



Final Seminar Report

Good Practice Exchange seminar on non- discrimination mainstreaming

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1. Introduction

Representatives from 15 EU Member States took part in a 'Good Practice Exchange seminar on Non-discrimination Mainstreaming', in Helsinki, on 7-8 September 2009. The seminar was attended by members of the Non-discrimination Governmental Expert Group (GEG) and other national representatives from Austria, Bulgaria, the Czech Republic, Finland, France, Hungary, Ireland, Malta, the Netherlands, Poland, Romania, the Slovak Republic, Spain, Sweden, and the United Kingdom, as well as members of the Network of Socio-economic Experts in the Non-discrimination Field, and network coordinators. Belinda Pyke, Director: Equality between Men and Women, Action against Discrimination, Civil Society, headed a team from the European Commission.

At European Union level equality and/or non-discrimination mainstreaming is a relatively recent development. Article 13 of the Amsterdam Treaty (1997) provided the opportunity to combat discrimination across a wider set of grounds – the grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation. In 2007 the European Commission published a study of 'Non-discrimination Mainstreaming: Instruments, Case Studies and the Way Forward'. The Resolution of the Council of the European Union on the Follow-up of the European Year of Equal Opportunities for All (adopted at EPSCO Council 5th/6th December 2007) invited the European Commission and the Member States to ensure the mainstreaming of equality and non-discrimination issues in the implementation of the Structural Funds, the European Globalisation Adjustment Fund, the Guidelines for Growth and Jobs, and the Objectives for Social Inclusion and Social Protection. In its July 2008 Communication the European Commission made a commitment to the systematic incorporation of non-discrimination and equal opportunity concerns into all policies.

In September 2008 the conclusions of the French Presidency Equality Summit proposed that the Governmental Expert Group should address non-discrimination mainstreaming in policy making. This Good Practice Exchange seminar was organised to implement this proposal. The outcomes of this seminar will be considered at the Swedish Presidency Equality Summit in November 2009 in a workshop dedicated to this topic.

The Lisbon Treaty offers a valuable legal basis for advancing equality and/or non-discrimination mainstreaming. Article 10 of the consolidated treaty sets out that 'in defining and implementing its policies and activities the Union shall aim to combat discrimination' on the Article 13 grounds. This offers new opportunities to advance equality and/or non-discrimination mainstreaming.

Article 16 of the Council Regulation (EC) No. 1083/2006 which sets out the general provisions governing the ERDF, the ESF and the Cohesion Fund also offers opportunities to advance equality and/or non-discrimination mainstreaming. It sets out that 'The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or

ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the Funds and in particular in the access to them'. This provision could now be a focus for particular attention.

Significant progress has been made in the enactment of equal treatment legislation at European Union and Member State level. This is a pre-requisite for progress on equality and the elimination of discrimination. However progress on these two areas also requires a supportive policy context. Equality and/or non-discrimination mainstreaming offers a powerful in enabling and creating that supportive policy context.

Astrid Thors, Finnish Minister of Migration and European Affairs, opened the debate. Case studies on good practice in equality and/or non-discrimination mainstreaming were presented by Timo Makkonen (Ministry of Justice), Sinikka Keskinen (Ministry of the Interior) and Markus Syrjänen (Health and Social Welfare Department, Vantaa) from Finland, Alison Pritchard (Government Equalities Office) from the United Kingdom, and Niall Mc Cutcheon (Department of Justice, Equality and Law Reform) from Ireland.

The purpose of the seminar was to enable participants to learn from the experiences of public bodies in equality and/or non-discrimination mainstreaming in Member States other than their own. It is hoped that the seminar will also enable a common and shared understanding of equality and/or non-discrimination mainstreaming to emerge.

Equality and/or non-discrimination mainstreaming is defined as 'The systematic incorporation of non-discrimination and equal opportunity concerns on Article 13 grounds into all policies, legislation and programmes'. This definition emphasises that equality and/or non-discrimination mainstreaming is focused on the grounds of gender, age, disability, racial or ethnic origin, religion or belief and sexual orientation. It establishes equality and/or non-discrimination mainstreaming as an integral part of policy making and programme design. It poses equality and/or non-discrimination mainstreaming as a tool to combat discrimination and promote equality of opportunity.

There was debate at the seminar on the terminology of equality and/or non-discrimination mainstreaming. This debate explored the competence of the European Union under Article 13 of the Treaties to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation and the range of policy fields within which the European Union has competence under the Treaties. It referenced the mandate given to the Governmental Expert Group at the Equality Summit under the French Presidency to deepen the theme of non-discrimination mainstreaming in public policy making. It took cognisance of the Resolution of the Council of the European Union, adopted at the ESPSCO Council of 5/6th December 2007, which invited the Member States and the European Commission, in accordance with their respective competencies, to ensure the mainstreaming of

non-discrimination and equality issues in the implementation of the Structural Funds, the European Globalisation Adjustment Fund, the Guidelines for Growth and Jobs, and the Objectives for Social Inclusion and Social Protection.

Equality and/or non-discrimination mainstreaming was identified as the terminology that best fitted with competence at European Union level and that allowed individual Member States to set their own goals for mainstreaming in accordance with circumstances within the Member State or in relation to the particular policy area under consideration. The term 'equality and/or non-discrimination mainstreaming' acknowledges and reflects current practice by Member States of using mainstreaming both to ensure compliance with equality legislation (non-discrimination mainstreaming) and to advance equality (equality mainstreaming) across the six Article 13 grounds. It is based on an understanding that best practice in mainstreaming involves a focus on both non-discrimination and equal opportunities. It allows for non-discrimination issues in mainstreaming to serve as a starting point and foundation on which to build a wider focus on both non-discrimination and equality issues in mainstreaming. It underpins the value of the European Commission taking on its commitments at the European Union level to progress a mainstreaming in European Union policy making that encompasses both non-discrimination and equality issues.

2. Learning and guidance from the seminar

Three detailed case studies of the practice of equality and/or non-discrimination mainstreaming were presented at the seminar. Timo Makkonen (Ministry of Justice), Sinikka Keskinen (Ministry of the Interior) and Markus Syrjänen (Health and Social Welfare Department, Vantaa) presented a case study on the mainstreaming of equality considerations into all Government policies under the Equality Act 2004 in Finland. The Equality Act 2004 places a general obligation on public authorities to foster equality in an end-oriented and systemic manner. This is complemented by a more specific duty to draw up an equality action plan to promote ethnic equality. Future legislation is likely to require the equality action plans to cover all grounds and this is already the practice of many public authorities. Alison Pritchard (Government Equalities Office) presented a case study on the experience in the United Kingdom of implementing the public sector duties to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations on the race, disability and gender grounds. New legislation in preparation is likely to extend this duty to the grounds of sexual orientation, age, religion or belief, gender reassignment, and pregnancy and maternity. Niall McCutcheon (Department of Justice, Equality and Law Reform) presented a case study of approaches in Ireland to equality and/or non-discrimination mainstreaming. These approaches are based on different drivers – a bureaucratic model driven by public sector officials, a political model driven by an engagement between politicians and non-governmental organisations, and a legal compliance model driven by a review of policy and programmes for compliance with equality legislation. A working group was established to support what was a learning phase to develop mechanisms and experiences for this mainstreaming.

These case studies serve as a valuable source of learning in a context where equality and/or non-discrimination mainstreaming is relatively underdeveloped and not widely understood across the European Union. Each case study was particular to its national context. However the case studies evidenced a commonality of practice and thinking that enables this learning to be a source of common understanding for, and guidance to, policy makers in making equality and/or non-discrimination mainstreaming an integral part of their work in policy making, the preparation of legislation, and programme design.

2.1 Objectives

The objectives set for equality and/or non-discrimination mainstreaming in policy making, developing legislation and programme design can be wide ranging. These objectives can be

pursued in isolation as single objectives or as a linked group of objectives. Equality and/or non-discrimination mainstreaming is implemented to:

- Advance equality for groups currently experiencing inequality. This objective is concerned with making sure that the policy, legislation or programme in question can benefit these groups and contribute to an improvement in their economic or social situation.
- Change the circumstances that act as barriers to the realisation of equality for these groups. This objective is concerned with making sure that the policy, legislation or programme in question can contribute to eliminating any economic, social or institutional barriers that limit opportunities and outcomes for these groups.
- Ensure that the practical implications of diversity are taken into account. This objective is concerned with making sure that the policy, legislation or programme in question takes account of, and is relevant to, the particular needs, experiences and situations of specific groups that experience inequality.
- Foster good relations between groups experiencing inequality and other groups in society. This objective is concerned making sure that the policy, legislation or programme in question supports attitudinal change and positive interactions between different social groups in society.
- Ensure compliance with equality legislation. This objective is concerned with making sure that the policy, legislation or programme in question does not discriminate directly or indirectly against groups protected by this legislation.

Equality and/or non-discrimination mainstreaming is intimately linked up with organisational change. Equality and/or non-discrimination mainstreaming requires organisational reform. Administrative and operational practices will change in order to implement the tools for a mainstreaming approach and to gather data to assist evidence based mainstreaming and monitoring of outcomes from mainstreaming. Governance and decision making processes will change to include the participation of organisations representing groups experiencing inequality.

An important goal for equality and/or non-discrimination mainstreaming is also to introduce change into the organisations implementing this approach. Equality and/or non-discrimination mainstreaming will further develop and deepen how the mission of the organisation is defined. This mainstreaming changes the culture within an organisation by raising the profile of the equality agenda. It develops a broad awareness and understanding of equality, diversity and non-discrimination issues and builds a capacity to address these issues with confidence. This mainstreaming serves to challenge and eliminate institutional forms of discrimination. It improves the way decisions are made and the manner in which resources are allocated. It improves the way services are delivered to groups experiencing inequality. Cultural change within

organisations, new capacity to promote equality and combat discrimination through the work of organisations, and the elimination of institutional forms of discrimination are key markers of success for equality and/or non-discrimination mainstreaming.

2.2 Tools

The key equality and/or non-discrimination mainstreaming tools are participation, equality impact assessment, and equality action plans or schemes.

2.2.1 Participation

Consultation of groups experiencing inequality is part of the process of preparation of new policies, legislation and programmes. This consultation provides information and knowledge that enhances the quality of policy making. It provides an involvement for groups experiencing inequality that enhances the transparency of policy making. Non-governmental organisations provide the key channels for this consultation. This consultation can be in the form of a pre-hearing at the starting point of developing a new policy. Less formal arrangements can also be implemented including a call for policy submissions or internet tools that enable a wider societal participation. Some local authorities have civil society strategies to guide this process and some Government Departments have structures to promote and support this type of engagement in policy making.

This consultation process is distinct from and additional to the participation of groups experiencing inequality in the process of assessing the impact of these policies, legislation and programmes on equality and/or non-discrimination. Again non-governmental organisations provide the mechanism for this participation. It is a participation that is important for the quality of the equality impact assessment of policy, legislation and programmes at design stage. This assessment takes place later in the policy making process as the policy, legislation or programme is beginning to take shape. It is a participation that is focused on the specific design of the policy, legislation or programme and on assessing the likely impact of this design, rather than reverting back to issues already raised at the pre-hearing consultation

This participation can be organised through policy working groups, through impact assessment meetings or through partnership arrangements between statutory bodies and the non-governmental sector. It can be necessary to support the development of some form of representative structure to manage situations where there are large numbers of relevant non-governmental organisations. In other instances umbrella organisations or alliances that bring together numbers of relevant non-governmental organisations are already in place.

This participation poses challenges to non-governmental organisations. It is a participation that works best where there is trust and where non-governmental organisations do not turn this participation into a form of public scrutiny but take on the responsibility to work together with the statutory sector to improve policy making. There are also challenges to the non-governmental organisations to bring forward a balanced range of organisations from across the grounds. This can be hampered at times where larger organisations fear they will lose influence through this wider involvement of the sector. Finally, there are challenges to the non-governmental sector to develop the tools and skills they need to effectively engage in this form of participation. They can usefully be assisted in meeting these challenges.

2.2.2 Equality Impact Assessment

Equality impact assessments are at the heart of equality and/or non-discrimination mainstreaming. They can take a range of different forms. There can be 'rapid assessments' where policy alternatives are described, the impact of these alternatives on different groups experiencing inequality is identified, and the alternatives are then appraised on the basis of impact identified.

There can be 'proofing moments' where questions are posed as to the extent to which the policy, legislation or programme targets groups experiencing inequality, the manner in which it takes account of the practical implications of diversity of these groups and the extent to which it builds a capacity to promote equality within the public sector. Diversity in this context is examined in terms of the experience of the group in relating with its wider society, the identity and values of the group, and the situation or social and economic status of the group.

There can be questions posed at design stage as to whether the policy, programme or legislation affects different groups differently, whether it puts any particular group at a disadvantage, whether it has an adverse impact on relations between groups, whether the negative impacts are avoidable and whether there are other ways of designing the policy, programme or legislation.

There can be questions posed in reviewing policies and programmes to identify any instances of direct or indirect discrimination on the grounds covered by equality legislation.

2.2.3 Equality Plans

Government departments and public bodies can prepare an equality plan or scheme to set out the objectives they wish to achieve in terms of promoting equality, accommodating diversity and/or combating discrimination for particular groups in society. The plan or scheme identifies the

actions that will be taken by the organisation to achieve these objectives. The plan or scheme can usefully include timeframes and targets for these actions and allocate responsibility for their implementation.

Equality plans or schemes developed by organisations serve to focus the practice and work of that organisation on equality and/or non-discrimination issues. This new focus covers all the different roles played by the organisation. In particular, objectives are set and actions identified for the organisation in its role as an employer, a service provider and a procurer of goods and services.

Equality plans and schemes provide a valuable foundation for equality and/or non-discrimination mainstreaming. They establish the objectives and targets that can be used in this mainstreaming. They contain commitments that can inform and be included in other policies and programmes of the organisation as part of any mainstreaming process. Equality plans and schemes can serve to identify any new policies and programmes that are planned and which will require an equality impact assessment. The preparation of equality plans or schemes is also based on the participation of, and consultation with, groups experiencing inequality. The structures and processes for this participation can also be used in the process of equality and/or non-discrimination mainstreaming.

2.2.4 Support Materials

A wide range of tools to support equality and/or non-discrimination mainstreaming were identified as part of the process of organising and running this seminar. These tools include:

- Recommendations on equality planning and the future publication of a guide book on equality planning in Finland.
- Experiences from the 'Join In' project in Finland have been published under the title 'Mainstreaming Equality and Non-discrimination in Theory and Practice'.
- Templates developed in Ireland to guide the equality proofing of County and City Development Board strategic plans and to guide the equality impact assessment at design stage of initiatives being implemented by the Boards.
- Guidelines developed in Ireland to assist Vocational Educational Committees to implement equality mainstreaming.
- Guidance materials to support organisations to fulfil their responsibilities under the statutory duties in the United Kingdom.

- The Equality and Anti-discrimination Ombud has published guidelines on gender mainstreaming in Norway.
- An e-learning tool has been launched in Denmark containing courses in gender equality assessment on bills, resource allocations, communication initiatives and gender segregated data and statistics.
- A website has been established in Denmark with four tools for gender mainstreaming including checklists, advice and examples.
- Guidelines for gender assessment of Bills are available to civil servants in Denmark.
- A Government memorandum on gender mainstreaming is available in the Netherlands.
- An Equal Opportunities Principles Guide is available in Hungary to support the integration of Roma people in a number of different policy areas.

2.3 Supports

Equality and/or non-discrimination mainstreaming should be an empowering experience for staff in organisations implementing this approach to policy making and programme development. Guidance materials and mainstreaming templates assist in this. Training of staff on equality issues and on mainstreaming skills is valuable. Non-governmental organisations have made important contributions in providing this training. Public administration training schools can also contribute by providing this training. Empowerment ensures staff and organisational processes have a capacity to manage equality and/or non-discrimination considerations in policy making. Leadership from a senior level is required for effective equality and/or non-discrimination mainstreaming. Political support is necessary for equality and/or non-discrimination mainstreaming. The political process can be central to the preparation and monitoring of equality plans where these plans can be a source of genuine political discussion that builds political leadership for equality and for equality and/or non-discrimination mainstreaming. An institutional infrastructure is required to support equality and/or non-discrimination mainstreaming. However it is important not to multiply units and sections within organisations and such responsibilities might best be added to the work of existing units or sections in the organisation.

Equality and/or non-discrimination mainstreaming needs to use evidence. Equality data on the situation and experience of groups experiencing inequality serves quality mainstreaming. It is necessary to identify the specific data that is required and that is available for the particular equality and/or non-discrimination mainstreaming exercise. Quantitative and qualitative data can serve mainstreaming. It is also useful to gather data to map the outcomes from the equality and/or non-discrimination process. This assists in making the case for equality and/or non-

discrimination mainstreaming and enables an assessment of the quality of the mainstreaming process.

2.4 Factors for success

A number of factors are evident that make for successful equality and/or non-discrimination mainstreaming. These include:

- All stakeholders involved in the mainstreaming process holding a shared understanding of equality and having an agreed set of objectives for equality and/or non-discrimination mainstreaming.
- Officials who are responsible for policy making and programme design having the necessary skills and awareness to implement equality and/or non-discrimination mainstreaming and holding a mandate to conduct this mainstreaming and the power to implement any conclusions of this process.
- A high level leadership within organisations that is committed to equality and/or non-discrimination mainstreaming and its implementation.
- An informed and engaged support for equality and/or non-discrimination mainstreaming from politicians and political involvement in and discussion about equality plans and equality and/or non-discrimination mainstreaming,
- Non-governmental organisations that have the skills, understanding and resources to engage as a partner in equality and/or non-discrimination mainstreaming and that are committed to engaging with Government departments and public bodies in such a process.
- All stakeholders involved holding a shared understanding that equality and/or non-discrimination mainstreaming is a long term project, which involves new ways of thinking and new ways of doing business within Government Departments and public bodies, and which will require sustained commitment and involvement from all involved to enable it to grow and develop as a key process in all policy making, legislative preparation and programme development.
- The availability of wide ranging quantitative and qualitative equality data that covers all the different equality grounds and that is relevant to the policy area in question.

However one key factor for success emerged in the debates – the factor of risk taking. Equality and mainstreaming requires a process of learning by doing. It is most effective to initiate a process of equality and/or non-discrimination mainstreaming and develop it over time rather than waiting for all the conditions for equality and/or non-discrimination mainstreaming to be ideal.

3. Seminar debates

A range of themes were evident in the discussions over the course of the seminar. These themes reflect the different starting points for equality and/or non-discrimination mainstreaming in different Member States. They also reflect a positive consensus around the value of equality and/or non-discrimination mainstreaming and around what is required for this approach to be effective. What follows is a synthesis of some of the debates that took place and of the positions expressed by participants at the seminar.

3.1 A learning process

Equality and/or non-discrimination mainstreaming is still at a very early stage. It can draw from the experience of gender mainstreaming. However gender mainstreaming took nearly twenty years to implement to a satisfactory level. It took time to even understand what gender mainstreaming meant. Participants from countries that had made significant progress on equality and/or non-discrimination mainstreaming emphasised that it was still a learning process there.

It takes time to build a shared understanding of equality and/or non-discrimination mainstreaming and to develop support for such an approach. However, there is no point waiting for the ideal conditions to present or to be created. The best way forward is to learn about equality and/or non-discrimination mainstreaming by doing it. It is about learning as one goes along rather than having all the answers at the start. There is a leap of faith required that the complexities can be addressed as part of the process of implementation.

In learning about equality and/or non-discrimination mainstreaming by doing it, it is important to keep focused on the outcomes desired – on the organisational change that is being secured, on the progress towards equality and/or non-discrimination that is being achieved for groups experiencing inequality. There can be a danger of becoming too focused on the process of equality and/or non-discrimination mainstreaming. This can lead to an exercise that is overly technical and can degenerate into a formulaic or tick-box exercise.

3.2 Barriers

There are barriers to implementing equality and/or non-discrimination mainstreaming across the Member States. The different conditions present in each Member State means that there are a

range of challenges to be addressed in any process of learning by doing equality and/or non-discrimination mainstreaming. These challenges will differ between different Member States. Key challenges posed included:

- There can be an overload of impact assessment processes in policy making, the preparation of legislation and programme development. This means there is a battle to secure attention for equality and/or non-discrimination mainstreaming. There is a need to pursue a consistent and long lasting marketing and communication strategy about equality and/or non-discrimination mainstreaming.
- The public sector might have no tradition or culture of monitoring or evaluating policies or programmes being implemented. There might be no tradition of making an assessment of impact when policies are being made. There is a further cultural and philosophical shift demanded by equality and/or non-discrimination mainstreaming. This involves changing from a more traditional orientation based on a prohibition or compliance perspective when it comes to equality issues. It requires a new perspective on equality issues that is concerned not just with compliance but also with advancing equality. Equality and/or non-discrimination mainstreaming thus reflects a very different way of doing business in policy making, development of legislation and programme development.
- The support for equality from the general population and from politicians can be very low. There can be confusion as to what equality means. There can be differences as to what level of equality is sought – substantive equality and positive action, or equal treatment and compliance with anti-discrimination legislation, or equality of opportunity.
- There can be a limited presence of non-governmental organisations in the Member State to assist or participate in equality and/or non-discrimination mainstreaming. The non-governmental organisations might not have the tools or the capacity to engage in this approach. The non-governmental organisations might not have sufficient experience to secure the trust of policy makers who are opening up the policy making process to them.

There are also barriers that impact on the quality of equality and/or non-discrimination mainstreaming across the Member States. These include:

- Limitations in the quality and quantity of the equality data available to policy makers engaged in mainstreaming.
- A lack of support for and engagement with non-governmental organisations which are independent of the state and pursue a human rights agenda rather being engaged in providing social services.
- A failure to consider the possibility of indirect forms of discrimination within policy, legislation or programmes.

- The process of equality and/or non-discrimination mainstreaming can become an isolated process restricted to a small number of people. People in the organisation who are not directly involved in the process of mainstreaming can remain unaware of the outcomes being sought and the equality plans being developed. This limits any attempt to achieve organisational change through equality and/or non-discrimination mainstreaming.
- Civil servants who implement this equality and/or non-discrimination mainstreaming approach can be in a situation where they do not have the time for these extra responsibilities. They might not have the skills to implement this approach. They might regard impact assessment as merely a box ticking exercise. They might not accept equality as a policy goal or might be hostile to particular groups experiencing inequality. There is, therefore, a need to change mindsets as a first priority. There is a need to build the capacity of civil servants and to invest resources in equality and/or non-discrimination mainstreaming.

3.3 Making the case

It is important to develop, make and promote the case for equality and/or non-discrimination mainstreaming. The case for this approach rests primarily in its capacity to enable new policies, legislation and programmes to advance equality, address relative differences in well-being between groups, foster good relations between groups, change circumstances which prevent the realisation of equality, take account of difference and diversity, and comply with equality legislation.

However, the case for this mainstreaming approach goes further. Equality and/or non-discrimination mainstreaming makes policy making, the development of legislation and programme development transparent and open and thus contributes to good governance. It can build a new culture in policy making, the development of legislation and programme development that improves effectiveness by introducing the concept of equality impact assessment and the need for monitoring and evaluation. It contributes to a quality of policy making, legislation and programme development by enhancing its capacity to meet the needs and to have a positive impact on groups experiencing inequality. Finally it can secure a better use of scarce resources by ensuring policy making, legislation and programme development is better attuned to the situation, experience and needs of target groups.

It is important to build specific arguments in support of equality and/or non-discrimination mainstreaming. It can be hard to convince busy people to take the time to do equality and/or non-discrimination mainstreaming without such arguments. A case for this mainstreaming is also required to convince the population about equality and/or non-discrimination mainstreaming and

to secure strong political support. Member States need assistance in making the case for equality and/or non-discrimination mainstreaming.

One valuable way of making the case for equality and/or non-discrimination mainstreaming is by demonstrating in practice that it makes a difference. It is useful to prove that there is a dividend from mainstreaming that exceeds or justifies any costs that might be involved. It is necessary to track the outcomes from equality and/or non-discrimination mainstreaming to demonstrate this dividend. These outcomes will be internal to the culture, awareness and processes of the organisation involved as well being evident in the impact on groups experiencing inequality of the policies, legislation or programmes being designed. Research, for example, has demonstrated that organisations work better as a result of legal duties to have due regard to equality in carrying out their functions. This type of finding strengthens commitment to and investment in equality and/or non-discrimination mainstreaming.

Another way of making the case for equality and/or non-discrimination mainstreaming is by identify and promoting the case for greater equality in society. This involves communicating the economic and social potential and contribution of the groups which experience inequality. It involves communicating how greater equality improves business performance, economic development, and societal well being.

3.4 Seizing opportunities

Moments of change in society or in the public sector can offer opportunities to develop an equality and/or non-discrimination mainstreaming approach. This discussion drew from the experience in the United Kingdom. In 1999 an inquiry led by Sir William Mc Pherson into the investigation of the murder of Stephen Lawrence, a Black person, found that the Metropolitan police force was institutionally racist. One of the outcome of this finding was the introduction in 2000 of a general duty on public bodies to have due regard to promoting equality of opportunity on the race ground, to eliminate unlawful discrimination and to promote good relations between people of different racial groups. The implementation of an equality impact assessment on new policies and programmes is an important tool to demonstrate that a body is implementing this duty.

Current high levels of unemployment in a context of economic crisis are likely to lead to the development of new labour market policies and programmes. Unemployment is disproportionately affecting some of the Article 13 groups, in particular Black and minority ethnic people who are migrants. New developments in this area offer opportunities for equality and/or non-discrimination mainstreaming that will enable new policy and programmes to support labour market equality.

Economic recession is, more broadly, a moment of significant change across the Member States. This recession is stimulating new policies and programmes and new ways of promoting economic and social development. As such economic recession could serve as a catalyst for a greater concern with inequality and discrimination and provide new opportunities for equality and/or non-discrimination mainstreaming.

Public sector modernisation programmes offer opportunities to develop processes of equality and/or non-discrimination mainstreaming. New business methods being developed in the public sector could include new processes of equality and/or diversity mainstreaming that could assist quality of policy making and programme development.

The regulation, planning, implementation, and monitoring of the Structural Funds can also provide opportunities to develop equality and/or non-discrimination mainstreaming. A focus on equality and/or non-discrimination could be strengthened in the guidance on the allocation of funding. Structural Funds could be used to develop equality competence in the public and private sectors. The regulations governing Structural Funds could be strengthened to support the focus on equality and non-discrimination in the application of the Structural Funds.

Public procurement provides a very specific and valuable opportunity to progress equality and/or non-discrimination mainstreaming. Public bodies spend large amounts of money. Mainstreaming equality and/or non-discrimination in the procurement process ensures that responsibilities to advance equality and combat discrimination are passed down the procurement chain. Mainstreaming equality and/or non-discrimination in the procurement process also ensures that public sector bodies do not, in effect, sidestep their responsibilities to have due regard to equality by contracting out part of their functions.

3.5 Coordination

The equality and/or non-discrimination mainstreaming practice described during the seminar was horizontal, emphasising the inclusion of all Article 13 grounds. This valuably allows consideration of where the different grounds overlap and where people can be at risk of multiple discrimination. There can be complexities between different grounds but a leap of faith is required that these can be worked out during the mainstreaming process if they arise. Some individual grounds can be left behind in a multi-ground approach and it might be necessary to develop specific initiatives to create a visibility for such a ground in the policy making, development of legislation or programme development process. However separate single ground mainstreaming processes can be disadvantageous. They can create an administrative burden and they can degenerate into tick box exercises. Mainstreaming individual grounds can also be limiting in that it focuses on single

issues rather than encouraging policy makers to assess overall impact on the community they serve – in all its diversity.

Responsibility for equality within the public sector, however, is often fragmented by ground. Different Article 13 grounds can be the responsibility of different Departments or agencies. This fragmentation makes it difficult to develop an integrated multi-ground approach to equality and/or non-discrimination mainstreaming. Coordination across these Departments or agencies will be important in developing equality and/or non-discrimination mainstreaming. Coordination will enable leadership, target setting, impact assessment and accountability.

The link between the Article 13 grounds and social inclusion strategies is also worthy of consideration. Inclusion strategies tend to run in parallel to anti-discrimination strategies. However those experiencing social and economic exclusion are diverse and include people from all Article 13 grounds. Likewise discrimination can be a cause of social and economic exclusion. This suggests a value in making links between inclusion and anti-discrimination strategies. Equality and/or discrimination mainstreaming can provide such a link.

Another level of coordination is also required to support effective equality and/or non-discrimination mainstreaming. This is a coordination between different policy areas and Government Departments to achieve a shared understanding, commitment to and implementation of equality and/or non-discrimination mainstreaming.

3.6 Legal duties

Two of the three presentations to the seminar set out approaches to equality and/or non-discrimination mainstreaming that are based on legal requirements. The challenge of compliance helps to focus the minds of more senior officials and serve to generate a leadership for mainstreaming. Legal requirements for mainstreaming can be flexible and light touch to avoid a tick box exercise and to encourage a focus on the outcomes that are sought. Proportionality in the application of these legal requirements is also important as the circumstances are not the same for all public bodies. The legal requirements should only be as extensive as is required by the nature and scale of the work of the particular public body. Legal requirements serve to convince policy makers to engage in equality and/or non-discrimination mainstreaming, to sustain equality and/or non-discrimination mainstreaming over time, to ensure that all involved have a clarity as to what is required in equality and/or non-discrimination mainstreaming and to secure that this approach is pursued coherently across all parts of the public sector.

Enforcement of these legal requirements is necessary. Not all public authorities conform to the legal requirements on them in relation to equality and/or non-discrimination mainstreaming. The

quality of implementation of equality and/or non-discrimination mainstreaming will vary across public bodies. Sanctions for non-compliance or poor compliance make a valuable difference. Strong enforcement at an early stage can ensure legal requirements have some bite and this can then be balanced over time with a flexibility that enables achievement of outcomes.

However, equality and/or non-discrimination mainstreaming can also be progressed in the absence of any legal requirements. There can be a risk of formalism where mainstreaming is a legal requirement. There can be tensions where organisations are not prepared for the legal obligation. Wide debate and shared understanding and commitment can be more essential than legal requirements

3.7 Drivers

Legal requirements serve as one driver for the implementation of equality and/or non-discrimination mainstreaming. Other valuable drivers for this mainstreaming were identified.

There can be bureaucratic drivers where the drive for mainstreaming comes from civil servants and public officials. This driver does not require significant financial resources and can pursue a high level of ambition for mainstreaming in terms of equality and non-discrimination issues. However, there can be difficulties of long-term sustainability where the particular officials move on to other responsibilities.

There can be political drivers. Politicians can take a leadership in promoting equality and/or non-discrimination mainstreaming. Non-governmental organisations can press for this political engagement. There can be difficulties where the political leadership lacks understanding of and commitment to equality and/or non-discrimination.

Anti-discrimination legislation can be a driver. Steps can be taken to examine legislation, policies and programmes to ensure that they do not involve direct or indirect discrimination and that they comply with anti-discrimination legislation. This can be a costly exercise. It involves a low level of ambition for mainstreaming in that the focus is limited to non-discrimination.

Members of the Governmental Expert Group can also be drivers for equality and/or non-discrimination mainstreaming. They can be champions for this mainstreaming approach. They can bring non-governmental organisations into contact with public bodies to develop participation. They can be a stimulus for networking in the public sector on equality and/or non-discrimination mainstreaming. Finally, specialised equality bodies can serve as drivers and supports for equality and/or non-discrimination mainstreaming.

4. Seminar conclusions

The final session of the seminar discussed and agreed key messages to be communicated to the forthcoming Equality Summit during the Swedish presidency. This was to fulfil the proposal of the French Presidency at the equality summit in 2008. This final session also discussed and agreed proposals for action from the European Commission to progress equality and/or non-discrimination mainstreaming. This support was deemed to be particularly important in a context where there is an uneven understanding of equality and/or non-discrimination mainstreaming and in a context where support at Member State level for this mainstreaming can be limited. Proposals for action on equality and/or non-discrimination mainstreaming at Member State level were also discussed and agreed.

MESSAGES TO THE EQUALITY SUMMIT

1. Promote the case for equality and/or non-discrimination mainstreaming: it assists good policy making, effective use of resources, compliance with equality legislation and achieving equality.
2. Build political commitment for equality and/or non-discrimination mainstreaming.
3. Develop leadership for equality and/or non-discrimination mainstreaming from ETUC, EU employer organisations, EQUINET and the Social Platform and the members of these organisations at Member State level.
4. Implement European Commission commitments to, and mandate from the Equality Summit for, equality and/or non-discrimination mainstreaming.
5. Take steps to build equality and/or non-discrimination mainstreaming initiatives in policy making at Member State level.

ACTION AT EUROPEAN LEVEL

1. Communicate the case for equality and/or non-discrimination mainstreaming and market the concept.
2. Develop a simple manual for equality and/or non-discrimination mainstreaming based on existing tools at Member State level.

3. Bring an equality and/or non-discrimination mainstreaming approach into existing policy coordination processes and the Structural Fund regulations.
4. Support Member States to implement equality and/or non-discrimination mainstreaming initiatives through a restricted call for specific mainstreaming projects under the Progress Fund.
5. Continue work on equality and/or non-discrimination mainstreaming through the Governmental Expert Group. This seminar in Helsinki should mark the start of an ongoing process.
6. Stimulate leadership from EU level networks for equality and/or non-discrimination mainstreaming.

ACTION AT MEMBER STATE LEVEL

1. Take the first step. Learn by doing.
2. Identify an existing policy process and build in an equality and/or non-discrimination mainstreaming initiative (e.g. new employment strategies, public sector modernisation etc.).
3. Develop your own language for equality and/or non-discrimination mainstreaming. Communicate the case for equality and/or non-discrimination mainstreaming.
4. Build support. Identify and mobilise organisations that will support equality and/or non-discrimination mainstreaming (e.g. non governmental organisations, equality bodies). Use existing public administration training to develop capacity for equality and/or non-discrimination mainstreaming.
5. Create opportunities for coordination in equality and/or non-discrimination mainstreaming (e.g. a working group to drive the process).
6. Be a driver for equality and/or non-discrimination mainstreaming as a member of the Governmental Expert Group. Members should use the Governmental Expert Group for mutual support and bilateral exchange. They should report to the group on good practices developed in their Member State.
7. Pilot the guidance for equality and/or non-discrimination mainstreaming developed at European level. Use EU funding available to implement equality and/or non-discrimination mainstreaming.

8. Bring equality and/or non-discrimination mainstreaming into the management of the structural funds.
9. Identify opportunities to build on gender mainstreaming processes in developing equality and/or non-discrimination mainstreaming.