

Tackling discrimination and ensuring dismissal protection for carers in Europe: *Strengthening links between equality bodies and labour inspectorates*

SEMINAR co-hosted by EQUINET and the European
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Seminar summary

Introduction

During this capacity-building seminar, National Equality Bodies (NEB) and Labour Inspectorates (LI) from different European countries gathered to discuss ways to tackle discrimination related to pregnancy, parenthood and caring on the labour market. Professionals and experts from different backgrounds presented relevant information and statistics on: *Discriminating in job announcements; Current gaps and case work on dismissal protection; and Pregnancy discrimination*. During the second day of the seminar, the participants discussed different case studies highlighting real life challenges linked to unfair dismissals and discrimination. The conversations and debates during the seminar contributed to rich discussions and outcomes which are summarized in this document.

This capacity-building seminar was also part the Work-Life Balance package as a non-legislative measure taken by the European Commission with the aim to complement the legislative proposal for a Directive on Work-Life balance for Parents and Carers.

Reports show that workers still face obstacles when exercising their right to take leave. NEB and LI are therefore important actors in the enforcement of equality and non-discrimination on the labour market. It was the first time NEB and LI meet to discuss these topics and it was a valuable opportunity for representatives of NEB and LI who already have established cooperation strategies, to share good practices and obstacles they face in their work. The participants of the seminar expressed positive attitudes and hope for continuous cooperation between NEBs and LIs across Europe.

Key learning outcomes

- **The practice of EU Member States shows that efforts need to be taken to improve the enforcement of the law by national courts in relation to dismissal protection. In view of the information shared during the seminar, the structure and application of the law causes unfortunate gaps.**

Main reasons for this gap:

- In some countries, there is a lack of specific anti-discrimination law related to maternity/paternity. Rather, it would fall under general anti-discrimination law;
 - The personal scope of the law (the definition of worker) can create gaps which can be used by employers;
 - The difficulty to prove the link between pregnancy and dismissals is a challenge faced by NEB;
 - Courts do not always recognize dismissals on the ground of pregnancy/maternity as direct sex discrimination. They often find that sex is not applicable, as the dismissal was not related to gender;
 - The reversed burden of proof – courts ask victims to prove discrimination instead of its probability.
- **It was stressed by the participants that legal protection is not enough. The existing rights in this area are neither sufficiently known among employers and employees nor fully exercised by employees. It is partly because of the fear by employees of being dismissed or risking unfavourable working hours.**

Consequences and necessary action:

- NEB and LI must proactively work to raise awareness about the importance of work-life balance and dismissal protection among various sectors on national and EU level;
 - The lack of awareness and information also leads to the absence of communicated cases to NEB related to pregnancy and parental leave.
- **We need to move away from the underlying stereotypes causing a high amount of unfair dismissals and discrimination of workers. Studies presented during the seminar indicate that job advertisements use language which is based on gender stereotypes. Women in Europe continue being denied employment or dismissed unfairly due to the anticipation of becoming pregnant or taking maternity leave in the future.**

Example of action:

- The **Slovak Centre for Human Rights** has approached this issue by developing a **“Blacklist”** where companies lose commercial advantages in situations when they are involved in cases related to unfair dismissals and discrimination.

Good practices on cooperation between Equality Bodies and Labour Inspectorates

Enhanced cooperation methods and strategies between NEB and LI can be an effective tool to strengthen and promote work-life balance and help workers in need of protection. It is a fact that such partnerships may look different across Europe and respective institutions have separate powers and mandate to carry out certain investigations and procedures, such as inquire employers to disclose specific information as proof. However, one of the main outcomes from the discussions among NEB and LI was the added value which regular contact and cooperation can bring to the outcome of investigations made by both institutions. The presentations and discussions during the seminar showed that the mandate and powers of each institution complement each other and can bring effective results. It was also emphasized by the participants that both institutions hold knowledge and expertise which can contribute positively to their respective work.

Greece

- Specific national law provisions regulate the cooperation between the Greek Ombudsman and the LI;
- When complaints are submitted to either the LI, or the Greek Ombudsman, the institutions receiving the complaint is required to notify the other institution before initiating an investigation;
- The Greek Ombudsman has specific institutional tools which the LI does not have. The cooperation in Greece therefore brings useful benefits and further shows how the mandate and powers of their institutions complement each other. *As way of example:*
 - The Greek Ombudsman has the power to examine witnesses, requests testimonies from employer and employee, **which the LI does not have;**
 - The LI has the power to impose sanction, **which is the Greek Ombudsman does not have.**

Belgium

- The Belgian Institute for Equality of Women and Men and the LI have an established cooperation agreement which is currently being jointly developed by both institutions;
- The cooperation is not required by law, the aim is to develop strategies and useful methods which can be used as guidelines when working with cases and investigations related to discrimination in the work place;
- A legal provision was introduced in 2018 enabling the LI to investigate issues related to discrimination (Belgian Situation Test Law).

Slovakia

- The Slovak Centre for Human Rights and the LI share useful information and know-how about their respective work;
- Both institutions attend each other activities and events;
- The LI assist the Slovak Centre for Human Rights on individual cases since they do not have the power to require that employers disclose information;
- LI provide accurate statistics which can be useful in the work of the NEB.

Portugal

- The Commission for Equality in Labour and Employment has an established cooperation with the LI, however, there is room for improvement;
- The institutions organize joint seminars and events.