

**Addressing community cohesion: Good practice in equalities legislation at the local and regional level, with particular emphasis on deprived, rundown areas**

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**It does not represent the official views of the Committee of the Regions.**

## Abbreviations

CoE	Council of Europe
CoR	Committee of the Regions
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECRI	European Commission against Racism and Intolerance
ENAR	European Network against Racism
EQUINET	European Network of Equality Bodies
ERDF	European Regional Development Fund
ESF	European Social Fund
ETC	Dutch Equal Treatment Commission
GETA	Dutch General Equal Treatment Act
LRAs	Local and regional authorities
OMC	Open Method of Coordination
TEU	Treaty on European Union
UNAR	Italian Office against Racial Discrimination

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## Introduction

The turn of the 20th century was hallmarked by two major concerns at the European level. On the one hand, there emerged a growing awareness of the necessity to ensure the long-term competitiveness of the European Union by stronger economic cooperation between Member States. During the European Council meeting of March 2000, political leaders reached a landmark agreement, the so-called Lisbon Strategy with the objective to make the European Union the world's economic front-runner. In order to achieve this goal, the development of human capital and the better involvement of economically inactive people in the labour market were identified as core elements of the adopted strategy.<sup>1</sup>

The other major preoccupation of European policy-makers was that a purely economic integration could go against the human rights considerations of Member States and their efforts to promote equality between the citizens. These concerns left their fingerprints on the debates surrounding the reforms of the European Union over the years.

The need of adopting a genuine equality promotion and anti-discrimination policy on European level was accentuated by the ever-increasing influx of immigrants to the continent. Further, the upcoming Eastern enlargement presented an unprecedented challenge for the European Union in terms of cultural and language diversity as well as economic disparities between the different European territories and regions.

Although the promotion of equality and the fight against discrimination have been present on the Community's agenda ever since its foundation, until the end of the '90s the EU's powers were limited to combating sex discrimination in the workplace. Finally, the amendment of the EC Treaty in Amsterdam paved the way for a genuine and broadly-defined anti-discrimination policy at the European level. Acting on the basis of this Treaty amendment, the European Union adopted two ground-breaking Directives in 2000<sup>2</sup>, which were followed by a series of amendments of the European gender equality legislation.

When it comes to the implementation of the aforementioned Directives, local and regional authorities (LRAs) have a key role to play. This is mainly because in most of the areas regulated by the Equality Directives, sub-national authorities act as a regulator or implementer of Community law. The delivery of the major part of public services in the fields such as education, social security, healthcare, housing or access to goods and services fall within their remit. Further, sub-national governments are well-placed to take action against problems such as segregation, structural discrimination or spatial inequalities. As a consequence, the appropriate implementation of the Community's anti-discrimination policy is highly dependent on their knowledge of equality legislation and policies.

The overall objective of the current paper is to contribute to the better understanding of how the local and regional actors can tackle discrimination and emerging socio-spatial inequalities.

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<sup>1</sup> Strategic report on the renewed Lisbon strategy for growth and jobs: launching the new cycle (2008-2010): Keeping up the pace of change; COM(2007) 803, Final, p.11.

<sup>2</sup> The Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC).

The assessment of the role of local and regional governments in the fight against discrimination and in equality promotion will, therefore, play a central part in the study.

It is, however, beyond the scope of this work to provide an in-depth analysis on the sources of non-discrimination law or the various grounds of differential treatment. These issues are well covered by existing reports and manuals.<sup>3</sup>

In chapter one the study will reflect on the existing European legislative and political framework regarding to the issue of non-discrimination and equality promotion. This part will discuss the role of sub-national authorities in the fight against discrimination as well as the EU funding available for equality promotion.

The study then goes on to analyse national measures taken in order to comply with the requirements of Equality Directives (chapter two). The study provides a brief analysis on the transposition of EU legislation in all the 27 Member States, with special attention to the role played by LRAs in tackling anti-discrimination and promoting equal opportunities.

Chapter three will present a number of good practices seeking to combat discrimination at the sub-national level. Finally, chapter four aims to provide a toolkit for decision-makers on local and regional level, helping them to take full account of the importance of non-discrimination throughout their policies.

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<sup>3</sup> See, especially the reports, manuals and studies published by the European Commission on the Europa website: [http://ec.europa.eu/employment\\_social/fundamental\\_rights/public/pubst\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm); a very comprehensive analysis on non-discrimination law is given by: Schiek, D. - Waddington, L. – Bell, M. eds. [2007]: *Cases, Materials and Text on National, Supranational and International Non-Discrimination Law* (Oxford, Hart Publishing), pp. 998.





# **1. Non-discrimination and equality at the European, national and sub-national level**

## 1.1 Equality and non-discrimination law in the European Union

### 1.1.1 An overview of European non-discrimination law

As early as 1957, the principle of equality between men and women appeared in the primary Community legislation. Article 141 (ex Article 119) of the Treaty of Rome laid down the principle of non-discrimination between men and women, enshrining equal pay for equal work.<sup>4</sup>

Acting on the basis of this provision, a number of legislative instruments were adopted by the Community as from the mid '70s, ensuring equality treatment between women and men in matters of employment and occupation. The most significant of them, Directive 76/207/EEC established the principle of equal treatment between men and women with regard to access to employment, vocational training, promotion and working conditions.<sup>5</sup>

Already in its early case-law, the European Court of Justice interpreted dynamically the provisions of the European anti-discrimination legislation and it proved to be the motor of integration in respect of gender equality over the decades. The jurisprudence developed by the ECJ has been serving as a major point of reference in the interpretation of related Community provisions.<sup>6</sup>

However, it was not until the late '90s that the Community could finally break out of the "straitjacket of the workplace"<sup>7</sup> in the promotion of gender equality. Following the adoption of the Treaty of Amsterdam in 1997, the Community gained competence to promote gender equality beyond the matters of employment and was empowered to adopt measures in the fight against differential treatment on grounds other than sex discrimination.

Article 13 of the EC Treaty as amended by the Treaty of Amsterdam reads as follows:

"Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."<sup>8</sup>

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<sup>4</sup> Article 141 of the EC Treaty provides that "Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied."

<sup>5</sup> Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

<sup>6</sup> See, e.g.: Ellis, Evelyn [2005]: *EU Anti-Discrimination Law* (Oxford, Oxford University Press), pp. 460.

<sup>7</sup> Masselot, Annick [2007]: *The State of Gender Equality Law in the European Union*, (in: *European Law Journal*, Vol. 13, no. 2), p. 154.

<sup>8</sup> A very extensive analyse on Article 13 EC is given by: Dubout, Edouard [2006]: *L'article 13 du Traité CE : la clause communautaire de lutte contre les discriminations* (Bruylant, Bruxelles), 845. pp.

Unlike the major international human rights instruments, such as the European Convention on Human Rights (ECHR)<sup>9</sup> or the International Covenant on Civil and Political Rights (ICCPR), Article 13 provides for an exhaustive (closed) list of prohibited discrimination grounds. In virtue of this provision, the Community can adopt legislation in order to fight against discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The article does not guarantee, however, a right not to be discriminated against, but it only allows the Union to take action to combat discrimination in the fields listed in the article.

The first Directive adopted on the basis of the above-cited provision was the Racial Equality Directive.<sup>10</sup> The Directive bans discrimination on the grounds of racial or ethnic origin in areas such as employment, vocational training, education, social protection, social advantages and access to goods and services, including housing.

The second Directive, the so-called Employment Equality Directive<sup>11</sup> forbids discrimination on the bases of religion or belief, disability, age or sexual orientation. The material scope of the latter Directive is more restrictive than that of the Racial Equality Directive, since it applies only in respect of employment and vocational training, and does not include the matters of social protection, education, access to and supply of goods and services available to the public.

As regards sex discrimination, equal treatment between men and women concerning access to employment or vocational training was substantially amended in 2002.<sup>12</sup> Directive 2002/73/EC modified the prior EU legislation in line with the two Equality Directives and the jurisprudence of the European Court of Justice.

Subsequently, the Goods and Services Directive was adopted, which broadened gender equality legislation beyond the employment field.<sup>13</sup> In accordance with the Racial Equality Directive, it provided for the prohibition of discrimination in the access of goods and services available to the public.

The so-called Recast Directive (2006/54/EC) significantly amends legislation on gender equality in employment so as to incorporate the more recent jurisdiction of the ECJ and to amalgamate in a single piece of legislation the provisions of a number of EU Directives related to the subject matter<sup>14</sup>. The deadline of its transposition expires in August 2008 which,

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<sup>9</sup> See, Article 14 and Article 1 of Protocol no. 12 of the Convention. Whilst the Article 14 can be invoked uniquely in relation to other provisions of the Convention, Protocol no. 12 contains a free-standing anti-discrimination clause.

<sup>10</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>11</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

<sup>12</sup> Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

<sup>13</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

<sup>14</sup> Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

if the conditions provided for by the Directive are met, can be subject to extension with one further year. The Directive will repeal previous legislation on gender equality in employment<sup>15</sup>, but is not going to affect the Goods and Services Directive.

The entry into force of the Lisbon Treaty would certainly mean a leap forward towards a fully-fledged protection against discrimination at European level. The Charter of Fundamental Rights Charter in its Article 21 provides for the prohibition of discrimination on a wide-ranging basis, such as "sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation."<sup>16</sup> This provision – contrary to the currently existing anti-discrimination legislation – provides for an open-ended list of prohibited grounds. Following the entry into force of the Lisbon Treaty, the Charter will have binding force on European institutions and national authorities when applying Community law.

Community anti-discrimination law will, hopefully, prove to be an excellent complementary of the Council of Europe and other international instruments. In order to avoid the parallel human rights protection, the case-law of the European Convention on Human Rights will serve as a major reference for the interpretation of the Charter provisions.<sup>17</sup>

### 1.1.2 The concept of discrimination under the Equality Directives

According to the Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC), the concept of discrimination encompasses the following forms of behaviour: direct and indirect discrimination, harassment, incitement to the above forms of discrimination, and victimisation.

Direct discrimination is the most apparent form of discrimination. The Directives define it as a circumstance in which "one person is treated less favourably than another is, has been or would be treated in a comparable situation".

Indirect discrimination occurs when a prima facie neutral measure puts at a particular disadvantage a group of persons on a ground listed in the Directives, unless the measure can be objectively justified with a lawful aim, and if the means of implementing this aim are appropriate and necessary. To put it in another way, indirect discrimination arises when the measures applied in themselves are neutral, i.e. apparently not discriminative, but are liable to actually or potentially place certain groups in a disadvantaged situation compared to others.<sup>18</sup>

Harassment qualifies as discrimination when any form of unwanted verbal, non-verbal or physical conduct connected to racial or ethnic origin occurs with the purpose or effect of

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<sup>15</sup> Amongst others, Directive 76/207/EEC as amended by Directive 2002/73/EC.

<sup>16</sup> Charter of Fundamental Rights of the European Union (2000/C 364/01).

<sup>17</sup> See, especially: Explanations relating to the Charter of Fundamental Rights (2007/C 303/02).

<sup>18</sup> In its practice on gender discrimination, the European Court of Justice initially demanded statistical evidence of the substantially higher proportion of members of one sex being disadvantaged. Later on, its approach became more flexible – at present it is sufficient that the given provision is intrinsically liable to disadvantageously affect a given sphere of people. See: O'Flynn v. Adjudication Officer (1996) Case C-237/94 ECR I-2617.

violating the dignity of a person, and creating an intimidating, hostile, degrading, humiliating or offensive environment.

The Directives further prohibit victimisation, i.e. disadvantaging somebody who made a complaint or launched a procedure on the grounds of violating the principle of equal treatment. This measure is of key importance in terms of rights enforcement.

Further, Race Directive obliges Member States to establish an equality body responsible for promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin.<sup>19</sup>

As far as positive actions are concerned, EU law does not confer an obligation upon the States to promote equality on the grounds listed in the Directives. National governments are, however, allowed to take positive measures in order to prevent or compensate for disadvantages linked to racial or ethnic origin, religion or belief, disability, age or sexual orientation.

## 1.2 The concept of deprived, rundown areas

The concept of deprivation refers to poor living conditions which are brought about by a series of factors such as low income, social distress or the lack of cultural facilities. People barred from economic, social or cultural facilities are especially exposed to discrimination and social exclusion which are of special concern to policy-makers at the European, national as well as sub-national level.

As Hardiman and Jones put it: "[there is] a broad consensus that a complex combination of economic, social and environmental factors in specific urban areas creates negative spirals of deprivation and exclusion [...]. In other words, when a series of individual or sectoral problems are concentrated in particular communities and places they reinforce each other in a negative way."<sup>20</sup>

Deprived areas, therefore, can be defined as neighbourhoods in which economic, social, and environmental problems are concentrated. The term "rundown" is more restrictive, since it refers chiefly to the physical facet of disadvantages, such as bad housing conditions in a given area.

However, the disregard of complex interrelationships between physical, economic and social factors can provide the opposite impact of what is intended by a policy or project<sup>21</sup>. Therefore, it is highly desirable that sectoral policies and measures be coordinated and the emerging socio-economic problems be tackled by an integrated, instead of a piecemeal approach.<sup>22</sup>

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<sup>19</sup> Article 13 of the Directive.

<sup>20</sup> Hardiman, Paul Soto et al. [2004]: Youth and exclusion in disadvantaged urban areas: addressing the causes of violence (series: Trends in social cohesion, No. 8, Council of Europe Publishing) , 18. p.

<sup>21</sup> Hardiman, Paul Soto et al., op. cit., 27. p.

<sup>22</sup> For an in-depth analyse of the way in which factors such as gender, age, ethnicity and social exclusion are interconnected, see: Fagan, Colette et al. [2006]: Gender inequalities in the risks of poverty and social exclusion for disadvantaged groups in thirty European countries, European Commission report.

Due to the inter-connected nature of the different aspects of disadvantages, we are not going to set apart these. As we will see in the following chapters, the European Union also took an integrated approach in order to promote social and economic integration of those affected by poverty or discrimination.

## 1.3 Anti-discrimination from the perspective of sub-national authorities

### 1.3.1 The role of LRAs in combating discrimination

It is a commonplace that the increasing heterogeneity of our society in terms of ethnic or religious background is concomitant with the emergence of individualism and the weakening of social cohesion. Urban areas tend to be places associated with rising economic, social and spatial imbalances which provoke tensions between local communities and can lead to the isolation of certain groups of people from other ones.

On a general basis, immigrants, ageing people or the disabled give the poorest strata of local societies who are liable to be concentrated in run-down districts of metropolitan areas. This provides us a good example to the way in which a territorial disadvantage (deprived area) interrelates with a social status (excluded people) or racial origin (ethnic minority).

Due to the increasing diversity of interests of the people living on a state's territory, it is more and more difficult for the central authorities to accommodate the aspirations of citizens. These tendencies brought about a series of fundamental changes in the state organisation and contributed to a great extent to the progressive decentralisation of public administration.

As a result of the abovementioned changes, local and regional governments are more apt to capture the different local communities' endeavours and can serve as a net for different social identities. Further, most of the issues directly related to the European citizens' daily life such as the education, health, environment or housing fall largely within the remit of local authorities.

Therefore, when perceiving discrimination between citizens, local governments are well placed to take immediate and appropriate action. Authorities at the grassroots level are also key channels for addressing entrenched structural inequalities in local societies.

As a result, the efficiency and effectiveness of the promoting social integration and the elimination of discrimination depend in a high degree on the involvement of infra-national authorities in the formulation of long-term equality policies.

### 1.3.2 Documents addressing the role of LRAs

In this chapter, we are going to explore the documents that have addressed the importance of combating discrimination at the regional and local level. First, the relevant instruments of the European bodies will be discussed, followed by the analysis of the documents adopted within the Council of Europe.

Adopted in 2004 by the European Commission, the Green Paper on Equality and non-discrimination identified regional and local authorities as key partners in the EU's non-

discrimination and equal treatment agenda. According to the paper, local and regional authorities – due to their role as employers and service providers – are well-placed to raise public awareness and to encourage dialogue with local communities.<sup>23</sup>

The Committee of the Regions (CoR) played an important role in addressing the importance of equality policies at the sub-national level. In an opinion given on the Commission's framework strategy on non-discrimination and equal opportunities, the CoR highlighted the importance of mainstreaming equality in all public policies.<sup>24</sup>

In its opinion delivered on the European Parliament Resolution on Protection of Minorities and Anti-Discrimination Policies, the CoR stressed the need of establishing regional and local non-discrimination bureaus responsible for monitoring complaints on discriminatory practices. The document also emphasised the significance of giving minority communities access to public services and housing, as well as their involvement in the public decision-making at the local and regional level.<sup>25</sup>

As far as the Council of Europe is concerned, the Convention on the Participation of Foreigners in Public Life at Local Level should be mentioned first.<sup>26</sup> Adopted in 1992 under the auspices of the CoE, the Convention provides for, inter alia, the inclusion of migrants in the local public decision-making. However, the impact of the Convention remains limited due to the small number of ratifications.<sup>27</sup>

A number of documents adopted within the Congress of Local and Regional Authorities also aimed at promoting equality at sub-national level. These included soft-law instruments such as the recommendation on gender mainstreaming at local and regional level<sup>28</sup> or the recommendation on the integration of people of immigrant origin in European cities, towns and regions.<sup>29</sup>

European associations have likewise called upon the importance of tackling discrimination and promoting equality at the local and regional level. We should refer here to the documents

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<sup>23</sup> Equality and non-discrimination in an enlarged European Union [2004] – Green Paper, p. 27.

<sup>24</sup> CdR 226/2005 Opinion of the Committee of the Regions of 16 November 2005 on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions Non-discrimination and equal opportunities for all - A framework strategy COM(2005) 224 final; Proposal for a Decision of the European Parliament and the Council on the European Year of Equal Opportunities for All (2007) Towards a Just Society COM(2005) 225 final - 2005/0107 (COD).

<sup>25</sup> CdR 53/2006, Opinion of the Committee of the Regions of 15 June 2006 on the European Parliament Resolution on Protection of Minorities and Anti-Discrimination Policies in an Enlarged Europe.

<sup>26</sup> Convention on the Participation of Foreigners in Public Life at Local Level (CETS No.: 144).

<sup>27</sup> As at 7 April 2008, only eight Council of Europe members have ratified the Treaty.

<sup>28</sup> Recommendation 148 of the Congress of Local and Regional Authorities of the Council of Europe on gender mainstreaming at local and regional level: a strategy to promote equality between women and men in cities and regions.

<sup>29</sup> Recommendation 153 (2004)1 on “A pact for the integration and participation of people of immigrant origin in Europe’s towns, cities and regions”.



published by the Assembly of European Regions (AER)<sup>30</sup> and the Council of European Municipalities and Regions (CEMR) on equal opportunities for men and women.<sup>31</sup>

## 1.4 The EU as a promoter of equality on local and regional level

When talking about the relationship of the European Union and the sub-national authorities, the principle of subsidiarity is the first thing that comes to our mind. Following the adoption of the Maastricht Treaty, the principle was explicitly recognised for the first time in the primary legislation. The current Article A, par. 2 of the Treaty on European Union (TEU) stipulates that: "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen."

By advocating that decisions are taken as closely as possible to the citizens, this article could be interpreted as an EU requirement that the principle of subsidiarity be applied domestically. However, all other references in the TEU make it clear that European law is principally concerned with subsidiarity between the EU and Member States.<sup>32</sup> On a legal plane, the allocation and distribution of powers is therefore a domestic and not a Community matter.

The Lisbon Treaty would certainly bring fundamental changes in this regard. The negative outcome of the Irish referendum, however, questions whether the Treaty will ever enter into force. In virtue of the Reform Treaty, the principle of subsidiarity would gain a legal significance in the relationship of the EU, national states and sub-national level of governments.<sup>33</sup> Further, the competence of the Committee of the Regions would be enlarged so as to be empowered to bring a procedure before the European Court of Justice if a proposed legislation does not respect the subsidiarity clause.<sup>34</sup>

Even if the powers of the Community are currently limited, the European Union has a number of economic instruments at its disposal to promote equality at the sub-national level. For instance, under the decision establishing the EU Programme, Progress regional and local authorities are explicitly mentioned as eligible for funding (for further detail, see the following chapters).

Furthermore, in a European arena horizontal cooperation of local and regional authorities – through networking or best practice sharing – gained a special significance. The Committee

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<sup>30</sup> See, amongst others, the Manifesto of Catalonia (2002), Declarations of Venice (2003), Kiruna (2006) and Timisoara (2007).

<sup>31</sup> See, the joint guidelines of the European Federation of Public Service Unions and Council of European Municipalities and Regions to drawing up gender equality action plans in local and regional government, adopted on 14 December 2007.

<sup>32</sup> Bernard, Nicholas [1999]: *Decentralized Government and Subsidiarity* (in: Kirchner, Emil J. [ed]: *Decentralization and Transition in the Visegrad; Poland, Hungary, the Czech Republic and Slovakia*, Macmillan), p. 35.

<sup>33</sup> Article 5, par. 3 of the Treaty on European Union as amended by the Treaty of Lisbon provides that : "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, *either at central level or at regional and local level*, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level" [emphasis added].

<sup>34</sup> Article 8 of Protocol on the Application of the Principles of Subsidiarity and Proportionality, Treaty of Lisbon.

of the Regions, ever since its conception, has been serving as a forum for these initiatives. Through the dissemination of information or awareness raising it has already made valuable contributions to the eradication of discrimination at local and regional level.<sup>35</sup>

#### 1.4.1 European funding available for the promotion of equality

The European Union has allocated considerable amount of financial resources for the promotion of social inclusion and equal opportunities and the fight against discrimination. Two EU programmes, so-called Community Initiatives merit special attention in this context.

The URBAN Community Initiative aimed at assisting urban areas in crisis, by the means of promoting physical and environmental regeneration, and by facilitating social inclusion of people living in deprived, rundown areas.

Due to its integrated approach, Urban could cover a broad range of issues of urban life such as the organisation of cultural activities, the refurbishment of buildings, the delivery of new local public services etc.<sup>36</sup> The development of an anti-exclusion and anti-discrimination strategy through actions furthering equal opportunities was a distinct priority of the initiative.<sup>37</sup>

The other Community initiative, EQUAL was drawn up with the aim of eradicating discrimination in the workplace and in the access to employment. This Community instrument played a pivotal role in investigating different best practices in the field of anti-discrimination policy and sharing them at European level.

Following the recent reforms of European cohesion policy, Urban and EQUAL were entirely integrated in the operational programmes of the Member States. Yet, the experience and strengths of the abovementioned instruments were fully taken into account when formulating the new cohesion policy.<sup>38</sup>

In the programming period 2007-2013, the promotion of gender equality and the combat against discrimination were introduced as new intervention principles of the Community's regional policy. In the Preamble of the General Regulation the elimination of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation appears as a general goal of the EU's regional policy.<sup>39</sup> A separate article is devoted in the

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<sup>35</sup> See, for example, the document prepared jointly by the Committee of the Regions and the Fundamental Rights Agency: Community cohesion at local level: addressing the needs of Muslim Communities; Examples of local initiatives, March 2008.

<sup>36</sup> Partnership with the Cities, The URBAN Community Initiative (European Commission, 2003).

<sup>37</sup> Communication from the Commission to the Member States of 28 April 2000 laying down guidelines for a Community Initiative concerning economic and social regeneration of cities and of neighbourhoods in crisis in order to promote sustainable urban development URBAN II, p. 5. An impact assessment of the program on gender mainstreaming is provided by: Bauer, Uta – Bock, Stephanie – Wohltmann, Heike [2007]: Vergleichende Wirkungsanalyse zur Umsetzung von Gender Mainstreaming im EU-Programm URBAN II (Raumforschung und Raumordnung, 65,2), 146-158. pp.

<sup>38</sup> See, Recital 9 of the Preamble to the ERDF Regulation (EC Regulation n°1080/2006) and Recital 6 of the Preamble to the ESF Regulation (EC Regulation No. 1081/2006).

<sup>39</sup> Recital 30 of the Preamble to EC Regulation n°1083/2006.

operative part of the same Regulation to the promotion of equality between men and women.<sup>40</sup>

As a result, whilst combating discrimination on grounds other than sex discrimination is merely an objective, a principle of the European cohesion policy, gender mainstreaming and the promotion of gender equality appear as an obligation incumbent upon national authorities during the various phases of implementation of the Structural Funds.

As regards the specific pieces of legislation on the European funds, non-discrimination clauses similar to that in the General Regulation can be found in the Regulation on the European Regional Development Fund (ERDF) and on European Social Fund (ESF).<sup>41</sup>

Built on the experiences of the URBAN initiative, the ERDF is going to provide financial support to areas facing economic, environmental or social crisis. Similarly, the ESF will carry on actions having previously been covered by the EQUAL initiative.

Being the main European instrument for funding the objectives set out in the guidelines and recommendations under the European Employment Strategy<sup>42</sup>, the ESF has certainly an essential part to play in combating discrimination and the better involvement of those disadvantaged in the labour market.<sup>43</sup>

#### 1.4.2 Specific Community actions

In the recent years, the EU made great efforts to promote equal opportunities and to tackle anti-discrimination by specific actions.

In the previous programming period, an instrument known as "Community Action Programme (2001-2006)" was dedicated to promoting a better understanding of the nature of exclusion, developing human capacities to combat discrimination, exchanging experiences, disseminating good practices in the field.<sup>44</sup> Similar objectives were pursued by the European Year of Equal Opportunities in 2007, for which a significant amount of money was earmarked by the European Union.<sup>45</sup>

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<sup>40</sup> See, Article 16 of the Regulation (EC) n°1083/2006.

<sup>41</sup> Regulation on the European Regional Development Fund and in the Regulation on the European Social Fund. For instance, Recital 8 of the ERDF Regulation stipulates the following: "The Member States and the Commission should ensure that there is no discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the operational programmes co-financed by the ERDF".

<sup>42</sup> Social inclusion and the combat against discrimination appear in most of the documents adopted within the European Employment Strategy. For more details, see the Europa website:  
[http://ec.europa.eu/employment\\_social/employment\\_strategy/index\\_en.htm](http://ec.europa.eu/employment_social/employment_strategy/index_en.htm).

<sup>43</sup> Further, when allocating European funds national authorities should pursue the objectives of the Community as is defined in the different European documents such as the European Employment Strategy or the Lisbon Strategy. According to the intervention principle of additionality, structural funds must not substitute national spending and national authorities are under the obligation to pursue the objectives of the European Community when allocation the EU funds.

<sup>44</sup> 2000/750/EC: Council Decision of 27 November 2000 establishing a Community action programme to combat discrimination (2001 to 2006).

<sup>45</sup> More detail is given by the Europa website: [http://ec.europa.eu/employment\\_social/eyeq/index.cfm](http://ec.europa.eu/employment_social/eyeq/index.cfm).

The recently adopted EU Programme, Progress can be taken as a Community action complementary to those provided by the European Social Fund. Progress was drawn up with the aim of supporting the implementation of EU targets in the fields of employment and social affairs in the period 2007-2013.<sup>46</sup> The endorsement of gender equality, the mainstreaming of the principle of non-discrimination in all European policies, the promotion of social inclusion appear amongst the key objectives of the programme.

To sum up, European financial support for equality-related projects is available from two different sources. First, funding is accessible through the operational programmes of the Member States supported by the Structural Funds of the European Union. Besides the latter, actions aiming at the promotion of equality are covered by specific EU programmes, such as Progress.

### 1.4.3 Major European bodies in the field of anti-discrimination

The European Union set up two different agencies with the aim of providing technical assistance to the institutions and bodies of the Community and its Member States in matters of fundamental rights and gender equality respectively.

Built on the foundations of the European Monitoring Centre on Racism and Xenophobia (EUMC), the Fundamental Rights Agency has as its task to collect and analyse reliable data and to give advice to EU institutions and Member States in fundamental rights issues.<sup>47</sup> The Agency can, accordingly, carry out scientific researches, surveys and studies either on its own initiative or at the request of the European Parliament, the Council or the Commission. Nevertheless, the Agency is not entrusted to examine individual complaints.<sup>48</sup>

Established in 2006 in Vilnius, Lithuania, the European Institute for Gender Equality supports European and national policy-makers in the promotion of gender equality policies and in the fight against sex discrimination.<sup>49</sup>

Under the aegis of the Council of Europe, the European Court of Human Rights is empowered to scrutinize on an individual basis discriminatory practices in relation to one of the rights guaranteed under the European Convention on Human Rights<sup>50</sup> or in relation to any rights conferred to individuals in virtue of national provisions.<sup>51</sup>

The examination of discriminatory measures in the fields of economic and social rights, as guaranteed by one of the major Council of Europe treaties<sup>52</sup>, falls within the competence of

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<sup>46</sup> For further details on the programme, see the Europa website:  
[http://ec.europa.eu/employment\\_social/progress/index\\_en.htm](http://ec.europa.eu/employment_social/progress/index_en.htm).

<sup>47</sup> Council Regulation (EC) No. 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights.

<sup>48</sup> For further details, see the Fundamental Rights Agency's website: <http://fra.europa.eu/fra/index.php>.

<sup>49</sup> Regulation (EC) No 1922/2006 of 20 December 2006 on establishing a European Institute for Gender Equality.

<sup>50</sup> See, Article 14 of the European Convention on Human Rights.

<sup>51</sup> As provided for by Article 1 of Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No.: 177).

<sup>52</sup> European Social Charter (CETS No.: 035).

the European Committee of Social Rights. This body is responsible for supervising the reports submitted by member states and can assess collective complaints brought before it.<sup>53</sup>

Two other Council of Europe bodies have played a specifically important part in the shaping of equality policies in Europe. Whilst The European Commission against Racism and Intolerance (ECRI) has issued highly cited reports on the situation of racism and racial discrimination, the country reports of the Advisory Body of the Framework Convention on National Minorities are landmark in the interpretation of the rights of national minorities.<sup>54</sup>

A number of NGOs and associations have also provided valuable contribution to the development of the European non-discrimination law, such as the European Network of Equality Bodies (EQUINET), the European Network Against Racism (ENAR) or the Migration Policy Group.<sup>55</sup> The country reports published by ENAR and the Migration Policy Group greatly contributed to raising awareness across Europe on anti-discrimination issues. EQUINET played a major role in supporting the uniform implementation of EU anti-discrimination law by the promotion of co-operation and information exchange between European equality bodies.

## 1.5 The significance of EU equality and anti-discrimination policy

In the preceding chapters it was underlined that discrimination, unemployment, obsolete infrastructure are issues which are strongly inter-linked and mutually reinforcing in a negative way in the life of European citizens. A piece-meal fashion of tackling all these problems would, therefore, result in an improper public intervention.

As a consequence, the European Union addressed the abovementioned challenges by an integrated approach through its different political, economic instruments. Although economic and social policy falls primarily within the remit of Member States, the Community can influence national policies within the framework of the European Employment Strategy<sup>56</sup> and can promote equality at local level by various economic and political incentives.

It was also revealed that the purposes of eradicating discrimination and promoting equal rights and possibilities are twofold. On the one hand, discrimination and social exclusion goes against the values and rights enshrined in the *acquis communautaire*. On the other hand,

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<sup>53</sup> The European Social Charter guarantees rights such as the right to free primary and secondary education, right to social protection, right to employment, right to housing etc. The collective complaint procedure can be brought exclusively against those countries which ratified the Additional Protocol to the European Social Charter providing for a system of collective complaint (Council of Europe Treaty Series No. 158). For the moment only twelve countries joined the Protocol. A detailed analysis of the Charter is provided by: Swiatkowski, Andrzej [2007]: *Charter of Social Rights of the Council of Europe* (Kluwer Law International); or the following website: <http://www.humanrights.coe.int/cseweb/GB/index.htm>.

<sup>54</sup> A comprehensive analysis is given by: Weller, Marc ed. [2005]: *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities* (Oxford, Oxford University Press), 752. pp.

<sup>55</sup> For further details, see the following websites : <http://www.equineteurope.org/>; <http://www.enar-eu.org/>; <http://www.migpolgroup.com/>

<sup>56</sup> For an analysis of the so-called open method of coordination (OMC), see, inter alia: Overdevest, Christine [2002]: *The Open Method of Coordination, New Governance & Learning: Towards a Research Agenda* (New Governance Project Working Paper, University of Wisconsin).

the attainment of the employment targets as defined in Lisbon Strategy is conditional on the integration of communities facing social exclusion or systematic discrimination. The objectives of eliminating discrimination and making use of the benefits of diversity are core elements in the process of creating a more competitive European economy and society.

Being the major implementers of the anti-discrimination law, authorities at the grassroots and regional level have an important part to play in rendering the Directives effective in the life of European citizens. Consequently, it is essential that authorities use their discretion at the highest possible level to combat discrimination in their course of action.

As mentioned before, local and regional authorities in the EU Member States are well-placed to take steps against discriminatory practices. National governments are, therefore, strongly encouraged to disaggregate their respective anti-discrimination policies in such a way that sub-national actors can have their voice heard, and are able to play an active role in the shaping of national and sub-national anti-discrimination policies.

Further, the efficient implementation of Equality Directives is highly dependent on the institutional and financial capacity of local governments. It is, therefore, of fundamental importance that the decentralisation of powers from the central to the sub-national level be coupled with the allocation of sufficient financial resources.

## **2. Implementing EU Equality Directives in the 27 Member States**

## 2.1 Austria

According to the Austrian Constitution, state powers are divided between the Bund (Federation) and the Länder (federal states or provinces).<sup>57</sup> The distribution of powers in the fields directly affected by the EU Directives can be presented as follows: apart from some exceptions, labour law falls within the competence of the Federation<sup>58</sup>; legislation in respect of public servants of the nine provinces and of local authorities (regional public employment) rests exclusively within the competences of the Länder.<sup>59</sup> Legislative power regarding self-employment, education/training and workers (employers) are shared by the federal states and the Federation.<sup>60</sup>

Austria completed the transposition of non-discrimination Directives in 2006. The federal legal framework consists of general equal treatment legislation, specific legislation on people with disabilities and an act establishing equality bodies.<sup>61</sup>

As regards provincial legislation, by May 2006 all provinces enacted – within their sphere of competence – legislation implementing the Directives.<sup>62</sup> These laws provide for the prohibition of discrimination in respect of social security, social benefits and health, education and access to and supply with goods and services including housing.

It is important to note that in respect of important details of the legislation, such as protected grounds or victimisation, provincial laws contain a variety of different solutions, many of which go beyond the minimum requirements of the Directives.<sup>63</sup>

Austrian legislation allows for positive measures based on all protected grounds. Positive measures can be adopted, amongst others, in relation to recognised national minorities, disabled people and women.

As regards institutional arrangements, four equality bodies have been set up at the federal level, and separate specialised bodies exist in each province. The Act on the Equal Treatment Commission and the National Equality Body, adopted in 2005, set up two different equality organs.<sup>64</sup> In order to comply with the requirement set out in Article 13 of the Race Equality Directive, Austria extended the functions of the present Equal Treatment Commission and the Ombudsman for Equal Employment Opportunities to deal with all grounds mentioned in the Directives except disability. There is a separate Ombudsman for people with disabilities.

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<sup>57</sup> Schindlauer, Dieter [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Austria, State of affairs up to 8 January 2007.

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/arep07\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/arep07_en.pdf) (02/10/2007), p.2.

<sup>58</sup> Art. 10 par. 1 lit. 11 of the Federal Constitutional Law [Bundes-Verfassungsgesetz], B-VG.

<sup>59</sup> Art. 21 B-VG.

<sup>60</sup> Art. 10 – 15 B-VG.

<sup>61</sup> Achaleke, Beatrice – Inou, Simon [2006]: Racism in Austria, (ENAR Shadow Report), p. 3., at [http://cms.horus.be/files/99935/MediaArchive/national/Austria\\_2006.pdf](http://cms.horus.be/files/99935/MediaArchive/national/Austria_2006.pdf).

<sup>62</sup> The last piece of legislation that has been enacted is the Salzburg Equal Treatment Act, Provincial Law Gazette Nr. 31/2006, which entered into force on 1 May 2006.

<sup>63</sup> Achaleke, Beatrice – Inou, Simon op.cit., p. 23.

<sup>64</sup> Act on the Equal Treatment Commission and the Equal Treatment Office – ETC/O (Bundesgesetz über die Gleichbehandlungskommission und die Gleichbehandlungsanwaltschaft, BGBl. I Nr. 66/2004), both Federal Law Gazette I Nr. 66/2004 last amended by BGBl. I Nr. 82/2005.



All the Provinces established specialised bodies, each of them are in line with the requirements set out in the Race Equality Directive. In some regions (like Carinthia), one single specialised body exists, while in others (such as in Styria) a range of bodies have been installed. Their task is principally to provide individual counselling in the respective Province.<sup>65</sup>

## 2.2 Belgium

The implementation of the EU Directives is a sensitive and highly debated issue in Belgium. This is mainly because of the complexity of the distribution of powers between the different territorial units: the federal state, the regions and the communities. Whilst the central power is responsible for those matters having significance for the whole country (e.g. defence or foreign affairs), Communities have large autonomy in cultural and person-related matters such as health care, social policy, culture, education and language-use. Regional entities have jurisdiction over "space-bounded" questions such as economy, agriculture, environment, and infrastructure.<sup>66</sup>

As regards the areas regulated by the Directives, some of them are federal powers (e.g. criminalisation of discriminative acts); others fall within the remit of the Communities (e.g. education) or the Regions. Yet, federal government and Regions/Communities have shared responsibilities in some of the domains covered by the Directives (e.g. discrimination in the workplace).

As far as the federal level is concerned, following the adoption of the federal law on 10 May 2007, the provisions of the EU Directives were fully transposed into the Belgian national legislation. Regarding the grounds of discrimination prohibited, Belgian federal legislation goes far beyond the strict EU requirements, and provides for the prohibition of discrimination on the bases of age, sexual orientation, civil status, birth, property, religious or philosophical belief, political opinion, language, actual or future state of health, disability, physical characteristic, genetic characteristic, and social origin.

As regards equality bodies, a Centre for Equal Opportunities and Opposition to Racism was established at federal level in 1993, which is responsible for promoting equality and combating discrimination at local, regional and national level<sup>67</sup>. The centre carries out its task by the way of providing legal assistance for the victims of discrimination, monitoring the implementation of Belgian equality laws or training. The Centre also organises information campaigns aiming at raising awareness in anti-discrimination matters and publishes widely cited reports and studies on equality-related issues.<sup>68</sup>

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<sup>65</sup> Achaleke, Beatrice – Inou, Simon op.cit, pp. 43-44.

<sup>66</sup> Jacobs, Dirk ed. [1999]: Multicultural policies and modes of citizenship in Belgium: the Cases of Antwerp, Liège and Brussels (series: Multicultural Policies and Modes of Citizenship in European Cities, MOST – UNESCO, Université Libre de Bruxelles).

<sup>67</sup> Law of 15 February 1993 establishing the Centre for Equal Opportunities and the Fight Against Racism, as amended most recently by the Law of 10 May 2007.

<sup>68</sup> For further information see the agency's website <http://www.diversiteit.be>.

At the meso level, the German, French Communities as well as the Flemish Region/Community adopted different decrees in order to comply with the provisions of the Employment Equality Directive.<sup>69</sup>

Mention should also be made to the Ordinance adopted by the Region of Brussels-Capital on 26 June 2003, according to which public and private labour market intermediaries are obliged to respect a general requirement of non-discrimination.<sup>70</sup> In the Walloon Region, as well in the Region of Brussels-Capital, legislation has been adopted to ensure the accessibility of buildings for people with limited mobility.<sup>71</sup>

## 2.3 Bulgaria

Bulgaria transposed the Equality Directives into its national legislation by adopting the Law on Protection from Discrimination<sup>72</sup>, which entered into force in January 2004.<sup>73</sup>

The new non-discrimination law filled in the lacunae of the previous equality legislation, by providing definitions of "direct discrimination" or "harassment". In order to ensure the effectiveness of the equality legislation, the Law provides for administrative and civil remedies as well as mediation procedures for the victims of discrimination. The law bans discrimination in fields of education, training and employment.

In line with the provisions of the Racial Equality Directive, an equality body known as the Commission for Protection from Discrimination was set up in 2005. The Commission acts as an independent state body and is empowered to issue mandatory decisions for the prevention and eradication of discrimination. The Commission also initiated the establishment of regional offices so as to ensure that the anti-discrimination procedures are accessible to as many people as possible.<sup>74</sup>

Another agency, called the National Council for Cooperation on Ethnic and Demographic Issues serves as a consultative body for the Council of Ministers. The agency advises the Council of Ministers so as to guarantee that the principle of equality is taken into consideration in the state policies relating to ethnic and demographical issues.<sup>75</sup>

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<sup>69</sup> German-speaking Community: Decree of 17 May 2004 on the guarantee of equal treatment on the labour market; French-speaking Community: Decree of 19 May 2004 on the implementation of the principle of equal treatment; Flemish Region/Community: Decree of 8 May 2002 on proportionate participation in the employment market.

<sup>70</sup> De Schutter, Olivier [2007]: Report on Measures to Combat Discrimination (Directives 2000/43/EC and 2000/78/EC), Country report on Belgium, 10. p.

<sup>71</sup> Wallon Region: Code on the Land and Urban Planning adopted in 1984, modified recently by Decree of the Walloon Government of 25 January 2001; Region of Brussels-Capital: Regional Regulation on urbanism approved by the Decree of the Government of the Region of Brussels-Capital of 11 April 2003.

<sup>72</sup> Bulgaria/Komisiya za zashtita ot diskriminatsiya, Bulgaria/DV 8 6/2003 (30/09/2003), an English translation of the law is available on the following website: [http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/anti-discrimination\\_law\\_en.pdf](http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/anti-discrimination_law_en.pdf).

<sup>73</sup> For a more detailed analyse of the Bulgarian anti-discrimination legislation, see Ovcharov, Svilen [2006]: Racism in Bulgaria, (ENAR Shadow Report); [http://www.enar-eu.org/en/national/Bulgaria/Bulgaria\\_2006.pdf](http://www.enar-eu.org/en/national/Bulgaria/Bulgaria_2006.pdf)

<sup>74</sup> Ovcharov, Svilen [2006]: op. cit., 29. p.

<sup>75</sup> Council of Ministers Decree No. 333 of 10 December 2004.

Positive actions were also taken by the Bulgarian authorities with the objective of tackling discrimination and promoting equality. By way of example, a specific programme is devoted to the integration of Roma community living in Bulgaria.<sup>76</sup> The programme aims to provide a framework for local initiatives in the field of anti-discrimination so as to ensure full integration of the Roma into the Bulgarian society.

A Roadmap for equal opportunities for women and men was adopted by the Ministry of Labour and Social Policy. The action plan seeks to ensure that gender mainstreaming is duly considered in all relevant public policies at the national and sub-national level.<sup>77</sup>

## 2.4 Cyprus

Following the accession of Cyprus to the European Union, the already existing anti-discrimination legislation was amended in order to ensure the country's compliance with the Equality Directives. The newly adopted anti-discrimination laws, in most of the cases, follow the wording of the Community legislation.<sup>78</sup>

The grounds of discrimination prohibited by the anti-discrimination law are also in line with the European acquis, encompassing the bases of racial or ethnic origin, religion or belief, age, disability and sexual orientation.

Under Cypriot legislation positive action is permitted. On the basis of the equality law, the government of Cyprus set out several programmes and strategies, such as the national gender mainstreaming scheme, in order to ensure substantial equality of disadvantaged groups.<sup>79</sup>

Following the entry into force of the equalities legislation, the Ombudsman – who serves as an equality body in Cyprus – can investigate discrimination on all the grounds provided for by the anti-discrimination law. The Ombudsman is also responsible for promoting equality in the enjoyment of human rights and liberties, and can take all appropriate measures in order to ensure compliance with the national anti-discrimination legislation. He also drafts Codes of Practice and undertakes statistical or social surveys in matters falling within its jurisdiction.

Under the law of Cyprus, trade unions as well as the government are responsible for ensuring that employment contracts and collective employment agreements are in line with the national and European anti-discrimination provisions.

In order to ensure the effectiveness of the national anti-discrimination law, an Equality Committee has been established and so-called Equality Inspectors were nominated. Whilst the Committee is the advisory body to the Ministry of Labour and Social Insurance, the inspectors ensure the correct implementation of the legislation in the sphere of employment.<sup>80</sup>

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<sup>76</sup> National Programme for the improvement of the living conditions of Roma in the Republic of Bulgaria for the period of 2005-2015.

<sup>77</sup> The text is accessible in Bulgarian on the following website: [www.mlsp.government.bg](http://www.mlsp.government.bg).

<sup>78</sup> Information provided by the South Transdanubian Regional Development Agency, Hungary.

<sup>79</sup> Holtmaat, Rikki [2007]: Catalysts for Change? - Equality bodies according to Directive 2000/43/EC, (European Commission)

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/06catalyst\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/06catalyst_en.pdf) (01/09/2007).

<sup>80</sup> Information provided by the South Transdanubian Regional Development Agency.

As far as the sub-national authorities are concerned, they have no regulatory powers in this domain and are responsible only for the proper implementation of the anti-discrimination legislation.

## 2.5 Czech Republic

In the Czech Republic the provisions of the Equality Directives have been transposed into a wide range of legislative instruments. A general anti-discrimination clause can be found in the Charter of Fundamental Rights and Freedoms which, under the Czech legal system, is hierarchically superior to ordinary laws. The Charter lays down a general anti-discrimination principle which applies in respect of all fundamental rights and freedoms. Article 3 of the Charter contains an open-ended list of protected grounds, including sex, race, colour, language, religion or belief, political or other conviction, national or social origin, membership of a national or ethnic minority, property and birth or other status. It does not, however, prohibit expressly discrimination on the bases of sexual orientation, age and disability grounds. Under the jurisprudence of national courts, the grounds not explicitly included in the above-cited list are, nonetheless, covered by the category of "other status".<sup>81</sup>

Similar anti-discrimination clauses can be found scattered across various pieces of legislation, such as in the law governing employment and labour relations.<sup>82</sup>

Besides banning discrimination on a wide range of grounds, Czech legislation provides for positive actions as well. For instance, the Law on Employment<sup>83</sup> envisages the promotion of equality between groups of people having a disadvantaged position in the labour market. The law allows the Ministry of Labour and Social Affairs to adopt such measures.

Under the Czech national legislation, positive actions can also be taken in regard of people with disabilities. In pursuance of this objective, the State contributes to the accommodation of the disabled by paying allowances to those employers which provide work for a significant number of people falling within this category.<sup>84</sup>

Currently there is no separate equality body in the Czech Republic. The proposed Anti-discrimination Bill confers the power of combating discrimination, as required by the Race Equality Directive, to the already existing Public Defender of Rights (Ombudsman).

Given that local and regional level of governments have no legislative powers, their role in combating discrimination remains limited. However, sub-national authorities are more and more confronted with the problem of integrating immigrants. Local and regional authorities, therefore, strive to meet this problem by cooperating with each other and by laying down common programs in the field of immigration policy.

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<sup>81</sup> Boucková, Pavla [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report on the Czech Republic, State of affairs up to 8 January 2007, p. 2. [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/csrep07\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/csrep07_en.pdf).

<sup>82</sup> Labour Code, Law on Employment, Law on Service by Members of the Security Services.

<sup>83</sup> Law on Employment Section 2 Paragraph 1 j) and k).

<sup>84</sup> Boucková, Pavla op.cit., p. 12.

## 2.6 Denmark

In Denmark, a good deal of legislation had already existed before the harmonisation of anti-discrimination law at European level. Following the adoption of the Equality Directives, Danish national law was amended in accordance with European standards.<sup>85</sup>

Under the Danish national legal system, the prohibition of discrimination and the promotion of equality are dealt with in a sectoral, rather than in a systematic manner. A separate piece of law, the Act on Labour Market, regulates discrimination in the workplace. In order to meet the requirements of the Equality Directives, the material scope of the abovementioned act was extended by prohibiting discrimination on the grounds of age, belief and disability. Ethnic and racial discrimination issues not directly related to employment are covered by the Ethnic Equal Treatment Act.<sup>86</sup>

The promotion of gender equality is covered by several pieces of law which are subject to amendment in the near future in order to bring it in line with the Recast Directive.<sup>87</sup>

As regards equality bodies, the Danish Institute for Human Rights (DIHR) has been in place since 1987. The Danish Parliament, in pursuance of the Race Directive, set up within the Institute a committee<sup>88</sup> being held responsible for investigating individual discrimination complaints. It is important to note that the committee has the power to deal with discrimination only on the grounds of race and ethnicity. The DIHR, however, can examine other grounds of discrimination when conducting surveys or giving opinions.

A separate body, known as the Gender Equality Board was established with the aim of promoting equality between men and women. The board deals with complaints on gender discrimination and offers counselling and guidance to citizens, public and private organisations on discrimination issues. The activity of the Gender Equality Board covers discrimination within or outside the workplace.<sup>89</sup>

As a general rule, positive action is not allowed under Danish law. Some national provisions, however, permit differential treatment with the objective of obtaining substantial equality between different groups of people.<sup>90</sup>

As far as local or regional actors are concerned, their role consists of implementing national rules at sub-national level and are under no explicit legal obligation to promote equal opportunities<sup>91</sup>. According to the opinion of the Danish Institute for Human Rights, in view of ensuring the effectiveness of the anti-discrimination policy, it would be highly preferable to increase the discretion of local and regional levels of governments.

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<sup>85</sup> Hansen, Niels-Erik [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Denmark.

<sup>86</sup> Act No. 374 (2003) Act on the prohibition against unequal treatment due to race and ethnicity, hereafter (Ethnic Equal Treatment Act).

<sup>87</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>88</sup> Danish Complaints Committee for Ethnic Equal Treatment.

<sup>89</sup> For further details of its activity, see the Equality Board's website : <http://www.ligenaevn.dk/English.asp>.

<sup>90</sup> Source: Danish Institute for Human Rights.

<sup>91</sup> Information provided by the South Transdanubian Regional Development Agency.

## 2.7 Estonia

Before its accession to the EU, Estonia lacked a detailed anti-discrimination legislation. The recent years brought a series of positive changes in this respect.

Apart from the generally worded anti-discrimination provisions in the Estonian Constitution<sup>92</sup> or the provisions of the Criminal Code, the Estonian anti-discrimination law is now shaped by three legal acts.<sup>93</sup> Adopted in April 2004, the Law on Gender Equality prohibits discrimination on the basis of sex in all spheres of public life. The Law on Employment Contracts prohibits unequal treatment in employment relations on the grounds such as sex, racial origin, age, and ethnic origin, level of language proficiency, disability or sexual orientation.

The Equal Treatment Act, in force since 1 January 2008, complemented the existing equality law by fully transposing European legislation. In line with the Equality Directives, the Act forbids indirect and direct discrimination; the latter is defined as including the concept of harassment as well.<sup>94</sup>

In Estonia, positive measures are allowed mostly in respect of employees living with disabilities, but positive actions can eventually also be based on grounds of gender, family status or religion.

It is important to note that in recent years Estonia has become more and more aware of the necessity to deal with the problems of vulnerable social groups.<sup>95</sup> The Government programme, “Integration in Estonian Society 2000–2007” was the first comprehensive framework to address the integration of the Russian minority.<sup>96</sup>

In pursuance to the requirements of the Racial Equality Directive, the Legal Chancellor (Ombudsman) was designated as the country’s equality body in January 2004. Its role is to supervise the respect of constitutional rights and freedoms by state agencies and to review the conformity of legislative acts with the Constitution and laws and investigate individual discrimination cases.<sup>97</sup> However, according to the Estonian equality body, the lack of sufficient financial resources hampers the effective implementation of the anti-discrimination legislation.

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<sup>92</sup> Article 12 of the Constitution establishes an explicit ban on discrimination: “Everyone is equal before the law. No one shall be discriminated against the basis of ethnic origin, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of ethnic, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by the law, also be prohibited and punishable”.

<sup>93</sup> Poleshchuk, Vadim [2007]: Country Report on measures to combat discrimination, Estonia – Executive Summary.

<sup>94</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>95</sup> Poleshchuk, Vadim, op.cit, Executive Summary.

<sup>96</sup> Open Society Institute [2002]: Minority Protection in Estonia, An Assessment of the Programme Integration in Estonian Society 2000–2007.

[http://www.eumap.org/reports/2002/minority/international/sections/estonia/2002\\_m\\_estonia.pdf](http://www.eumap.org/reports/2002/minority/international/sections/estonia/2002_m_estonia.pdf).

<sup>97</sup> Information provided by the South Transdanubian Regional Development Agency.

The Law on Equal Treatment envisages the establishment of a second equality body, that of the Equal Treatment and Equality Commissioner. The latter will be endowed with the power to provide assistance to individuals and would publish specific reports on discrimination matters.

According to the Estonian Ministry of Justice, non-discrimination policies and equality strategies are set out exclusively at national level. Local and regional authorities are, therefore, mere implementers of national instruments. However, because of the significant territorial disparities in respect of the ethnic composition of the country, it would be highly desirable to disaggregate national equality policies. As the report of the Open Society Institute rightly pointed out in its general recommendations, Estonia should “promote integration projects at the local level, to stimulate the elaboration of regional and municipal sub-programmes in order to help minority groups find their niche in society at the local and community level.”<sup>98</sup>

## 2.8 Finland

In Finland the Constitution, the Non-Discrimination Act<sup>99</sup> and the Penal Code provides a general legal framework regarding the combat against discrimination.<sup>100</sup> Adopted in 2004, the Non-Discrimination Act largely transposed the EU Directives into national law. In most of the cases, the Non-Discrimination Act follows the provisions of Directives, whilst in some respect goes beyond the minimum European standards.<sup>101</sup>

The distribution of internal powers brought about a series of difficulties concerning the implementation of the Equality Directives. Given that the autonomous Åland Islands have exclusive legislative powers in their territories in a number of matters covered by the Directives (e.g. health care, social welfare, education or employment), national legislation was only in part applicable in the islands. In the absence of appropriate anti-discrimination legislation adopted by the Åland authorities, the European Court of Justice, in its decisions of February 2005, found that Finland had failed to transpose the Equality Directives in respect of the Åland Islands.<sup>102</sup>

So far as positive actions are concerned, the Non-Discrimination Act<sup>103</sup> does not forbid the adoption of specific measures aiming to achieve genuine equality. If adopted, however, positive actions should be proportionate to the objective pursued.<sup>104</sup>

In respect of the situation of sexual minorities, Finland underwent a considerable change by enacting the Act on Registered Partnerships in 2001. Since then, registered same-sex couples enjoy a position similar to the status of married.

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<sup>98</sup> Open Society Institute, op.cit., p. 244.

<sup>99</sup> yhdenvertaisuuslaki (21/2004).

<sup>100</sup> rikoslaki (391/1889) Article 11:9, 47:3.

<sup>101</sup> Makkonen, Timo [2007]: Country report on measures to combat discrimination, Finland – Executive Summary.

<sup>102</sup> Commission v. Finland, Case C-327/04 [2005] OJ J 93/3; following the ruling of the European Court of Justice, Åland adopted its own equality legislation, which entered into force in December 2005.

<sup>103</sup> Section 7(2).

<sup>104</sup> Makkonen, op.cit., p. 40.

As regards equality bodies, the Ombudsman for Minorities was established in 2001 with the task to promote equal treatment irrespective of ethnic origin. The Ombudsman carries out its work by providing advice to victims of discrimination and by issuing statements and opinions on matters related to discrimination.<sup>105</sup> A victim of discrimination, irrespective of the ground of discrimination suffered, may also file a complaint to the Parliamentary Ombudsman or the Chancellor of Justice if discrimination occurs in the exercise of public powers.<sup>106</sup>

As far as LRAs are concerned, under the 2004 Equality Act Finnish sub-national governments are under the legal obligation to integrate the principle of equality in their respective policies. Public organs are also required to draw up an Equality Plan on gender mainstreaming as well as race and ethnicity.

## 2.9 France

As regards the implementation of the Equality Directives, the French legislator opted for the amendment of the existing legislative framework, instead of regulating the promotion of equality in a single piece of law. The transposition of European anti-discrimination standards concerned chiefly the labour and penal code and administrative legislation.<sup>107</sup>

Directive 2000/43 has been transposed by three different pieces of law. First, the French Penal Code was brought in line with the Equality Directive in 2001.<sup>108</sup> Subsequently, the Law on Social Modernisation set forth anti-discrimination measures in matters of housing and employment.<sup>109</sup> Finally, a special law stipulated the establishment of the High Authority against Discrimination and for Equality (HALDE).<sup>110</sup> A law enacted in 2005, in accordance with the Employment Equality Directive, amended significantly the protection offered to persons living with disabilities.<sup>111</sup>

In the French legal system the scope of general anti-discrimination provisions are transversal, that is to say covering not only the grounds protected by EU legislation, but also the bases regulated by national law such as physical appearance, last name, customs, health, political opinions, trade union activities and involvement in mutual benefit organisations, family situation and genetic characteristics.<sup>112</sup>

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<sup>105</sup> For further information on the Ombudsman's activity, see:

<http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/pages/index3>

<sup>106</sup> Makkonen, op.cit., p. 44.

<sup>107</sup> Bell, Mark – Chopin, Isabelle – Palmer, Fiona: Developing Anti-Discrimination Law in Europe, The 25 EU Member States compared, November 2006, p. 13.

<sup>108</sup> Loi no 2001-1066 du 16 novembre 2001 relative à la lutte contre les discriminations.

<sup>109</sup> Loi n°2002-73 du 17 janvier 2002 de modernisation sociale.

<sup>110</sup> Loi n°2004-1486 du 30 décembre 2004 portant création de la haute autorité de lutte contre les discriminations et pour l'égalité.

<sup>111</sup> Loi n° 2005-102 du 11 février 2005 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées.

<sup>112</sup> Latraverse, Sophie [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Executive Summary, p. 3.



As far as positive actions are concerned, these may be based on "neutral" or "general grounds" of distinction such as sex, disability or socio-economic condition, but not on the basis of race or ethnic origin.<sup>113</sup>

As regards equality bodies, France decided to set up a single body responsible for investigating complaints on all the discrimination grounds. The Authority against Discrimination has been in place since June 2005. Besides investigating discrimination cases, it can make recommendations on matters related to the promotion of equality or the combat against discrimination but can also conduct surveys or studies.

Policies related to combating discrimination are set out and implemented chiefly by the Ministry of Social Affairs and Labour. Sub-national authorities have also an important role to play in the fight against discrimination, particularly in policies connected to the integration of the Roma.<sup>114</sup> Further, urban policies are of special relevance so far as the integration of immigrants is concerned.

## 2.10 Germany

Germany is made up of 16 states (Länder), the legislative power being shared between the federation and the states themselves. Länder have broad legislative powers in a number of fields covered by the Equality Directives, such as education, culture and certain aspects of the law regulating civil servants employment. In addition, local authorities have also got crucial role especially in matters of education or the integration of immigrants. Therefore, the appropriate application of European anti-discrimination standards is highly dependent on sub-national authorities.

In Germany both the federal Basic Law (Grundgesetz) and the constitution of Länder contain separate equality clauses. Even if these provisions are slightly different from each other, the uniform interpretation of the Grundgesetz is guaranteed by the supremacy of the federal constitution.<sup>115</sup> The latter contains an open-ended anti-discrimination clause, prohibiting differential treatment on the bases of sex, parentage, race, language, homeland and origin, faith, religion, political opinion and disability.

Following several years of intense debate on the reform of anti-discrimination legislation, the General Law on Equal Treatment was finally adopted by the Bundestag in 2006.<sup>116</sup> The aforementioned law regulated equality in a comprehensive manner, covering labour law, general contract law, and public law.<sup>117</sup>

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<sup>113</sup> Latraverse, Sophie [2007]: Country report on Measures to combat discrimination. [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/frrep07\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/frrep07_en.pdf).

<sup>114</sup> Latraverse, Sophie, Executive Summary, p. 1.

<sup>115</sup> Mahlmann, Matthias [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Germany, p. 8.

<sup>116</sup> Allgemeines Gleichbehandlungsgesetz (AGG).

<sup>117</sup> Mahlmann, Matthias, op.cit., p.3.

Besides providing a general ban of discrimination on a wide-range of grounds, German law also allows positive actions, provided that positive measures taken are appropriate to the objective pursued and aim at preventing or compensating existing disadvantages.<sup>118</sup>

As far as equality bodies are concerned, the Federal Anti-Discrimination Office was established in 2006. It is independent in the execution of its duties, being subject only to the law. Its main activities consist in providing information about claims and possible legal actions in discrimination cases, arranging for advice to be provided by another authority. The Office also acts as a conciliator between individuals in discrimination matters, and publishes academic studies on discrimination.<sup>119</sup>

## 2.11 Greece

In 2005 the Greek Parliament passed the Anti-discrimination Law<sup>120</sup>, fully transposing the two EU Directives. The Act guarantees protection against discrimination in both the public and private sector on the grounds of racial or ethnic origin, religious or other beliefs, disability, age, or sexual orientation. In line with the material scope of the Directives, the Act deals with the issues of access to employment and occupation, vocational training, social protection, including social security and healthcare, education and access to goods and services.<sup>121</sup>

The adoption of positive measures for promoting equality is an obligation imposed upon the State by virtue of the Greek Constitution,<sup>122</sup> which provides for the application of the principle of proportional equality.<sup>123</sup> Therefore, the adoption or maintenance of special measures aiming to prevent or compensate for the disadvantages linked to racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation will not be considered as discrimination.<sup>124</sup> With regard to disabled persons, measures aimed at creating or maintaining legal provisions on safety and health protection in the working environment or for the promotion of their integration in employment do not qualify as discrimination.<sup>125</sup>

The Anti-discrimination Law entrusts three specialised bodies with the promotion of the principle of equal treatment. The "Ombudsman" is an independent authority, competent for the implementation of equal treatment regardless of racial or ethnic origin, religious or other beliefs, age, disability or sexual orientation in the public services. He/she investigates upon complaints, conducts independent surveys, publishes independent reports and makes recommendations concerning discrimination.<sup>126</sup>

The Equal Treatment Committee is supervised by the Minister of Justice. Its powers cover any field with the exception of public sector and the fields of employment and occupation.

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<sup>118</sup> Allgemeines Gleichbehandlungsgesetz, Section 5.

<sup>119</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>120</sup> Anti-discrimination Law 3304/2005.

<sup>121</sup> Ktistakis, Yannis [2007]: Country report on measures to combat discrimination, Greece – Executive Summary [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/elsum07\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/elsum07_en.pdf).

<sup>122</sup> Article 116.2 of the revised Constitution.

<sup>123</sup> Article 21, Sections 2, 3.

<sup>124</sup> Ktistakis, Yannis op.cit., p. 41.

<sup>125</sup> Article 6, 12.

<sup>126</sup> Ktistakis, Yannis op.cit., p. 53.

The Committee examines complaints and can conciliate conflicting interests. It also conducts independent surveys, publishes independent reports and makes recommendations concerning discrimination. However, it cannot inflict sanctions of any kind.<sup>127</sup>

The Work Inspectorate is a governmental body, active only in the private sector and in the field of employment and occupation. The Inspection acts as conciliator between the employer and the employee and can impose fines, in case of a finding of violation. It can also elaborate independent surveys, reports and recommendations on discrimination.<sup>128</sup>

With regard to local projects, an advisory service was set up in the Municipality of Perama, helping individuals who experience discrimination or social exclusion. The Municipality of Agia Varvara established a Service Centre, targeting mainly socially vulnerable groups threatened by unemployment. The Centre attempts to bring in touch local businesses and unemployed people.<sup>129</sup>

## 2.12 Hungary

The Hungarian Constitution stipulates the principle of equality and non-discrimination, and prescribes that any infringement of this principle should undergo severe legal sanctions.<sup>130</sup> Until 2003, several non-discrimination clauses were scattered in Hungarian legislation. In 2003, however, the legislator decided to transpose the requirements of the EU Directives – together with Hungarian constitutional requirements – in one single, comprehensive piece of law.

Act no. CXXV of 2003 on Equal Treatment and the Promotion of the Equality of Opportunities (ETA) sets forth the requirement of equal treatment as stipulated in the Directives. It prohibits discrimination based on an open-ended list of grounds, in all fields of life. The definitions of discrimination are in line with provisions of the EU Directives.<sup>131</sup>

In accordance with EU legislation, Hungarian Constitution enables the adoption of measures eliminating disadvantages in order to achieve equality of chances.<sup>132</sup> Certain specific provisions of ETA also allow for specialised measures in some specific fields of life.<sup>133</sup> Further, the Disabled Persons Act also stipulates that, as disabled persons have less access to their rights than others given to their situation, it is reasonable to accord preferences to them in all possible ways.<sup>134</sup>

There are several institutions in Hungary that are responsible for the execution of non-discrimination legislation such as the Equal Treatment Authority, the Ombudsman for the Rights of National and Ethnic minorities or the Ombudsman for Civil Rights.

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<sup>127</sup> Ktistakis, Yannis op.cit., p. 52.

<sup>128</sup> Ibidem.

<sup>129</sup> Baldwin-Edwards, Martin [2004]: National Analytical Study on Racist Violence and Crime; RAXEN National Focal Point for Greece (Antigone – European Monitoring Centre on Racism and Xenophobia), p. 36.

<sup>130</sup> Act XX of 1949 on the Constitution of the Republic of Hungary, Article 70/A.

<sup>131</sup> Kadar, Andras [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Hungary, State of affairs up to 8 January 2007, p.13.

<sup>132</sup> Article 70/A. Paragraph (3 ) of the Constitution.

<sup>133</sup> Articles 23, 25 and 29 of the Constitution.

<sup>134</sup> Act XXVI of 1998, Article 3.

The Equal Treatment Authority was set up to offer protection against all kinds of discrimination stipulated in the ETA. It started its operation on 1 February 2005. The Authority is entrusted with all the powers required by the Racial Equality Directive.<sup>135</sup> It can issue legally binding decisions and sanctions in cases of findings of discrimination.

As far as local and regional actors are concerned, they do not have any special tasks in the field of non-discrimination. Indeed, they are supposed to respect the rules of ETA in all their acts and legal relationships.<sup>136</sup> As a Hungarian specificity, the system of minority self-governments (MSG) should be mentioned here. Created in 1993, the MSG system<sup>137</sup> allows for any of the 13 minorities to establish local, regional, and national self-governments. The main purpose of MSG is the preservation of the culture and traditions of the given minority.<sup>138</sup>

## 2.13 Ireland

In the late 1990s, Ireland disposed of wide ranging equality legislation, consisting of the Employment Equality Act, and the Equal Status Act adopted in 1998 and in 2000 respectively. The former, as its name shows, concerned discrimination in the workplace, whilst the latter dealt with non-discrimination in the context of the provision of goods and services. On the basis of the aforementioned laws, Irish courts have developed a considerable jurisprudence in issues related to discrimination.

In order to ensure Irish compliance with the *acquis*, the existing protection system was amended by the Equality Act in 2004. Equality Acts now prohibit discrimination on the grounds of gender, race, religion, age, disability, sexual orientation, marital status, family status, and membership of the Traveller Community.

Following these amendments, both the Employment Equality Act and the Equal Status Act prohibit harassment, victimisation, direct and indirect discrimination, instructions to discriminate.

With regard to positive actions, the Employment Equality Act<sup>139</sup> states that nothing in the Act shall render unlawful measures that are maintained or adopted with a view of ensuring full equality in practice between employees. Such measures should aim at preventing or compensating for disadvantages linked to any of the described discriminatory grounds; protecting the health and safety at work for a person with a disability; creating or maintaining facilities for safeguarding or promoting the integration of such persons into the working environment.

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<sup>135</sup> Kadar, Andras op.cit.

<sup>136</sup> Act XXVI of 1998, Article 4.

<sup>137</sup> For detailed rules, see Act no. LXXVII of 1993 on the rights of national and ethnic minorities.

<sup>138</sup> OSCE Office for Democratic Institutions and Human Rights [2006]: The Hungarian Minority Self-Government System as a Means of Increasing Romani Political Participation (National Democratic Institute Assessment Report), September/October 2006.

[http://www.osce.org/documents/odhr/2007/07/25447\\_en.pdf](http://www.osce.org/documents/odhr/2007/07/25447_en.pdf).

<sup>139</sup> Section 33.

The Employment Equality Act established two national institutions to promote and enforce equality legislation: an Equality Authority and a specialised Equality Tribunal. The activity of these bodies covers all the protected grounds provided for by the Equality Acts.<sup>140</sup>

The Equality Authority is an independent body, endowed with the task of eliminating discrimination, promoting equality of opportunity, and providing information to the public in the field of combating discrimination.<sup>141</sup>

The Equality Tribunal is a quasi-judicial body established for the purpose of investigating complaints under the Employment Equality Act and the Equal Status Act. The Equality Tribunal can also mediate in discrimination cases.<sup>142</sup>

As far as sub-national authorities are concerned, their competences are limited to the implementation of Equality Directives.

## 2.14 Italy

Specific and detailed legislation against discrimination in respect of race, ethnic origin and religion was already introduced into the Italian legal system with the 1998 Immigrant Act<sup>143</sup>, in many respects anticipating the Community requirements.<sup>144</sup> Council Directives 2000/43/EC and 2000/78/EC have been implemented in Italian legislation in 2003 by two decrees.<sup>145</sup> The Decrees mainly reproduce the text of the Directives.

Positive action measures are in principle legitimate and are in accordance with the Italian constitutional system. They have been applied by Italian authorities with regard to gender equality since the early '90s.<sup>146</sup>

As the Italian Office against Racial Discrimination (UNAR) points out, wide-ranging and complex strategic actions are initiated by the authorities in order to tackle structural discrimination in the society. These actions consist of, for example, protocols concluded with social partners aiming to coordinate public intervention when combating racial discrimination in the employment. UNAR also promotes systemic interventions aiming to eradicate factors bringing about discrimination.<sup>147</sup>

Favourable differential treatments also exist with regard to religion. Such 'positive actions' concern mainly holidays, with regard to Jews and to the members of the Adventist Church.

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<sup>140</sup> Quinlivan, Shivaun [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report on Ireland, p. 66.

<sup>141</sup> Summary Country Report Ireland.

<sup>142</sup> Ibidem.

<sup>143</sup> Law 286 of 1998.

<sup>144</sup> Simoni, Alessandro [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Italy, State of affairs up to 8 January 2007, p.2.

<sup>145</sup> Legislative decree 215/2003 dated 9 July, 2003 (transposing the Race Equality Directive); 216/2003 Presidential Decree of the Council of Ministers (DPCM) dated December 11, 2003 (transposing the Employment Framework Directive).

<sup>146</sup> Simoni, Alessandro [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Italy, State of affairs up to 8 January 2007.

<sup>147</sup> Information provided by the South Transdanubian Regional Development Agency.

What remains to be resolved is the problem of the Islamic communities, who, due to the absence of agreements with the state, cannot enjoy such positive measures.

With regards to equality bodies, UNAR was set up in 2004. It is not an autonomous body, since it functions as a branch of the Department for Rights and Equal Opportunities, previously dealing exclusively with gender discrimination.<sup>148</sup> The mandate of UNAR<sup>149</sup> includes the promotion of equal treatment and combating discrimination based on race or ethnic origin.

Local authorities do not deal with discrimination in general. At the grassroots level, private organizations (associations) and regional observers (monitoring centres) proved to be key players of different equality policies. With the promotion of these institutions, Italian government strives to connect national and local level of authorities held responsible for dealing with equality policies.

The regional observers (monitoring centres)<sup>150</sup> gather information and supply legal assistance to the victims of race discrimination. Besides regional actors, some local observers were also nominated by Italian authorities.<sup>151</sup> As regards the aforementioned associations, they also act together with the UNAR in order to tackle ethnic and racial discrimination at the sub-national level.

Local public authorities are also active in facilitating the integration of immigrants living in their communities. Many of them provide immigrants with free advice, consultation and other services.

## 2.15 Latvia

There have been wide discussions among politicians and experts on the adoption of a single anti-discrimination act in Latvia. Finally, it was decided that the European Equality Directives be transposed into various legal instruments.

Altogether, the main problem with Latvian anti-discrimination legislation is its patchy nature.<sup>152</sup> Some fields are left uncovered and there is a lack of a consistent system of sanctions. As the Ombudsman's Office of the Republic of Latvia noted, the protection against disability-based discrimination, including the issue of reasonable accommodation, is disputable due to the lack of a general definition of disability in national law.<sup>153</sup>

A number of laws contain non-discrimination clauses with exhaustive or open lists of prohibited grounds of discrimination.<sup>154</sup> These acts, however, do not include all the grounds covered by the Directives. Sexual orientation is notably missing from Latvian laws – with the

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<sup>148</sup> Simoni, Alessandro, *op.cit.*

<sup>149</sup> Official Journal n. 66, dated 19 March, 2004.

<sup>150</sup> Legislative Decree 286/1998 Article 44, paragraph 12.

<sup>151</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>152</sup> Bell, Mark – Chopin, Isabelle – Palmer, Fiona *op.cit.*

<sup>153</sup> *Ibidem.*

<sup>154</sup> *Ibidem.*

exception of the Labour law – and prohibition of discrimination on the basis of age is also problematic.

Positive action has not received much attention so far, and there are no specific measures aimed at ensuring or promoting full equality or to compensate disadvantages connected with racial or ethnic origin, religion or belief, age or sexual orientation. There is no reference in national legislation on the possibility of taking such measures, and there is no information that the government might consider the adoption of such initiatives.<sup>155</sup>

Legislative provisions and measures concerning gender equality and family life are also noteworthy. The Labour Act contains provisions<sup>156</sup> on part-time work, while the Action Programme on the Enforcement of Gender Equality (2005-2006) highlights as one of its priorities the reconciliation of labour and family life. In order to achieve these goals, positive actions aimed at establishing flexible work forms and working time are foreseen in the Action Programme.<sup>157</sup>

On 1 January 2007 the Ombudsman Act came into force, establishing the Ombudsman's Office, having as its task to promote the protection of human rights and to eradicate discrimination.<sup>158</sup> In the aforementioned law the grounds of discrimination that the Ombudsman can investigate are not listed. Thus, its mandate is not limited to specific discriminatory grounds.<sup>159</sup>

Although the specialised body does not have local or regional offices, it cooperates in a regular basis with local NGOs and local authorities in all the regions to offer seminars and informative campaigns on anti-discrimination issues.<sup>160</sup>

Further, when formulating national anti-discrimination legislation, the opinion of local authorities is generally taken into account. However, as it is stressed by experts, the increase of their responsibilities would be highly desirable in order to ensure the effective application of the Directives.<sup>161</sup>

## 2.16 Lithuania

In Lithuania the principle of non-discrimination is enshrined by the highest legal resource, the Lithuanian Constitution.<sup>162</sup> The first detailed legislative instrument on non-discrimination, known as the Law on Equal Opportunities for Women and Men, was adopted in 1998.

The Law on Equal Treatment, which in many respects transposes the Equality Directives, was enacted by the Parliament in November 2003 and entered into force in January 2005. This act defines direct and indirect discrimination on grounds of sexual orientation, age,

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<sup>155</sup> Feldhune, Gita [2007]: Country report on measures to combat discrimination, Latvia, pp. 36-37.

<sup>156</sup> See Article 134 (2) of the Labour Act.

<sup>157</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>158</sup> *Ibidem*.

<sup>159</sup> Feldhune, Gita, *op.cit.*, Executive Summary.

<sup>160</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>161</sup> *Ibidem*.

<sup>162</sup> Ziobiene, Edita [2007]: Country report on measures to combat discrimination, Lithuania – Summary Country Report (State of affairs up to 8 January 2007), p. 1.

disability, race and ethnic origin and religious beliefs. The material scope of the Act covers employment, education and the provision of goods and services.<sup>163</sup>

As regards positive measures, Lithuanian law allows the adoption of such instruments in the field of employment. The Labour Code provides that additional guarantees must be established in order to facilitate the access to the labour market for certain vulnerable groups, including persons with disability, people who have no more than five years until their entitlement to an old age pension and graduates of vocational schools.<sup>164</sup> Further, the Law on the Social Integration of the Disabled puts in place a system of mandatory quotas in employment.

The Program of Social Integration of People with disabilities for 2003-2012 foresees positive measures including education of society in order to better integrate people with disabilities. The Program foresees measures on professional rehabilitation, accommodation of environment and employment of people with disabilities.<sup>165</sup>

As far as equality bodies are concerned, the Ombudsman for Equal Opportunities was set up by a law adopted in 1999. Subsequently, the Law on Equal Treatment expanded the fields of competence of the Ombudsman, covering all the grounds as provided for by the Equality Directives. The Ombudsman has the role to investigate complaints but may also initiate investigations ex officio. If identifies a violation, the Ombudsman may issue a recommendation or impose administrative sanctions. The Ombudsman, in cooperation with NGOs, has played a major part in awareness raising and dissemination of information.<sup>166</sup>

The powers of regional and local authorities in Lithuania are limited to the implementation of national legislation and do not have regulatory powers in discrimination matters.

## 2.17 Luxembourg

In order to comply with the European standards, Luxembourg first adopted a law on disability in September 2003. This was followed by two legislative instruments enacted in October 2006: a law on private relations, and another one on public services. The first piece of legislation provides a general framework for anti-discrimination, covering all the grounds prohibited by the Equality Directives except for the basis of belief. The second, so-called public sector law concerns only employees and employers and transposes the requirements of the Employment Equality Directive into national legislation.<sup>167</sup>

Both the general anti-discrimination law and the public sector law envisages measures to promote equality in practice, allowing for the administration to adopt specific actions in order to prevent or compensate for disadvantages linked to racial or ethnic origin, religion or belief,

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<sup>163</sup> Ziobiene, Edita op. cit., p. 3.

<sup>164</sup> Ziobiene, Edita op. cit., p. 33.

<sup>165</sup> Ibidem.

<sup>166</sup> For more detail, see the Ombudsmen's Office website: <http://www.lrski.lt/index.php?l=EN>.

<sup>167</sup> Moyse, François [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC (State of affairs up to 8 January 2007), pp. 3-4.



disability, age or sexual orientation.<sup>168</sup> Provisions on reasonable accommodation for disabled persons have also been incorporated into national legislation.

In line with the Racial Equality Directive, a specific equality body, called the Centre for the Equality of Treatment (Centre pour l'Égalité de Traitement) was established. The Centre is entrusted to deal with discrimination based on race, ethnic origin, gender, sexual orientation, religion or belief, disability and age. It provides assistance to alleged victims of discrimination by counselling, aiming to inform them on their rights, and possible legal redresses. However, the Centre is not empowered to bring complaints to national courts. It publishes reports, issues opinions and recommendations and conducts surveys on all the questions linked to discrimination.<sup>169</sup>

Due to the inadequate implementation of the Employment Equality Directive within the delay foreseen, the Commission initiated infringement procedure against Luxembourg. In this respect, Luxembourg was found to be in breach of its EC Treaty obligations for its failure to transpose Directive 2000/78.<sup>170</sup>

According to the National Focal Point of Luxembourg<sup>171</sup>, anti-discrimination policy is formulated exclusively at the national level, local authorities being only implementers of equality policies.

## 2.18 Malta

Malta has introduced a number of specific legislative acts to implement Council Directives. So far, however, Community law has only partially been transposed into domestic legislation.<sup>172</sup>

As a consequence, Malta is in breach of community non-discrimination law in various areas. Besides the too restrictive material scope of the protection against discrimination, Malta also failed to designate a body or bodies responsible for the promotion of equal treatment on the grounds of racial or ethnic origin.<sup>173</sup>

As far as positive actions are concerned, some regulations promoting the equality of chances exist in the Maltese Legislation. For example, Legal Notice 461 of 2004 provides<sup>174</sup> that any act aiming to promote equality of chances in the labour market shall not be deemed to be unlawful if it is liable to prevent or compensate for disadvantages. It is not known, however, that any specific measure has been taken on the basis of the above provision. Another example for positive measure is Legal Notice 135 of 2001 entitled 'Business Promotion

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<sup>168</sup> Moyse, François op.cit. pp. 33-34.

<sup>169</sup> Moyse, François op.cit., - Summary Country Report.

<sup>170</sup> Case C-70/05 Commission v Luxembourg, judgment of 20 October 2005, see : Bell, Mark – Chopin, Isabelle – Palmer, Fiona op.cit., p. 13.

<sup>171</sup> Centre d'Etudes de Populations, de Pauvreté et de Politiques Socio-économiques / International Network for Studies in Technology, Environment, Alternatives, Development (CEPS/INSTEAD).

<sup>172</sup> Bell, Mark – Chopin, Isabelle – Palmer, Fiona op.cit.

<sup>173</sup> McColgan, Aileen - Niessen, Jan – Palmer, Fiona [2006]: Comparative Analyses on National Measures to Combat Discrimination Outside Employment and Occupation, December 2006.

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/pubst/stud/mapstrand1\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/mapstrand1_en.pdf).

<sup>174</sup> Regulation 6 (1).

Regulations 2001' which provides incentives for enterprises employing registered jobless persons who are over 40 years or are disabled.<sup>175</sup>

With regard to equality bodies, the National Commission for the Promotion of Equality (NCPE), set up in January 2004, functions as an autonomous body. Its main task is to monitor the implementation of the Act to Promote Equality for Men and Women and to promote equality in these fields. It has the power to provide assistance to victims, to conduct surveys, to publish reports and to elaborate recommendations on discrimination issues. A body responsible for issues of racial and ethnic discrimination has not been designated yet but the Maltese Government plans to extend the mandate of the NCPE to cover the promotion of equal treatment irrespective of racial or ethnic origin.<sup>176</sup>

The so-called National Commission for Persons with a Disability can investigate complaints concerning equal treatment of persons with disabilities and, where appropriate, provide conciliation in relation to such complaints.<sup>177</sup>

With regard to the sub-national level, local governments do not have any specific competences related to non-discrimination matters. The equality bodies do not have any local or regional offices either.

## 2.19 The Netherlands

The Netherlands implemented the Race Directive and partly the Employment Framework Directive by modifying the already existing General Equal Treatment Act (GETA).<sup>178</sup> Following these amendments, GETA contains rules on the equal treatment of persons irrespective of their religion, belief, political opinion, race, sex, nationality, sexual orientation or civil status. For the grounds of disability and age, two specific laws have been passed.<sup>179</sup>

It should also be noted that the Netherlands has in some regards fallen short of EU requirements when implementing Article 13 Directives, for example, by not adopting the definition of indirect discrimination.<sup>180</sup> However, in other respects Dutch legislator has gone beyond the requirements of the Directives. For example, the protection against discrimination on the ground of religion and belief and sexual orientation also applies in the area of goods and services.<sup>181</sup>

Positive action schemes can be taken in the Netherlands as regards women and persons belonging to a particular ethnic or cultural minority group,<sup>182</sup> as well as for persons living with disability or chronic illness. For the other grounds, no such possibility exists.<sup>183</sup>

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<sup>175</sup> Ellul, Tonio [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Malta, State of affairs up to 8 January 2007, p. 29.

<sup>176</sup> Ellul, Tonio op.cit., p. 42.

<sup>177</sup> Bell, Mark – Chopin, Isabelle – Palmer, Fiona op.cit.

<sup>178</sup> 1994 General Equal Treatment Act (GETA) as amended in 2004.

<sup>179</sup> 2003 Disability Discrimination Act (DDA); 2004 Age Discrimination Act (ADA).

<sup>180</sup> Holtmaat, Rikki [2007]: Netherlands Country report on measures to combat discrimination – Executive Summary.

<sup>181</sup> Ibidem.

<sup>182</sup> GETA Section 2 subsection 3.

The so-called Equal Treatment Commission is the equality body designated on the basis of the Racial Equality Directive. The Commission deals with all non-discrimination grounds stipulated in the acts described above as well as with some more specific grounds.<sup>184</sup> Its mandate covers the conduct of surveys or the investigation of individual complaints. ETC has the competence to mediate, to start a judicial procedure before the courts, as well as to advise on legislative proposals.<sup>185</sup>

According to the Dutch Equal Treatment Commission, on a general basis the national non-discrimination legislation does not place responsibilities on local authorities other than the tasks and responsibilities that derive from the non-discrimination legislation for all employers and schools.

The ETC stressed the importance of setting up a countrywide network of NGOs, working on the assistance of victims of discrimination. In early 2007, a national NGO was established, endowed with the responsibility to work on the realisation of this network.

## 2.20 Poland

The overall situation in respect of implementation of the EU Directives can be considered as ambiguous. On the one hand, Poland made great efforts to comply with EU law on the day of accession. Two amendments of Labour Code of 24 August 2001 and 14 November 2003 brought Polish labour law approximately in line with the respective Equality Directives.<sup>186</sup> Discrimination outside the employment sphere is mainly regulated by means of general constitutional provisions.<sup>187</sup>

The provisions on anti-discrimination are, however, scattered in many different legal acts and the level of protection against discrimination is uneven in various domains.<sup>188</sup> As the Racial Equality Directive was only partially transposed into Polish law for the sphere of employment, work on a draft bill covering also the other areas of the Directive is ongoing.

At the same time, there are also certain areas in which it goes beyond the requirements of the Equality Directives. For instance, Polish legislation applies an open list of protected grounds, and a broader definition of direct discrimination.

The 2003 Amendment of the Labour Code introduced a clear and general stipulation allowing for positive action.<sup>189</sup> This provision covers positive action not only in respect of the grounds set out by the Directives but equally for some additional grounds: gender, political opinion and membership in a trade union. Positive action can take the form of specific measures

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<sup>183</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>184</sup> Holtmaat, Rikki, op.cit.

<sup>185</sup> Ibidem; All reports, recommendations and opinions issued by the ETC are accesible on the Commission's web site: [www.cgb.nl](http://www.cgb.nl).

<sup>186</sup> Mazur-Rafał, Monika - Pająk, Magdalena [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report on Poland, (State of affairs up to 8 January 2007), p. 2, [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/plrep07\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/plrep07_en.pdf).

<sup>187</sup> McColgan, Aileen – Niessen, Jan – Palmer, Fiona [2006]: Comparative Analyses on National Measures to Combat Discrimination Outside Employment and Occupation, p. 34.

<sup>188</sup> Mazur-Rafał, Monika - Pająk, Magdalena op.cit., p.7.

<sup>189</sup> Mazur-Rafał, Monika - Pająk, Magdalena op.cit., pp. 42-43.

introduced for a limited period of time in order to equalize opportunities for all or a significant number of employees who are distinguished by at least one of the grounds named above.<sup>190</sup> These measures must be aimed at compensating disadvantages of such employees.

Even though there are several bodies working in this field, there is no “specialised body” in the sense of the Race Equality Directive, meeting the competency criteria set out in Art. 13 of the Directive.<sup>191</sup>

On a whole, the Commissioner for Civil Rights Protection (Ombudsman) seems to be the closest to community requirements. The Commissioner is responsible for safeguarding the rights and freedoms of persons and citizens provided for in the Constitution. Everyone has the right to apply to the Ombudsman for assistance if his/her freedoms or rights have been infringed by public authority organs.<sup>192</sup>

Polish legislation does not set out any concrete tasks for local or regional authorities in the fight against discrimination. However, following the administrative reform put into place in 1999 and 2005 respectively, much depends on the localities in the fields of social and integration policies, residence registration, health care and education.<sup>193</sup>

## 2.21 Portugal

The Portuguese solution implementing EU non-discrimination legislation consists of specific pieces legislations in the field of labour, penal and administrative law.<sup>194</sup> The multitude of laws and decrees transposing the Directives makes it hard for victims but even for lawyers to understand which norm actually applies to the case in hand.<sup>195</sup>

However, the representatives of the national equality body estimated that no legislative change was necessary in order to render Equality Directives more efficient. According to them, training of judicial agents in these issues would be sufficient.<sup>196</sup>

Portuguese legislation also foresees positive measures, in order to promote the substantial equality of different groups, such as immigrants and ethnic minorities and the grounds of gender, reduced working capability, disability or chronic illness.

In Portugal we can find plenty of successful positive action programmes for people living with disabilities, such as the allocation of places in public transport for disabled people, reservation of parking places, support in acquiring houses or apartments of their own, support in setting up their own small businesses.<sup>197</sup> The Plano Nacional de Promoção da

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<sup>190</sup> Ibidem.

<sup>191</sup> Mazur-Rafał, Monika - Pająk, Magdalena op.cit., p. 3.

<sup>192</sup> Ibidem.

<sup>193</sup> Niessen, Jan – Schibel, Yongmi – Thompson, Cressida eds.[2005]: Current Immigration Debates in Europe: A Publication of the European Migration Dialogue, Poland (Migration Policy Group).

<sup>194</sup> Bell, Mark – Chopin Isabelle – Palmer, Fiona op.cit.

<sup>195</sup> Malheiros, Manuel [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report on Portugal, State of affairs up to 8 January 2007, p. 69.

<sup>196</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>197</sup> Malheiros, Manuel op.cit. p. 36.

Acessibilidade (National Plan for the Promotion of Accessibility) that will be in force by 2015, also foresees a wide range of positive measures for disabled people.<sup>198</sup>

The most important body held responsible for tackling racial and ethnic discrimination is the High Commissioner for Immigration and Ethnic Minorities, set up in 2004 in accordance with the Race Equality Directive. He enjoys the powers such as consultation and dialogue with the bodies representing immigrants or ethnic minorities in Portugal. He is assisted by the Commission for Equality and Against Racial Discrimination (CEARD), a body entrusted to issue advisory opinions on discrimination matters. The Ombudsman does not have the power to bring any cases before the courts or to assist complainants in doing so.

Sub-national level of authorities do not have any specific duties regarding the promotion of equal opportunities, and are bound by the same duties and obligations as any other public or private entity, which is basically the obligation not to discriminate.

Despite the fact that anti-discrimination legislation does not foresee any specific responsibility or task for sub-national authorities, issues such as the integration of immigrants or housing are major topics in local policy agendas.<sup>199</sup>

## 2.22 Romania

Romania opted for the transposition of both EU directives in one piece of legislation enacted in 2000 and amended subsequently for several occasions. The transposition of the Directives was completed in 2006, by the introduction of the concept of shared burden of proof, the acceptance of audio-video and statistical means of proof and the assurance of a genuine autonomy of the equality bodies.<sup>200</sup>

Romanian legislation prohibits discrimination by an open-ended list of grounds, including race, nationality, ethnicity, language, religion, social status, belief, sex or sexual orientation, appurtenance to a disfavoured category or any other criterion. Enforcement of anti-discrimination legislation is, however, very weak, particularly in the case of disability-related rights.<sup>201</sup>

If interpreted literally, the Constitution prohibits positive action based on belonging to a national minority since protective measures taken by the State "for the preservation, development and expression of identity of the persons belonging to national minorities shall conform to the principle of equality and non-discrimination in relation to the other Romanian citizens."<sup>202</sup> Romanian politics and media used to be dominated by absolute opposition towards any positive action. The approach changed over the years and more recently the idea of special measures has been discussed more and to a certain extent accepted.

As far as equality bodies are concerned, the National Council for Combating Discrimination

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<sup>198</sup> Malheiros, Manuel op.cit. p.8.

<sup>199</sup> Malheiros, Manuel op.cit., p.33.

<sup>200</sup> Niță, Delia Luiza - Ionescu, Iustina [2006]: Racism in Romania, (ENAR Shadow Report), p. 24.

<sup>201</sup> Weber, Renate [2003]: Report on Measures to combat discrimination in the 13 candidate countries. Country Report on Romania, May 2003.

<sup>202</sup> Article 6 Section (2), cited by: Weber, Renate op.cit, p. 19.

was established, entrusted with combating all forms of discrimination, and in charge of sanctioning discriminatory conduct and preventing future discrimination.<sup>203</sup> The Council deals with all forms of discrimination on each discrimination ground, as defined in Romanian legislation. It may sanction discrimination by warning or administrative fine. Since September 2006, the Council has the status of an autonomous state authority under the control of Parliament.<sup>204</sup>

The National Agency for Equality of Chance between Women and Men (ANES) is a specialized body under the subordination of the Ministry of Labour, Social Solidarity and Family. It is entrusted with the promotion of equality between women and men and is responsible for assuring the integration of gender equality at all level of policies and national programs.<sup>205</sup>

The role of sub-national authorities is limited to the implementation of national anti-discrimination policies.

## 2.23 Slovakia

The Council Directives were implemented in Slovakia through the Act on Equal treatment in certain areas and on protection against discrimination (Anti-discrimination Act), adopted in May 2004.<sup>206</sup> The Act, apart from some exceptions, meets the minimum standards set out by the Directives.<sup>207</sup>

Further, several special laws were amended in the area of education, health care and employment. These amendments extend the grounds of prohibited discrimination beyond the scope of the Directives.<sup>208</sup>

Even though the Anti-discrimination Act has been in force for two years, the enforcement of the new rules established by the Anti-discrimination Act has not yet been fully tested in practice.<sup>209</sup>

As far as positive actions are concerned, the Constitution of Slovakia contains articles explicitly derogating from the rule of formal equality, allowing positive action measures for women, pregnant women, juveniles and disabled persons concerning health protection and working conditions, but not on the basis of racial or ethnic origin.<sup>210</sup>

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<sup>203</sup> Weber, Renate, op.cit., p.33.

<sup>204</sup> Niță, Delia Luiza - Ionescu, Iustina.

<sup>205</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>206</sup> Act 365/2004 on Equal Treatment in Certain Areas and on Protection against Discrimination as amended (Act 365/2004 on Equal Treatment in Certain Areas and Protection against Discrimination) (1 July 2004).

<sup>207</sup> Milo, Daniel [2006]: Racism in Slovakia, (ENAR Shadow Report).

<sup>208</sup> Dlugosova, Zuzana [2007]: Country report on measures to combat discrimination, Slovakia, Executive Summary (State of affairs up to 8 January 2007), p. 10.

<sup>209</sup> Dlugosova, Zuzana [2007]: Country report on measures to combat discrimination, Slovakia, Executive Summary.

<sup>210</sup> Ibidem.

The body designated for the promotion of equal treatment is the Slovak National Centre for Human Rights<sup>211</sup>, established in 1993.<sup>212</sup> According to the Agreement between the United Nations and the Government of the Slovak Republic adopted in March 1994, the Centre is engaged in activities relating to the promotion and protection of human rights in Slovakia. In accordance with Article 13 of the Racial Equality Directive, the Centre is considered as a national "specialised body" with the responsibilities of promoting equal treatment and combating all forms of discrimination.<sup>213</sup>

During its early years of activity, the Centre did not have any regional offices, but since 2006, there is an ongoing project of developing regional structures for the implementation of the Anti-discrimination Act. The aim of the project is to establish regional offices through which equal treatment can be promoted at the sub-national level.<sup>214</sup>

The statutory obligation of respecting the principle of equal treatment, as provided for by the Anti-discrimination Act, should be applied by central, regional and local level of authorities. Apart from the aforementioned principle, there are no relevant sub-national legal competences in this field.<sup>215</sup>

## 2.24 Slovenia

Anti-discrimination legislation is relatively new in Slovenia as it was adopted to transpose the EU Equality Directives. The Slovenian solution consists in the combination of a specific legislation on gender and disability and a general equality act. The Act implementing the Principle of Equal Treatment is an umbrella law covering all the discrimination grounds mentioned in the directives and virtually all fields of life, whilst the Act on Equal Opportunities for Women and Men concerns uniquely sex discrimination issues.<sup>216</sup>

The former act contains a set of provisions on positive temporary measures, aiming to establish equality for individuals with particular personal circumstances (like sex, nationality, age, sexual orientation and so on) to compensate for their less favourable position. According to these provisions, special measures may be adopted by different stakeholders like state institutions, local self-governing communities, employers, educational organizations, political parties, non-governmental organizations and others, taking into account the nature and the field of their work. When doing so, the reasons as well as the purpose and aim of such special measures should be clearly defined.

There are several organizations in Slovenia that may be considered as equality bodies.<sup>217</sup> With the Equal Opportunities for Women and Men Act<sup>218</sup>, the so-called Advocate for Equal Opportunities for women and men was established in 2002. The Advocate hears cases of

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<sup>211</sup> Milo, Daniel op.cit.

<sup>212</sup> Act Nr. 308/1993 Coll. on Establishment of the Slovak National Centre for Human Rights.

<sup>213</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>214</sup> Dlugosova, Zuzana op.cit., p. 58.

<sup>215</sup> Dlugosova, Zuzana op.cit., p. 3.

<sup>216</sup> Katarina, Maja – Hot, Meira [2007]: Slovenian Country report on measures to combat discrimination, Executive Summary (State of affairs up to 8 January 2007)

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/slsum07\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/slsum07_en.pdf).

<sup>217</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>218</sup> Articles 20-29.

alleged discrimination between women and men and issues opinions in these disputes. In order to rectify established irregularities, the Advocate can send a written standpoint to the competent inspection service and can propose the introduction of a legal procedure.<sup>219</sup>

A similar special institution called the Advocate of the Principle of Equality was established in 2004 to hear cases of alleged violations on all the grounds protected by the legislation. The competences and proceedings of the Advocate of Principle of Equality are very similar to the ones of the Advocate of Equal Opportunities for Women and Men.<sup>220</sup>

Slovenian equality legislation entrusts local self-governing communities (municipalities and regional communities) with certain tasks regarding equal treatment. These have a more general nature and cover regulatory activities and implementing activities as well.<sup>221</sup>

As far as responsibilities of local or regional authorities are concerned, the Office for Equal Opportunities expressed the view that Slovenian legislation confers sufficient power to local communities, enabling them to formulate their own non-discrimination policies. However, as it was submitted, only a limited number of local governments actually make use of this empowerment.<sup>222</sup>

## 2.25 Spain

Spain has a quasi-federal structure where powers are shared between central authorities and its Autonomous Communities with their own legislation and government. Spanish public administration is structured in three levels: Central Government, Autonomous Communities (regional governments) and Local Authorities.

Directives 2000/43 and 2000/78 were transposed as part of the law adopted in 2003, entered into force on 1 January 2004.<sup>223</sup> The adoption of this law entailed no debates in society or in the political platform. The scope of anti-discrimination provisions is in line with the Equality Directives.<sup>224</sup>

The principle of "positive action" is enshrined in the Spanish Constitution.<sup>225</sup> It requires public authorities to promote "the conditions to ensure that the freedom and equality of individuals and of the groups they form are real and effective".

In its case-law, the Constitutional Court has repeatedly held that affirmative action measures are not deemed to be discriminatory.<sup>226</sup> Positive action has been present in labour, educational and other provisions ever since the adoption of the Spanish constitution in 1978.

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<sup>219</sup> Katarina, Maja – Hot, Meira, op.cit., p. 65.

<sup>220</sup> Ibidem.

<sup>221</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>222</sup> Ibidem.

<sup>223</sup> Law 62/2003 (30. December) on fiscal, administrative and social measures, Chapter III, Title II.

<sup>224</sup> Cachón, Lorenzo [2007]: Spain Country report on measures to combat discrimination - Executive Summary (State of affairs up to 8 January 2007).

<sup>225</sup> Article 9.2.

<sup>226</sup> Cachón, Lorenzo op. cit., p. 41.



In Spain, there are several institutions having totally or partially the functions of specialised equality bodies. The 2003 Law established an equality body known as the Council for the Promotion of Equal Treatment for all the Individuals without Discrimination on the Grounds of Racial or Ethnic Origin. The Council is competent in the key fields set forth in Directive 2000/43.<sup>227</sup>

The institution of Ombudsman (national or regional) is rooted in the Spanish constitutional system. The national Ombudsman acts as the Parliament High Commissioner in order to promote equality and tackle non-discrimination based on birth, race, sex, religion, opinion or any other condition or personal or social circumstance. The Ombudsman, according to the Law on equal treatment 2003, may cooperate with the aforementioned Council.<sup>228</sup>

In their respective fields of competence, Autonomous Communities may legislate independently on the issues of equality and non-discrimination.<sup>229</sup> For instance, the Law on the Integration of the Disabled<sup>230</sup> specifies the contents of measures for positive action on the ground of disability. However, these measures are minimum provisions and do not hinder the adoption of any other measures by the Autonomous Communities in the spheres of their jurisdiction.<sup>231</sup>

## 2.26 Sweden

Swedish law contains a considerable number of non-discrimination clauses, i.e. on the grounds of sex, race, ethnicity, religion and other belief, sexual orientation and disability. These were adopted in 1999, and are said to have anticipated the Article 13 of the Directives.<sup>232</sup> These provisions can be found in several specific laws, the most important pieces of legislation being discussed below.

In the area of employment law, four laws were passed in 1999, banning discrimination respectively on the grounds of sex, ethnicity, religion and other belief, disability and sexual orientation. There is also a law prohibiting discrimination of part-time and fixed-term workers. In addition, the 1991 Equal Opportunities Act concerning sex discrimination was brought in line with the 1999 anti-discrimination laws.<sup>233</sup> In 2003, the 1999 Acts were amended in order to better fulfil the requirements of the Article 13 of the Directives.<sup>234</sup>

The 1999 Acts prohibiting discrimination in working life do not provide for positive action in the form of preferential treatment. However, the one prohibiting ethnic discrimination requires that the employers carry out a goal-oriented work to actively promote ethnic diversity in working life. There is no case-law setting out the limits of such actions.

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<sup>227</sup> Cachón, Lorenzo op. cit., Executive Summary.

<sup>228</sup> Cachón, Lorenzo op. cit., p. 53.

<sup>229</sup> As an example, see Law 5/1997, of June 25, for which the system of Social Services in the Valencian Community is regulated.

<http://www.acerish.org/documents/TypologySpain.pdf>.

<sup>230</sup> Art. 9 of Law 13/1982 on the Integration of the Disabled.

<sup>231</sup> Cachón, Lorenzo op. cit., p. 42.

<sup>232</sup> Numhauser-Henning, Ann [2007]: Country report on measures to combat discrimination on Sweden, (State of affairs up to 8 January 2007), p. 6.

<sup>233</sup> Ibidem.

<sup>234</sup> Ibidem.

The 2001 "Students at Universities Act" does not permit positive action in the sense of accurate preferential treatment either. However, according to this act, universities shall actively promote equal rights for students eliminating all kind of discriminations related to their belonging to any of the protected groups. Universities also have to take measures to prevent and preclude ethnic harassment and are required to adopt plans for this reason every year.<sup>235</sup>

Ombudsmen are the key institutions for the promotion of equal rights. There are four Ombudsmen working in this field: the Equal Opportunities Ombudsman (JämO – sex equality), the Ombudsman against Ethnic Discrimination (DO), the Disability Ombudsman (HO) and the Ombudsman against discrimination due to sexual orientation (HomO).<sup>236</sup>

The Ombudsmen investigate complaints concerning discrimination, and have the right to represent individuals in discrimination cases. They give advice and support to individuals and institutions; engage in education, information and opinion-shaping efforts to combat discrimination; and propose to the Government legal and other measures that may be useful to combat discrimination and monitor international developments.<sup>237</sup>

Though the Ombudsmen do not have any regional offices according to the Office of the Ombudsman against ethnic discrimination,<sup>238</sup> there are several local anti-discrimination bureaus. These bureaus are local NGOs receiving government funding.<sup>239</sup>

As far as the role of LRAs is concerned, municipalities are responsible for putting in place introduction plans for newly arrived migrants, funded by the state. According to a recent evaluation, there seems to be varied success in different municipalities: while some are efficient, others do not give people the possibility to take part immediately.<sup>240</sup>

## 2.27 United Kingdom

Anti-discrimination legislation is a matter reserved to the Westminster Parliament for the whole of Great Britain. An act adopted in 1998, however, established a Northern Ireland Assembly with powers to legislate on most of the matters affecting Northern Ireland, including discrimination issues.<sup>241</sup> That is, in Northern Ireland, a separate, parallel legislative framework has been introduced.<sup>242</sup>

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<sup>235</sup> Numhauser-Henning, Ann [2007]: Country report on measures to combat discrimination on Sweden, (State of affairs up to 8 January 2007), p. 48.

<sup>236</sup> Numhauser-Henning, Ann op.cit. p. 55.

<sup>237</sup> Numhauser-Henning, Ann op.cit, Executive Summary.

<sup>238</sup> Information provided by the South Transdanubian Regional Development Agency.

<sup>239</sup> Bideke, Maria – Junkka, Marcus – Lappalainen, Paul [2006]: Racism in Sweden, (ENAR Shadow Report), p. 17.

<sup>240</sup> Cederberg, Maja – Anthias, Floya [2006]: Mapping of Policies and Policy Analysis - the Swedish case. Integration of Female Immigrants in Labour Market and Society. Policy Assessment and Policy Recommendations (Working Paper 3 – WP1), September 2006  
[http://www.femipol.uni-frankfurt.de/docs/working\\_papers/wp1/Sweden.pdf](http://www.femipol.uni-frankfurt.de/docs/working_papers/wp1/Sweden.pdf).

<sup>241</sup> O’Cinneide, Colm [2007]: Report on Measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report United Kingdom (State of affairs up to 8 January 2007), p. 2.

<sup>242</sup> O’Cinneide, Colm op.cit., Summary Country Report.

The United Kingdom has one of the oldest traditions concerning the prohibition of race discrimination and has to some extent influenced the Racial Equality Directive. Legislation prohibiting race discrimination has existed since the 1960s. The Race Relations Act, adopted in 1976 and amended several times since, is still in force.<sup>243</sup>

The 1976 Race Relations Act prohibits direct and indirect discrimination on the grounds of ethnicity, colour, race, national origin and nationality in employment and occupation, access to goods and services, education, housing and the performance of public functions. The 1995 Disability Discrimination Act prohibits discrimination in the fields of employment and occupation, access to goods and services, education, housing and the performance of public functions. British Government transposed the EU Directives by introducing Regulations to complete anti-discrimination legislation.<sup>244</sup>

The Race Directive was implemented by the amended Race Relations Act. The Employment Framework Directive has been transposed by means of several regulations and acts. The most recent piece of legislation, the Equality Act of 2006 extended protection against religious discrimination to education, housing, the provision of goods and services and to the performance of public functions. The Act also permits the government to introduce regulations establishing similar provision for discrimination on the grounds of sexual orientation. In Northern Ireland, successive Fair Employment and Treatment Orders prohibited discrimination on the grounds of religious belief or political opinion in employment and occupation, housing, education and access to goods and services.<sup>245</sup>

The UK permits a very limited scope for the use of preferential treatment for disadvantaged groups, but has introduced a wide variety of other forms of positive action programmes across the different discrimination grounds.<sup>246</sup> The most important general measures to secure positive action towards equality in the UK are embodied in the recent legislation imposing duties on public authorities to promote equality.<sup>247</sup>

At present, there are three equality bodies in Great Britain: the Commission for Racial Equality (CRE), the Disability Rights Commission and the Equal Opportunities Commission, the latter being responsible for gender discrimination. All three commissions support complainants in legal proceedings, have some enforcement powers, and the task of promoting the respect for equal opportunities through research, public comments and statutory Codes of Practices publication.<sup>248</sup>

By 2009, however, these institutions will be merged to one new Commission for Equality and Human Rights (CEHR), which will have enforcement and promotional powers across all the equality grounds in Great Britain.<sup>249</sup> CEHR powers are laid down in the Equality Act 2006. It

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<sup>243</sup> Chahrokh, Haleh – Klug, Wolfgang – Bilger, Veronika et al. [2004]: Migrants, minorities and legislation: Documenting legal measures and remedies against discrimination in 15 Member States of the European Union. European Monitoring Centre on Racism and Xenophobia, December 2004, p. 8.  
<http://fra.europa.eu/fra/material/pub/comparativestudy/CS-Legislation-en.pdf>.

<sup>244</sup> O’Cinneide, Colm op.cit, Executive summary.

<sup>245</sup> Ibidem.

<sup>246</sup> Ibidem.

<sup>247</sup> O’Cinneide, Colm op.cit, p. 71.

<sup>248</sup> O’Cinneide, Colm op.cit, p. 80.

<sup>249</sup> O’Cinneide, Colm op.cit, Executive summary.

will have the duty to undertake inquiries and investigations, to take legal action to restrain unlawful acts and to issue Codes of Practice which will be taken into account by courts determining questions of equality.

As to the local perspective, there is also a network of more than eighty race equality councils, funded in part by the CRE in part by local public authorities, which advise complainants. Further, CRE funds a number of specialist complainant aid organisations in different parts of the country that provide assistance in RRA cases.<sup>250</sup>

Much of the work of the Commission for Racial Equality (CRE) work focuses on local governments because they play a pivotal role in providing public services. As the CRE points out, the regeneration of local areas can transform people's lives by giving them access to better housing, education and employment, as well as by improving the areas in which they live and work.<sup>251</sup>

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<sup>250</sup> O'Conneide, Colm op.cit, p.82.

<sup>251</sup> Commission for Racial Equality: A lot done, a lot to do; Our vision for an integrated Britain, September 2007 [http://83.137.212.42/sitearchive/cre/downloads/a\\_lot\\_done\\_a\\_lot\\_to\\_do.pdf](http://83.137.212.42/sitearchive/cre/downloads/a_lot_done_a_lot_to_do.pdf).



### **3. Combating segregation and discrimination at the local and regional level: Best practices, good examples**

## 3.1 Introduction

As it was pointed out in the first part of this study, the tackling of social and economic problems in rundown areas became one of the key objectives of EU Structural policy. Besides this, several Community initiatives (e.g. INTERREG, URBAN) contributed directly or indirectly to the regional catching up and the integration of the society in the concerned regions. A series of projects aimed at comprehensive territorial development were financed by the European Union, many of which concerned specifically the integration of social groups suffering segregation or other forms of discrimination. Although the programmes financed by the Community cannot substitute the actions of national institutions, they proved to be an important stimulus for local and regional actions.

Both the old and new EU member states recognized the long-term negative social effects of the combination of poverty and spatial-social exclusion, and decided to launch a number of programmes in order to deal with this issue. Several national initiatives are aimed at eradicating social and economic disadvantages in deprived areas, improving the housing and living conditions of isolated neighbourhoods. These measures can also promote the better integration of disadvantaged groups of people into the wider society.

The following chapters are going to discuss practices which illustrate regional and local actions in the field of anti-discrimination and equal opportunities. The study will focus especially on those best practices which were related to deprived, rundown areas.

## 3.2 Development programmes in rundown areas

### 3.2.1 The Big Cities Policy in the Netherlands<sup>252</sup>

In the 1980s, the situation of socially and physically deteriorated residential areas of the major cities became a central issue in the Netherlands. Initially, the Big Cities Policy focused on those districts where poor families were concentrated. By creating flats of higher quality, the local governments attempted to attract to the area well-situated families. In the following step, Dutch authorities strived to improve the conditions in these areas, by modernizing the already existing housing stock and by tackling the social problems of the residential areas such as unemployment, poverty, the situation of the disabled, drugs and delinquency.

A specific feature of the Big Cities Policy was the concerted action taken by the local and national governments. In terms of administrative organisation, the national government concluded agreements with the cities involved, setting out policy goals and obligations for the parties concerned. While the cities had to give substance to the policy, the national government was responsible for co-ordinating and, in some areas, supervising the different programmes.<sup>253</sup>

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<sup>252</sup> Kempen, Roland van [2000]: Big cities policy in the Netherlands, *Tijdschrift voor Economische en Sociale Geografie*, 91/2000, (Royal Dutch Society).

<sup>253</sup> Dukes, Thea [2006]: Place, Positioning and European Urban Policy Discourse Examples of politics of scale in 'Brussels' and the Netherlands, p. 78.

Within the framework of the programme, five domains of intervention were defined: work and economy, quality of the social and physical environment, youth and safety, education and care. An amount of about 1.5 billion euros was earmarked for the programme.<sup>254</sup> Later on, programmes supported within the framework of the Big Cities Policy were co-financed by the European Regional and Development Fund as well as the European Social Fund.

Based on the experiences gained from the programme, the following three priorities were defined as being of key importance in the future urban rehabilitation programmes: a focus on economy and employment, physical improvement of deprived areas and social development.

### 3.2.2 The "Soziale Stadt" Programme in Germany

The so-called "Soziale Stadt" Programme can illustrate how spatial and social marginalization can be tackled in urban areas by an action taken together by national and sub-national authorities. The programme launched in 1999 was based on the experiences of previous German and foreign social urban rehabilitation programmes. Since the end of the 1960s, sharp differences emerged between the different residential districts of the big cities in Germany as well as in other Western European countries. The difference became more and more apparent between prestigious residential areas with well-off families on the one side, and low-income groups, elderly, immigrants and foreign workers on the other. The concentration of the poor, the deterioration of flats and buildings, and the rise of deviances among young people required from the authorities to launch specific actions. Experts called for organized public intervention in deprived areas in order to put an end to the decline of neighbourhoods and the segregation of people living there. In response to this, the German government with the cooperation of local and regional authorities drew up the so-called "Soziale Stadt" programme under which:

- the state aims at coordinating investment activities in the field of urban regeneration at the local and national level, in order to develop a single programme set out by the central government;
- local governments participating in the programme are expected to formulate a long-term, area-focused action plan which will be the basis for the local "Soziale Stadt" programme later on.

The programme required the participating local governments to take, amongst others, the following measures:

- involving citizens and actors of the local public life;
- establishing new management and organizational structures;
- coordination of public intervention by creating partnerships.

When the programme was launched in 1999, 161 districts from 124 cities were selected. In 2004, 249 districts from 184 cities applied to participate in the programme. The projects launched in 1999 and in 2000 affected 1.8 million people. The programme covered two areas

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<sup>254</sup> Dukes, Thea, op.cit., p. 79.



of intervention: the overpopulated districts, many of which were established in the 19th century, and the housing estates with concrete blocks of flats constructed in the period 1960–1980.

### 3.3 Education: an instrument of special importance in combating discrimination

Education deserves special attention in combating discrimination in several respects. First, the shaping of consciousness and the establishment and reinforcement of a system of values devoid of discrimination in the majority depends to a great extent on educational institutions operated mostly by local and regional governments. Further, educational establishments can give rise to discrimination by distinguishing and segregating those in disadvantageous situation and groups with different culture and values. The cases below seek to illustrate how education can be used as a means of promoting equality throughout the different Member States.

#### 3.3.1 Youth Empowerment Partnership Programme (YEPP)

The project's underlying idea was that deprived neighbourhoods and unfavourable social environment contribute to a great extent to the reproduction of poverty and discrimination of young people. Children living in housing estates or in slums, young people in shanty towns do not have any possibilities to select their place of life. By the means of networking, public authorities of different Member States acted to eradicate this problem.

In Mannheim, Germany, YEPP aimed to facilitate communication and cooperation among people with different cultural backgrounds. Within the programme, the following problems were identified

- Migrant children's inadequate German language skills,
- Insufficient opportunities for young people in their transition to the labour market,
- Deficits in the educational system which lead to school careers with no or very little chances on the labour market.<sup>255</sup>

In order to tackle these problems, YEPP has initiated a number of innovative programmes aiming to give positive examples for dissemination and structural changes.<sup>256</sup> Within the programme, conflict management trainings, street art festivals and trainings presenting the various cultures were carried out mostly by educational organisations.

Within the framework of the YEPP program, in Kristenstadt, Finland a better cooperation and communication between young people was promoted, where they became more "visible" for local decision makers by sharing their own ideas related to the fields of education, employment or even of public health. For this purpose, various training programmes and forums were organised, a local newspaper was launched and a Youth Council was equally set

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<sup>255</sup> Available online at: <http://www.yepp-community.org/site/index.php?menuNav=25>.

<sup>256</sup> Ibidem.

up. One of the main achievements of the programme was that the Municipality invited the local youth council to participate in the physical planning of the green area surrounding the Upper Secondary School. The constant work of the local YEPP team opened new opportunities for youth participation. The establishment of a "little parliament" in 2003 is a most significant example for this process.<sup>257</sup>

In Lille, France within the framework of the YEPP programme participants contacted local companies and entrepreneurs and developed a tutorial and traineeship system aiming to help young people to acquire knowledge and experiences and to get familiar with the opportunities in the labour market. As a result of the projects put into practice, a mutual trust and cooperation was developed between schools and companies. As a consequence, the perception of youth and the community changed significantly: company managers have now the impression that they have both the possibility and the competence to contribute to the prevention of youth unemployment.<sup>258</sup>

### 3.3.2 The first gipsy secondary school in Europe

The Gandhi Foundation in Pécs, Hungary was established in 1992 with the participation of 18 civil and public organisations and 8 private individuals. The objective of the foundation was to establish and maintain minority secondary schools, providing gipsy students competitive knowledge in the labour market.

The founders of the institution were motivated mainly by the structural difficulties experienced in the education of Roma people, and the under-representation of Roma in the higher education. Wishing to contribute to the establishment of a gipsy intellectual class, the Gandhi Secondary-School also aims at promoting the gipsy minority culture and languages.

The success of the institution is shown by the high number of students successfully entering higher education. Those not continuing their studies can relatively easily find employment opportunities in the labour market.

The achievements of Gandhi Secondary School show that the education of the Roma can be highly efficient if their specific needs are taken into account. The establishment of special educational facilities and the separation of Roma in this case do not bring about segregation but, on the contrary, by the means positive measures it promotes their social integration.

### 3.3.3 Youth parliament as a school of equal chances and democracy

A micro-region, Ózd in Hungary has been severely hit by industrial crisis in the last two decades.<sup>259</sup> During the '90s, local municipalities, civil organisations and entrepreneurs in Ózd micro-region decided to establish cooperation in order to find solutions for their common problems. The so-called Órhegy Association served as a legal framework for their partnership. The leaders of the Association and the representatives of local municipalities have recognized and supported the idea of involving local young people into decisions on the future. This idea provided the basis for the establishment of the Youth Parliament in 1996. The activities of

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<sup>257</sup> Source: <http://www.yepp-community.org/site/index.php?menuNav=23>.

<sup>258</sup> See: <http://www.yepp-community.org/site/index.php?menuNav=24>.

<sup>259</sup> The case was prepared by Farkas, Éva, Órhegy Egyesület, Ózd.

Órhegy Association and the Youth Parliament significantly raised the initiative skills of young people concerning their local environment. A growing number of projects initiated by them have been approved and implemented by local municipalities.

The general purpose of the Youth Parliament is teaching young people (aged between 10 and 30) to democracy, the enforcement of youth interests and the implementation of youth-oriented initiatives that can contribute to the overall development of their respective neighbourhoods and the whole micro-region.

The following achievements have been reached due to the Youth Parliament so far:

- the migration of young people has been reduced significantly;
- it contributed to the raising of local awareness, self-identity;
- a co-operation has been established between youth communities and local municipalities;
- active participation of the youth in public life;
- co-operation between Roma and non-Roma communities;
- thanks to the Youth Parliament, international partnerships established by the region is growing in number;
- about 200 young people have participated in international youth exchange programmes.

The Youth Parliament is a good example on how responsible local policy makers can create a good social climate by involving young people in local policies in a backward region. Further, it shows how the institutionalization of the concerned groups can improve creativity, thus contributing to the economic development of a given area.

### 3.4 Communication between religious groups in Rotterdam<sup>260</sup>

The "Islam & Integration project" provides a good example for local authorities on how local diversity can be managed at the grassroots level. The programme aimed at advancing active citizenship by fostering public debate about mutual expectations of minority and majority groups. Following public debates, a community charter was set up, consisting primarily of agreements between the citizens of Rotterdam, in particular between Muslims and non-Muslim communities. In support thereof, agreements have been formulated between different organizations.

City authorities realised that they cannot by themselves foster a cohesive social fabric but it is the citizen who plays the decisive role in this endeavour. For this reason, all investments in

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<sup>260</sup> Source: Strengthening community cohesion at the local level – The Rotterdam Islam & Integration Debate, available online at: [http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=43a17e680d287&contentid=43a27ee689b4c](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=43a17e680d287&contentid=43a27ee689b4c).

"social integration" are directed to the advancement of active citizenship of all the population groups.

Integration and mutual understanding between population groups was fostered by broad and open discussions. The City of Rotterdam's developed an action plan "Islam and Integration" which, via expert meetings, internal debates within the Muslim communities, and information meetings have led to a series of public debates about the most important subjects relating to the of Islam & Integration.

The project started with 25 experts meetings indicating how the debates should be conducted and decided on the structure of the project.

Subsequently, a series of "internal debates" took place between Muslims (mainly of Turkish, Moroccan and Somali origin). The purpose of these debates was twofold: firstly, to provide clarity with regard to the position of Muslims in Rotterdam society; secondly to facilitate the discussion on subjects which Muslims consider being sensitive.

In the second phase of the project, 10 information meetings were held, attended by around 1,500 people. The meetings were directed at all the Rotterdammers and were intended as preparation for the public debate. They provided participants with access to the same knowledge and background information about the subject in order to prepare for a fair and open debate.

The meetings provided information to Muslims and non-Muslims with regard to each other's situation and backgrounds in order to close the mutual knowledge gaps that exist particularly in relation to subjects in which preconceptions or misconceptions exist.

The series of nine public debates took place in February and March 2005. The central subjects of the debates were (1) "Us and them" feeling amongst Muslims and non-Muslims; (2) values and norms in the constitutional state and Islam; (3) position of women/equality of the sexes/homosexuality; (3) Islam as new religion in Rotterdam / the Church and the State; (4) Education and economic situation; and (5) safety and terror.

The debate was conducted between citizens. It was not a debate between experts, or with bureaucrats, but for and by Rotterdammers. Each meeting was therefore lively and interactive, focusing on the exchange of viewpoints. All the local people were welcome and were invited to give their opinion. In the same period, 20 smaller scale debates were held in various neighbourhoods. Throughout the whole period of the city debates, it was also possible to join in the debates online.

At the final public debate the central question was how agreements can be made with each other and how the social basis for this can be further broadened. During the debates, people of Rotterdam developed the building blocks for a Rotterdam "social charter". The closing debate attracted 1,500 people. In total, over 5,000 persons attended the small and large-scale debates.

The results of the debates "Islam & Integration" have fed into Rotterdam's project of "social integration", which includes the promotion of social cohesion and active citizenship.

The project "Islam & Integration" was intended to consolidate a community charter, consisting primarily of agreements between the citizens of Rotterdam, in particular between Muslims and non-Muslims. The local authority's role will be the creation of preconditions within which the citizens and organizations can further develop the coexistence with each other.

The organised debate in Rotterdam on the better involvement of Muslim people in the town's economic and social life serves as a good example for towns and villages with multiethnic and multicultural societies. The role of local government was the initiation and facilitation but not the governance of debates. This catalyser role allows the direct exchange of views between those concerned, the elucidation of conflicts and the common elaboration of modes of treatment. The task of local governance is to promote the implementation of the agreements by those concerned.

### 3.5 Tackling discrimination of sexual minorities

North Lincolnshire Local Authority took a coherent approach to equality with ensuring respect for the principles of diversity, equality and social inclusion and cohesion foremost in local authority places of residence, learning and recreation.<sup>261</sup> Within its general equality policy framework, a special place was given to the prevention of homophobic bullying in education. For this aim, the authority issued a guidance addressed to schools and young people's settings, aiming to ensure that the dignity of all individuals is affirmed irrespective of their sexual orientation.

The guidance stipulates that supporting lesbian, gay, bisexual, and transgender (LGBT) pupils and adults in educational settings involves ensuring that LGBT issues are included in all areas of their work, from the creation of policies and procedures to the ethos and delivery of the curriculum, and that training opportunities are offered to all employees.

Therefore, the guidance lays down methods of identifying bullying in the schools, and discusses its potential effects to the victims. The guidance also envisages reporting procedures and advising if incident occurs in the schools.

In order to ensure that the principle of diversity is promoted in the schools, the guidance sets out the basic principles of education. In order to promote understanding of the situation of sexual minorities, the guidance lays down the teaching of those social and economic processes, which have led to prejudice against minority groups and social factors that are associated with sexual and other forms of discrimination and harassment.

### 3.6 Promoting gender equality

#### 3.6.1 The "House of Women" programme in Graz

The basic idea of the "House of Women" programme was that women, who are often victims of aggression together with their children, should be given the opportunity to shape their lives

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<sup>261</sup> Source: North Lincolnshire Local Authority Promoting Diversity [2006]: Policy and Guidance For the Prevention of Homophobic Bullying; For Schools and Young People's Settings

independently. This institution helps to overcome crisis situations and enables family members to get into contact with others who had already successfully solved similar problems.

This institution has the following distinctive features in comparison with other social institutions:

- Autonomy: independence of clients and the institution
- Anonymity: clients have the option of remaining anonym
- Openness: assistance is to be provided for women irrespective of their ethnic background, citizenship or place of residence
- Self-governance: clients are partners in the developing the most important rules of operation
- Self-help: clients should be enabled to solve their problems on their own.
- Bias for women and children: the institution always protects the interests of the women and children
- People can be admitted exclusively on their request

The institution operates a counselling service that is free of charge and is accessible at all times (either personal or over the phone). In the vast majority of cases, this service is the first phase before delivering other services (accommodation, board, crisis management, long-term counselling).

The most important objective to be achieved by the admission of women and children into the institution is ensuring safety. Admission starts with a talk during which the circumstances that led to help-seeking are precisely described. After having taken the most urgent steps (reporting, medical assistance, necessary safety measures), a problem-solving strategy is set out for the clients. If necessary, the house contacts the police, psychologists or attorneys.

Developing cooperation with relatives and the friends is also one of the institution's concerns. Further, the house also provides help in finding a job and an apartment, both of which are vital to starting an independent life.

The services provided for the clients include:

- Crisis management;
- Assistance in establishing an independent life;
- Practical assistance (such as in managing administrative matters, accompanying clients to offices, searching for a job and apartment);
- Group work, joint problem solving;

- Mediation of information

### 3.6.2 Gender budgeting in Upper Austria

A Gender Budgeting procedure started in Upper Austria with the constitution of a group of experts consisting of representatives of both genders from the Land's finance department, the office for women's issues and the Gender Mainstreaming group of the Land Government Office.<sup>262</sup>

The first period of the project focused on the analysis of the existing gender imbalances and was carried out by the Austrian Institute for Economic Research (WIFO) together with experts from the land of Upper Austria.

Within the framework of the project the following issues were analysed:

- Direct benefit of public expenditure: “Who benefits from the expenditure primarily, men or women?”
- Analysis of the impacts of individual expenditures on employment and analysis of the structure of incomes.
- Internal and external effects of measures: effect of expenditure on the division of unpaid work, on earning activity and Care Economy.

Analysis was aimed at the definition and description of inequality according to gender; stipulation of concrete target criteria; development of appropriate indicators and proposals for the elaboration of a set of measures for overcoming gender disparities.

Aspects taken into account in the formulation of pilot study<sup>263</sup>:

- analysis of gender budgeting requires first the formulation of the general equality targets;
- the benefits of the project should be defined;
- the transparency of the activities of the public sector should be increased;
- improvement of the efficiency, adequacy of targets and effectiveness of public expenditure;
- action should be based on existing shortcomings in terms of gender imbalances and the analysis of impacts of public spending;
- proposals should be put forward with the aim of reforming administrative and financial law.

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<sup>262</sup> Source: Prenner, P. - Schelepa, S. - Sorger, C. [2007]: Austria. In: Gender equality in the process of budgeting, Pilsen.

<sup>263</sup> Mayrhuber, Christine et.al. [2006]: Analysis of the Gender Budget for Upper Austria. (Österreichisches Institut für Wirtschaftsforschung, Vienna).







## **4. Anti-discrimination at the local and regional level: Toolkit for decision-makers**

## 4.1 Introducing the Toolkit

### 4.1.1 What is the Toolkit?

The following Toolkit aims to provide a briefing and a series of prompt questions to focus on while dealing with anti-discrimination and equality policy building for local and regional authorities (LRAs). It attempts to help authorities and organizations, which operate on the local and regional level in all sectors, in their regulation and legislation drafting in the field of anti-discrimination and equality.

### 4.1.2 Why is it important?

The Toolkit will help LRAs to avoid the risks arising from not taking full account of the implications of the discrimination issue. It proposes a series of elements and challenges for those engaged in anti-discrimination and equality policy building.

If applied correctly the toolkit should ensure that future legislation in areas such as employment, health and housing reflects equality standards and anti-discrimination incentives.

### 4.1.3 How to use the Toolkit

The toolkit can be used in three ways:

- As an aide-memoire on discrimination and equality issues before producing a document;
- As a systematic framework for the mainstreaming of equalities;
- As a proofing tool once a draft document is available;

To use it effectively:

- Read the Toolkit to gain an impression of how to deal with equality and anti-discrimination policies;
- Use the Toolkit to prepare documents or to reread draft-documents in a more interrogative manner looking for omissions and preconceptions about discrimination and to ensure that the full range of issues reflecting the implications of discrimination on the local and regional level are addressed;
- Due to the wide range of different administrative systems which operate across the European Union and the different mix of powers and responsibilities which exist in different Member States, users will need to be selective in how they use the toolkit dependent on the situation in their state.

### 4.1.4 The Toolkit and regional strategies

This Toolkit is designed to raise awareness on the means to fight against discrimination, which affects the regions of European Member States, both at regional and sub-regional level. Discrimination is a cross-cutting theme occurs in a range of policy domains. As a result, discrimination should be considered when devising or

scrutinizing a wide range of regional strategies, such as labour market, housing, education, social funding.

## 4.2 Discrimination and inequality

This toolkit envisages the elimination of unlawful discrimination and the promotion of equality and good relations with discriminated citizens. Before actually going into methodology and checklists, it is practical to identify targeted discriminations and inequalities.<sup>264</sup> They can be divided into the following 6 different causes:

- Age
- Gender
- Race/ethnicity
- Religion/faith
- Sexual orientation
- Disability

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<sup>264</sup> Bell, Mark [2008]: Extending EU Anti-Discrimination Law: Report of an ENAR Ad Hoc Expert Group on Anti-Discrimination Law, Centre for European Law and Integration, University of Leicester, p. 14.

Discrimination being a crosscutting theme, the policies on Local and Regional level can include (non-exhaustive list):

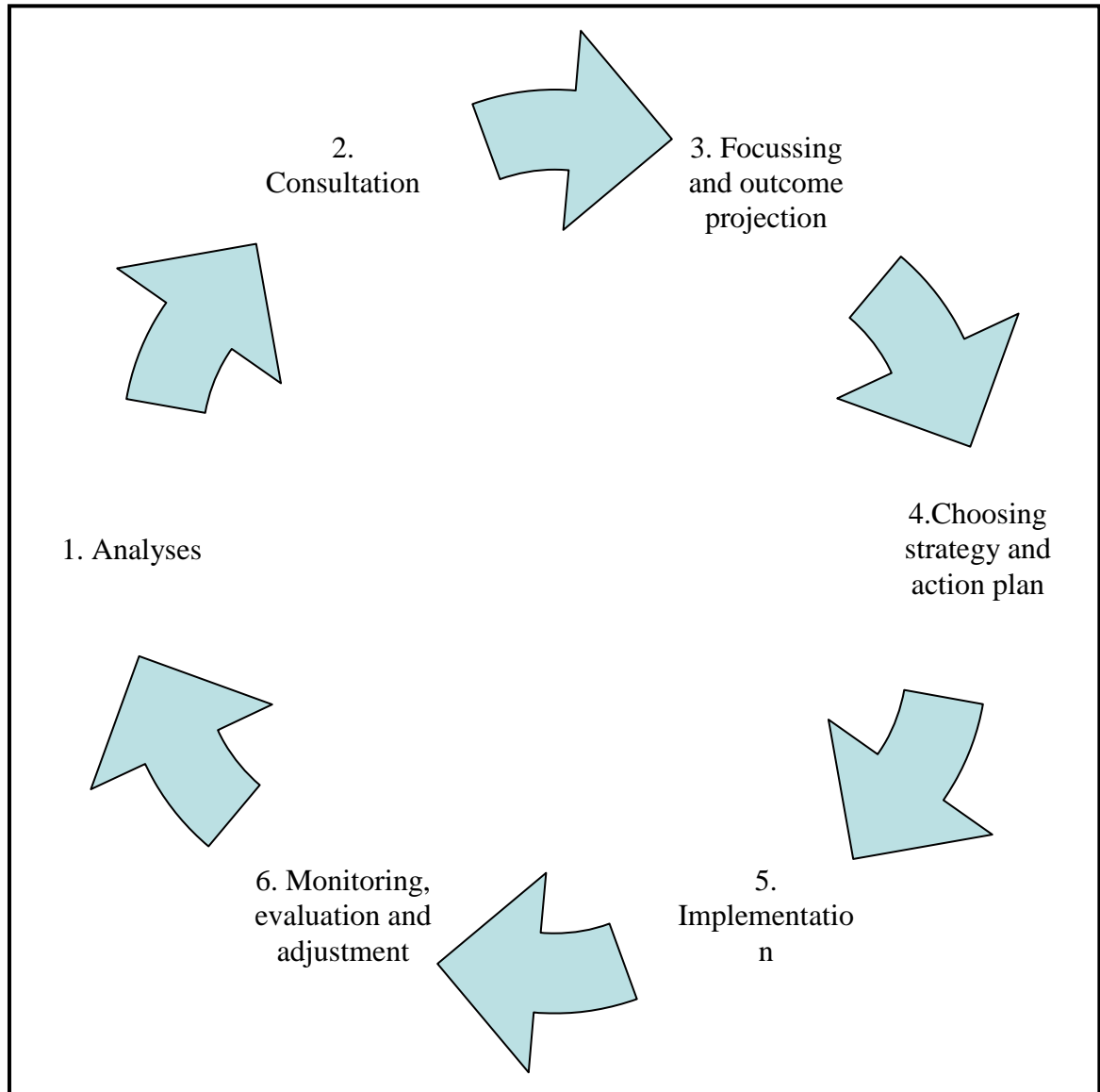
- Housing
- Labour opportunities, standards and market
- Transportation, mobility
- Homelessness
- Criminal and justice system
- Marital status
- Health system and insurance
- Social security
- Accessibility in the most general sense of the word.

Each local and regional authority is able to assess the importance of the discrimination and inequality problems encountered in their own region. Having the advantage of being closer to the citizen than the national level, a differentiation can be made in spatial terms in case of deprived areas. These deprived areas then can benefit from special attention or a customised policy, integrated in a more general policy strategy.

### 4.3 Policy cycle for anti-discrimination regulations for LRAs

The following six steps (see Graph 1, Scheme 1) should be considered while engaging in the conception of anti-discrimination measures. Building equality can be a very long and complex process for which the following scheme could be a good aid.

Graph 1: The 6 policy stages in the equality building process.



## Scheme 1: The 6 policy stages in the equality building process

### *Stage 1: Identify the problem and provide for thorough analyses:*

- Gather basic figures and facts on answering where, when, why, and how-questions
- Identify the percentages inequality, quantify the problem
- Provide for basic figures about the problems on different levels of society

### *Stage 2: Consultation and participation:*

The following elements are to be discussed with the stakeholders:

- Objectives
- methodology, policies, procedures and consultation frameworks
- Content for the equality plan.

### *Stage 3: Focussing and outcome projection:*

The basic data, acquired in stage 2, allows the identification of inequality patterns. Such analyses requires a considerable amount of time and care for it is essential for all further work to focus and address the right symptoms or causes. It is evident that wrong conclusions made in this stage would compromise the rest of the work so caution is advised.

### *Stage 4: the Action plan*

Together with the stakeholders a plan should now be developed which includes the following elements:

- priorities that have to be addressed and targets
- a timeframe
- a responsible
- method of implementation

### *Stage 5: Implementation*

Now that a concise plan is elaborated, it is a matter of good communication and appointing responsibilities. Transparency is very important so problems can be identified and dealt with in time and in a focussed manner.

### *Stage 6: Monitoring, evaluation and adjustment*

Once the implementation has started the process should be monitored to see if the measures taken address the identified problem and if changes in figures can be found.

The following tools can be used:

- Self assessment
- Impact assessment indicators

Policy makers should be informed about the progress and changes resulting from their work (implementing consultation framework) in order to be able to adjust if needed. This adjustment can be made on every stage of the process to focus and sharpen the policy tools.

A few key elements can be raised that reflect the course that should be taken and that raise the overall quality of the policy. These key elements must be considered while preparing the policy, during the course of information acquirement, analysis, consultation, drafting and evaluation.<sup>265</sup>

#### 4.3.1 Analysis and assessment

In order to develop complete and adapted solutions for inclusive and equality legislation, it is vital to use correct and complete information about the problem in every day life and in its environment. The vast pool of information should be firstly analysed in a proper manner, distilling sound information. This analysis will be the base of any further development and theory building from that point.

The information needed for a straightforward and complete action plan, is derived from analysis of existing demographic indicators and studies. Furthermore an internal assessment of the current level of performance of your municipal organisation in response to discrimination and inequality should be made (representation, accessibility, diversity).

Other information can be found using different sources; in particular:

- Practices and experiences from other comparable situations as found in this toolkit;
- Studies and analysis made by research groups, universities, think tanks, social institutions which contain valuable information concerning the specific anti-discrimination topic;
- Community assessments;
- Relevant stakeholder, as mentioned above and their in-depth analysis of the current situation.

#### 4.3.2 Consultation and participation

Once the analysis of the situation is complete, a wide variety of stakeholders should be addressed in order to have an exchange of views and allow for a wider voice to be heard. The following four points should be considered while other parties or stakeholders are consulted for they point out the goal of the participation and the added value. While this is not a guarantee for success it surely could enhance the exchange of views and the working of the consultant group.<sup>266</sup>

##### 4.3.2.1 *Exchanging ideas and local participation*

First of all local and regional authorities must be able to establish interaction with the victims of discrimination and inequality together with the groups threatened by discrimination. This is one of the most essential characteristics.

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<sup>265</sup> More specific examples can be found in: Niessen, Jan – Schibel, Yongmi [2007]: European handbook on integration for policymakers and practitioners, (European Commission), available online: [http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/integration/doc/2007/handbook\\_2007\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/immigration/integration/doc/2007/handbook_2007_en.pdf)

<sup>266</sup> See also: European Social Network (ESN): Key Recommendations: Antidiscrimination and Integration, available online at: [http://www.esn-eu.org/inclusion/alldownloads/antidiscrimination/esn\\_key\\_recommendations\\_a&i.doc](http://www.esn-eu.org/inclusion/alldownloads/antidiscrimination/esn_key_recommendations_a&i.doc).



Not only providing for a local opinion, the positive consequences of this interaction are evident:<sup>267</sup>

- It allows a different perspective to be heard.
- It creates a "critical friend" to reflect.
- It provides for creative and unconventional ideas and knowledge from outside the departmental "box".

The antidiscrimination sensibility of local and regional authorities is obviously the best ensured by the participation and representation of the concerned. Despite of that each situation has to be analysed and assessed whether the interest representation of minorities can be solved with rigid quotas. Indeed actors of local politics, the parties, could consider advantaging the different discriminated groups in the selection of candidates, running at local elections. On the other hand the apparent negative aspects of such quota's are not to be neglected. The quota implies the preferential treatment of one group compared to the other, which is exactly the issue this toolkit addresses. In any case, when or if installed, quotas should be monitored closely and followed up concisely.<sup>268</sup>

Similarly, all forums of local participation are open to discriminated groups. However, it is a question, whether it is necessary to help a specific minority group to gain access to a particular forum (like disabled people, linguistic disadvantages, youth, etc.), in which the LRAs should do everything to ensure the possibility to attend and participate.

The basic condition of partnership systems is that the partners have adequate and sufficient information and knowledge to enforce their interests, and in this local and regional authorities must take a part too (accessible, understandable information, education and training, consulting).

Some groups have special institutions for interest enforcement which have no bottom up character but which were set up by the power of state or central legal regulations. Such institutions which provide services as for example prosecution of rights, assistance and information in local governmental maintenance can be operated anywhere irrespective of the legal regulation. These services can carry out the tasks of mediation and may promote interest protection in every relation (such as towards employers, state administration, business, etc.)

#### *4.3.2.2 Linkage and Network building*

Policy initiatives and initiatives addressing community needs rarely stand alone. Working for community cohesion, equality and antidiscrimination is also the objective of multiple government bodies, local and national. Moreover national and international initiatives have already started the work. It is therefore very important to

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<sup>267</sup> Oldham Metropolitan Borough Council [2003]: The Equality Standard for Local Government Toolkit, Oldham.

<sup>268</sup> Bell, Mark [2008]: Extending EU Anti-Discrimination Law: Report of an ENAR Ad Hoc Expert Group on Anti-Discrimination Law, Centre for European Law and Integration, University of Leicester, p. 14.

try and understand the big picture and explore the full scope of the problem solving environment. Not only on the other levels just mentioned but also inside LRAs. Policies engaged in other field of local and regional authorities for example can already be addressing the needs of discriminated groups to a certain extent. In order then to procure an efficient and effective policy it is necessary to take in consideration other initiatives and to coordinate these activities. To increase access, integration, inclusion, participation and equitable outcomes for minority individuals and communities a network of initiatives has to be constructed and nurtured.

To facilitate these network activities regional authorities should bring together people of all different kind of activities linked to the same goal, facilitate their interaction, nurture the linkage of the people, provide support and open up their knowledge and expertise to all people involved and interested.

The local and regional levels are most successful at constructing and implementing social inclusive policies and equality measures, because they:<sup>269</sup>

- are the major political force within the local and regional community;
- govern the delivery of essential services within the local and regional community;
- have the capacity to influence public opinion and bring diverse interests together, for the common good;
- have the moral authority to sway other organizations, (voluntary and private sector), and governments to address issues that have an impact on the local and regional community.

In order to construct and implement regulations that serve local communities, active partnership and local ownership are essential. Local groups then own and construct together with local and regional authorities solutions for the local, much differentiated needs. Engaging all different local partners, accepting them as a equal partner and forming practical solution will validate and enforce the policy making process.<sup>270</sup>

Finally promoting inclusion and equality and reducing racism and discrimination is a delicate process. The involvement of committed groups of people is as we have seen essential for the proper dealing with this issue. The issue therefore needs to be carefully framed in a way that builds inclusion for all stakeholders in order to avoid the breakdown of work due to arguments concerning language, definitions, meanings, and competing agendas.

#### *4.3.2.3 Target setting and Committing*

Equality and anti-discrimination legislations are not very easy to effectively adapt and enforce. Furthermore the effects of such laws and regulations are not easy to measure

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<sup>269</sup> Charles C. Smith consulting [2003]: Hamilton at the crossroads: Anti-racism and the future of the city, 'Lessons learned' from the community-based anti-Racism Institutional change initiatives.

<sup>270</sup> Scottish Executive Health Department [2005]: Equality and Diversity Impact Assessment Toolkit, Edinburgh.

and take a long time to fully affect social and daily life. Long term commitment and an ongoing effort to support and improve these regulations are therefore crucial. This will prove to be challenging for all parties involved and even more so for the authority involved.

The process of building an equal and just society not only takes time but also a further commitment of the local and regional authority in terms of resources. Equality and anti-discrimination laws and regulations are very difficult to instate and enforce so all efforts must be made to fully commit to them. That does not only mean resources to back up the legislation but also a further follow up of the process and making a personal commitment to the goals set. This also means a thorough goal setting and elaboration of planning and executing. This should prevent any surprises which could mean the prolonging or sudden stop of the integration process.

Creating open and equal communities is an entire process in itself. It can be nurtured by:

- Sharing each others needs and realities;
- Building relationships and commitment between stakeholders;
- Planning and creating a future together;
- Building trust both on the organizational and community level.

Finding ways to break the work down into smaller steps that allow the above to flourish, and celebrating the successes along the way, play a huge role in ensuring efforts that create positive and long lasting outcomes.

#### *4.3.2.4 Creating a structure*

Equality building and anti-discriminatory measures require a comprehensive adapted planning besides the more general sectoral planning. In practice, multiple initiatives can be found which seek to ensure the long term planning foundation for the combat against discrimination. Equality as a “horizontal” aspect must penetrate the entire comprehensive development plan of the concerned settlement area, therefore it must be present in all sectoral strategies as well. In order to be able to enforce this, the indicators and aspects of evaluation must be elaborated as well as the organisational and procedural guaranties ensuring the efficiency of these aspects.

Local and regional authorities could install a steering committee to advise/manage the development, implementation and evaluation of the strategy. There are several different potential committee structure options, which include<sup>271</sup>:

- New or existing council committee;
- Community committee;
- Inter-departmental working group;
- Appointed senior policy officer;
- Existing planning section of the council;

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<sup>271</sup> Alberta Urban Municipalities Association: Welcoming and Inclusive Communities Toolkit (AUMA), Edmonton, p. 17.

- Specialist adviser or consultant.

Each kind of organisational structure has its advantages and disadvantages which have to be explored and compared for every situation<sup>272</sup>. A council committee for example is a part of the Council and therefore it is easy to incorporate inclusion in other domains, but on the other hand it gives the impression of being a rigid top-down structure. On the other hand for example a joint or combined committee can be used to maximise strengths, pool knowledge and coordinate joint efforts. This joint committee will require a great deal of negotiating before focussing all perspectives and reaching concrete results. It is therefore impossible to point out one ideal setting; one has to find the option, best suited for the situation.

Once installed, this committee should be given a clear task and goal, and the means to fully fulfil their assignment. The following points must be clearly defined before the committee start its activities<sup>273</sup>:

- Mandate;
- Membership Composition and Selection;
- Role of each members;
- Reporting Relationships;
- Authority and Accountability;
- Resources and Administrative Support.

Internal committees are best suited to plan and manage activities that are within the municipal body itself, while external or joint committees can advise on both organizational and/or community initiatives. In addition sub-committees may be formed which are structured according to the operations they are tasked with carrying out.

#### 4.3.3 Focussing and target projection

Having installed the structures, engaged different parties in the discussion and analysed the different factors that come to play, a clear focus and plan must be elaborated to tackle all aspects involved in discrimination.

Determining the problem and the level on which the problem poses itself is the first question. All resources, needs, environmental factors as analysed in previous steps should be considered and will construct the focus of the plan. Each form of discrimination requires it own problem solving thinking process and approach. From an ad-hoc approach to a general long-term plan, each problem requires its own solution ranging from level to level, the area of the problem etc.

#### 4.3.4 Choosing a Strategy and the Action plan

Depending on the nature of the inequality the regional and local authority has a different role to play. Based upon the data and analyses acquired from previous stages of policy building, a few basic identifying (when, where, how and why) questions

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<sup>272</sup> Ibidem.

<sup>273</sup> Ibidem.

have to be asked in order pinpoint the challenges. Then the most efficient and effective legislation and regulation can be adapted for each existing problem.

The policy maker has to provide an answer to the inequality on 3 different levels; as a legislator, as a public authority and service provider and as a guardian of public interest.

Examples:

As a legislator it must provide equal opportunities for future employees to propose their candidacy for a specific job opportunity. Also equal funding for local interest groups or minority groups is vital as an organisation but also for example when inter-communal dialogue is fostered.

As a public authority and service provider, regional and local authorities should strengthen their community by building partnerships, raising awareness, lead public debate, and foster dialogue.

As a guardian of public interest it should develop and implement protocols against racism and discrimination. Through identification of problem areas and finding concrete solutions and reporting on the evolution it can really set an example as a community that includes a wide variety of people. Table 1 can be used as key questions to assess whether LRAs drafted regulations fit the current and future requirements.<sup>274</sup>

Table 1: Possible checklist for legislative assessment

Questions	Current context	Further requirements
<p>Does the document reflect the issue of discrimination in all relevant policy areas such as economy, infrastructure and social policy?</p> <p>Does the analysis include general discrimination and regionally specific trends such as the nature of discriminated ethnic communities?</p>		
<p>Does the document reflect relevant legal frameworks and performance targets? Is the document free of generalizations or stereotypical notions about discrimination and does it reflect the heterogeneity of discrimination? In its presentation, does it avoid the use of stereotypical language or negative images?</p>		
<p>Does the document incorporate information about trends into specific proposals? Has a process of consultation about the document been identified with people from relevant age groups?</p>		

<sup>274</sup> Committee of the Regions & Age Concern England [2006]: Regional Strategies and demographic Ageing, Brussels.

Together with a plan and a strategy, LRAs need resources and tools to implement the new policy. Equality and anti-discrimination laws and regulations need, as seen, long term planning, which indeed requires a long term engagement both of people and resources. In order to complete the work and achieve the set goals a long term financial planning will have to be considered while planning the strategy.

A good strategy could be to identify needs and resources and trying to match these both sides as well as possible. This also eventually implies setting priorities and making choices; priorities in certain fields of policy or privileged partnerships with certain minority groups or civil society groups. Initiatives can also be taken in cooperation with other groups and stakeholders in order to share the cost or burden that comes with the task. The importance of communication and openness to other partners is again very evident in this stage of equality building.

Further on in this toolkit the monitoring of output and impact assessment will be dealt with. It is useful to mention in this chapter the monitoring of input. Not only in light of complying with the initial plan and not trying to stretch the budget too far, but also the applying of hard management targets and cost-efficiency standards. In order to achieve goals and targets and not having to interrupt or stop implementation these indicators should be addressed and controlled.

#### 4.3.5 Implementation

Implementing the strategy chosen by local authorities and their civil society partners will prove to be a difficult task. Moreover, a lot of personal and community interests will have to change and adapt. It is therefore crucial to all stakeholders and authorities to be on the same line and share the same vision. All the parties also have to communicate the same message to other parties and address sensitivities in discriminated groups as well as those of the general public. Staff members that will be confronted with the changing attitudes and mindset will have to be even more informed on how to handle and react to the new set of rules and boundaries.<sup>275</sup>

#### 4.3.6 Monitoring, evaluation and adjustment

A powerful tool in the follow up of the implementation process is self-assessment. Table 2 is designed to serve as a possible means of assessing policy implementation.

Table 2: Assessment of policy implementation

Question	Current context	Further requirements
Are stakeholders involved? Is the right staff involved? (Representation)		
Is there a good participative framework? Is there		

<sup>275</sup> See also: European Social Network (ESN): Key Recommendations: Antidiscrimination and Integration, available online at: [http://www.esn-eu.org/inclusion/alldownloads/antidiscrimination/esn\\_key\\_recommendations\\_a&i.doc](http://www.esn-eu.org/inclusion/alldownloads/antidiscrimination/esn_key_recommendations_a&i.doc).

enough support on every level? (Participation)		
Is there enough mutual understanding and communication? Do we need training? (Consistency)		
Are issues like accountability or confidentiality addressed? Is the system open enough? (Transparency)		
Do we have a systematic consultative structure? Do we need surveys? (Consultation)		
Are the results accurate and objective? Is there a lack of credibility? (Objectiveness)		
Are the results and feedback integrated in the current working system? Does it seem to be an ad-hoc exercise? (Integrated approach)		
Are the results taken into account? Does it bring along change? (Productivity)		

Local and regional authorities can also take part in the field of controlling and supervision, where they have no governance. They could, for instance, operate such information units, points, where the indications and complaints about discrimination could be collected. It is not excluded that the local and regional authorities employ their own ombudsman. This would be especially important where the equality body has no territorial network. Moreover, it can monitor direct and indirect discrimination as a part of the information cycle.

Lastly accountability will provide transparency and encourage advancement throughout the implementation. Accountability ensures the allocation of tasks throughout the process of equality building, which makes it possible to see if things get done, what the changes are and if the outcome is positive to what our goals are.

#### *4.3.6.1 Impact assessment indicators*

A comparative analysis of pre-identified indicators has to be made in order to assess the impact that the strategy and plan has had on inequality and discrimination. These figures will provide required feedback to evaluate the strategy and will determine whether its implementation should be continued or revised.

On one hand actions undertaken by different levels and parties are examined and on the other the actual final results. The differentiation between these two allows the practitioner to adjust and adapt policies where it is needed in order to eventually achieve the goal, equality and inclusion throughout society.

Extensive research on the following indicators should be made (non exhaustive list):

- Economic data
- Employment data
- Education data
- Civic participation data
- Health data
- Housing data
- Income data
- Spatial, spreading data
- Poverty data
- Crime data.

A comparative approach with the pre-policy figures enables policy makers to assess the impact and to adapt if necessary. Here the feedback and continuous adaptation of policy occurs. Communicating these figures to all parties involved will foster comprehension and support for the project and its adaptations.

#### *4.3.6.2 Education, learning and persuasion*

As mentioned before, one of the most important but fairly soft mean of antidiscrimination combat is education and the shaping of contemplation. In this field LRAs may have a very important role.

Different levels of education and communication include:<sup>276</sup>

- Providing an education and training plan for internal and external individual and organizational stakeholders;
- Training and forming spokespersons and teachers equipped with a broad background in equality and anti-discrimination regulations but with a strong connection with the local communities so one fully understands local needs and concerns;
- Including local communities and stakeholders again is very valuable here as they can raise awareness in their own communities and spread information fairly easy.

Especially important would be that civil servants of local and regional authorities' offices and employees of local and regional public service institutions receive in training courses which help them to enforce the sensitivity of antidiscrimination in their work. In many cases special knowledge and techniques are required and therefore the adaptation of international experiences can be useful. Moreover it could

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<sup>276</sup> See also: Bhandal, Lakhbir – Hopkins, Laurence [2007]: Fighting racism and promoting equal rights in the field of education, (ENAR, Brussels), available online at: [http://cms.horus.be/files/99935/MediaArchive/pdf/education\\_en.pdf](http://cms.horus.be/files/99935/MediaArchive/pdf/education_en.pdf).



be necessary to elaborate institutional, bureaucratic codes of conduct which could be based on the collective knowledge of local and regional authorities.

The facilitation of communication between majority and minority can fall to Local and Regional authorities, which obviously does not mean a hierarchic relation, but anyhow it can provide for the frameworks and places of communication or may contribute to such initiatives in which the local and regional authorities can take part.

In the case of anti-exclusion and anti-discrimination programmes the functioning of institutions of publicity, such as forums, is crucial in order to bring problems and malfunctions to the surface on time and to present the opinions of target local societies, in order to enable stakeholders in this way to look for a common solution. The local and regional authorities cited along the case studies may serve as a good example for that as far as their engagement is concerned with the issues of discrimination and exclusion for instance in connection with the operation of schools, local social policy, housing and minority policy.

#### 4.3.7 Special programmes in the service of the disadvantaged

Besides the cases listed in this study thousands of projects could have been introduced.<sup>277</sup> However at this moment the following points, which are expedient to be taken notice of in the course of the formulation and implementation of such projects, could be added:

- Successful programmes do not seek the assimilation of excluded and discriminated groups but rather their integration, in the course of which they also support the maintenance of the identity of these groups identity. This approach postulated tolerance on behalf of the majority of the society (and for the strengthening of that special programmes were included), and on behalf of the beneficiaries the knowledge of the customs, rules and jurisdiction of the majority society and also the adaptation to it.
- Mainly those anti-exclusion and anti-discrimination programmes can be successful, which are implemented in the close cooperation of local and regional authorities, civil organisation and concerned target groups. Therefore it is suitable to extend the circle of participating institutions and organisations up to the thematically reasonable size, and to ensure the involvement of civil organisations – especially those representing the beneficiaries of the programme.
- Even local and regional authorities and institutions may themselves exclude and discriminate certain groups in the course of their activities or through their measures – partly yielding to the pressure by the major society or just not considering appropriately the possible consequences and effects of their measures. This negative consequence may be eliminated through preliminary, detailed and careful analysis of the possible effects of the measure and allowing a relevant public / civil control;

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<sup>277</sup> For further information, see: National Working Group on Small Centre Strategies [2007]: Attracting and retaining immigrants: A toolbox of ideas for smaller centres, Victoria.

- Local and regional authorities have a number of opportunities to initiate, facilitate and implement programmes against discrimination from national and European resources. However they never should forget one point at launching the projects. These projects must serve the real and conscious interests and needs of those concerned. They do not need any redemption but much more they need to be respected and enabled.

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- Recommendation 148 (2004) of the Congress of Local and Regional Authorities of the Council of Europe on gender mainstreaming at local and regional level: a strategy to promote equality between women and men in cities and regions
- Recommendation 153 (2004)1 of the Congress of Local and Regional Authorities of the Council of Europe on “A pact for the integration and participation of people of immigrant origin in Europe’s towns, cities and regions”

*Other documents*

- Alberta Urban Municipalities Association: Welcoming and Inclusive Communities Toolkit (AUMA), Edmonton
- Assembly of European Regions: Manifesto of Catalonia (2002), Declarations of Venice (2003), Kiruna (2006) and Timisoara (2007)



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- Joint guidelines of the European Federation of Public Service Unions and Council of European Municipalities and Regions to drawing up gender equality action plans in local and regional government, adopted on 14 December 2007
- National Working Group on Small Centre Strategies [2007]: Attracting and retaining immigrants: A toolbox of ideas for smaller centres, Victoria
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### **Websites**

- *Deutsches Institut für Urbanistik*: <http://www.sozialestadt.de/en/programm/>
- *European Employment Strategy*: [http://ec.europa.eu/employment\\_social/employment\\_strategy/index\\_en.htm](http://ec.europa.eu/employment_social/employment_strategy/index_en.htm)
- *Fundamental Rights Agency's*: <http://fra.europa.eu/fra/index.php>
- *European Network of Equality Bodies (EQUINET)*: <http://www.equineteurope.org/>
- *European Network Against Racism (ENAR)*: <http://www.enar-eu.org/>
- *Migration Policy Group (MPG)*: <http://www.migpolgroup.com/>
- *Youth Empowerment Partnership Programme (YEPP)*: <http://www.yepp-community.org>