

## **DIVERSITY MANAGEMENT**

### **Trianing course for implementing Diversity Charter**

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**Motto: "Discovering others means discovering a relationship, not a barrier"  
(Claude Levi-Strauss)**

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## FORWARD

The present material is elaborated within the I.D.E.A.S. – Inclusion.Diversity.Equality.Awareness. Success, co-financed by the European Commission through the program DG Justice and Consumers, JUST/2015/RDIS/AG/DISC/9461. The project is coordinated by the Company for training and employment of people with disabilities – DOBROVITA, Slovenia, in partnership with private companies, public institutions and non-governmental organizations from Croatia, Slovenia and Romania. In Romania, the project is implemented by three entities that represent: public institutions, *National Agency for Civil Servants*, companies, *Foundation Forum for International Communication* and non-governmental organizations, association *Assistance and programs for sustainable development – Agenda 21*.

The aim of the projects is the promotion and motivation to apply the principle of non-discrimination and the respect for this and human rights by setting up and developing Diversity Charters in Slovenia, Romania and Croatia, for the private and public sector.

The project ensures the promotion of the principles of non-discrimination in accordance with the fundamental, international and national documents, where human rights are provisioned, starting with the Universal Declaration for Human Rights, where article 2 states:

„ Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”<sup>1</sup>

The need to respect this principle comes from the fact that, in practice, belonging to some social groups with characteristics such as gender, ethics, religious beliefs, sexual orientation and the

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<sup>1</sup> <http://www.un.org/en/universal-declaration-human-rights/>

existence of a disability or disease that carries a social stigma (HIV), often generates inequality situations that must be fought against, for ensuring a real equal opportunity.

The project is focused on fighting discrimination at the work place, the Diversity Charter being the main tool for achieving this purpose.

**The Diversity Charter is a document that establishes a series of measures that a public entity, an institution, an NGO, a small business may apply for promoting diversity, non-discrimination and equal opportunities at the work place.**

The European Commission recognizes the important contribution that the Diversity Charter has in fighting discrimination at the work place and in ensuring equal opportunities. Therefore, it finances a platform for the good practices exchange at UE level among the organizations that promote and apply in the Member States the Diversity Charter. The platform is part of a bigger project, that aims to support volunteer initiatives that promote diversity management at the work place and it allows the Diversity Charter promoters to meet regularly, to share experiences and develop common initiatives. France was the first European country that elaborated the Diversity Charter and currently represents the General Secretariat of the European Commission for the signatory countries.

## **Chapter 1. EUROPEAN CONTEXT**

### **1.1. Fighting Discrimination and Ensuring Equal Opportunities – Fundamental Documents**

#### **Charter of Fundamental Rights of the European Union**

##### **Art. 21.1 - Non-discrimination**

“Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited”<sup>2</sup>

**Consolidated version of the Treaty on European Union -Art. 2<sup>3</sup>** “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. Promoting gender equality is a core activity of the European Union: equality between women and men is a fundamental value of the EU, an EU objective and a growth factor. The Union aims to promote equality between women and men in all its activities.”

**Art. 23 - Equality between men and women** - “Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.”

#### **Recommendation of the Council on gender equality in education, employment and entrepreneurship**

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<sup>2</sup> Charter of Fundamental Rights of the European Union

<sup>3</sup> Treaty on European Union

Point “D” eliminate the discriminatory gender wage gap by: strengthening the legal framework and its enforcement for combating all forms of discrimination in pay, recruitment, training and promotion; promoting pay transparency; ensuring that the principle of equal pay for equal work or for work of equal value is respected in collective bargaining and/or labour law and practice; tackling stereotypes, segregation and indirect discrimination in the labour market, notably against part-time workers; promoting the reconciliation of work and family life.”

## **Consolidated version of the Treaty on the Functioning of the European Union**

### **Art. 10**

“In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. ” <sup>4</sup>

### **Lisbon Treaty**

The entry into force of the Lisbon Treaty on 1 December 2009 was the result of a period of intense debate on the EU reform and marked the beginning of a new period with significant changes in many of the EU's decision areas. In practice, the Treaty of Lisbon does not extend the EU's competence to combat discrimination in its own right, but in Article 10, it nevertheless stipulates that: *"In defining and implementing its policies and actions, the Union seeks to combat any discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation."*<sup>5</sup> In the past, the obligation of integration was applicable only to the gender dimension. A noteworthy advancement is the establishment by treaty of the legally binding nature of the Charter of Fundamental Rights.

EU institutions and agencies as well as Member States must adhere to it when they implement European legislation. Article 20 of the Charter states that "all persons are equal before the law"<sup>6</sup> and other articles reinforce the principle of non-discrimination and explicitly address the rights of the child, the elderly and the disabled people.

The European Union's fight against discrimination has greatly progressed. The 2020 Strategy included the provisions of the Lisbon Treaty and has focused on increasing the employment

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<sup>4</sup> Treaty on the functioning of European Union

<sup>5</sup> Lisbon Treaty, art.10

<sup>6</sup> Charter of Fundamental Rights, art 20

rate, respecting the principles of non-discrimination as they are stipulated in the Treaty. By implementing a wide range of actions that have been taken under Article 21 of the Treaty, EU activity is another step forward on the path to greater equality in Europe. To make even more progress, it is essential that the EU continues to cooperate and ensure the further development of activities between public authorities, NGOs, trade unions, the media and businesses, these being just a few of the key actors in the fight against discrimination.

**The European Commission's Strategy for Gender Equality**<sup>7</sup> lays down its programme in this area for 2010-15. The strategy sets out priorities including equal economic independence, pay, labour market opportunities and access to decision-making positions. It also stresses the need to promote women's dignity and stop gender-based violence. The Strategy outlines EU efforts to integrate gender equality into its external actions regarding policies such as enlargement and development. Finally, it addresses horizontal issues including gender roles, the legislative framework and tools for promoting equality.

**A Special Eurobarometer survey on gender equality was released on 20 November 2017**<sup>8</sup>. It emphasises that **gender equality has still not been achieved in the EU Member States**. Although 84 % of the respondents to the survey considered that gender equality is important for them personally (including 80 % of men), the Eurobarometer survey also shows that more than one third of Europeans believe that men are more ambitious than women (35%), and almost seven in ten respondents think women are more likely than men to make decisions based on their emotions (69%). This is also linked to expectations in the domestic sphere, where women are perceived as carers more than men — a notion that is also further reflected in professional occupations, in the wider economic dependency of women and in the unequal division of labour and responsibilities within in the household.

This survey reaffirms that a lot of work still needs to be done in all Member States. The European Institute for Gender Equality (EIGE) published this year its **Gender Equality Index**<sup>9</sup>, highlighting that progress is moving forward at a snail's pace and in some domains is even

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<sup>7</sup> Strategy for equality between man and woman 2010 -2015(*COM(2010) 491*).

<sup>8</sup><http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2154>

<sup>9</sup> <http://hdr.undp.org/en/composite/GII>

going backwards. Compared to 10 years ago 12 countries have moved backwards when it comes to the gender balance in terms of time spent on care, domestic work and social activities. Only every third man engages daily in cooking and housework, whereas most women do it every day (79 %). With an average score of 66.2 for gender equality, the EU is still a long way from being a gender-equal society<sup>10</sup>.

Equal access to economic resources is not just a matter of women's economic independence but a prerequisite for achieving economic growth, prosperity and competitiveness. Here, the slowdown in progress can be seen in the persisting gender gaps in employment and pay. The persistence of these gaps have also moved the European Commission to act. In November 2017, the Commission announced positive action to **reduce the gender pay gap through an Action Plan** to be delivered between now and the end of the Commission's mandate in 2019. In the Action Plan it urges the European Parliament and the Member States to adopt swiftly the **worklife balance proposal** of April 2017; calls for arrangements to facilitate the adoption of the Directive on gender balance in the largest listed companies; and encourages governments and social partners to adopt measures to improve gender balance in decision-making.

The second line of actions on which the European Commission concentrated its efforts in 2017 was **to combat violence against women and girls**. The Commission declared 2017 a Year of Focused Actions on Ending Violence against Women (VAW). The actions that were launched aimed at supporting and engaging professionals, Member States and NGOs in combatting violence against women. As part of these actions, the **#SayNoStopVaw** campaign has attracted broad public attention. In addition, other campaigns, some of which started spontaneously, have shown that women's visibility and voice is crucial to address widespread misogynous behaviour in society.

Women's public out cry in 2017 using social media under **#MeToo** to express the sexual harassment and assault they have experienced helped to break the silence. The European Commission also supported the global campaign to end violence against women (**#OrangetheWorld**) during 16 Days of Activism aiming to raise public awareness and mobilise people to end violence against women and girls worldwide. 2017 was a challenging year because of the attempt of extremist and populist movements to further undermine democratic

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<sup>10</sup> <http://eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-measuring-gender-equality-european-union-2005-2015-report>.



societies through hate speech, racism and specifically gendered discrimination. The EU is committed to addressing these threats to fundamental rights and is aware that all joint efforts need an inclusive approach in order to be successful. The **Annual Fundamental Rights Colloquium on Women's Rights in Turbulent Times**<sup>11</sup> brought together different perspectives and voices to discuss these global challenges.

**The Strategic Commitment for Equal Opportunities for Women and Men 2016-2019** "constitutes a reference framework for intensifying efforts at all levels, whether European, national, regional or local. The commitment is complementary to the **European Pact for Gender Equality 2011-2020**.<sup>12</sup>

Despite the progress the discrimination persists. Women spend two to ten times more time doing unpaid work than men, which is one of the main obstacles to their political and economic empowerment. Approximately 140 million girls and women are currently suffering from genital mutilation<sup>13</sup>. A girl in nine is married before the age of 15, many of whom are forced to marry and become mothers before the age of 16. This situation has serious consequences: complications during pregnancy and birth are the second cause of death among adolescents. Since the establishment of the Millennium Development Goals, progress in maternal health has been disappointingly slow, and women and girls are disproportionately affected by HIV. This is also linked to the inability to provide universal access to sexual and reproductive health care services for women and girls.

### **European Pillar of Social Rights**

The Pillar is designed as a compass for a renewed process of upward convergence towards **better working and living conditions** in Europe. It is primarily conceived for the euro area but applicable to all EU Member States wishing to be part of it. The Pillar sets out [20 key principles and rights](#)<sup>14</sup> to support fair and well-functioning labour markets and welfare systems, which are structured around three categories:

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<sup>11</sup> [http://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=115277](http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=115277).

<sup>12</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-20150015+0+DOC+XML+V0//RO#title2>

<sup>13</sup> World Health Organization, press release, March 2013.

<sup>14</sup> [https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles\\_en](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en)

- equal opportunities and access to the labour market
- fair working conditions
- social protection and inclusio

Chapter One includes four essential dimensions to ensure equal opportunities and access to the labour market for all: education, training and life-long learning, gender equality, equal opportunities and active support for employment.

### **The Convention on the Rights of Persons with Disabilities**

The purpose of the Convention<sup>15</sup> is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Conform to the article 2 “Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

Article 27 recognizes the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.

**The European Union signed the Convention on 30 March 2007, on the very first day of its opening for signature. Since then, the convention has been signed by all 28 Member States.**

Following official ratification<sup>16</sup>, the European Union as an entity became, for the first time in its history, part of an all-encompassing human rights treaty on 7 January 2011. The ratification treaty reflects the Union's general commitment to creating a barrier-free Europe for the 80 million disabled people on its territory. Those who have ratified the Convention should take action in the following areas: access to education, employment, transport, infrastructure and buildings, guaranteeing the right to vote, improving political participation and ensuring the full legal capacity of all persons with disabilities. Many of these measures are fully ensured in many

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<sup>15</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

<sup>16</sup> [fra.europa.eu/.../1741-disability](http://fra.europa.eu/.../1741-disability)

EU countries. And, according to the 2020 Strategy, empowering people with disabilities to exercise their rights on an equal footing with others and removing obstacles in everyday life must be achieved throughout the Union by 2020.

## European Directives

- **Council Directive 2000/43/EC**<sup>17</sup> of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
- **Council Directive 2000/78/EC**<sup>18</sup> of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
- **Council Directive 2004/113/EC**<sup>19</sup> of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services
- **Directive 2006/54/EC of the European Parliament and of the Council**<sup>20</sup> of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)
- **Directive 2010/41/EU of the European Parliament and of the Council**<sup>21</sup> of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC

Protection against discrimination is one of the areas in which EU law closely affects the daily lives of European citizens. The overall framework provided by the two European Anti-Discrimination Directives has shaped the EU's legislative landscape in this area for more than a decade. Some Member States did not have any legislation in this area before transposing the two directives, which introduced new elements into the legislation of all Member States, eg protection against age discrimination.

The Commission's regular reports to the European Parliament and to the Council on the application of Council Directive 2000/43 / EC of 29 June 2000 implementing the principle of

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<sup>17</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32000L0043&from=EN>

<sup>18</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

<sup>19</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0113>

<sup>20</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006L0054>

<sup>21</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0041>

equal treatment between persons irrespective of race or ethnic origin (the Racial Equality Directive) and Council Directive 2000/78 / EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Equality Directive treatment in terms of employment) have an important role in the fight against discrimination in employment.

## **1.2. Conversion and procedures for non – fulfilment of the Directives 2000/43/CE , 2000/78/CE și 2006/54/CE obligations.**

Both directives have been transposed into national legislation in all 28 Member States and the Commission has checked the compliance of all these laws with the directives. Following the assessment of the situation in the Member States, it was found that there are still challenges in terms of their implementation and enforcement.

Following the Report on the Application of Directive 2006/54 / EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, The European Parliament adopted in 2015 a resolution highlighting critical issues and structural issues of transposing the provisions of the European Commission's directives into practice.

The resolution considers the gender perspective as one of the main priorities able to relaunch the economic growth in Europe and to contribute to a smart, sustainable and inclusive economy, as set out in the Europe 2020 Strategy.

**The Commission continues to monitor the situation in the Member States and, where necessary, initiates infringement procedures.**

The main challenge today is to raise public awareness of existing protection measures and to ensure better implementation and enforcement of directives. However, the legislation itself is not sufficient to ensure full equality. It needs to be combined with appropriate measures. The European Union Program for Employment and Social Solidarity (Progress) already finances awareness-raising and training activities, but these efforts need to be further intensified by the Commission in cooperation with the Member States in order to achieve concrete progress in raising public awareness with regard to rights applied in the EU.

Strengthening the role of guardians of equal treatment by national equality bodies can make a decisive contribution to better implementation and enforcement of directives.

Enhancing the efficiency of equality bodies and ensuring conditions for them to reach their full potential could significantly contribute to promoting equal treatment in a way that is easily accessible to all EU citizens, but also faster and less costly for all parties involved (including Member States) than referral to courts.

Gender equality is one of the fundamental values of the European Union (EU). The EU is dedicated not only to defending this right, but also to promoting gender equality within the Member States and across the world. This is the core aim of the European Commission's *Strategic engagement for gender equality 2016-2019*<sup>22</sup>. In addition, the Strategic engagement ensures that a gender equality perspective is integrated into all EU policies and EU funding programmes.

This 2018 Report on equality between women and men in the EU takes stock of the main initiatives launched or accomplished in 2017 in the five thematic areas of the Strategic engagement:

- (1) equal economic independence of women and men;
- (2) equal pay for work of equal value;
- (3) equality in decision-making;
- (4) ending gender-based violence; and
- (5) promoting gender equality beyond the EU.

It focuses in particular on:

- ▶ key trends and the newest available data on the Strategic engagement indicators;
- ▶ actions in the EU, focusing on the achievements by EU Member States and the EU institutions;
- ▶ inspiring practices, innovative projects and successful policies.

The Report focuses on short-term developments over the last 12 months, but also on medium-term changes since 2010 which could evolve into longer-term developments.

The European Commission's efforts in 2017 focused on strengthening alliances, giving voice and visibility to women and also men who share a common understanding that the unequal treatment of women in politics, in the economy and in society has to end.

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<sup>22</sup> [http://ec.europa.eu/justice/gender\\_equality/files/annual\\_reports/150324](http://ec.europa.eu/justice/gender_equality/files/annual_reports/150324)

### **1.3. Changing Perceptions and Combating Discrimination at the Work and in all areas of the society**

Changing perceptions and combating discrimination at work and in all areas of society aren't an easy task. Action against discrimination is the combination of extremely diverse activities, including numerous and varied stakeholders. EU activities in 2009 have been undertaken in close relation with political and practical priorities:

- cooperation between stakeholders
- integration of equality policy
- Developing the understanding of discrimination and
- legal progress and its implementation.

**Cooperation between stakeholders is the key for essential objectives achievement as well as for equality policy integration.**

Combating discrimination and promoting diversity clearly require the involvement of a large number of different actors and their commitment at European, national, regional and, above all, local level. When it comes to "EU action", in reality it is always a multilevel cooperation. The European Commission has worked with the Member States whether it was a key event such as the European High-Level Equality Summit or on a permanent basis, for example through the work of the Group of Governmental Experts on Combating Discrimination.

The EU also plays an important role in facilitating communication between other stakeholders. A concrete example in 2009 was the emphasis on cooperation between non-governmental organizations (NGOs) and trade unions. A joint statement by the European Confederation of Synods (ETUC) and the Social Platform has demonstrated their commitment to cooperation and a common voice on future equality policies. In 2009, the EU conducted research on economic arguments for diversity by publishing the "Diversity at Work" brochure aimed at small and medium-sized enterprises.

#### **Developing the understanding of discrimination**

Citizens' opinions are an appropriate starting point because their perceptions and attitudes are essential for reflection on the future direction of EU policy on discrimination. Other studies published in 2009 have highlighted new areas for European policy development. The "Media4Diversity" report, as well as the "International Perspectives on Positive Action", are among the important contributions to this.

## **Legal progress**

While most of the cases of discrimination do not come to court, those who do so are milestones in defining the scope of the law and giving victory to victims. The entry into force of the Treaty of Lisbon on 1 December 2009 has been an important milestone for all areas of the EU's work and has also strengthened the legal basis of combating discrimination. As in recent years, the European anti-discrimination network continued to publish updated information on the implementation of equality legislation across the European Union

## **European attitudes towards equality**

Europeans' attitudes towards equality and discrimination are the main criteria taken into account when assessing the situation and designing policies for the future. Since 2006, the Eurobarometer on Discrimination Studies addresses a number of specific questions about concerns and attitudes towards discrimination; this allows comparison and examination of the evolution of attitudes and experiences in this regard. Eurobarometer surveys collect national data from Member States and candidate countries, which form the basis for an overview of Europe.

### **1.4. Eurobarometers (2009, 2012, 2015, 2017) on discrimination: discrimination persists!**

The special edition of the 2009 Eurobarometer on discrimination was published in November 2009, based on the data collected in May and June. The Eurobarometer examines discrimination perceptions and experiences and collects opinions regarding the efforts to counter discrimination, as well as gender issues in employment and on labour market. The document offers a thorough analysis of the various reasons for discrimination that are covered by the EU legislation: race and ethnicity, age, disability, sexual orientation, gender, religion or beliefs. Despite the solid legislation, a significant number of Europeans claim they have experienced or witnessed discrimination and /or feel that discrimination is a large-scale phenomenon in their countries. Sixteen per cent of the Europeans claim they were discriminated against in the previous year and more than a quarter (26%) state that they witnessed discrimination or harassment. Ethnicity is the most frequent reason for discrimination, when it comes to witnessing discrimination; as for the perception of discrimination: on average 61% of the European respondents think that discrimination based on race or ethnicity is the most frequent.

There is important public support for special measures aimed to offer equal employment opportunities. Disability (87%) followed by sexual orientation (66%) are the main reasons for discrimination. When it comes to evaluating the global efforts of one's own country, opinions vary: 49% think enough has been done, while 44% have a different opinion.

The respondents are pessimistic about the potential impact of the economic and financial crisis on discrimination and the efforts to counter it. Sixty-four per cent of the European citizens stated that the economic crisis will increase the age discrimination on the labour market. About half of the Europeans believe the crisis has a negative effect on financing and the policies promoting equality and diversity.

*Only one in three Europeans knows his rights in terms of equality.*

Legal protection against discrimination has been improved and enforced in all EU member countries; however, few respondents claim they know their rights. On average 33% say they are aware of their legal rights, 52% say they do not know their rights and the remaining 12% say it depends on the situation. There are significant discrepancies at a national level, with 63% affirmative answers in Finland, and only 16% in Austria, which means that raising awareness remains a challenge in future.

Considering the Eurobarometer indicates that the level of education, rather than a minority group membership, is the key-factor that influences the awareness of one's own rights, it is necessary that information campaigns target potential victims of discrimination.

*Diversity in society and social life:*

Government policies against discrimination play an essential role; yet it is important to admit that the evolution of models in society represents a strong motivation for change. Diversity in society is one of the most promising factors in reducing discrimination. Moreover, the striking differences among countries that cause discrimination should also be considered. The fact that 68% of the Dutch and only 3% of the Romanians say they have LGBT friends is illustrative in this respect.

2009 Eurobarometer reveals that more and more people have friends of different ethnicity or sexual orientation, which makes them more sensitive to discrimination and less susceptible to prejudice. If social groups continue to reflect the social diversity, we could expect that discrimination reduces.



*More concerns about age discrimination:*

While the perception of ethnic discrimination has stayed the same, the age and disability discrimination represent the major change as revealed by the results of the 2009 Eurobarometer. Fifty-eight per cent of the respondents, that is 16% more than the previous year, believe that discrimination is widespread in their country. Disability discrimination has also increased by 8% compared to the previous year.

The general perception of the global trends in discrimination look more optimistic. When asked to compare the current situation with the discrimination five years ago, most respondents stated that all six types of discrimination have diminished.

2012 and 2015 Eurobarometers show that the perception of discrimination changed as follows: 51% of the respondents believe that gender discrimination is rare or very rare. In most cases, employment discrimination is caused by age (56% in case of people over 55) and ethnicity (47%).

For the first time, the 2017 Eurobarometer included sexual discrimination criteria. 58% of the respondents believe such discrimination persists to a large extent, while 24% believe it is rare.

## **1.5. Examples of employment discrimination<sup>23</sup>**

Protection against employment discrimination includes all the criteria provided by the anti-discrimination directives.

### **Access to employment**

ECJ offers a general interpretation of the concept „access to employment”.

**Example:** in *Meyers/Adjudication Officer*, ECJ ruled that access to employment is regulated “not only by the conditions prior to the labour relationship”, but also by all those factors that have to be considered before a person decides whether to accept a job offer or not.<sup>24</sup> In *Meyers case*, such an example is a certain benefit (payable in accordance with the income), because the candidate was influenced by the possibility to have access to such a benefit when

<sup>23</sup> Manual de drept internațional privind discriminarea, Agenția pentru Drepturi Fundamentale a Uniunii Europene, (Handbook on European Non-discrimination Law, Fundamental Rights Agency) 2010 Consiliul Europei (Council of Europe), 2010 ([www.echr.coe.int/Library/](http://www.echr.coe.int/Library/)).

<sup>24</sup> ECJ, *Meyers/Adjudication Officer*, case C-116/94 [1995] RJ I-2131, 13 July 1995.

they accepted the job. Consequently, such a decision had an impact on the access to employment.

**Example:** in *Schnorbus/Land Hessen* the plaintiff had applied for a legal training, as part of the qualification requested to enter the legal system. According to international law, she must have passed a First State Exam, then undergone practical legal training and passed a second State Exam. The plaintiff passed the first exam but was denied access to the legal training due to the lack of training places. Therefore, her acceptance was postponed until new positions became available. The plaintiff claimed she had been discriminated against because preference had been given to male candidates who had completed compulsory military service. ECJ ruled that the national legislation regulating the date of legal training was part of the “access to employment”, as such training was considered “employment” both independently and as part of the process of getting a job in the legal system.

### Access to employment conditions

ECJ offered a general interpretation of the field of application, thus reaching the conclusion that any condition deriving from the labour relationship can be included in this category.

**Example:** in *Meyers*, the plaintiff – a single parent – complained about indirect sex discrimination because of the method determining the eligibility of a single parent to a family credit<sup>25</sup>. ECJ had to clarify to what extent a family credit (a public benefit) was only part of the social insurance or if it was an employment condition, too. ECJ considered an important element: the family credit was payable if three requirements were met: if the applicant’s income is no higher than a given ceiling, if he, or if he is a member of a couple, he or the other member of the couple, is engaged in remunerative work and he or the other member of the couple is responsible for a child. ECJ ruled that the Directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working condition (currently replaced by Directive on the application of the principle of equal treatment between men and women engaged in an activity (modified)) shall not be considered inapplicable solely because the family credit is part of a social assistance system. Moreover, a laxer approach was adopted, taking into account if the

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<sup>25</sup>ECJ, *Meyers/Adjudication Officer*, case C-116/94 [1995] RJ I-2131, 13 July 1995.

family credit was related to remunerative work. So, in order to benefit from a family credit, the plaintiff had to determine if he or his partner were engaged in remunerative work. The requirement that such a family credit be linked to a working relationship includes the family credit system among working conditions. Such a permissive definition of employment and working conditions determined EJC to conclude it also applies to securing access to kindergarten at the workplace <sup>26</sup>as well as to reduced work time<sup>27</sup>. ECJ also adopted a relatively comprehensive approach of the layoff and remuneration concepts. The concept of layoff includes situations when the employment relationship is terminated. (For example, it includes the termination of an employment relation as a result of voluntary layoffs <sup>28</sup> or compulsory retirement.<sup>29</sup>

The concept of remuneration is defined by the Treaty of the functioning of the EU, art. 157 as follows: “‘pay’ means the ordinary basic or minimum wage or salary and other consideration, whether in cash or in kind, which the worker received directly or indirectly, in respect of his employment, from his employer”.

It includes a large category of payment received by the worker deriving from the work relationship.

The scope of the definition was determined based on ECJ cases, claiming it includes all the benefits related to a work place, including cheap railway tickets, 104 expatriate allowance, 105 Christmas bonus and 107 occupational retirement.

To fall under the term ‘remuneration’ a particular compensation should be the result of a labour relationship.

The bad state of social housing causing long-term discomfort to the inhabitants represents inhuman treatment, according to ECHR.

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<sup>26</sup>ECJ, *Lommers/Minister van Landbouw, Natuurbeheer en Visserij*, case C-476/99 [2002] RJ I-2891, 19 March 2002.

<sup>27</sup>ECJ, *Jämställdhetsombudsmannen/Örebro läns landsting*, case C-236/98 [2000] RJ I-2189, 30 March 2000.

<sup>28</sup>ECJ, *Burton/British Railway Council*, case 19/81 [1982] RJ 555, 16 February 1982.

<sup>29</sup>103ECJ, *Palacios de la Villa/Cortefiel Servicios SA*, case C-411/05 [2007] RJ I-8531, 16 October 2007.

Example in *Moldovan and others vs. Romania* (no.2), the plaintiffs had been forced to leave their houses, which – later on – were demolished under extremely traumatic circumstances. The reconstruction of the houses took very long, and the temporary housing was of very bad quality. ECHR held that the applicants' living conditions over the last ten years, its detrimental effect on their health and well-being, and the general attitude of the authorities, must have caused them considerable suffering, arousing in them feelings of humiliation and debasement.

Based on this conclusion, among other things, ECHR determined the existence of degrading treatment, contrary to art 3 ECHR, although the language in the excerpt above suggests that the housing quality was enough to draw such a conclusion.<sup>30</sup>

**Example:** in *Đokić/Bosnia and Herzegovina*, the plaintiff claimed his ownership right had been affected. 142. Before the disintegration of the former Yugoslavia, the plaintiff was a lecturer with a military school and a member of his country's army. He bought a flat in Sarajevo, but when the war started and the school where he worked was relocated on the territory of the present-day Serbia, the plaintiff moved house and joined the Serbian army. After the conflict, the authorities refused to give him back his property as he had fought in a foreign army, which was justified by the fact that the citizen had not been 'loyal' and had joined foreign military forces that had conducted military operations against Bosnia and Herzegovina.

According to ECHR, the case does not expressly fall under Art 14. However, ECHR held that the decision was made exclusively based of the applicant's ethnic origin (the ethnic origin of the military was indicated), especially considering that no act of disloyalty could be proved, except for the joining those military forces.

The refusal to reconstitute his flat, to offer him a compensation or another flat represented a disproportionate interference with his right to property.<sup>31</sup>

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<sup>30</sup> ECHR, *Moldovan and others/Romani* (no. 2) (41138/98 and 64320/01), 12 July 2005

<sup>31</sup> CEDO, *Đokić/Bosnia and Herzegovina* (6518/04), 27 May 2010. EU non-discrimination law

## Chapter 2. THE NATIONAL CONTEXT

### 2.1. Legal frame

**The Romanian Constitution**<sup>32</sup> stipulates in Article 4 (2) that "Romania is the common and indivisible homeland of all its citizens, irrespective race, nationality, ethnic origin, language, religion, gender, opinion, political affiliation, wealth or social origin". In the Chapter 2 – The Fundamental Rights and Freedoms, the Article 30 (7) states that "the defamation of the country and of the nation, the exhortation to aggression war, national, racial, class or religious hatred, incitement to discrimination, territorial separatism or public violence, as well as obscene manifestations, contrary to good morals are forbidden by law".

Romania has signed the main European and international instruments dealing with the human rights and the Constitution states that the constitutional provisions on citizens' rights will be interpreted and applied in accordance with the provisions of the Universal Declaration of the Human Rights or other treaties to which Romania is a part of. The article 20 specifies the priority of the international regulations in the case of the differences between the treaties on the fundamental rights to which Romania is a part of and the national law, except the situations where the national law is more favorable.

**The Labour Code**<sup>33</sup>, amended in 2011, contains general prohibitions on discrimination in employment.

Article 5

(1) The principle of equal treatment for all employees and employers shall operate within the framework of the employment relationships.

(2) Any direct or indirect discrimination against an employee based on sex, sexual orientation, genetic characteristics, age, national affiliation, race, colour, ethnicity, religion, political option,

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<sup>32</sup> <https://www.constitutiaronaniei.ro/textul-integral/>

<sup>33</sup> <https://www.codulmuncii.ro/>

social origin, disability, family situation or responsibility, trade union affiliation or activity shall be prohibited.

(3) The acts and deeds of exclusion, distinction, restriction or preference, based on one or several of the criteria referred to in paragraph (2), which have the purpose or effect of denying, restraining or removing the recognition, enjoyment or exercise of the rights provided for in the labour legislation shall constitute direct discrimination.

(4) The acts and deeds apparently based on other criteria than those referred in paragraph (2), but which effect to a direct discrimination, shall constitute indirect discrimination.

#### Article 6

(1) An employee engaged in an occupation shall enjoy the working conditions adequate to the activity carried out, the social protection, health and safety at work, and respect of his/her dignity and conscience, without discrimination.

(2) An employee engaged in an occupation shall be recognized the right to collective bargaining, the right to protection of personal data, and the right of protection against illegal dismissals.

(3) Any discrimination based on sex shall, as regards all the elements and conditions of compensation, be prohibited for equal work or work of equal value.

#### Art. 159

(3) Any discrimination based on sex, sexual orientation, genetic characteristics, age, nationality, race, color, ethnicity, religion, political option, social origin, disability, family status or responsibility, membership or trade union is prohibited.

### **The Law no. 188/1999 on the Civil Servants' Statute, republished, subsequently amended and supplemented.**

#### **Chapter V - Rights and duties**

#### **Article 27.**

(1) The right to opinion of the civil servants is guaranteed;

(2) Any discrimination among the civil servants on political criteria, trade union membership, religious beliefs, ethnicity, gender, sexual orientation, material status, social origin or any other such nature is prohibited.

**Law no. 7/2004 on the Behaviour Code of the Civil Servants, republished<sup>34</sup>**

**Chapter II - General rules of the professional behaviour of the civil servants**

*The framework of relations in exercising the public function*

Article 12.

(1) In the relations with the staff from a public authority or institution in which they operate, as well as with the natural or legal persons, the civil servants are obliged to behave based on respect, good faith, fairness and in a kind way.

(2) The civil servants are under the obligation of not harming the honor, reputation and dignity of the persons within the public authority or institution in which they operate, as well as the persons with whom they engage in exercising the public function, by:

- a) using offensive expressions;
- b) revealing some aspects of privacy;
- c) making complaints or slanderous complaints.

(3) The civil servants must adopt an impartial and justified attitude towards a clear and efficient resolution of the citizens' problems. The civil servants have the obligation to respect the principle of equality of the citizens in front of the law and public authorities by:

- a) promoting similar or identical solutions to the same category of facts;
- b) the elimination of any form of discrimination based on nationality issues, religious and political beliefs, material status, health, age, gender or other issues.

(4) In order to achieve the social and professional relations that ensure the dignity of the persons, the efficiency of the activity, as well as the increase of the quality of the public service, it is recommended to observe the norms of behaviour stipulated in the paragraphs (1), (2) and (3) and by the other subjects of these reports.

**Article 16 - Objectivity in evaluation**

(1) In exercising the specific duties of the public management positions, the civil servants are obliged to ensure the equal opportunities and treatment regarding the development of the career in the public function for the subordinated public servants.

(2) The civil servants are required to examine and apply objectively the criteria for assessing the professional competence for the subordinate staff when proposing or approving advances,

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<sup>34</sup> [legislatie.resurse-pentru-democratie.org/legea/7-2004.php](http://legislatie.resurse-pentru-democratie.org/legea/7-2004.php)

promotions, transfers, appointments or releases from positions or providing material or moral incentives, excluding any form of favoritism or discrimination.

(3) It is forbidden for the civil manager servants to favor or disadvantage the access or promotion to the public function on the basis of the discriminatory criteria, kinship, affinity or other criteria, not in conformity with the principles stipulated in article 3.

**The Law on the Prevention and Punishment of All the Forms of Discrimination**<sup>35</sup> (61/2013 amended by the Government Ordinance no. 137/2000) defines discrimination as any distinction, exclusion, restriction or preference on the basis of race, nationality, ethnicity, language, religion, social category, beliefs, sex, sexual orientation, age, disability, chronic non-contagious disease, HIV infection, a disfavoured category, as well as any other criterion that has the purpose or effect of restricting, removing the recognition, use or exercising, on an equal basis, the human rights and the fundamental freedoms or rights recognized by law in the political, economic, social and cultural or any other areas of the public life.

**The National Council for Combating Discrimination** is the national authority that investigates and sanctions the contravene facts or acts of discrimination. In carrying out its tasks, the National Council for Combating Discrimination carries on its activity independently, without being restricted or influenced by other institutions or public authorities.

The National Council for Combating Discrimination is responsible for the enforcement and control of the observance of the legal provisions in its field of activity, as well as for harmonizing the normative or administrative provisions which are against the principle of non-discrimination. In order to combat discrimination, the National Council for Combating Discrimination exercises its duties in the following areas:

- preventing facts of discrimination;
- mediating the facts of discrimination;
- investigating, finding and sanctioning the facts of discrimination;
- monitoring the cases of discrimination;
- providing specialized assistance to the victims of discrimination.

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<sup>35</sup> <http://legislatie.resurse-pentru-democratie.org/legea/48-2002.php>



The non-discrimination legislation provisions apply to all the physical or legal persons, public or private, as well as to the public institutions with responsibilities in relation to:

- a) the conditions of employment, the criteria and conditions for recruitment, selection and promotion, the access to all the forms and levels of guidance, vocational training and retraining;
- b) the social protection and security;
- c) the public services or other services, the access to goods and facilities;
- d) the educational system;
- e) ensuring the freedom of movement;
- f) ensuring the peace and public order.
- g) other areas of the social life.

### **Equal opportunities and treatment of work**

According to Law no. 202 / 19.04.2002 on equal opportunities and treatment of women and men, there must be ensured:

#### **Non-discriminatory access to:**

- a) the choice or the free exertion of a profession or activity;
- b) employment in all vacancies and job vacancies and at all the levels of the professional hierarchy;
- c) equal incomes for work of equal value;
- d) information and professional counseling, programs for initiation, qualification, retraining, specialization and professional retraining;
- e) promotion at any hierarchical and professional level;
- f) working conditions which comply with the health and safety norms, in accordance with the legislation in force;
- g) non-salary benefits and social protection and protection measures.

### **Employers' Obligations**

- to ensure equal opportunities and treatment among employees, women and men, in the working relationships of any kind, including the introducing provisions for the

prohibition of discrimination in the organization and the functioning regulations and in the internal order of the units;

- to systematically inform employees, including the displaying in visible places of their rights in respecting equal opportunities and treatment between women and men in the working relationships;
- to provide, in the internal regulations of the units, disciplinary sanctions, under the conditions stipulated by law, for the employees who violate the personal dignity of other employees, committing actions of discrimination;
- to ensure that all the employees are informed of the prohibition of sexual harassment at the workplace, including the displaying in visible places of the statutory provisions of the internal order for the prevention of any act of sexual harassment;
- to immediately apply, after the referral, the disciplinary sanctions against any sexual harassment at the workplace.

**There are prohibited:**

**The discrimination by employing practices that disadvantage the people of a particular gender in relation to the employment relationships, referring to:**

- a) announcing, organizing competitions or examinations and selecting candidates to fill vacant posts in the public or private sector;
- b) establishing, suspending, modifying and/or ending the legal employment or service report;
- c) establishing or modifying the duties in the job description;
- d) determining the remuneration;
- e) non-salary benefits and protection and the social security measures;
- f) information and professional counseling, initiation, qualification, training, specialization and professional retraining programs;
- g) evaluation of the individual professional performances;
- h) the professional promotion;
- i) application of the disciplinary measures;
- j) the right to join the trade union and the access to the facilities granted by it;
- k) any other conditions of work, according to the legislation in force.

There are exception from the provisions of the paragraph (1) letter a): the workplaces, where, due to the nature or particular conditions of the work provided by law, the particularities of sex are decisive.

### **Maternity and pregnancy**

1. Maternity is not a reason for discrimination in the selection of the candidates for employment.
2. It is forbidden for a candidate to be required to submit a pregnancy test for employment.

There are an exempt from the provisions of the paragraph (1) those jobs forbidden to the pregnant women and/or nursing women due to the nature or particular conditions of work.

### **Other discrimination based on sex**

#### **The sexual harassment of a person by another person at the workplace or in another place in which he carries out his activity**

##### **Any behavior defined as sexual harassment, has as purpose:**

- a) to create an atmosphere of intimidation, hostility or discouragement for the person affected;
- b) to negatively influence the situation of the person employed, in terms of professional promotion, remuneration or income of any kind, or access to the vocational training and retraining, in case of his/her refusal to accept unwanted sexual life.

**The unilateral change by the employer of the relationships or working conditions,** including the dismissal of an employee who filed a complaint at the unit level or who filed a complaint at the competent courts, for the purposes of applying the provisions of the present law and after the court order has remained final, except for the well-founded and unrelated reasons.

**The National Agency for Equal Opportunities for Women and Men (NAEOWM)** is a specialized institution of the central public administration with legal personality, subordinated to the Ministry of Labour and Social Justice.

The Agency's mission is to promote the principle of equal opportunities and treatment between women and men with a view to eliminate all the forms of discrimination on the basis of gender in all the national policies and programs.

The role of the Agency is to ensure the substantiation, elaboration and implementation of the Government's strategy and policies in the field of the equal opportunities and treatment between women and men, the prevention and combating the domestic violence, monitoring the application and observance of the provisions of the Law no. 202/2002 on the equal opportunities and treatment of women and men, as well as of the Law no. 217/2003 on the prevention and combating the domestic violence.

The NAEOWM (or ANES in Romanian) initiated the modification of the normative framework, namely the draft law on amending and completing the Law no. 202/2002 on the equal opportunities and treatment between men and women, republished, subsequently amended and supplemented, which aims:

- to introduce an obligation for the legal persons from public and private sector with more than 50 employees to have an expert on equal opportunities or a technician on equal opportunities within the staff structure, within the 6 months of entering in force of the law. If they do not identify an appropriately trained person, the legal entities, institutions and authorities may assign tasks in the field of the equal opportunities between men and women to a job-seeker. The designated person with the responsibilities in the field of gender equality shall be trained as a gender expert or technician in a period of 2 years from the date of designation;
- to introduce the notion of 'gender violence' under the Istanbul Convention;
- a measure with a positive impact on the promotion of the principle of the equal opportunities for women and men was **the introduction in the Classification of Occupations in Romania of the occupations 'Equal Opportunities Expert' and 'Equal Opportunities Technician'** in 2014. The necessity of this occupation has emerged in the context of a concern for the implementation of the principles of gender equality in all the areas. The development potential of this occupation is important, especially in the context that the gender equality is an European priority. Their mission is to promote and apply the principle of the equal opportunities for women and men in all their activities and actively support measures to prevent and combat gender-based violence and to be Ambassadors of Equality in the environments they come from.

**The trade unions or non-governmental organizations** which pursue the protection of the human rights, as well as other legal persons with a legitimate interest in respecting the principle of equal opportunities and treatment of women and men may, at the request of the discriminated persons, can represent/assist such persons in the administrative proceedings; courts.

### **The Labour Inspection through the Territorial Labour Inspectorates.**

The labour Inspection - is a specialized body of the central public administration subordinated to the Ministry of Labour and Social Justice, based in Bucharest. The institution has legal personality and fulfills the function of the state authority, which ensures exercising the control in the fields of labour relations, security and health at work and market surveillance.

## **2.2. Discrimination and equal chances**

**What is discrimination?** Neither the Universal Declaration of the Human Rights nor other international agreements contain a generic definition of ‘discrimination’, though they refer to it on several occasions. The international and regional human rights instruments dealing with the different forms of discrimination have different definitions, depending on the type of discrimination involved.

**The racial Discrimination** is defined by the International Convention on the Elimination of All Forms of the Racial Discrimination as ”any distinction, exclusion, restriction or preference based on race, color, descendancy, ethnic or national origin, which has the purpose or effect of nullifying or impairing the recognition, the enjoyment or exercising, equally, the human rights or the fundamental freedoms in the political, economic, social, cultural or any other field of the public life”.<sup>36</sup>

**The discrimination against women** is defined by the Convention on the Elimination of All the Forms of Discrimination against Women as ”any distinction, exclusion or restriction based

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<sup>36</sup> <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

on sex which has the purpose or effect of affecting or revoking the recognition, enjoyment or exercising the human rights and liberties by women”.<sup>37</sup>

## **How is discrimination in the labour relations and how can it be prevented?**

Labour discrimination can take different forms, depending on when it can take place: **at recruitment and employment or during the work relations by:** establishing apparently neutral conditions but with a disproportionate effect on a group of people, **harassment, discriminatory establishment of the disadvantageous working conditions, promotion or wage rights or related rights, the failure to meet the reasonable accommodation requirement of the persons with disabilities, the incitement to discrimination or the discriminatory treatment through the employment relationships.**

### ***1. The discrimination on employment can be achieved through:***

A) The placement of the employment announcements, indicating the conditions or criteria that exclude or favor certain persons without a reasonable justification. If the conditions are not required to perform the job duties for the post, they will be considered unjustified.

*Example:* Imposing an age or gender condition for employing a secretary. Some conditions, although at first sight may seem discriminatory, can be justified.

*Example:* An employer may require that only a woman should appear in a contest, if the job is an actress in a movie, not if the post is an accountant, a legal counselor, a secretary, an assistant, a chef - positions for which the sex of the employee is not relevant.

B) The unjustified refusal to engage a person when it is determined by the person's membership to a protected criterion or by asking questions during the employment interview related to some of the person's characteristics which are not relevant to the function the contest is held for.

*Example:* It might be considered discrimination if a Roma candidate is in the competition, and even if he has a similar or better profile than the person who is finally employed, he is not

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<sup>37</sup> <http://www.un.org/womenwatch/daw/cedaw/>

employed because of his ethnicity. During the interview, questions about the characteristics protected by law (race, religion, sexual orientation etc.), marital status, health status or if the potential employee has or intends to have children can not be asked. Questions about disability or health may be allowed, however, when they are addressed to identify the special needs of the candidate in order to be able to accommodate them.

## 2. The discrimination during the work relationships may consist of:

### A) **direct discrimination**

a. The unjustified refusal to admit people to the vocational training courses or to promote them, or the unequal and unjustified distribution of the work tasks, the unjustified change of the working conditions (posting, transfer).

*Exemple:* The human resources policy of any institution should establish, in a transparent and non-discriminatory way, the criteria for the promotion or participation in the vocational training programs, based only on the professional competence.

*Exemple:* The preference to promote only the male candidates or to accept only the persons ‘with no family obligations’" (usually women) at a vocational training is discriminatory.

b. The unequal remuneration for the same type and/or volume of work is forbidden not only by the Law on Equality, but also by the Labour Code. The applicable principle is the equal payment for equal work and not for the work of equal value.

B) **indirect discrimination** may arise when, by establishing apparently neutral rules which are applicable to all, a certain category of employees is disproportionately affected.

*Exemple:* It may be indirect discrimination, based on religion, to force all the employees to work on Sundays without allowing accommodation arrangements for the employees who can not work on Sunday (or Saturday for the Seventh-day Adventists or Sabbaths for Jews).

C) **the harassment** is a degrading treatment, touching the dignity of a person by creating a hostile working environment, even by the employer or by colleagues, while the employer does not take action to stop the harassment.

*Exemple:* The lack of an employer intervention when the employees offend and treat unwittingly a colleague because she is a woman, a gay, he/she belongs to a religious or ethnic minority or when it is found out that her child has a certain disability. It can also be considered harassment: addressing jokes with sexual connotations, the posting of posters with pornographic content, the circulation of the messages with ironic content, the use of offensive words in relation to a certain group of people, the category to which the employee belongs.

The test, in this case, is that any unwanted behaviour that damages the employees' dignity can be defined as harassment.

D) **the incitement to discrimination** consists of any behavior by which a person applies pressure or displays intentional conduct for the purpose of discriminating against a third person, given the real or presumed ownership of the third party in a category protected by law.

*Exemple:* Encouraging employees to harass the younger employees or to expel a potential Roma customer from their headquarters is punishable as incitement to discrimination.

E) **the failure to take adjustment measures**, to make necessary adjustments or adaptations in order **to ensure exercising the rights by the persons with disabilities** or the persons with special needs on an equal basis with others, when such changes do not impose a disproportionate or unjustified burden, may be penalized as discrimination in the form of non-assurance of the reasonable accommodation.

*Exemple:* The accommodation may involve installing an access ramp for a wheelchair user, purchasing a software to allow the people with visual impairments to use the computer, providing a lunch break for the employees with diabetes, or receiving medical treatment at fixed hours, the provision of a regime adapted to the nursing mother.



F) **At the end of the employment relationships**, the discrimination may occur in the form of the abusive dismissal.

*Example:* The employee ‘does not fit into the dynamic workforce’ (he is too old), even if he still meets all the legal conditions to continue working. Another example would be dismissing an employee because she is pregnant.

G) **Victimization** - There will also be sanctioned: the employer's attempt to revenge on the employees who have filed complaints or testified in cases of alleged discrimination. Thus, dismissing an employee or refusing to promote him/her, not granting the holiday leave, shackling at the workplace, after having filed a complaint or having participated as a witness in a case of discrimination against the employer is called victimization, a fact defined and duly sanctioned by the Law on Equality.

#### **H) Equal opportunities for women and men**

Although Romania recognizes by law equal opportunities for women and men, the tradition still places the woman in a lower position than the man. Romania ranks last in the EU and 72th in the world, according to World Economic Forum statistics when it comes to equality between women and men. Women in Romania continue to be preferred in poorly paid jobs and sectors, and their salary continues to be statistically lower than that of men employed on similar posts.

#### **Legislation versus reality**

According to the Romanian legislation, the ‘gender equality’ means ‘taking into account the different capacities, needs and aspirations of men and women and their equal treatment’. However, if we analyze the composition of the Romanian Parliament, we note that only 11.81% of the country's legislators are women. On September 1<sup>st</sup>, 2015, of the 383 deputies, only 53 were women and of the 167 senators, only 12 were women. And in other key decision-making positions, in important state institutions, the number of women is inferior to that of men. Of 22 ministers, only 4 are women, and of 9 judges at the Constitutional Court, only 2 are women.

**I am a woman, I want equal rights in the labour market!**

If we are talking about recruiting in a job in Romania, there are important differences in attitude towards men compared to the way women are treated. There are also differences in the vocational training and promotion, payment, effects of the parental leave on the professional future, and sexual harassment. According to a research conducted over the past 15 years, a worrying majority of people harassed at work are women. Sexual harassment in the workplace is most often registered to the women under 30, from the urban areas and contrary to the educational stereotypes, they have higher education. In most cases, aggressors are part of the category of the senior officials.

**Half of the female workforce in Romania occupies low paid jobs: administrative nurses, salesmen, low-skilled or unskilled workers. The data provided by the NIS (The National Institute of Statistics) in 2013 show that women are still gaining 8% less than men. In addition, the women in Romania often face a refusal to work because of their age, whether we are talking about young or mature women.**

One of the worst forms of inequality encountered in Romania affects women who, due to lack of a functional social protection system, have to stay at home to care for and support older or younger family members. This situation hinders their social and professional lives, restricts their freedoms and opportunities, and leads them to depression, loneliness and low self-esteem, according to the international studies. For example, a recent European survey of 514 million people shows that many married women and domestic women have difficulties balancing their family life. Many women in Romania take care alone of their household and houses, as well as raising children, while a male person is, in most cases, 'exempt' from these responsibilities. The same applies to the care of the elderly, which is most often the responsibility of women, because of the lack of an assistance system for the elderly.

**2.3. The analysis of discrimination in Romania-** According to the survey  
*Perceptions and attitudes of the Romanians regarding the National Strategy for Prevention*

*and Combating Discrimination* (2015)<sup>38</sup>, 86% of those interviewed said they heard of discrimination, while two Romanians in three consider this phenomenon to be a real and topical issue in Romania. Among the groups that discriminate, the respondents included politicians (59%), civil servants (46%) and ordinary people (47%).

**The same survey considers that education is the main obstacle to fight against discrimination and that the state should initiate non-discrimination education programs (88% of respondents). Moreover, in order to combat discrimination, the state should consider educating the civil servants.**

**Discrimination at work (the equal opportunities when someone gets a job and at the workplace) is considered to be one of the most serious.** Two-thirds of those interviewed believe that discrimination is high and very high. In order to reduce it, 84% of the respondents suggest that **the authorities should introduce a minimum set of principles of non-discrimination on the labour market, while 80% of the respondents propose to carry out information campaigns on equal opportunities at the workplace.** In addition, according to the latest data provided by the National Institute of Statistics (NIS), the employment rate among men is 72.1%, while for women it reaches 56.4%. In terms of salaries, in the professional activity and the career development opportunities, women face stereotypes, spread by politics, at work, at home, at school, or in the media. **The highest discrepancies in the employment rates are among the people with disabilities: if in the EU, 1 person with disabilities out of 2 is employed, in Romania only one person with disabilities in 25 has a job.**

According to ANOFM, at the end of the year 2015, 56.56% of the unemployed persons were over 40 years old. Of those, more than half had passed 50 years old. The fact that the Romanian organizations do not attach the importance to active aging, the chance of these people to a fair treatment is dramatically reduced. **People over 50 years old are the most affected by unemployment and have little access to the labour market.**

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<sup>38</sup> *Perceptions and attitudes of Romanian population in regards with the National strategy for prevention and fight against discrimination*, survey realized for the National Council for Combating Discrimination, 2015

The study *Romania CSR Index 2015* on Diversity Policies, conducted by The Azores Agency and bringing together 100 companies in Romania, has analyzed the extent to which the companies provide information on diversity and social inclusion in terms of gender, level of education, people with disabilities or professional experience. In total, 16% of the companies provide information on diversity policies and only 8% include indicators illustrating the effectiveness of these policies. Another concern is **the unequal treatment of the members of the Roma community: according to an INSOMAR / CNSC study, more than 25% of the respondents would prefer not working with a representative of this minority.**

The Eurobarometer results in 2015 indicate discriminatory situations in the European space. Many Europeans think that the recruitment practices are discriminatory. Over half (56%) think that being over 55 years old is a disadvantage in the search for a job. To this is added the appearance, clothing or presentation (52%), the skin color or ethnicity (46%), the disabilities (46%) and the physical appearance in general, (45%).<sup>39</sup>

The most European workers consider that it is enough to promote diversity at the workplace for young people (58%) and for gender (58%). However, the respondents are not convinced that enough measures are being taken in relation to the other categories, especially in the case of the sexual orientation (42%) and gender identity (33%).<sup>40</sup>

The projection of the labour force and of the European labour market structural diversity requires an inclusive, proactive and effective response. The diversity policies should be backed up by tools which may keep jobs, provide the employees with the optimum working conditions, and the best outcomes of the workforce for the employers, representing the diversity by avoiding risks.

## **2.4. Cases of discrimination solved by the National Council for Combating Discrimination<sup>41</sup>**

### **Case no. 1 (synthesis)**

Through the petition registered at the National Council for Fight against Discrimination (NCFD), the S.S.I. petition has reported the harassment and discrimination at the workplace that occurred when returning to work from the parental leave and care - the petitioner being paid for the incentive insertion.

<sup>39</sup> Special Eurobarometer 437 (Discrimination in the EU 2015)

<sup>40</sup> *ibidem*

<sup>41</sup> Activity Report of the NCCD/2016, Examples of administrative cases of the NCCD from the year 2016, pages 28-38

The S.S.I. petitioner had also informed the fact that she had been removed from her office to a meeting room, that all her duties were withdrawn, that she is given nothing to work, that all the necessary effects for her activity had been withdrawn, in order to resign.

The solution ordered by NCCD. was sanctioning S.C.Agora Marketing & Consulting S.R.L. with a fine of 5000 lei.

Regarding the subject matter, the act of discrimination is, in essence, the unfavorable treatment of a woman in the legal situation of post-parental leave, namely the discriminatory effect of the changes in the job tasks and the moral harassment after exercising the right to leave (at the time of the incentive insertion).

The particular and extraordinary protection at the workplace, under the special legal provisions, implies a favorable treatment for a woman on parental leave (and post-leave), which is reflected in the prohibition of dismissal during the exercise of the right to leave, including a period of 6 months after the final return to the establishment, and also the right to return to the last job or equivalent job with the equivalent employment conditions and also to benefit the improvement to which she would have been entitled during her absence.

The Court of Appeal Bucharest - Section VIII – The Administrative and Fiscal Contentious Division, by Civil Sentence no. 2253 / 28.06.2016, has dismissed the action brought by the applicant S.C. Agora Marketing & Consulting S.R.L. against the decision of the NCCD and considered its decision to be founded, the employing company having the positive obligation to actively re-engage the employee in the job, on the previously held post or, last but not least, on an equivalent job, having in fact and effectively equal working conditions, correlated with the subjective right.

### **Case no. 2 (synthesis)**

The NCCD has been notified by several associations and foundations about a potential act of discrimination of the Ministry of National Defense (MND), by allocating, in a different way, a considerably smaller number of places for women for the admission in their own educational institutions comparing to the number of places reserved for men.

The NCCD has sanctioned the accused party - the Ministry of National Defense with a warning, according to the provisions of the Article 5, paragraph (2) from the Govern Ordinance no. 2/2001 on the legal regime of contraventions.

Moreover, the National Council for Combating Discrimination addressed to the complained party - the Ministry of National Defense - the recommendation to respect, in the future, the principle of non-discrimination and equal opportunities for women and men.

In the appeal brought by the MND, the arguments were made in a discriminatory manner, as it follows:

- The military profession is exercised by performing extremely physically demanding missions, such a feature being improper to the anatomical structure of a female. This category is encountered in the military environment, occupying 'non-combatant' functions, with an administrative profile;
- The segregation on the gender basis of the places for the admission process in their own educational institutions is a derogation from the principle of equal treatment between men and women;
- The field approach of the Ministry of National Defense is in line with the existing EU and national legislation, although at a first general observation, as did the petitioners, there is also a false impression of the existence of an apparently form of discrimination, which is removed as the issue becomes deeper. The National Council for Combating Discrimination, ascertaining the notification, the documents submitted to the file and the relevant legal provisions, has found that the measure ordered by the applicant - the Ministry of National Defense, by differentiating the places for admission in their own educational institutions on a gender / sex criterion, by providing a significantly lower number of places for women than the number of places reserved for men is not objectively justified. Furthermore, the measures used are not appropriate and necessary as the application of this measure leads to the limitation of the women access, on the basis of competition, at their own educational institutions and subsequently,

in the operational structures of the Ministry of National Defense, being violated both the right to education and the right to work.

It should be left to the candidates, irrespective sex, to assume the risks involved in the work to be carried out and the access of women to the specialized structures of the ministry should not be restricted by imposing conditions which can lead to the creation of a differentiated treatment between the candidates, without the existence of an objective justification and which ultimately would lead to the violation of both the right to education and work and the right to dignity of the persons concerned.

All the candidates, irrespective sex, have the right to freely choose a profession, no matter how difficult or not difficult that profession is. Indeed, the performance of each candidate can and must be checked according to the work that must be carried out, and the selection should be made only as a result of the skills test. However, the entrance examination in the operational structures of the Ministry of National Defense also means the support of eliminatory evidence, thus, separating the candidates who prove themselves to be part of the operational structures of the ministry.

The Court has fully maintained the administrative-judicial act issued by the NCCD, as lawful and sincere since the defendant NCCD has taken into account the European jurisprudence, admitting that in the field of national defense, the difference between male and female candidates is a legitimate measure which falls within the margin of appreciation enjoyed by the applicant - the Ministry of National Defense. What, however, led to the finding of a deed discrimination was the lack of evidence from the complainant, in the sense of the proportionality of the measure.

Thus, having a small number of places for women in the competition, in disciplines such as research, communications and informatics, planning and administration appears, is, from the outset, an unjustified discrimination, while for other specialties, there are doubts about the legality of the measure of total exclusion of women candidates or the establishment of a small number of places than those reserved for men.

### **Case no. 3 (synthesis)**

By the self-registration no. 1260 / 03.03.2016 at the NCCD file no. 2A / 2016, the National Council for Combating Discrimination has been notified, ex officio, against the NAPSI (The National Agency for Payments and Social Inspection) of the MWFSOPP (The Ministry of Work, Family, Social and Old People Protection) and a number of 17, regarding the non-insurance of the local transport conditions, by the public transport of the persons with locomotor disabilities; the violation of the right to dignity by the way people with locomotory disabilities are obliged to use the public transport in the county municipalities, as well as the lack of concrete measures for facilitating the access of the persons with locomotor disabilities to the local transport.

By the paragraph 1 of the Decision no. 357/11.05.2016, issued in the file no. 2A/2016, The National Council for Combating Discrimination has established that the non-assurance of the transport conditions for the persons with locomotory disabilities represents discrimination and ordered the sanction with a fine of 10,000 lei for the parties complained of.

The mayor of Craiova has sued the National Council for Combating Discrimination, asking the Court to order the cancellation of the NCCD decision no. 357/ 1.05.2016 issued in the NCCD file no. 2A/2016, as illegal and ungrounded.

The Court of Justice from Craiova has rejected the complaint made by the applicant, the Mayor of Craiova, taking into account that according to Article 22 of the Law no. 448/2006, the local public administration authorities have the obligation to take specific measures in order to ensure the public transport of the persons with disabilities. Thus, the obligation to adapt the means of the public transport is not the responsibility of the transport operator, as the applicant wrongly claims, but of the authority of the local public administration, in this case the Mayor of the Municipality of Craiova.

## 2.5. Non-discrimination strategies

The action recommendations for a better prevention and combating of discrimination

### **1. The development of the public - private partnership in order to prevent and combat discrimination.**

The support mechanisms for the victims of discrimination should be developed at a central level, especially at a local level, where the collaboration between the public and private institutions is vital for the development of the specialized and effective actions in order to prevent and combat differential treatment against different and sub - social groups. Moreover, knowing the specific problems of the local groups and sub-groups, the representatives of the local authorities are placed in a key position in shaping actions to prevent and combat discrimination in accordance with the population structure and the specific forms of discrimination in the area.

**1. Ensuring the consistency and synergy between the efforts of all the existing public institutions at the local level, for preventing and combating discrimination and its consequences.** The development of some effective actions for preventing and combating the phenomenon of discrimination can not take place without the synergic involvement of all the public institutions with responsibilities in the field of preventing and combating discrimination at a local level. The real and effective collaboration of the institutions with a role in reducing discrimination on the basis of the various criteria will favor the development of the support actions, focused on the groups at the crossroads of two or more dimensions of discrimination and the reduction of the incidence of their specific forms of discrimination.

**2. Strengthening the cooperation between the National Agency for Equal Opportunities (NAEO) and the National Council for Combating Discrimination (NCCD)** in order to identify the best ways to operationalize and implement the concept of discrimination.

The difficulties of operationalization and implementation of the concept of discrimination require a synergic involvement of the two central institutions with a role in preventing and

combating discrimination in order to better capitalize on the steps taken till present in this direction and on the future institutional development.

**4. Stimulation of the development and cooperation between the public institutions and civil society entities at local level.** The local authorities occupy a key position in the development of preventing and combating the discrimination actions, but the local civil society institutions have an important role to play in facilitating the implementation of such supporting actions as well as bringing the necessary additional knowledge to the specialized actions. Furthermore, the collaboration of these existing institutions at the local level will make more effectively the support mechanisms for the victims of discrimination.

**5. Developing the mechanisms for representing the disadvantaged groups at the decision and administrative levels.** A better representation of the interests of the disadvantaged groups at different decision and administrative levels will lead to a better foundation and focusing of the planned policies and programs, as well as to the increasing of the chances of a successful implementation. Furthermore, the development of the mechanisms for representing diversity within certain disadvantaged groups will lead to a better addressing of the specific forms of discrimination underlying the discrimination.

**6. Raising the awareness and training of the public services and mass media staff in order to promote and apply the principle of the equal opportunities for all.** A better knowledge of the principle of the equal opportunities for all and a better understanding of the importance of its implementation in the current work of these public services will reduce the incidence of discrimination. Moreover, raising the responsibility of the mass-media to implement the principle of non-discrimination in the process of information and opinion formation will lead to the fight against the negative stereotypes associated with some groups and will increase the tolerance among the Romanian population.

**7. Intensifying the public awareness campaigns on the causes, incidence and implications of the discrimination acts.** A better awareness of the causes, of the varied forms and short and long-term effects associated with discrimination will empower individuals to better recognize and manage the situations of discrimination. Moreover, such campaigns will reduce the social



distances towards the different groups and even the incidence of the differential treatment towards their members in the public places. Furthermore, the awareness campaigns should also be developed in order to address to the less-favored groups in the society, but to which the social distance is more pronounced, as well as to the groups at the intersection of different dimensions of discrimination. Additionally, it is recommended that these campaigns also contain components designed to combat the self-culpable or shameful tendencies of the discriminated victims.

**8. Intensifying the information campaigns on the legal and institutional framework for preventing and combating discrimination.** A better knowing of the institutional and legal mechanisms for preventing and combating the acts of discrimination will enable the individual victims to defend their rights in a formal way, in conditions of maximum protection of their interests.

**9. Empowering the social partners, especially the trade unions to prevent and combat discrimination in the labour market.** Discrimination on the labour market has the effect of marginalizing individuals and increasing their vulnerability to discrimination in other areas of social life. Under these circumstances, empowering the social partners to act for promoting and implementing the principle of the equal opportunities for all, at both employment and at work is vital to prevent and combat discrimination.

**10. Stimulating the scientific research on the causes, forms and implications of the discrimination.** The development of the quantitative and qualitative research in this field will lead to the development of a conceptual framework appropriate to such complex issues, as well as the refinement of the methodological approaches in order to capture and evaluate the most varied and hidden causes, forms and effects of the discrimination. The results of the studies and researches can highlight the developments at the cause levels and the forms of manifestation of discrimination, especially in the context of a society more and more characterized by the phenomenon of globalization which brings multiple and complex implications. The results of the studies and researches should be based on a better substantiation and should focus on the policies and intervention programs so that they may prevent and combat the discrimination.

## **Chapter 3. INTRODUCTION IN DIVERSITY AND DIVERSITY MANAGEMENT**

### **3.1. Girafee and Elephant**

In a small suburban community just outside the city of Artiodact, a giraffe had a new home built to his family's specifications. It was a wonderful house for giraffes, with soaring ceilings and tall doorways. High windows ensured maximum light and good views while protecting the family's privacy. Narrow hallways saved valuable space without compromising convenience. So well done was the house that it won the National Giraffe Home of the Year Award. The home's owners were understandably proud.

One day the giraffe, while working in his state-of-the art woodshop in the basement, happened to look out the window. Coming down the street was an elephant. "I know him", he thought. "We worked together on a PTA committee. He is an excellent wood worker too. I think I'll ask him in to see my new shop. Maybe we can even work together on some projects" So the giraffe reached his head out of the window and invited the elephant in.

The elephant was delighted; he had liked working with the giraffe and looked forward to knowing him better. Besides, he knew about the woodshop and wanted to see it. So, he walked up to the basement door and waited for it to open.

"Come in; come in" the giraffe said. But immediately they encountered a problem. While the elephant could get his head in the door, he could go no further.

"It's a good thing we made this door expandable to accommodate my woodshop equipment", the giraffe said. "Give me a minute while I take care of our problem". He removes some bolts and panels to allow the elephant in. The two acquaintances were happily exchanging woodworking stories when the giraffe's wife leaned her head down the basement stairs and called to her husband; "telephone, dear; it's your boss".

"I better take that upstairs in the den," the giraffe told the elephant.

"Please make yourself at home, this may take a while".

The elephant looked around and saw a half-finished project on the lathe table in the far corner, and decided to explore it further. As he moved through the doorway that led to that area of the shop, he heard an ominous scrunch. He backed out scratching his head. "Maybe I'll join the giraffe upstairs." he thought but as he started up the stairs, he heard them began to crack. He

jumped off and fell back against the wall. It too begins to crumble. As he sat there disheveled and dismayed the giraffe came down the stairs.

“What on earth is happening here?” The giraffe asked in amazement.

“I was trying to make myself at home,” the elephant said. The giraffe looked around, “Okay, I see the problem. The doorway, it is too narrow. We have to make you smaller. There’s an aerobics studio near here. If you take some classes there, we could get you down to size.”

“Maybe,” the elephant stated, looking unconvinced. “And the stairs are too weak to carry your weight,” the giraffe continued. “If you go to ballet classes at night, I’m sure we can get you light on your feet. I really hope you’ll do it. I like having you here.” “Perhaps” the elephant said. “But to tell you the truth, I’m not sure that a house designed for a giraffe would ever really work for an elephant, not unless there are some major changes.”<sup>42</sup>

**The question in Diversity Management is: How can we build together a house - *our institution* - a house in which any kind of diversity is respected, finds its place and is actively used?**

Many things can be deduced as to how we understand diversity management in R. Roosevelt Thomas's fabula about giraffe and elephant (related to diversity and diversity management).

### 3.2. What is diversity? What is diversity management?

Diversity exists and is becoming more present and visible in the reality of life today. The composition of the population is gradually changing, as we face demographic challenges that cause important changes in Europe's social and cultural map.

In chapter 3 – *Equality* – of the Charter of Fundamental Rights of the European Union adopted by the European Council in Nice on 7 December 2000<sup>43</sup>, appear main content defining diversity: “equality, non-discrimination, cultural, religious and linguistic diversity, equality between women and men, children's rights, rights of the elderly, integration of persons with disabilities.”

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<sup>42</sup> R. Roosevelt Thomas, (1999) *Building a House for Diversity*. New York, et.al.: American Management Association, p. 3-5.)

<sup>43</sup> [eur-lex.europa.eu/legal-content/RO/TXT/?uri...](http://eur-lex.europa.eu/legal-content/RO/TXT/?uri...)

In terms of the labor market, diversity has become a reality that can not be ignored by employers. In this context, the European business environment and public institutions have experienced a higher rate of participation of women, minorities, migrants, the elderly and various nationalities on the labor market. The emergence of these groups as employees, customers or service users has called for more creative loyalty strategies and innovations in terms of quality, professionalism and performance so that products and services to be adapted to meet diverse specific needs.

**There are still many institutions / organizations that ask the question: Why should we be interested in diversity? The usual answer is that discrimination is not right, either legally or morally. But today, a new idea is beginning to gain ground: a more diverse workforce can increase efficiency in achieving goals; can lift self-confidence, lead to access to new customer segments and may boost performance.**

The meaning of diversity has evolved since the 1970s, when the term was mainly used to refer to minorities and women in the workforce. For a long time, it has been common practice for managers to understand that diversity at work involves increasing gender representation, national or ethnic representation, that it is related to recruiting and retaining more people in so-called "under-represented" identity groups ". In this context, several minorities and women have begun to be involved in giving them more opportunities to advance in top management hierarchies.

Soon, diversity experts began to express doubts about this so-called affirmative action (AA). They noted that it was often an isolated initiative in the HR department and could not be applied across the institution. At first, they developed creative ways of recruiting and hiring to change the human mosaic of the institution. However, often the number of people who left the institution was high and in fact minorities and women have not progressed as hoped. Beneficiaries were often stigmatized by other employees for incompetence. The "dominant culture of men" perceived equal chances as a hidden form of reverse discrimination. As a result, equal opportunities programs have begun to be neglected. In public institutions where the number of women is predominant in many cases, they are not included in management structures.

### **3.2.1. How can we build together our institution in which any form of diversity finds its place, is respected, and is actively used?**

Demographic change has an impact on institutions and management strategies. Organizations should develop policies to help them to integrate diverse human capital and benefit from them in order to achieve performance. So, they have to learn to properly manage the diversity of their employees. **Diversity Management begins to play an increasingly important role in employee management** as it provides services in a context that requires them to develop such management. More and more institutions understand that they need to address a proactive way to manage change by capitalizing on the differences that exist between the people who make up the human capital present in the labor market.

Diversity management is an appropriate way to approach a highly flexible and diversified labor market that supports the organization both in terms of integrating, maintaining and motivating employees, as well as attracting new employees competent and suitable to the needs of the organization and able to respond and contribute to the achievement of its objectives.

**Diversity management is a strategy that includes everyone, consider the differences between people and different needs of each person and support them so that each person to maximize their potential to the highest possible performance.**

Diversity management promotes and encourages the individual needs and abilities of employees and transforms them into added value for the organization at the level of human capital. It also shows how opportunities can be increased for each employee to increase their potential and contribution to the organization's performance.

An organization uses diversity management when it promotes behaviors and individual actions that create an environment conducive to diversity, including cultural differences, differences in working style, thinking, age, race, gender, and where employees look for and use different opinions allowing for new solutions, creative ideas and added value.

The need to move beyond the HR department, but also including it, is evident in a study by the European Commission: "*Costs and Benefits of Diversity*."<sup>44</sup>

According to this study, the five most significant benefits for "organizations with active diversity policies" are:

- Strengthening cultural values within the organization;
- Support for the reputation of the institution;
- Help to attract and reward highly talented people;
- Improved motivation and efficiency of existing staff;
- Stimulating innovation and creativity of employees.

What is significant about these self-supported benefits is that the benefits concern the whole institution and not just one department, but all levels, particularly leaders and senior management.

Diversity management involves integrating ideas and practices of diversity into managerial and learning processes. **Employee diversity can also generate other competitive advantages for institutions, such as:**

- Employees with different characteristics bring different perspectives and information about the specific needs of the groups they belong to, which can increase the quality of the offer and the trust of the beneficiaries;
- The workgroup heterogeneity promotes **creativity in all the organization's activities**; members with different cultures bring new ideas and new perspectives on work tasks that can lead to creative solutions;
- Public institutions that increase employee diversity have **lower training costs**, reduced costs associated with legal litigation, **lower relocation costs**;
- Public institutions that have **a good reputation** for managing diversity will attract valuable candidates;
- Employees with different cultural backgrounds can generate better solutions to different institutional issues;

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<sup>44</sup> Costs and Benefits of Diversity - EU 2003 ExSum.pdf  
[http://europa.eu.int/comm/employment\\_social/fundamental\\_rights/index\\_en.htm](http://europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm)

- Diversity of employees leads to lower standards and **greater flexibility** in the organization's policies;
- Several studies have examined gender diversity in terms of top-managers and have noticed that **a greater number of women managers is associated with a higher performance of the organization / institution.**

Diversity management is the active and conscious development of a forward-looking process, strategic, value-based, communicative; diversity management means accepting and using certain differences and similarities as a process that adds value to the institution.

Diversity management can not exist without being built in a legal and moral climate. The ethics and law related to anti-discrimination are the very identity of the institution that should reflect human rights.

### **3.2.2. What measures are needed to ensure diversity management?**

Diversity management is clearly something more than diversity itself. The main question is how can a public institution address diversity in an active and strategic manner and **what activities should be done to implement a strategy of institution that integrates diversity as an asset of his identity?**

In the words of the fable about elephant and giraffe: First, the institution is a house that needs to know if and why it needs an elephant (eg strategy). Second, the institution needs to examine the house in terms of facilities (eg strengths and weaknesses - **SWOT analysis**). In other words, to harmonize certain differences institution must respect and recognize them. Third, elephant integration will inevitably be accompanied by tensions that should be accepted and resolved in a positive way (**change management**). Fourth, probably the whole house has to change somehow; otherwise, the elephant will not stay (**cultural change**). And finally, if the institution succeeds, it attracts more species and more individuals of the same species.

As soon as an institution focuses on recognizing the relevant differences and similarities in its environment, the next question is: "How can they be managed?" "Sensitivity" to differences is necessary, but in itself it is not enough to make positive things happen.

### **Diversity management involves changing decision-making processes.**

As a consequence, diversity management actually involves the integration of ideas and practices of diversity into the day-to-day managerial and learning processes of an institution and its environment. Decisions are taken in an atmosphere of trust, support and appreciation.

Thomas and Ely sum up this point clearly: “Yet this newmodel for managing diversity lets the organisation internalize differences amongemployees so that it learns and grows because of them...We are all on the same team with our differences—not despite them.”<sup>45</sup>

Managers need to get results. They are normally not interested in aesthetically pleasing grand theory. In order to achieve their objectives and gain advantage over their competitors, managers need to understand their external environments, including themarket, and the institution’s mission, vision, strategy and culture.

### **3. 3. Why diversity management is needed?**

Public institutions, associations or foundations work in contexts that require them to develop diversity management among their employees.

The forecasts for the following years show that workforce will be increasingly diversified according to gender, ethnicity, age, etc., due to:

- measures to integrate Roma people and people with disabilities into the labor market;
- aging population and increasing the age in which a person will be active in the labor market;
- the need to reduce segregation based on gender, ethnicity, age, disability, etc .;
- the importance of promoting equal opportunities in all areas of activity and profession.

Given the decrease in the number of employees and the diversification of the population on the grounds of gender, ethnic, cultural, religious or sexual orientation, any type of entity that

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<sup>45</sup> **Thomas, David and Ely, Robin (1996):** “Making Differences Matter: A New Paradigm for Managing Diversity”, *Harvard Business Review*, pp. 9-10



employs a work force is interested in attracting and retaining competent and appropriate employees for their needs.

**The performance of an institution depends on how it learns to properly manage the diversity of employees.** This learning process takes place in the context in which institutions tend to attract, employ and retain similar types of employees. This tendency, perpetuated over time, by rejecting diversity, forces organizations to develop specific mechanisms to increase the heterogeneity of their employees.

**Institutions that will be able to acquire and maintain employees with different values, attitudes and behaviors will be able to gain competitive advantages and performance.**

Diversity pass beyond increasing the number of people with different characteristics, this being just the first step. Diversity at work should be understood as the existence of different perspectives, of the different working methods of members belonging to different groups.

Employees are different and therefore offer diverse perspectives and knowledge about how to solve the work tasks at work field. The way each employee builds a process, accomplishes goals, develops working teams, communicates, coordinates, is different. **Every employee's perspective is an opportunity to improve the organization's strategy, processes, procedures.**

Recognizing that employees are making decisions based on their past experiences, institutions or associative structures can develop ways to incorporate different employee perspectives into redefining tasks, procedures, services, strategies, and problem-solving practices, even in organizational culture.

In doing so, public institutions or associative structures learn to manage the diverse perspectives of employees, taking advantage of diversity. The ability to manage situations where others have different opinions or behave differently helps a person also in his personal life.

Whatever is contrary to his expectations or desires, it is a situation of learning and restructuring his or her own views. Cognitive flexibility - the ability to accept and find or use different alternative perspectives for a problem or thing is the healthiest ability with the highest protection role for a person's social and emotional functioning.

## **Chapter 4. THE MAIN OBSTACLES IN PROMOTING DIVERSITY AND DIVERSITY MANAGEMENT**

**4.1. Stereotypes and prejudices** represent one of the main causes of discrimination and it is also an important obstacle in fighting against discrimination and the diversity management, respectively.

At work, our own beliefs and stereotypical opinions about certain categories of people can lead us to inadequate behaviors, to make judgments and take discriminatory decisions that we can absolutely reach in a subjective way and without taking into account the person, its individual and particular features. The situation becomes even more complex when the person is part of a group which is, traditionally, in a disadvantageous situation, with a high risk of being discriminated. Researches highlight that the negative stereotypical expectations from a particular group of people can influence the self-confidence and the performance of the members of that group.

**Working with diversity involves the understanding of concepts such as stereotypes, prejudice or discrimination.** These notions are no longer unknown to the common people, they have become part of the present times. Humans have become more and more aware of their existence and effect. Therefore, it is important trying to deeply understand the reason why we assign attributes according to a group, without knowing the individuality in detail. Lippmann "is the one who introduced the notion of stereotype in his book" *Public Opinion*<sup>46</sup>. His most famous metaphor is that of the images in our mind. "Lippmann claimed that humans needed a more simplified version of the world. These mind images are actually a representation of the environment, which is more or less created by humans. What matters is that these images are easier to control and understand than all the real environmental information.

**Stereotypes are sets of features attributed to the members of a social group.**

By these features, we are able to explain, to a small extent, the world that surrounds us. Perhaps, we will never identify a person to be Italian as he speaks much and gesticulates or a French as

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<sup>46</sup> [https://books.google.ro/books/about/Public\\_Opinion.html?id=eLobn4WwbLUC&redir\\_esc=](https://books.google.ro/books/about/Public_Opinion.html?id=eLobn4WwbLUC&redir_esc=),

he only drinks champagne and is arrogant, but in order an Italian or French may not be just simple words for us, we need an image in our mind that gives them a meaning. That is why we use stereotypes. From every box of our mind, we need to remove the tools needed to understand the world around us. The stereotypes are heavily loaded with their attached feelings. They are the stronghold of our tradition and behind its defense, we can continue to feel safe in the position we are dealing with.

The stereotypes can be: **positive**, when they bring together in their structure the positive-valued features at social level and **negative**, if they bring together some negatively valued features. Generally, the individuals develop stronger negative stereotypes about groups other than those they are part of.

*Stereotypes are collective, in terms of origin, although they are shared by each individual. They tend to become "normative shared beliefs, consisting of the values and ideologies of the group to which the person belongs".*

Have you ever wondered what are the negative effects of our stereotype thinking, by putting labels? For example, how do you think people of Arab origin feel at an airport, after the events on September 11<sup>th</sup>, 2001 in the USA? How do you think the Roma people feel in a shop in Italy? Or a woman working as a traffic agent?

The threat of stereotyping has been signaled by Joshua Aronson și Claude Steel<sup>47</sup> regarding the intellectual performances of some black persons. The phenomenon is related to the fact that, under the threat of a stereotype-influenced assessment, black people have a lower performance due to the social pressure of not making mistakes. Beate and Forster explain that the desire to not make mistakes leads to a higher attention, meaning a slower rythm of solving, even if the results are correct. This is the manifestation of the negative stereotyping threat (according to which the black people and women as well, will perform less well than the white people and men, respectively).

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<sup>47</sup> Stereotype Threat and the Intellectual Test Performance of African Americans. *Claude M. Steele*. Stanford University. *Joshua ArOnSON*. University of Texas .1995

But under the influence of the positive stereotype, which basically gives the person confidence in his or her own strength, the speed can increase with the risk of not good results, if this is not tempered. An important characteristic of stereotypes is given by the great time stability.

**Stereotypes are resistant to changes**, even when the reality provides evidences contrary to their content. However, stereotypes are not rigid schemes that are activated regardless of where the individual is. Ellemers and van Knippenberg<sup>48</sup> show that the features that the stereotype contains are activated differently, depending on the social context of a person. In a certain situation, there are used only those elements of the stereotype that best fit the specific situation and which the individual selects in an adaptive way.

As these stereotypes are formed unconsciously and are the tools that we have at our disposal to explain what surrounds us, most of the time, in such situations, we do not think of the negative effects of restricted thinking that limits our choices to analyze and deeply understand the reality. We are out of the view that, in this way, we not only afflict those to whom we apply these stereotypes, but also restrict our own liberty and place ourselves obstacles in our development as individuals.

## Prejudices

*Prejudice is an opinion, a preconceived (and often erronate) idea that a person makes about something, usually adopted without the direct knowledge of the facts. It is based on stereotyping, it is universal and rigid and can be a thought, a conception manifested through discrimination. It is an individual or collective attitude related to a person or a group of people. It is a judgment that does not have a rational justification, often erronate and pejorative, adopted without the direct knowledge of the facts.*

It is based on the term stereotype, which it includes.

Prejudice is the component of knowing the individual and collective attitudes on other individuals and social groups. Stereotypes and prejudices have an effect on the normal development of the human personality, both intellectually and socially. The intellectual development of a person who refuses to interact with different cultures will obviously be more

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<sup>48</sup> Haslam, A., Van Knippenberg, D., Platow, M., & Ellemers, N. (Eds.). (2003). *Social identity at work: Developing theory for organizational practice.*

limited than that of a person who frequently interacts with people and cultural values as diverse as his. Also, the social development of a person who refuses to contact with individuals from different cultures will be limited because the horizon of his or her social and inter-human relations will be reduced.

## 4.2. Communication and the art of coping with conflicts

**Communication must be understood as a very complex process, apparently simple, but which must be treated as a vital factor in achieving both organizational and individual goals.**

Communication can be analyzed both from the perspective of the external environment of the organization (beneficiaries, partners, authorities and public institutions) and from the perspective of the internal environment between the human resources of the organization.

The internal communication helps:

- achieving an optimal circulation of information within the organization;
- operationalizing the management functions;
- monitoring, evaluating and motivating the employees;
- developing and maintaining competitive teams.

What one person must do as a manager and/or employee in order to achieve his/her goals:

The manager must :

1. participate in the definition of objectives;
2. transmit information to the staff;
3. know and understand the individual objectives of the employees;
4. create an environment adapted to the compatibility between the organizational and the personal goals.

The employee must:

1. know the mission and objectives of the organization;
2. understand and accept his/her role in achieving these goals;
3. get closer to these objectives so that he/she may proactively participate in their fulfillment;
4. find a way of harmonizing the organization's objectives with those of his/her own.

Communication and management are complementary and elementary disciplines for the success of an institution. **Being a manager means knowing how to coordinate a team, having leadership skills and knowing how to communicate.**

The management is primarily concerned with people. The main objective is to involve them in the tasks they have to perform, the efficiency with which they are performed being a very important parameter, especially taking into account the fact that the management involves working together in teams. The manager will always use *the communication processes* to be understood, to coordinate the organization's activities, to make decisions and implement them, to establish partnership and collaboration contracts etc.

**The communication makes possible the interaction with the members of the work community.**

**The interpersonal relationships within an institution must be based on trust, self-esteem and self-improvement stimulation so that the performance level of each employee may reach its maximum.**

### **Barriers in communication**

#### A. Barriers at the communication level:

- a. the tendency to judge, approve or disagree with the views of the interlocutor (the critical eye, labeling, diagnosis etc.);
- b. the fast provision of solutions (imperatives, threats, moralizing, excessive questioning, providing solutions etc.);
- c. the lack of interest in each other's needs and concerns (diversions, the logic own argument, ensuring that everything is fine).

#### B. Cognitive barriers:

- a. Stereotypes - beliefs about the characteristics, attributes and behaviors specific to members of a social category. These beliefs can arise from the indirect learning or from meeting with one or more members of that category, generalizing the whole category;
- b. Prejudices – negative attitudes which impose unfavorable generalizations in relation to the members of a particular group.

**4.3. The conflict** is a reality of everyday life that each of us has encountered one or more times and which always influences us. In one way or another, we are all involved in conflicts. The organized and systematic approach of the conflicts is a necessity, even more important as the needs and the fears that lead us in the conflict situations are not aware of all those involved. Anyone can handle conflict situations so that the attacker's behavior may not increase and the respect for one's own person may not be harmed.

A conflict may appear in many ways. The conflicts are disagreements regarding attitudes, goals, threats to the personal values, style, moral elements, placement of responsibilities, procedures etc.

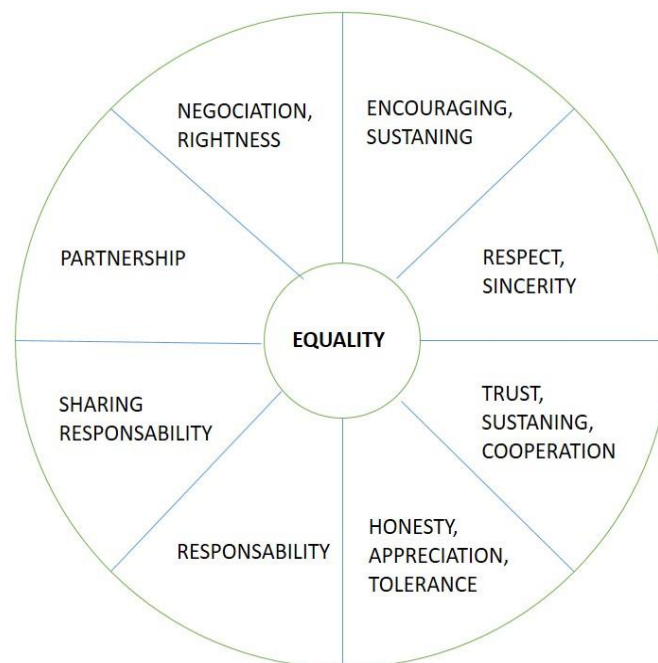
In the field of conflict explanation and management, there are various, more or less real and realistic theories, ideas and principles. But there are some ideas that each of us should understand in order to increase our personal capacity to deal with the conflicts that affect us:

- The conflict is a natural part of the everyday life, inherent in the inter-human relations;
- The conflict may be treated in a positive or negative way.

From a positive thinking approach, the conflict can have creative results, it can be a positive force for the personal growth and social change. Some conflicts may be positive, they help accelerate the team learning process. The conflicts are good if, after happening, the team works better, they create trust, strengthen friendships and produce satisfaction. They can redefine a problem, help in self-knowledge, produce changes, new energies, increase the engagement and participation. They can be fun if they are not taken seriously, they can develop creativity and help deflate 'the emotional waste';

The human rights are often violated during conflicts. When violence is used to resolve conflicts, that human rights are always violated.

Using the **Non-violence Circle** in the diversity management is a necessary step.

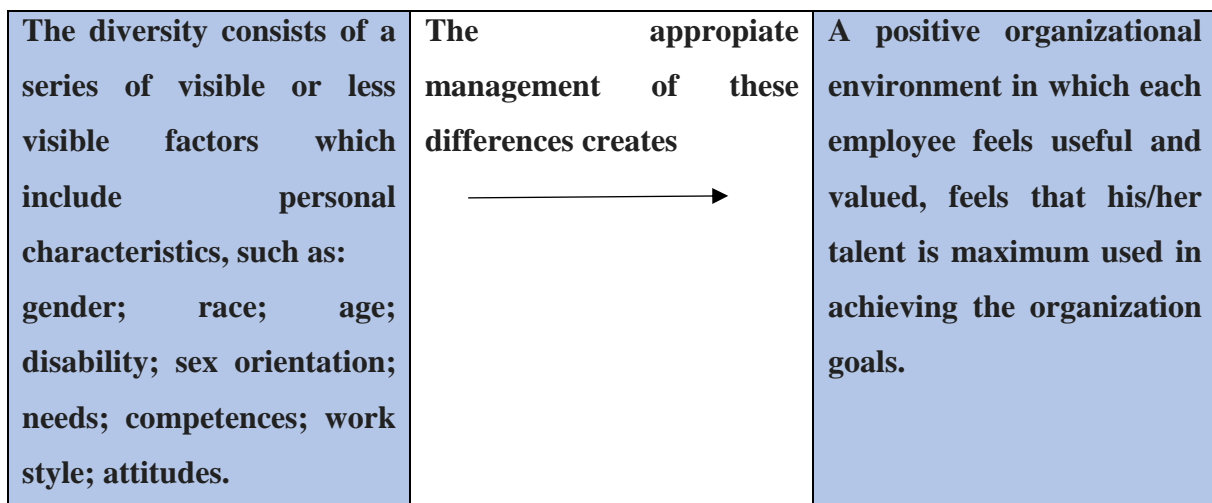




## Chapter 5. THE DIVERSITY CHARTER – A PERFORMANCE MANAGEMENT TOOL

### 5.1. The conceptual analysis

As it was analyzed in the previous chapters, the diversity is related to supporting and promoting non-discrimination in relation to certain criteria (gender, age, ethnicity, religious convictions etc.), respecting the equal opportunities and treatment (at recruitment, employment, promotion) in a tolerant organizational climate which favors the individual assertion/valorisation. In this register, the relationship between certain groups or values that must be valued and the organizational profile of the prodiversity can be expressed in a synthetic way: the appropriate management of the different personal characteristics (gender, race, needs, skills, styles) generates an organizational environment that valorises the talents in the benefit of the employees and, implicitly, of the organization (Aninoșanu L. and collaborators, 2008).<sup>49</sup>



<sup>49</sup> Livia Aninoșanu, Daniela Marțiș, Irina Sorescu – The Diversity Management in the work relation: How do we promote the Diversity Management in organisations, CPE – The Center for Partnership in Equality, 2008 (available at the link <http://www.cpe.ro/wp-content/uploads/2016/03/Cum-promovam-managementul-diversitatii-in-organizatii-1.pdf>).

The concept of diversity refers to the many types of people who form an organization (public or private). Each individual is unique in terms of the specific characteristics, but at the same time shares certain things in common with others. In relation to these considerations, we can adopt the definition according to which *'the concept of diversity refers to the tolerance, respect and consideration that a company demonstrates in relation to the particular characteristics of each person'*<sup>50</sup>.

On the other hand, **the diversity management** implies the use and mobilization (engagement) of the differences and similarities of each person for the benefit of the organization, so that each may contribute to performance. Although the specialized literature focuses on the private environment (related to the corporate ethics, the diversity generating economic competitiveness), in the last period (probably also due to the extension of the NPM - *New Public Management* paradigm), the diversity is also increasingly addressed to the level of the public entities (state - owned companies, institutions and public services). In the private-public register, there are only differences of nuance from the perspective of the beneficiaries (client - citizen), respectively of the finality (increasing the business to maximize the profit versus the institutional performance for the benefit of the citizens).

In conclusion, the diversity management is actually a strategy that includes all the people, taking into account the differences between them and the different needs of each one, and supports them, so that each person can fulfill as much as possible his potential, at high performance standards (individual, organizational)<sup>51</sup>.

Performance must not be seen only as an organizational benefit, but also in terms of the long-term effect (impact): the employee diversity allows a better understanding of the needs of the customers/citizens (people with disabilities and/or at risk of social exclusion, minorities - ethnic, religious etc.).

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<sup>50</sup> Practical guide to launch and implement a Diversity Charter, European Commission, Luxembourg: Publications Office of the European Union, 2015 (available at the link [http://ec.europa.eu/justice/discrimination/files/emerging\\_charter\\_guide\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/emerging_charter_guide_en.pdf)).

<sup>51</sup> Livia Aninoșanu, Daniela Marțiș, Irina Sorescu – The Diversity Management in the work relations: How can we promote the Diversity Management in organisations. CPE – Centre for Partnership in Equality, 2008 (available at the link <http://www.cpe.ro/wp-content/uploads/2016/03/Cum-promovam-managementul-diversitatii-in-organizatii-1.pdf>).

There are 3 main premises on which the diversity management is based. These can be summarized, as it follows:

- To be fulfilled the main employee expectations (equity<sup>52</sup> - for salary, fairness in resource and information sharing, reasonable work conditions);
- To be accepted the idea that the employees have different values, perceptions and convictions, and that these are very important in explaining the decisions and actions they have taken;
- To be approached as a continuous process because the diversity of the employees requires solutions, approaches or different incentive and motivation mechanisms.

On the other hand, ignoring the issue of diversity (starting from the false premise that the existing legislation and policies are sufficient to generate an organizational culture) generates a series of negative electives (individual, interrelational, organizational). A typology of the **negative effects caused by an inappropriate management of diversity** at the workplace could look like this:

1. **Individual negative effects:** (leaving the organization - no longer found in the work group, low adherence to the organizational values and goals, poor communication - even isolation, low work satisfaction, loss of the individual performance, lack of the self-confidence, discomfort, insecurity etc.);
2. **Negative effects on the work teams:** (low interaction among members, conflicts, non-involvement/formal presence, low performance of the group/false-teams);
3. **Negative effects at the organization level:** unproductive competition, non-fulfillment of the strategically assumed objectives (lack of interest, employees focus on the personal agendas), innovation and performance decrease, image deficiency (the organization is perceived as unprivileged, closed, incapable of offering quality products/services to a diversity of beneficiaries).

In this context (of defining some typologies), some specific barriers of sustaining and promoting the diversity must be mentioned. We can distinguish 4 categories of barriers<sup>53</sup>:

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<sup>52</sup> Practically, the employees want the organization's resources and information to be fairly distributed to all the members of the organization and the individual performance must be the only criterion that makes the difference between the employees who receive more than those who receive less resources.

<sup>53</sup> *Best Practices of the Private Sector Employers. The US Equal Employment Opportunity Commission, 1998* (available at the link <http://disabilitykey.com/downloads/EEOCBestPractices.pdf>).

- a. Barriers in recruitment and employment;
- b. Barriers in the career development and promotion;
- c. Barriers in establishing the general work relations <sup>54</sup> and conditions;
- d. Barriers in establishing work relationships and collective redundancies.

## 5.2. The benefits of diversity

The diversity of the employees brings to the organizations a number of benefits, including<sup>55</sup>:

- The diversity of the employees = the diversity of citizens and their needs;
- The work-teams heterogeneity = innovation, ideas and creative solutions (a diverse food supply);
- In the private sector, the organizations that increase the employee diversity have lower training and staff relocation costs, respectively reduced costs associated with the legal disputes (contractual litigation, various other court processes);
- The organizations that have a good reputation for the diversity management will attract very valuable candidates (see also Google's case, the recruiting policies used by IT giants, generally);
- The employees with different cultures can provide better solutions to the organization's various issues;
- The diversity of the employees leads to a lower standardization (debureaucratization) and to a greater flexibility of the organization's policies (work hours, holidays, recruitment and training policies etc.);
- Several studies have shown that the gender equality used in management (the sustained presence of women in leadership) stimulates the competitiveness and performance;

Other relevant benefits: (1) strengthening the cultural values at the organization level; (2) improving the reputation of the organization; (3) greater chances of attracting and retaining highly valued (talented) employees; (4) improving the motivation and efficiency of the existing staff; (5) providing better services, increasing the satisfaction of the clients/citizens.

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<sup>54</sup> References to the job descriptions, tasks, duties and responsibilities;

<sup>55</sup> Iustina Ionescu, Combating discrimination at the workplace – a practical guide for companies, The Center for Legal Resources & The Center for Partnership in Equality, Bucharest, 2007.

Finally, among the collateral advantages, we can mention that the diversity contributes to overcoming the drawbacks of the labour shortages, reduces the migration (the volatile labour market, especially for the sectors requiring specialized training) and the absence rate (motivation and appropriate work climate which open the door to new and diverse competences and ideas), and, ultimately, the managerial capacity as a whole has benefits (leadership, openness to new and diverse perspectives, increased tolerance and appetite for innovation and interrelation).

How is diversity approached at work in Romania? The existence of such projects and the progress made in harmonizing the national legislation with the European one indicates that, including within the public sector, the diversity is regulated. Is it also established at the organizational level, producing its beneficial effects (at the level of a person, organization, society)? We think we can speak here rather of the existence of a paradox: the diversity is sublime ... but it is totally absent! Why do we think things are so?

It is unanimously recognized that the legislation and public policies prohibit the discrimination of any kind (on the basis of gender, ethnicity, religion, sexual orientation etc.) and ensure the equal opportunities and treatment. This is especially because the emphasis on the diversity of skills and resources is formalized - by rules and codes on recruitment, promotion, conduct and behaviours (with reference to the ethics and integrity). Therefore, there is no question about the existence of regulations, strategies or programs that restrict the right to diversity and encourage intolerance or discrimination, value the uniqueness and incriminate (stigmatize) the variety.

On the other hand, ensuring the equal opportunities does not guarantee the establishment and implementation of the diversity management at the workplace (in the absence of policies, practices and mechanisms adapted to the institutional reality). The table below justifies the previous statement, being relevant from a comparative perspective of equality versus the diversity management.

<b>How is the difference between equal opportunities/affirmative action and diversity management perceived?</b>	
<b>What are the policies for equal opportunities and affirmative actions?</b>	<b>What does the management of the employee diversity mean?</b>

They are compulsory	It is voluntary
The justifications are legal, social, moral	The justifications are related to productivity, efficiency and quality
The accent must be put on race, gender, ethnicity	The accent must be put on all the elements of the diversity
They change the team members	It changes the systems and processes
They are perceived as preferences	It is perceived as equality
They are implemented on a short time	They are implemented on a long time and continuously
The basic reason is given by assimilation	The basic reason is given by individuality

Source: after The National Institute of Health Diversity (Aninoșanu and collaborators, 2008)

Furthermore, in the absence of a culture of diversity, the intolerance will produce its effects - because if some minority categories feel excluded from society, they will not feel comfortable and valued at work. These will determine the lack of performance and poor service quality. Moreover, it is relevant that, according to a report on discrimination<sup>56</sup>, on average, about a quarter of the respondents felt they were not comfortable if they worked in a team with a colleague of another ethnicity, religion, physical disability or other sexual orientation. More specifically, from the teamwork perspective, the main four categories of people who provide the highest level of discomfort (the gathered answers for ‘not at all comfortable’ and ‘quite uncomfortable’) are in order: HIV/AIDS infected persons (46.73%), the persons of other sexual orientation (39.53%), Roma persons (37.32%), Hungarians (26.36%). Moreover, according to the above study, the comparison between the declared tolerance and the tolerance defined on the basis of discrimination perceptions and attitudes clearly shows that the respondents are much less tolerant than they say.

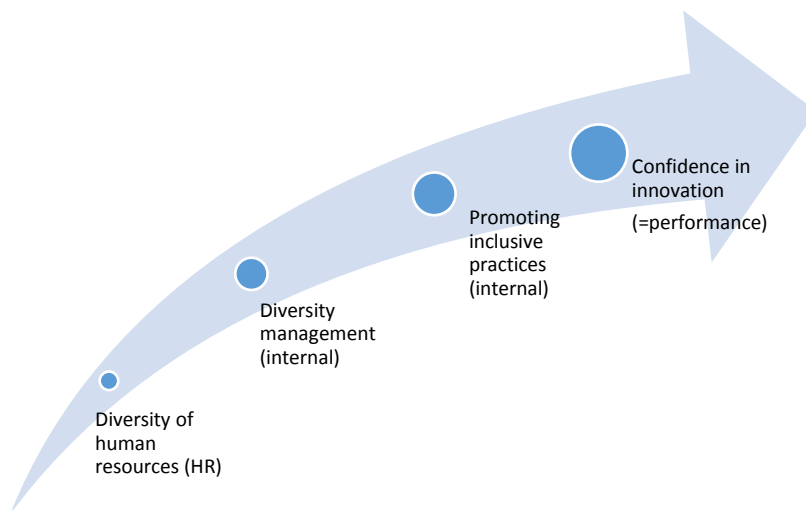
Although the comparative analysis between the based reference survey and our study is not appropriate (periods, samples and different collection tools), we can highlight some common

<sup>56</sup> Adriana Iordache and collaborators., *Discrimination in the higher education environment: perceptions, combating mechanisms and the reflection of the phenomena in mass-media*, The Academic Society in Romania, Bucharest, 2015 (available at the link <http://sar.org.ro/wp-content/uploads/2015/12/Raport-de-cercetare-Mob-univ-2.pdf>).

elements<sup>57</sup>: on average, a quarter of the respondents are relatively intolerant, the high standard deviation values signaling the same gap between the declared tolerance and the effective one (also due to the high level of social conformism - the respondents working within some public entities governed by rules which prohibit intolerance).

On the other hand, one of the most important issues related to the implementation of the diversity in the workplace is related to the model/reference framework that should be followed. More specifically, in order the diversity to generate performance, what should be done first, what would be the order of the priorities? Firstly, do we need to establish management rules and policies, do we must start from a diversity of the human resources, do we must promote the inclusive (existing) practices? The figure below is relevant from the perspective of the providing answers.

*The theoretical model: the capitalization of diversity for innovation (Daniel Gerson and collaborators)*



Source: Managing a diverse public administration and effectively responding to the needs of a more diverse workforce, OECD, EUPAN survey, 2015.

The above model shows that there should be a base, a reservoir of diversity. This means a diversity of resources (people of different ethnicity, people with disabilities, cultural minorities etc.) that involve a variety of skills, opinions, beliefs, values, attitudes etc. On this basis,

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<sup>57</sup> Also favored by the fact that they took place in relatively close periods (2015 and 2017), respectively on a statistical population with similar levels of training.

the diversity management (rules, mechanisms, control tools, monitoring and evaluation, policies) must be put into place. As a consequence, a functional and operational diversity management creates the premises for the promotion and multiplication of the inclusive practices (the organization integrates all the resources of the internal diversity and gives signals to the outside, it has a management and a culture of diversity and is willing to receive new members and to satisfy the needs of a diversity of beneficiaries);

The result is a powerful and innovative organization, the diversity being the one that has fueled the whole path to achieving that goal.

The theoretical model should not be regarded as a dogma (as the only way to achieve the proposed goal). On the other hand, without performing an institutional analysis in a comparative register, the fact that some stages are reversed in the responding institutions (establishing diversity management as the starting point) is related to:

- the culture of the public organizations (still tributary to a formalized, bureaucratic model in the Weberian sense);
- the level of the issue awareness;
- the differences between organizations (private versus public), respectively countries and/or cultural spaces (Romania versus other EU member states).

### **5.3. The Diversity Charter – a fundamental tool for the management diversity at the workplace**

Analyzing the specialized literature, one can notice that diversity can be formalized in several different ways, as it follows:

**Legislative:** because, first of all, the diversity requires respecting the law. It is well known that discrimination is prohibited both in the European regulations and in the national legislation of the member states.

**Public communication/Image:** the implementation of a visible and coherent diversity policy allows the organization to design a positive image of the employees, suppliers, beneficiaries and public partners.

**Human resources:** a diversity policy allows the optimization of the strategies and mechanisms for the human resource management. Indeed, if an organization recruits or promotes only the white, male, heterosexual, non-physical, and single-educated candidates, many other



potentially more qualified candidates will be lost in this process. The diversity policy enables the organization to expand its recruitment group and multiply the career chances, for example it facilitates the access to employment for all talents (valuable human resources).

**Performance:** perhaps the most important, a diversity policy allows the organization to optimize its performance, to be creative and innovative. The fact that an organization (public or private) will have many talents with different profiles and abilities – thus, a diverse and inclusive labour force - represents a source of more innovation and creativity. In fact, the documentary analysis has shown that the uniformity does not necessarily guarantee the efficiency of a teamwork. Moreover, the diversity within a team, when it is properly managed, promotes constructive exchanges, mutual dynamism and stimulated effects, because the differences stimulate (and the dialogue and competition are not excluded in this case) and open the door to new markets/partners/inter-institutional collaboration etc.

On the other hand, in the case of the permissive and effective organizations (low costs in relation to the performance achieved) and in the absence of the austerity policies, the large number of recruited persons allows an extension of the skills, networks and experience available to the organization. The employees from different backgrounds will better communicate with an expanded base of partners/citizens - which is itself diversified. Thus, even if the diversity at work action at an intra-corporate level, it produces its effects in the external environment (benefits, multiplier effect, even impact effect).

Therefore, a coherent diversity policy will generate an inclusive environment (an inclusive organizational climate) and, moreover, will allow all the employees to feel comfortable, well integrated, respected and appreciated. Consequently, this implies implementing a human resources policy that focuses on recognizing and capitalizing on the individual competences rather than on sub-optimal criteria (discrimination, favoritism).

### **The Diversity Charter: nature and objectives**

Beyond declaratory principles and intentions, a Diversity Charter must provide measures which, once implemented, will support and promote the diversity, non-discrimination and the equal opportunities at work. It is evident that the employers (whether public or private) who want to respect the principles of diversity and follow-up the measures should sign such a

Charter (signing is nothing else but a formalization of assumptions, a guarantee of their fulfillment). On the other hand, signing a Diversity Charter is a voluntary act assumed at institutional level (signed by the management, but agreed by all the employees of the organization) and involves a systematic effort to support diversity through specific program initiatives, actions and activities, by establishing formal rules (regulations, guides procedures), followed by the promotion and multiplication of the customs, practices, and mechanisms (monitoring, control, evaluation etc.)

Therefore, the programmed-formalised approach (established rules) plays a trigger role (in the beginning) and a monitoring role (on a regular basis/periodically); it combines with the establishment of some non-formal (spontaneous) action mechanisms which, over time, must change the organizational culture in such a way that it can be said that **the diversity management** (rules, strategies, policies) **has generated a culture of diversity** (customs, practices).

Moreover, the Diversity Charter can and should vary from one country to another, from one sector/domain to another, from one organization to another, and so on. However, the documentary analysis carried out in this study showed that almost all of the Diversity Charters in the EU Community area also incorporate a set of common objectives, referring to:

**Awareness** - raising awareness of the importance of diversity and its socio-economic impact;  
**Associativity** - bringing together all the stakeholders: companies, local governments, civil organizations fighting against discrimination, associations, universities etc. The diversity issues will find their way only if they are supported by companies, public authorities, academia and civil society. In this respect, a Diversity Charter can be an ideal meeting point for all the stakeholders;

**Support** - from European perspective, supporting the signatories of the Charter is necessary in order to achieve three key objectives:

- Productivity and performance;
- Life quality with a good social level for the European citizens;
- Respecting the European directives and the national legislation on non-discrimination.

Furthermore, it is also necessary to develop tools to help the signatories to implement an inclusion and promotion diversity policy that is in line with the requirements of the Charter.

**Multiplication:** this ultimate objective of facilitating the best practices exchanges with other members of the Diversity Charter platform is important not only in terms of promoting but also of identifying the solutions for creative implementation that will bring sustainability to all the efforts to promote diversity at European level.

#### **5.4. The EU Diversity Charter Platform**

Since 2004 until now, 16 National Diversity Charters have been set up across all Europe to encourage the companies to implement and develop the diversity policies. The Charter is a short document voluntarily signed by companies which assume themselves to promote diversity and equal opportunities at work, regardless of age, disability, gender, race or ethnic origin, religion or sexual orientation.

In 2010, the Diversity Charter signatories across the European Union gathered to work at the EU Diversity Charter Platform. This evolution has been funded by the European Commission under the project ‘Supporting Voluntary Initiatives for Promoting the Diversity Management at the Workplace in the EU’.

The EU exchange platform allows the existing Diversity Charter promoters to meet on a regular basis, share their experiences and develop common tools. Among the greatest achievements is that over 7,100 companies, including the public bodies and NGOs, protect over 13.6 million employees.

#### **2. The main conclusions**

After 10 years of launching the first Diversity Charter in France, more than 7,100 organizations with about 13.6 million employees signed the National Charters across Europe. The numbers are continuously increasing. Every year, between 500 and 600 enterprises join the initiative.

A substantial majority (95%) of the Charter members said their signing had an impact on the development of their policies and activities in the diversity process. The EU arithmetic average is 3.23 on a scale from 1 (= no impact) to 5 (= strong impact). The impact of the Charter is reported to be slightly stronger in those countries where it has been active for some time (for example, 3.27 for France, 3.88 for Spain).

There is a consensus among the Charter members on the role of the platform at EU level. Its existence is considered valuable in all the countries. 66% of individual activities vary in

providing examples of good practice, over 62% in presenting the diversity as management tools and publications and 46% in providing the networking opportunities. The training courses and harmonization with the national law have been repeatedly mentioned as services that are further desired by the signatories. Not all the signatories were aware of the EU platform and its activities. This shows that there is a possibility for the increased promotion of the platform activities within the signatory members.

In terms of the target groups, the main focus is on the gender equality (48%) followed by generations (46% for the elderly, 45% for young people), disabled persons (44%) and race or ethnicity (28%), while for the sexual orientation (16%) and gender identity (15%) less attention is paid. However, the priorities change from one country to another. For example, ethnicity as a target group of the companies changes from 100% in Sweden to 8% in Finland, where the Charter is active for two years and its members are in the early stages of their diversity. In general, the gender values as a top priority and the sexual orientation as the lowest priority are in line with the diversity studies in Europe and around the world.

Only 104 signatories<sup>6</sup> (6%) have presented values in terms of increasing the target groups number of the among company employees. The average values range from + 29% for the people involved in the work and personal life balance programs, + 28% in the ethnic minorities up to + 25% for the trained people. Although the results are not representative, they present the first effects of the diversity activities and inclusion on the structure of the company's workforce.

The Charter signatories take diversity seriously and develop and implement concrete measures. Approximately two-thirds (66%) of the respondents have included diversity in their corporate culture. 56% have integrated diversity in their internal and external communication. 46% of the Charter members reviewed their human resources processes on the principles of non-discrimination and the promotion of diversity. Only 19% use indicators in order to monitor their diversity policies. The low value of the scale is based on other diversity studies in Europe.

The European Commission and the Diversity Charter Platform have already addressed the need for further action on measuring and presenting examples of good practice in the recent publication 'Diversity Assessment - Impact on Business'.

More and more signatories of the Charter understand that managing and promoting the diversity and equality has an important impact. Since the implementation of the diversity policies, the

majority of the survey respondents have seen considerable improvements in different areas. The positive effects range from integrating the diversity into the company's overall social responsibility policy (60% of the signatories who responded) to more respectful behaviour patterns (47%) with fewer staff conflicts which may result from the cultural or age differences etc., (46%) to attract and keeping the talented people (46%). One in four companies (25%) said that diversity had an impact on the business performance.

In addition, the signatories were asked to estimate the number of the employees who became aware of diversity as a result of the policies and activities implemented by companies. Almost every other organization (> 42%) said that the percentage of the workforce awareness increased from 50% to 100%.

Totally, 1148 responses (70%) were received from organizations with fewer than 250 employees. This indicates that the diversity policies and the Diversity Charter are becoming more relevant for SMEs and micro-enterprises. About 40% of them have less than 10 people employed. Almost one third of all the Charter signatories (30%) are large companies (with over 250 employees). The percentage of the large companies which responded are from countries like Austria, Germany, Ireland and Sweden, with values above average (each > 60%).

As for the economic activities of the signatories (according to the NACE code), more than one third of the organizations were classified as 'Other service activities' (38%), followed by 'Others' (9%), 8% for production and 'healthcare and social assistance' with 7%. Only 48 signatories (3%) represent the public administrations.

Finally, the signatories were asked about the organizational anchor to the diversity issues. 57% of respondents designated a person responsible for the diversity management. Most of these people (52%) are attached to the Human Resources Department of the companies and only 25% are part of the top management. Surprisingly, only 7% of the people responsible for diversity are nominated in the CSR (Corporate Social Responsibility). This shows that, despite the thematic overlaps, the approaches are treated differently in most organizations. More than half of the signatories (60%) installed a direct report to the Board of Directors.

### **Examples of signatory countries**

#### **FRANCE**

Name: Enterprises Diversity Charter

Launching year: 2004

Signatories: 3.223

The number of targeted employees: 4.082.000

The percentage of the respondents to the questionnaire: 39%

Webpage: [www.diversity-charter.com](http://www.diversity-charter.com)

The Diversity Charter in France was launched in October 2004 by Claude Bebear, the General Manager of AXA and was the first such initiative in Europe. The Charter is hosted by *IMS-Entreprender pour la cite* in Paris. Currently, the signatories of the Charter are 3,200 companies (76%), but public institutions are also included.

#### Key-points – France

The vast majority (96%) of the signatories to the Charter stated that its signing has influenced the development of their diversity policies and activities. The arithmetic average is 3.27 on a scale of 1 (= weak impact) to 5 (= strong impact). In addition, in the estimation of 74% of organizations, the diversity could be included in their corporate culture. These figures are some of the highest compared to other European countries. They also express the effects of signing from a long - term perspective, the French Charter being operational for 10 years.

For the target groups, the main diversity activities focus on generations (52% seniors, 49% young people), disabilities (47%) and gender equality (43%). The different sexual orientation and gender identity receive less attention (13%). While the scale is in line with the European average results, the figure for race or ethnicity is considerably lower. This may be due to the fact that the French law prohibits the racial background and the word ‘race’ is considered to be pejorative and racist in the French language.

More than half (58%) of the respondents have integrated diversity into their internal and external communication procedures. Moreover, the diversity management activities are the result of a review of the human resources procedures in terms of non-discrimination (47%) and the involvement of the internal stakeholders (38%).

However, only 16% of the respondents use indicators, monitor the evolution and effects of the diversity policies.

Overall, the signatories have seen improvements in the different areas, ranging from integrating the diversity into the company's overall policy, the social responsibility (73%), behavioural changes (43%), attracting and retaining talented human resources (43%), improving the work conditions (43%) and fewer conflicts among the employees (43%).

#### ITALY

Name: Carta pentru egalitate de șanse si egalitate la locul de muncă

The year of launching: 2009

Signatories: 895

The number of the targeted employees: >700.000

The percentage of the respondents to the questionnaire: 26%

Webpage: [www.cartapariopportunita.it](http://www.cartapariopportunita.it)

The Italian Charter for Equal Opportunities and Equality at Work, supported by the Italian Minister of the Labour and Labour Occupation Ministry, was launched in October 2009 by the National Labour Force Equality Council, the Fondazione Sodalitas and the Steering Committee of the promoters: AIDDA, AIDAF, Impronta Ethics, UCID.

The charter covers all the areas of discrimination: gender, age, ethnicity, disability, sexual orientation and religion, with a particular focus on the gender equality at work. The poll was the first of its kind and was conducted at the end of 2012/early 2013, the results being based on a weaker questionnaire comparing to the other countries.

#### Key-points – Italy

150 signatories have completed the survey. They represent more than 481,000 employees. 20% of the responding organizations can be classified (CAEN Code) as production enterprises, 6% as insurance and finance organizations and about 19% as public administration.

Overall, the Italian Charter signatories have seen improvements in different areas, ranging from fewer conflicts among the employees due to differences in culture, age etc. (37%), a better image and a solid reputation (30% of companies), the innovation and creativity of employees (14%), attracting and retaining the talented human resources (10%) and a better response to the diverse customer expectations (10%).

For the target groups, the main diversity activities are related to gender equality (65%), disabilities (24%), age diversity (19%) and race or ethnic origin (10%). Sexual orientation (7%), religion or personal belief (2%) is given less attention.

The diversity management activities encourage the implementation of the work and personal life balance measures (61%), the integration of diversity in the internal communications (57%), the review of the human resources processes respecting the principles of non-discrimination and the promotion of diversity (56%), integrating the diversity into the external communications (49%), including the diversity in the corporate culture (46%) and using the monitoring indicators in the diversity policy (35%).

## FINLAND

Name: The Finish Network for Diversity

The year of launching: 2012

Signatories: 50\*

The number of the targeted employees: >150.000\*

The percentage of the respondents to the questionnaire: 33%

Webpage: [www.fibsry.fi/fi/english/themes/diversity-charter-finland](http://www.fibsry.fi/fi/english/themes/diversity-charter-finland)

The Diversity Charter in Finland was launched in October 2012 and comprises 18 signatory companies. The charter is headed by FIBS, Finland's most important corporate responsibility network. FIBS provides signatories with transfer of know-how, tools and networking opportunities, thus, creating caps for the diversity management and inclusion within companies. Currently, there are 50 signatory organizations of the charter. Most signatories are private companies, but the public sector is also represented.

### Key-points – Finland

92% of the Charter members who responded to the questionnaire said that the signing had an impact on the development of their diversity policies and activities. The arithmetic average is 2.62 on a scale from 1 (= no impact) to 5 (strong impact) and slightly lower than the average, comparing to European the countries.

For the target groups, the main priority of the diversity activities refers to people with disabilities (38%), young people (31%), seniors (23%), gender equality and religion (15%) or race or ethnicity (15%). As almost everywhere in Europe, the different sexual orientations and gender identity are given less attention (8% and 0%).

Up to half of the responding organizations have noted an increase in the proportion of the target groups. The values range from + 35% for the young people, + 30% for the trained people and + 30% for the disabled persons up to + 25% for the ethnic minorities.

38% of the respondents included the diversity in their corporate culture. Moreover, the diversity management has integrated diversity into: the language of the internal and external communication (38%), the implementation of activities, the awareness of training and diversification tools (38%) and the implementation of work/life balance of the company employees (31%).

Overall, the signatories have seen improvements in different areas, ranging from several models of respectful behaviour (23%), innovation and creativity of the staff (23%) to improving the image and

reputation of the company (15%), improving the working conditions (15%), integrating the diversity into the society and the general social responsibility policy of the enterprises (15%).

## ESTONIA

Name: The Diversity Agreement in Estonia

The year of launching: 2012

Signatories: 31

The number of the employees targeted: not available information

The percent of respondents to the questionnaire: 26%

Webpage: [www.erinevusrikastab.ee](http://www.erinevusrikastab.ee)

The Estonian Diversity Charter was launched at a conference in November 2012 by the Tallinn University of Technology. The 31 signatories include some of the largest and most known companies in Estonia - including Swedbank Estonia, Selver, Microsoft Estonia and Kaubamaja - as well as small and medium-sized enterprises (SMEs). The Charter is run by the Law School of the Tallinn University of Technology.

### Key-points – Estonia

86% of the respondents signing the Diversity Charter said that signing it had a considerable influence on the development of their policies and their diversity activities. The arithmetic average is 2.29 on a scale of 1 (= no impact) to 5 (strong impact) and below average, comparing to the European average.

Concerning the target groups, the main diversity activities refer to the gender equality (86%), young people (71%), seniors (57%), race or ethnicity (57%) and disabilities (43%). The sexual orientation receives less attention (29%).

The diversity management activities generate the integration of the diversity in the internal and external communication (71%), the review of the human resources processes in terms of non-discrimination principles and the promotion of diversity (71%), the implementation of actions in order to ensure a balance between work and personal life (71%), the implementation of the activities, of the awareness and training tools in the field of diversity (57%) and the inclusion of diversity in the corporate culture (57%).

Generally, the signatories saw visible improvements in different areas, ranging from more respectful (57%), the company image and reputation (57%), the innovation and creativity of the staff (43%), to integrating the diversity into the global corporate social responsibility policy (43%).

## 5.5. A step towards diversity - good practices promoted by the public institutions in Romania

### *'Accessibility space for the needs of the people with disabilities'*

Project implemented by AJPIS Tulcea.

The identified problem: Since three high-interest institutions operate their activities in the same space, the access of the people with disabilities was hampered by the fact that there were no conforming access ramps allowing for the passage of the level differences. Also, this category of people has not been configured and equipped with spaces for the personal hygiene.

AJPIS Tulcea, as the heritage manager and contracting authority, together with the other two institutions in the headquarters (CJP Tulcea and ITM Tulcea) have established more support for the citizens



benefiting from the services of the three institutions by providing the easiest and quick solutions to solve the problems raised by them. Therefore, in the objective 'the Headquarters of D.M.P.S. Tulcea', located on 7 levels (GF + M + 5E, semi-base + elevator for 6 persons) through the care of the patrimonial administrator, three offices were set up, one for each institution, which can solve all the requests of the citizens related to: benefit /social services, the public pension system and other social security rights and labour relations, health and safety at work. In order to respect the principle of the equal opportunities and treatment, necessary measures were taken for the access of all the persons without any discrimination and there were done improvements for adapting to the physical and communicative environment within the building (accessibility), meeting the needs and exigencies of the persons with disabilities, according to the Law no. 448/2006.

There were carried out works for reconfiguring the sanitary group on the ground floor by creating a special space for the wheelchair users and the space was equipped with sanitary fittings that respect the normative regarding the adaptation of the space to the individual needs of the persons with disabilities (Order no. 189/2013). At the same time, an innovative measure is the installation of the two 2 modular vertical platform elevators that ensure the horizontal movement as far as possible without wheelchair level differences.

As AJPIS Tulcea provides advice to the beneficiaries of the childcare allowance, a baby-wrapped table was also installed, the whole area being controlled by a video surveillance system.

The objectives of the investments were also implemented in order to increase the standard of the public institution, to deliver quality public services, to promote the innovation and to encourage the good management practices within the three co-located institutions in the headquarters.

### ***'Wings to Heaven'***

Project initiated by the Institution of the Prefect – the Harghita County

The target group of the project was represented by the young people from the high schools and gymnasiums in Miercurea-Ciuc, who are unable to carry out the leisure activities in order to develop their life skills and discover their talents within paid courses. The direct beneficiaries of the project were also 30 specialists and resource persons from the public institutions that participated in the project activities.

The project's activities were addressed to the public institution employees who have been valorised, promoted and motivated, to the public institutions that have shown that the concern for citizens' needs is one of their important values. The project has succeeded, through its activities, to bring the public institutions closer to the citizens, to develop a partnership with the civil society, to promote the diversity and to bring to light talented and dedicated people, both through the job they are doing and through the voluntary activities they have carried out.

The project *Wings to Heaven* has allowed the organizers to learn from their activities a number of elements to help them in the future to have a new approach and tailored to the needs of today's society. Citizens have learned to appreciate the value of the people working in the public institutions. The quality of their work and the dedication for a social cause has succeeded in changing the citizens' perceptions and prejudices regarding the human resources in the institutions of the Ministry of Interior Affairs. The project has proven that the police officers, gendarmes, firefighters, mountain hunters, and the public officials can both do their job at work, but they can offer their talents and skills to the smallest citizens, children and young people so that they may discover and polish talents. Thus, they are not just representatives of some force institutions, but the MIA employees are also talented and devoted to the formation and cultivation of the talents of this country.

The fact that the activities provided by the basic persons in the public institutions have been unpaid has made an essential contribution to promoting the values of volunteering and the importance of the community solidarity, and have also laid the foundation for promoting the diversity and implementing the concept of active citizenship in the future.

### ***'The social inclusion of the children with access to education'***

Project implemented by the Municipality of Baia Mare, through the Public Social Assistance Service

The project has aimed to interfere in three poverty areas from the Municipality of Baia Mare (Vasile Alecsandri/ Hotvon neighborhood, Craica neighborhood and Ferneziu neighborhood) characterized by an extreme poverty, a high school dropout and increased danger of separation of children from their parents, through: the establishment of a social support network represented by the 3 Centers ( The Social Rehabilitation Center for Children at Risk, The Equal Opportunities Education Center at 'Nicolae Bălcescu' School from Baia Mare and The Center for Inclusion of Children with Parents Left to Work Abroad and Those with Special Talents) aiming to provide an integrated services package, including the access to the informal education, including leisure spending so that they may reduce the risk of school drop out/abandon school, the vocational training and labour market assistance through the provision of information, counseling and facilitation services access to the services on the labour market, the parental education through social, psychological counseling and the development of the parenting skills and facilitating the access to the health services.

The promotion of the social inclusion of children at risk is made by improving the school attendance, by setting up innovative integrated services and a better training of the professionals involved in these activities. The project respected the overall objective and priorities of the funding program by offering integrated social services that contribute to improving the living conditions, in Baia Mare, of the children at risk of school drop-out, poverty, school failure, family separation and social exclusion. The project also supported parents/legal representatives of the children through the provision of parental development programs, information/orientation/motivation for job search and maintenance, psychological counseling, family counseling to prevent the child separation from family, counseling to raise parents' awareness of the need for education, mentoring parents, educating for a healthy lifestyle, helping to involve the parents more actively in their lives.

By setting up the 3 centers with specific elements adapted to the needs of the target group and the specificity of the area, there has been created the social infrastructure needed to provide some integrated social services (social, educational, social inclusion, facilitating access to the health services and access to the labour market and acquiring the new skills (life skills independence, manual empowerment, environmental protection, parenting skills etc.) for at least 230 children, 130 parents/tutors/legal representatives. Through the indicators established in the project, there has been a great contribution to the objectives of the program by improving the situation of the children at risk (including the Roma children - 52% of GT), by actively involving the parents/tutors, social and educational service providers, the community in general, and also the initiation/piloting of innovative social inclusion measures (the social network of Social Centers integrated within an inter-institutional approach).

All the services have improved the school attendance, for the children at risk, and **the action plan** developed within the project has ensured the participation in the development of the local policies and measures for the social inclusion, through the co-operation between the local stakeholders and the civil society.

## 5.6. The Diversity Charter in Romania

### Description

- A. To **reflect** the diversity of the Romanian society in all its forms in the management and human resources processes ;

Instruments	
Organizational/ institutional diversity policy	What are the consequences for the violation of the diversity policy?
The percentage of the persons applying or leaving the institution/organization	The number of Roma people, persons with disabilities, women is quantified
Monitoring system for the representation of women or other minority groups in the management positions	What are the opportunities for representation?

- B. **To run** an exciting and awareness program and training the management team and the employees on the benefits of diversity;

Objectives	Results
Raising the awareness and recognition of the own myths and prejudices	Destruction of the cultural and social barriers
Increasing the level of knowledge about the effects of prejudices on the employees in vulnerable groups Familiarizing with the negative effect of precursor	Familiarizing with the negative effect of prejudice
Accepting the cultural, physical, emotional differences of the team members	Creating an efficient environment



ROMANIAN  
DIVERSITY  
CHARTER

## The Diversity Charter

Recognizing the diversity of the Romanian society, which is aware of the importance of the diversity and equal opportunities management policies as a strategic asset and a source of progress, social cohesion and innovation, the company/organization/institution ... represented by ..., assumes to sign this Charter in order to reflect and strengthen its voluntary commitment so that the diversity, the equal opportunities and social inclusion become recognized and respected values in the Romanian society.

By signing this Charter, the company/organization /institution assumes:

1. **To develop** an organizational culture based on mutual respect, trust, recognition and valorisation of the individual differences and skills;
2. **To apply** the principles of the non-discrimination and equal opportunities in the decision-making and human resources management, with particular focus on the recruitment, training, remuneration and professional promotion of the staff;
3. **To reflect** the diversity of the Romanian society in all its forms in the management processes and human resources;
1. **To run** an exciting/awareness program and the training of the management team and the employees in relation with the benefits of the diversity;
2. **To communicate** its commitment to non-discrimination and diversity and to inform its employees and co-stakeholders about the practical results of this commitment;
3. **To monitor**, annually, the progress made in achieving the objectives of the Diversity Charter;
4. **To present** in the annual reports and/or its other publications the organization's commitment to non-discrimination and diversity, including concrete, practical and results.

Signed in ....., on (date) ....., Signature

## 5.7. Recommendations on establishing the diversity management

Without having a dogmatic or limiting character, the managers who want to implement a diversity management should take into account the following recommendations (signals).

Beyond the normative aspects (internal legislation, rules, regulations and procedures), it is imperative the existence of a high level of awareness of the importance and benefits of adopting a culture of diversity in one's own organization. This implies:

1. The managers must understand that a diverse workforce generates different perspectives and ways to solve tasks, valorizing the variety of ideas, options and solutions, generating innovation and performance;
2. The variety of these options can be transformed into learning opportunities (for them and for other employees) - a basis on which the inclusive practices, namely consultative and co-decision mechanisms can be promoted;
3. The managers (through the style and policies adopted) must support and promote the personal development of the employees (hence the strong support in the implementation of the motivational strategies);
4. The existing organizational culture will incorporate elements of added value from the area of diversity (an open culture in which tolerance, integrity, equal opportunities and recognition of meritocracy are fundamental values);
5. The diversity at work facilitates the transition from competition and conflict (for positions, resources) to a constructive dialogue - which ultimately contributes to increasing the employees' satisfaction, the attachment to the organization and achieving the performance goals;
6. The individual valorisation (in the context of heterogeneous opinions and skills) diminishes the social conformism and the mechanical rallying to the generally accepted views (the latter inhibits the initiative and the change projects which could be benefic to the organization);
7. Obviously, the successful implementation of the diversity requires coherence and an integrated approach; the actions supporting the diversity of the employees must be in accordance with the objectives and measures of other processes (personnel policies, internal management control system, mechanisms to ensure ethics and integrity in the organization etc.);
8. The implementation of the diversity management is a continuous process and is not solved in a formal way. Assuming some declaratory documents (such as the Diversity Charter) or internal regulations must be followed by the monitoring and evaluation

instruments (in order to measure the progress and re-assess the prospects of the diversity in the short, medium and/or long term);

9. In assessing the managers' performance, by new and/or adapted tools to the existing ones, one may incorporate a set of criteria or indicators for the appropriate diversity management. We have in mind both the empirical tools (measuring the employees' performance, satisfaction, training needs etc.) and the qualitative ones (the evaluation of opinions, behaviours, the participatory management of the ethnical incidents).
10. The generalization and/or diversification of the advisory practices can provide reasonable feedback to the managers for a correct assessment of any project on implementing diversity at the workplace.

## **5.8. Suggestions for the optimal implementation of the Diversity Charter**

To be implemented effectively, the diversity goals need:

- Powerful support from the top management;
- A diagnosis of the organizational culture and the climate of the organization;
- People who have explicit responsibility for managing the diversity;
- Actions to multiply the diversity goals in the education and the development efforts for all the members of the organization.

### **I. Positioning diversity in the organizational context:**

- The diversity is integrated into the following documents: the Code of Conduct, the Strategic Planning Documents, Mission and Values, the Statute, the Internal Regulation.
- Developing a diversity policy that transforms the diversity management into a cross-cutting factor at the bottom of the decision-making process. The diversity should be reflected in all the departments and all the activities when it is necessary. Also, the policy should be elaborated/developed on the basis of a dialogue with the employees or their representatives and should include issues related to: non-discrimination, workplace dignity, diversity, equal opportunities, reconciliation of work and private life, accessibility.

- Designating a person or department (or more) to be responsible for the diversity management at the institution/organization/company level.
- Benefits for the responsible persons (BRP).
- Investments on the accessibility infrastructure.

## **II. Recruitment, selection, promotion and retention of the employees:**

- Training for the recruiting responsables on the application of the principles of the Diversity Charter;
- Formal policy on the recruitment of the candidates from the underrepresented groups;
- Mentoring programs to support the new employees;
- Establishing clear career promotion criteria and communicating them to all the employees;
- The recruitment process monitors the proportional representation of the various groups and eliminates from applications the filling of the date of birth, place of birth, pictures, gender.
- The organizational policy on creating the necessary framework for the activity of all the groups.
- Adaptation, flexibility and reconversion to maintain the employees.

## **III. Programs for the new employees**

The programs by which the newcomers in the organization begin to understand and appreciate the values, abilities, desirable behaviours and basic knowledge are essential for fulfilling their role in the organization and for their participation as members of the organization. Through these programs, the new employees begin to understand the formal and/or informal rules and norms (mentoring, training, teambuilding programs);

## **IV. Training and development:**

Conducting training sessions on non-discrimination and diversity, especially with the management staff and those involved in recruitment, training and career management are very important. The topics can be: diversity concept, conflict/harassment management, interview

techniques, non-discrimination training, inclusive behaviour, workplace dignity, reasonable approach concept etc.).

Types of activities:

- Mentoring programs for all the employees;
- Workshops for the managers on managing the differences and the cultural diversity of the employees;
- The operationalization and development of some ‘skills’ such as: empathy, self-reflection and reflection, openness, flexible attitude, emotional stability;
- Identifying some stereotypes that are found among employees and managers and including some addressing activities in their trainings;
- Training programs for the managers in order to learn how to identify the different employee needs and the ways to make them feel valued;
- Training the managers to adequately manage the situations in which an employee has different opinions than those of a person, related to a task or decision;
- A glossary of terms with clear specification of the terms, according to the legislation: diversity, under-represented groups, equal opportunities.

Adding the above-mentioned themes in the staff training plan.

#### **V. Evaluation:**

- Introducing, in the evaluation of the managers’ performance, specific indicators on the equal opportunities for employees, by an appropriate management of the needs and of the different behaviours of the employees;
- Identifying the employees' needs (appreciation, recognition, control, development) and the extent to which the managers control their work teams in the light of these needs;
- Analysing the human resources processes (recruitment, performance evaluation, promotion) from the perspective of the extent to which the different behaviours and attitudes of the employees are respected and integrated into decisions and actions;
- Establishing measurable indicators for assessing the performance of the employees, including them in the salary and reward system;



- Allocating the tasks and projects on an objective basis and not on the basis of the personal preferences or divergences;
- Monitoring the diversity management and the workforce diversity is made by studying the percentages of: young men, middle-aged and elderly employees, the dominant ethnic/racial/cultural groups, minorities, management levels, new recruits, people with disabilities etc.
- A better internal communication in order to increase their understanding;
- In order to put diversity of the employees into practice, parameters that measure diversity are required. Their monitoring and evaluation show the organization's diversity program.

#### **VI. Communication:**

- Communicating to the employees the objectives of the Charter, of its ways of implementation and the results achieved, thus keeping the employees informed and involved;
- Reflecting the measures and initiatives implemented in the field of diversity in the institution/organization's/company reports;
- Dissemination of the results in the field of diversity (promotional materials, news);
- Collaborating with other companies/institutions at local, national, European level in order to develop common actions/projects in the field of diversity and to exchange experiences and good practices, including internship and voluntary internships;
- Ways of internal communication (to employees) and external (other organizations, broad public, potential/future employees);
- Dedicated website/social media communication/blogging;
- Announcements in newspapers, TV, radio, large-scale public events;
- Supporting the diversity-related activities (such as the International Women's Day, research in the field, encouraging the employees to volunteer in diverse communities, etc.).

#### Integrating Diversity in the Human Resources policies:

- The Diversity policies are displayed on the promotional materials, website, and marketing materials;
- The marketing activities of the Human Resources department include: choosing a diverse group of employees to represent the institution at the recruitment events;
- Sponsoring some student associations for covering some topics in the field of diversity.

**Learned lessons:**

(1) Diversity at work is not a "fashion" at which institutions should join under the 'seduction of novelty'; the implementation of a pro-diversity culture is an essential condition for individuals, organizations and society. In the public register, the valorisation of the competences in the context of innovation and institutional performance ensures quality in the provision of the public services addressed to different categories of citizens;

(2) Without dedicated policies, practices and mechanisms, the simple formality of diversity (charter, regulations, legislation, policies) will not generate a culture of diversity.

### **List of abbreviations**

NACS – The National Agency for Civil Servants

NAWFR – The National Agency for Work Force Recruitment    ANOFM – Agenția Națională  
pentru Ocuparea Forței de Muncă

APSD – Agenda 21 – Assistance and Programs for Sustainable Development – Agenda 21

EC – The European Commission

NCCD – The National Council for Combating Discrimination

ECHR – The European Court for Human Rights

ECJ – The European Court of Justice

NCSC – The National Council for Solving Complaints

GD – The General Directorate

AFREU – The Agency for the Fundamental Rights of the European Union

SMC – Small and Middle Companies

NIS – The National Institute of Statistics

NGO – Non-Governmental Organisation

EU – The European Union

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