

Strategic Role of Equality Bodies

An Equinet report
December 2009

Strategic Role of Equality Bodies is published by Equinet, the European Network of Equality Bodies.

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ISBN 978-92-95067-36-3

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This publication is supported under the European Community Programme for Employment and Social Solidarity - PROGRESS (2007-2013).

This programme is managed by the Directorate General for Employment, social affairs and equal opportunities of the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.

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Preface

Equinet's Working Group on Strategic Enforcement consists of experts working for national equality bodies and focuses on the effective implementation of the EU Anti-Discrimination Directives (2000/43/EC, 2000/78/EC, 2002/73/EC, 2006/54/EC and 2004/113/EC) and the mandate of equality bodies. The Working Group looks at the powers and competencies of equality bodies and how they can be used in order to ensure a strategic approach and the effectiveness of equality bodies in their objective to combat discrimination and promote equality.

In 2009, the Working Group has explored the role and strategies of equalities bodies in the context of the wider society. The reason for this particular focus is that the role given to equality bodies by national legislation and/or identified by equality bodies for themselves is key to their and the EU Member States' ability to enforce the EU directives. The main objective of the work of 2009 has been to identify and present different examples of the role equality bodies can have in society and how a strategic approach can affect the ability of equality bodies to enforce their mandate in a way that contributes to a wider social change and the development of a society that upholds the principle of non-discrimination and ensures access to human rights for everyone.¹

The report contains a very useful introductory overview of legal basis of equality bodies' functions written by Ingrid Aendenboom from the Belgian Centre for Equal Opportunities and Opposition to Racism. Ingrid, being involved in the works of one of the most experienced members of Equinet, shares her thoughts on the potential strategies and roles of national equality institutions.

The examples presented in the report aim to contribute to the debate around the role of equality bodies in society, in relation to other stakeholders and the long-term objectives and general strategies equality bodies develop based on their role. These are important aspects in particular in the context of addressing complex problems in society and reaching the needs of vulnerable groups.

The conclusions contain a number of lessons learnt based on the examples provided by the working group members, which we hope will be of practical value and use for European equality bodies during the process of identifying their role and elaborating their own strategic plans. In publishing this report, it is also hoped that the report will support the exchange of good examples of strategic approach of equality bodies when it comes to fighting discrimination and promoting the value of equal opportunities for all.

It is to be noted that the conclusions are based only on the work of the working group members representing seven equality bodies and not of all the members of Equinet. In addition, the conclusions do not necessarily represent the position or opinion of the equality bodies either that have been involved in preparing this report or the other equality bodies that are members of Equinet.

On behalf of Equinet – European Network of Equality Bodies, we would like to thank all of those who contributed to this report for their time, expertise and support.

John Stauffer
Working Group Moderator

¹ Members of the working group (WG) were asked to respond to the several questions prepared by the WG moderator and Equinet secretariat. The Group met on 29 May 2009 in Stockholm and 12 October 2009 in Athens to review their inputs and finalise the final shape of the report. The information contained in this report reflects the state of affairs on 23 December 2009.

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Introduction

Bodies for the promotion of equal treatment

Legislation and competences

According to EU legislation², Member States were required to set up equality bodies to promote equality and counteract discrimination on the grounds of gender, race and ethnic origin. The directives lay down several competences which have to be assigned to these institutions. There are also some specific requirements which have to be met when creating equality bodies. First of all, the body or bodies shall act without prejudice to the right of victims and of associations, organisations or other legal entities. In terms of competencies, they should have the power: to provide assistance to victims of discrimination in pursuing their complaints about discrimination; to conduct surveys concerning discrimination; and to publish reports and make recommendations on any issue relating to discrimination. Most importantly, equality bodies should be able to perform all these tasks independently.

In order that equality bodies function well and effectively, it is also important to take into consideration the Paris Principles – the series of recommendations on the role, composition, status and functions of national human rights institutions adopted by the United Nations (UN). The EU directives follow these recommendations but the Paris Principles are more detailed and go beyond. The Paris Principles states that human rights institutions should be given as broad a mandate as possible and stresses the importance of independence. The Paris Principles further lists a number of responsibilities that national human rights institutions should or could have.

The EU directives establish only minimum standard guidelines and give Member States a large independence on how to transpose the directives. For this reason, there is a great diversity among national equality bodies across Europe in terms of their mandate, competences, structures, powers and grounds of discrimination covered. Nevertheless, one of the objectives common to all equality bodies is to work actively to achieve full equal treatment for all. Equality for all means more than simple opposition to discrimination and should go beyond that and prevent discriminatory actions in democratic society.

The provision stating that equality bodies shall act without prejudice to the right of victims and of associations, organisations or other legal entities generates two remarks. On one hand, it does not harm a long tradition of defending rights of victims by civil society groups, on the other hand it distinguishes the role of equality bodies from the role of non-governmental organisations (NGOs).

Equality bodies, when assisting victims of discrimination, should have a strategic approach of taking into account not only the individual interest of the person whose rights were violated by unlawful discriminatory behaviour, but also the public interest and how the individual case can contribute to bring more fundamental and structural social change.

The competence of issuing independent reports, surveys and recommendations should not be underestimated. It guarantees that the objectivity of information included will be reflected and relevant fact-based recommendations will be provided.

Given the broad and complex mission of equality bodies, it is important to reflect on how to address the problem of discrimination and how to promote equal rights and opportunities in an effective way. There is also always the threat of lack of sufficient resources for carrying out all activities assigned to these bodies. To address these issues, it is crucial to define what the role of an equality body is in a certain context and to develop a strategic plan that describes the long-term objectives of the equality body and strategies that will be applied to reach those objectives. In this context, it is also important to consider the collaboration with other key stakeholders in society.

² EU anti-discrimination directives 2000/43/EC, 2002/73/EC, 2004/113/EC and 2006/54/EC

Applying a strategic approach makes equality bodies able to focus on the most important discrimination problems, helps defining the use of the financial support, distributes the tasks within the organisation, facilitates the evaluation of the progress of the work and, last but not least, enables the body to respond at any moment to questions from the political sphere or the public to counter scepticism about its activities and effectiveness. It is clear that an equality body is not the only organisation defying discrimination. As mentioned above, in many countries, NGOs, unions, social services, and authorities have their own strategies for combating discrimination and responsibilities in this regard. It is crucial to make alliances and to ensure that other stakeholders take responsibility for fighting against discrimination more effectively and horizontally.

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Country contributions

Austria

Ombud for Equal Treatment

1. Introduction

The Austrian Equality Body was established in 1991 as an Ombud for Equal Treatment between women and men at the workplace. It was established according to the Swedish example.

The reasons for the establishment of an Ombud in Austria are presented in the following paragraph.

Since 1979 the Equal Treatment Act has regulated equal treatment between women and men at the workplace. It also established an "Equal Treatment Commission", which examined the existence of discrimination in individual cases in a relatively informal way, besides the courts. The Equal Treatment Commission (ETC) is neither a public authority nor a court. The members are the social partners (trade unions, Chamber of Labour, Chamber of Economics and Federation of Austrian Industries) and civil servants of ministries, such as for example of the Federal Ministry of Labour, of Women Affairs and of the Federal Chancellery. The members of the ETC shall act independently and confidentially. However, there were very few cases brought to the ETC until 1990. That was the reason for establishing an Ombud for Equal Treatment between women and men at the workplace as a "personalisation of the law" as the policy documents said.

The Ombud should therefore give advice and support to persons who feel discriminated against but also "give equal rights between men and women a face". The Ombud always was and still is established in a departmental organisation that changed several times but stayed mostly within the Ministry of Women Affairs.

In line with EU legislation, the Equal Treatment Act and also the Act governing the Equal Treatment Commission and the Ombud for Equal Treatment was extended to include discrimination on the grounds of ethnic origin, religion or belief, age and sexual orientation at the workplace in 2004. It was also extended in its scope referring to equal treatment irrespective of ethnic origin in other areas. In 2008 the prohibition on grounds of gender was extended to apply to the access to and the supply of goods and services.

Austria decided to include five other grounds (i.e. ethnic origin, religion and belief, sexual orientation and age) to the already existing Equal Treatment Act and the Act governing the Equal Treatment Commission and the Ombud for Equal Treatment. The experience gained in the field of gender discrimination should be used for dealing with other discrimination grounds. Multiple discrimination should also be addressed in a better way, particularly the gender dimension in the other grounds.

The substantive and procedural law takes into account the differences and established three parts within the equality body with independent legal competences: Equal Treatment between

women and men at the workplace (Part I); Equal Treatment irrespective of ethnic origin, religion or belief, age or sexual orientation at the workplace (Part II); Equal Treatment irrespective of ethnic origin and between women and men outside the workplace (access to and supply of goods and services) (Part III and IIIa).

The first part of the Ombud, which is the oldest one, has also regional offices. Most of the staff of the Ombud work in the field of equal treatment between women and men at the workplace in several parts of Austria. Part II, III and IIIa act in the office in Vienna with a mandate spreading all over Austria.

The basis of the Ombud's work now is the Equal Treatment Act, which does not cover the public sector. Equal treatment in this area is regulated by individual state laws.

Anti-discrimination of disabled persons is regulated in the Act governing the Hiring of People with Disabilities and the Federal Act on Equal Treatment of People with Disabilities. A separate body is located in the Federal Ministry of Labour.

2. The role of the equality body and reasons for defining its role

The Austrian Ombud for Equal Treatment is regulated by the Federal Act governing the Equal Treatment Commission and the Ombud for Equal Treatment.

The Ombud for Equal Treatment

- is responsible for counselling and supporting persons who feel discriminated against within the scope of the Equal Treatment Act in an independent manner; and
- can conduct independent investigations into discrimination matters and publish independent reports and make recommendations on all issues related to discrimination.

Every two years, the Ombud submits a report to the National Assembly which contains information of its activities and observations. The latter is part of a report of the Federal Chancellor and the Federal Minister of Labour on the implementation of the Equal Treatment Act.

The first main competence of the Ombud of Equal Treatment – assistance to persons who feel discriminated against within the scope of the Equal Treatment Act – shall be described in more detail. In this role, the Ombud's objective is to achieve a satisfying solution for the victims of discrimination. This competence is limited as the Ombud cannot bring a case to court to claim for compensation.

The Ombud of Equal Treatment therefore engages in investigating in individual cases of discrimination. It has legal power to ask the employer/discriminating person or institution for information. As a "soft law institution", the Ombud firstly attempts to find solutions via informal negotiations between the two parties. If no solution is found, the Ombud can submit a case to the Equal Treatment Commission (ETC) which would lead to a non-binding decision. The Ombud takes part as an expert in the proceedings of the ETC. If the ETC's decision differs from the opinion of the Ombud for Equal Treatment, it can bring action for a declaratory judgment establishing infringement of the principle of equal treatment before the courts. This is the only role of the Ombud in court – as a legal remedy against decisions of the ETC.

In cases of general interest or if several cases involving similar problems arise in the counselling, the Ombud demands a general expert opinion before the ETC.

As the Ombud cannot appear in court, the victims of discrimination have to rely on the trade unions, the Chamber of Labour and lawyers to file cases if they seek compensation. The court has to deal with the non-binding decisions of the ETC and state reason for a dissenting opinion.

In Austria, every employee is an obligatory member of the Chamber of Labour. Therefore, the employees get legal and financial support in cases at court. However, there is only support in cases related to employment. Although the Ombud has no legal competences at court, assistance often continues, counselling people involved in court procedures.

The Ombud is not responsible for the public sector and discrimination against on grounds of disability. However, expertise of the Ombud in these two areas is often requested by NGOs and partner institutions.

The Ombud combines two functions: supporting complainants and carrying out promotional work. The anonymously treated individual cases are the basis for awareness raising, such as public relation and independent recommendations. For its active promotional work, the Ombud uses tools such as a newsletter, postings on the homepage of the Ombud (e.g. case of the month, recommendations of the Ombud).

Besides the assistance of victims of discrimination, an objective is consciousness-raising for equality issues in society, jurisprudence and the law with regard to anti-discrimination and full equality. To achieve this aim, the Ombud is pushing development through legislation amendments by reporting to the National Assembly and taking part in negotiations about legal amendments.

3. Visions and Objectives

3.1 Stronger appearance of discrimination cases in courts

The Ombud cannot appear in court and therefore relies on the Chamber of Labour or the trade unions to file cases. One main problem is the lack of financial and legal support for victims outside the workplace.

There is also the "Klagsverband", which is a litigation association of NGOs against discrimination. It was founded in 2004 as an umbrella organisation of NGOs and it also provides support before the courts, but has very low financial funding.

An objective of the Ombud is to increase the number of cases before the courts.

The next short-term objective is to obtain a certain budget for initiating proceedings before the courts.

3.2 Clarify the mandate/unique equality institution

From 1991 to 2005, the Ombud existed as a Gender Equality Ombud. Only this oldest part of the Ombud has already established regional offices. The Ombud was known as a Gender Ombud where one can get information about (sexual) harassment, equal pay or gender equality in general. As the Ombud sits within the Ministry of Women Affairs, it is difficult to make the broad mandate of discrimination grounds clear to the public.

The recognition of the Ombud's broad approach to discrimination by the general public represents a challenge. The vision of the Ombud is to build an image of a unique equality institution.

Therefore it is necessary to achieve amendments in the law with regard to equal protection for each ground of discrimination in the field of goods and services and to establish regional representatives for Part II, III and IIIa.

3.3 Full independence

The Ombudpersons are nominated by the Government not by the Parliament. The institution sits within the Ministry of Women Affairs which itself is part of the Federal Chancellery. One of its ambitions is to get full independence including competence for budget and human resources.

The Ombud is independent in its legal competences. Full independence would allow more active promotional work.

3.4 Think tank

A vision of the Ombud is to be perceived as a think tank in equality issues, legally and politically in society.

4. Strategies implemented

4.1 Stronger appearance of discrimination cases in courts

The short-term objective is to obtain a certain budget for initiating proceedings before the courts and to establish trainings for lawyers and judges in their vocational education. Then the Ombud will develop strategies to bring more cases to court which would develop awareness

of equality issues in society. The Chamber of Labour and the trade unions support victims financially and legally before the courts only in the field of labour.

4.2 Clarify the mandate/unique equality institution

The Ombud is already well known especially in the field of gender discrimination. Yet, there are numerous requests of people who feel discriminated against outside the legal framework. The Ombud accepts all cases within the legal competence and has no selection procedure. If a request is not within the competence, information about other relevant institutions will be provided.

The mandate of the regional offices is limited to gender discrimination in the workplace. However, they provide information about the other discrimination grounds and fields.

4.3 Cases

Although the Ombud has no elaborated action plan, it formulates priority areas related to arising cases for each working year. In about three meetings per year, the legal advisors of the Ombud work on general and specific issues and formulate these priority areas.

4.4 Programme to train other society actors

It is necessary that key actors take their responsibility for implementing anti-discrimination law. The Ombud offers trainings for stakeholders to share its experience with cases.

During the last two years, the Ombud established additional special trainings in the field of equal pay.

5. Interaction with other society actors

Other society actors in the discrimination field are for instance social partners (who are also members of the Equal Treatment Commission), NGOs (primarily in the field of racism), the "Klagsverband", universities and representatives of the jurisprudence (lawyers, judges). The Ombud has formal and informal meetings with them.

6. Strengths and weaknesses

6.1 Strengths

The Austrian Ombud of Equal Treatment is still small but therefore flexible in its acting.

Due to the limited resources, the Ombud is strongly linked with other national and international stakeholders.

The collaboration with the Equal Treatment Commission is very useful and important. The Ombud has the possibility to get a decision on cases in a low threshold procedure without financial risk for the complainant. Therefore numerous cases are presented before the ETC. The Ombud is also well known within the society because of the social partners' involvement in the ETC proceedings. The participation of these stakeholders and the non-binding decisions often lead to settlements between the two parties.

6.2 Weaknesses

There is a lack of resources in relation to the number of cases to handle. In Part I of the Ombud, there are eight legal advisors (included regional offices), Part II counts two and a half, and in Part III and IIIa there are three.

The Ombud has no possibility to decide which cases should be brought before court by trade unions for instance. The procedure before the ETC often leads to settlements between the two parties and as a result there are few cases before the courts.

The Ombud is established as a departmental institution within the Ministry for Women and Public Administration (which is settled in the Federal Chancellery). Consequently the financial and human resources depend on governmental funding. The Ombud therefore is not fully independent.

Belgium

Institute for Equality between Women and Men

1. Introduction

Until 2004, the department for equal opportunities at the federal level of Belgium was part of the Ministry of Labour, without its own budget. Its missions were primarily focused on the domain of labour and employment.

The Institute for Equality between Women and Men was created by the Act of 16 December 2002 (M.B./B.S., 31 December 2002, 4th edition). The Institute is a federal public organisation subject to the rules of supervision stated in the Act of 16 March 1954, which makes it a corporate body distinct from the state. The members of the board are appointed by a royal decree after a deliberation within the federal government. According to the Royal Decree of 19 March 2003, which implements the Act of 16 December 2002, the criteria for selecting the members of the board are experience, competence, independence and moral authority. Of the 14 voting members, 7 must be French speakers and 7 Dutch speakers; both sexes must be represented and an equal distribution of the seats is a target.

According to the Act, the financial resources of the Institute consist of a subsidy charged to the general budget of the state, subsidies granted by other public bodies, private donations and miscellaneous resources.

2. The role of the equality body

The Institute is specifically and exclusively competent for matters related to gender.

The idea behind this creation was to provide Belgium with an independent institution specifically dealing with gender matters. The decision was taken under urgency, at the moment when the Parliament was studying a general anti-discrimination bill, which also would have covered gender. This bill entrusted the Centre for equal opportunities and opposition to racism, which has been active since 1993, with the handling of complaints concerning discrimination, including those based on gender.

The defenders of gender equality introduced an amendment to drop gender from the bill's field of application.

The argument was that "discrimination against women is of a different nature to those contained in the present bill. The realisation of gender equality has for a long time been the objective of specific measures at the Belgian level, as well as at European and international level. Through the years, measures have been taken at different levels of power in order to reach the objective of gender equality that go far beyond those contained in the present bill.

Women, who make up half of the population, cannot be treated on the same terms as other groups of discrimination victims. Doing so would be to deny their existence.”

In the course of the parliamentary debates, a female senator also stressed that “abundant jurisprudence has already been developed in the field of the equal treatment of women and men, as a consequence of individual actions, and it would be pertinent to continue to use a specific procedure to examine cases linked to types of discrimination that cannot be put on a par with other forms of discrimination.”

By giving the Centre the competence to handle such complaints, there was a risk of seeing an enfeeblement of the policy promoting gender equality and a deterioration of its jurisprudence, or in some cases the risk that this matter would be completely absorbed into the broad spectrum of discrimination, erasing its singularities and the rights that have been acquired through the years.

It should be stressed that the Belgian Constitution was amended in February 2002 to guarantee the equality of women and men (article 10, paragraph 3).

By the end of these discussions, the necessity to create a distinct body separate from the Centre was recognised. Nonetheless, it was decided that the anti-discrimination law, approved on 25 February 2003, would contain all grounds of discrimination, also including sex. However, gender-based discrimination in the field of employment was excluded from its field of application, so the law of May 1999 continued to be applicable to fight this discrimination. Finally, the law of February 2003 reserved the competence to handle gender-based discrimination to the Institute.

It was in this context that the Institute came into existence. It is important to mention the reform of the anti-discrimination legislation took place in 2007.

Three new laws were adopted on 10 May 2007 confirming the need for separate legislations described above:

- a general law that prohibits discrimination based on age, sexual orientation, civil status, birth, wealth, religious or philosophical conviction, political conviction, language, current or future state of health, disability, physical or genetic characteristic or social origin;
- a law aimed at combating racial discrimination; and
- a law specifically aimed at combating gender discrimination for which the Institute is competent.

The Institute receives a budget of a little more than EUR 4.5 million and its staff consist of forty members.

The Institute’s missions are described extensively under Art. 4 of the law of 16 December 2002. It aims to fight against any discrimination on the ground of sex and has also the specific mission of promoting gender mainstreaming.

The Institute is competent to independently offer legal assistance to victims of gender-based discrimination and to take legal action before the courts. The Institute is also competent when the complaint relates to sex discrimination, a discrimination based on maternity and pregnancy, any sexual harassment and harassment based on the sex of a person, but also any discrimination related to the sex reassignment of a person (transsexuality) in the light of federal laws.

The legal unit, composed of five people, deals with complaints and has also at its disposal a budget to hire lawyers to take cases before the court. It also plays a role in the drafting of legislation and the transposition of European and international law into the Belgian federal legislation.

The support and coordination of studies and research is part of the Institute’s focuses.

The global annual budget for this mission in 2009 represents 4% of the total budget (excluding internal human resources working on the projects). The research unit conducts and coordinates studies on stereotypes, gender-related practices and other themes related to gender equality. The results serve as a basis for policy measures and are made public via publications and workshops.

Another important issue is the enforcement of the law of January 12 2007 aiming at introducing a strategy of gender mainstreaming and gender budgeting at the federal level. The gender mainstreaming unit, composed of four people, helps federal policy makers and their administration with the integration of gender equality from the development of their policies up to their practical implementation.

Each year, the Institute spends a quarter of its annual budget on the financial support of women's organisations by means of structural grants and subsidies for specific one-off projects.

The Institute is also in charge of the implementation of government decisions. In this context, it coordinates national action plans fighting against violence against women and elaborates tools in order to eliminate the gender pay gap.

In this context, the violence unit coordinates the fight against domestic violence and works on raising awareness of the different parties concerned in order to further the extension of the fight against gender-related violence. Together with the judicial system, the police, the medical sector and the different organisations in the fields of support for victims and the treatment of perpetrators, it develops actions and determines the right means to advance the struggle against domestic violence.

The employment unit develops practical tools and studies to further equality on the labour market. This is done in close cooperation with the social partners.

The Institute is also in charge of the follow-up of the European and international gender equality policies.

3. Visions and Objectives

The vision is to embed gender equality in society so it becomes obvious in mentalities and practice. Therefore, the Institute should be recognised as the reference organisation which:

- is expert and has know-how;
- develops and offers adequate services;
- is a privileged meeting place for all concerned actors; and
- initiate and conducts change.

The objectives are to foster the respect of equality of women and men, to challenge any form of sex-based discrimination and inequality and to develop instruments and strategies aimed at the promotion of gender mainstreaming.

4. Strategies implemented

There is a management plan adopted in 2007 for three years defining strategic and operational targets. The five strategic targets are:

- respect gender equality and fight any form of gender discrimination or inequality;
- develop and promote, in relation with concerned actors, tools, instruments, networks useful for the implementation of gender mainstreaming;
- prepare and execute decisions of the Government and ensure the follow-up of European and international policies, under the responsibility of the Minister;

- do, support, develop and coordinate expertise on gender equality themes (classical and emerging); and
- put in place an adequate organisation, including support services, needed to an autonomous functioning.

The abovementioned strategic targets are declined into operational targets and levels of priorities.

More generally, strategies are of different types as already mentioned; laws and development of instruments to implement them, research and studies, gender mainstreaming, specific projects, sensitisation, financing associations, networking, etc.

5. Interaction with other society actors

Firstly, it should be emphasised that the constitutional development in Belgium led to three regions and three communities. Each of these constitutional bodies has, together with the Federal State, within their respective jurisdiction, the responsibility to implement the different European equality directives.

The matters which fall within the scope of gender equality directives are consequently divided between the jurisdictions of the state and its federate components.

Regarding this constitutional requirement, the Institute is negotiating agreements with the different federate components. Concretely, it consists of agreements with the other entities to enable the Institute to assist victims of sex discrimination protected by the legal instruments adopted by the federate entities (regions and communities).

There is also a close cooperation between these levels regarding the representation of Belgium at European and international levels.

As already mentioned, the Institute spends a quarter of its annual budget on the financial support of women's organisations by means of structural grants and subsidies for specific one-off projects.

Besides the negotiations with the different federate components and with regard to this art. 4-10° and to the limited resources, the Institute made collaboration agreements with different actors such as the Council for Equal Opportunities between Men and Women (advisory body composed of associations and social partners), trades unions and some actors in the sector of media such as the Jury on Ethical Advertising (one employee of the Institute is member of this body, the JEP (jury d'éthique publicitaire)).

In order to succeed in implementing gender mainstreaming, the work with civil servants of the different federal public services is extremely important.

The main interactions are with:

- the services of the Minister (to execute policies);
- the federate components (Communities and Regions);
- other federal public services;
- the Council for Equal Opportunities (the Institute effectively ensures the secretariat);
- Women's organisations (particularly the ones receiving structural grants);
- the trade unions; and
- the JEP.

6. Outcomes, strengths and weaknesses

6.1 Outcomes

Regarding assistance to victims of gender-based discrimination, the number of complaints received is growing. In 2008, 176 files were opened (51 information requests and 125 complaints), 25% more than in 2007. For 2009, the trend remains the same: more than 130 files were already introduced at the end of October. However, only 5 legal actions have been brought before the courts since the inception of the Institute.

Regarding research, there are almost 50 research works coordinated by the Institute since its establishment. This constitutes significant progress towards the development of gender expertise. The four main topics of research during the last five years were: judicial aspects (e.g. discrimination of pregnant workers); violence; gender mainstreaming and gender statistics; and employment. Most of research findings were published and largely disseminated, including at conferences. This equality body also publishes a gender-based statistical report every two or three years.

Following the adoption of the law on gender mainstreaming in 2007, the first concrete actions consisted of sensitisation and development of concrete instruments (databases of gender trainings or of gender experts in Belgium, manuals with practical advice for the civil servants, etc.). The second step is to develop all the legal instruments foreseen in the law (gender test, gender note regarding gender budgeting, interdepartmental coordination group, etc.).

Successful projects were conducted in the fields of violence against women (action plans), gender pay gap (annual report), etc.

A concrete outcome is also the progress made in structuring the cooperation with several other society actors (see above).

6.2 Strengths

Some of the strengths identified in the management plan of the Institute are:

- the centralisation of expertise regarding gender equality in Belgium and in some particular domains (e.g. violence, decision making, etc.);
- good knowledge of the specific legislation;
- experience of the past and good implementation in the institutional landscape;
- neutrality of the services offered; and
- high motivation of the staff.

We can point out that all resources available are guaranteed to be dedicated to gender equality (and to transsexuality).

6.3 Weaknesses

The Institute faces several weaknesses:

- lack of sufficient financial and human resources given the missions;
- the structure of the Belgian state: fundamental rights (such as equality between women and men) are not matters as such but have to be implemented by all entities in their field of competences (see above);
- lack of visibility of our still recent equality body;
- lack of systematic evaluation of projects and of description of processes.

The two equality bodies in Belgium enjoy a close cooperation especially when it comes to multiple discrimination. A working group established at the beginning of 2009 and a

colloquium organised by the Institute in September 2009 focus on the subject of multiple discrimination.

In practice, victims of discrimination already select their ground of discrimination (at least gender and then, the others grounds) before addressing themselves to one or another institution. It is mainly the role of the two bodies to check that there is no other ground of discrimination involved. People concerned are informed of the three legislations and there are questionnaires and databases put in place to define a more accurate global profile of victims.

Greece

Greek Ombudsman

1. Introduction

The Greek Ombudsman (GO) is a constitutionally established independent authority. It started its operations in October 1998 and it provides services to all citizens free of charge. Its organisation, staffing, and operation are defined in Law 3094/2003 and by the Operating Regulations (Presidential Decree 273/1999), in the context laid out by the provisions of the Constitution following its revision in 2001.

In 2005, the GO was designated as a specialised equality body for the implementation of the principle of equal treatment in the public sector. The Greek Ombudsman cooperates with the Committee for Equal Treatment of the Ministry of Justice and the Labour Review Board, institutions which, although not *stricto sensu* independent authorities, have taken on the role of agencies for the promotion of equal treatment in the private sector.

2. The role of the equality body

2.1 General Mandate

The Greek Ombudsman investigates cases in which a public unit service, whether individual or collective:

- infringes upon a right or interest protected by the Constitution and the law by an act or by omission;
- refuses to fulfil a specific obligation arising from a court decision against which there is no right of appeal; and
- refuses to fulfil a specific obligation imposed by a legal provision or by an administrative act, acts in violation of the principles of good administration and transparency or in abuse of power, or fails to act in a lawful way (Art. 4 of Act 3094/2003).

The Greek equality body has no mandate:

- in cases concerning the staff regulations of public sector employees, unless they involve discrimination based on gender, ethnicity, race, belief, etc.;
- if more than six months have elapsed since the complainant was informed of the illegal act or lack of action of the public administration;
- to represent citizens in court;
- to examine acts by private citizens (see above for the two exceptions);
- in cases concerning the staff regulations of public sector employees, unless they involve discrimination based on gender, ethnicity, race, belief, etc.;
- in cases pending before the courts;

- in actions of the courts, the Legal Council of State, independent authorities or public religious institutions; and
- in actions of ministers and deputy ministers with respect to implementation of policy.

2.2 Specific mandate on discrimination

More specifically, the GO has a mandate for the:

- implementation and promotion of the principle of equal treatment irrespective of race or national origin, religion or other beliefs, disability, age or sexual orientation in the public sector as stated in law 3304/2005, in compliance with Council Directives 2000/43/EC and 2000/78/EC;
- monitoring and promotion of implementation of the principle of equal treatment between men and women as regards access to goods and services in the public sector (Act 3769/2009, in compliance with Council Directive 2004/113/EC); and
- monitoring of the implementation of the principle of equal treatment between men and women in both private and public sector: (law 3488/2006 in compliance with Council Directive 2002/73/EC, which has amended Council Directive 76/207/EC).

2.3 Investigative powers

The GO can:

- request from the public services any piece of information, document, or other element concerning the case;
- examine persons;
- carry out on-site investigations and call for expert opinions;
- set a time limit within which the public services concerned should inform the Ombudsman, either on the steps taken to comply with its recommendations or of the reasons for which these recommendations cannot be implemented;
- draw up a report, in cases where the response of the public service concerned is not satisfactory, which is submitted for action to the service involved and to the responsible minister;
- publicise the stance of the service with regard to the institution's recommendations; and
- if during the course of the investigation, the service refuses to collaborate, the Ombudsman may initiate disciplinary proceedings. In addition to this, if there is tangible evidence of the perpetration of a criminal act, the Ombudsman can refer the case to the competent public prosecutor.

2.4 Types of remedies

The different remedies available are:

- recommendations (non-binding);
- special reports addressed to the competent ministers on the findings of important cases in order to promote administrative remedies; and
- annual reports presenting important thematic cases and specific recommendations are formulated for the improvement of administrative practices or amendments of the law in order to redress maladministration or discrimination.

2.5 Reasons for defining its role

The GO's role as an equality body is defined by the above mentioned national laws and this role was added to an already existing and functioning institution. The main mission of the GO is to mediate between citizens and the state, with the aim of protecting citizens' rights, combating maladministration and ensuring observance of the law. The role of the Ombudsman is thus to act as an independent intermediary between the citizen and the state, mainly aiming not to engage in a sterile discussion with the administration, but to cultivate a relationship of cooperation, and to restore the citizen's shaken contact with the state.

The above mission of the Ombudsman has two equally important, interconnected, but distinctly different goals. The first is the investigation and possible satisfaction of complaints submitted by individual citizens, thereby protecting their rights. Equally important, however, is the formulation of proposals to remedy the underlying causes of violations of citizens' rights. Finally, the effective combat of maladministration depends on the simultaneous, and to a large extent, balanced fulfilment of these two goals.

The assignment of the role of equality body in the public sector to Greek Ombudsman seems to emerge from the national legislator's objective to keep this balance and goals on discrimination issues. In this regard, the GO acting as national equality body in the public sector, mainly handles individual cases, and has at the same time the power to formulate proposals for change in legislative framework or administrative practice. Furthermore, given the choice of the national legislator to separate equality bodies in the public and private sector, and define three different bodies for the implementation of anti-discrimination legislation (Committee for Equal Treatment of the Ministry of Justice and the Labour Review Board in the private sector), the GO has been assigned with the mandate for the promotion and implementation of the principle of equal treatment in the public sector probably in order to keep its recognisable characteristic that is strongly related to the state's and the administration's functions.

3. Visions and Objectives

When defining visions and objectives, the starting point is solving effectively individual cases of discrimination. However, the elimination of unlawful discrimination and the promotion of equality cannot be met if the anti-discrimination work is limited solely to individual case-handling. Responding exclusively to individual complaints of discrimination as they arise cannot remedy the causes of the problem and the potentially broad consequences. In addition, the nature of discrimination cases provides grounds for the examination and analysis of the parameters that connect the origin of the problem with its handling by the responsible public authorities or the existing legislation. This allows systemic approaches and interventions and contributes to a more holistic examination of the problems raised by the complaints. These kinds of interventions can be proven useful to challenge existing misconceptions and prejudices in the public administration and in public opinion as well and to contribute to the creation of an anti-discrimination culture.

In principle, the Greek Ombudsman has the competence to investigate cases pertaining to equal treatment of subjects, as prescribed by the aforementioned laws. It simultaneously has responsibility to undertake all courses of actions deemed necessary (including promotional work and dissemination of information) in order to promote the effective implementation of the principle of equal treatment, accordingly to the relevant legislation and its specific mandate. The work of the Ombudsman is mainly legal work related to handling of cases of discrimination. Nevertheless, promotional and communication activities are developed gradually in order to facilitate effective law enforcement. Approaching schematically the abovementioned types of work - legal, promotional and communication and defining the specific objectives of each one enable us to make the following distinctions:

Concerning the legal work, the objectives are to:

- interpret anti-discrimination law in a way that would guarantee the effective protection of rights in the public realm;
- propose legislative change or improvement that would widen the aspects and fields of protection;
- propose organisational change that would improve the functioning and the anti-discrimination culture of the public administration.

Concerning the promotional work, the main objectives are to:

- analyse and check whether the implemented policies are having unintended discriminatory effects;

- strengthen efforts in order to create an organisational culture where people who have been discriminated against feel confident about reporting discrimination and where the competent authorities respond without prejudices;
- attempt to contribute to the promotion of good relations between different groups, defuse racial tensions and hostility, promote the benefits of equal rights and opportunities for all, build understanding through interaction, and challenge public misconceptions and prejudices.

Concerning the communication work, the objectives are to:

- spread the anti-discrimination message as widely as possible;
- make existing rights and obligations known and understood by all relevant stakeholders, including victims of discrimination, public authorities, civil society and the general public;
- communicate publicly a clear message of anti-discrimination.

4. Strategies implemented

There is no overall strategy being implemented by the Greek Ombudsman (GO) for all grounds of discrimination in a consistent and coherent manner. However, a systematic strategic plan has been implemented on Roma and the analysis and experience of its implementation can further contribute to the planning and implementation on other grounds of discrimination.

4.1 Reasons for implementing such strategic plan

Various instances of exclusion that most Greek Roma continue to experience in social, economic and political life have repeatedly been investigated by the GO. The main conclusion from the above investigations pointed out that the, mainly indirect, discriminatory treatment of members of the Roma population in Greece is often linked to institutionalised practices of discrimination. On the other hand, the persistent practices of social exclusion of the Greek Roma lie in structural characteristics of Greek society such as the non-transparent organisation of the labour market, the anarchic residential structure of the country and the self-serving nature of political life, particularly at local level. In reality, the structural nature of this phenomenon renders, to a great extent, ineffective the intervention of agencies such as the GO, whose mandate includes safeguarding human rights, and which focus their actions on examining individual cases. Thus, even if in an individual case a particular Roma citizen finally manages to acquire the permit or the certificate requested from a public service, or succeeds in registering his/her children for school, does not mean that the general structural problems originating these issues have been solved. Such findings have made clear to the Greek Ombudsman the need to intensify its involvement in this specific field by developing projects of broader scope and in seeking solutions in two fronts; at the level of the coordination of activities between state agencies, local government and of civil society, and by legislative or administrative regulatory changes or improvement.

4.2 Priorities and objectives of the plan

The Greek equality body has chosen to focus its attention on institutional practices in its handling of the settlement of the Greek Roma population and on practices that sustain Roma invisibility. As the Ombudsman's experience has demonstrated, the issue of "Roma settlement" constitutes an epitome of the conjunction of two basic problems: the social integration and the participation of this sensitive segment of the population. This is the axis around which the aforementioned problems evolve. In parallel, a series of problems related to the lack of official registration of Roma spring forth from their social exclusion, as it creates further obstacles not only to their participation and enjoyment of rights, but also to the implementation of effective policies aiming at the improvement of their actual living situation. Attending to both these axes is the main focus of the GO's unfolding strategic plan. It aims at developing projects of broader scope and seeking solutions in two fronts; at the level of the coordination of activities between state agencies, local government and of civil society, and by legislative or administrative regulatory changes or improvement.

4.3 Special initiatives implemented

The action for strategic implementation on Roma has developed and continues to do so through a number of visits to and examinations of Roma settlements throughout the country and through meetings with the responsible agencies of local and central administration. The starting point of these projects are individual complaints arising from the Roma, from organisations of civil society and from citizens who have complained about the negligence of responsible authorities in their handling of the inconveniences they suffered due to their living in proximity to the Roma population. These actions aimed initially at direct intervention in the specific problems underlined by these complaints, while at the same time the GO aimed, through systemic examination of these complaints, to put forward and evaluate: the current settlement practices of the Roma; the particular manner in which various types of settlements are connected with the more specific problems of social exclusion, particularly with regard to health, employment, education, participation in public life; in addition to ways in which the administration has responded particularly in the practices for the handling of the problem, in the field of land use, town planning, their status on the municipal roll, welfare and education.

4.4 Involvement of NGOs

Apart from raising awareness and motivating NGOs' involvement, the GO, aims to address the communication gap between Roma victims of discrimination and the institutions which are competent for their protection, targeted civil society groups, especially in the regional parts of the country. In its efforts, the GO created a pilot communication and coordination network with regional civil society organisations working for the protection and assistance of Roma. The cooperation is satisfactory; however, the low participation of Roma people in NGOs, even in those acting on their behalf and for their own interest, causes an important problem.

4.5 The achieved outcome

The number of complaints submitted has increased. This strategic action of the GO revealed the tremendous lack of participation of Roma citizens in mainstream social, financial and political life. It also enabled a typology of the ways in which responsible authorities respond to and handle such problems, providing a holistic assessment of these practices, both from the point of view of their legality as well as from that of their effectiveness. Additionally, this assessment demonstrates the institutional and regulatory deficit which contributes to the perpetuation or the exacerbation of the problem. This outcome is the only systematic public intervention on the issue, used by national/international NGOs and the government.

4.6 Barriers in developing the plan

The main difficulties are as follows

- to gain the trust of the Roma concerned in order to cover the communication gap between them and the institutions which are competent for their protection;
- to fight misconceptions and prejudices from the part of public administration;
- barriers in the implementation of the GO's recommendations due to the lack of a comprehensive relevant framework of regulations, institutions and infrastructures able to monitor the expected outcome;
- resistance or unwillingness of the local authorities to co-operate effectively for the implementation of policies or positive measures for Roma;
- reaction of other citizens residing in the area, where Roma settlements are established;
- failure of local and central administration to communicate a clear anti-discrimination message of stressing that the aim of policies targeting Roma is not to grant privileges but to correct structural inequalities stabilising the opportunities and chances of Roma to those of other members of society.

5. Interaction with other society actors

5.1 *Specific activities*

A recent initiative worth mentioning in further detail was the establishment by the Greek Ombudsman of an open communication network for the Roma. Specifically, in early 2007 the Greek Ombudsman addressed an open invitation through its website and major newspapers to NGOs and other civil society bodies involved in protecting and supporting the Roma. It called for an unofficial partnership between the various stakeholders in order to share information, knowledge and collectively work for the promotion of equality and, overall support, of the Roma population. The network currently numbers more than thirty partners. The need to establish regular contact with those groups of the population who suffer systematically from discriminatory actions and exclusion has been pressing and this is the reason why the Greek Ombudsman launched this network. It aims at encouraging the mediation by these bodies between the targeted population group and the Greek Ombudsman, the dissemination of critical information related to institutional tools and know-how, and the gathering of information on the crucial problems faced by these groups; but, above all, the main objective has been the joint coordination of action for the participating bodies.

Concerning the promotion of equal treatment, the Greek Ombudsman carries out training programmes on discrimination mainly designed for civil servants and students of the National School of Public Administration. The equality body also publishes annual reports and has created a separate internet site which offers advice to victims of discrimination and provides extensive information on the relevant legislation.

6. Outcomes, strengths and weaknesses

6.1 *Strengths*

Some of the strengths identified by the Greek Ombudsman are:

- the independence of the Body guaranteed by constitutional and legislative framework;
- the independent functioning of the institution (independent status, independent manner of functioning as regards government and NGOs active in the field of discrimination);
- the broad mandate concerning conducting independent surveys on discrimination;
- the broad mandate on issuing reports and making recommendations on discrimination;
- the flexibility in the number of matters that can handle discrimination issues.

6.2 *Weaknesses*

On the other hand, the main weaknesses are:

- the lack of a coherent and holistic equality framework;
- the lack of institution(s) monitoring the effective implementation of anti-discrimination legislation;
- the limited regulatory scope of Act 3304/2005 and Acts 3488/2006 and 3769/2009, as these relate to the intensity and dimensions of discriminatory practices, within the ambit of the public and broader public sector wherein the monitoring capacity of the Greek Ombudsman is authorised. In fact, the majority of cases of illegal discrimination investigated by our Authority, either by means of an individual complaint or ex officio, fall beyond the limited application scope of the above mentioned laws because they regard areas of administrative activity beyond the limited ambit of employment and the relevant sectors of social protection, education and vocational training, or because they pertain to the authoritative rather than the public service jurisdiction of the State. The normative correlation of the general provisions of the aforementioned statute (as well as the relevant provisions of the Council Directives incorporated

by the Greek legislation) with other fundamental rules of our national law, especially with the principle of equality stipulated by art. 4 of the Greek Constitution, makes it possible to capitalise on their merits in terms of specifying and promoting equal treatment in other fields apart from those exclusively provided for in this particular statute.

- the limited number of complaints that fall within the regulatory scope of Act 3304/2005. What is particularly alarming is the absence of complaints regarding the discriminatory treatment of persons who in principle are aware of their right to file a complaint (as in cases of discrimination on grounds of sexual orientation or religious beliefs). Fortunately, there is a stable rate of incoming complaints pertaining to other less socially and politically accentuated types of discriminatory treatment (e.g. on grounds of gender, age and disability). However, the relatively small number of complaints filed with the GO is an indication of the reluctance of individuals who have been discriminated against, especially in sensitive personal domains, to publicise the offense sustained. Moreover, it is an indication of the mistrust of these people in the institutional mechanisms. So, what should be sought for is to address the communication gap between the victims of differential treatment and the institutions which are competent for their protection, undertaking institutional initiatives for invigorating civil society participation, especially in the regional parts of the country and funding specific and targeted activities of approach or/and reception and legal support to the victims of discriminatory treatment.

- the lack of specific official department within the Greek Ombudsman, assigned with and focusing on the anti-discrimination mandate could be considered as a weakness of the existing system. In this regard, the GO has internally organised an inter-departmental team of investigators, coordinated by the Deputy Ombudsman of Human Rights Department. This internal team is responsible for the handling of discrimination complaints – however, not exclusively – and the activation of the relevant anti-discrimination mandate.

Hungary

Equal Treatment Authority

1. Introduction

The Hungarian Equality Body was established in 2004, at the time of Hungary's accession to the European Union. At this time Hungary had already had various ombudsmen positions (general, data protection, ethnic minorities) to investigate cases involving discrimination but without so called protected traits. The Hungarian government considered necessary the establishment of a new agency to fulfil the mandate of the EU directives. At the same time Hungary decided to protect a fairly broad array of protected traits, well beyond those set out in the equality directives.

2. The role of the equality body

Substantive and procedural rules are those set out in Act Nr. CXXV on the Promotion of Equality and Government Decree Nr. 362/2004. General procedural rules are contained in the Code of Administrative Procedure.

2.1 Substantive rules

The scope of the Act is quite broad and includes government entities which shall be required to adhere to non-discrimination in every legal relationship. Its coverage is extended to specific legal relationships involving government subsidies, employment relations and the provision of goods and services. This law, however, specifically exempts family relations, relationships of ecclesiastical entities directly connected with the activities of the religious life of churches, and relationships in associations.

The authority has jurisdiction only if the petitioner possesses at least one of the so called protected traits (characteristics), which are as follows:

- a) sex,
- b) racial origin,
- c) color,
- d) nationality,
- e) origin of national or ethnic minority,
- f) mother tongue,
- g) disability,
- h) medical condition,
- i) religious or ideological conviction,
- j) political or other opinion,
- k) family status,
- l) motherhood (pregnancy) or fatherhood,

- m) sexual orientation,
- n) sexual identity,
- o) age,
- p) social origin,
- q) financial status,
- r) part-time nature or definite term of the employment relationship,
- s) membership in an organisation representing employees' interests,
- t) any other status, characteristic feature or attribute (hereinafter collectively: characteristics) are considered direct discrimination (e.g. citizenship).

This is an exhaustive list (and an open-ended one due to Section t.) and seems to be overinclusive.

This law primarily targets direct and indirect discrimination, harassment, unlawful segregation and retribution.

The authority shall be required to investigate every single case if the petitioner has established at least one protected trait and prejudice regarding himself/herself or the person or group represented. We, however, do not represent anyone at court. Petitioners are entitled to appeal any adverse ruling and the Metropolitan Court has exclusive jurisdiction to hear such cases. As an administrative body we have to remain neutral. Consequently, we do not represent anyone at court and would not welcome a contrary statutory modification.

The authority is further assisted by an Advisory Body dealing with unresolved issues such as defamatory newspaper articles, allowable inquiries at job interviews, etc. Its recommendations are not binding. The Advisory Body issues an opinion on every issue on its agenda once they (the members) have reached a conclusion.

2.2 Type of work

Investigation of complaints and related litigations

This is the primary function of this authority. Last year the Authority received 1153 complaints. This exceeds the previous (2007) case load by 52.5%. Out of the 1153 cases 356 was concluded by decision, 171 by transfer to another authority, 474 by a letter. 152 cases commenced during the previous year and still in progress in 2009.

37 of 356 cases investigated were concluded by condemnation (up from 29). Most condemnations touched upon the field of employment and the provision of goods and services.

Our analysis shows that the most frequently invoked protected trait was "other feature" (not specifically named in Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities [Ebkvt.]), followed by disability, age, motherhood and ethnic minority.

The Authority imposed a total of HUF 13,000,000 penalty in 9 cases, the lowest amount of which was HUF 500,000 while the highest amount was HUF 3,000,000. Our decision was made public in 27 cases.

While we settled 3 cases in 2007, this number rose to 23 in 2008. The Equal Treatment Authority pushes settlement negotiations in every case.

Since the inception of the Authority on 1 February 2005, it has adopted a total of 898 resolutions on the merits. Up to now the parties has requested judicial review in 74 cases.

Complaints investigated in 2008 split per geographical terms:

1. Budapest: 135
2. Pest county: 43
3. Borsod-Abaúj-Zemplén (BAZ) county: 28

4. Szabolcs-Szatmár county: 19
5. Baranya county: 14
6. Hajdú-Bihar county: 11
7. Jász-Nagykun-Szolnok county: 11

We also have walk-in hours every Monday, which is very successful. We advise clients on their rights in general and prepare a record on the complaint when the subject matter is within our granted authority.

2.3 Media appearance and conferences

In 2008, the staff of the Authority attended professional conferences, held lectures in 171 cases and appeared in the media in 189 cases. It is critical to meet every invitation to better articulate our views.

Appearances in the media 2008

Press: 72
Radio: 73
TV: 44

2.4 Other public appearances

In order to raise public awareness and encourage victims of discrimination to come forward we have made an effort to be present at various festivals and other public gatherings and events. It has provided an excellent opportunity to talk to victims and distribute related printed materials.

2.5 Reasons for defining our role

Cases involving discrimination are dealt with by several agencies. While our authority adjudicates cases where petitioners possess some protected trait, other agencies provide a general protection against discrimination in cases lacking such a trait. We also try to slit "customer pool" by referring them to the agency possessing the utmost expertise in the area of complaint. Finally, it is relevant to point out that we do not accept anonymous complaints while other agencies do.

3. Visions and objectives

Our objective is to reach those who are mostly targeted by discrimination and at the same time to shift the balance of incoming petitions toward more meritorious complaints. A more general objective is to gain more respect for the principle of non-discrimination in society at large.

Prejudices are deeply embedded in society. Our duty to "administer justice" often encounters criticism from various society actors. This is why it is critical to seize every opportunity to explain and clarify our decisions publicly. However, we as an administrative authority are unable to uproot the causes of this attitude and hence our role is limited to providing redress to those discriminated against.

4. Strategies implemented

Following the recommendation of the Advisory Body, we started applying a more restrictive interpretation of Section t) (i.e. protected trait: other feature) in our law. We expect this change in our practice to diminish the influx of frivolous claims. This expected change would also allow our understaffed authority to further focus on more meritorious claims. For this purpose, we are actively utilising publicity to clarify our position on discrimination.

We successfully applied for a governmental grant and launched our TÁMOP 5.5.5 / Social Renewal Operational Programme in 2008. One of the most important features is that we trained 20 lawyers who practise in discrimination across the country. They will assist in drafting complaints and referring applicant to the appropriate authority when we lacked jurisdiction. TÁMOP has just been established and therefore practical experiences are very limited.

Roma strategies

Roma discrimination is prevalent in Hungary. However, those who are discriminated against do not petition our authority. Those petitions we receive are generally either frivolous or seek a relief we are not able to provide.

44 Roma complaints have been filed by mid-September this year. The Authority established violation of law in 2 cases, reached settlement in 6 cases and dismissed the remaining complaints. The underlying reasons for dismissals were as follows: there was no disparate treatment in 5 cases; there was no relationship between the detriment suffered and the protected characteristic of the individual complainant in 8 cases, while the Authority was not in the position to conduct proceedings regarding the remaining cases due to various reasons such as lack of jurisdiction, failure to state a claim upon which relief may be granted and failure to provide data necessary for proper adjudication of the complaint.

The Hungarian Equal Treatment Authority also initiated ex officio proceedings against a mayor who made derogatory statements against ethnic minorities (harassment). Our investigation is still pending and we expect to make a final decision soon.

Unfortunately, this economic downturn impacts disproportionately immigrants and ethnic minorities. Such unfavourable changes, which also have strong statistical basis across Europe, can be seen in both unemployment rates and the number of crimes against ethnic minorities. Tension between the general population and ethnic minorities is even more pronounced in Central Eastern Europe where the market is shrinking more rapidly and the unemployed cannot be absorbed by the public sector. Against this backdrop we suggested European Commission against Racism and Intolerance (ECRI) to restate hate speech on its agenda in the future. In our opinion, it is critical to supervise proper and effective implementation of ECRI recommendation Nr.7 due to the exigent circumstance which has arisen in the face of the economic crisis.

The proper venue of hate speech adjudication has traditionally been civil and criminal proceedings via defamation suits, suit for damages and prosecution for hate speech.

As far as the role of sanctions is concerned, we push settlements in every case as that has proved to be the most enduring resolution of a dispute. The next most effective sanction has been making our decision publicly available followed by imposing fine. The former is very effective against public agencies and entities possessing official websites, while the latter has the greatest impact on private entities.

Our equality body also heavily relies on NGOs. First they are able to distinguish discrimination from other unlawful acts and behaviour. Based on this knowledge and experience they send clients with meritorious claims to our walk-in hours and also represent them in some meaningful cases. Finally, they perform random and planned testing which is particularly useful during the evidentiary phase of our proceedings.

5. Interaction with other society actors

We maintain a relationship with the Hungarian Ombudsmen (data protection, ethnic minorities, general), the Consumer Protection Agency, the Health Care Supervisory Authority and the Employment Agency.

We have formal and informal meetings with various governmental agencies with overlapping jurisdiction. In such a meeting we regularly discuss how to separate our jurisdiction and encourage one another to transfer cases rather than dismissing if the case can be adequately adjudicated by one of us.

6. Strengths and weaknesses

First there is substantial disagreement among professionals whether we need section t) (i.e. category: others) in our substantive law. Section t) has proved to be an open-ended category in practice. In addition to being the most utilised category of protected features, which is clearly contrary to the purpose of the law, the number of petitions is consistently growing. This shows at the same time that those who invoke jurisdiction of this authority are not those who are the most vulnerable in society. This is also bolstered by the fact that our capital city is the most significant source of complaints where the prevalence of discrimination is the lowest across country. The underlying reasons could be the perceived lack of financial resources, lack of knowledge on remedies and maybe lack of hope that anything would change from an administrative proceeding. This category literally attracts frivolous claims, and claims which have no nexus whatsoever to human dignity. Without such a nexus, no inquiry will be initiated on our part. Such claims included the rights of animals to be with the owner at public places, challenges to municipal taxation, the right of mothers to attend inherently dangerous stores with infants, the right of smokers not to be separated.

Claims which are not supported by evidence or claims lacking any nexus between a protected trait and prejudice, dominate every category. It is very suggestive that dismissals represent on the whole 90% of all dispositions of cases. It is also similarly telling that we found discrimination in only two Roma cases this year.

If our authority would not operate in a survival mode due to budgetary cutbacks, the extension of the scope of our law to cover associations and marches in general would be strongly supported. Courts could devise very sensible rules to distinguish discrimination from associational freedom and free speech.

Finally, budgetary restrictions severely hinder our ability to fight discrimination effectively. Being understaffed results in having less time for meritorious complaints. Lowered financial resources also mean that we cannot “buy publicity” for our decisions. Without publicity, we cannot explain the society at large who the successful candidates in our proceedings are.

Northern Ireland, the United Kingdom

The Equality Commission for Northern Ireland

1. Introduction

The Equality Commission for Northern Ireland (the Equality Commission) is an independent public body established under the Northern Ireland Act 1998. The Northern Ireland Act 1998 is the law which gave effect to agreement between the political parties and brought an end to the conflict which ensued in Northern Ireland since 1968. The establishment of the Equality Commission brought together three separate equality commissions with remits covering gender, race and religion. Disability was added in 1999 and sexual orientation in 2003 and age in 2006.

The Equality Commission is responsible for implementing the legislation on age, fair employment and treatment (religion and political opinion) sex discrimination and equal pay, race relations, sexual orientation and disability.

The Equality Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 and the disability duties under the Disability Discrimination Order 1995.

A list of relevant legislation is attached.

2. The role of the Equality Commission

2.1 Primary role of the Commission

Although distinct pieces of legislation outlaw discrimination on each of the grounds within the Equality Commission's remit the primary role of the Commission in respect of each ground is similar and requires it to:

- To promote equality of opportunity
- To work for the elimination of discrimination and
- To keep the legislation under review.

2.2 Specific duties of the Commission

It has additionally very specific duties in relation to the positive duties on public authorities. The Equality Commission also has a general duty to keep under review the effectiveness of the duties imposed on public bodies by Section 75 of the Northern Ireland Act.

The Equality Commission's main functions fall into six broad categories.

Promotion of equality of opportunity and elimination of discrimination

Although there are differences across the grounds in relation to this function much of the responsibility of the Equality Commission is common across all the grounds. In terms of the promotion of equality of opportunity, the Equality Commission works with organisations which have responsibilities under the legislation especially employers and service providers. In Northern Ireland, there are very distinct responsibilities on employers under fair employment legislation to collect information on the community background (religion of employees and applicants and appointees for employment) annually and to forward this to the Equality Commission. Furthermore, at periods of not less than three years employers are required to review their employment composition and employment practices and to assess if these exhibit fair participation and where this is not present to take affirmative action. The active nature of these fair employment duties requires the Equality Commission to engage directly with all employers and provides important opportunities to promote equality and eliminate discrimination.

Education research and advisory

The provisions in relation to research, education and providing advice to organisations are similar under each of the discrimination grounds and cover giving advice, providing training, holding conferences, disseminating information and undertaking research.

The Equality Commission may under each of the statutes, issue Codes of Practice in relation to employment and in some instances in relation to housing (race and sexual orientation).

Advice and assistance in legal proceedings

The Equality Commission can give free confidential advice and may also grant legal assistance to actual or prospective complainants in relation to proceedings arising from complaints of unlawful discrimination. The legislation sets out three criteria which the Commission must use to decide which cases to support but they also give the Commission discretion over the final decision. The general criteria across all grounds are:

- Does the case test a point of law?
- Is it unreasonable, having regard to the complexity of the case, or to the applicants position in relation to the respondent or another person involved, or to any other matter, to expect the applicant to deal with the case unaided?
- Is there any special consideration?

Investigation and enforcement

Powers of formal investigation and enforcement are an important remit of the Equality Commission and they exist in all grounds except sexual orientation and age. Formal investigation can bring about direct change to an organisation's policies and procedures and so can have a wider impact than individual litigation.

Public sector duties

The Equality Commission has a wide range of functions in respect of the duties on public authorities. Public authorities are required to give due regard to the need to promote equality of opportunity on nine equality grounds (religion, political opinion, race, age, marital status, sexual orientation, gender, disability and dependant status). It also requires public authorities to have regard to the desirability of promoting good relations in respect of religious belief, political opinion and racial group. In relation to the duties the Equality Commission has a general duty to keep under review the effectiveness of the duties on Public Authorities and it must offer advice to public authorities and others in connection with the duties. It also has the power of investigation in relation to public authorities' compliance with the duties.

3. Visions and objectives

3.1 *Statement of commitment*

The Equality Commission is committed to working towards fairness and equality for all.

Our goal is:

To advance fairness and equality, promote equality of opportunity, encourage good relations and challenge discrimination through the responsible and effective use of all our powers.

Our key priorities are:

- i. to reach out to the whole community;
- ii. to promote equality and good relations;
- iii. to effect change through strategic enforcement and challenging discrimination;
- iv. to influence public policy and service delivery;
- v. to work for a better legal framework;
- vi. to demonstrate effective governance and value for money.

3.2 *Reaching out to the whole community*

In our plan for 2009/12 we will focus on ensuring that the entire community in Northern Ireland see the Equality Commission as their voice on equality issues by:

- continuing to build our profile and image;
- continuing to build balanced two way relationships with our stakeholders including political representatives and opinion formers;
- developing our links with representatives of vulnerable groups;
- working to attract more Protestant applicants for vacancies in the staff of the Commission.

3.3 *Promoting equality and good relations*

Much of our promotional and advisory activity is focused on raising awareness of rights and responsibilities by:

- delivering effective services to employers, public authorities, service providers, complainants and the public;
- promoting awareness of rights and responsibilities especially new provisions.

3.4 *Effecting change through strategic enforcement and challenging discrimination*

The Equality Commission uses its enforcement powers strategically. We support cases within our discretion to seek satisfactory outcomes and we also use our investigation powers. We carefully monitor the compliance with the active duties placed on employers by FETO (religion).

3.5 *Influencing public policy and service delivery*

The Equality Commission supports public authorities to address key inequalities that remain by:

- supporting public authorities to focus on outcomes and impacts;
- working to influence greater equality outcomes in the Programme for Government;
- addressing key inequalities in education and employment;
- contributing to the implementation of the UN Convention on the Rights of Disabled People;
- implementing our research strategy.

3.6 Working for a better legal framework

- keeping the legislation under review;
- developing reform proposals.

3.7 Demonstrating effective governance and value for money

Continuous improvement remains a key focus for us. We will do this by:

- delivering our objectives in a cost effective manner;
- delivering effective governance and internal control;
- demonstrating leadership in delivering equal opportunities and in our role as a responsible employer.

4. Strategies implemented

The present strategies of the Equality Commission are numerous. By way of example the following outlines the strategy in respect of casework.

The Equality Commission has a significant strategy of providing legal assistance with complaints of unlawful discrimination each year. We annually provide legal assistance to enable a number of complainants to bring their complaint to the tribunals or courts.

Our activity in this area includes an advisory team who in the last business year (2008/09) dealt with enquiries from 3691 individuals. Enquirers are given verbal and written advice plus published material about the law in relation to their area of enquiry; they are advised on legal deadlines; informal resolution; lodgement of proceedings; potential remedies and applying for legal assistance.

A legal team is also in place, which in the last business year considered 289 new applications for assistance to pursue a legal case. These applications went on to be considered by a committee of the Equality Commission (the Legal Funding Committee) and 109 (38%) were granted assistance. The largest number of new applications were granted in the area of race (22) followed by disability (15) gender (17) religion and politics (16) age (6) and sexual orientation (6) and special education needs (1). The remaining applications alleged discrimination on more than one ground (23).

During the last business year 62 cases taken on behalf of 55 applicants were settled out of court. The total amount of compensation recovered for applicants in the period was £428,000 (EUR 385,200).

In most settlements the Equality Commission negotiated additional terms. These included undertakings to liaise with the Commission in order to review the practices, policies and procedures which led to the case being taken; commitments to equality principles; apologies or statements of regret; provision of employment references; and commitments to undertake equality training.

A number (20) of cases were also determined in the last business year in the tribunals and courts. A number of these were in the higher courts (Court of Appeal, House of Lords).

The Equality Commission also provides an independent Conciliation Service in relation to the goods, facilities and services provisions of the disability legislation. The Service provides an alternative to litigation in the county courts and allows matters to be conciliated if this is what both parties want.

The casework team also actively publishes its casework outcomes in professional and specialist legal journals. The Equality Commission issues a release to the press in relation to casework outcomes usually each month. These press releases relate the claimant's personal experience and a senior member of staff and the complainant are usually both available for

radio and television interviews. The public when surveyed report very high levels of support for this publicity.

The staff in the Strategic Enforcement Division also contribute to various outreach programmes aimed at building the capacity of other advisors to recognise discrimination issues, to refer appropriately and to consider enforcement options.

In recognition of the fact that the Commission offers assistance to just over one third of those who apply and, many applicants proceed to tribunal hearing representing themselves, the Commission has recently developed a web based publication "Taking a discrimination case: a layperson's guide".

This publication offers practical advice and tips on how to prosecute discrimination in employment cases in tribunals.

The funding arrangements for casework are transparent with details on the ECNI website as to how individuals can apply for assistance and the process by which the Legal Funding Committee determines assistance. It also includes information on time limits, jurisdiction, frequently asked question, links to legislation and transcripts to cases decisions.

5. Interaction with other society actors

5.1 Employers and others

Given the considerable breadth of the ECNI remit, its interaction with society actors is considerable.

In terms of the anti-discrimination legislation, it works extensively with:

- Employers and service providers;
- Public authorities;
- Those protected by the legislation.

We provide considerable advice to employers and service providers to raise awareness of their responsibilities. This includes detailed and individualised advice, training events, telephone helpline, networks of employers, etc. We have in particular an Employment Development department of 30 staff working with those in society who have responsibilities to avoid unlawful discrimination.

5.2 The public sector and those affected by public sector equality scheme

The duties on public authorities in Northern Ireland require that in carrying out their functions they must have due regard to the need to promote equality of opportunity and furthermore a public authority is also required to have regard to the desirability of promoting good relations.

These positive duties place particular responsibilities on the Equality Commission in terms of offering advice to public authorities, approving public authorities' equality schemes and in relation to the Section 75 duties, investigating complaints.

Accordingly the Equality Commission has very direct interaction with all public authorities. As the duties require express consultation with representative organisations including voluntary, community, trade union and other groups, the Equality Commission have very detailed interaction with these groups. This includes those persons who may be directly affected by the policies of public authorities.

5.3 Those protected by equality legislation

The Equality Commission deals directly with individuals who believe they may be victims of discrimination. We have an initial enquiry service for potential complainants. Each year we offer advice to some 3,000 potential complainants. Many individuals are facilitated through this service to resolve their issue at work or in respect of service provision.

The Equality Commission is also empowered to assist complainants with complaints of unlawful discrimination and each year it provides legal assistance to enable a number of complainants to bring their complaint to the tribunals or courts. Cases may be brought before the Industrial Tribunal, the Fair Employment Tribunal, the County Court, the Specialist Educational Needs Tribunal or the High Court.

During the business year 2007-08, a total of 103 cases supported by the Commission were resolved; 90 were settled before reaching a court hearing and a further 13 were determined by the tribunals or courts.

In relation to our work in assisting individuals to secure their rights, the Commission works with the public in general, trade unions, non-governmental organisation and potential victims of discrimination. Our challenge of practices in the workplace and in the provision of services is extensive and requires us to work with lawyers, barristers and others in the legal profession.

6. Outcomes, strengths and weaknesses

6.1 Measuring success

The Equality Commission prepares and seeks the agreement of our sponsoring department within the Northern Ireland government (Office of the First and Deputy First Minister) with a three-year corporate plan and an annual business plan.

In reporting on our performance to our sponsoring department and Minister, we report on progress against the agreed strategic performance indicators and actions. These indicators and actions are drawn from our planned priority areas and are used to guide Divisional plans and team and individual work programmes which are part of our overall approach to business planning.

Outcomes in 2008-09

6.2 Building access to equality provisions and protections

During the last year, the Equality Commission worked for an improved legislative framework putting forward proposals for specific changes in a number of individual measures including the extension of age discrimination to the provision of goods facilities and services and the extension of fair employment monitoring to the categories of nationality and ethnic origin.

We also supported and worked with others to promote greater access to equality provisions and protections including by way of a targeted outreach programme with partner organisations, one that was particularly focused on hard to reach groups.

We ensured that equality and good relations are at the heart of public policy making and service delivery.

Last year our target of having 50% of key policy recommendations in relation to policy priorities accepted was achieved. During the year ECNI recommendations were accepted in policy areas such as the sixth period report to the UN CEDAW and in relation to promoting equality and good relations in schools in Northern Ireland.

A programme of extensive research work included Educational Migration from and Non Return to Northern Ireland, Awareness of the Age Regulations, Fair Employment Monitoring Report No. 18, research into the nature and extend of human trafficking, awareness of equality issues amongst the general public and minimum standards for Traveller accommodation.

6.3 Delivering equality through ensuring compliance

The Commission is responsible for two main areas of compliance, fair employment monitoring and review and the statutory equality duties on public authorities. Additionally, there is follow-up work with employers and service providers to ensure their compliance with settlement terms agreed with the Commission in the context of its discrimination complaint work. Follow up work on 52 discrimination case settlements was undertaken and by the year end there was evidence of improved equality practice as a result of 49 of the settlements.

In relation to the positive equality duties on public authorities, the Equality Commission received 87% of Public Authorities annual progress reports and dealt with 335 queries. Public Authorities in Northern Ireland also have distinct positive duties in respect of disabled people and last year ECNI worked to create more coherence between the various positive duties.

6.4 Delivering equality through effective enforcement

During 2008-09 the Equality Commission provided advice to 3691 people who believed that they may have been the victim of unlawful discrimination. The Legal Funding Committee of the Commission considered 289 new applications for legal assistance of which 109 (38%) were granted assistance. At the year-end, we were supporting 108 legal cases (for further details of Casework outcomes see Section 5.4)

6.5 Strengths

The Equality Commission has a considerable mandate covering a large number of discrimination grounds. Importantly, the nature of our duties requires a significant interaction with many in our society.

The breadth of our mandate is so great that in each area in accordance with our three year Corporate and Annual Business Plan, we must make choices about the nature and degree of our involvement. Our annual budget is approximately £7m and our staff number some 140 persons. Our resources are quite significant reflecting the importance of the equality agenda to our political priorities in Northern Ireland. Even so we have a detailed policy on the Provision of Advice and Assistance for Complainants. This identifies the strategic interests of the Commission in the area of casework and guides Commissioners as they make decisions to fund or not fund an application for legal assistance (approximately one in three persons applying to us for legal assistance receives support).

The resources for an equality body will always be finite and it is important that in making selection decisions a clearly identifiable strategy is in place. The Equality Commission's strategy is publicly available. We have on a few occasions been challenged in the Court in relation to our withdrawal of legal assistance but we have been successful in defending our selection of cases to support/not to support based on our carefully considered policy.

6.6 Weaknesses

- The absence of a coherent equality framework

The strength of the Equality Commission's remit is the extensive legislative framework, although this is also the greatest weakness. The powers and duties differ from statute to statute and the responsibilities on employers and other are distinct and can lend to confusion. The Equality Commission has since its inception campaigned for a Single Equality Act which would harmonise and improve the protections across all the grounds.

- The absence of unified political support for equality

Since its inception, the Equality Commission has aimed to fulfil its statutory duties by working in partnership with key stakeholders to place equality at the heart of civic, economic and political life in Northern Ireland. However, given the continuing political debate around issues of equality in Northern Ireland the work of the Commission has regularly been contested and public debate is often characterised by the adoption of absolutist positions.

Northern Ireland has in place a plethora of legal and policy interventions and the available evidence is that significant progress has been made in reducing inequalities. Despite this, the public debate and the positions adopted by political groupings are often conducted as though nothing has changed. This political context is a particular challenge for the Equality Commission.

APPENDIX

Equal Pay Act (NI) 1970, as amended
Sex Discrimination (NI) Order 1976, as amended
Disability Discrimination Act 1995, as amended
Race Relations (NI) Order 1997, as amended
Fair Employment and Treatment (NI) Order 1998, as amended
Northern Ireland Act 1998
Equality (Disability, etc.) (NI) Order 2000
Employment Equality (Sexual Orientation) Regulations (NI) 2003, as amended
Special Educational Needs and Disability (NI) Order 2005, as amended
Disability Discrimination (NI) Order 2006
Employment Equality (Age) Regulations (NI) 2006, as amended
Equality Act (Sexual Orientation) Regulations (NI) 2006, as amended.

Slovakia

Slovak National Centre for Human Rights

1. Introduction

The Slovak National Centre for Human Rights (SNCHR) is a national human rights institution and a national equality body. The Centre was established under the Act of National Council of the Slovak Republic No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights in 1 January 1994. An agreement between the United Nations and the government of the Slovak Republic also supported its inception. Following the adoption of the Act No. 365/2004 on Equal Treatment in certain areas of protection against discrimination, which amends and supplements other acts (Anti-discrimination Act), the competencies of the Centre have been extended. Thus this Act complies with the relevant European anti-discrimination legislation.

2. The role of the equality body

According to the Art. 13 of the Council Directive 2000/43/EC, to Art. 9 par. 2 of the Council Directive 2000/78/EC and to Art. 8a of Council Directive 2002/73/EC, the Centre is a national equality body dealing with the issue of discrimination on all protected grounds.

The last amendment of the Act on the Establishment of the SNCHR and the Slovak Civil Procedure Act led to the extension of the competencies of the Slovak National Centre for Human Rights. Its current mandate, which also includes the promotion of equality, is defined by article 1 par. 2 of the Act on the Establishment of the SNCHR.

The statute of the Centre outlines its mission, organisational structure and the responsibilities of the each department of the Centre.

The Act on Establishment of the Slovak National Centre for Human Rights, article 1 par. 2 states:

“(2) The Centre performs tasks in the area of human rights and fundamental freedoms including rights of the children /1/ (hereinafter referred to as "human rights"). For this purpose, the Centre

- a) monitors and evaluates the observance of human rights and the observance of the equal treatment principle under a special act, /1aa/;
- b) gathers, and upon request, provides information on racism, xenophobia and anti-Semitism in the Slovak Republic;
- c) conducts research and surveys to provide data in the area of human rights; gathers and distributes information in this area;
- d) prepares educational activities and participates in information campaigns aimed at increasing tolerance in the Slovak society;
- e) provides legal assistance to victims of discrimination and manifestations of intolerance;

- f) upon request from individuals or legal persons or on its own initiative, issues expert opinions on matters of the observance of the equal treatment principle under a special regulation; /1aa/
- g) performs independent inquiries related to discrimination;
- h) prepares and publishes reports and recommendations on issues related to discrimination;
- i) provides library services; and
- j) provides services in the area of human rights.”

The Centre has the duty to prepare and publish an annual report on the observance of human rights including the principle of equal treatment in the Slovak Republic. The Centre can represent victims of discrimination before the court, act as a subsidiary party within the court trial and provide mediation services. According to the Slovak Anti-Discrimination Act (par. 8a), public authorities are required to send reports on the implementation of temporary positive actions to the Centre. There is a general provision stating that courts, prosecution, other public authorities, local self-government bodies and other public entities must, upon request of the Centre, provide the equality body information with regard to the respect of human rights within a given time period. Their right to inform the Centre about the respect of human rights on their own initiative is however not altered. The Centre is also empowered to ask for information about the respect of human rights from non-governmental organisations dealing with the issue and to come to an agreement on the appropriate form of publication (Art. 1 par. 5 of the Act on the Establishment of the Centre). By issuing expert opinions, the Centre can act as *amicus curiae*.

According to article 1 par. 2 letter j), the Centre has a very broad mandate in the area of human rights, which can be interpreted and implemented differently and very extensively. Therefore the Centre is an important stakeholder and plays a key role in the Slovak society.

Since 1994 the Centre has aspired to be the unique provider of legal assistance to individuals who felt that their rights were violated. Even though other institutions were created (the Public Rights Defender – the Ombudsman, the Legal Aid Centre), the Slovak National Centre for Human Rights still holds an important role in the provision of legal assistance to individuals. This is especially true since 2004 as the Centre became as an equality body assigned with competencies in the field of anti-discrimination. In other words, the Centre is the sole institution established by law which can provide legal assistance to victims of discrimination. This contributes to the increasing number of individual complaints dealt with by the Centre every year.

2.2 The reasons for defining the role of equality body

The Act on Establishment of the Slovak National Centre for Human Rights defines only the general role and status of the equality body. The objectives and tasks of the Centre are laid down in the “Strategic Vision” which was introduced by the newly-elected executive director of the Centre in 2007. The activities of the Centre are regulated by a work plan prepared for a certain period of time (business plan). It includes the basic strategy which is based on the completion of the tasks stated by the law establishing the Centre. In the case of the Centre, the work plan is defined for a specific year and states both short and long-term objectives and strategies.

A useful tool for defining the institution’s role is the strategic work plan. The strategic action plan should define the role of the equality body in relation to society, the general public and different specific groups and stakeholders with the regard to a particular protected ground and period of time. The short or long-term objectives stated in the strategic plan should be closely linked to the vision and mission of the institution. The conclusion of the individual cases reveals that each ground needs and requires a particular approach. The plan should set the particular approach based on the surveys conducted among the vulnerable groups that can require assistance from the institution. The strategic plan should also state the priorities for a certain period. A part of the plan should focus on the evaluation of the achieved outcomes. The results of the evaluation should feed into the development of the next strategic plan of the Centre.

Defining a clear role for the equality body helps create and assert its profile and position in the field of equality and human rights. Furthermore, having a clear definition of the role of such institution could facilitate the creation of a common non-profit organisation with the power to cover, initiate and coordinate the protection and promotion of human rights and equality in the country.

3. Visions and objectives

The vision and the mission of the Centre are mainly to fulfil the tasks stated by the law on its establishment and by the Anti-Discrimination Act. Due to the specificity and multiplicity of the issues linked to each ground of discrimination, the institution face different challenges. In fact, discrimination is a complex issue and its manifestation varies significantly. The Slovak National Centre for Human Rights has to adjust and remain flexible in order to tackle this phenomenon.

4. Strategies implemented

The Centre does not have specific long-term strategic plan. Nevertheless, the Centre is dealing and working with each case on an ad-hoc basis. We plan to produce the general strategic action plan and the specific strategic plan focused on the grounds protected by Anti-Discrimination Act. The Centre formulates and sets the strategy for each activity with respect to specific target groups.

5. Interaction with other society actors

The Slovak National Centre for Human Rights (SNCHR) enjoys a good cooperation with civil society especially during the preparation of the Annual Report on the Observance of Human Rights in Slovakia. External experts are commissioned for special tasks.

There are a wide range of educational activities aimed at the general public and the private sector. The cooperation with employers, labour inspectorates, labour offices and relevant institutions (the Ombudsman, NGOs, the Centre for Legal Aid at the Ministry of Justice of the Slovak Republic, etc.) facilitates the management of cases of alleged discrimination and the publication of expert opinions by the legal department. The involvement of the NGOs on a per-project basis is also encouraged at local level. For instance, representatives of NGOs active in the field of anti-discrimination were invited by the Centre to discuss issues around the use of mediation as a tool for legal assistance, and a representative research on the perception of the observance of human rights and the principle of equal treatment among the adult population.

The Centre finds the cooperation with NGOs at different levels very helpful and needed. The potential cooperation with relevant NGOs and other stakeholders could help eliminating structural discrimination in society.

6. Outcomes, strengths and weaknesses

6.1 Outcomes

The independent assistance to victims of discrimination

The Centre provides legal assistance and consultancy to every person submitting a complaint regardless of the discrimination ground. The Centre analyses every case and considers upon the discrimination test whether the case of alleged discrimination falls within the scope of the Anti-Discrimination Act. Each year, the Centre deals with approximately 1200 complaints addressed by e-mail, post, phone, or during personal visits.

One recent outcome is the release of the publication: "Guide to the Anti-Discrimination Act" which was prepared and published by the Centre last year. It is aimed at the general public and to vulnerable groups to inform them of their rights, the issue of discrimination and the

legal protection against it. The publication is written in an easy-read format to increase its accessibility.

The mediation services provided by the Centre

The Centre developed and implemented the project called “Mediation as a tool for disadvantaged groups” Providing mediation as legal assistance is based on the legal framework, under the Act on Mediation and the Anti-Discrimination Act. They state that everyone can claim protection against discrimination through out-of-court settlement – mediation. The aim of the project was to provide an effective assistance to individuals facing discrimination on the grounds protected by Anti-Discrimination Act and belonging to disadvantaged groups. The project consisted of several parts – information campaign, providing mediation services to victims of discrimination and strengthening personal skills of mediators working in the Centre. As part of the project, a flyer, information letter, internal manuals and procedures equipping employees of the Centre for providing mediation services for were prepared and published. The dissemination and media campaigns were the part of the project activities. In general, the offer of mediation services has become an integral part of legal assistance practices. Legal assistance in the strict sense of the term and mediation process are rigorously separated in order to respect the independence and neutrality of the mediator and whole process of mediation. The Centre provided mediation in about 29 cases and 3 mediation cases were successfully solved.

Researches conducted by the Centre

This task emerges from the Centre’s competencies established by the law and the work plan for a certain year. Up to the present day, the Centre carried out several researches:

- Field research into the observance of the rights of children from Roma settlements with regard to their discrimination and specific problems (2005).
- Field research of the observance of equal treatment at the labour market (representative research of population in the Slovak Republic (2006)).
- Longitudinal representative research of the perception of the human rights and principle of equal treatment of adult population in the Slovak Republic (2007).
- Longitudinal representative research of the perception of the human rights and principles of equal treatment of adult population in the Slovak Republic (2008). This is the latest representative research of the Centre which brings the following key findings:
 - Improvements in awareness about the issues of discrimination and evaluating the discrimination situations at the workplace.
 - Deepening of prejudices and negative social distance in relation to Roma people.
 - Continuing manifestation of intolerance, racism and anti-Semitism.

The primary target group for educational activities should be people with lower education. This group tends to adopt negative social conduct in relation to particular groups – Roma people: a very vulnerable group which is the most frequently discriminated against.

The collection of good practices

This kind of competency is not explicitly regulated by the Act on Establishment or the statute of Centre. The collection of good practices is often one of the tasks which are implemented within particular projects e.g. the collection of good practices regarding gender equality, by collecting the data, addressing the relevant institutions, by preparing and evaluating the questionnaires, structural dialogues etc. The Centre creates the annual report on observance of human rights which could introduce good practices. The collections are published on the website of the Centre or they are the part of manuals or brochures. They are also presented in the media (radio, TV, newspapers, etc.). They are included as examples in educational activities.

Educational activities

The Centre provides various educational activities for different target groups. The Centre, in cooperation with the Judge Association, prepares and organises seminars targeted at judges.

Other relevant stakeholders were trained in the area of anti-discrimination, e.g. employees of labour inspectorates, local municipalities, employees of higher level administrative governments, state administration, the offices for labour, social affairs and family, officers of the border and alien police. The Centre takes part in educational activities provided to trade unions and different disability organisations. The most recent activity is the “non-discrimination club” targeted at young people, primarily the students of the secondary and the primary schools. The training involves the screening of diverse educational films dealing with non-discrimination and followed by discussions.

6.2 Strengths and weaknesses:

One of the main weaknesses is the absence of a general strategy. This could even be considered as a significant disadvantage. The establishment of such strategy could define the role of the equality body in relation to society as a whole and different specific groups and stakeholders connected to particular protected grounds. This strategy could also clarify short, mid and long-term objectives, the general vision and mission of our institution. We would expect the strategy to state priorities in providing legal assistance, objectives with regards to the monitoring and research activities as well as educational and awareness-raising activities which will be based on and follow the assessment of the current situation.

The mandate of the Centre as an equality body and human rights institution can be considered on the one hand as a strength, but also, on the other hand, as a weakness. The link between human rights and equality enables the Centre to implement a holistic overview and approach. Resources, both human and financial and other capacities can be considered as a weakness. Our current limited capacities does not enable us to effectively meet and accomplish the numerous and different activities and tasks of the Centre

The most significant strength and weakness is the horizontal approach applied by the Slovak National Centre for Human Rights in relation to the solving of the individual complaints. The Slovak Anti-Discrimination Act goes beyond the minimum requirements of EU anti-discrimination directives and covers additional discrimination grounds. It also applies and states the duty not to discriminate and to observe the principle of equal treatment in the areas beyond the labour market such as social security, health care, education and provision of goods and services. This implies that the Centre is dealing with and working on all covered discrimination grounds and areas. This brings several positive aspects which were mentioned in the report prepared by the Working Group on Strategic Enforcement in 2006 but also requires the attention to the specific structure of the equality body. The different grounds of discrimination imply different characteristics based on their nature, history and development, which then requires a particular and specific approach. Given the circumstances under which the Centre is working (i.e. human and financial capacities and limited resources), it is not possible to apply such approach yet.

In 2006 the Centre started to implement its regional policy which led to the establishment of seven regional offices. The development and operation of the seven regional offices represent a considerable strength. The regional offices cover the whole territory of the Slovak Republic from east to west. The Centre can share and delegate its competencies to these offices: mainly the provision of legal assistance and the carrying out of educational, monitoring and research activities. The main focus is also to create and support local partnerships with relevant stakeholders and different NGOs. However, in some cases, a major drawback is the difficulty in regional offices, which count only one employee, to accomplish the mentioned activities and perform the stated tasks.

The start of the provision of mediation services seems to be a prospective strength of the Centre. The Centre began to provide this type of legal assistance before the regulation stated the possibility to solve discrimination by out-of-court settlement in the Anti-Discrimination Act. The first three successful mediations show that mediation could be a suitable, favourable and useful alternative to court proceedings.

The development of a yearly business plan is, to some extent, another strength as it enables the equality body to remain flexible and to adapt to current and changing circumstances. The

Centre can respond to current and urging needs in the field of non-discrimination. For example, the results of the latest research show that educational activities must be also focused on the low-educated groups of the society.

The absence of a long-term strategy (strategic action plan) is a significant weakness in many equality bodies. This poses limitations for the institution to establish itself as a stable equality body with certain profile and a specific status in society. Although, awareness about the Centre is increasing, mainly after the establishment of its regional offices, potential clients are not aware of what cases the Centre is dealing with and working on.

The most relevant and significant weakness is the continual lack of financial, human and other resources. All the tasks stated by the law are performed by a small team of professional employees divided into several departments. Under these circumstances, they do their best to provide adequate legal assistance and accomplish all abovementioned activities at high level of quality.

Sweden

Equality Ombudsman

1. Introduction

The Swedish Equality Ombudsman in Sweden began its work on 1 January 2009. The new institution was created through a process where four previous equality bodies were merged into one new single Equality Ombudsman.

For the first time, Sweden now has a single, cohesive agency responsible for combating discrimination and promoting equal rights and opportunities regardless of a person's sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

The creation of the Equality Ombudsman followed the adoption of a new legal framework in 2009 consisting of a new single discrimination act and a law establishing the new Equality Ombudsman. The Discrimination Act to a large extent harmonised and strengthened the legal protection against discrimination. It also introduced protection on two new grounds of discrimination: age and transgender identity or expression.

The Discrimination Act prohibits discrimination in certain areas of society on the grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. The purpose of the Act is to combat discrimination on these grounds but also to promote equal rights and opportunities.

The legislation that entered into force on 1 January 2009 describes the agency's different areas of activity from investigating and pursuing individual complaints to promoting equal rights and opportunities, monitoring international developments, encouraging debate and proposing legislative amendments and other measures. Under its mandate, the Ombudsman enjoys considerable freedom to focus on those activities, projects and initiatives that are likely to be the most effective.

A great challenge facing the newly formed Equality Ombudsman is how to take stock of previous experiences of combating discrimination and to transform that vast knowledge and hands-on experience from four institutions into an efficient new dynamic organisation. 2009 can be described as a start-up year during which the Equality Ombudsman has been in the process of defining its role in society and shaping its new vision. Considerable time and effort has been put into this challenging and important process and of developing objectives and long-term strategies. This mainly internal work will continue primarily in the way of breaking down long-term strategies into short-term strategies and work plans.

2. The role of the Equality Ombudsman

The changes to the Swedish institutional and legal framework and the considerably broader mandate of the new institution enable the Equality Ombudsman to redefine and develop the role of the Swedish equality body in society.

While the previous equality bodies focused on one or few grounds of discrimination, and on ensuring and promoting the rights of certain groups in society, such as the disabled or ethnic minorities, the Equality Ombudsman can take a much broader stance with a horizontal approach and to a greater extent, promote equal rights and opportunities for all in society.

The legal framework, consisting of the Discrimination Act, the Parental Leave Act and the Act concerning the Equality Ombudsman, provides the mandate and powers of the Equality Ombudsman.

The Discrimination Act gives the Equality Ombudsman the responsibility to supervise compliance with the Discrimination Act. The Equality Ombudsman should in the first instance try to induce those to whom the Act applies to comply with it voluntarily. The institution does, however, have the power to bring court actions on behalf of an individual.

According to the Parental Leave Act, the Equality Ombudsman may bring actions on behalf of an employee or job applicant that has been disfavoured for reasons related to parental leave.

The Act concerning the Equality Ombudsman in addition gives the Ombudsman the mandate to work to ensure that discrimination does not occur in any areas of society and to promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. The Act thus gives the Equality Ombudsman the mandate to address discrimination in areas not covered by the Discrimination Act.

How the Equality Ombudsman shall do this is not clarified in any detail. The Act only mentions that the Equality Ombudsman shall: inform, educate, discuss and have other contacts with government agencies, enterprises, individuals and organisations; follow international developments and have contacts with international organisations; follow research and development work; propose legislative amendments or other anti-discrimination measures to the Government; and initiate other appropriate measures.

Since the legal framework gives very little guidance both in terms of the focus of work and how to go about the work, the Equality Ombudsman is in a position where she has great freedom to decide on the direction and shape the work. And, thus, also to decide what role the equality body should take in society. This of course is a great advantage but also a great responsibility.

The extremely broad mandate of the institution which includes working against homophobia and racism, and the fact that the Ombudsman and the tools at disposal are numerous, makes it necessary to carefully consider issues like what role to take and what strategies to apply. When developing the role of the institution and the strategic approach that should be applied, the Equality Ombudsman has considered how the work of the institution can have maximum impact in society. In this process, the experience of the previous equality bodies has been taken into account as well as experience from other countries.

When developing the role and the strategies the Equality Ombudsman has used as a point of departure the notion that the law in itself does not have the power to combat discrimination and ensure equal rights and opportunities. Other elements need to be in place in order to drive social change. A more holistic approach is necessary to achieve equality. This demands a dynamic interaction between different factors. Bearing this in mind, the Equality Ombudsman has developed a long-term strategy that includes four different strands. Each of them is considered important but the Equality Ombudsman is of the opinion that applying them simultaneously is key to creating the necessary dynamics that can have a real impact on the development of society.

The four strands are: An effective legal framework; key society actors taking responsibility to combat discrimination and promote equal rights and opportunities; access to rights/empowerment; and knowledge about discrimination in society.

Thus, the Equality Ombudsman has identified its role in relation to these strategies, as working to contribute to realising these factors. The DO has developed a strategic plan which defines the role of the Ombudsman and sets the vision and long-term objectives and strategies.

When describing the role, the Equality Ombudsman identifies international human rights law as a starting point and that the institution is set to protect and promote human rights. The strategic plan also refers to the Paris principles and to the EU directives requiring Member States to establish equality bodies. While the institution does not have a broad human rights mandate, the Equality Ombudsman clearly identifies itself as a national human rights institution.

3. Visions and objectives

The Equality Ombudsman's vision – the principle that all human beings are equal in dignity and rights pervade in Swedish society – is based on the UN's Universal Declaration of Human Rights which lays down the principle of equal dignity and rights for all people. This is a benchmark and a driving force in defining a future state of society where the work of the Equality Ombudsman can contribute in realising this principle.

The strategic plan provides guidance for the Ombudsman's work in pursuit of societal change and the effective realisation of the principle of equal dignity and rights for all. The plan is scheduled to run for six years and presents the agency's objectives in both the short and long term. The document is intended to be a living instrument. This means that the objectives, especially the more short-term ones, will be subject to ongoing evaluation.

Based on this vision, the Ombudsman has formulated and adopted five long-term strategic objectives for the coming six years. Four of the objectives are externally operative and one concerns more the internal dealings of the institution. The four strategic objectives are based on the four key elements mentioned above.

3.1 The law is an effective tool for individual redress and for combating discriminatory structures .

A broad legal framework enables the Equality Ombudsman to draw on international conventions, the Discrimination Act, the Parental Leave Act and Community law – as well as on other legislation in adjacent fields in seeking to change society and challenge discrimination in accordance with the guidelines laid down in the objectives.

The Equality Ombudsman should also contribute to developing the possibilities and the ability of individuals and key society actors, such as civil society, to make use of the legal framework. For example by helping build capacity in organisations prepared to litigate on behalf of their members. The overriding focus of the Ombudsman should be to ensure access to rights.

Thus, while the legal work focuses on individual cases, it should not only be seen as a tool for the Equality Ombudsman to seek individual redress but as part of institutions overall efforts to combat discrimination and promote equal rights and opportunities. A way of highlighting and challenging structural problems in a society

The objective refers not only to the national discrimination law but to international conventions and EU directives as well as other areas of national legislation such as labour law and administrative law.

By setting this objective the Equality Ombudsman takes upon itself to help improve the legal framework but more importantly to develop the organisations ability to make effective use of the existing legal framework. Parallel to these efforts the Equality Ombudsman is developing a legal strategy to enable a more effective enforcement of the law. By understanding litigation as a social process a clear legal agenda can help foster social change and challenge status quo. This in turn can affect case law and other legal developments in Sweden. The strategic objective is to turn law into an efficient tool for individual redress and for combating discriminatory structures.

3.2 Key actors assume responsibility for guaranteeing the principle of non-discrimination and the promotion of equal rights and opportunities.

The Equality Ombudsman shall contribute so that trade unions, employers' organisations, government authorities, the private and public sectors are taking responsibility in working against discrimination. The aim is to safeguard the principle of non-discrimination and the promotion of equal rights and opportunities. The Ombudsman's role in this connection is to point to problems and shortcomings and demonstrate the need for action and to offer support.

3.3 Representatives of civil society have a close understanding of rights and avenues of redress.

This objective focuses primarily on non-governmental organisations. Special attention should be given to NGOs focusing on combating discrimination and other organisation that might have capacity to bring discrimination cases to court. The efforts by the Equality Ombudsman should focus primarily on empowering vulnerable groups and ensuring access to rights. The Equality Ombudsman must address complex problems and deep rooted discriminatory structures to improve the situation for marginalised and vulnerable groups. A challenge for the Ombudsman is how to make efficient use of previously developed strategies in a new context and how to further these strategies together with vulnerable groups in Swedish society. One aim is to identify relevant representatives of civil society and in collaboration with them develop means of support for their further work on safeguarding the rights of target groups.

The Equality Ombudsman works closely with underprivileged groups in society in order to reach out and transfer knowledge about rights and remedies. Equally important in this work is to ensure that the Equality Ombudsman learns and understands their living conditions and how they perceive and experience discrimination in everyday life.

3.4 Decision makers are guided by an awareness of the link between individual violations and discriminatory structures.

This objective aims primarily at decision makers at the national, regional and local levels, both at the political and civil servant levels.

By collecting information and disseminating knowledge through reports and in other ways the Equality Ombudsman can point to structural problems and the impact these structures have on individuals. The Equality Ombudsman will also develop and point to measures that need to be taken to improve a situation. These activities combined with taking legal action in individual cases will ensure that necessary considerations are taken when making decisions and drive a process that results in social change.

In relation to the public sector, it is also crucial to clarify the links to human rights and the responsibility that state actors need to act upon in this regard. In terms of getting the necessary knowledge, it is crucial to cooperate with researchers within the academia. The Equality Ombudsman needs to draw from the knowledge that exists but also to point to areas that needs the attention of researchers.

3.5 The DO is characterised by cooperation, knowledge, development and a work environment that contributes to the quality and impact of the work of the institution.

This objective focuses on the DO as a work place, which presses upon the link between the internal situation of the institution and the ability to have effect upon the situation in society.

Overall, the Equality Ombudsman's mandate can be described as very broad. The agency's task, however, is complicated and involves a considerable degree of responsibility. The new comprehensive agency discharges its duties via staff who are confronted daily with problems and issues that require them to adopt fundamental positions. This means that the Ombudsman's communications strategy must pervade all parts of its operation and give the staff the guidance and support they need. The agency as a whole also needs to adopt a strategic approach to its task and to share a common view of its role in a process aimed at changing society. This includes strategies to ensure that review and equality promotion duties (supervision and development) combine smoothly in pursuit of change, well-developed internal communications and operational objectives in the short, medium and long term. Direction and focus are established in the agency's strategic plan for the coming six-year

period. The Ombudsman's communications strategies are laid down in general communications policies and communications plans.

4. Strategies implemented

The long-term strategic objectives in themselves form the principle strategy that will ensure that the work of the Equality Ombudsman will contribute to the change in society that the DO wants to see, that is the realisation of the vision.

In other words, through working to ensure:

- that an effective legal framework is in place;
- that key stakeholders take responsibility in combating discrimination and promoting equal rights and opportunities;
- that civil society has good knowledge about rights and remedies;
- that decision makers take account of discrimination when making decisions;
- that DO ensures a professional, well functioning and attractive work place.

The Equality Ombudsman will contribute to a process that will lead to the development of a society in which the principle that all human beings are equal in dignity and rights pervades. Each of the five long-term strategic objectives has been broken down to a number of medium-term objectives and benchmarks that also form strategies by which each long-term strategic objective will be met.

5. Interaction with other society actors

Interaction with other stakeholders in society is at the heart of the role that the Equality Ombudsman has defined and the long term strategy that has been developed. Through interaction with key society actors the Equality Ombudsman aims at ensuring that other stakeholders take responsibility to, within their mandates, take action to combat discrimination and promote equality. Thus, the Equality Ombudsman interacts with a wide range of stakeholders including the government and government agencies, stakeholders within the private and public sectors as well as the civil society sector.

In defining who to interact with the Equality Ombudsman takes a strategic approach and identifies stakeholders that have the power to affect discriminatory practices and structures in society or stakeholders that are key to driving a societal change, such as civil society. Stakeholders that the Equality Ombudsman interacts with can be divided into the following five categories:

- Government and government agencies at the central, regional and local levels that have the power to influence laws, regulations and policy that affects society in general.
- Key public and private stakeholders such as housing companies and their organisations, employers, employer organisations that need to take responsibility in combating discrimination and promoting equal rights and opportunities.
- Stakeholders within civil society such as NGOs and other representatives of groups that are at risk of being subjected to discrimination, which need to be empowered to become a strong force in the struggle for equal rights and opportunities and trade unions that need to take responsibility.
- Academia, that have the ability to produce knowledge about discrimination and how discrimination is manifested in society.
- Media, with the purpose of raising awareness among the general public about the problem of discrimination.

6. Strengths and weaknesses

The fact that the equality body has a broad mandate that it covers all protected grounds of discrimination gives the equality body considerable strength. It allows the organisation to take a much broader stance with a horizontal approach and to a greater extent, promote equal rights and opportunities for all in society.

The mandate is broad also in the sense that it gives the Equality Ombudsman the task to combat discrimination and promote equal rights and opportunities in all society. This very broad mandate therefore also presents a great challenge. The new strategic approach will ensure that the organisation and all its powers and tools are focused on certain aspects within that broad mandate, and that strategies are applied that will ensure that the work of the Equality Ombudsman has effect in society.

The Equality Ombudsman receives a great number of individual complaints and there is a risk that the work on cases consumes a great amount of resources. The strategic approach will allow the institution to manage the activities in house in a more strategic way and ensure that various powers are applied simultaneously and interact. This will ensure that the institution is not only case driven in its pursuits but that other activities get resources and that the work of the organisations has maximum effect.

The merger creates new opportunities. The new organisation can enhance its ability to combat multiple discrimination. At the same time a large merger of four institutions demands a strong internal focus initially in creating a new common ground. That in itself is a cumbersome process.

The role of the Equality Ombudsman and the strategy that the organisation has developed will ensure that the organisation makes best use of available resources. Increased resources would certainly allow the organisation to do and achieve more. At the same time, it is important to acknowledge that equality bodies alone can never ensure the development of a society where equal rights and opportunities is a reality, irrespective of resources. Nor is this desired. Instead equality bodies should function as a catalyst in society that puts the light on the problem of discrimination and puts others at work.

Conclusions

The equality bodies presented as examples for exploring how equality bodies identify their role in the context of the wider society are very diverse. Institutions with a long history and with experience of applying a strategic approach to their work as well as newly established institutions are represented. The sample brings together large organisations that have significant resources as well as small organisations with very limited budgets. Furthermore, both specialised organisations with an exclusive non-discrimination and/or equality mandate and organisations that have such a mandate within a broader human rights mandate are represented. In addition there are single ground bodies as well as organisations that cover discrimination on multiple grounds. This sample thus serves as a good basis for drawing some general conclusions and for identifying some important key elements for the ability of equality bodies to combat discrimination and promote equality and to contribute effectively to the enforcement of the EC directives. The intention is, however, not to present an in-depth analysis that can provide clear answers and guidance.

The need to define a role

The national legal framework established to implement the EC directives provide the natural framework within which the equality bodies can operate. By setting out the mandate and responsibilities and by giving powers and tools, the legal framework also, to some extent, defines the role of equality bodies. However, in many instances the mandate is very broad: in addition to identifying specific responsibilities, the law often also gives equality bodies very general tasks such as the responsibility to promote equal rights and opportunities in society or the responsibility to enforce the implementation of non-discrimination legislation. The broad mandate opens up the possibility for equality bodies identify, within the legal framework, a role for themselves in society. The experience of some of the equality bodies in the working group points out that equality bodies needs to reflect on its role in society and make a conscious decision what that role should be in order to fulfil its mandate and tasks in an effective way.

If equality bodies do not themselves go through such a process their role will defined by default through, for example, large number of complaints or by other external forces such as the interest of the public or powerful stakeholders. In such a situation, equality bodies risk to find themselves involved in work and activities that may not allow them to work effectively towards fulfilling their responsibilities.

Key aspects impacting on the role of equality bodies

A number of factors have an influence on the role equality bodies take in society. This section briefly highlights some of the factors of great importance in this regard.

The mandate

The role of equality bodies to a large extent depends on the mandate given and how broad that mandate is. While some equality bodies have the mandate not only to combat discrimination but also to take action to promote equality, others have a narrower mandate and are limited to providing support to individuals that have experienced discrimination or to function as quasi judicial redress mechanisms. What is interesting is that even in cases, like in Hungary, where the equality body does not have a specific mandate when it comes to promotional activities; the equality body still see the need to get involved in awareness raising activities targeting the general public and victims of discrimination. A broader mandate including powers to promote equality allows equality bodies to take a very different role in society and to a greater extent take action that target other key stakeholders and involve them in the efforts to combat discrimination and promote equal rights and opportunities.

Two of the equality bodies in this report, the Greek Ombudsman and the Slovak National Centre for Human Rights, are part of organisations that have a broad human rights mandate. This, of course, affects the role the organisation can have in society but also the strategies that can be developed. Both the Greek and the Slovak institution identify strengths as well as weaknesses with such an organisational set up. While the broad human rights mandate allows for a holistic and broader rights based approach there is at the same time the risk that

the work to combat discrimination and promote equality is marginalised and/or does not get sufficient focus or resources. These risks need to be taken into account and addressed as more and more countries merge human rights and equality bodies.

The ability to work on multiple grounds of discrimination is in many instances beneficial to the work of equality bodies. The mechanisms behind discrimination are often the same irrespective of ground and similarly, efforts to combat discrimination and promote equal rights and opportunities are often the same. Strategies, activities and arguments used in relation to one ground can in most cases be applied also to other grounds. The experience in Sweden, for example, is also that having one institution working on multiple grounds instead of having multiple institutions ensures a more coherent approach in the work which is beneficial to the work on all grounds. Working on several grounds also makes it easier to argue from a position of equal rights for all in society and makes it more difficult to frame equality body in terms of only working for the benefit of a specific group in society.

There are also challenges insofar as there is a risk that certain grounds do not receive enough consideration or for example, that aspects or problems that are specific to certain grounds or groups in society do not get addressed. As is stressed by the Belgian Institute for Equality between Women and Men, there is also the benefit of having a clear visibility on the amount of resources dedicated to address the problems related to a certain discrimination ground.

Cooperation with key society actors

National equality bodies can never ensure the implementation of the EC directives or the realisation of equal rights and opportunities in society alone. Rather, equality bodies need to ensure that other stakeholders take responsibility in terms of combating discrimination and promoting equal rights and opportunities. Engaging in cooperation with other stakeholders in society is therefore crucial. This is even more important when resources are limited. Even in instances where the mandate of equality bodies is limited and focused on casework, it is important to involve other stakeholders. A good example is the training of lawyers that the equality body in Hungary has been engaged in.

Equality bodies that have a broader mandate naturally also engage in cooperation to a greater extent. Applying a strategic approach has an effect on the level of cooperation equality bodies engage with others. For example the Equality Commission for Northern Ireland and the Equality Ombudsman in Sweden both engage broadly with a wide range of stakeholders as does the Greek Ombudsman in the area of Roma where they apply a strategic approach.

Resources

The resources available to equality bodies are of course one of the key factors that affect what equality bodies can achieve. Generally the equality bodies in the working group see a need for an increase in resources so they can address the problems in society in an appropriate way. In a situation where available resources fall short of the needs it is necessary to develop a strategic approach. Defining what role an equality body should have in society and develop corresponding strategies will help to ensure that available resources are used in the most effective way.

There are examples of how resources of equality bodies within the European Union have been drastically cut and there is also a trend to add new tasks and responsibilities to equality bodies without further increasing budgets. These developments are of course very problematic and in some instances put into question the political will to address the problem of discrimination in society. There is obviously a point where resources are so limited that equality bodies can no longer take any real role in society in combating discrimination and promoting equality irrespective of a strategic approach. In such a situation it can be questioned whether the particular state fulfils the requirements in the EC directives as concerns establishing an equality body.

The need for a strategic approach

A conscious decision by an equality body on the role it should have in the context of a specific society is of course part of a strategic approach that aims at the effective implementation of the EC directives and mandate of equality bodies. Through examining factors such as the legal framework; available resources; the problems and needs in society; and the existence of other key stakeholders, the equality body can define the role it needs to take in society. Once the role is defined, the next natural step is to develop the strategies that will be applied in that context, to the specific situation in the country.

The Northern Ireland Equality Commission has for a long time applied a strategic approach and found that it is crucial to the organisations' ability to have an effect on the situation. Other equality bodies in the working group have seen the need to develop and implement strategies in relation to specific issues or problem areas. In the working group, there is a general agreement that a strategic approach is desired and necessary in order for equality bodies to be effective in their efforts to combat discrimination and promote equality. The Swedish Equality Ombudsman has during its first year of operations developed a strategic plan and several of the other equality bodies in the working group have expressed that they will do so in the future. It is most likely that the situation is similar within many other equality bodies. It is the view of the working group that this development will contribute to the ability of equality bodies to function as a catalyst and driving force in the struggle for equality in Europe.

Appendix

Vision and Strategic Plan of the Swedish Equality Ombudsman

Introduction

On 1 January 2009, the Swedish Equality Ombudsman (DO) began its work. For the first time, Sweden now has a single, cohesive agency responsible for combating discrimination and promoting equal rights and opportunities regardless of a person's sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

The mandate conferred upon the Ombudsman – to monitor compliance with the comprehensive anti-discrimination legislation introduced in 2009 – gives it a broader role and a new platform from which to pursue its activities. Having the chance to approach this field of work from such a position is a momentous development that necessitates reflection and a strategic approach on our part.

I personally feel that the work against discrimination needs to be viewed in terms of the important place that human rights occupy in a democracy. Anti-discrimination legislation gives the fundamental principles of human rights concrete form, and thus the protection of the right to non-discrimination helps support and sustain our society.

This document sets out the vision and long-term strategies of the Equality Ombudsman, as defined in relation to the underlying national and international legal framework. Although originally intended as a purely internal document, it may also be of some interest to external actors in this field.

The legislation that entered into force on 1 January 2009 describes the agency's different areas of activity from investigating and pursuing individual complaints to promoting equal rights and opportunities, monitoring international developments, encouraging debate and proposing legislative amendments and other measures. Under its mandate, the Ombudsman enjoys considerable freedom to focus on those activities, projects and initiatives that are likely to be the most effective.

The strategic plan provides guidance for the Ombudsman's work in pursuit of societal change and the effective realisation of the principle of equal dignity and rights for all. The plan is scheduled to run for six years, and presents the agency's objectives in both the short and long term. The document is intended to be a living instrument. This means that the objectives, especially the more short-term ones, will be subject to ongoing evaluation.

The Ombudsman's vision is a situation in which the principle of equal dignity and rights of all applies throughout Swedish society. Based upon this vision, the strategic objectives of the Equality Ombudsman are

- that the law is an effective tool for individual redress and for combating discriminatory structures;
- that key actors assume responsibility for guaranteeing the principle of non-discrimination and the promotion of equal rights and opportunities;
- that representatives of civil society have a close understanding of rights and avenues of redress;
- that decision makers are guided by an awareness of the link between individual violations and discriminatory structures;
- that the Ombudsman emphasises cooperation, knowledge and development in the performance of its duties in an environment conducive to quality and effectiveness.

Our expectation is that the work with these objectives – and the plan's emphasis on interaction between the agency's different areas of activity – will ensure that the Equality Ombudsman's efforts to combat discrimination and promote equal rights and opportunities have the greatest possible impact.

Katri Linna
Swedish Equality Ombudsman

Mandate and duties

The Equality Ombudsman's mandate is rooted in international law, including the Paris Principles relating to the status of national human rights institutions. The EU Equal Treatment Directive regarding gender as well as the EU Race Directive also specify that Member States are to have national bodies for the promotion and support of equal treatment irrespective of sex, race or ethnic origin.

These principles and directives include specific directions that Sweden took into account when the duties of the Equality Ombudsman were laid down in law.

The national bodies are to

- be independent
- assist individuals, e.g. by pursuing complaints of discrimination
- undertake investigations and publish reports
- express opinions of their own, both nationally and internationally
- present recommendations and propose legislative amendments or other appropriate measures
- engage in international cooperation.

As regards general duties, the Act concerning the Equality Ombudsman states that the agency is to seek to ensure that discrimination associated with sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age does not occur in any areas of community life.

The Ombudsman is also required to work in other respects to promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. These terms replace the ones previously used, such as gender equality and ethnic diversity. The legislator has not specifically addressed the possibility of combating intolerance in such forms as homophobia, racism and Islamophobia. However, the mandate has not been reduced in scope. Rather, the changes are aimed both at making the terminology more consistent and at encouraging greater awareness of the link between, on the one hand, protection against discrimination and the promotion of rights, and, on the other, the principle of the equal dignity and rights of all people.

Regarding the communications role of the Equality Ombudsman, the government bill (2007/08:95) states that the new comprehensive agency should be able to express its opinion publicly, disseminate information and knowledge and initiate other appropriate measures in the same way as before. The tasks of the Ombudsman include putting discrimination issues onto the public agenda, making the agency known and building public trust in the agency.

The Ombudsman's instructions specify that the agency is to perform the duties described in the Discrimination Act, the Act concerning the Equality Ombudsman and the Parental Leave Act, and also to monitor and analyse developments in its area of responsibility. The Government's appropriation directions do not provide any special directions as to the focus of the agency's activities.

Overall, the Equality Ombudsman's mandate can be described as very broad. The agency's task, however, is complicated and involves a considerable degree of responsibility. The new comprehensive agency discharges its duties via staff who are confronted daily with problems and issues that require them to adopt fundamental positions. This means that the Ombudsman's communications strategy must pervade all parts of its operation and give the staff the guidance and support they need. The agency as a whole also needs to adopt a strategic approach to its task and to share a common view of its role in a process aimed at changing society. This includes strategies to ensure that review and equality promotion duties (supervision and development) combine smoothly in pursuit of change, well-developed internal communications and operational objectives in the short, medium and long term. Direction and focus are established in the agency's strategic plan for the coming six-year period. The Ombudsman's communications strategies are laid down in general communications policies and communications plans.

Advisory council

The agency setup includes a special council of experts to advise us on discrimination issues and other relevant matters in this field. In view of the Equality Ombudsman's independent position, the members of this advisory council are appointed by the agency itself.

The government bill states that the council members should possess the types of skills that can enhance and broaden the Ombudsman's understanding of discrimination issues and other matters of relevance to its activities. The advisory council will not, however, determine the Ombudsman's policy.

The Paris Principles also call for a consultative process vis-à-vis civil society, although in different ways. Institutions monitoring respect for human rights are to engage in what is termed pluralistic participation or consultation with civil society. Alongside the advisory council, therefore, we can and should bring in other consultative, reference or expert groups where this is deemed appropriate.

The Ombudsman's advisory council will not primarily be required to provide expertise relating to the specific grounds of discrimination. Instead, the individual members should have a common interest in developing discrimination issues on the basis of their respective positions. The council is to be a consultative body. Its function is to enhance the agency's understanding of the issues, as well as to help the agency reach out into society and gain support for its work. This means that council members should be drawn from various parts of society such as the public and the private sphere, civil society and academia and have a connection with various discrimination grounds.

Consultation with civil society is to be a guiding principle in our work. Prior to any major change processes, the relevant representatives are to be brought together for consultation on how problems are to be formulated and on what solutions are desirable.

Vision

The principle of the equal dignity and rights of all applies throughout Swedish society.

The Equality Ombudsman's vision is based on the UN's Universal Declaration of Human Rights, which lays down the principle of equal dignity and rights for all people.

Strategic objectives (over a six-year period)

Based on the above vision, the strategic objectives are:

1. that the law is an effective tool for individual redress and for combating discriminatory structures;
2. that key actors assume responsibility for guaranteeing the principle of non-discrimination and the promotion of equal rights and opportunities;
3. that relevant representatives of civil society have a close understanding of rights and avenues of redress;
4. that decision makers are guided by an awareness of the link between individual violations and discriminatory structures;
5. that the Ombudsman emphasises cooperation, knowledge and development in the performance of its duties in an environment conducive to quality and effectiveness.

Comments

The reference to "the law as a tool" alludes to the fact that the Equality Ombudsman can draw on international conventions, the Discrimination Act, the Parental Leave Act and Community law – as well as on other legislation in adjacent fields such as labour law and administrative law – in seeking to change society in accordance with the guidelines laid down in our objectives.

These tools can and should be used when dealing with complaints, when reviewing employers' active measures and pay surveys, and when engaging in deliberations required by the Act concerning the Equality Ombudsman. The process of change flows from the results achieved through redress/sanction, from the altered practice of those whose actions are reviewed, and from the legal positions taken by the courts.

Supervisory work does not focus simply on solving individual problems but should be regarded as a part of the Ombudsman's overall efforts to combat discrimination (by seeking to prevent discrimination on the grounds of sex, transgender identity or expression, ethnicity,

religion or other belief, disability, sexual orientation or age) and promote equal rights and opportunities.

The term ‘key actors’ refers to such bodies as the social partners (employers and unions), government agencies, the public sector, the business sector and trade organisations. The Ombudsman’s role in this connection is to demonstrate the need for action and to offer support.

‘Civil society’ refers to non-governmental agencies. Particular attention should be given to anti-discrimination bureaus (run by NGOs) and to NGOs that may be prepared to litigate on behalf of their members. The Ombudsman should focus on ensuring access to rights.

‘Decision makers’ is a reference to politicians and public officials, primarily in central government, municipalities and county councils. The road to knowledge goes via the problem formulations defined by the Ombudsman on the basis both of its review activities and of other forms of knowledge acquisition (research, information from reference groups/networks, media reports, international findings and so on), and via avenues of change identified by the agency. The emphasis will be on working together with the Ombudsman’s legal base in striving for societal change.

Medium-term objectives

The medium-term objectives concretise the strategic objectives and are intended to guide the agency in its overall approach. They specify the direction of work for the first three years and provide support and guidance for the staff’s day-to-day activities. The medium-term objectives are in turn concretised in a number of interim targets.

Strategic objective 1	The law is an efficient tool for individual redress and for combating discriminatory structures.
Medium-term objective	Discrimination law is broadly implemented in legal practice.
Interim targets	Basic training and advanced courses in discrimination law are offered at all law schools.
	The legal aid system and NGOs’ right of litigation provide additional avenues of redress.
	Applying cutting-edge skills in discrimination law and international law, the Ombudsman pursues cases associated with the societal change processes we seek to further.
	The Ombudsman publishes and disseminates national and international reports analysing legislation and legal practice in the discrimination field.
	The Ombudsman possesses in-depth legal information that strengthens representatives of civil society, key actors and decision makers in their work against discrimination.
Strategic objective 2	Key actors assume responsibility for guaranteeing the principle of non-discrimination and the promotion of equal rights and opportunities.
Medium-term objective	Selected employers and other actors in the community apply strategies that safeguard the principle of non-discrimination and the promotion of equal rights and opportunities.
Interim targets	Collective agreements have been reached that address the law’s requirements concerning active measures and pay surveys.
	The major government agencies have developed guidelines for their work against discrimination.
	The Ombudsman has a well-developed work approach – aiming for continuity and lasting impact – that supports regional and local

	<p>interaction between actors promoting equal dignity and rights for all.</p> <p>The Ombudsman offers methodological support to the social partners and to representatives of the public sector.</p> <p>The legal provisions are respected, more agencies monitor compliance, and the Ombudsman's supervisory practices help bring about change in prioritised policy areas.</p>
Strategic objective 3	Relevant representatives of civil society have a close understanding of rights and avenues of redress.
Medium-term objective	The Ombudsman is regarded as a source of knowledge by both individuals and representatives of civil society
Interim targets	<p>The Ombudsman has identified relevant representatives of civil society and in collaboration with them has developed means of support for their further work on safeguarding the rights of target groups.</p> <p>The Ombudsman has established contact with legal practitioners in seeking to ensure that more people have access to their rights.</p> <p>Major NGOs have access to legal support of various kinds enabling them to exercise their right of litigation.</p> <p>The Ombudsman has well-structured methods for the acquisition and dissemination of knowledge and information to and from groups that experience discrimination, and the knowledge acquired is used as supporting material in the agency's work.</p> <p>Individuals show an increased awareness of the legal protection against discrimination that is available to them.</p>
Strategic objective 4	Decision makers are guided by an awareness of the link between individual violations and discriminatory structures.
Medium-term objective	Through the work of the Ombudsman, decision makers have come to understand the link between individual violations and discriminatory structures.
Interim targets	<p>All staff are familiar with the Ombudsman's model for making discrimination visible in society.</p> <p>The Ombudsman has made evident the link between individual violations and discriminatory structures in reports aimed at promoting change.</p> <p>The Ombudsman has established cooperation with the research community so as to gain access to relevant findings and contribute its own problem formulations for further study.</p> <p>The Ombudsman has developed a strategy for putting a focus on how the various discrimination grounds interact.</p> <p>The Ombudsman has made evident the link between discrimination and the legal protection of human rights.</p>

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Strategic Role of Equality Bodies
An Equinet report
December 2009
ISBN 978-92-95067-36-3