



**Guide to
Equal
Treatment
in the Private Sector**

GET in – Guide to Equal Treatment in the private sector Global transnational report, 1/12/2004-30/11/2005 (1st year)

Introduction

The activities carried out in the different countries involved in the project in the time period considered – December 2004 until November 2005 - have shown that efforts have to be made in order to improve awareness about discrimination. Potential victims are often not aware about being discriminated against and therefore do not undertake anything against it. This is an issue common to all the countries involved in the project. For this reason one of the main objective of the project is to empower potential victims and make them better aware of the rights guaranteed by the European Directives. The results achieved so far show that it normally takes a long time from a complaint to a verdict. Discrimination complaints procedures should be easier and faster. Furthermore the involvement of suppliers of goods and services is quite difficult so far, in Germany this is due to the actual political situation, in the Netherlands it is due to the lack of complaints in the field LBR is focussing on. Furthermore suppliers feel they have done everything that was needed to combat discrimination. In general they signed the declaration against racial discrimination and created codes of conduct with complaint institutions. Another reason was that new financial legislation is being implemented in the Netherlands so the suppliers are focussing on that; in Poland it is due to very low number of immigrants (people with different ethnic origin) that causes that suppliers do not feel the need for any additional, race specific legislation beside the one that they already have (Polish Constitution forbids discrimination on basis of racial/ethnic origin). In Germany, after the political elections of September 2005 the partners of the new coalition are still discussing about how the anti-discrimination law should look like. Since the law is missing suppliers do not feel obliged to deal with the discrimination issue. For this reason it was not possible to build up a steady co-operation with them. During the time December 2004 – June 2005 the cooperation with Caritas Lublin was very difficult. The person chosen by Caritas Lublin for the implementation of the project had difficulties with the adaptation of the project aims to the Polish situation.



For Diversity



Against Discrimination



für Köln





The problems were probably due to the lack of experience in implementing European funded project, too. The project-coordinator succeeded in organising a project-visit in Lublin in May 2005 in order to clear all the problems. As a result a new person was chosen for the implementation of the project. The new person started in July 2005. Since then several project activities have been implemented in Poland, which will be described in the pages below.

During the first year some problems have arisen with the institute charged of the evaluation of the project, INFIS. The coordinator decided to stop the co-operation with INFIS and for the second year the BSB-Büro für Sozialwissenschaftliche Beratung has been charged of the evaluation.

The German partners: ARIC-NRW, DiCV Cologne, OCV Cologne

Activities carried out in Germany in the period considered:

1) Networking mainly with Berlin and the *Länder* NRW (Nordrhein-Westfalen) and Brandenburg. Contacts have been established to main actors in the field: ADBs, Migration services, human rights and migrant organisations. Most of them are now co-operating with the project. The German partners are also involving consumer services in the project.

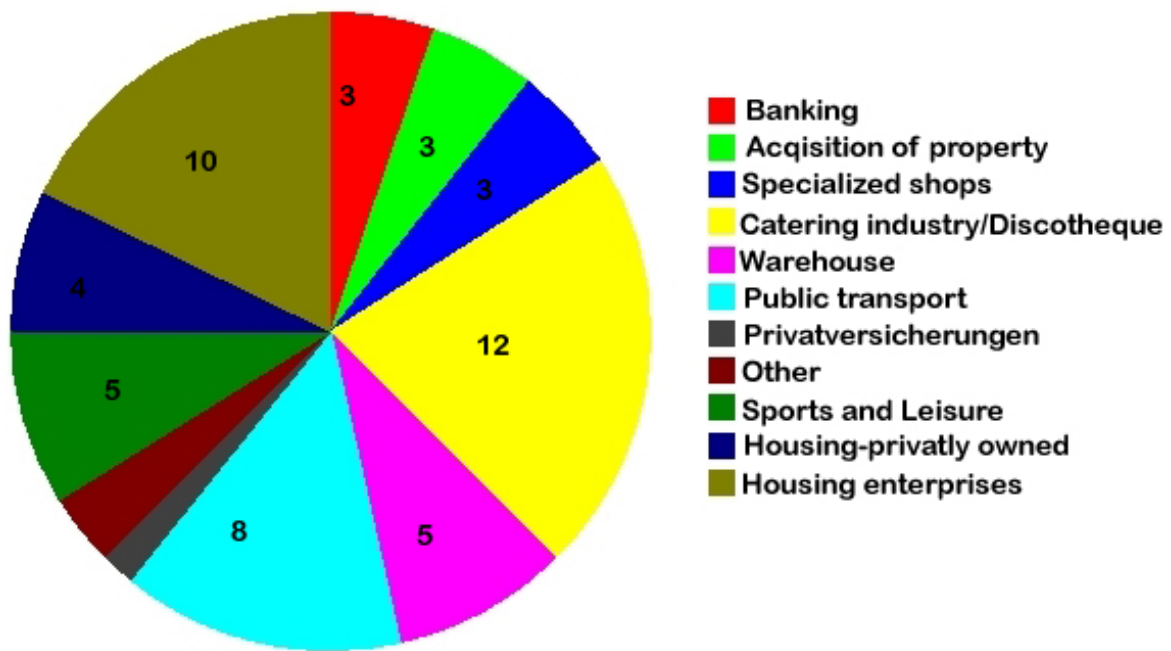
2) 56 discrimination cases have been collected so far. The filed cases contributed by the following governmental and non-governmental organisations:

Antidiskriminierungsbüro Köln, Öffentlichkeit gegen Gewalt e.V.; Antidiskriminierungsbüro Aachen, Pädagogisches Zentrum e.V., Antidiskriminierungsstelle des Landes Brandenburg; Antidiskriminierungsnetzwerk Berlin vom Türkischen Bund Berlin-Brandenburg; Amt für Multikulturelle Angelegenheiten der Stadt Frankfurt; Antidiskriminierungsbüro Siegen vom Verein für soziale Arbeit und Kultur Südwestfalen e.V.

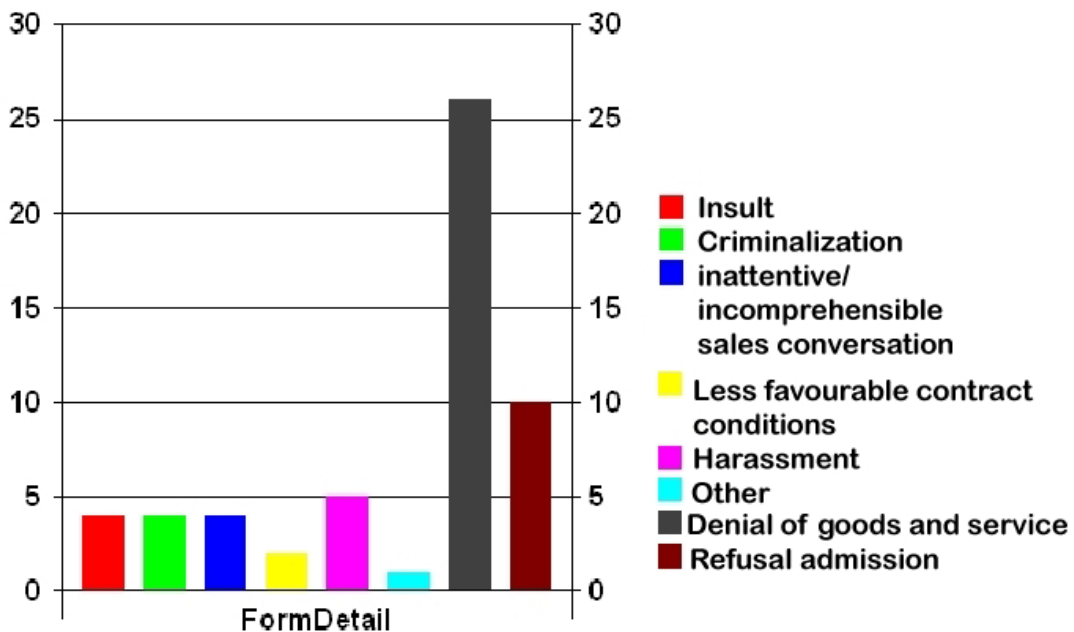
For the first 56 cases registered an analysis has been made which was presented during the expert meeting in Cologne (2nd June 2005).

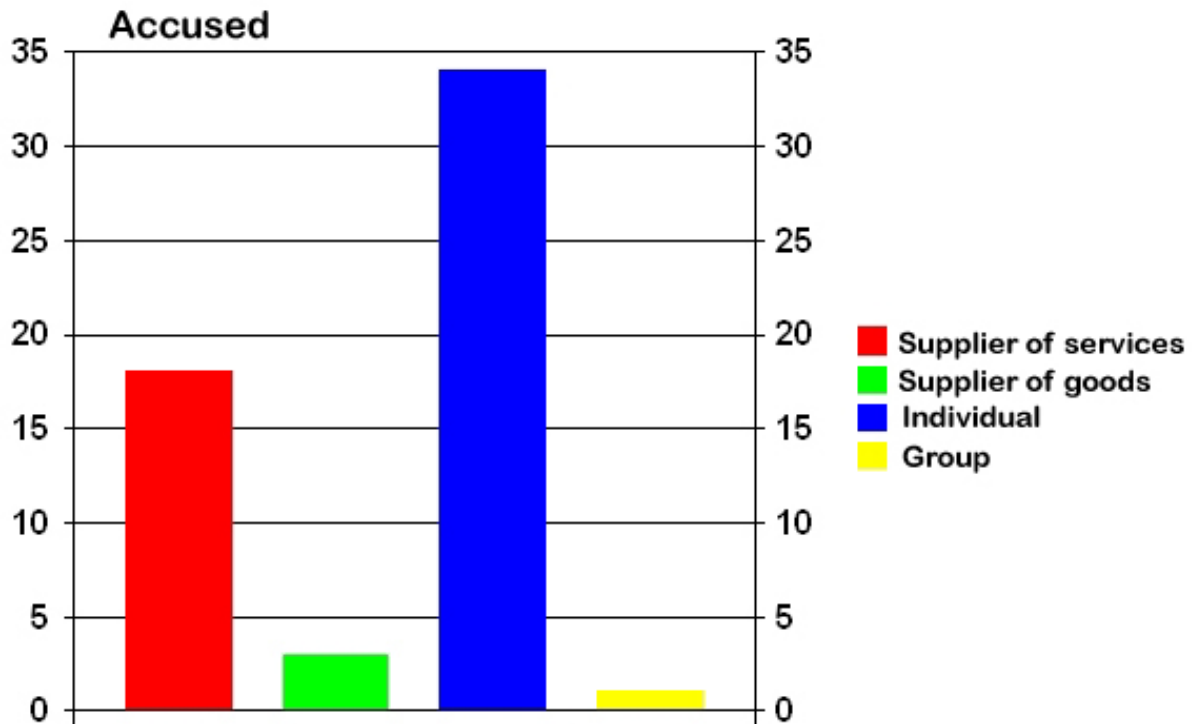
RESULTS

Sector (N= 56)



Form of Discrimination





Discrimination concerning the access to “privately offered goods and services” is not the main topic of counselling services and ADBs; for this reason the number of cases is quite low. Consumer services so far do not register discrimination cases at all.

The project continues to register complaints from the network partners for the whole project period.

3) Expert meeting (Cologne, 2nd June 2005) with representatives of Migration services, ADBs, migrant organisations, a representative of the consumer service in Cologne. The meeting aimed at getting to know the different approaches in advisory activities - the psychosocial oriented approach of the migration services, the consumer-oriented legal approach of the consumer services, the structural political approach of the ADBs – and at encouraging and starting co-operations among the different counselling services. As a result of the meeting an “advisory expert group” was built with members from the key actors in the field. All the participants declared to be interested in getting involved in the further project activities.

4) Research of the existing codes of conducts: it is quite difficult to get in touch with the suppliers of goods and services. There are hardly codes of conduct dealing with equal treatment of customer featuring the EC equal treatment principles. It was possible to find some example of codes of conduct of big retails, there is a code of conduct of the “Union of Hairdressers” (which is actually on a European level) and there are some company

agreements (steel industry: IG-Metall, Deutsche Bahn: railway company, Allianz) but only for the labour place and not customer-oriented. Customer-oriented codes of conduct are “under construction” by big companies like Fraport AG and Commerzbank AG. Contacts have been established with executives in charge for equal treatment and diversity for the development of the codes of conduct. Concrete experiences with the application of the codes of conduct although are still missing.

5) A supplier conference was planned but the German partners could not succeed in organising it. The efforts made in order to have both suppliers of goods and services and politicians did not succeed. Politicians were not willing to talk about the perspectives of an anti-discrimination law in Germany. Suppliers of goods and services did not feel the need to talk about this issue until a law is passed.

6) Co-operation with different actors in the filed:

6.1. A co-operation with “Ungleich besser” Diversity Consulting, Cologne was established in order to support the marketing of the suppliers conference. Since the suppliers’ conference will probably not take place the objectives of the co-operation with “Ungleich Besser” are now the following:

- Organizing an expert meeting mainly with members from “Forum Frauen in der Wirtschaft”, a self-organized circle of women in top-management-position in big German enterprises who feel committed to diversity and antidiscrimination issues.
- Support the development of recommendations for suppliers

6.2. The project established a contact to IMUG, a marketing research institute dealing with sustainable entrepreneurship to exchange information.

6.3. A contract was signed between the German project partners and the consumer service, Verbraucherzentrale NRW to establish a cooperation. Contents:

- Analysis of the cases reported in selected branches in NRW
- access to victims
- further need to support victims
- expertise: Impact of AD-legislation on the work consumer counselling

6.4. To gain detailed information about litigation the project established a cooperation with the SOLID-Project and the Deutsches Institut für Menschenreche.



7) Group discussions/interviews: the German partners have planned discussions/interviews with different groups of (potential) victims in order to explore the day to day practice day discriminatory experiences and to get to know if – and to what extent - potential victims are aware of potential (juridical) means to fight discrimination.

A concept for structured discussions/interviews with groups of potential victims has been developed. The migrant organizations ISD Deutschland, ADNB Berlin and Rom e.V. were contracted and briefed to carry out the group discussions. In the Caritas migrants counseling offices in Leverkusen, Mettmann and Neuss group discussions with migrants are planned, too. All group interviews/discussion will take place between January and February 2006. In the migrant counselling office of the city of Cologne some group interviews have already taken place:

Here the focal point was set on young people with migration background between 15 and 29 years of age. It was meant to find out, whether children and grandchildren of migrants experience discrimination and unequal treatment in the private service sector, and which strategies they have developed to deal with such experiences.

By reason of the age difference it was planned to split the target group in two parts. One of them should be a teenager boys group in the age between 15 and 19 years. The second group was planned for young men and women from 19 to 29.

While it was easy possible to start with the teenagers because there was a place where they could get together, it was difficult to start with the group for young men and women. Since November about ten adolescent boys meet each other every Monday in a youth-club. It is proposed to build a confidential circle very quickly and to start with the group interviews. Concerning to the second target group (19 – 29) the first meeting will take place in the beginning of 2006. Up to now, there are six men and three women interested in the issue and agreed to build a circle to deal with the theme discrimination in the private service sector. In addition to the groups, the thematic of discrimination in the private service sector was also one topic in the counselling hours.

Furthermore a questionnaire – regarding experiences of discrimination in the private sector – was developed and tested in a workshop with Caritas colleges, who had migration background themselves, or, in a second group, collected their experiences with migrants in that sector.

Discussions with the boys group, face-to-face interviews of young adults and requesting for experiences in the migrant counselling – it always shows, that all of the responded people had made lots of experiences in being discriminated and unequal treatment. As also

experienced in the interviews in the previous months, the experiences of the present target group concerning discrimination were generally based on public authorities. Almost every case of discrimination was to be associated into the structural area. People who came to the migrant counselling often told about disrespectful attitudes of officials in charge like at ARGE, immigration office or housing office and also police authorities. The interviewed people also reported about unequal treatment in situations of house- and job hunting. In addition to this, especially young people between school and job training have a very bad feeling concerning their social background and their chances to get an adequate job.

Experiences of discrimination in the private service sector were strongly based on the public transport, like bus, metro, railway and taxi. To this regard many of the interviewed declared that they have the impression of being much more controlled and sharply asked than other – German looking – passengers. There were interesting statements concerning clubs and cafés, too. Almost every interviewed young male with migration background made extremely often the experience of being excluded from discotheques without a comprehensible reason. Some of them have also made the experience of being served at last or not at all in cafés or bakeries.

Another irritation of the young migrants was provoked of their impression that some service provider (particularly insurance agencies and branches of communication) would take elderly migrants at a disadvantage, because of their language difficulties, and place expensive contracts with them by promising heaven and earth. On the other hand there were also experiences that persons with certain nationality and residence permit status were not legitimated for placing contracts at all.

Further negative experience reports by reason of birth, appearance (as headscarf) and language difficulties were out of the areas: banks, surgeries, post offices and stores.

To work out furthermore the multifaceted experiences of the audience of the Caritas migrant counselling offices of Cologne with service provider of the private sector, the objective is to stabilize the groups and establish a constant team work.

Difficulties:

- Unless the antidiscrimination law is passed the suppliers are hardly to convince to cooperate with the project. Therefore the German partners could not gather a sufficient number of participant for the suppliers conference.
- There is hardly any “antidiscrimination culture” neither on suppliers or victims side in Germany.



- there is only little public awareness about the existence of the EU-directives. It seems that many migrants have either a developed understanding of discrimination issues nor are used to speak about or being asked about them.

Achievements/Outcomes

- Migrant organisations representing different ethnic minorities are continuously involved in the project.
- The main actor regarding consumers rights, the Verbraucherzentrale shows a strong commitment in contributing to the project.
- The exchange of ideas with IMUG supports the previous findings of the research that a successful dissemination of the idea equal treatment of customer calls for a sufficient number of self-committed actors/change agents at the suppliers side at first hand.
- Contacts have been established with companies which are developing codes o conducts with a customer dimension.

The Netherlands, LBR

Activities carried out in the period considered:

1) Expert meeting (Rotterdam, 27th April 2005)

Participants were persons working in some of the largest anti discrimination bureaus in the Netherlands and also a member of the commission of equal treatment:

- STAD: Antidiscrimination Bureau Utrecht
- Radar: Antidiscrimination Bureau Rotterdam
- Haaglanden: Antidiscrimination bureau Den Haag
- ADB Breda: Antidiscrimination Bureau Breda
- Commissie gelijke behandeling: Commission for equal treatment

The aim was to see if there were any complaints of discrimination in the financial sector and where those complaints are concentrated and what procedures are used to file complaints. The results of the expert meeting were very interesting. Especially the anti-discrimination bureaus brought a number of cases which are of interest and useful for the project. There are a lot of complaints about mortgages and discrimination. During the meeting the participants also discussed about some of the procedures which are used to file complaints. ADB of the city of Breda launched a complaint about possible discrimination by insurance companies

and wanted to know the best way to start a procedure. LBR advised them to start a procedure against insurance companies that refused to give insurances to people from trailer parks. A complaint at the “klachteninstituut” - an organization founded by insurance companies to deal with complaints - was filed. LBR also thought about launching a procedure at the commission for equal treatment, but since LBR is interested in getting to know how the codes of conduct and the complaint procedure for insurance companies work, they decided to start the procedure like this. In the case the results will not be satisfactory it is always possible to start a procedure at the commission.

2) Additional research of cases as a result of the expert meeting, with participants of the expert meeting.

After the expert meeting LBR had follow up meetings at the local ADBs to be able to really investigate files on all complaints and procedures. Of all the cases only a few are actually good enough to do something with. The results make clear that there are more complaints about discrimination than originally thought. Especially complaints about mortgages and insurances stand out in numbers.

3) Research all the existing codes of conduct has been finished for the important part. The quality of the codes of conduct differ a lot. One of the most important conclusions is that it is very difficult to actually say anything on the effectiveness of codes of conduct for combating discrimination. This is because the professionals in the field (mostly adb's) often don't have the know how to use the codes of conduct. So it is very important that beside the guidelines for victims also guidelines for the professionals are being created. LBR hat done this with a publication which has been distributed to all the adb's and other legal professionals working in this field.

RESULTS

One of the surprising outcomes of the activities carried out so far is that also governmental arrangements and legislation have aspects that might be discriminatory. For example, in the Netherlands, for houses with prices till 210.000 euro it is possible to apply for the Nationale Hypotheek Garantie (National mortgage guarantee). This helps when people have a problem fulfilling their payments. But this arrangement is only available with a Dutch passport or an indefinite permit. It is the same with the criteria for a lot of the mortgages. The conditions of mortgage suppliers the we researched so far showed the same discriminatory criteria.



Another outcome so far is that the specialized bodies for complaints about insurances seem to know very little about equal treatment legislation and do not really know how to handle discrimination complaints.

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Another outcome so far is that the specialized bodies for complaints about insurances know very little about equal treatment legislation and do not really know how to handle discrimination complaints. This is the first impression from the information LBR got from complaint institution insurances. After finishing and evaluating the complaint procedure, LBR will see if indeed these institutions have difficulties with complaints of discrimination.

The most important achievement of the final period in 2005 was the publication "Discrimination in the financial sector". Due to lack of cooperation from the suppliers, the Dutch partner was forced to seek alternatives. LBR conducted a thorough analysis of the sub-categories mentioned in the previous report, namely: which legislation currently exists, what has been organised in the area of self-regulation and which bodies / institutions were involved in this. LBR also looked in detail at jurisprudence and judgements made by the Commissie Gelijke Behandeling [Equal Treatment Commission]. All this led to a brochure which is now being printed and which can be used by anti-discrimination bureaus and other organisations active in this field.

During the period under consideration, LBR also instituted a case against a large insurance company via the Equal Treatment Commission. Insurance companies are guilty of structural discrimination against caravan dwellers in the provision of their services. The majority of complaints involving insurances and discrimination concern the exclusion of caravan dwellers from household contents insurance. First of all, the Commission finds that in principle, the term race, as specified in the AWGB [Equal Treatment Act], can also apply to a

group of persons who, from generation to generation, are caravan dwellers and who view themselves as a section of the population with a culture that is distinct from other sections of the population. The Commission is therefore in alignment with the Treaty banning every form of racial discrimination and article 429quater Sr [Penal Code]. The Commission furthermore judges that the petitioners belong to the group of caravan dwellers who can be viewed as a section of the population protected by the AWGB.

Many insurers adopt the view that services can be refused to this group because standard risks are not applicable. This reasoning is contestable. In actual fact, no research on caravan dwellers has been conducted since the nineteen sixties. And in legislation, the government has put mobile homes on a par with fixed residences, and they must comply with the same standards. Excluding caravan dwellers from services and referring them to insurance companies that insure groups with an increased risk is permissible only when it can be demonstrated that the question of increased risk truly exists. Given that there is no statistical data supporting the viewpoint of the insurers, the policy of excluding caravan dwellers from the normal provision of services would seem to be in violation of the AWGB.

The decision on the case is expected in February 2006. In all probability, the CGB [Equal Treatment Commission] will condemn the policy of the insurer on the grounds that it violates the Equal Treatment Act.

Difficulties:

- One of the major difficulties is still the fact that a lot of the complaints that are filed at ADBs often do not lead to a result. From filing a complaint until a verdict, takes a long time. A lot of clients loose interest and just don't show up anymore. This is also very frustrating for the people of the anti-discrimination bureaus because this makes it very difficult to prove that there is a discrimination.
- Another difficulty is that people often don't recognize the fact that they are discriminated against and the consequence is that a lot of possible complaints are not filed as discrimination complaints.
- Also the official complaint institutions of the branches are not equipped to handle discrimination complaints. Or at least the don't have a lot of experience with it. A result is that



complaints of discrimination get turned down on other grounds without dealing with the discrimination aspects.

- The difficulties met in trying to build contacts with the suppliers showed that a meeting with the suppliers would serve little purpose. Firstly, there were hardly any complaints that could be discussed and secondly, new legislation is just being implemented in the financial sector. A meeting on the subject of discrimination was therefore not among the suppliers' priorities. Several conversations with complaints officials took place, all of which went along the same lines: We haven't received any discrimination complaints in recent years; organising a meeting when so few complaints exist would have been pointless.

- It turns out that there are actually two risk groups in the financial services sector. These are residence permit holders and caravan dwellers. Traditionally, the willingness to report issues is low among these groups. Figures on discrimination do not therefore properly reflect the problems faced by these groups, especially with regard to caravan dwellers. There has been a greater number of cases involving discrimination against residence permit holders and the number of complaints in this area is therefore falling.

- The same does not apply to the problems faced by caravan dwellers. This is one of the few groups in the Netherlands that suffers from structural exclusion from services. We therefore hope that the case instituted at the Equal Treatment Commission will deliver a breakthrough.

Caritas Lublin, Poland

The activities carried out by Andrzej Lorek in the time between December 2004 and June 2005 are only few, most of all networking (contacts to relevant organizations). The new person working in the project, Miroslaw Bieniecki started in July 2005 with his activities.

Starting from July 2005 Caritas Lublin divided the work in the following major parts:

- 1) gaining information concerning the existing cases of discrimination
- 2) gaining information concerning existing codes of conduct in Poland
- 3) building a network of contacts with relevant institutions and migration organisations involved in research and action against discrimination in Poland



The final period of the project was dedicated to put together a publication encompassing the gathered materials and exchanging them with experts, practitioners and academics during a common workshop.

1) gaining information concerning the existing cases of discrimination

During the period considered different kinds of data concerning cases of discrimination in the private sector and its specificity in Poland have been collected and systematised. M. Bieniecki contacted and interviewed people who experience and/or have experienced such discrimination themselves and experts in this field who study this subject.

Meetings took place with members of other organizations dealing with the subject of discrimination (Institute of Public Affairs, Proxenia, Helsinki Foundation, UNHCR, Legal Advice Association, as well as several academics who deal with the subject). Also, Caritas Lublin participated at conferences on the issue of discrimination in Poland, i.e. organized by the Ministry of Social Affairs and "Proxenia", Ministry of the Interior, other NGOs and research centers.

On November 28, a workshop on **Politics towards migrants and discrimination in Poland** was organised in collaboration with a Tradition and Social Change Research Team of the Institute of Philosophy and Sociology /Polish Academy of Sciences. This workshop aimed at an exchange of experiences and information among practitioners (representatives of ministries, and state institutions dealing with immigrants and the problem of discrimination), experts (representing organisations providing i.e. legal help to discriminated people) and academics who study the topics related to discrimination and migrations.

The workshop helped to systematise data collected during the Get-in research and one of its outcomes was establishing a system of exchange of information on the issue of racial/ethnic discrimination in Poland among the participants.

2) gaining information concerning existing codes of conduct in Poland

According to official statistics there are very few migrants in Poland at the moment. Probably the number of migrants will grow in the future, at the moment 20.000 work permits/year are given and approx. 40 thousand immigrants legally reside in Poland (not including naturalised citizens). Many of them choose to run their own business, because this option is easier rather than to get employed, so self-employment is a widespread phenomenon in migration



circles (but not only; it is a very popular form of employment among Poles as well). There is also a considerable number of illegal immigrants (between several and a few hundred thousand), although the data concerning this group is unsystematic and unreliable. They work usually in petty trade, construction and as household help.

Caritas Lublin wants to concentrate its work on the field in areas where refugees are living and focus on small communities where local people have contact with people with different ethnic/racial background. In particular, a field study in Biala Podlaska, where a refugee camp is located, will be conducted. Private business is a relatively new phenomenon in post-communist Poland and the development of the private sector is actually happening under the influence of the European legislation. There is at the moment a "we-need-tolerance"-propaganda, but in the situation of an increasing but still very low number of migrants in the country, the tolerance issues focus rather on gender/sexual orientation than race/ethnic origin.

A report was written giving an overview of discrimination practices in Poland. The report is focussing on the problem of discrimination by looking for rules and regulations in existing laws and practices across the country rather than in specific locations. It is planned to start the research from the discriminated persons and then, after hearing their stories, go to the places where they had such discriminatory experiences and eventually investigate the existing codes of conduct in those places.

3) building a network of contacts with relevant institutions and migrant organisations

Since in general immigrants and other "others" in Poland are very dispersed, the expertise of academics and experts have been used in order to encompass all the problems. Some of the people (i.e. Helsinki Foundation, or Legal Intervention Association) are those who support victims - so do others. Several representatives of organizations dealing with the subject of discrimination (i.e. Institute of Public Affairs, Proxenia, Helsinki Foundation, UNHCR, Legal Advise Association, Association of Asylum Seekers, Ministry of Internal Affairs, Office for Immigrants and Repatriates, Ministry of Social Affairs,) have been met, as well as academics who deal with the subject (Warsaw University, Polish Academy of Sciences, Rzeszow University, others). Also, M. Bieniecki has attended few conferences on the issue of discrimination in Poland, where he met members of other NGOs, academics and representatives of governmental institutions concerned with the issue.



- 4) Expertise: “Non-Poles on the Polish labour market. Problems and challenges. An overview of the issue of racial/ethnic discrimination in the private sector in Poland”

The final findings concerning the issue of racial and ethnic discrimination in private sector in Poland were put together in a form of an expertise written in collaboration with an external expert from the Institute of Public Affairs.

The aim of the expertise was to gather the experience of Polish specialists in the field of migration, anti-discrimination, ethnic and minority studies in Poland and synthesize it into a comprehensive report that would be adequate for the central purpose of the Get-in project. As such, the report focused predominantly on visibility and awareness of discriminatory acts committed in the area of “publicly offered goods and services” involving private sector and an evaluation of the specialists’ practical assessment of the political and juridical impact of the EU equal treatment policy and their future development.

The sources of data for the expertise included materials collected through interviews with specialists as well as reports and studies conducted on this subject in recent years. Altogether it is an extensive description of the mechanisms of racial/ethnic discrimination in Poland and on its private labour market.

As part of the Get-in project, the expertise is a very useful analysis of the experiences of specialists and practitioners regarding assistance and advice in the analyzed field as well as development of individual and structural intervention strategies. It can be used as a tool for further development of the networking part of the project, providing information about organizations involved in building both anti-discriminatory (anti-racism) and migration awareness and information concerning studies/reports/projects recently written in the field.

Difficulties:

In comparison to other countries involved in the Get-in project, Poland has considerably small numbers of minorities and immigrants and, moreover, the members of these groups are dispersed and “racially” indistinguishable. Because of the specificity of immigrant groups and their relatively small numbers, Polish specialists in the field of discrimination, in most cases, focus on problems concerning specific minority or immigrant groups rather than all the people with a immigrant background, who live in Poland.



The relatively small number of newcomers in Poland and their different national origin in the EU countries determines that the analysis comprises the problems connected to discrimination but also show it in a broader context.

Contacts have been established with some migrants organisations: the organisation of Ukrainians and Vietnamese. Although a real co-operation could not be established. About 200 interviews (especially with Ukrainians working in Poland) were collected by Mr. Bieniecki.

The contact with suppliers of goods and services was difficult in Poland, too. During interviews with providers of goods and services no practices of discrimination on their part were registered – in most of the cases they simply do not encounter people with different racial/ethnic origin on an everyday basis. For this reason, a in-depth study of a small community, where this contact is more frequent, will be conducted (Biala Podlaska, where the refugee center is located). In terms of general awareness of the issue, most of interviewed suppliers – both in small and big companies - did not see the problem as important in Poland; not because of its value, but because of racial homogeneity of Polish society.

PRODUCTS AVAILABLE:

- 1) The German partners developed a questionnaire “*Access to private goods and services*” for the documentation registration of discrimination cases. The questionnaire – originally in German – was translated in English for our polish partner who can use it to file cases.
- 2) Home-page www.getin-online.net
- 3) Flyer of the GET in – Project in German, English and Polish
- 4) Non-Poles on the Polish labour market. Problems and Challenges (English)
- 5) Documentation „Expertengespräch: Leitfaden für Gleichbehandlung im privaten Sektor – Relervante Angebote und Fallkonstellationen (by the German Partners, in German and English)
- 6) Discrimination in the financial sector (Publication LBR), English and Dutch

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