



Final Seminar Report

Good Practice Exchange seminar on public policies combating discrimination on the ground of religion or belief

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Introduction

A good practice exchange seminar on public policies combating discrimination on the ground of religion or belief was hosted in Brussels on the 18th October 2012. Government representatives and members of the non-discrimination Governmental Expert Group (GEG) from Austria, Cyprus, Estonia, Finland, France, Germany, Latvia, the Netherlands, Poland, Slovenia, Spain, Sweden and the UK attended alongside members of the Network of Socio-economic Experts in the Non-discrimination Field from Austria, Bulgaria, the Netherlands and Sweden. Representatives from the European Commission's DG Justice, Unit for Non-discrimination policies and Roma coordination and DG Research and Innovation attended, as did experts from the RELIGARE project.

The European Commission had circulated a request to the members of the non-discrimination Governmental Expert Group (GEG) in May 2012 seeking good practice examples in relation to public policies on combating discrimination on the ground of religion or belief in:

1. Legislation, policy, strategies and programmes to combat discrimination on the ground of religion or belief at national or regional level.
2. Instances of good practice to respond to religious diversity and how this practice is supported in the workplace or in educational establishments.
3. Awareness raising campaigns.
4. Public support or financing schemes fostering diversity and/or fighting against discrimination on the ground of religion or belief.
5. Guidelines, handbooks or publications promoted/financed by national institutions for equal treatment plans to accommodate religious minorities.
6. Existing partnerships between governments, NGOs and/or religious institutions.

Massimo Serpieri of DG Justice opened the seminar. He highlighted that the idea for this topic had come from the GEG itself on the basis that previous exchanges had privileged other fields of discrimination and that it was timely to explore what public policies are useful for the ground of religion or belief. He noted that fifteen contributions had been received from the GEG members and thanked them for this.

He pointed to the legal basis for this topic in Article 19 of the Treaty that enables the Union to take appropriate action to combat discrimination on the ground of religion or belief, among other grounds, and Article 10 of the Treaty that requires the European Union to 'aim to combat discrimination' on the ground of religion or belief, among other grounds, 'in defining and implementing its policies and activities'. He noted that discrimination on the ground of religion or belief is prohibited in employment, occupation and vocational training under the Framework Employment Directive (2000/78/EC) and that the European Commission has proposed a further Directive (COM(2008) 426 final) prohibiting discrimination on the ground of religion or belief, among other grounds, in fields beyond the labour market.

Opening discussion

The seminar began with a presentation by the **thematic expert Niall Crowley** of the themes emerging from the fifteen GEG member contributions. This was followed by a wide ranging **sharing of views among the participants** as to the starting points for policy making in their Member State on the ground of religion or belief and on the issues arising in their Member State on this ground.

The ground of religion or belief was noted as a sensitive topic. However, it was felt that it is time that it is brought to the foreground. It can be complicated by incoherences between what is set down in law or policy and what is actually done in practice. It can be further complicated by a context subject to rapid change.

A diversity of historical traditions in responding to religion and religious diversity was evident across the Member States. This includes traditions of laicity, dominance of single denominations, neutrality, laissez-faire/localist approaches, and multi-denominational approaches. It was suggested that a common standard is difficult to establish. Subsidiarity can be important in such a context and local action – local level or local organisation – can become central. However those at local level might not have the knowledge, skills and values for an effective response to religious diversity.

This diversity of traditions was particularly evident in the different responses to wearing religious symbols and clothing. There are Member States where there is no accommodation of such symbols and clothing, where there is some conditional acceptance of them, and where there is a relaxed acceptance of them. Differences also emerged between practice in the public and in the private sector.

The right to non-discrimination was noted as a possible common standard across the Member States. There are differences across the Member States of interpretation of the prohibition on discrimination, particularly indirect discrimination, when it comes to the ground of religion or belief. Reporting of discrimination is probably low and can be hidden in incidents reported on the ground of racial and ethnic origin.

Reasonable accommodation of religious diversity was subjected to a questioning debate. Is it too vague a concept to be enshrined in law? What are the boundaries to reasonable and where should the line be drawn? Is it a concept that only works in some Member States? Neutrality and proportionality were presented as an alternative. Requirements in relation to positive action in a number of Member States and interpretations of indirect discrimination in others mean that reasonable accommodation is already a legal requirement in some Member States.

Tensions or conflicting rights between religions and women and lesbian, gay, bisexual and transgender people were noted and between different religions. A need to give more clarity vis a vis the needs of those with no religion was also noted.

It was pointed out that the law does not always provide the solution to the issues being experienced on this ground. Political leadership can be important, as can practical initiatives and steps to build a popular acceptance of religious diversity.

Initial frameworks

Katayoun Aidadi of the RELIGARE project presented some of the work being carried out within this project.

The principle developed by the project of inclusive evenhandedness supports an inclusive approach without undue pressures to conform and with respect for diversity and identity. It recognizes the tensions and complementarities between equality and freedom. It reflects that neutrality can encompass a majoritarian bias and that strict equal treatment can be difficult where freedom from religion has to be considered.

A typology of workplace issues covers requests that relate to dress, symbols and grooming; requests motivated by the need to reconcile religious-time and working-time obligations; requests for exemptions or alterations in job duties, including socializing customs; and requests to use facilities for such as meditation and prayer.

The complexity of modern-day disadvantage require going beyond formal equality to substantive equality. Formal equality is based on equal or same treatment. Substantive equality involves recognition of legitimate differences and an accommodation of these. The question of what is reasonable in relation to this accommodation has focused on issues of cost. It could more usefully focus on who carries the burden. Failure to make reasonable accommodation requires coping mechanisms at the individual and collective levels and pressure on social welfare systems.

Good practice involves creative solutions that avoid winners and losers; procedural fairness that allows for stakeholder participation in finding solutions; messages of inclusion and respect; and a reframing of the concept of clashing rights so as to acknowledge development and change within religions.

In the **debate** the lack of interest from trade unions was pointed to as an issue. The importance of supporting reasonable accommodation was emphasized. It does not get done because people do not know what to do and where the balance lies. It could be important to develop a more comprehensive approach to reasonable accommodation that benefits all in the workplace. It was suggested that proportionality could be a better concept than reasonable accommodation where company tasks and individual employee needs are balanced. The concept of flexibility was also advanced in a context where the failure to make adjustments could be a discriminatory offence unless based on proportionate means of achieving a legitimate objective.

Institutions and non-discrimination on the ground of religion or belief

The *GEG good practice contributions* point to three different types of institution. Partnership bodies enable a dialogue between the state and representatives of different religions. They facilitate input by representatives of different religions into policy making and policy implementation by the public sector. Inter-faith bodies enable dialogue between representatives of different religions. They facilitate an exchange of knowledge and perceptions and promote co-existence. Equality bodies combat discrimination under equal treatment legislation. They can support good practice in the management of religious diversity and raise awareness of religious diversity.

Aurora Fernandez Garcia of the Foundation for Pluralism and Coexistence in Spain presented the Observatory for Religious Pluralism. The Foundation was created by the Ministry of Justice. It serves to channel knowledge to public bodies on religious diversity. It promotes research, provides a database on religious diversity by local areas and has developed guidance that draws from this knowledge base.

Ringo Ringvee of the Ministry of the Interior in Estonia presented the Religious Affairs Department of his Ministry. This department has advisory duties. It is involved in issues such as religious education in public schools. It conducts educational activities with personnel who come into contact with different religions as part of their work. It is a problem solving body that makes the necessary links between stakeholders and serves an intermediary function.

In the **debate** the management of different sets of religious holidays was discussed. The issue of how best to identify interlocutors from faith communities was raised.

Good practice in work, education and local authorities

There is a limited number of good practice examples identified in the *GEG good practice contributions* and a limited focus on accommodating religious diversity in all three arenas. There is no emphasis on achieving full equality in practice in the good practice presented on the ground of religion or belief.

The *GEG good practice contributions* highlight good workplace practice in response to the challenge to enable flexibility in the workplace to take account of the practical implications of religious diversity and the challenge to support members of religious minorities in the workplace in relation to their rights to non-discrimination.

Christophe Birault of the Ministry of the Interior in France presented the guidebook on religious diversity developed by the Casino food retail group. This guidebook is based on laicism and principles of the primacy of law, neutrality and strict separation between public and private spheres. It seeks to support peaceful co-existence, proportionality of proceedings, a labour contract in good faith, and religion as an ethnic behaviour. It is based on checks and balances with consideration given to hygiene, safety, security, compatibility with service activity and a prohibition on proselytizing. The guidebook reflects a commitment to corporate social responsibility.

In the **debate** the concept of neutrality was explored and the danger that it might be a disguise for the norms of a dominant religion. The dangers of differentiating the approach to religious diversity in front office and back office positions were raised.

The *GEG good practice contributions* highlight good educational practice in response to three challenges. These are to educate pupils for respect and mutual understanding, to educate pupils in different religions and none, and to accommodate religious diversity in education.

Warwick Hawkins, Head of Faith Communities Engagement in the Department of Communities and Local Government in the UK presented a range of education based responses to religious diversity. Religious education (RE) is compulsory and is designed for pupils to learn about different faiths. It includes a focus on Christianity but, after that, the content depends on the local situation and local standing advisory councils on religious education. There is also a religious education council at national level. It is considered that religious education cannot function in isolation from a strong interfaith scene. Interfaith networks are funded to run workshops, events and visits. Student unions and chaplains support interfaith dialogue in higher education. The situation is less developed in further education.

In the **debate** the role of Churches in religious education was explored. Specialist RE teachers teach the subject. Faith schools are encouraged. It was clarified that the UK census collects data on religious affiliation.

Ulrike Werner, International Youth Service of the Federal Republic of Germany presented the toolkit on religious diversity developed to support work with young people. This provides basic information, advice for pedagogical work and exercises. It promotes a diversity conscious approach to religion. There is a balancing act in providing specific help without being simplistic and neglecting intra-religion differences and in achieving an accessible tool without engaging in stereotyping. The editorial team involved practicing experts.

In the **debate** the challenge to go beyond those already interested in the issue of interfaith dialogue was explored. The issue of engaging with the domestic youth service was raised. The origin of the toolkit in the demand articulated at a seminar on interreligious competence for youth-workers in international exchanges was noted.

The *GEG good practice contributions* highlight good practice in relation to local government in response to two challenges: to reconcile the principle of separation of Church and State with an engagement by local authorities with religious organizations; and to take account of religious diversity in carrying out public functions.

Pien van den Eijnden of the Ministry of the Interior and Kingdom Relations in the Netherlands presented guidelines developed for Municipalities on religious diversity. These were developed on foot of a national action plan on polarization and radicalisation and a demand from local authorities for advice on what to do about religious diversity. Key themes for this guidance were issues of financial support for religious organisations, dialogue with religions, and manifestations of religion in the public sphere. The core principle of the guidance is one of inclusive neutrality. The emphasis is on local autonomy and keeping responses to religious diversity practical.

In the **debate** the challenge of keeping such initiatives non-political was raised. This can be difficult when the national debate on religious diversity is very polarized.

Awareness raising activities

The *GEG good practice contributions* highlight tolerance as a core focus for awareness raising. These initiatives demonstrate a particular concern with anti-Semitism and Islamophobia and a focus on the nature of public debate about religious diversity. Hate crime is a specific focus. There is a limited range of work being done in this area when compared with the tensions and conflicts that have been identified. The focus on tolerance can be limiting as compared to a focus on good relations. Tolerance is problematic where it does not contribute to an understanding of difference and mutual respect across difference.

Peter Kariuki, Secretary General of the Advisory Board for Ethnic Relations in Finland presented the work of the advisory board, which has a separate subgroup on religious and cultural issues. It contributes to an awareness that challenges incoherence in responses to religious diversity. The vision is to have this structure as a neutral ground where the stakeholders can come together to find solutions to problems. Core challenges faced are failures to recognize the significance of religious societies, the need to update approaches to suit religious traditions and practices, and the rise of xenophobia and populist politics.

Silvester Gabersek, Director of the Office for Religious Communities presented the work of this office. It is currently concerned to address the need for religions to overcome feelings of being pushed from the public sphere and to feel accepted, useful and respected.

In the **debate** the capacity of right wing/populist parties to turn anything to their advantage was raised. Even positive developments are used to diminish religious diversity. The value in a permanent body with responsibilities in this field was pointed to, as opposed to initiatives tied to a single moment. The solutions orientation was explored with some focus on the need to name and discuss problems at times.

Conclusion

The politics of differentiation was central to the debates. This was a common feature despite very different starting points for participants on the issue of religious diversity. There were variations of nuance and interpretation but the core focus was on shaping a response to religious diversity based on making some level of accommodation for difference. This was presented under a range of labels:

- Reasonable accommodation.
- Inclusive evenhandedness.
- Proportionality.
- Flexibility.
- Indirect discrimination.
- Diversity conscious approach.
- Inclusive neutrality.

There are issues for debate in this. What are the boundaries or what is reasonable or what is proportionate? There was also the challenge to come at this issue from another direction by asking on whom the burden actually falls when religious diversity is or is not addressed.

There are differences of approach in some Member States in addressing religious diversity in the private sector and in the public sector. There are different emphases on local or organizational level problem solving or on national initiative.

The debates started from the perspective that the diversity of historical traditions was a barrier to any common standard across the Member States. However the seminar demonstrated that this diversity could be a source of learning and new insights. It also revealed the common standard of non-discrimination.

There are issues for debate in relation to a common standard of non-discrimination. For some it can mean a commitment to formal equality with the same treatment for all. Formal equality could however be a source of exclusion and indirect discrimination. For others it can mean a commitment to substantive equality where systemic change responds to diversity and different needs and requirements due to this religious diversity.

Three reasons or drivers that stimulated action on the ground of religion or belief emerged in the debate:

- Lack of competence and practical demands for advice on what to do about religious diversity.
- Public tensions, polarization or radicalization in relation to the issue of religion and the demand to address problematic incidents that occur.

- Demographic change and the imperative of meeting the needs of a very different composition of population.

A wide range of interesting and important good practice initiatives was presented. A number of characteristics emerged that were largely common to these instances of good practice. These were that good practice involves:

- Actions that communicate messages of respect and inclusion.
- An emphasis on creative solutions without winners or losers.
- A procedural framework that allowed for and enabled participation by those affected.
- An approach that is pragmatic, proportional, practical and problem solving.
- Interconnected actions such that all dimensions of an issue are addressed and such that there is a mutual reinforcement between different initiatives.
- A focus on respect for intra-religion differences and on accessibility that avoided stereotyping.

Good practice was seen to require specific knowledge, skills and values. Those involved need to have the full picture, to know what to do, and to hold a value base that enables non-discrimination and equality on the ground of religion or belief. Much of the good practice described was at a local or organizational level and support is key for developing the knowledge, skills and values required at this level.

Some Member States have developed specific institutions that provide supports to this level. These take a range of forms including building a knowledge base on religious diversity, providing guidance for practice, creating neutral spaces where different stakeholders can engage in problem solving dialogue, and playing an intermediary function between the state and different religions. Mainstream Government Departments have also played a role providing funding for initiatives, developing tools to support good practice, and taking initiatives to disseminate these tools.

Good practice was challenged in the debate to go beyond addressing those already converted to the issue of religious diversity. Dialogue only goes so far and forms of active cooperation and working together help stimulate mutual understanding beyond those already committed to religious diversity. Awareness raising was also challenged to go beyond public education to include mainstream education and education to address incoherences among stakeholders in their response to religious diversity.

There was less of a focus in the debates on policy response to religious diversity. A picture emerges where the local level or the organisation is the key site for action on religious diversity. The choice of legal, regulatory, policy or voluntary responses to religious diversity issues was seen as important both for effectiveness and for the messages this choice communicates. How one solves issues of religious diversity sends a signal and shapes public debate and responses to these issues.

Non-discrimination legislation was the common policy response across the Member States to religious diversity. There are issues of low rates of success for cases, of media backlash when cases are successful, and of under-reporting. Participants also pointed to a value in taking a relaxed and pragmatic approach at the local or organisational level to addressing incidents rather than taking the legislative route and to the value of taking policy initiatives on foot of incidents such as hate speech.

Historical traditions do shape the policy response to religious diversity. These include laicist, neutral, or denominational traditions. This approach was challenged on the basis that historical traditions might not be adequate in the face of the rapidly changing societies that are evident in the Member States. There are also issues where we do not know the impact of policies dependent on such historical traditions given the lack of data on the ground of religion or belief.

In looking forward it is useful to reiterate two points made at the start of the event. This is a sensitive issue and it is not an easy issue. At the same time it is about time that the ground of religion or belief is brought to the foreground for debate and action.

Three ways of keeping this initiative alive suggest themselves from the debates:

1. Developing peer support out of the contacts made at the event.
2. Exploring the potential in working together on this issue in groups of the like minded.
3. Sharing and making accessible the tools and guidelines already developed.