

# Equal Rights In Practice

KEY VOICES  
2005

Fundamental rights & anti-discrimination

ACCESS TO JUSTICE

Employment & social affairs



European Commission

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**Employment & social affairs**

Fundamental rights and anti-discrimination

**European Commission**

Directorate-General for Employment, Social Affairs and Equal Opportunities

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For more information on the Action Programme and discrimination on the grounds of race or ethnic origin, religion or belief, disability, age and sexual orientation, visit the website at:

[http://www.europa.eu.int/comm/employment\\_social/fundamental\\_rights/index\\_en.htm](http://www.europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm)

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## ACCESS TO JUSTICE

The theme of 'access to justice' is crucial in the field of non-discrimination. We all hope to be treated on the basis of our merits, but if we are not, what can we do about it? Laws prohibiting discrimination are no good if people are unable, in practice, to enforce their rights.

When the problem concerns unequal treatment on grounds of a personal characteristic, victims of discrimination often do not take action because they fear that it would be nearly impossible to prove their case, or because they do not believe that the end result would be satisfactory. Support for those affected is therefore imperative.

Legal practitioners may also require support and training. Preparing a file for a settlement, putting together a complaint, creating a sympathetic attitude in the judge responsible for the case can be a quite challenging task. Judges, in turn, may have to deal with new laws and rules of procedure, or with new legal actors such as trade unions or NGOs. And these organisations need adequate resources to carry out their roles effectively.

The two anti-discrimination Directives adopted in 2000 established new rules for equal treatment of persons and obliged national governments to adapt, renew or introduce legislation in the field of anti-discrimination. This sometimes daunting process has invited and stimulated a dynamic academic, cultural and political debate.

The Directives make clear that people affected by discrimination should have adequate means of legal protection and an effective right of redress in order to be able to get things put right. Effective remedies in discrimination cases are critical, not just to provide redress for individuals, but also to ensure that potential discriminators take the law seriously.

Ensuring transposition of the Directives in all Member States is indispensable, but at the same time the EU, through the 2001-2006 Community Action Programme to combat discrimination, is focusing on making the set of rights and responsibilities they entail a reality.

The assortment of projects funded under the Action Programme testifies to the commitment of the European Commission in injecting the necessary strength to those associations, organisations, and professionals that are on the front-line against discrimination.

These actors, and many others, have in turn taken up the challenge of making the Directives work in practice. In what way?

Firstly, in order to raise awareness and reach out to victims of discrimination, tools such as telephone hotlines, special anti-discrimination days or websites have been launched in order to inform people about their rights and address questions and doubts they may have as regards discrimination.

Secondly, the necessity of empowering key actors to help those affected by discrimination - strongly felt by trade unions, NGOs, and others - has led to a number of important initiatives: production of information materials and tool-kits; projects aimed at transferring knowledge from better equipped NGOs to less experienced or central grassroots organisations; training of judges and lawyers or events aimed at exchange of experiences between different countries.

And thirdly, acknowledging the importance of effectively penalising discriminatory acts or behaviour, there are concrete examples of legal action that are key to clarifying the practical application of abstract rules. The contributions to this publication illustrate the variety of bodies responsible for taking forward cases of discrimination, and the range of procedures that may be used.

As we move towards a more diverse society and work environment, access to justice may become an even more acute priority, especially in cases of harassment. The many activities of Community institutions and stakeholders sketched in the next pages should certainly be praised as remarkable contributions to making the Directives a truly effective tool in the fight for equality.

*Matteo Bonini-Baraldi is a researcher in the Faculty of Law of the University of Bologna, Italy. He was assistant co-ordinator of the former European group of experts on combating sexual orientation discrimination.*

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## REACHING OUT TO VICTIMS OF DISCRIMINATION

### INTRODUCTION

The Article 13 Directives oblige Member States to ensure that victims of discrimination have access to justice. But legislation can only be effective if people are aware of their rights and know how to assert them. The Directives therefore contain several provisions that enable different stakeholders to better inform and support victims of discrimination.

Associations and organisations with a legitimate interest can now take legal action on behalf of, or in support of, victims of discrimination with their consent. Trade unions, NGOs and other relevant associations can use this opportunity to further their goals of combating discrimination and promoting equality. However, the level of experience among organisations in informing and supporting victims of discrimination varies widely across Europe. For example, in Belgium some organisations have many years of experience (see article on p. 9-10) while in countries such as Spain, Italy or Poland, the new possibilities offered by the law have yet to be fully explored.

#### NATIONAL AUTHORITIES TO RAISE AWARENESS

The Directives require Member States to take measures to inform people about the legislation. While this has been done in some countries (see example of the Netherlands on p. 6), public knowledge of national equality legislation across most of the EU is still very low.

#### NATIONAL EQUALITY BODIES ARE INSTRUMENTAL

So called 'national equality bodies' have been set up, or are in the process of being set up, in nearly all EU Member States, as a requirement of the Racial Equality Directive. Their main tasks are to provide independent assistance to victims of discrimination, conduct independent surveys and studies and publish independent reports and recommendations. But in many countries their role goes beyond the requirements of the Directive, with some covering additional grounds of discrimination (such as in Austria, Belgium, Netherlands, Cyprus, Estonia, Lithuania or Ireland). Several bodies existed even before transposition of the Directives and have proven to be instrumental in informing, raising awareness and supporting victims of discrimination in their respective countries. It is hoped that the new bodies will have the appropriate means and resources to do the same.

#### DIALOGUE WITH CIVIL SOCIETY

The Directives oblige Member States to encourage dialogue with relevant NGOs which have a legitimate interest in contributing to the fight against discrimination. NGOs have a key role to play in making the anti-discrimination rights effective, via advocacy as well as awareness raising activities. Dialogue between social partners is equally important in order to promote the principle of equal treatment. But the extent to which trade unions and employers' organisations work towards combating discrimination varies considerably across the EU. An Action Plan adopted by the European Trade Union Confederation (ETUC) is encouraging members to exchange ideas and experience on implementation of the Directives and awareness-raising activities.

Collaboration between national authorities, equality bodies, trade unions, employers' organisations, NGOs and representatives of potential victims of discrimination is essential for effective enforcement of equality legislation. Each has a specific expertise and plays a critical role in informing, raising awareness and promoting equality.

*Maria Miguel Sierra is a lawyer with experience in non-governmental organisations fighting racism and xenophobia. She currently works as a consultant in non-discrimination projects (see p. 9).*



## DISCRIMINATION? CALL RIGHT AWAY!

*Astrid Kortenbach is policy adviser at the Dutch Ministry of Social Affairs and Employment in the department responsible for developing legislation and policies on equal treatment and non-discrimination.*

The Netherlands already has a comprehensive infrastructure designed to combat discrimination. Local and regional offices across the country provide advice and deal with complaints across all grounds of discrimination. Then there are five national expertise centres that specialise on one or two discrimination grounds. And lastly there is the Equal Treatment Commission, the national equality body that deals with formal complaints, gives formal opinions on all discrimination grounds and provides information to the wider public.

### PUBLIC AWARENESS IS LACKING

However, not everybody in the Netherlands is aware that this network of organisations exists or knows how to contact them. The Dutch government, together with several NGOs, decided to launch an information campaign to reach out to potential victims or witnesses of discrimination. The campaign received support from the Community Action Programme to combat discrimination.

At the heart of the campaign is the national hotline (0900-BelGelijk or 0900-2 354 354) and website ([www.belgelijk.nl](http://www.belgelijk.nl)). They were launched in June 2004 with the slogan "Discriminatie? Bel gelijk!" (Discrimination? Call right away!). The number has been published in all telephone and municipal directories

and a national billboard campaign began in October 2004. Radio stations, particularly one run by youth of different ethnic backgrounds, have widely publicised the campaign. But other media channels have proved more difficult to tap into.

Calls through the hotline are automatically directed to the local and regional offices. Although the total number of calls they receive has not increased dramatically, use of the hotline and website has climbed steadily since their launch. Between June and December 2004, the offices received almost 600 calls through the hotline and the website registered over 13,000 visits.

### BETTER COOPERATION IS KEY

The continued success of the hotline will depend both on increased publicity and the ability of the underlying infrastructure to deal with incoming requests and complaints. This campaign has provided a positive

impulse to strengthen cooperation between the organisations involved in preventing and combating discrimination.

The campaign is coordinated and carried out by the Anti-discrimination agency RADAR (Rotterdam) by commission of the National Federation of Anti-discrimination Bureaus.



*A national billboard campaign began in October 2004*



### FOR FURTHER INFORMATION:

Local/regional anti-discrimination offices can be reached through the National Federation of Anti-discrimination Bureaus (Landelijke Vereniging van Anti Discriminatie Bureaus en Meldpunten): [www.lvadb.nl](http://www.lvadb.nl), [www.belgisch.nl](http://www.belgisch.nl)

The campaign is coordinated by anti-discrimination agency RADAR: [www.radar.nl](http://www.radar.nl), [www.belgisch.nl](http://www.belgisch.nl)

### OTHER CAMPAIGN PARTNERS INCLUDE:

- National Expertise Centres:

LBL (Age): [www.leeftijd.nl](http://www.leeftijd.nl)

LBR (Race/ethnicity/religion): [www.lbr.nl](http://www.lbr.nl)

E-Quality (Gender and ethnicity): [www.e-quality.nl](http://www.e-quality.nl)

CG-Raad (Disability): [www.cg-raad.nl](http://www.cg-raad.nl)

KLHE (Sexual orientation):

[www.homo-emancipatiebeleid.nl](http://www.homo-emancipatiebeleid.nl)

Equal Treatment Commission: [www.cgb.nl](http://www.cgb.nl)

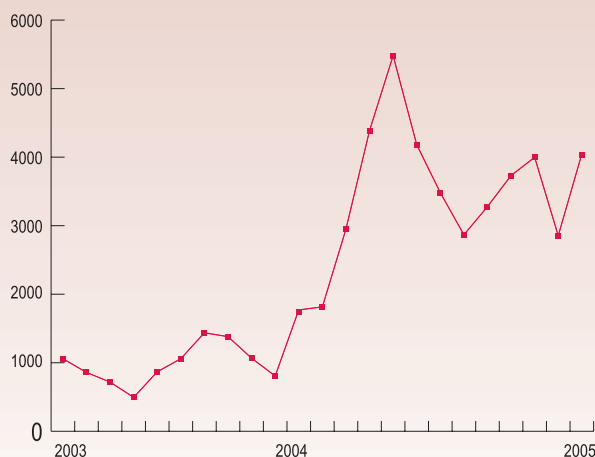
## 'LINHA SOS IMIGRANTE' - HELPLINE FOR IMMIGRANTS IN PORTUGAL

A telephone hotline targeted at immigrants and ethnic minorities has been running in Portugal since March 2003. It provides information and support on issues such as legalisation or family reunification, but also allows individuals to register complaints of discrimination or harassment.

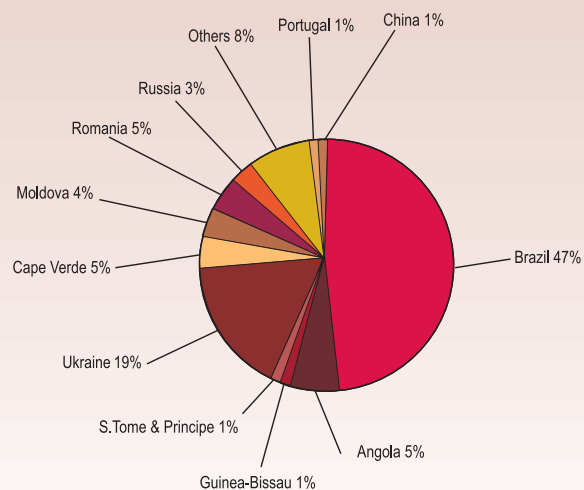
Some of these complaints can be taken forward by legal experts working in the service.

The SOS Immigrant hotline has been funded by the budget of High Commission for Immigration and Ethnic Minorities (ACIME), government department, through protocols with immigrant associations.

**Number of telephone enquiries by month**



**Number of telephone enquiries by country of origin**







## GIVING OLDER PEOPLE THEIR SAY

*The Employment Equality Directive extends new rights to protect those discriminated against on the grounds of their age. But how are the people affected being informed of their rights? And what can they do when they are unfairly treated? 'Equal rights in practice' talks to Hanne Schweitzer, chair of the 'Office against age-discrimination' in Cologne, Germany. It is the only national-level organisation in Germany campaigning against age discrimination.*

### **What is your approach to tackling age discrimination?**

Back in 1999 we heard politicians in Germany saying that age discrimination didn't exist. We wanted to gather the evidence to prove this wrong, and also to encourage people to think more openly about age discrimination. We decided upon a nationwide complaint day - that took place on 21st November 2001.

We publicised the day through local grassroots organisations, and set up a special hotline for people to call in with their complaints. During that one day we registered some 4029 calls - far more than our team of 260 volunteers and 20 phone lines could cope with. But we succeeded in recording almost 1,600 complaints, giving us plenty of evidence that age discrimination does take place in many aspects of our daily lives.

Around 30% of complaints referred to workplace situations. For example we found out that even positions offered within the Federal Authority sometimes put an age limit of 'up to 40' years. Men were far more likely to complain of discrimination in the workplace than women (43% compared to 26% of calls from men and women respectively).

The next highest number of complaints (19%) referred to image - how older people are portrayed in the media. But we also identified other situations where older people regularly face discrimination such as accessing health insurance, financial services, public areas, care services, further education and volunteer work.

Of course the national complaint day was very resource intensive - but it helped to raise public awareness of the issue. In 2002 we set up a website which people can refer to and use to send in their complaints electronically. Between January and December 2004, we had some 46,000 visitors to the site. We are becoming increasingly known as the point of reference on age discrimination.

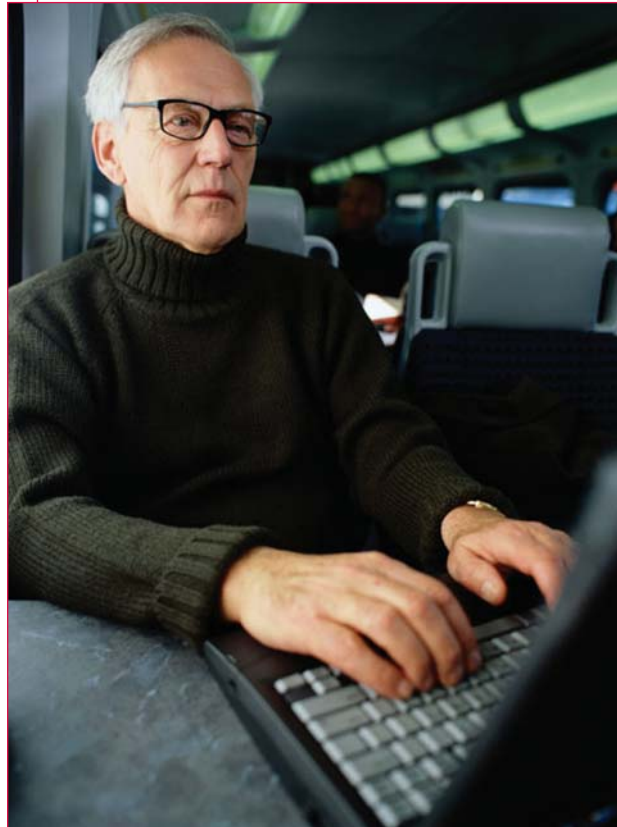
### **And what support or advice do you offer to complainants?**

Right now there is no German legislation existing to prohibit age discrimination, so we cannot advocate legal action. Nonetheless we inform people of existing EU legislation and advise people on what to include in a formal complaint.

## ***What changes do you anticipate in the future?***

In January 2005 the Federal government organised the first hearing of the new law to prohibit discrimination on a number of grounds including age. We were involved in advising on the content of the first draft. We hope that the new law will extend further than the EU directives, and prohibit discrimination in access to goods and services as well as in employment. But it is still early days. We hope the law will pass through government quickly and be adopted before summer 2005.

*More men complained of discrimination in the workplace than women*



FOR FURTHER INFORMATION ON THE  
NATIONAL COMPLAINT DAY SEE:

[www.altersdiskriminierung.de](http://www.altersdiskriminierung.de)

## **FIGHTING DAY-TO-DAY DISCRIMINATION**

*Maria Miguel Sierra ran the complaint bureau of the Movement against Racism, Anti-semitism and Xenophobia (MRAX) for several years and later became deputy director of the European Network Against Racism (ENAR). She is currently working as a consultant and is involved in a number of different projects in the new EU Member States.*

One of the innovations introduced by the Directives is the right for associations and organisations to support or represent victims of discrimination in a legal procedure. Because of their close connections to the 'vulnerable groups', civil society organisations are well placed to help enforce the anti-discrimination legislation.

The experience of the 'Movement against Racism, Anti-semitism and Xenophobia' (MRAX) - a Belgian non-profit-making organisation - provides a good example. MRAX has been running a complaint bureau since 1974, providing a service to people who have been a victim of, or who have witnessed, acts of racism or discrimination.



## CHOOSING APPROPRIATE ACTION

Within the complaint bureau, a team of two legal advisors provides free information and guidance on the following options open to the complainant.

- **Challenging the alleged perpetrator of discrimination or his/her superior.** The accused party is invited to give his/her own version of the facts and is warned about the potential legal consequences of discrimination. Where appropriate, their hierarchy is invited to investigate the facts and to take appropriate action. Dissuasion and prevention are the main objectives of this kind of action.
- **Mediation.** In situations where it is difficult to bring evidence of discrimination (for example in housing) or where the complainant is in a delicate position (for example in employment), mediation may be proposed. It involves establishing a dialogue with the accused party with the aim of reaching a settlement or an apology.
- **Lodging a complaint.** In cases of racist acts perpetrated by a public official and more specifically by the police, most victims tend to lodge a complaint. In cases of a serious or exemplary nature, MRAX may take part in legal action. The 1981 Act (on the punishment of certain acts motivated by racism or xenophobia) authorises MRAX to do this.

## RAISING PUBLIC AWARENESS

The complaints received by the Bureau have helped MRAX to design awareness-raising campaigns that aim to stop discrimination at its source, but also to encourage victims to denounce discriminatory acts. Since 2002, MRAX has run a campaign focused on day-to-day discrimination. It started by tackling discrimination in access to discos and bars; currently it is concentrating on housing; the final part of the campaign will cover employment discrimination. The campaign is being run in partnership with the Centre for Equal Opportunities and Opposition to Racism (the Belgian national equality body) and a range of associations and institutions.

La discrimination raciste dans l'accès au logement est un délit.

02/209.62.53 - www.mrax.be

Information campaign targets discrimination in access to housing

## POLITICAL ACTION IS NEEDED TOO

MRAX also offers expertise on issues related to immigration and asylum, a documentation centre, training sessions for different audiences and a monthly newsletter "MRAX-Info". Based on its wide experience, MRAX is able to provide inputs to legislation and policy development and challenge administrative, judicial and political authorities to act against racial discrimination.

### FOR FURTHER INFORMATION:

- Movement against Racism, Anti-semitism and Xenophobia: [www.mrax.be](http://www.mrax.be)
- Belgian National Equality Body: [www.antiracisme.be](http://www.antiracisme.be)

## BUILDING CAPACITY OF SUPPORTING ACTORS

### INTRODUCTION

#### TOWARDS A COMMON GOAL FOR ACTORS

Both anti-discrimination Directives require Member States to ensure that judicial and/or administrative procedures are available to those experiencing discrimination, thus giving a new role to lawyers, NGOs, associations, independent bodies and trade unions.

Whereas existing organisations have seen their roles reinforced (for example in the UK), the Directives have enabled the creation of new institutions entitled to inform victims, give advice, represent them before the courts, gather necessary evidence and assist them in negotiating with their employer. The different types of actors and organisations - NGOs, trade unions and lawyers - have a different status and often deal with particular grounds of discrimination. This means that each of them has a specific role to play in practice.

However, they are also following a common objective: to make anti-discrimination legislation enforceable. To achieve this, they need to cooperate and work closely with one another. Who better to assist a lawyer in collecting the evidence necessary to bring a case to court than an NGO or a trade union? And without the legal expertise of the lawyer, NGOs and trade unions are limited in the legal advice they are able to offer the victim if they have not developed the necessary legal expertise resources.

#### TRAINING - A KEY TOOL

These actors need to be aware of their complementary roles and potential in order to defend victims as effectively as possible. Raising awareness is a leitmotiv for the Community Action Programme to combat discrimination and is carried out, among others, by several national and transnational training institutions.

Training is a key instrument to fight discrimination and support victims. Through training on the EU discrimination Directives and on transposed legislation, actors are not only informed about the meaning and implication of the notions used in the legal instruments, but are also taught how to use them and to adapt them to different situations.

Such training gives the actors a specific legal methodology in order to familiarise them with the specific methods of legal reasoning in the implementation and interpretation of the Directives. Following either a regional approach, like that of the Italian Superior Council of the Judiciary, or a transnational one, like the Academy of European law in Trier, it can also enable actors to share professional experiences and exchange views.

*Florence Hartmann-Vareilles is Course Director for the Academy of European Law (ERA) in Trier, where she is responsible for a series of seminars on EU anti-discrimination law, supported under the Community Action Programme to combat discrimination. She has previously practised as a lawyer in Grenoble and Paris.*



## BRINGING CLAIMS UNDER UK DISABILITY LEGISLATION

*Caroline Gooding is Director at the UK Disability Rights Commission, responsible for advising on key long-term, cross-cutting disability issues, as well as the overall impact of the Disability Discrimination Act (DDA). She is a former head of the DDA Representation and Advice Project and was a member of the Government's Task Force on Disability.*

Since the passing of the UK's Disability Discrimination Act (DDA) in 1995, two national disability organisations have set up specific projects or units to provide advice and representation on disability discrimination issues.

### SPECIALISED LEGAL ADVICE UNITS

The Royal National Institute of the Blind (RNIB) established the post of Legal Officer. Now expanded to two staff members, this service advises and represents blind and partially sighted people in discrimination cases, and advises those representing them, such as solicitors, trade unions or law centres. It also produces fact sheets on the DDA and gives talks around the country on its provisions.

RNIB has represented hundreds of blind and partially sighted people in both employment and goods and services cases. It deals with an average of 50 to 75 telephone enquiries per week, in addition to email and postal enquiries. Many cases have been settled, whilst some have been precedent setting in the courts. For example:

- Mr. H was refused access to his local restaurant because he had a guide dog with him. He was represented by RNIB in a claim under the Act. He won £1,000 (1,450 Euro) in compensation and the first injunction under these provisions was awarded against the restaurant, compelling them to

allow him to eat there.

- Mr. A was refused employment because he did not have a driving licence, even though he could have travelled by other means for the job. The case was settled with payment of £12,000 (17,400 Euro) compensation and the offer of another post.



*Several UK organisations provide legal advice on disability discrimination*

The Royal National Institute for Deaf People (RNID) is the largest charity representing the nine million deaf and hard of hearing people in the UK. They established a specialist legal advice and advocacy unit - the Casework Service - to focus on issues affecting deaf and hard of hearing people in relation to the disability and social security legislation.

Since 2001, the Casework Service has dealt directly with over 2,000 enquiries from individuals, as well as several hundred contacts with

organisations and government agencies. It has been able to undertake DDA litigation since mid 2002, and has represented in over 30 cases covering employment, education and goods and services. Most of these have been resolved successfully, either at final hearing or by negotiated settlement.

#### OTHER NETWORKS ARE ALSO ACTIVE

Whilst these two organisations have been the most active in providing advocacy and information on the DDA, others provide similar services. MIND, the largest national organisation for people with mental illnesses, provides a legal advice line and has a network of legal practitioners to whom they can refer. This advice service covers a range of issues - only a small proportion of calls involve the DDA.

DIAL-UK, a network of 160 local Disability Information and Advice Line services, organised a series of training seminars around the country when the DDA was first introduced.

Several trade unions are also active in spreading information about the law and in taking cases on behalf of their members. Good links between disability organisations and trade unions are important to effectively

represent the rights of people with disabilities.

#### FOR MORE INFORMATION:

Disability Rights Commission: [www.drc-gb.org](http://www.drc-gb.org)  
Disability legislation, see UK Government  
Disability Policy Division: [www.disability.gov.uk](http://www.disability.gov.uk)

RNIB: [www.rnib.org.uk](http://www.rnib.org.uk)  
RNID: [www.rnid.org.uk](http://www.rnid.org.uk)  
MIND: [www.mind.org.uk](http://www.mind.org.uk)  
DIAL-UK: [www.dialuk.info](http://www.dialuk.info)

## ACTIVISTS AND ADVOCATES: DISABILITY RIGHTS TRAINING PROGRAMME

The National Confederation of Disabled People of Greece is coordinating a project involving partners from nine EU Member States, Bulgaria and Romania. It aims to empower activists and advocates, who are themselves disabled or representing people with disabilities, to use the newly adopted legal instruments. Three EU-level seminars and 11 national training seminars will be organised focusing on rights-based legislation deriving from EU and international provisions and the Member States' national laws. A training manual and internet site are also anticipated as project outputs.

#### FOR FURTHER INFORMATION SEE:

European Disability Forum (EDF): [www.edf-feph.org](http://www.edf-feph.org)  
National Confederation of Disabled People of Greece: [www.esaea.gr](http://www.esaea.gr)



## EMPOWERING NGOS IN VICTIM SUPPORT

*Anette Sjödin is project coordinator at RFSL (Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights), where she focuses predominantly on EU projects dealing with workplace issues.*

A lot of people who face discrimination at work would never file a complaint. Why? What is it that keeps individuals from taking action to secure their rights?

Firstly, you need to know what discrimination is, and that there is a law against it. Instead of blaming yourself for not being good enough, you have to realise that being bullied, harassed or denied a job even though you were the most qualified applicant all amount to discrimination.

Secondly, you need to see the benefit of reacting, of protesting against the discriminatory treatment. Why should you act, why not just keep quiet and endure? You need to be motivated enough to take action.

Finally, you need to know who to turn to. Who can you trust? Who will take your side and know what to do next? You will need support both on the legal procedure and coping with the mental strain.

A lot of effort will be needed if we are to overcome these obstacles and put legislation into use in day-to-day life. When it comes to supporting individuals, NGOs play a very important role. As representatives of the exposed groups, they have an insight into daily life for the individuals they represent, as well as knowledge of the forms of discrimination. NGOs can credibly address the obstacles mentioned above when communicating with individuals and organisations.

### TARGETED TRAINING IN FOUR COUNTRIES

In the project "Access to Justice" organisations from

four countries are working together to bridge the gap between words and action, so that legislation will be put to use when discrimination occurs. The project focuses on the grounds of age, disability and sexual orientation. The national activities are led by four NGOs: Help the Aged from Great Britain, the Spanish Confederation of Elderly People's Organisations (CEOMA), ACCEPT, working on sexual orientation in Romania and the Swedish Federation on Lesbian, Gay, Bisexual and Transgender Rights (RFSL). The Swedish Trade Union Confederation (LO) and Ombudsman against Discrimination on Grounds of Sexual Orientation (HomO) are also involved in the project, managed by RFSL. The project is supported as a transnational action under the Community Action Programme to combat discrimination.



At a national level, the project is organised in different ways in the four countries. This is necessary, since the conditions and the structures differ: the law varies between countries; knowledge of the law is more or less spread among individuals, NGOs, trade unions and legal

representatives; structures for handling complaints differ; and the key actors are not always the same in each country. But although details vary, the overall objective is the same: to empower key actors to support individuals through capacity building. This is done by arranging seminars/conferences and producing information/training material. The obstacles mentioned above will be addressed, focussing on key actors' roles and their opportunities and responsibility to make a difference for individuals.



*Individuals need support to make the legislation work in practice.*



## PAVING THE WAY FOR FUTURE ACTION

The final outcome of the project will be a joint training toolkit, developed throughout the project period and finalised in 2006. The toolkit will be translated into several languages. A transnational seminar will be arranged in 2006, with the important overall objective of setting an agenda for ongoing anti-discrimination work across Europe. Because one thing is certain: the work against discrimination will have to continue for a long time - and individuals will need the support from their NGOs to make the legislation work in practice.

FOR MORE INFORMATION, VISIT:

[www.rfsl.se/access](http://www.rfsl.se/access)





## BUILDING CAPACITY OF NGOs IN THE WIDER EUROPE

*Margarita Ilieva is a legal trainer for anti-discrimination NGOs. She is currently national co-ordinator in Bulgaria for a project to map and build capacity of NGOs in the ten new Member States and three candidate countries - supported under the Community Action Programme to combat discrimination. She tells 'Equal rights in practice' more about this project and the needs of the NGO sector in Bulgaria and more widely in Central and Eastern Europe.*

### **How can NGOs help victims of discrimination access justice?**

NGOs serve as awareness-raisers, enabling victims to recognise discrimination as a breach of rights and informing them of possible means of recourse. They also receive and process complaints, providing advice on how to deal, legally and practically, with a situation. Where litigation is called for, NGOs help victims assemble legal cases by documenting the relevant facts and securing the necessary evidence to bring a complaint to court. Some NGOs have legal expertise resources, enabling them to provide victims with representation before courts and other authorities. Some engage in strategic litigation, proactively seeking out or developing legal cases through testing exercises, to trigger jurisprudence on issues with system-wide implications. They then publicise the results of litigation, working to effect a change in the general public's attitudes.

### **How has this role changed in Bulgaria with the new anti-discrimination legislation?**

The new legislation transposing the EU acquis has significantly expanded NGOs' abilities to engage in anti-discrimination litigation. It has granted them standing both to represent victims and to initiate law-

suits on their own behalf where the rights of many persons are breached. In addition, NGOs may join proceedings brought by individual victims or other NGOs in an interested party capacity, providing for added expert or political backing to public interest litigation. Domestic, and international rights groups have been enthusiastic to test these exciting new standing possibilities, bringing public interest cases to court in their own right as claimants against discrimination. Legal action brought by the Bulgarian Helsinki Committee and the Romani Baht Foundation, which the European Roma Rights Centre joined as *amicus curiae*, has already proven successful at trial.

### **How many organisations are active in this area and in which fields? How many will be involved in this project?**

In Bulgaria, about ten NGOs do anti-discrimination work, consisting of monitoring, litigation and advocacy. Most are human rights groups with an accent on race/ethnicity. Some are community groups, concentrating on grounds like Romani ethnicity, sexual orientation and disability. Groups dealing with religion and age are markedly less active. Another ten organisations campaign exclusively for the elimination of school segregation for Romani children. Activists from all of these NGOs will be involved in the project.



### ***To what extent does the capacity of NGOs vary among the 13 project countries?***

NGOs are in the strongest positions in Bulgaria, Hungary and Poland, where they can rely on larger pools of experienced activists, including public interest lawyers. In these three countries, NGOs have had greater success in lobbying, advocacy and strategic litigation, both domestic and international.

### ***What are the specific needs of NGOs in the 13 countries?***

The overwhelming majority of grassroots and community groups need training on anti-discrimination legal standards and remedies. The better developed, centrally-based NGOs are in need of training for trainers to help transfer know-how to community and grassroots groups. This can help build smaller groups' role in the access to justice chain - as a link between victims and cases on the one hand, and between legal counsel and national visibility on the other. Both the small local groups and the better developed national organisations are in need of institutional support and finance to expand their litigation and advocacy efforts - and to take their anti-discrimination proficiency up to a further level.

### ***Are they able to take advantage of the new legislation's provisions?***

A good proportion of the older and stronger NGOs with a history of effective human rights work are sufficiently well equipped to put to use the new legal remedies. Others, however, as well as the vast majority of local and community groups need to be trained, or trained further. To facilitate this goal, an investment would be wisely made to extend the training capacity of the better-versed organisations to enable them to transfer their know-how to the local and community groups.

### ***How will this project help to build their capacity?***

By sponsoring training for trainers, followed by training for activists, this project will help disseminate practical competence to a significant segment of the NGO community. This can help further the development of the public interest sector and put into effect the right to equality. The ultimate number of activists to be trained - 50 persons in Bulgaria - is significant, given that only around ten NGOs are currently active in the field (excluding those focused on Roma in education). This means that the planned training is on a scope to affect the entire community of anti-discrimination activists, perhaps doubling its capacity.

FURTHER INFORMATION CAN BE OBTAINED  
FROM THE TWO PROJECT PARTNERS:

Human European Consultancy:  
[www.humanconsultancy.com](http://www.humanconsultancy.com)

Migration Policy Group: [www.migpolgroup.com](http://www.migpolgroup.com)



## UNION ACTORS TAKE UP THE LEGAL CHALLENGE

*Jean-Luc Rageul is Secretary General of the Paris departmental section of the CFDT. CFDT is a National Confederation of Unions representing employees from various areas and trades of the public and private sectors at different geographical levels: national, regional, departmental and local.*

The Paris departmental section of the French Democratic Confederation of Labour (CFDT) has a long-standing commitment to equality and combating discrimination. Since the 1970s, we have fought for identical rights for all workers whether French or of foreign origin. In the 1980s we focused on promoting the regularisation of foreign workers without papers, and in the 1990s, we implemented an awareness raising and action programme entitled “For equality and against discrimination”.

But despite these awareness raising activities, racial discrimination is still present in many management practices and trade union actors are ill equipped to tackle it. To empower actors to use anti-discrimination law within their trade union practice, we have made training in legal action one of our key priorities.

### A STRUCTURED TRAINING FORMAT

In 2004, we launched a cycle of training seminars together with the consultants Astrolabe Conseil and the GELD (Groupe d'Etude et de Lutte contre les Discriminations). The seminars were targeted at key trade union actors: elected labour judges, trade union legal actors and union representatives in the workplace.

The seminars have resulted in a tried and tested training module covering the following key elements:

- The origins of the concept of discrimination;
- The basics of international human rights law;
- European and Community law with respect to discrimination;

- In-depth analysis of the EU directives 2000/43 and 2000/78;
- The concept of discrimination as distinct from that of equality, enshrined in traditional French constitutional and administrative law;
- The impact of the European legal regime, as transposed in French law, on the legal regime of equality and the practice of judicial actors;
- Building evidence of discrimination.

### CHANGING THE HABITS OF LEGAL ACTORS

It became obvious that trade union actors need to radically change their approach to analysing discrimination situations and building legal cases under the new laws. In particular, the French judicial system has very little experience of the new rules of evidence and shift in the burden of proof. A key result of the training has therefore been a practical methodological tool aimed at helping legal counsels, labour court judges and institutional actors construct evidence. It outlines the questions to be raised with the victim, the strategic possibilities to consider, and the documents to be gathered at each stage of the procedure - from the first appointment with the employee up to the decision-making process of the labour court.

The seminars also confirmed the importance of working closely with actors outside the trade union movement, such as magistrates, labour inspectors and the public employment services.

In 2005, the Paris CFDT is proposing that all its

labour court judges and trade union representatives participate in this training cycle. In this way, we hope to familiarise them with the new rules of evidence and encourage them to take a constructive approach to the fight against discrimination.

FOR FURTHER INFORMATION:

GELD: [www.le114.fr/](http://www.le114.fr/)  
CFDT: [www.cfdt.fr](http://www.cfdt.fr)

## EQUAL TREATMENT IN THE WORKPLACE AND ACCESS TO HOUSING



The transnational project 'Casadis', funded through the Community Action Programme to combat discrimination, brings together trade unions and training organisations from four countries - France, Belgium, Italy and Romania. Their aim is to train and support trade union actors in taking action against discrimination in the workplace or in access to housing. The specific target audience varies according to each country's needs, but includes shop stewards and other worker representatives, labour law specialists in trade unions and lay judges representing workers or trade unions in the labour courts.

The training aims to raise participants' awareness of discrimination on the basis of different grounds: age, disability, health, race or religion. It will explore what legal protection is available nationally and at European level, and will provide a realistic 'toolkit' that participants can apply in the daily work to promote equal opportunities and diversity.

Casadis also aims to facilitate exchange of experience between the different partner countries, to promote good practice and ensure wide dissemination of the results.

The project is coordinated by Émergences and involves the following partners:

La Confédération Général du Travail (CGT) - France;

Form'action André Renard - Belgium - training body for the trade union Fédération General du Travail de Belgique (FGTB);

Agenzia Formazione Lavoro (AGFOL) - Italy;

Confederatia nationala a sindicatelor libere din romania Fratia (CNSLR) - Romania.

FOR MORE INFORMATION SEE:

[www.casadis.org/](http://www.casadis.org/)



## ITALIAN LAWYERS LEARN ABOUT NEW LEGAL POWERS IN NON-DISCRIMINATION

*Paola Accardo is a judge and expert in Community law within Italy's Superior Council of the Judiciary (CSM). The CSM is an official body that guarantees the self-government and independence of the judiciary. It also organises and controls professional training for trainee judges and prosecutors and offers on-going training for practising lawyers.*

The Italian government issued two new legislative decrees in July 2003, transposing the EU Race and Employment Equality Directives. But enforcing the law requires that lawyers are familiar with the texts and the legal powers they offer.

### TARGETED TRAINING ON NON-DISCRIMINATION

Using funding under the national awareness-raising activities of the Community Action Programme to combat discrimination, the Superior Council of the Judiciary (Consiglio Superiore della Magistratura - CSM) developed a training programme for lawyers in Rome and eight other areas.

The training on non-discrimination began with a three-day seminar in April 2004. The programme drew heavily from the positive experience of the training organised through the Academy of European Law (ERA). Judges and legal practitioners, jurists and experts were invited to share their experience, stimulating in depth discussions about the EU Directives and national law.

The implication of 'non-regression clause' of the Directives drew much attention in the context of the Italian legislation. Since 1999, Italy has a high degree of legal protection against discrimination on the grounds of disability and requires employers to take several positive measures to recruit and employ people with disabilities. According to the non-regression clause, application of the Employment Equality Directive cannot result in the weakening of these provisions.

Cases of discrimination on the grounds of sexual orientation and age are now emerging in Italy, and practical application of the Employment Equality Directive is still subject to uncertainty. When, for example are age restrictions, imposed by employers, acceptable because

they reflect a genuine occupational requirement and when should they be prohibited? Cooperation between trade unions and employers is critical to ensuring age restrictions in the workplace are not abused.

The potential for bias in the judicial system because of subconscious prejudices was also discussed. One speaker gave the example of a judge who sentenced a defendant more severely because he misunderstood the defendant's tendency to bow his head as a sign of disrespect. In fact it is a sign of deference in the defendant's culture. In this context, the participant from the Judicial Studies Board (JSB) drew attention to the latest edition of the 'Equal Treatment Bench Book'. This guidebook, produced by the JSB, aims to help judges treat individual cases with maximum fairness and sensitivity.

### A REGIONAL APPROACH

The Rome seminar was followed by regional seminars across Italy, so as to reach out to a wider range of judges and prosecutors. Although shorter than the Rome seminar, these events allowed the transfer of essential information on application of the two directives in statutory law.

Information has also been disseminated via other channels, including publication of a CD-Rom and presentation of the seminars on CSM's website.

### FOR FURTHER INFORMATION SEE:

[www.csm.it](http://www.csm.it) (Link to Incontri di Studio no.1346).  
For copies of the Equal Treatment Bench Book produced by the JSB see: [www.jsboard.co.uk](http://www.jsboard.co.uk)

## TAKING ACTION

### INTRODUCTION

One of the most important ways of penalising discriminatory acts or behaviour is to take legal action. The person whose rights are infringed may decide to take action alone, or he/she may be assisted by an NGO, trade union or independent national equality body. In some cases, he/she may request that one of these actors pursue legal action on their behalf.

#### LEGAL CASES SHOULD HAVE A WIDER IMPACT ON SOCIETY

The decision to take legal action on behalf of victims of discrimination is important, not only in terms of seeking redress for the infringement of an individual's rights. Cases can have an important knock-on effect on tackling discrimination more widely in society. The need to strategically select cases to have maximum impact is clearly stated in the articles from INTERIGHTS (p. 22) and the Irish Equality Authority (p. 26). The case examples from the European Roma Rights Centre (p. 23) are a useful illustration of how legal action can lead to landmark judgments in the areas of goods and services and employment discrimination.

A key role of the national equality body (NEB), as defined in the Race Equality Directive, is to provide “independent assistance to victims of discrimination in pursuing their complaints about discrimination.” For some NEBs, their powers extend beyond offering advice to supporting legal proceedings on behalf of complainants. In Belgium, for example, the equality body prefers to resolve complaints through conciliation or mediation, but considers that, as a last resort, it may be necessary to support legal action (see p. 25).

#### TAKING LEGAL ACTION ALONE IS NEAR IMPOSSIBLE

Some other Member States have not extended such powers to the NEB. For example in Denmark, the Complaints Committee for Ethnic Equal Treatment can, among other things, hear individual complaints about discrimination and may recommend that a victim receive free legal aid if his/her claim is substantiated. Nonetheless, the victim must take the case to court his/herself, as the Committee cannot file a suit on their behalf. NGOs may assist victims in taking a case to court, but as a general rule they do not file suits on the victim's behalf either.

Even though Denmark has had national legislation prohibiting discrimination on the grounds of race and in the workplace for many years (1971 and 1996 respectively), only a few cases have actually been brought to court. The reason is that few people will pursue a case individually. The mental and financial costs involved, and the problems of proving the alleged discrimination, make it almost impossible.

Support for legal action is therefore a critical factor in improving protection against discrimination. It is important that Member States strengthen the role of NGOs and NEBs to ensure that existing legislation can be used effectively.

*Bjørn Dilou Jacobsen is a legal officer at the Danish Complaints Committee for Ethnic Equal Treatment in the Danish Institute for Human Rights. He is also undertaking research on the European national equality bodies' handling of national anti-discrimination laws based on the Race Equality Directive.*



## LITIGATION STRATEGIES: THE ROLE OF NGOs

*Kevin Kitching is legal officer for Central and Eastern Europe and former Soviet Union at INTERIGHTS in London. He helps lawyers, victims and NGOs prepare cases before national and international tribunals and submits third party interventions in cases that raise issues on how human rights are interpreted. He is a trainer in international and comparative human rights law and provides resources on key legal developments.*



*Litigation puts legal principles into practice*

The anti-discrimination Directives aspire to a high standard of protection that has great potential to advance the rights of victims of discrimination across Europe. But to protect the rights of victims of discrimination effectively, their groundbreaking provisions must be integrated into the fabric of domestic legal systems. Litigation is key to ensuring that principles enshrined in the Directives are guaranteed not only on paper but also in practice.

### CASES MUST BE SELECTED FOR MAXIMUM IMPACT

NGOs, such as INTERIGHTS and others, have for many years been involved in test case litigation before the European Court of Human Rights and other international bodies. Such litigation has often achieved great impact on domestic systems - facilitating change by documenting abuses by States, empowering vulnerable groups, educating legal professionals and policy makers and providing guidance on best practice. Without doubt, the Directives will

have a profound impact on domestic legal systems. But NGOs and lawyers must grasp this opportunity to strategically select and develop cases that will lead to the greatest progress in protection against discrimination.

It is in taking a 'strategic' view of litigation under the Directives that NGOs can make the greatest contribution to their implementation and enforcement:

- NGOs are often best placed to translate the needs of vulnerable communities into successful litigation. Their work with disadvantaged groups may highlight gaps in the law, failure to enforce or non-compliance with EU standards. NGOs are able to take the lead in selecting cases likely to have maximum impact.
- NGOs can assist in facilitating access to justice. The Directives are designed to protect vulnerable groups against discrimination. Those groups are often worst placed to seek justice through conventional channels.
- NGOs can contribute to the introduction of progressive and reasoned arguments based on international or comparative law through third party interventions, advice and direct representation. Arguments based on relevant human rights principles and best practice have proved successful in discrimination cases before both domestic and international tribunals. By arguing cases across grounds and emphasising multiple grounds, NGOs can promote a "levelling up" of protections that avoids a dilution of existing standards. Strategically pleaded cases can seek to leverage the power of the European Court of Justice to maximum effect across the Union.

- NGOs can play a lead role in managing case strategy regarding both substantive and more procedural issues, such as choice of forum. They can be flexible as to their own form of involvement in cases and work both directly with clients and with local partners. Experience of working collaboratively with other NGOs, lawyers and specialised bodies may be invaluable in support of any litigation effort.

the Directives require, “effective, proportionate and dissuasive.”

### EARLY DAYS ARE THE HARDEST

The history of EU sex discrimination legislation has demonstrated that the early days of implementation of EU directives are the most difficult. NGOs are well placed to assist in ensuring that remedies available to victims of discrimination in Member States are, as

FOR MORE INFORMATION SEE:

[www.interights.org](http://www.interights.org)

## BULGARIAN COURTS ACT TO COMBAT DISCRIMINATION AGAINST ROMA

*Dimitrina Petrova is the Executive Director of the European Roma Rights Centre. She was chair of the Human Rights Project (Sofia), a Bulgarian group defending the rights of Roma, a Member of Parliament, and a professor of Philosophy of Law and other courses in Bulgaria and other countries.*



Since Bulgaria's new anti-discrimination legislation came into force on 1 January 2004, the European Roma Rights Centre (ERRC) and partner organisations have filed a number of civil actions alleging discrimination against Roma. Barely a year after the law entered force, these have led to five landmark judgments from Bulgarian courts.

### ACCESS TO SERVICES

In the first case, the Sofia District Court ruled that a

Romani woman denied entry to a clothing shop had suffered discrimination in access to services on the sole basis of her race. The shop concerned had refused to serve the woman and banned her from its premises. In addition, the company's staff threatened her with violence and verbal abuse concerning her Romani origin. The Court found that such conduct amounted to discrimination based on ethnic origin and was therefore in violation of Bulgarian law.

In another case, the Court found in favour of a man





*Civil actions have brought landmark judgements on Roma rights*

discriminated against by the local electricity provider. The plaintiff, of Romani origin, had been refused access to the power network because he failed to agree to the company placing his electricity meter on a nine metre high pole. The company's justification for such measures was that this was the only way to make sure that "Roma do not illegally connect to the power supply". The service provider ignored the facts that the man was a regular payer, had no history of trying to illegally connect to the power grid, and would be unable to check his electricity consumption as result of the unorthodox placement of the meter. The Court ordered the company to provide him with adequate access to and control of the electricity meter - and to cease such practices in the future.

A separate but similar case led to a second ruling against the electricity provider. In this case, six residents of a Romani settlement in Sofia had been denied regular electricity meters. The company was ordered to re-locate the meters and pay compensation to the plaintiffs.

## EMPLOYMENT DISCRIMINATION

A fourth case under the new law related to employment. The Sofia District Court found that a company had practiced discriminatory hiring policies after a Romani man was refused a job interview on account of his ethnic origin. The man had been offered an interview by the company, a food producer and distributor, but subsequently had this withdrawn when he revealed his ethnic origin. The Court granted compensation to the man and ordered the respondent to refrain from such hiring practices in the future.

Finally, the state-owned electricity company was once again found to have discriminated when it denied access to the network for bill-paying customers following a power breakdown in a Romani neighbourhood of Sofia. The provider refused to repair the network for more than two months following the breakdown, contending that many of the affected consumers had unpaid debts. But 30 Romani households with no outstanding debts had also been denied restoration of their power supply. The Court agreed that the company's actions were discriminatory because they were imposed on residents of a Romani neighbourhood and were not used elsewhere.

FOR MORE INFORMATION SEE: [www.errc.org](http://www.errc.org)

# COMBATING DISCRIMINATION IN BELGIUM

*Eliane Deproost is Deputy Director of the “Centre for equal opportunities and opposition to racism” (CECLR) - the autonomous public body charged with guaranteeing equal treatment to all citizens in Belgium.*

## NEW RESPONSIBILITIES

The Federal law of 25 February 2003 is the most important instrument implementing the two Directives in Belgium. It confers new responsibilities to the “Centre for equal opportunities and opposition to racism” (CECLR) - set up under the Act 15 February 1993 - allowing them to advise, support, and if necessary take legal action on behalf of victims of discrimination. The law prohibits a difference of treatment which does not have an objective and reasonable justification.

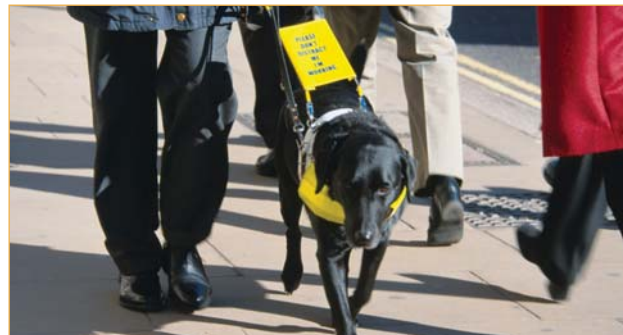
The law prohibits discrimination in many areas of public life, not only related to employment and working conditions, but also in access to goods and services and participation in sports and social or cultural activities, among others.

The CECLR's preferred means of resolving complaints is through conciliation and/or mediation. Nonetheless, as a last resort the Centre will support legal action. Currently there are five dossiers being dealt with by tribunals. All have yet to be resolved.

## CHANGING BEHAVIOUR BY APPLYING THE LAW

By way of illustration, two of the on going cases are described below. The first refers to the refusal to rent a property to a gay couple.

- Mr X co-habits with Mr Y. When Mr Y's career requires them to relocate, they look for rental accommodation via a property website. The couple identify a house and following a first visit and signature of a commitment to rent, the estate agent inform the couple that the owners refused to rent them the property. The owners would like a “traditional” couple to occupy their



*In one case, a woman with a guide dog was refused access to a restaurant*

property. The CECLR has lodged a complaint against the owners and the estate agents.

The second case refers to a person with impaired vision who was refused entry to a restaurant together with her guide dog.

- Ms Z. is partially sighted and is accompanied by a guide dog. She accompanies some friends to a restaurant for lunch, but on entering the establishment, the waiter stops Ms. Z. She is refused access on the grounds that dogs are not allowed. The CECLR has lodged a complaint against the restaurant.

Rather than being repressive, this law offers a real opportunity to change attitudes in society and to confront discriminatory behaviour.

## FOR MORE INFORMATION SEE:

Centre for equal opportunities and opposition to racism (CECLR): [www.diversite.be](http://www.diversite.be)



## AN INTEGRATED APPROACH TO IMPLEMENTING EQUALITY LEGISLATION

*Niall Crowley is Chief Executive of the Equality Authority. This independent body was set up to promote and defend the rights established by Ireland's equality legislation.*

Aderonke Razaq was dismissed by her employers, Campbell Catering, for allegedly stealing three bananas. In a case supported by the Equality Authority, the Labour Court found that the decision to dismiss her was discriminatory on the ground of race, that she did not steal the bananas and could not reasonably be accused of having done so. The case established a new precedent as the Court identified a positive duty for employers to take account of the practical implications of cultural and linguistic diversity in the design and development of their disciplinary procedures. These considerations should apply to all workplace policies and procedures.

### A BROAD MANDATE FOR ACTION

The case was taken under Ireland's Employment Equality Act, which prohibits discrimination in the workplace across nine grounds: gender, marital status, age, disability, sexual orientation, family status, race, religion and membership of Traveller community. The Act established the Equality Authority with a broad mandate to promote equality of opportunity and combat discrimination in these nine areas. It also established an Equality Tribunal as

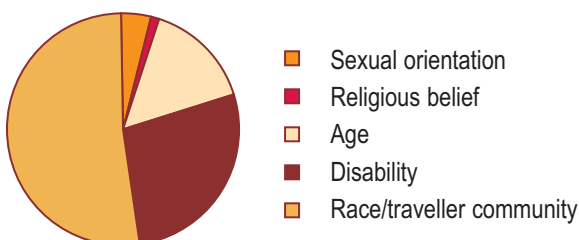
the quasi-judicial body to mediate or investigate, hear and decide on claims under the legislation. The mandate of both bodies was extended by the Equal Status Act, which prohibits discrimination in the provision of goods and services, accommodation and educational establishments.

Another Equality Authority-backed case that made national headlines related to insurance provision. Jim Ross was 76 and had seven years' no-claims bonus on his motor insurance. But Royal and Sun Alliance refused to give him an insurance quote because he was over 70. The Equality Tribunal found in his favour - the refusal of a quotation on the sole basis of his age without taking account of his particular circumstances was unacceptable.

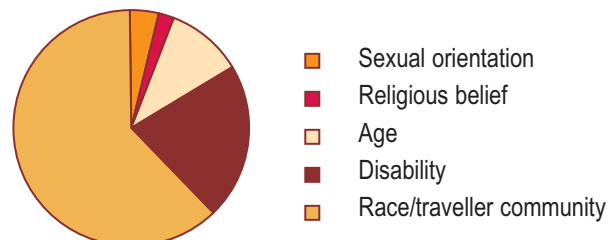
### MANY TRAVELLERS STILL DENIED ACCESS TO GOODS AND SERVICES

Overall, cases against public houses have been the largest area of casework under the Equal Status Act, followed by those against schools and educational establishments. Casework against government departments and agencies has also been prominent.

**Casework activity in 2003 under Employment Equality Act**



**Casework activity in 2003 under Equal Status Act**



Current Authority casefiles under this Act show the Traveller ground as the largest (33% of cases) followed by disability (25%) and race (12%).

Cases on sexual orientation under both Acts remain low. In one important settlement involving the Equality Authority, the Department of Social and Family Affairs conceded that its refusal to provide a free travel pass to the partner of a gay older man was discriminatory under the Equal Status Act - given that it provided similar passes to cohabiting heterosexual partners. This important advance in the recognition of gay and lesbian partnership rights was later reversed, however, when the Department introduced legislation to allow the discrimination to continue.

The patterns emerging from current cases under the Employment Equality Act are different. The dominant ground here is race, which accounts for 44% of files. Gender accounts for 18.5%, disability for 11% and age 9%. The main issues brought forward relate to discrimination in working conditions, access to employment, dismissal and (sexual) harassment.

## CASES SHOULD HAVE A 'RIPPLE' EFFECT

The Equality Authority provides legal advice and representation in cases of strategic importance - with a ripple effect beyond the individual complainant. As such, it has been keen to promote existing as well as new sources of support for claimants taking cases under the legislation. Advocacy by trade unions has a long tradition, while action by local community groups is also emerging. New resources are required to allow these roles to be fully developed.

FOR FURTHER INFORMATION SEE:

[www.equality.ie](http://www.equality.ie)

## SANCTIONS AND REMEDIES: WHAT ARE THE UPPER LIMITS?

According to the Race and Employment Equality Directives, the sanctions applied in cases of rights violation must be "effective, proportionate and dissuasive" (Articles 15 and 17 respectively). But what does this mean and what are the implications for Member States who are required to lay down the rules on sanctions?

To clarify the issue, the European network of legal experts, supported under the Community Action Programme to combat discrimination, has been commissioned to undertake a study on national sanctions and remedies. Particular focus is being given to the issue of upper limits of compensation to victims of discrimination. The study will look at how the right to an effective remedy has been developed within Community law, both generally and specifically in relation to sex discrimination. It will also look at the broader background of international human rights. The resulting report will attempt to draw conclusions on sanctions and remedies under the Race and Employment Equality Directives.

The network of legal experts is managed by the Human European Consultancy in partnership with the Migration Policy Group.

FOR FURTHER INFORMATION PLEASE SEE:

[www.humanconsultancy.com](http://www.humanconsultancy.com) and [www.migpolgroup.com](http://www.migpolgroup.com)

European Commission

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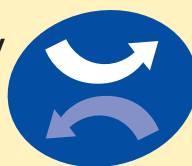
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For Diversity



Against Discrimination

'Equal Rights in Practice: Key voices 2005' is published under the Community Action Programme to combat discrimination 2001-2006. This programme was established by the European Commission's Directorate-General for Employment, Social Affairs and Equal Opportunities as a pragmatic support to ensuring effective implementation of the two Directives on 'Race' and 'Equal treatment in the workplace' (2000) emanating from Article 13 of the Amsterdam Treaty. The six-year Programme primarily targets all stakeholders capable of exerting influence towards the development of appropriate and effective anti-discrimination legislation and policies across the EU-25, EFTA and the EU candidate countries.

The action programme has three main objectives. These are:

1. To improve understanding of issues related to discrimination
2. To develop the capacity to tackle discrimination effectively
3. To promote the values underlying the fight against discrimination

As such activities funded under the Programme analyse and evaluate, develop and raise awareness of measures that combat discrimination on the grounds of race or ethnic origin, religion or belief, disability, age and sexual orientation.

[http://www.europa.eu.int/comm/employment\\_social/fundamental\\_rights/index\\_en.htm](http://www.europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm)

Discrimination on the grounds of gender is dealt with under separate legislative instruments. For more information on Community policies, legislation and activities on gender discrimination, please contact the Unit for Gender Equality within DG Employment, Social Affairs and Equal Opportunities.

[http://www.europa.eu.int/comm/employment\\_social/equ\\_opp/index\\_en.htm](http://www.europa.eu.int/comm/employment_social/equ_opp/index_en.htm)

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