, freedom of expression and improved access to justice, to fight against torture and impunity, and preventing and combating discrimination and protection and respect of cultural diversity. Micro-Project Programme of years 2005 and 2006 was open for projects particularly that address issues of fostering a culture of human rights and advancing equality, tolerance and peace. Support is mainly provided through the co-financing of projects selected through calls for proposals published on the website of EC Delegation (<http://www.avrupa.info.tr>) and/or web site of EuropeAid (<http://ec.europa.eu/europeaid>).

In December 2004 the European Council endorsed the European Commission recommendation and broadened its scope by stipulating that “parallel to accession negotiations, the Union will engage with every candidate state in an intensive political and cultural dialogue. With the aim of enhancing mutual understanding by bringing people together, this inclusive dialogue also will involve civil society.” In this context, the EU-Turkey Civil Society Dialogue was initiated seeking to integrate civil society into the process of Turkey’s EU accession. The Civil Society Dialogue aims to generate mutual knowledge and understanding between civil societies in both Turkey and EU Member States, and it creates fora where mutual concerns and topics of common interest can be discussed.

In its first year, the Civil Society Dialogue built on previous activities, in particular the Greek-Turkish civic dialogue under which a variety of Greek-Turkish cooperation projects were supported between 2004 and 2005. “Strengthening Civil Society: NGO Grant Facility” under the 2005 pre-accession financial assistance programme for Turkey aimed at contributing to the consolidation and broadening of political reforms and EU alignment efforts through strengthening the civil society in Turkey in the pre-accession process. The Grant Facility programme embodied components focusing on combating violence against women, promotion and protection of women rights, enhancement of social inclusion of people with disabilities, protection of consumers, strengthening the protection of children’s rights, protection of the environment, and European Horizons and Mosaic Programme. Grants were generally available for NGOs or higher education institutions and non-profit organisations in Turkey.

In year 2006, Civil Society Dialogue provided funds to NGOs/trade unions through a number of grant programmes: Small Projects Programme: Strengthening Civil Society Dialogue, Civil Society Dialogue: Europa-Bridges of Knowledge, Strengthening Civil Society Dialogue: Participation in NGO events in the EU, and Civil Society Dialogue: Culture in Action programmes. The funded projects covered a variety of issues including minority rights, disabled persons and the youth.

For years 2007 and 2008 the Civil Society Dialogue is going to fund projects under the four categories: Towns and Municipalities; Professional Organisations; Universities; and Youth Initiatives for Dialogue. Among eligible activities are: debates such as seminars, conferences, and workshops, awareness-raising activities aimed at wide dissemination of the research results, creating increased awareness and understanding of specific issues related to the EU, public information and dissemination campaigns, where the issue of fight against discrimination can be incorporated.

In 2006, another grant scheme implemented with the financial assistance from the European communities Turkey Pre-Accession Financial Assistance Programme was the “Promotion of Cultural Rights in Turkey” under which there were two grant schemes: Broadcasting Support Grant Scheme and Cultural Initiatives Support Grant Scheme. The general objective of the grant scheme was to contribute to increasing mutual understanding, knowledge and wider appreciation of the cultural variety of Turkey.

In general, grants are to be awarded on the basis of competitive calls of proposals. A specified contribution must be identified from other sources by the recipient organisation. The EC Delegation approves projects for grant support on the basis of the recommendations made by the evaluation committees. In general, the EC encourages partnership between organisations as stated in the guidelines for applicants. In general, NGOs find it very hard to take the steps to make a grant application. Particularly, writing grant proposals, preparing logical frameworks and detailed project budgets in line with the guidelines appear to be a very complex and bureaucratic process. Most of the time it is those NGOs with larger human resources or financial capacity that finalise procedures to apply for grants. In 2006, in order to raise this issue a group women organisations has conveyed their concerns about the complexity of the application process and has suggested that Commission’s procedures may be improved.

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

It is not the usual practice in Turkey that NGOs/trade unions receive funding from the central government. In particular, there is no specific funding that the central government provides for NGOs/trade unions that conduct work on anti-discrimination.

**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?)**

There is no public funding for NGOs/trade unions working on anti-discrimination.

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

There is no public funding for NGOs/trade unions working on anti-discrimination.

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

Not applicable.

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

It is not a common practice in Turkey for local governments to provide funding to NGOs/trade unions. However municipalities are highly interested in cooperating with NGOs at the local level with endeavours of participatory local democracy and betterment of municipal services. In this regard, local governments tend to cooperate with NGOs when dealing with issues of internal migration, disaster preparedness, domestic violence, women shelters, reproductive health, services for the disabled, children working and living in the street and issues related with housing and sanitation. The cooperation usually takes the form of provision of local government services and facilities to NGOs. This spirit of (willingness for) cooperation does not apply to relations between local governments and trade union. There is less to no cooperation between trade unions and local governments.

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 a number of funding possibilities for NGOs/trade unions that conduct work in the area of fight against discrimination:

- Hacı Ömer Sabancı Foundation (Sabancı Foundation) and United Nations provide funding for NGOs/trade unions under the “Joint Programme for the Protection and Promotion of Women’s and Girls’ Rights”. (<http://www.sabancivakfi.org.tr>)
- Anna Lindh Euro-Mediterranean Foundation for the Dialogue between Cultures finances activities and initiatives that support intercultural dialogue in the 37 Euro-Mediterranean countries. This programme is co-funded the European Union and the 37 members of the Euro-Mediterranean Partnership. There are thematic priorities, among which are EuroMed music and cultural/artistic creation; EuroMed schools programme and Women as promoters of Dialogue and the Media. (<http://www.euromedalex.org>)
- Bernard van Leer Foundation based in the Netherlands funds individual children projects that concentrate solely on one aspect of children's development or learning, such as health care or special educational needs. The foundation considers Turkey as a project country, where the foundation identified “social inclusion and respect for diversity” as the theme for projects financed in Turkey. (<http://www.bernardvanleer.org>)
- The Open Society Institute Assistance Foundation–Turkey (OSIAF-Turkey) provides financial and technical assistance in five general areas: political reform and the European Union, media, gender, regional disparities, and civil society. Some of the projects that have been funded by OSIAF-Turkey in the past addressed the issues of human rights, justice, Roma rights, cultural diversity, women’s rights, refugees, discrimination, regional disparities, disabled rights, good governance and NGO capacity improvement. OSIAF-Turkey funds maximum one third of the project budget. (<http://www.osiaf.org.tr>)
- Heinrich Böll Stiftung Association Turkey Liaison Office supports the activities and initiatives of NGOs that particularly address the issues of democratisation, ethnic diversity, protection of human rights and minority rights, sustainable development and gender equality. Some of the supported activities addressing the issue of anti-discrimination and diversity are: International Roma Symposium, International P.E.N. Diyarbakır PEN Seminar on Cultural Diversity, International Conference on “Kurds in Turkey: Main Requirements for a Peace Process” and the Meeting on “Cultural Activities as an Instrument for Conflict Resolution”. (<http://www.boell-tr.org>)

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

A significant number of foreign representations in Turkey and intergovernmental organisations provide funding in Turkey for NGOs/trade unions based in Turkey:

- The Japanese Government offers a financial assistance program for development projects designed to meet the diverse needs of developing countries, known as “Grant Assistance for Grassroots Projects”. The program necessitates that projects have a direct impact on the grassroots level and income disparity and address disadvantaged people. Some of the project themes are: people with disabilities, women in development, public welfare/other disadvantaged sections and capacity building and training. (<http://www.tr.emb-japan.go.jp>)
- World Bank Ankara Office implements the Small Grants Program on a yearly basis. Every year the program distributes grants for projects submitted by NGOs active in social matters. Two relevant examples of supported activities are: training seminar for the members of an NGO that works for the blind people in Turkey, an informative seminar to disabled children, their families and teachers about the rights of disabled children. (<http://www.worldbank.org.tr>)

- The British Embassy in Turkey funds projects that match priority areas: democracy and the rule of law, human rights, strengthening civil society, capacity-building for NGOs, and the environment. Some of the projects funded in the past by the Embassy are: Stop Violence against Women, New Solutions for Gay and Lesbian Rights, Training to Promote Police Capacity in Refugee / Asylee Related Areas, Human Rights Training for the Turkish Judiciary, Manchester University Conference on Sex and Gender Diversity, Capacity Building Training on Human Trafficking for Gendarmerie. (<http://www.britishembassy.gov.uk/turkey>)
- The Netherlands Ministry of Foreign Affairs runs the Small Scale-Embassy Projects Programme (Matra/KAP). The programme supports the establishment of small NGOs and provides limited contributions to help NGOs fund activities in the areas of, for example, knowledge transfer, culture, public information provision or education. In order to be eligible for a Matra/KAP grant the projects must be aimed at social transformation towards a plural democratic society; it should somehow contribute to a stronger and more varied civil society. Examples of eligible activities are: initiatives to strengthen the rule of law; the organisation of seminars on human rights and cultural minorities. Examples of previously funded projects are: psychological counselling services to refugees and asylum seekers; training programme for a trade union; and human rights education & practice. (<http://www.mfa.nl/ank-en/cooperation>)
- Canada Fund for Local Initiatives (CFLI) aims at enhancing the economic, cultural and social life of local people by financing small-scale projects involving technical, economic, educational, cultural and/or social development assistance. The Canada Fund provides funding assistance to reputable, local NGOs and community groups for small-scale, community-based initiatives. Some of the priority sectors are: poverty reduction & basic human needs, women in development and democracy and good governance including freedom, human rights, rule of law & justice. (<http://geo.international.gc.ca/canada-europa/turkey>)
- The Ministry for Foreign Affairs of Sweden, in conjunction with Swedish International Development Cooperation Agency (Sida) and the General Consulate in Istanbul conduct a Turkey Programme that brings collaborative opportunities to organisations, associations, local authorities and government agencies in both countries. The primary areas of development cooperation are support for human rights, the establishment of EU-funded cooperation between Swedish and Turkish authorities, local autonomy and cultural collaboration. (<http://www.sida.se>)

#### **IV. Diversity Management seminar**

##### **Country Needs Assessment for Diversity Management (DM) in Turkey**

When diversity management is mentioned, it may engender different responses from people: some people are already very familiar with it, while for others it is a rather new concept. When discussing or debating DM in Turkey, gender, age and ethnic minority are usually the issues involved. If we talk about parallel social/historical issues in Turkey which may overlap with the issues of diversity and DM we can make the following statements.

Turkey is a large country and, although it is 99% per cent Muslim, it is a secular country. Eastern Turkey is very different from western Turkey. The west is very modern and there are no gender issues in the workplace. In fact, many Europeans are very surprised to see many women in employment and in quite high-level positions. The reason for this is Mustafa Kemal Atatürk, the founder of the Turkish Republic. He insisted on equality between women and men from the very beginning and, as a result, it should not be surprising to see many highly-educated women in very high positions in Turkey. The east of Turkey is more 'male-dominated' and more religious and women usually stay at home.

##### **Design of the training**

The national trainer and organiser of the Diversity Seminar in Istanbul, Turkey, was Ferhan Alesi. She employed an assistant for a short time to support her, but most of the work was still done by her.

The seating arrangement during the seminar was in round tables, in order to enable the participants to be face-to-face and for better communication.

##### **Preparation of the seminar**

The programme was designed in consultation with the international trainer, Dr Marion Keil.

Ms Alesi used her personal network and her own customer network. She also contacted newspapers and HR-related business magazines and succeeded in conducting interviews with them. Approximately 2,500 mails were sent to international companies and other parties who would be interested in this project. Ms Alesi also used intensive direct marketing activities, such as phone calls, and received 41 confirmations, but unfortunately not all the confirmed people showed up, which is not very surprising in Turkey.

34 participants were present at the seminar. Most of the participants were HR directors or specialists from international companies. Ms Alesi booked the Ciragan Palace Kempinski for the Diversity Seminar in Istanbul. It was an ideal location and a very prestigious place to come to a seminar. Although there were no disabled participants, wheelchair access was available.

The seminar included lunch and two coffee breaks, as well as a small welcome buffet in the morning with coffee and tea for the early arrivals.

Ms Alesi also organised the hotel booking and pick-up for Dr Marion Keil who attended the seminar in Istanbul.

## **Carrying out the seminar**

The following framework was used for the DM session in Istanbul.

### **1. Welcome and introduction**

Ms Alesi gave an introductory speech. After the speech all the participants were invited to get up and walk around the room and introduce themselves to as many people as possible. During this time they were asked to give their names, company name and position, their personal experience of diversity in their company and what they thought about it.

This was a very active and good start and enabled participants to talk to people apart from just those they were sitting near to.

### **2. Presentation by Ms Aysun Barin, IBM**

This was an excellent presentation. Ms Barin explained about IBM's view of diversity and gave a lot of ideas and examples of what they have been doing at IBM for diversity. She was a very experienced person (indeed this was her last professional presentation, as she has now retired).

### **3. Group discussion around the tables**

The groups discussed what they had learned from the presentation and each table submitted their burning questions to the presenter.

### **4. Presentation by Ms Ozlem Dirik, IKEA**

This presentation was also very successful. It provided different insights for the participants.

### **5. Group discussion around the tables**

The groups again talked about what had impressed them and about their thoughts and submitted their questions to the presenter on flip charts.

### **6. Feedback and questions and answer session**

Each group had chosen a spokesperson who presented their feedback and asked questions to both presenters. The presenters responded.

It was a very active learning and sharing process and was enjoyed very much by the participants.

### **7. Lunch – 1 hour**

### **8. Ice breaker facilitated by Ferhan Alesi**

After lunch all the participants were invited to get into groups according to the regions of Turkey they came from and were then asked to line up by age. We thus realised that there was also considerable diversity among the participants.

### **9. Short speech by the Country Manager of Emirates Airlines Turkey, Mrs Bahar Birinci**

She gave a very short speech about Emirates Airlines and diversity

10. Presentation by Mrs Yesim Alkan, Sanofi-Aventis HR

This was also a very good presentation. Mrs Alkan explained to the group what they are doing as a company in relation to diversity.

11. Group work

The table groups first talked about their thoughts in relation to the last presentation, there were no questions this time. After this all the groups were asked to prepare a short presentation on what new things they could do in their company after the seminar. They were asked to note what they could take away from the seminar.

As the whole process was very interactive and there was a lot of exchanging of ideas, all the participants were extremely satisfied with the seminar.

12. Presentation by Dr Marion Keil

Dr Keil gave the closing speech.

**Main lessons learned seminar**

The feedback was extremely positive. All the participants appreciated that as colleagues they could exchange ideas and insights.

The design of the programme was very good and the trainer (Ms Alesi) was thanked again and again for creating such a good quality environment.

All the participants were very professional, very active and willing to share and support each other.

Participants also thought it was very good that this activity was organised in Turkey, even though it is not actually a member of the EU.

Since the NGO dropped out and everything had to be organised by Ms Alesi in a very short time, this was very stressful. Nevertheless, it turned out to be very good, but had there been more time, there would also have been more participants.





## 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.