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MONTENEGRIN EMPLOYERS FEDERATION

# **PROMOTION OF EQUALITY AND PREVENTION OF DISCRIMINATION AT WORK IN MONTENEGRO**

## **PRACTICAL GUIDE FOR EMPLOYERS**



# **PROMOTION OF EQUALITY AND PREVENTION OF DISCRIMINATION AT WORK IN MONTENEGRO**

**- Practical guide for employers -**

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## Foreword

Equality at work and non-discrimination are considered to be basic labour rights crucially important for achieving social justice and sustainable economic development of Montenegro. A right to equal opportunities and equal treatment in employment and occupation provide all persons with a chance to work and care about their families, regardless of their race, skin colour, nationality, social or ethnic origin, language, religion or belief, sex, gender identity, sexual orientation, health condition, disability, age, material background, marital or family background, group affiliation or other personal characteristics.

As stipulated in the Constitution of Montenegro, direct or indirect discrimination on any grounds shall be prohibited. The right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment is established by Universal Declaration of Human Rights and guaranteed by many other international documents and regulations. Having ratified two out of eight key ILO conventions - ILO Convention 100 on Equal Remuneration (1951), ILO Convention 111 concerning Discrimination in Respect of Employment and Occupation (1958), Montenegro admitted that national legislation fulfilled all necessary criteria in terms of complete harmonization, monitoring mechanisms and implementation.

As stated above, legal conditions are established, political support by the Government for application of equality and non-discrimination principles is provided, while practice shows that a substantial number of companies have adopted their own policies for implementation of those principles. Those companies are run by employers aware of the importance of equality incorporated in business practice and the added value it brings to both employees, as company best ambassadors, and to companies themselves. Their motto is: Being proactive in the matters of equality and non-discrimination is a moral obligation first and only then a good business choice!

In the coming period, Government is the one to be primarily responsible for human rights. On the other hand, companies are expected to have and asked for strategic action, showing that individual commitments do make a difference. On that road, they are to face great challenges and uncertainties that require major support. For a start, they are getting it from Montenegrin Employers Federation and International Labour Organization whose partnership generated this publication. Our intention was to create a content that would meet the expectations of such companies and provide them with the support in creation of future business models that would successfully incorporate equality and non-discrimination principles.

We also hope that this publication will be found useful both by Government and trade unions. The necessity of our close cooperation is justified by a joint goal: to promote decent and productive work in the atmosphere that cherish freedom, equality, security and human dignity, for the benefits of Montenegro and its entire population.

Dragan Radić  
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*ILO Office for Central and Eastern Europe*

Predrag Mitrović  
*President*  
*MEF*

## Introduction

Nowadays, when companies are faced with the worst economic crisis in the last 80 years, traditional postulates on competitiveness, sustainability and profitability are to be rethought. Promotion of equality and elimination of discrimination in employment and occupation have become part of efforts for fair globalization.

There are companies in Montenegro that have timely realized that caring about employees and business that rests upon corporate social responsibility principles are the key drivers of growth and success. With its strategic policies, innovative solutions, transparent and responsible relations with employees, those companies create new value, improve their image and competitiveness, achieve business growth substantially contributing to the overall social and economic progress of the country. They are, at the same time, the best promoters of those good practices where equality and non-discrimination principles are in the focus of business.

Practical guide for employers on promotion of equality and prevention of discrimination at work is published by Montenegrin Employers Federation (MEF) with the support of International Labour Organization (ILO). The Guide consists of practical guidelines and instructions with an aim of helping employers, directors, HR managers, trade union representatives and employees in their everyday work. Intending to support companies in their efforts to gain business advantage by respecting equality principles, the Guide offers solutions concerning recruitment, trainings, business practice etc.

Practical guide is issued together with publication *Leading Principles* and promotes equal opportunities and treatments, clarifying a set of guiding principles related to non-discrimination and equality at work. Employers are advised to use those two publications together, so the principles of equality are integrated into their everyday business practice and subsequently help raising the public awareness of the issue.

*Practical guide* consists of three parts. The basics of equality are given in the first part. It is explained what employers should know about equality and what they can do to promote it. The second part provides practical advices on the meaning of equality and non-discrimination and how can recruitment process in the companies be made free from discrimination. In this part, practical guidelines cover an entire recruitment cycle, starting from non-discriminatory ways of describing and advertising jobs to fair business practices, wage policies etc. This part also covers the process of productive workplace creation, in a way that employees' needs are satisfied and equality measures are incorporated into business practice. Finally, the third part gives practical instructions on how equality at work is to be established. This means – basic planning and implementation of equality measures as well as managing equal opportunities and treatments including equality policies, action plans and affirmative action measures.

All employees are granted with right on equal opportunities and equal treatment and it is employers' obligation to provide conditions of work where they will be protected from discrimination and harassment. It is especially indicated by provisions of Montenegrin legislation as well as ILO Convention 100 on equal remuneration (1951) and ILO Convention 111 concerning discrimination in respect of employment and occupation (1958), which served as a starting basis in creation of this Guide.

*The Guide* should help employers in promoting, encouraging and implementing equal opportunities and equal treatments in employment and work in doing their business. The content of the Guide is not obligatory. It calls companies to operate in accordance with law, but also to create responsible policies and develop their own models of good practice in managing human resources. By committing to prevention of discrimination and promotion of equal opportunities and treatments, a company will be on the right way to become a desirable employer and enjoy

all the benefits that comes with such recognition.

*Montenegrin Employers Federation (MEF)*

## **PART I – BUSINESS CASE FOR EQUALITY**

“One of the greatest paradoxes of this historical period is that, while technological progress transforms our world, the need for preservation of human dimension of work and for the sense of corporate social responsibility grows equally fast. Harmonizing economic growth with human rights protection is one of the greatest challenges that we face nowadays.”

*Mary Robins, High Commissioner of UN for human rights, Davos, February 2000*

## 1. Equality and discrimination – What's in there for enterprises

The most significant resource of every company is their employees. That's way it is said that a satisfied worker is the best ambassador of his company.

Famous world economists point out that organization's position and its reputation increase if it carries out activities that encourage and implement equality principles in recruitment and in the workplace. It is a strong, interdependent partnership connection that rests upon mutual interest, wherein employers and employees, in certain way, represent two pans of the same scale – employees depend on employers through whom they provide livelihood, while employers and their business success is dependant upon employees. No matter whether it is small, medium or large enterprise, human factor is in most cases a key element of their profitability, productivity and competitive advantage. If we take into account that the interest of every enterprise is to attract the most professional, the most talented and the most loyal workers, then clearly the main precondition for that is enterprise's policy as well as working environment that a worker will recognize as desirable.

Numerous surveys conducted globally have shown that implementation of equality measures can bring numerous benefits to companies, in terms of:

- Their increased ability to attract talented and qualified workforce
- Their increased employees retention i.e. decreased number of employees that leave the company
- Greater satisfaction and motivation of employees
- Increased innovation and creativity
- Increased productivity and operational efficiency
- Decrease (or elimination) of risks from conflicts in the workplace
- Increased customer's satisfaction and better access to new markets
- Improved sales and business development
- Improved relations with important groups (suppliers, manufacturers..)
- Brand development, better reputation and public image
- Reduced risk from judicial procedures.

The advantages listed above, with the set of others, are the result of doing business which, inter alia, relies upon equal treatment of employees - in all policies and practices of the company.

### **Management tips 1:**

#### **What does discrimination in employment and occupation mean?**

Discrimination in employment and occupation happens when a candidate is treated differently or less preferably due to characteristics that are unrelated to his/her merits or workplace requirements.

Discrimination can appear in different work-related activities. This includes employment&recruitment, certain occupations, trainings, professional guidance and social protection. Furthermore, it can appear in the sense of terms and condition of employment such as:

- Selection
- Wages
- Working time, breaks and paid leave
- Parental protection
- Workplace security
- Working tasks
- Performance appraisal and career advancement
- Training opportunities
- Promotion perspectives
- Health and safety at work
- Termination of employment

In some countries, additional problems due to discrimination in the workplace, like those related to age or HIV status, are increasingly gaining in importance. It is also important to understand that discrimination at work can appear in a set of sectors and can create problems in rural or agricultural businesses or in high-tech companies.

Discrimination can have several forms. It can be direct, when for example laws and rules explicitly limit person's access to employment. Still, in most forms discrimination is indirect and it occurs informally through positions and behaviour. Some forms of discrimination can be rooted in the culture.

Non-discrimination simply means that employees are selected based on their suitability to perform the job and without preference, exclusion or favour on any other grounds. Employees that experience discrimination at work are denied the chance and fundamental human rights. This raises individual concerns and reduces their societal contributions.

Workplace is of strategic importance when it comes to setting society free from discrimination. Fights against discrimination in the workplace can help reducing shortages such as those resulted from unfair treatment in respect of education in earlier periods of life. When people of different race, sex and age are gathered at one workplace it helps them build a feeling of pursuing the common goals. Having that, stereotypes and prejudices that are in the heart of discrimination are weakened.

Efficient ways of challenging discrimination once it occurs are necessary. Principles of International Labour Organization (ILO) set minimum requirements in this regard. National laws and practices can be broader and include more detailed approaches for elimination of discrimination in the workplace.

Source: "Principles of UN Global Compact Labour Rights – a Guide for Business", Montenegrin Employers Federation, Podgorica, 2011

*Note: Publication indicated as a source was produced as translation of the original issue: "The labour Principles of the United Nations Global Compact – A Guide for Business", ILO, Geneva, 2008 (reprint 2010)*

"Discrimination can vary in types and manifestations. Sometimes it is visible and direct and sometimes it is hidden and indirect. Sometimes it means deprivation of rights, sometimes it means privileging i.e. recognition of rights. Sometimes it is manifested in taking or non-taking material action, and sometimes in offensive, underestimating i.e. disturbing speech. Sometimes discrimination is direct and again sometimes it is severe."<sup>1</sup>

In any case, the longer the list of prohibited discrimination forms the more efficient protection from discrimination

1 CEDEM (2012), Prohibition of Discrimination, Regulations and Practice, Podgorica

is.

## 1.1 How promotion of equality can help Montenegrin companies in doing their business?

**The best part of a company is its employees.** Therefore it is often said that equal opportunities and equal treatment generate healthy, stimulating and productive working environment that creates the sense of union among employees – regardless their sexual, racial, national, age and educational differences.

Establishing of structured and transparent human resources management system, based on equality and non-discrimination principles can help Montenegrin enterprises respond better to numerous, everyday challenges, the greatest one among them being – a fight for talents. Company's ability to attract and retain the best workers is a key to productivity, innovations and business success.

Although there is no dilemma that company's primary obligation and goal is economic and legal responsibility i.e. profit making and respect of law, it does not mean that integration of basic social values into business is contradictory. On the contrary, many surveys and practice have shown that care about employees substantially contributes to achievement of company's primary goals – business costs reduction, increase of efficiency, public image and reputation building, greater motivation and loyalty of workers, as well as greater productivity and quality of labour. Having in mind that discrimination is most represented in the area of employment and work, insistence on recognition of workplace as a starting point for every action aimed at elimination of discrimination in the society is understandable. The role and obligations of employers in such actions are particularly important.

At work, employers are obliged to enable respect of Montenegrin positive law provisions, as well as terms and conditions of work and working environment that will protect employees from any type of discrimination and harassment. Human dignity is an inviolable right of every individual, and protection of dignity and integrity at work is one of fundamental labour right.

All employees have rights to equal opportunity and treatment, and all employers are responsible for prevention of discrimination and harassment at work. It is therefore important that:

- Employers include their employees into the process of creating policies which aim at promotion of equality and equal opportunities, and prevention of discrimination;
- Employees understand and support policies and measures introduced in the company with an aim of equality and equal opportunities promotion and prevention of discrimination.

Employers have double obligation – they should ensure that both newly and permanently employed in their companies are freed from discrimination; and they should continuously work on promotion and establishing of real equality through their own initiatives and equality policy implementation. For employers wishing to do more than they are legally obliged to (activities beyond limit set by regulations), the above stated is a good business move that ensure maximum utilization of human potential and speaks in favor of socially responsible business leading to better market positioning and company's business success.

Experiences with corporate social responsibility in SMEs in Montenegro and in the region resulted in recognition of the set of benefits such as:

- more efficient use of company's resources, profit increase and cost reduction;
- creation of good working atmosphere in the company, increased productivity and employees contribution to finding new solutions;



- competitive advantage based on quality of products and services and applied ethical principles;
- building of corporate identity, image and reputation;
- the ability of attracting and retaining employees, consumers, clients and users.<sup>2</sup>

An adequate assessment of all job applicants, that is based exclusively on their merits, skills, experience and potential, free from discriminatory bias, help employers in finding and recruiting the best workers.

Results of a survey conducted in Ireland (sample: 130 companies) have shown that implementation of equality strategy improves working productivity by 6.5 per cent, while implementation of strategic measures in human resources management do it by 14.8 per cent. It also confirmed a connection between equality measures implementation and decreased employees' fluctuation which is indicated by the finding that strategic measures in human resources management reduce employees' fluctuation by 7.7 per cent. Companies' experiences show that diversity of the workforce can help them increase the level of innovations and creativity, which often results in creation of new products and services. Similar people tend to "look" at things in a similar way, while differences produce different perspectives (new "points of view") and therefore new solutions. This survey has shown that implementation of equality strategy influence innovation growth at work of 7.9%.<sup>3</sup>

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2 Source: „Social responsibility policy in Montenegro“, Ministry of Tourism and Sustainable Development, Podgorica, 2013

3 Source: CE“Employers’ guide on promoting equal opportunity and treatment and preventing discrimination at work in China“, China Enterprise Confederation (CEC) and International Labour Office (ILO), Beijing, 2011

## **Management tips 2:**

### **EU integrations and SMEs from the aspect of equality principles implementation**

Montenegrin accession to EU is a longterm and comprehensive process which means reforms of an entire economic system, harmonization of national legislation with EU acquis as well as full application of European standards and laws in the interest of building competitive economy and creating conditions for its success at European market. SMEs are the framework of such economic development, its main driving force and subsequently and irreplaceable factor in the EU accession process and Montenegrin integration into global economic trends.

Competitiveness growth, productivity improvement and an entire enterprise development is not going to (and cannot) happen over night. Continuous efforts that rest upon enterprise development strategy focused on employees and ensuring conditions that will provide for equal opportunities and treatment in employment and work as well as non-discrimination are necessary. The example of these actions comes from Croatia – at that time potential, and today, an EU member state.

*“Two areas especially well regulated in European laws and regulations are the area of human rights i.e. equality and the area of health and safety at work. In both cases, Croatian practice should undergo considerable adjustments especially when it comes to direct implementation of legislation in the companies. Furthermore, expected increase in workforce mobility, that especially younger and educated people will benefit from, will escalate an issue of their retention in companies. Therefore, being a desirable employer will be even more important than nowadays.”*

Source: Honorably to Victory – a Manual for corporate social responsibility, Ed. Heidi Eterović and others, UNDP, Zagreb, 2005

### Management tips 3: Retention of talents

If a company rejects an adequate and qualified job applicant only on the basis of sex, nationality, age or because of his/her HBV status, then it means it consciously rejects a potential talent and maybe the best worker, who, with his devotion and contribution at work could bring competitive advantage to the company.

From the aspect of a company, there are 4 main stimulating reasons for employment of LGBT persons, securing their rights and protection from discrimination and harassment at work:

- **Reputation** – the need for creation of company's positive picture towards all the more sensitive and requiring existing and potential workers, business partners and clients;
- **Employment and workforce retention** – company's need to become "a desirable employer" and thereby keep and improve its competitive advantage at all the more complex labour market;
- **Productivity** – company's need to retain and motivate talented professional staff necessary for optimal work performance;
- **Elimination of potential legal disputes** – company's need to avoid potential costs of judicial procedure i.e. potential penalties for non-respecting laws that regulate discrimination issues.

Adapted from: "Discrimination in the Workplace", Ed. Bojana Genov and others, Biblioteka Učionica aktivnog građanstva, the Centre for Healthy Growth "IDEM i ja", Mali Lošinj, 2011.

## 1.2 Benefits of equality for companies

The adoption of Code of business ethics, action plan of equality or other document of such kind, is often seen as a rule that should be followed only by big companies, while small and medium sized enterprises are supposed not to cherish such practices. Such thinking is, of course, wrong!

Care about employees, promotion of equality and business operations based on the principles of equal opportunities and treatment of employees, are fundamental values of every company – regardless their size. In other words, **full application of equality principles in everyday business practice is equally relevant both for SMEs and big companies.**

The company perceived by public as "a desirable employer", especially if it belongs to the category of SMEs, is the best example for the above. That employer is very much aware of the fact that its employees are the ones who, with their knowledge, expertise and commitment, contribute to creation of new values and accomplishment of company's business goals. Such employer knows that nowadays one has to fight constantly in order to attract and retain talents which only confirm the necessary attention that is to be given to these issues. A good public image of that employer is built due to his efforts to ensure equal opportunities and treatment both at work – for its employees and in recruitment process for all job applicants. The basis for equality measures application is a special document (employment policy and practice) adopted at the company, written in comprehensible language, with clearly defined rules and obligations (of both managers and employees), monitoring, reporting and revision rules.

With the help of this approach, "a desirable employer" minimized one of his most frequent concerns: *whether he will be able to keep high-quality workers i.e. whether he will succeed in finding the adequate new candidates at the*

*labour market?*

Many SMEs in Montenegro still face such challenges, often not realizing that one of the main factors causing these problems is the very lack of capacities but also the lack of adequate knowledge about human resources management. It is why those enterprises recognized as positive examples – the ones that follow business ethics rules and act in accordance with moral standards in their business surroundings, are to be learned from.

By adoption of a Code of Ethics, SMEs prove their commitment to manage and act in line with moral principles of business. The Code of Ethics, as a special written document, describes values, principles and scope of actions (business conduct) of the company, and it is mainly based on business practices and international standards. It is, actually, a set of business norms that the company tends to achieve in its daily operations. These are not rules but principles that are to be followed if a company wishes to achieve greater equality and humanity at work. According to some theorists, by adopting the Code of Ethics companies ensure: unique business standards, increased employees' satisfaction, transparency in their operations, easier business planning, operation risks reduction and higher quality of work.

#### Management tips 4: Adoption of the Code of Ethics by SMESs

Montenegrin Employers Federation (MEF) is the first institution in Montenegro to have supported the initiative of UN Global Compact, back in 2008. Their commitment to actively promote corporate social responsibility concept, MEF proved much earlier though – at their Annual Assembly in December 2005 when they adopted an *Employers Code of Ethics*. The MEF document contains 10 principles of UN Global Compact obliging MEF and its members to respect and fully contribute to accomplishment of UN Millenium Development Goals.

Below is an excerpt from the document:

*“We undertake to respect 10 principles of UN Global Compact:*

##### *Human rights*

- *Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights;*
- *Principle 2: make sure that they are not complicit in human rights abuses.*

##### *Labour*

- *Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;*
- *Principle 4: the elimination of all forms of forced and compulsory labour;*
- *Principle 5: he effective abolition of child labour; and*
- *Principle 6: the elimination of discrimination in respect of employment and occupation.*

##### *Environment*

- *Principle 7: Businesses should support a precautionary approach to environmental challenges;*
- *Principle 8: undertake initiatives to promote greater environmental responsibilitym; and*
- *Principle 9: encourage the development and diffusion of environmentally friendly technologies*

##### *Anti-corruption*

- *Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.*

*WE undertake to respect and give our full support ot achievement of UN Millenuim Development Goals.*

##### *Millenium Goals:*

1. *Eradicte Extreme poverty and hunger*
2. *Achieve universal primary education*
3. *Promote gender equality and empower women*
4. *Reduce child mortality*
5. *Improve maternal health*
6. *Combat HIV/AIDS, malaria and other deseases*
7. *Ensure environmental sustainability*
8. *Develop a global partnership for development”*

Source: MEF, Employers Code of Ethics, Cetinje, 2005

Available at: <http://www.poslodavci.org/images/dokumenta/upcg/eticki-kodeks-upcg.pdf>

## 1.3 Discrimination as a problem for companies

Having in mind that an employee often spends more than a half of day at his workplace, then the frequently heard comment of “a company being his other home” is not surprising.

Working environment has substantial effects (positive and negative) on satisfaction, happiness, health and entire life of an employee and his family. It is why the workplace is recognized as a main starting point in the fight against discrimination in the society.

Discrimination means the absence of equality i.e. non-existence of policies and practices that nullify and minimize the principle of equal opportunities and treatment. It is an immoral and unethical way of behaviour characterized by violation of human rights, social justice and equality.

In short, **discrimination is a legally unaccepted unequal treatment.**

Workers can face **discrimination**:

- **when applying for job**
- **at work (during employment)**
- **in termination of employment**

As stipulated in Article 8 of the Constitution of Montenegro (2007), “***direct or indirect discrimination on any grounds shall be prohibited***”. In the same manner, the Article 1 of the Universal Declaration of Human Rights (1984) stipulates: “***All human beings are born free and equal in dignity and rights.***”

Human resources management at companies requires full attention. This is especially important for SMEs. Care about employees includes the set of activities conducted according to a defined plan, continuously, and it is evidenced through a number of factors: positive working environment, training opportunities, career advancement opportunities, an adequate i.e. equal appraisal and remuneration system. An employer must be aware that whenever a worker leaves a company, he takes away the valuable part of employer's investment and intellectual capital he gained during his employment in the company.

SMEs therefore should always take into account that: if a company does not apply non-discrimination policies and practices (e.g. towards women), it can not expect to attract high-quality workers and retain the best.

Although different concepts, **discrimination and equality at work are two sides of the same coin.**

Discrimination exists if certain behaviour is related to legal provisions defining it. For example, if employees suffer harassment on the basis of their age, or sex. Putting one person in a less favourable position cannot be considered isolated. It is a common problem of that person her/his colleagues, the company, and the whole country.

Responsible behaviors in employment, including non-discriminatory practice in employment of minorities, older workers, long-term unemployed women, persons with disabilities, contributes to achievement of European Employment Strategy, reduction of unemployment and fight against social exclusion.<sup>4</sup>

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4 Uglješa Atanacković (2011): „Corporate social responsibility as a contemporary business concept“, *Business school*, no. 1/2011, Maribor

### **Management tips 5:**

#### **Courts practice – What is not discrimination?**

Courts practice is shaped by enforced courts decisions, legal interpretations and legal principles.

The following lines are the brief summary of the Croatian Supreme Court Judgement REVR 135 / 09-2 from March 10 2009 (on discrimination and harrasment at work).

“Not inviting to the staff meeting, not approving annual leave immediately upon return from leave, and requesting that outside of work hours some times for the preparation of jobs systematization, does not represent the behaviour which can be defined as a violation of the dignity of workers, according to the lower instance courts, as in essence represent decisions about the management of the company and the decision on the organization of work and performing work tasks of employees, among whom was the complainant.

The job title or the position does not automatically entitle salary as for another employee at the same job title, but salary depends on the actual work and responsibilities of each employee. Therefore, the difference in salary of employee complainant in such circumstances does not constitute discrimination within the meaning of Article 2 and Article 9 of the Labour Law. “

Source: Montenegrin Employers Federation, Promotion of Equality and Prevention of Discrimination at Work – Legal Framework, Podgorica, 2014

### **Practice example 1:**

#### **The best gender equity practice award - Societe Generale Montenegro**

Societe Generale Montenegro has been awarded with “Equally, of course” award in 2012. It was the first time that such award was awarded in Montenegro and to the company with the best practice in achieving gender equality in the workplace.

The award has been established by NGO “Women Alliance for Growth”, Ministry of Human and Minority Rights and UN Woman Agency with an aim to promote sensitive workplace policies.

The Drector for Human Resources in **Societe Generale Montenegro**, **Ms Marina Banovic**, that on behlf of the company received the award, said that 70 percent of employees in the bank are women, that the great number of them works in the middle management as well as that the two leading positions in the company are covered by women:

„As part of Societe Generale Group, **Societe Generale Montenegro** respect not only the principles of gender equity but the principles of dicersity in terms of age, education and professional experience. Initiatives, ideas, creativity and energy of our employees are encouraged regardless their sex.”

As pointed out at the press conference organized by NGO “Women Alliance for Growth”, women’s position at the labour market in Montenegro is still unsatisfactory, and **Societe Generale Montenegro** as a company that fully respects and implement gender equality practice in the workplace is an example that should be followed by all companies in Montenegro.

Source: **Societe Generale Montenegro**, available at:

<http://www.societegenerale.me/mne/banka-u-javnosti/podgoricka-banka-naravno-ravnopravno>

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### **Management tips 6:**

#### **Think about your business...**

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In order to understand the importance and relevance of responsible business practice in recruitment process and check whether it fits your needs, think about these questions:

- Is your business faced with a problem of getting the adequate new people for filling in the vacancies?
- Is your business faced with a problem of retaining staff? Does it often happen that your employees leave your company in order to start working for another?
- Are you expanding into new market segments (either locally or regionally)?
- Is there a shortage of new and creative ideas in your company?
- Are your clients and customers treated well? Can this be improved?
- Do you feel you need to raise employees' engagement and morale?

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In order to find possible solutions to your answers, think about the following:

- Are there additional recruitment sources, for example for women, older workers or persons with disabilities that your organization can use?
- What changes can be made to current policies in order to attract, retain and motivate employees?
- What is the current structure of your employees (in terms of gender, age etc.). Would you say you would have competitive advantage if you had more diverse and balanced workforce?
- Does your organization need new ideas in production or manufacture?

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Adapted from: CEC-ILO, *Employers' guide on promoting equal opportunity and treatment and preventing discrimination at work in China*, Beijing, 2011

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## 2. What can employers do to promote equality?

For successful promotion of equal opportunities and treatments principle, equality should be integrated as a key value in an entire policy of a company and its business practice. It is a step by step process, preceded by detailed rethinking of current policies – especially those at the level of human resources management (HRM) in order to ensure they are free from prejudices and any kind of discrimination. Furthermore, employers are expected to conduct the analysis of the existing procedures (for example by a poll among management and employees) that is to check the level of implementation of equality and non-discrimination principles in the business practice.

With such actions, the employer confirms his responsible attitude towards his full time employees or those employees contacted on any other terms.

In order to set concrete goals, define focus and scope of actions, as well as time limits for incorporation and practical implementation of equality principles, most companies adopt **equality policies** and/or **action plans**. The contents of these corporate documents should give clear insight into the ways of implementation, monitoring and measuring of those policies, which means that the policies should be created with prior consultation, i.e. by active participation of trade unions/interested workers representatives. Upon the completion of the entire process, the most significant moment is the adoption of those policies/plans, since from that moment onwards the company is committed to promote equality at the highest levels.



### **Management tips 7:**

#### **Promotion of equality policies**

In order to promote equality policies, a company can realize the following activities:

- Check regularly whether the policies and practices of fair employment and career advancement are implemented in the company.
- Conduct regular employees surveys on terms and conditions of their everyday work, satisfaction with their position and human relations both at horizontal and vertical level.
- Establish if there are differences in the ways employees (men and women) are selected, promoted and appraised based on their skills and knowledge they bring to the company.
- Analyse the existing procedures related to employment and check if direct or indirect discrimination is present in the recruitment process. Introduce clearly defined procedures and transparency, ensuring that all the candidates are notified of the results of the recruitment process.
- If someone is leaving a company, organise an interview in order to know the reasons and circumstances of his decision. Information collected in this way should contribute to creation of an adequate prevention policy and problem solving in case there was one.
- Create the *Code of Conduct* which gives clear guidelines on what is expected from employers when it comes to their conduct at the workplace. To ensure the validity of the Code, employees (men and women) should be consulted in defining the contents of the Code.
- The Code of Conduct should be created in a way to reflect company's full commitment to promotion of equality and inclusive practices. After that it should be made official and compulsory act available and visible to employees and external public. In communication with external public (business partners, media...) the importance, the advantages and positive examples of this segment of business practice should be promoted.

Adapted from: „Guide to social responsibility towards working women, women in the market and women in the community“, CRNVO, Podgorica, 2012

### **Management tips 8: Discrimination against the elderly**

Comparative practice often helps in better perception of problems and proactive actions for prevention of discrimination.

“An interesting fact is that most of requests for interpretation of antidiscriminatory directives by national courts of EU member states to the European court in Luxemburg are related exactly to discrimination based on age. Although discrimination based on age can apply to young people as well, here prevails the one against the elderly.

(...) Hindering the elderly to exercise their rights, preventing them in satisfying their age-specific needs leads to their isolation and alienation at several levels. The consequence of it is them being discriminated by individuals and society in general.

The survey has shown that the most frequent type of discrimination at the labour market is the one based on age (19,2% of employers considers the elderly as not being able to acquire new knowledge and skills necessary for work) being most apparent in the job interviews. The second most frequent type of discrimination is the one based on disability and sex. Again, according to workers and trade union members discrimination at the Croatian labour market is the most present in relations to elderly. One of the most frequent manifestations of discrimination against the elderly is when an employer does not want to hire the persons due to their age or when he offers the elderly worse conditions of work, lower wage or even a job on an undeclared position. Multiple discrimination is the most frequent whereby discrimination based on age is combined with the one based on sex. The most unwanted workers at the labour market are women older than 40 which at the same time make the most of long-term unemployed persons.”

Source: The Centre for Healthy Growth IDEM I JA (2011), Discrimination at Work, Biblioteka Učionica aktivnog građanstva, Mali Lošinj

## **2.1 Rethinking human resources management and business practices**

Employer's success nowadays is measured by what makes his company unique and standing out from the others. It is therefore understandable why the first and foremost segment of the company's competitive advantage is its employees. Those companies aware of it implement special measures with an aim to ensure better application of equality and non-discrimination principles in recruitment and at work.

Strategically important function that makes basic precondition for a high level of satisfaction and motivation of employees is the one of human resources management sector. HRM means creation of a system responsible for a wide set of decisions and activities that determine the nature and quality of relations between the company and its employees, in the joint interest of both sides. High quality HRM system is the basis for full implementation of the company's equality policies/action plans.

HRM system covers among other, the following:

- Recruitment and hiring
- Pays and benefits and their terms and condition of employment
- Training and development
- Career advancement
- Termination of employment
- Maternity protection
- Special programmes such as flexible working time.

Promotion of **equality in company human resource practices** means ensuring that decisions related to all the above aspects of recruitment and employment are made in a transparent way, based on fair, objective and relevant criteria, with adequate attention paid to team diversity and company affirmative action measures. In short, transparent procedures and objective criteria ensure that every employee is treated according to his or her merit and contribution.

ILO Recommendation 195 on Human Resources Development (2004) stipulates that “education, training and lifelong learning contribute significantly to promoting the interests of individuals, enterprises, the economy and society as a whole (...). Realization of lifelong learning should reside upon explicit commitment: (...) of companies to invest in professional development of their employees; of individuals to develop their competences and careers (...). Member states should promote equal opportunities for women and men in education, training and lifelong learning. (...)” Therefore, it is up to companies to ensure and facilitate participation and access to career information and guidance (...) with no discrimination based on sex.

Regardless the obligations stemming from national legislation or international standards, an important issue for every owner is his reputation as a manufacturer and employer, i.e. market actor. Therefore, the employer should constantly take care that business partners and associates are selected based on their own commitments to the same principles. On the other hand, each company’s decision should be made upon non-discriminatory principles. It is only then that the reputation of that employer is justified and that his company is recognised (among clients, customers, suppliers, contractors, business partners and other stakeholders) as the one that respects rules of ethics and corporate responsibility.

The use of PR and marketing for drawing the attention of public to company’s commitment to implementation of equality measures is a good approach to contribute to image improvement, brand strengthening and winning new markets. However, if the content of the marketing material is such that, for example, insults the status of women, it is then clear that the company’s policy seriously undermines the moral norms and values. Marketing activities realized purely for the purpose of creating profit and at the cost of violating women’s dignity will recommend the company as a bad employer and an undesirable business partner.

Once the **policy of equal opportunities and treatments** is set, it then becomes the company’s **key value**. In practice, such outcome is the result of the employer’s reasoning in this regard and his strategic management approach.

Although the aim of every company is profit-making, incorporation of corporate social responsibility principles in business creates better image of the company and contributes to better business results. Having that in mind, many companies voluntarily commit to solving the problems coming from discrimination and to promoting equality and diversity as parts of their wider efforts within corporate social responsibility (CSR). Not only do these companies respect laws, but they exceed ethical, business and other societal expectations. For those companies we say that they practice CSR.

The World Business Council for Sustainable Development (WBCSD) has defined CSR as “the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life.”

Prohibition of discrimination is included in the major international social responsibility benchmarks against which companies and factories measure their performance, including **SA8000** and **ISO26000**. Many multinational corporations include discrimination in their Codes of Conduct and supply chain management policies, requiring their suppliers to ensure that their human resource and business practices are free from discrimination. Eliminating

discrimination and gaining a reputation as an “equal opportunities employer” is thus crucial to securing orders from big international buyers. Elimination of discrimination in respect of employment and occupation is also one of the ten principles of the UN **Global Compact**.

#### **Management tips 9:**

##### **Think about your human resource management and business practices...**

- Am I hiring on merit?
- Am I paying my staff salaries based on the value of their work and contribution?
- Am I allocating training opportunities to my staff in a non-discriminatory way?
- Am I promoting on merit?
- Am I taking active steps to ensure that the working environment is free from discriminatory harassment?
- Am I taking my employees' needs in consideration in the organization of the work?
- Am I taking active steps to ensure that my business practices are free from discrimination?
- Are all my employees trained to treat customers in a non-discriminatory way?

Adapted from: CEC-ILO, *Employers' guide on promoting equal opportunity and treatment and preventing discrimination at work in China*, Beijing, 2011

#### **Management tips 10:**

##### **ISO 26000**

ISO26000 “Guidance on Social Responsibility” is a new guidance document published by the International Organization for Standardization (ISO) in November 2010. Unlike other ISO standards it is not a certifiable standard, but a guidance document which provides practical advice on governance of social responsibility issues in company practices. ISO26000 addresses discrimination and vulnerable groups as one of the human rights issues covered in the guidance document. The guidance document requires organizations to ensure that they do not discriminate against employees, partners, customers, stakeholders, members and anyone else with whom it has any contact or on whom it can have an impact.

ISO 26000 is not a Management System Standard and the text of the standard clearly states that “it is not intended or appropriate for certification purposes or regulatory or contractual use. Any offer to certify, or claims to be certified, to ISO 26000 would be a misrepresentation of the intent and purpose and a misuse of this International Standard. As this International Standard does not contain requirements, any such certification would not be a demonstration of conformity with this International Standard.” It is therefore intended to give guidance on organisational governance, human rights, labour practices, the environment, fair operating practices, consumer issues, community involvement, and development. It aims to provide guidance on integrating social responsibility into an organisation.

ISO 26000 was launched in November 2010 and it has been the subject of a five-month systematic review process, which started on 15 October 2013.

The content of ISO 26000:

Terms and definitions

Principles of social responsibility

Guidance on social responsibility core subjects

Organisational governance

## Human rights

- Due diligence
- Human rights risk situations
- Avoidance of complicity
- Resolving grievances<sup>24</sup>
- Discrimination and vulnerable groups
- Civil and political rights
- Economic, social and cultural rights
- Fundamental principles and rights at work

## Labour practices

- Employment and employment relationships
- Conditions of work and social protection
- Social dialogue
- Health and safety at work
- Human development and training in the workplace

## The environment

- Prevention of pollution
- Sustainable resource use
- Climate change mitigation and adaptation
- Protection of the environment, biodiversity and restoration of natural habitats

## Fair operating practices

- Anti-corruption
- Responsible political involvement
- Fair competition
- Promoting social responsibility in the value chain
- Respect for property rights

## Consumer issues

- Fair marketing, factual and unbiased information and fair contractual practices
- Protecting consumers' health and safety
- Sustainable consumption
- Consumer service, support, and complaint and dispute resolution
- Consumer data protection and privacy
- Access to essential services
- Education and awareness

## Community involvement and development

- Community involvement
- Education and culture
- Employment creation and skills development<sup>25</sup>
- Technology development and access
- Wealth and income creation
- Health
- Social investment

## Guidance on integrating social responsibility throughout an organisation

## Examples of voluntary initiatives and tools for social responsibility

The fact that it was developed through a global consensus process has given ISO 26000 a high profile and attracted significant attention. It is frequently listed together with the ILO Tripartite Declaration, the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, and the UN Global Compact as one of the main international instruments to guide business on social responsibility. Companies should be aware of ISO 26000 in order to respond to any potential requests from consumers, NGOs or customers.

Since the launch of ISO 26000 the discussion has been dominated by the issue of certification. Indeed in some countries national certifiable standards based on ISO 26000 have been developed. Moreover, there have also been efforts to develop ISO 26000 at international level.

Source: International Organization of Employers (IOE), *Handbook on Corporate Social Responsibility (CSR) for Employers' Organizations*, 2014. Available on:

<http://www.csrforall.eu/en/icerik/reports/Handbook-on-CSR-for-Employers-Organizations.pdf>

*Note: This handbook has been prepared by the IOE within the scope of the EU-funded Project CSR for All (Ref: EuropeAid/132438/C/ACT/Multi – Corporate Social Responsibility For All - CSR FOR ALL PROJECT) which aims to raise the awareness and build the capacity of employers' organisations in Southeast Europe. In Montenegro, activities were implemented by Montenegrin Employers Federation.*

## 2.2 Basics of human resources management based on equality

*The Universal Declaration of Human Rights* (adopted special resolution of the UN General Assembly on 10 December 1948) guarantees every individual the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment, the right to equal pay for equal work, and the right to just and favorable remuneration that those who work and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

In order to have principle of equality systematically applied in business, and such practices implemented in the sector of HR, a large number of companies adopted a specific management tools. Those that did not we encourage to formally support the content of the publication “Promotion of Equality and Prevention of Discrimination at Work in Montenegro - Guiding Principles” (issued by MEF, in cooperation with ILO) which can assist them in the process of establishing the principles of equal opportunity and treatment as its key values.

The most common tools adopted at company level for managing equality in human resource policies and practices include:

- **Equality policy** stating the company's commitment to equality of opportunity and treatment in all its human resource practices – including recruitment procedure and terms and conditions of work – and fostering a workplace culture free from discrimination and harassment.
- **Equality action plan** outlining the company's practical steps in realizing the objectives set in the policy
- **Affirmative action measures** providing assistance to specific groups of job applicants or employees to ensure fair, full and equitable access to equal opportunity and treatment for all. The affirmative action measures are a part of the equality action plan.

Each company faces different equality related challenges. For this reason, there is no “one-size-fits-all” approach to equality management, as the company equality measures should always be tailored to the company's specific needs. To ensure that the measures adopted respond to the needs of company employees, the workers' organizations and representatives of groups of directly concerned employees should always be involved in development of the measures. Common **steps of planning and implementing equality measures** in the company include:

- 1) **Commit:** Leadership commitment to equality in all human resource practices and company operations. Most companies do this by adopting an **equality policy**.
- 2) **Assess:** Assess the existing human resource policies and practices and the current staff composition to identify needs and areas for equality promotion
- 3) **Define:** Define goals, strategies, and specific programmes to promote and mainstream equality. Most companies do this by adopting an **equality action plan** and **affirmative action measures**.
- 4) **Implement:** Implement strategies and programmes throughout the company
- 5) **Measure:** Measure and monitor impact and progress toward goals
- 6) **Communicate:** Communicate progress and challenges. Engage with stakeholders for continuous improvement

Promotion of equality and non-discrimination requires setting clear and measurable goals and defining concrete steps to be achieved in precisely defined timeframe. The best way to do this is to set priorities and implement them in stages. To begin their engagement in the promotion of equality, companies need to identify key issues and formulate programs to address them (steps 1-6).

If SMEs have limited capacity in terms of implementation of some of the larger, demanding equality programs, for the beginning they can direct their activities towards a small number of selected priorities, or they can choose several target actions which will be the realization of previously well-planned. Experience in Europe shows that SMEs often choose exactly which activities related to hiring practices, and the way that the same is characterized by transparency and freedom from discriminatory bias.

Bearing in mind the constant changes in the economic environment, effective business power, and the labor force (eg, in terms of numbers, age, gender and educational structure, etc.), it is clear that the HR sector must necessarily pay constant attention to matters of promotion, adequate implementation and further development of policies and gender equality at work and in the recruitment process.

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#### **Management tips 11:**

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##### **Checklist: How well your business is doing in equality management?**

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1. Do you have an equality policy?
  2. Is equality part of all your work practices, from advertising job vacancies and recruitment to termination?
  3. Do you have a procedure for resolving complaints related to discrimination and equality?
  4. If you have an equality policy and/or procedure for resolving equality related complaints, have you taken action to ensure all staff read it/them and know where to obtain a copy/ies if necessary?
  5. Have you taken action to ensure all employees understand what is and isn't acceptable and respectful behaviour in the workplace?
  6. Have you made it clear to staff that discrimination, harassment, vilification and victimization will not be tolerated, and that any issues or complaints will be handled as fairly as possible without victimization of the person who raises or is affected by the problem?
  7. Do you give all staff regular information and training about equality?
  8. Is someone responsible for equality at your workplace?
  9. Does staff know who the person responsible for equality is?
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Adapted from: CEC-ILO, *Employers' guide on promoting equal opportunity and treatment and preventing discrimination at work in China*, Beijing, 2011

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**Practice example 2:  
Diversity management**

The European Commission commissioned two studies in 2005 and 2008 to map diversity management practices in European companies. The two surveys were both conducted among member companies of the European Business Test Panel (EBTP). The 2008 survey verified that compared to 2005, an increasing proportion of companies recognize the links between diversity and good business performance.

Of the 335 companies participating in the 2008 survey, 56% had established some kind of an equality and diversity policy. 25% of these policies covered all six grounds of discrimination prohibited under European law (gender, age, ethnicity and race, disability, religion and belief, and sexual orientation), whereas 64% covered only some grounds and 12% covered only one ground. The equality and diversity policies handled most often issues related to staff recruitment, retention and management (93%), organizational culture (75%) and work-life balance (70%). 25% of the companies with equality and diversity policies had also adopted affirmative action measures, setting targets for the recruitment, training, or promotion of staff from underrepresented groups.

Almost two-thirds of the surveyed companies recognized that implementation of equality and diversity policies had made a positive impact upon their business. The most common benefits included improved employee motivation and efficiency; access to a new labour pool; company reputation, corporate image and good community relations; recruitment of high quality employees; and opportunities for innovation and creativity. The links between innovation and diversity were recognized by 63% of the companies. Diversity-led innovation had increased significantly more in companies implementing affirmative action measures (83%) compared to companies without such measures (55%). These benefits were equally recognized both in SMEs and in large and very large companies.

Source: European Commission: *Diversity management in 2008: Research with the European Business Test Panel* (2008)



## **PART II - EQUALITY IN COMPANIES**



## 3. What does equality and non-discrimination at work mean?

The right to work, to free choice of employment, to fair and favorable working conditions, to protection against unemployment is guaranteed by Universal Declaration on Human Rights. The right to equality is guaranteed by many other international documents and regulations, while the Constitution of Montenegro prohibits direct and indirect discrimination on any grounds.

Therefore, it is on the companies themselves to ensure that principles of equality and non-discrimination are respected at all levels: in an entire decision-making process, in relations to clients and costumers and especially in human resources management including:

- Recruitment process
- Wages and benefits
- Working conditions including social protection
- Training and professional development
- Promotion and career development
- Termination of employment.

The principle of equality is applied to all employees in a company regardless their position in managerial or operational structures, including persons engaged on temporary and occasional jobs, or persons working on special contracts, students at practical trainings or other persons engaged by the employer on any other basis.

The principle of equality should also be respected in companies' relation to clients and costumers, while PR departments should send non-discriminatory messages and advertisements. Ideally, the principle of equality should be embedded in an entire supply chain of a company, whereby both suppliers and manufacturers will follow it.

Decisions on employment are made based on candidate's merits, experience and competences. Decision making process should be freed from generalizations, stereotypical assumptions and prejudices related to candidate's competences and based exclusively upon assessment of merits, experiences and competences of candidate.

### 3.1 Equal opportunities and equal treatment

The principle of "equality"

Equality in recruitment and in the workplace means that every person has equal chances to recruitment and work, in line with their competences and without being discriminated on the basis of their sex, religion, ethnicity or other personal characteristics.

Equality is the subject of numerous international regulations and documents that promote this principle in all aspects of human activity.

### 3.2 Discrimination

Definition of discrimination

Definition of discrimination in Montenegrin legislation is given in the Article 2 of the Law on Prohibition of Discrimination:

**Discrimination** is any unjustified, legal or actual, direct or indirect distinction or unequal treatment, or failure to treat a person or a group of persons in comparison to other persons, as well as exclusion, restriction or preferential treatment of a person in comparison to other persons, based on race, color of skin, national affiliation, social or ethnic origin, affiliation to the minority nation or minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, health conditions, disability, age, material status, marital or family status, membership in a group or assumed membership in a group, political party or other organization as well as other personal characteristics.

**Direct discrimination** exists if a person or a group of persons, in the same or similar situation in respect to other person or group of persons, is brought or were brought, or may be brought in an unequal position by an act, action or failure to act, on any ground referred to above.

**Indirect discrimination** exists if apparently neutral provision of a regulation or general act, criterion or practice is bringing or can bring a person or a group of persons into unequal position in respect to other person or group of persons, on any ground referred to above, unless the provision, criterion or practice are objectively and reasonably justified by a legitimate purpose and achievable with the means appropriate and necessary to use for achieving that purpose, and when they are acceptable and proportionate in relation to the purpose to be achieved.

The incitement or giving instruction to discriminate against certain person or a group of persons on any ground referred to in paragraph 1 of this Article shall be deemed to be discrimination.

### ***What does Montenegrin labor legislation say about discrimination?***

As stipulated in Article 5 of the Labor Law direct and indirect discrimination of persons seeking employment, as well as the employed persons based on sex, birth, language, race, religion, skin color, age, pregnancy, health state, that is, disability, nationality, marital status, family duties, sexual orientation, political or other affiliation, social background, material status, membership in political and trade union organizations or some other personal characteristic is prohibited.

Direct discrimination, in the sense of this law, represents any action caused by any of the grounds defined in Article 5 of this law by which the person seeking employment, as well as the employed person is put in a less favorable position as compared to other persons in the same or similar situation.

Indirect discrimination exists when a certain provision, criterion or practice puts or would put into a less favorable position the person seeking employment or an employed person, as compared to other persons, due to a specific characteristic, status, orientation or conviction.

Furthermore, Article 7 of the Law prohibits discrimination on the grounds of:

- 1) Employment requirements and selection of candidates for the performance of a specific job
- 2) Working conditions and all rights based on employment relationship
- 3) Education, capacity building and training
- 4) Promotion at work;
- 5) Cancellation of the labor contract.

*A detailed overview of relevant provisions of international and national regulations related to discrimination can be seen in our publication **Promotion of Equality and Prevention of Discrimination at Work in Montenegro – Legal***

## **Framework.**

# **4. Fair recruitment practice**

International studies and practices show that discriminatory practices are most frequently present in recruitment process and at work: ranging from the very job advertisements through the process of selection to terms and conditions of work including wages, professional development and career development opportunities. It is therefore of crucial importance for a company wanting to establish and sustain competitive market advantage to ensure working environment based on “equal opportunities for all” principle whereby every employee will feel he/she contributes to productivity proportionally to his/her real competences that satisfy the requirements of the job equally remunerated for the job of equal value.

### **Figure 1: Discrimination in numbers**

On June 13<sup>th</sup> 2011, non-governmental organization “Centre for Democracy and Human Rights – CEDEM” from Podgorica presented the findings from their research “Discrimination of minorities and marginalized social groups”. Groups covered by the research were: women, members of different sexual orientation, members of ethnic minorities, elderly, Roma people and persons with disabilities.

The research showed that 56% of respondents consider these groups are mostly discriminated in the employment process while 25% of respondents thought discrimination is least present in judicial procedures.

According to the obtained data, over 63% of citizens are of the opinion that discrimination of Roma population is most frequent followed by persons with disabilities, homosexual oriented people, the elderly, ethnic minorities, while every third respondent, or about 33%, considered discrimination against women to be most frequent.

The least successful in employment, as found out in the research, are Roma people and persons with disabilities followed by elderly, LGBT population, ethnic minorities and women.

Izvor: Godišnji izvještaj o radu Zaštitnika ljudskih prava i sloboda Crne Gore, Izvjestaj za 2011. godinu <http://www.ombudsman.co.me/izvjestaji.php>

## **4.1 Job descriptions and job advertisements**

It is of a great importance that a company develops descriptors for each job. It is critical in terms of organization of work and, when it comes to it – decision making on employment of new staff. Of course, the most significant elements in job descriptions are skills/competences and experience needed for the job.

Job advertisements directly rest upon job descriptions of the vacancy to be filled. If a company implements certain affirmative measures targeted at specific categories (e.g. internships for students and youth in general, employment of persons with disabilities) it should be clearly indicated in the advertisement so that the latter is not considered

discriminatory.

Vacancies should be advertised openly in order to attract a greater number of candidates. In such a way, employer will have a chance to choose from broader options and select those candidates that best suit its requirements.

### Practice example 3:

#### Job Description – MEF

##### Business Secretary

##### 1 position

##### Tasks:

- business correspondence and keeping evidence of incoming mails and postal deliveries and its distribution to employees in line with their competences and responsibilities;
- taking care of General Secretary's, President's and Vice-Presidents' agendas
- keeping contacts database and preparing materials for meetings with domestic and foreign institutions
- archiving and administration of documents and files
- telephoning and telexing
- keeping registries and evidence books (journals, directories etc.)
- handling printers, copier machines and other technical aids and office supplies;
- arranging travel for Secretary General, President and other Secretariat employees,
- taking care of meeting room availability and schedule

Responsibility: he/she is responsible directly to the Secretary General, to the Head of the Cabinet and to the Head of International Relations Sector.

##### Qualification and skills:

- Diploma in general or vocational secondary education
- Good command of English language;
- Computer literacy;
- At least one year of relevant professional experience

Source: Systemization Act, MEF internal documents

### Guidelines for developing job descriptions and job advertisements

- a) Give the exact title of the job
- b) Ensure clear description of tasks and responsibilities of the job and indicate the position of the job in the organizational structure.
- c) Indicate the results to be achieved at the job.
- d) Describe carefully the specific skills/competences, experience, educational profile i.e. qualification needed to perform the key tasks and responsibilities of the job.
- e) Do not state requirements related to age, sex, race, religion, ethnicity or any other personal attributes, unless the latter are crucial due to the specific nature of the job. Such attributes are legitimate only if they are the **inherent requirements of the job** and in that cases they are not seen as discriminatory. (e.g. persons with impaired vision cannot be adequate for the position of pilot).

- f) Describe the terms and opportunities for career advancement.
- g) Use gender sensitive language when describing jobs (e.g. waiter/waitress)
- h) Job advertisements should be created in a way to provide sufficient information on the job. Therefore, job description is a logical basis for job advertisement.
- i) Do not forget to indicate the final deadline for job application submission as well as to provide the contact number for clarification and additional information provision.
- j) State clearly the criteria to used for evaluation in the selection process. The most important criteria should definitely be skills, experience and education. It is necessary to describe specific requirements of the job, if there are such (e.g. drivers licence).
- k) Ensure that criteria are set objectively and ranked in the order of priority.
- l) Avoid describing the attributes related age, sex, race, religion, ethnicity unless they are the inherent requirements of the job.
- m) It would be appreciated if the job advertisement contained an equality statement. For example „We are an equal opportunity employer, Qualified applicants are considered for employment without regard to age, sex, race, religion, nationality or ethnicity.”
- n) If the job is advertised within a special project/action (e.g. professional training, internship etc.) it is natural the above principle will be violated but in this case it will not be considered discrimination.
- o) Set the advertisement closing time and date and respect it.
- p) Distribution channels should be chosen in a way to ensure the job advertisement is available to the broadest scope of candidates.

#### **Practice example 4:**

##### **Job advertisement – positive and negative example**

➤ Positive example:

Position – Waiter/Waitress

Requirements:

- III/IV qualification level
- Good command of English language
- 2 years of professional experience in hospitality industry

Desirable characteristics:

- Independent and responsible in performing the tasks
- Taking responsibility for the quality of service
- Communication skills – welcoming the guests and understanding their requests

Interested candidates should send their CV to the following address xxxxxx, indicating “job application” on the envelope or in electronic mail.

The deadline for submission of applications is 15 days from the date of publishing.

Only the shortlisted candidates will be invited for an interview.

Incomplete applications will not be considered.

Deadline for submission of applications is 30.09.2014.

➤ Negative example:

XXXXXX

Business Secretary needed.

Higher education or bachelor degree, married.

Between 28 and 35 years of age.

Time for calls 11 a.m. to 3 p.m.

067-xxx-xxx

Source: MEF internal documents, two different issues of daily newspapers in Montenegro (2014)

## **4.2 Job application forms**

Sometimes job applicants are going to be requested to fill in the job application forms. When designing the forms, one should ensure that the questions are defined in non-discriminatory way. A couple of guidelines can be found below:

### Guidelines for designing job application forms

- a) Questions in the form should be focused on skills/competences, experience and education since these data are the most relevant in the selection process.
- b) If the job has special requirements include questions related to those requirements.
- c) Avoid questions related to sex, age, race, religion, ethnicity unless in the circumstances above mentioned. These data can be collected later in case you need to have them for the administrative purposes. Be reminded that the Law on Records in the field of Work and Employment recognises the following data for record keeping: name, ID number, sex, date and place of birth, permanent or temporary residence, place of work,



occupation, degree, capability for performing specific tasks, job title, working time, employment duration and list of jobs prior to the current one, type and duration of contract, reasons for a temporary work abroad and duration of such contract, employer's name, whether the employee is interested in changing jobs; whether it is invalid to the partial loss of working capacity or a retired person or a person with a disability or physical impairment; data on insured family members, information on the use rights for the period of temporary incapacity or inability to work; information on the duration of paid absences, data on absences from work until the child reaches three years of age, in accordance with the regulations pertaining to labor; date of commencement of employment, or the conclusion of the contract of employment; date of termination of employment or the employment contract; reason for termination of employment or termination of employment contracts.

- d) Persons with disabilities should not be asked to provide information that are not requested from persons without disability.
- e) Do not ask applicants to provide a photo of themselves, unless physical appearance is an inherent requirement of the job.

### **4.3 Short listing**

Motivation letters, CVs and application forms often contain enough information so that you can decide whether you want to spend additional time on the candidate. Short listing is the way to simplify the procedure if you have a large number of applicants. When selecting candidates in the short listing process it is important to follow objective criteria related to competences, experience, education and the place of residence. Objective criteria will reduce bias if they are based on measurable standards.

#### Guidelines for effective short listing

- a) If a short listing process is to be objective, make sure you consult your colleagues prior to making decision – through consultations and by setting the commission/evaluation board to consider applications.
- b) Make sure that each application is considered objectively based upon clearly defined criteria, do not pose higher requirements for certain categories of applicants (women, persons with disabilities etc.)
- c) Avoid any personal judgments and assumptions when making the decision.

### **4.4 Selection and ability tests**

Testing ensures complete assessment, with the relevant report on whether candidates possess the relevant competences and appropriate character traits for the job. Motivation and ambition are also subject to in-depth analysis. You can conduct the testing yourself, or you can hire specialized agencies using various scientific methods (questionnaires, psychological tests, assessment). The test should be designed in a way to be objective and relevant to the job position that needs to be filled.

#### Guidelines for objective testing

- a) Make sure that the content of the test is in line with the requirements of the job.
- b) The test should measure the abilities i.e. the level of candidate's competences against the criteria set in the

job description.

- c) The test must be the same for all candidates!

## 4.5 Job interviews

Interviews are a very important tool and often decisive in the selection process. It is therefore very important that the content of the interview i.e. a list of questions to be asked is carefully designed, and an interview conducted on a non-discriminatory manner. As previously stated, it is necessary that relevant questions are asked in the interview - especially those relating to the competence and experience necessary to do the job. Of course, it is very important to take into account the personal characteristics of the candidates and not resort to stereotypical conclusions.

### Guidelines for interviewing and interview preparation

- a) Think carefully about who is going to interview the applicants. For the purpose of objectivity it is desirable to form an interviewing commission or to include one or more persons from the company. A good move is considered, for example, the inclusion of candidate's future boss in the interview because he will be the one who will work directly with the new employee. It is not recommended that the interview should be conducted by one person.
- b) Carefully consider the questions you want to ask in an interview i.e. the selection criteria. A good interview requires a standardized form, in which you define in advance what you want to know. One possibility in this regard is that every examiner / member of the commission is provided the list that should assess the extent to which each candidate meets the criteria.
- c) The interview questions should relate to the requirements of the job only. Focus on abilities, knowledge, experience and personal qualifications needed in the job.
- d) Do not ask questions related to personal characteristics of candidates (e.g. marital status, sexual orientation etc.) but rather focus on the ability of candidate to perform the tasks.
- e) Beware of prejudice and be careful with first impressions!
- f) Rate each candidate separately and immediately after the interview. Finally, the examiner should compare and elaborate on the grades awarded to each candidate. Finally, make a decision on the results and rankings. This makes the process the most objective possible.
- g) The time and place of the interview should be adapted to shortlisted candidates or at least to the most of them.
- h) Make sure that the venue of the interview is adapted to persons with disabilities.

## **Management tips 12: Successful interviewing**

### **Questions that should be asked(✓) and avoided (x) in an interview**

#### ***Questions related to sex and family***

- ✓ Are members of your family employed in our company?
- ✗ What is your marital status?
- ✗ What does your spouse do for a living?
- ✗ How many children do you have?
- ✗ What is your maiden name?
- ✗ Do you plan to have more children?

#### ***Questions related to age***

- ✓ Are you legally an adult (if an interviewee is a very young person)?
- ✓ How many years of working experience do you have?
- ✗ How old are you?
- ✗ When are you born?
- ✗ How old are your children?

#### ***Questions related to religion***

- ✓ Are you ready to work during public and religious holidays if it is required by the job?
- ✗ What religion do you practice?
- ✗ Which religious holidays you celebrate?

#### ***Questions related to disability and health condition***

- ✓ Are you capable of performing the key tasks required by this job?
- ✗ Do you suffer from some type of disability?
- ✗ What is the nature and level of your disability?
- ✗ What kind of health conditions did you suffer from in the past?
- ✗ Which operations did you undergo and when?

#### ***Questions related to nationality, trade union or political affiliation***

- ✗ Are you a trade union member?
- ✗ Are you a political party member and what are your political beliefs?
- ✗ What nationality are you?

#### ***Questions related to financial status?***

- ✗ Do you own any properties?
- ✗ Do you have a car? (unless the possession of vehicle is a desirable job condition, e.g. commercial traveller)
- ✗ Where is your spouse employed?

## **4.5. Pre-employment medical examinations**

A person who intends to conclude an employment contract shall provide the employer with a proof of compliance with the conditions of work as determined by the Systemization Act for the job the contract of employment is to

be signed.

Jobs with special conditions are the posts which can be assigned to and performed by an employee who, in addition to the general requirements for employment, meet special requirements in terms of sex, age, education, professional training, health status and psychological ability.

The employer is obliged to ensure medical examination of employees who are assigned with special conditions jobs i.e. with an increased risk, and in cases of re-engagement of an employee who is absent from work in this position for longer than a year.

The employer must not require the proof of pregnancy for concluding an employment contract except in the case of jobs where there is a risk to the health of women and child determined by a medical examination. Also, the conclusion of employment contract should not be conditioned by a medical certificate except in the cases of jobs with increased risk i.e. special conditions of work, or if a medical certificate is deemed compulsory for employment in line with social regulations.

An employment contract can be concluded with a person under 18 on the basis of the findings of the competent health service body which determines his/her ability to perform tasks required by the job the contract is to be concluded for and provided that such activities are not harmful to his health.

## **4.6 Records and post-recruitment procedures**

After an applicant has been hired, the employer can collect personal information from him or her for the administrative purposes. In this phase, employers are allowed to ask for information regarding marital status, children, health status etc.

Employers are advised to retain records of short listing scores, interviews and selection tests for at least a few months after the selection, in order to be in a position to deal with any subsequent complaints of discrimination in the selection process.

Very important in this phase is to consider the way an employee can fit into the company. This includes the initial reception, followed by a systematic process of adaptation to the organization and job requirements in a way that leads to achieving efficiency as soon as possible. A good “induction” increases motivation, and creates the signal in terms of expected results, creates a pleasant atmosphere and ensures fast adjustment of the newly employed.

## **4.7 Induction training**

An important segment of employee's induction is the initial training. Its goal is to introduce the newly employed to his/her new working environment as well as the tasks and responsibilities. Such approach contributes to productivity and reduces the potential disputes between the management and employees.

The training should draw the attention of newly employed to the organizational culture and commitment to non-discriminatory practices and equal opportunities policies such as:

- a) Employees rights granted by law including equality policies
- b) Acceptable and unacceptable behavior at work
- c) Procedures in case of discrimination and harassment.

Naturally, it is up to the employer to provide and/or create the training according to the needs and potential of the newly employed.

#### **Guidelines for effective induction training**

- a) An induction training should be organized for each newly employed in the company
- b) The training should be adapted to the needs of newly employed, bearing in mind their specifics (e.g. if that is the first working experience for the newly employed, whether he/she was a long-term unemployed prior to this engagement, whether he/she is an elderly etc.)
- c) Each newly employed should have a mentor with sufficient knowledge and experience regarding the job she/he covers.

### **4.8 Recruitment through employment mediation agencies**

If the employer engages an employment agency or other third party to help the company recruit staff, the employer should inform the agency about the company's commitment to equal employment. It means that the agency will notify all potential candidates on the existence of this policy, selecting candidates on the basis of key criteria: evidenced ability, relevant experience and educational profile of the candidate. The selection of candidates must not be based upon discriminatory principles.

### **Management tips 13: Employment of persons with disabilities**

Persons with disabilities are often subjected to stereotypes and biased assumptions in the society so they are frequent victims of discrimination. In the lines below we will try to repudiate a set of common “myths” when it comes to employment of persons with disabilities:

*Myth:* Job interviews with persons with disabilities are different.

*Reality:* when it comes to certain job, persons with disabilities should be asked the same questions as other candidates. The key in conductin of those interviews is to focus more on their potentials rather than on their disadvantages.

*Myth:* Persons with disabilities lack skills needed for the job.

*Reality:* persons with disabilities had to develop other skills and character traits such as problem solving skills, goal setting, determination etc. All of these makes them valuable and desirable candidates for the job. Persons with disabilities can cover numerous positions – from manufacturing to high-tech jobs. It often depends on education and training opportunities, accessibility of specific tools and workplace adjustment to their needs.

*Myth:* I cannot fire the person with disability nor can I initiate the disciplinary proceeding against him/her.

*Reality:* Persons with disabilities should be treated as any other worker in case of disciplinary proceeding. State clearly from the beginning what results are to be avhieved at work. If problems arise, follow the common procedures applied equally on all workers.

Source: Montenegrin Employers Federation, Myths and Realities, Podgorica, 2011

## **5. Fair treatment during employment**

“Equal opportunities and equal treatment” is the key principle in human resources management if you want your employees to contribute to company’s productivity in the most efficient way. Employees’ motivation will be higher if they work in the environment where each employee is treated equailly.

“Equal treatement” means that employees are paid based on their contribution and the value of the job they do. This means that all other conditions of work are based on non-discriminatory basis.

„Equal opportunities” principle menas that each employee has equal chances for professional development, training and career advancement, based on merit and performance.

### **5.1 Pays and benefits**

Each employee should be remunerated according to the value of the job. Calculation of pay and potential bonuses has to be based upon objective criteria. Individual differences in pay, due to different performance ratings are not considered discriminatory if the performance assessment systems are unbiased and applied in a non-discriminatory way. Employees should always be entitled to know how their pay is made up, including e.g. the system for calculating the performance pay. They are entitled to receive salary sheets the content of which is always based upon legal requirements.

Apart from the basic pay, employees are often paid bonuses and/benefits (in cash or in kind). When awarding bonuses/benefits, objective criteria should be followed in order to avoid discrimination of any kind.

### **Equal pay for work of equal value**

At global level, the principle of “**equal pay for work of equal value**” was established in the ILO *Equal Remuneration Convention*, 1950 (No.100). At national level, the principle is incorporated in the Labour Law and, especially, in the Law on Prohibition of Discrimination. In addition to the cases of discrimination prescribed by the Labour Law, discrimination in work shall also refer to the payment of unequal salary or remuneration for work of equal value to a person or a group of persons, on any ground referred to in Article 2, paragraph 2 of this Law.<sup>5</sup> Persons performing temporary or seasonal work or working under special agreement, students and pupils on practice, as well as other persons participating on any ground in the work for an employer, shall also have the right on the protection from discrimination.

However, distinction, exclusion or giving preference is not considered to be discrimination if so require the peculiarities of the particular work in which personal characteristic of a person represent real and decisive condition of doing the work, if the purpose to be achieved that way is justified, as well as taking measures of protection according to certain criteria of persons referred to above.

The following criteria are often used when comparing the value of different jobs:

**Skill:** Knowledge and abilities accumulated through education or practical experience.

**Effort:** Physical or mental effort, or physical, mental or nervous strain connected with performance of the job

**Responsibility:** Responsibility required to perform the work, including the nature, scope and complexity of the duties, the extent to which the employer relies on the employee to perform the work, and accountability of employee to the employer for resources and for the work of other employees

**Conditions of work:** Conditions under which the work is to be performed, including factors such as noise, heat, cold, isolation, physical danger, health hazards, and any other conditions produced by the work environment

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5 According to the Law on Prohibition of Discrimination, Discrimination is any unjustified, legal or actual, direct or indirect distinction or unequal treatment, or failure to treat a person or a group of persons in comparison to other persons, as well as exclusion, restriction or preferential treatment of a person in comparison to other persons, based on *race, colour of skin, national affiliation, social or ethnic origin, affiliation to the minority nation or minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, health conditions, disability, age, material status, marital or family status, membership in a group or assumed membership in a group, political party or other organisation as well as other personal characteristics*.

## Figure 2: Different payments for jobs of equal values

Some surveys and statistical data – as the outcomes of the Household Survey<sup>1</sup> – have shown that there are differences in the payments of men and women. Although the survey was realized in 2004, it shows that men with lower levels of educational attainment (without high school diploma) earn 185 euros per month, while women with the same educational background earn 131 euro per month. Men with high school diploma earn 274 euros per month compared to women at the same educational level who earn 190 euros per month, while men and women with university degree earn 329 euros and 263 euros respectively.

In report „Women and Men in Montenegro” published by Montenegrin Statistical Office – MONSTAT in 2010, the analysis of average salaries by sex and sectors on Sep 30<sup>th</sup> 2010 shows that the average salary of women makes 86,2% of the average salary of men. MONSTAT has not conducted a survey specifically related to the principle of equal pays for the work of equal value.

It is obvious that horizontal and vertical segregation exist at the labour market, since women are more employed in social, health and education sectors which are perceived “less significant” in the society and therefore underpaid in terms of salaries.

Source: Monstat, Women and Men in Montenegro, 2010

### External/market factors impacting the pay

It is very important to have in mind that external/market factors – that cannot be influenced by employer – can be reasons for differences in payments for work of equal value. In this case, the reaction of employers is not considered discriminatory. For example, differences in payments can be the result of regional differences in one country, whereby workers in one sector are paid according to the level of economic development of the region they are employed in.

### Guidelines for correct remuneration

- a) Make sure each employee is paid according to the value of the work he/she does. The value of the work could be defined using the guidelines described in the chapter “Equal pay for the work of equal value”
- b) Do not allow differences in payments for the work of equal value based on sex, race, ethnic, religious or trade union affiliation or any other factor not directly related to the requirements of the job.
- c) Make sure each employee has the same employment rights (bonuses, benefits, insurance, annual leave etc.)
- d) Make sure internal company remuneration rules are objective. Differences based on sex, race, ethnic and religious affiliation or any other personal characteristics should not be made.
- e) Make sure the performance assessment systems are based objectively and applied in fair and non-discriminatory way.

## 5.2 Terms and conditions of work

As stipulated in the Labour Law, direct or indirect discrimination on the grounds listed below is prohibited:

- 1) Employment requirements and selection of candidates for the performance of a specific job;
- 2) Working conditions and all rights based on employment relationship;
- 3) Education, capacity building and training;



- 4) Promotion at work;
- 5) Cancellation of the labor contract.

Terms and conditions of work are also considered to be:

- pay and benefits
- parental leave
- annual leave
- absence from work due to inability
- working time and overtime

Therefore, when allocating tasks employers should respect the principle of „equal opportunities for all” treating each employee in fair and equal way. If, for example, one worker or group of workers is assigned more dangerous tasks than the other worker or group of workers, such action will be regarded as discriminatory. Furthermore, if one worker or group of workers is constantly assigned with tasks unpleasant in nature than such action can turn into harassment.

The workplace should be safe and deprived of any characteristics that can cause mental, physical or psychic injuries of workers with no exception or discrimination on any grounds.

**Figure 3:**  
**Employment of persons with disabilities**

People with disabilities continue to face limited access facilities used by the public, health care facilities (especially with regard to access to orthopedic and other aids and dental care), limited access to education at all levels, as well as to adequate vocational training and employment.

In 2012, the budget for this purposes was 7.931.921,69 €. Nevertheless, only 268.000,00 € was spent for employment of persons with disabilities.

Source: “ Report on the state in the area of judicial reform and human rights (Chapter 23) in Montenegro in the period from 10/10/2012 to 10/04/2013”, CRNVO

All employees have the same rights of employment (parental leave, annual leave, sick leave ...) and every denial of the rights of individuals or groups of employees i.e. employer's favoring certain employees or groups of employees is deemed to be discrimination.

**Practice example 5:****Employee satisfaction survey – Montenegrin Telecom (Crnogorski Telekom)**

The survey consists of 25 questions and is conducted twice a year and is open 7 working days. Employees are voting on the most critical aspects of the business, with special emphasis on satisfaction, motivation, income, health care, work-family balance, training and development, the degree of confidence in the company's management, working conditions etc.

The results are analyzed, and discussed at management meetings and with employees. Employees propose, initiate and suggest the most desirable and the most necessary improvement measures. Human Resources Department takes care of the design and implementation of desired changes and new initiatives.

**Project's aim>**

- Building trust between employees and management of the company
- Creation of employee friendly atmosphere, joint responsibility for the business success of the company, employee well-being, motivation and general satisfaction with working conditions
- Raising the standard, in the area of corporate social responsibility (internal aspect - the relationship to employees)
- Continuous and systematic approach to raising employee satisfaction
- Development of company culture and standards in the field of human resource management

**Effects:**

- Better profiling of corporate benefits for employees
- Implementation of the Programme for the Prevention of stress (burn-out syndrome) Workplace (Stress Management)
- Introduction of the program - The company that supports healthy lifestyles (smoking quit, numerous sports recreative offers for all employees, it systematically review for all employees, gynecological examination for colleagues, free medical examinations for all children of employees under 14 years of age, daily dose vitamins)
- More adequate evaluation of individual contributions
- Further development of the system of remuneration
- Improving working conditions and working environment
- Developing internal communications and corporate culture
- Better training planning and more effective trainings for employees

The project covers all employees in Montenegrin Telecom (Crnogorski Telekom) in Montenegro.

Source: MEF Internal documents, Pulse Check Survey of Crnogorski Telekom

### 5.3 Performance management and appraisals

Effective performance management system means an objective assessment of performance based on measurable criteria. Objective assessment systems means that each employee is paid, rewarded and promoted according to their merit and contribution.

Only on the basis of objective evaluation system, employers or managers of human resources in companies can gain insight into the results achieved by employees and can make decisions regarding salaries, promotions, bonuses, reassignment to another position and, ultimately, the termination of employment. Performance appraisal is a very important tool in creating a plan for professional development of employees.

### Guidelines for objective performance appraisal

- a) Performance appraisals should be carried out periodically and upon measurable criteria
- b) Performance criteria should be clear, objective and equal for all employees
- c) It would be appreciated if employees were consulted when defining criteria so that the process is made transparent.

## **5.4 Training and professional development**

The quality of your products and services largely depends on the knowledge and skills of employees. It is very important that all employees are given equal opportunities for training and professional development. Eligibility for training should be determined on the basis of objective criteria of selection. Of course it will offer training to those who need it most. Therefore, it is necessary “to measure and compare” the skills of employees so the chance for training is given to those whose level of skills and competencies is at a lower level. Think about affirmative action in order to motivate certain categories of employees (eg, women, persons with disabilities, members of RE population, etc.).

### **Practice example 6:**

#### **Training Programme for Safe Work – Montenegrin Power Company - EPCG**

Directorate for the Quality System, Occupational Safety and Environmental Protection EPCG is authorized and trained to carry out the entire process of employees training, development of tests and its implementation in accordance with the provisions of the Law on Protection and Health at Work and its subordinate acts. Training of staff for the safe operation of the process that the employer is obliged to implement upon each employment, as well as upon employees relocations to different jobs, upon introducing new technology or changes in work processes.

All employees in the Electric Power Company of Montenegro are trained according to this programme, regardless their qualifications and the tasks they perform.

The level and intensity of training are adapted to the requirements of the working process and employees qualifications. Employees who are not exposed to the risk of injury, occupational diseases and diseases related to work, are trained to acquire general knowledge on occupational safety, while employees who are at risk of injury, occupational diseases and diseases related to work, are trained to acquire knowledge on the specifics of safety at their workplace.

The theoretical part of the test is conducted in writing, whereby employees must achieve at least 75% of the test results.

Theoretical and practical tests are evaluated by the Commission.

Source: „Training Programme for Safe Work”, Montenegrin Power Company - EPCG

### Guidelines for training development and professional development schemes

- a) each employee should be entitled to education and vocational training, regardless of age, gender, race, religion and ethnicity
- b) when selecting the candidates for training take into account affirmative action defined on the enterprise level
- c) When an opportunity arises to training, make sure all employees are notified of opportunities to participate

- in training. After that, participants are to be selected on the basis of objective criteria
- d) every training should be based on identified training needs in the enterprise. Of course that training you decide to be relevant for the company, but when creating the same be sure to consult the employees and / or their representatives.
  - e) It is up to employers to encourage all employees who meet the criteria to apply for training.
  - f) consider the best manner of conducting the training (during / after office hours, on / off the job, etc.) so that it conforms to all the participants, or most of them
  - g) It is important to provide employees with the opportunity to assess the quality of training in terms of its effectiveness, the method of implementation and other factors that accompany it.

## 1.5 Promotion and career development

Career development of employees in terms of promotion or decision on additional stimulus such as an increase in salaries should be based solely on their merits or personal abilities. If applicable, the decision should take into account the criteria of affirmative action if such exists in the company (which gives special treatment to certain categories of employees). Of course, that decision must be devoid of bias and discrimination on grounds.

To make decisions on promotion and / or an increase in earnings as objective as possible, it is recommended that the criteria are clearly defined, and the entire process is similar to the process of recruitment.

### **Figure 4: Discrimination in numbers**

#### Employees in Education

The survey “Women and Men in Montenegro” conducted by Statistical Office of Montenegro - MONSTAT in 2012, the number of employed women compared to men was higher at all levels of education except when it comes to higher education, where the number of employed men was significantly higher than the number of employed women.

When it comes to executive / managerial positions, 1 woman in 134 is employed as director, compared to 1 in 18 men.

Source: Monstat, *Women and Men in Montenegro*, 2012.

### Guidelines for career development on non-discriminatory basis

- a) As previously noted, the decision to promote and / or stimulate should be based on the achieved performance of the employee, his / her abilities and aspirations.
- b) Some companies will want to formalize procedures and improving incentives, by clearly defining the criteria whereby the rules will be similar to those in the recruitment process.
- c) The company may establish a formal process of identification of employees with the potential to enhance the same / stimulated. Such a process should be objective and focused on checking abilities, potential and aspirations of the employee.
- d) As in the hiring process, provide a more opinion colleague or form a special committee to consider, in order to avoid prejudice and bias.
- e) Opportunities for career advancement should be openly advertised to them have little knowledge all employees.

- f) Procedures and criteria for selection should be the same in the code of internal and external ad code.
- g) Create the diversity policy that eliminates bias. Aging is often associated with problems: slow, poor health, poorer performance, reduced flexibility and so on. However, objectively speaking, this is not so much related to age as much as the attitude of employees who see themselves in this way. Therefore, talk to their older employees in a positive way.

#### **Practice example 7:**

##### **International Award for innovative employment solutions**

This award was established by the AARP International and is awarded to employers who implement innovative human resource management practices that achieves the following:

- dealing with problems relating to workers older than 50 years
- paves the way for future generations of older workers.

One of the winners was British Telecom, and the activities recommended for the award were as follows:

- Career planning tool - helping employees in career development at every level;
- Flexible working conditions - the ability to work on a part / part-time work, the ability to work from home, etc.
- Program „Balancing”:

More free time for employees

Steps down - switch to jobs with less responsibility and less stress

Facilitation - gradually reducing the degree of responsibility in continuing work for British Telecom.

- The promotion and protection of health

Improving mental and physical health

“Positive mentality” - a program of awareness about mental health

Initiative “passport” - a document that describes any work under specific conditions

Source: *The Collection of examples of good practices in promoting diversity and non-discrimination at labour market*, Croatian Employment Agency

## **1.6 Termination of employment**

Termination of employment must not be based on discriminatory principles. Termination of employment must be administered in accordance with the Labour Law and in the same way for both men and women. Prohibition of dismissal on the grounds of pregnancy or maternity leave and discrimination in dismissals on the basis of marital status is one of the basic principles of the UN Convention on the Elimination of All Forms of Discrimination against Women.

### **Cancellation of labour contract**

Article 143 of the Labour Law refers to cancellation of labour contract by employer. Labour contract shall not be cancelled in the cases of:

- Temporary disability due to illness, workplace accident or professional disease;
- Use of maternity i.e. parental leave, leave due to child care and special child care;
- Political organization affiliation; trade union membership, personal differences of an employee (sex,

language, nationality, social background, religion, political and other beliefs or some other affinity of an employee);

- Acting as representative of employee in accordance with the Law;
- Employee's addressing to trade unions or bodies competent for labour rights protection in accordance with the Law and labour contract;
- Employee's addressing to competent state bodies when he/she has reasons to doubt the existence of corruption or good-willingly submits a complaint referring to it;
- Employee's addressing to employer or competent state bodies due to environmental damage caused by employer's business.

The termination of the employment contract must be fair and reasonable, documented, justified and carried out according to the prescribed procedures, which means that the employee must be able to comment on the allegations about his guilt, i.e. he must be given the right to defense.

### **Retrenchment**

When employers need to undertake retrenchment measures, e.g. due to changes in business volume, specific attention should be paid to non-discriminatory implementation of the arrangements. All retrenchment policies, procedures and practices need to be fair and non-discriminatory.

In this regard, it is necessary to present a convincing case of technological and structural changes (technology improvement plan, organizational structure amendment plan ...). Additional attention should be paid to reducing the number of employees when they are not directly the result of the previously mentioned reasons. It is desirable that, unless specific circumstances are different, the employer interviews employees about their opinion of an agreed termination of employment, which in this case would require severance payment. Employers should always consult organizations of employees or employee representatives if they determine to reduce the number of employees due to technological, economic and restructuring changes.

## **6. Creation of productive working environment**

A fair and inclusive workplace recognizes that differences between groups of workers and their needs exist. In innovative companies these differences are valued and respected, and seen as a source of new ideas and creativity that contribute to an organization's competitive advantage. Taking employees' personal needs into account is also necessary to ensure that skilled, experienced and motivated employees do not need to leave the company due to childbearing, family responsibilities, health problems, or other personal needs requiring accommodation in work arrangements.

An inclusive working environment refers to work place where:

- all employees are treated with dignity and no discriminatory harassment (including sexual harassment) is tolerated; and

- employees' special needs are taken into account and they are provided special support in accordance with their life situations or personal needs.

In order to ensure adequate attention to the special needs of employees, employers are recommended to follow the guidelines in this Guide, as well as from the publication "Promoting equal opportunities and combating discrimination at work in Montenegro - Practical Guidelines" issued by the MEF with the support of the ILO.

## 6.1 Harassment

Employers should ensure that all employees in the organization can enjoy a safe and respectful working environment free from discriminatory harassment. All staff should be made aware of what kind of behavior is acceptable and unacceptable in the workplace. Harassment includes any active or passive conduct at work or related to work against an employee or group of employees, which recurs, and which is intended to or actually undermines the dignity, reputation, personal and professional integrity of the employee and which causes fear or creates a intimidating, humiliating or offensive environment.<sup>6</sup> Harassment is a broader concept than sexual harassment because it can mean racial, ethnic and other forms of harassment.

Harassment in the workplace may come from employers, supervisors, colleagues, visitors, customers or anyone else with whom the person is in contact.

Basically this form of discrimination is intended to humiliate a particular person. Very often, harassment at work includes defamation, offensive jokes, personal insults, unwanted physical contact, hiding important information relevant to the implementation of a specific task, persistent criticism (especially in the presence of others), threatening behavior and gestures, minimization of quality of work, overwhelmed by tasks, assigning meaningless, trivial assignments etc.

Harassment includes actions or comments intended to undermine the dignity of another person and/or creates an intimidating, humiliating or offensive environment. It is discriminatory if based on gender, ethnicity, disability, health status, origin, or anything that is defined by Montenegrin legislation.

Montenegro, inter alia, ratified two key Conventions of the International Labour Organisation (ILO) relating to the elimination of discrimination in employment and occupation: Convention 100 on Equal Wages (1951) and Convention 111 on Discrimination (Employment and Occupation) (1958). Thereby Montenegro committed to put into effect and practice the provisions of the Convention.<sup>7</sup> According to the Article 1 of ILO Convention 111 concerning Discrimination in Respect of Employment and Occupation (1958), the term „discrimination“ includes: a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

## Sexual harassment

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6 The Law on Prohibition of Harassment at Work

7 ILO, ABC of women workers' rights and gender equality, Geneva, 2000

Sexual harassment is a serious form of sex discrimination that mostly but not only women face when applying for jobs and during their employment at the workplace.

Sexual harassment refers to conduct of a sexual nature or other conduct based on sex, affecting the dignity of women and men, which is unwelcome, unreasonable and offensive to the recipient.

Sexual harassment is unwanted conduct of a sexual nature, and as the most common examples identified in practice are: sexual suggestions, jokes of sexual content, touching of intimate parts of the body, imposing of sexual relationship, etc.

Posters, calendars, and other promotional material that is inappropriate i.e. of sexually explicit content, that is offensive to the dignity of women and men, are also considered undesirable and offensive elements that indicate sexual harassment i.e. the existence of this form of discrimination at work. The same goes for marketing campaigns of enterprises i.e. advertisements. It is well known that the commercials focus on the emotions and attract attention, with teasers whose main goal is to make the audience (customers) interested and sell the product. Once the boundaries between ethics and good taste are lost, due to the client's and broadcasters' irresponsibility, it results in forms whose provocative content and tasteless messages discriminate against employees (mostly women) and offend their feelings. When advertisements and promotional material of the company, rather than providing information about the quality and functionality of the product, service and business performance, contain messages that offend the position and status of employees, they then talk about moral norms and values of the company itself - of course in a negative context.

Actions constituting sexual harassment may be:

- physical -- e.g. sexual violence or unwelcome physical contact, such as hugging, kissing or touching;
- verbal -- e.g. comments and intrusive questions of a sexual nature about one's private life;
- non-verbal -- e.g. staring, leering, whistling, sexually suggestive gestures;

Most victims are young women but they can also be men or older women. Sexual harassment can also occur between people of the same sex. Perpetrators in workplaces are usually bosses, but sexual harassment can also emanate from colleagues or customers.

Sexual harassment occurs most frequently in situations of superiority over the victim. This means that the perpetrators are usually leaders - individuals who are at high hierarchical positions in the company, although the practice recognises the cases of sexual harassment stemming from colleagues or clients.

### **Prevention of harassment and sexual harassment at work**

Harassment and bullying at work cause fear, stress, anxiety and physical sickness amongst employees. It can lead to increased absenteeism, an apparent lack of commitment, poor performance and even resignation.

The Labour Law protects an employee who reports or testimonies to the harassment and sexual harassment at work and related to work. It is therefore very important that employees are informed about this right.

Da bi ove oblike diskriminacije sveo na minimum tj. eliminisao ih, poslodavac treba da:

- Adopt a policy on handling and preventing discriminatory and sexual harassment in the workplace. The harassment policy can be adopted either separately, or as part of the company equality policy.
- Ensure that all staff and managers know that discriminatory and sexual harassment is not accepted in the workplace.
- Ensure that your company has a clear senior management commitment to prevent harassment at the workplace.
- Notify employees that harassment and sexual harassment at work is prohibited. Also, to inform employees



that they are expected to avoid to behave in a way that is inappropriate and could be construed as harassment and sexual harassment of other employees;

- Set up an internal grievance system to handle harassment related complaints. Ensure that harassment complaints are handled effectively, fairly and confidentially. Punish perpetrators adequately.
- Foster and promote respectful company culture to build a workplace free from discriminatory and sexual harassment.

Legal definitions of terms „direct discrimination“, indirect discrimination“, „harassment“, „sexual harassment“ etc. are given in the Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (2006). According to this Directive ‘harassment’ is when an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment, while sexual harassment is when any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment. States have transferred definitions into their regulatory frameworks in different ways. Thus, in Finland, for example, the law stipulates that the employer himself considered the perpetrator of discrimination against an employee if he knows that an employee victim of harassment and failed to take adequate measures to tackle it.

A very useful reference for employers is the ILO publication „Sexual harassment: addressing sexual harassment in the workplace, a management information booklet” (1999).

#### **Management tips 14: Dealing with sexual harassment related complaints**

##### Reporting of incidents

If an employee experiences sexual harassment at work by his superiors, other employees, parties or other persons should immediately take the following steps:

- You must show that such behavior is considered offensive;
- The competent person should be notified about the incident. If possible, the appeal must be submitted in writing;
- Conversation about the incident should be taken objectively, taking care of all the details, and the person who filed the complaint should be advised to not speaking about it around (because of the sensitivity of the case). The person who received the complaint shall keep all information obtained as strictly confidential, except for the purposes of an investigation or correction actions.

##### Second hand reports

All employees who know about the cases of sexual harassment in the workplace are required to report these to the person in the company responsible for receiving complaints.

##### Investigation

A complaint of sexual harassment should immediately be investigated. The decision as to whether an action constitutes sexual harassment or not, should be made based on the review of the facts in the particular case. For the purpose of objectivity and fairness in determining whether alleged conduct actually constitutes sexual harassment, the responsible person from the company needs to consider the entire report and all the circumstances (nature of sexual approach, the circumstances in which the alleged incident occurred).

##### Procedure

If the existence of sexual harassment is proved to happen, the responsible person should immediately take appropriate measures. Depending on the severity of the act, the disciplinary measures will be taken (ranging from a written warning to the delivery of the notice of termination of the contract).

Adapted from: CESI (2007), A Rulebook for achieving equal opportunities in the workplace, Zagreb

## **6.2 Maternity protection**

U postizanju politike jednakih mogućnosti, veoma značajan segment predstavlja oblast koja se odnosi na položaj i diskriminaciju žena na radu i u vezi sa radom. U tom smislu, od poslodavca se očekuje da posveti posebnu pažnju zaštiti interesa žena kao jedne od posebno ugroženih grupa. Ovo pitanje je regulisano standardima Konvencije o zaštiti materinstva ILO, a prije svega nacionalnim Zakonom o radu čije odredbe definišu zaštitu žena u toku trudnoće i nakon rođenja djeteta, što znači da poslodavci moraju biti svjesni svoje obaveze po osnovu ovog i drugih relevantnih propisa.

Aktivnosti koje su usmjerene ka zaštiti materinstva, osim pukog poštovanja “slova zakona”, važne su s aspekta obezbjeđenja zdravlja majke i deteta, kao i sigurnosti zaposlene žene da će tokom trudnoće, ali i poslije porođaja, nastaviti rad u kompaniji. Odgovoran odnos te vrste omogućava poslodavcima da zadrže obučene, iskusne i lojalne radnice, što je jedan od preduslova izgradnje dobre poslovne klime i jačanja konkurentnosti preduzeća.

## **Maternal (parental) leave**

The duration of maternal (paternal) leave is 365 days from the date of birth of the child. The employed woman may start working prior to the expiration of the leave, but not prior to the expiration of 45 days from the day of childbirth.

If an employed woman gives birth to a still-born or the infant passes away before the expiration of the maternity leave, she shall be entitled to extend her maternity leave for the period of time which is, by the findings of an authorized medical doctor, needed for her to recover from the childbirth and psychological condition caused by the loss of a child, but no less than 45 days during which time she shall be entitled to all rights based on the maternity leave.

During the parental leave the an employed women shall be entitled to wage compensation in the amount of the salary he/she would earn if he/she was at work, in accordance with the law and collective agreement.

The employer shall provide the employee with return to the same working position or to an adequate working position with at least the same salary upon expiry of maternity, or parental, leave.

An employee intending to use a right to parental leave or leave due to adoption shall notify the employer on the intention in written form, one month prior to the beginning date of exercising the referred right.

An employee that exercised the right to parental leave shall be entitled to additional professional training, if the employer introduced certain changes of technological, economic or structural nature or changes in the method of operating.

## **Temporary deployment and protection from overtime work, or night-time work**

Based on the findings and recommendations of the competent medical doctor, a pregnant and breastfeeding woman may temporarily be assigned to other jobs, if that is in the interest of protecting her health or the health of her child.

If the employer is unable to provide the assignment of the employed woman to another job, the woman shall be entitled to absence from work, with wage compensation which cannot be lower than the compensation the employed woman would have received if she had been working at her post.

During a temporary assignment to other jobs, the employed woman shall be entitled to a wage paid for the job she performed prior to the re-assignment.

An employed woman during her pregnancy and a woman having a child less than three years of age cannot work longer than full time hours or in night shift. Exceptionally, an employed woman who has a child older than two years of age can work in night shift, only if she gives her written consent to such a work.

One of the parents of a child having severe development difficulties, as well as a single parent of a child under seven years of age may work longer than full time hours or in night shift only on the basis of a written consent.

## **Protection from termination of labour contract**

An employer shall not refuse to conclude a labor contract with a pregnant woman, or cancel the labor contract due to her pregnancy or if she uses the maternity leave.

An employer shall not cancel the labor contract with the parent who works half of the full time due to attending a child with severe development difficulties, a single parent of a child under seven years of age, or a child with severe disability, or with a person using one of the afore mentioned rights. These employees may not be declared redundant employees due to introduction of technological, economic or restructuring changes. However, these circumstances cannot influence the termination of employment.

A female employee whose labour contract concluded for a definite time runs out within the period of her maternity leave, the period for which the contract has been concluded shall be extended until the end of her maternity leave.

The Labour Law, in addition, establishes safeguards mechanisms so that maternity or parental leave, absence from work for child care and special care for the child are not considered justifiable reasons for dismissal.

## **Breastfeeding**

If an employed woman starts working prior than expiration of 365 days from the childbirth, in addition to the daily break, she shall be entitled to, in agreement with an employer, use additional 90-minute absence from work for baby breastfeeding.

## **6.3 Work-family balance**

A company that is able to recognize and accept the diversity of employees' needs addressing them in an adequate way, becomes an example of a successful business environment perceived as more preferable than other on the market.

For instance, an international employee survey from the global organization IBM found that in all regions the inability to manage work-life demands was one of the top three reasons for employees potentially leaving the company and that both men and women expressed this problem to the same extent.<sup>8</sup>

Many companies use family friendly workplace practices as an integral strategy to enhance their staff's well-being, productivity and commitment to the company. Implementation of family friendly practices is „win-win“<sup>9</sup> situation, i.e. it is beneficial not only employees but also the company. Family friendly workplace practices can contribute to attracting and retaining talent, enhancing staff morale and productivity, lowering levels of sick leave and absenteeism, reducing staff turnover, and incurring lower recruitment and training costs.

In practice, the use of these policies is characterized by numerous benefits:

- Higher levels of satisfaction, loyalty and responsibility of the employee;
- A higher level of work morale of employees;
- Improvements of productivity;
- Retention of qualified personnel;
- Reducing the cost of hiring and training;
- Reduction in sick leave and absence of employees;

<sup>8</sup> Catherine Hein, *Reconciling work and family responsibilities: Practical ideas from global experience*, ILO, Geneva, 2005

<sup>9</sup> The term originates from the English language („win-win“) and implies a situation where both sides win. It is particularly applicable in the negotiating process and represents a decision to be achievable by all participants in this process.

- Better utilization of time;
- Reduce the level of stress;
- Increasing the number of mothers after maternity leave return to work;
- Enhancing the reputation of the employer ("good employer").

If the work environment is not supportive, it is difficult to reconcile family life and professional obligations. This especially applies to employees who started a family and had children, which is often a vital milestone that result in making a break in their professional career (especially when it comes to women). Child care, care of the sick or elderly family members, demands their full commitment further complicating the performance of their everyday business tasks.

Employers who have an understanding of the needs of this type create policies based on a family-friendly approach, which then become an integral part of the overall business strategy.

The Council of Europe's Recommendation No. R (96) 5 on reconciling work and family life further supports the development of this model of business practice. EU promotes measures aimed at improving the balance between work and family life, which is in accordance with the provisions of ILO Convention 156 on employees with family responsibilities (1981) and ILO Recommendation 165. According to them, among other things, a woman is not recognized as the only person who should bear the responsibility for the care of the family and its members, i.e. the men as well are encouraged to greater participation and contribution to family life.

Family friendly workplace schemes may include the following types of measures:

- Flexible work arrangements, such as part-time work, job sharing, compressed work week and teleworking;
- Family care leave, such as marriage leave, paternity leave, eldercare leave, bereavement leave and adoption leave;
- Study leave and career breaks and sabbaticals;
- Childcare facilities or childcare support, such as a day care centre at the workplace.

**Guidelines for implementation of family friendly policies:**

- Tailor the family friendly workplace practices to fit the needs of the employees and the company
- Involve workers' organizations in design of the family friendly schemes.
- Ensure that employees are aware of the family friendly workplace schemes available in the company, and that they all have access to these schemes.
- Adjust the performance management system so that it allows objective assessment of the performance of employees on flexible work arrangements
- Ensure that all managers are trained on the family friendly schemes. They should help their staff in tailoring flexible work arrangements that meet their individual needs.

**Practice example 8:****Work and family initiatives from E.ON / R-Pressé**

E.ON Energie launched its “Balance.ON” project in 2004, which aims to help employees find the right work-life balance. In addition to flexible working hours and the option of sabbaticals, the initiative offers extended parental leave with guaranteed re-hiring, a mentoring system during parental leave and, since 2007, free life coaching as part of the family service. Employees can obtain counselling for family problems or a crisis and professional support is arranged if required. The “Work and Family” initiative at E.ON Ruhrgas also features flexible working hours and parental leave to improve job satisfaction and performance. Since 2007, E.ON Ruhrgas has been offering a free service to arrange childcare. Fifteen kindergarten places are available in the immediate vicinity of the head office in Essen. At the corporate centre, large numbers of employees are taking advantage of the support offered by the “Family Service”. This programme offers counselling and arranges childcare or professional support in case of a family crisis, such as taking care of older or sick family members.

R-Pressé is the publisher of Respekt, a weekly Czech newspaper. Its editorial board emphasises the balance between work and family life for all employees. Parents are not obliged to work at weekends and can choose special leave over and above their statutory leave. Employees, male and female, can make use of flexible working hours, work part-time or from home.

Source: EBRD, Good Practice Notes: Family friendly working and the work-life balance, September 2008. available at:

<http://www.ebrd.com/downloads/research/guides/practice08.pdf>

## 6.4 Reasonable accommodation

Reasonable accommodation is mostly related to the adjustment of the working environment to the needs of disabled persons and persons with special needs. At the stage of recruitment, adaptation may involve organizing tests and interviews in such a way that they are performed in a place that is accessible to a wheelchair, and at the time suitable for all candidates, including those with family responsibilities.

It is not good if the employer rejects the possibility of hiring qualified workers because of his or her special needs, especially in the case of a person who, with the help of reasonable accommodation measures, may do the job very well.

Some examples of reasonable accommodation measures include:

- Modify office space so that an employee using a wheelchair can access it.
- Provide an employee with vision impairment with glasses that enables him or her to perform the job.
- Provide an employee with health problems with an opportunity to take medical control or regular treatment during working hours.
- Offer an alternative post in the company to an employee who has sustained a disability during employment.

In line with Article 36 of the Law on Professional Rehabilitation of Persons with Disabilities, an employer who employs person with disability shall have the right to the subsidies implying:

- Nonrecurring resources for adapting working environment and conditions for the employment of people with disabilities;
- Loans under favourable conditions for the purchase of machines, equipment and tools necessary for the employment of people with disabilities;

- Participation in funding personal costs of the work assistant of person with disability;
- Wage subsidy for the employed person with disability.

Right to subsidies referred to in this Article may also be exercised by the self-employed person with disability or person who perform independent activity or found the company, or who is employed in the family household to perform agricultural activity as the only one, the main or the additional occupation.

## 7. Equality in company business practices

In addition to their human resource management practices, companies should promote equality and non-discrimination in all their **business practices**, and in the company's whole scope of control and influence. They are, after all, obliged to do it by Montegrin legislation.

International legal instruments, as well as examples of good business practices are an additional motivation to applying these principles resulting in the company standing out from the competition and presenting as an employer - in which it is worth working with, which is to be cooperated with and whose products / services should be used.

Apart from relations to employees, discriminatory bias should not affect any business decisions in the company, which means those that refer to selection of subcontractors or suppliers. An entire interaction with all the actors, including customers, vendors, business partners and other stakeholders, should be based on the affirmation of the fundamental values of the company.

Most often companies undertake to promote equality and non-discrimination in business practices as part of their broader programmes on **corporate social responsibility (CSR)**. When committing to CSR the companies affirm their values and principles both in their internal policies and processes, and in their interaction with other actors, including their **suppliers, subcontractors, buyers, dealers, and other business partners and stakeholders**. Discriminatory bias should not impact any business decisions in the company, such as selection of subcontractors or suppliers.

### Practice example 9:

#### HIV/AIDS Policy Statement – Coca Cola Hellenic

Below is an overview of selected segments of the document contents of Coca Cola Hellenic, entitled “Policy on HIV / AIDS” (2010). It is about global policy, which the company developed in accordance with international standards, including the ILO Code on HIV / AIDS and the world of work, as well as the Joint United Nations Programme on HIV / AIDS. The Policy was launched in 2008.

##### ➤ Summary

Coca-Cola Hellenic is fully committed to the well being of its employees. The Company recognizes that its people in some of the countries in which it operates can be exposed to a high risk of acquiring HIV/ AIDS.

(...)/This policy has been established to address these issues in two ways:

- To reduce the risk of infection to employees and their families through education programmes that create awareness to how HIV / AIDS is transmitted, and how infection can be prevented.
- To ensure that by working closely with local Governments, appropriate help organisations and The Coca-Cola Company, Coca-Cola Hellenic can contribute to the provision of antiretroviral drugs for affected staff and their families in countries where there is a high incidence of HIV/AIDS and where treatment is not readily available.

##### ➤ Guiding Principles

###### Confidentiality

- Coca-Cola Hellenic will strictly uphold the confidentiality of all information on the HIV status and condition of employees.

###### Non Discrimination

Coca-Cola Hellenic supports voluntary testing and therefore will not at any point require new or existing employees to be screened or tested for HIV/AIDS unless it is so required under the legal standards of the countries in which the Company conducts its business. In such instances, the Company will follow the requirements of the local laws and will treat all affected employees with integrity and respect.

###### Reasonable Accommodation

Coca-Cola Hellenic believes in the principles of reasonable accommodation. Therefore, employees with HIV/AIDS will be free to continue with their work responsibilities if they are able to maintain an acceptable level of performance.

#### **Reasonable Accommodation and Job Security**

(...)Employees who are HIV positive, are free to continue to work and will be treated like any other employee with regard to training, promotion, transfer, discipline and other social welfare. Provisions under the existing company Policies and Procedures regarding sick leave and impairment/disability will be applicable as instituted in instances of chronic ill health.

The Company will not dismiss an employee purely on the basis of his/her HIV/AIDS status.

Source: „HIV/AIDS policy statement“, Coca Cola Hellenic, 2010

Available at: [file:///C:/Users/Administrator/Downloads/Politika\\_o\\_HIV-u\\_i\\_SIDI.pdf](file:///C:/Users/Administrator/Downloads/Politika_o_HIV-u_i_SIDI.pdf)



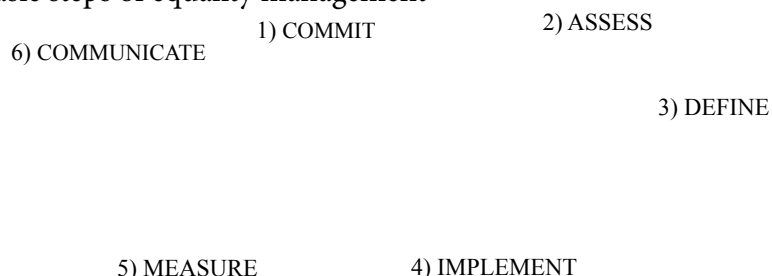
## **PART III – MANAGING EQUALITY IN THE WORKPLACE**

## **8. Measures of equality – planning and implementation**

This Chapter explains the main steps of equality management giving practical guidance to managers on how to implement equality measures at company level.

The need for this arises from the fact that the provision of equality in the workplace requires a systematic approach to management, which often involves reviewing, and revising the existing human resources policies, training of staff who is responsible for recruiting and HR management, creating an action plan for equality and inclusion measure of equality as a strategic activity in the existing corporate policy.

**Picture 1:** Basic steps of equality management



*Adapted from: UN Global Compact (2011), UN Global Compact management model, New York*

The main steps to integrate non-discrimination in your company human resource practices can be seen below.

<b>Management tips 15: A roadmap to non-discrimination</b>	
Identify need for non-discrimination strategy	<ul style="list-style-type: none"> <li>- Link non-discrimination with business priorities</li> <li>- Get top management support for initiatives</li> <li>- Identify business benefits from non-discrimination</li> </ul>
Prepare baseline information	<ul style="list-style-type: none"> <li>- Analyze the composition of workforce</li> <li>- Analyze the composition of local labor market</li> <li>- Get information on legislative requirements</li> </ul>
Review and change recruitment policies	<ul style="list-style-type: none"> <li>- Move to competence-based systems</li> <li>- Ensure recruitment is not based on personal specifications</li> <li>- Train managers in non-discriminatory recruitment</li> </ul>
Assess payment practices	<ul style="list-style-type: none"> <li>- Identify potentially discriminatory practices</li> <li>- Audit payment disparities for women and minority groups</li> </ul>
Implement an anti-harassment policy	<ul style="list-style-type: none"> <li>- Define an anti-harassment policy</li> <li>- Communicate the policy to the workforce</li> <li>- Train managers on the policy</li> <li>- Support workers who are harassed</li> </ul>
Develop family-friendly policies	<ul style="list-style-type: none"> <li>- Institute maternity leave policies</li> <li>- Encourage flexible working where appropriate</li> <li>- Consider the possibility of providing crèches</li> <li>- Consider ways to accommodate breastfeeding mothers</li> </ul>

Understand cultural and religious diversity	- Know the cultural boundaries in the society in which you operate - Train and develop managers to understand cultural differences - Adjust workplace practices to facilitate religious cultural practices where possible
Involve underrepresented groups in your workforce	- Check your recruitment requirements: are they absolutely necessary? - Consider ways of providing training to potential employees to improve their chances of employment - Consider whether you can work with government, workers' organizations and other stakeholders to develop the potential of underrepresented groups
Devise a strategy to deal with disability and health issues	- Examine ways in which jobs can be readjusted to accommodate persons with disabilities - Have a health management system which seeks to rehabilitate or reintegrate employees who have long-term health problems - Develop a policy on HIV/AIDS
Communicate	- Ensure your managers and workforce know the standards of behavior expected of them and are aware of company policies - Let marginalized communities know about your programs - Accentuate the positive advantages of non-discrimination with all stakeholders

Source: CEC-ILO, *Employers' guide on promoting equal opportunity and treatment and preventing discrimination at work in China*, Beijing, 2011

## 8.1 Adoption of equality policy

According to the Labour Law, discrimination means distinction, exclusion or preference based on sex, origin, language, race, religion, colour, age, pregnancy, medical condition or disability, nationality, marital status, family responsibilities, sexual orientation, political or other opinion, social origin, property, membership in political and trade union organizations or any other personal characteristic.

In labor law, a person may be discriminated against in terms of:

- Career choice,
- Employment and
- exercising labor rights (individual and collective) and on the basis of the work (the right to health and pension and disability insurance)

Employers who take equality seriously should adopt an equality policy to formally commit to the principle of equality of opportunity and treatment in their company human resource practices. Just as any other major company policy, the equality policy should be carefully prepared, in consultation with the workers' organizations or other employee representatives and approved by the company Board.

Strong senior management support is essential to the success of the equality policy implementation. Many successful companies choose to also incorporate their commitment to equal employment in their mission and core values.

After the adoption the policy should be displayed and circulated in the workplace. It is recommended to introduce practice of periodic checking and reporting on the effectiveness of its implementation.

The nature of the equality policy and its manner of implementation vary from company to company, for example depending on the size and operational requirements of the enterprise. There are, however, common elements that should appear in all equality policies.

### Guidelines for creation of equality policy:

- Issue the policy in **written form**.
- State the company's commitment to equality in all its human resource policies and practices. Confirm that no discrimination or harassment will be tolerated in the company.
- Define the **grounds of discrimination** covered by the policy. Ensure that at least the grounds covered in the law are included, and add more as applicable.
- **Publishing** the policy through company notice boards, staff newsletters, employee handbooks, e-mail and the like so that staff knows that the policy is in place.
- Define the **coverage** of the policy by listing the recruitment and employment decisions to which the equality principle will be applied.
- State explicitly the **commitment** of the Company Board and senior management to the equality policy. Have the policy signed by the Board or the Chief Executive Officer of the company.
- Assign a member of the senior management the **responsibility** for putting the policy into practice and for monitoring progress.
- Appoint an **equality coordinator** to coordinate implementation of the policy.
- Provide for continuing training of managers, supervisors and the staff on equality.
- Provide for conducting an **equality audit** in the company to review the existing human resource policies and practices and to document the current staff demographics in different types of jobs in the company.
- Give a brief outline on how the policy is to be implemented and its objectives. Provide for preparation of an **action plan** to define the concrete actions and affirmative action measures to be taken.
- Outline how the effectiveness of the policy will be **monitored**.
- Include a description of how discrimination related **problems and complaints** are handled in the workplace. The procedure for grievance handling can also be adopted in a separate document.

### **Practice example 10: Implementation of Equality Policy – J Sainsbury / VicHealth**

#### J Sainsbury (UK)

This company has recognized the importance of equal opportunity and treatment in the workplace and included them in its policy of equality. The company has formed a “Steering Committee for Equality and Diversity” with the task to ensure progress in achieving its corporate policy objectives of equality.

The basis for measuring the results achieved are reports on the progress obtained by:

- six-month survey in which the company asked employees (through a gender perspective) how they feel while working for it, as well as asking for their opinion on the company’s business strategy;
- annual monitoring of all who work in the company (at all hierarchical levels);
- Annual audit of HR policies to ensure that they are not discriminatory;
- Annual monitoring of training that are offered in the company for the purpose of career development of employees (the company provides working women and men with special leave for personal development, lasting up to one year).

Source: ILO, “Gender Equality and Decent Work: Good practices at the workplace”, Geneva, 2004.

#### VicHealth (Australia)

This company through all its policies, practices and procedures promotes the use of the principle of equality in the workplace (no discrimination and harassment). In this sense, all employees enjoy equal opportunities and treatment, and the company is committed to providing a safe and pleasant working environment, as well as promoting good interpersonal relationships between employees.

VicHealth implements the program “Equal Employment Opportunity”, which has the following objectives:

- ensure that all employees are treated fairly;
- use and develop the potential of every employee to the fullest;
- ensure that all policies and all procedures comply with the principles of the program “Equal Employment Opportunity”;
- increase motivation and morale of employees based on their increased confidence in the fairness of our HR practices and access to employment;
- ensure the achievement of our goals through the “Equal Employment Opportunities”. Achieving goals include training of employees for this program and related issues

Source: ITC-ILO, EUROCHAMBRES, “Breaking gender stereotypes - building good business: Tips and tools for smart Managers”, 2009

### **Responsibilities of company’s management structures**

The objectives of equality policy can only be achieved if employees accept its introduction and support its implementation. Therefore, it is necessary at early stage of policy formulation to consult employees and union representatives, continuing this practice throughout the process prior the adoption.

As already mentioned equality policy should be approved by the Board and signed by the CEO of the company. This kind of support is considered to be the most critical factor in the whole process, which means that senior

management and director through their attitude serve as examples in the organization and channel the future effectiveness of implementation of measures of equality.

In many successful companies, managers have direct responsibility for implementing the principle of equal employment opportunities and achievement of targets set on that basis (e.g. development and mentoring of women leaders, the employment of older workers, etc.).

In this regard, it should be noted that the very useful feedback information can be obtained from the so-called. "Exit" interview that was conducted with a new employee who leaves the company during or even very soon after completion of induction training. An even greater importance has suggestions and criticisms, and constructive suggestions received in the exit interview with e.g. employees who leave the company after several years of work in it.

## Management tips 12: Sample equal opportunity policy

Below is a sample equal opportunity policy for SMEs developed by Hong Kong Equal Opportunities Commission. The Equal Opportunities Commission encourages companies to adapt the policy to their specific company needs, adopt it, and endorse it with the company seal.

### Sample equal opportunity policy

[add company name] is an equal opportunity employer. This means we make sure that every job applicant and employee has equal employment opportunities. You will not be disadvantaged because of your **sex, pregnancy, disability, race, marital status or family status** [add any other characteristics you would like to include] during your employment or when applying for a job with us. What matters to us is that you are the best person for the job and that you do a good job. At [insert company name] we believe that everyone has the right to work in an environment free of discrimination, harassment, vilification, and victimization. We will not tolerate such behavior under any circumstances.

#### Discrimination

We will not tolerate direct or indirect discrimination based on sex, pregnancy, disability, race, marital status or family status or [add any other grounds].

*Direct discrimination* is when you are treated less favorably because of your sex, disability or other protected characteristic previously mentioned. For example, it would be direct discrimination for a supervisor to refuse you training because you were pregnant.

*Indirect discrimination* is when you are treated the same way as everyone else but you do not or cannot comply with a rule, condition or requirement of employment that applies to everyone because of your sex, pregnancy, disability, marital status or family status, and a higher proportion of people who do not have that characteristic do or can comply with it, and there is no valid reason for the rule or requirement. (For example, a policy of only hiring people who were able to relocate at short notice may disadvantage people whose family responsibilities (e.g. persons with young children) prevent them from speedy relocation.) However, it would not be indirect discrimination if we, as your employer, can give a valid reason for such a requirement.

#### Harassment

We will not tolerate sexual harassment, disability harassment, racial harassment or [add harassment on any other characteristics you would like to include]. Harassment is behavior that is not welcome, not asked for and not returned, and which is likely to cause an uncomfortable workplace by humiliating, seriously embarrassing, offending or intimidating someone. All employees are responsible for their own actions and should not engage in potentially offensive behavior. It is not necessary for the person being harassed to have to tell you that they were humiliated or offended by the behavior.

#### Vilification

Vilification of an employee because of their disability is unacceptable in this workplace. Vilification is any activity in public that incites hatred, serious ridicule or contempt of a person because of their disability. Where such behavior includes threats of harm or property damage, it may constitute serious vilification, which is a criminal offence.

#### Victimization

We won't disadvantage you for complaining about unlawful conduct in this workplace or for helping someone else to do so. We take reports of discrimination, harassment, vilification and victimization very seriously and will handle such complaints as quickly, confidentially and fairly as possible.

#### Who this policy covers

This policy covers management, supervisors, all employees, including those on commission, casual and contract staff. It also covers customers and anyone else to whom we provide goods, services or facilities.

#### What this policy covers

This policy covers:

- advertising for job vacancies
- recruitment
- training and development opportunities
- work allocation
- shifts, rosters, hours of work and overtime
- salary levels and packages
- leave arrangements
- pregnancy arrangements and associated leave
- performance assessment
- disciplinary procedures
- restructuring
- dismissal, redundancy and termination of employment
- provision of goods, services and facilities

#### Resolving problems

If you feel you are being unlawfully discriminated against, harassed, vilified or victimized, we would like you to tell us as soon as possible so we can resolve the issue or problem at the earliest opportunity.

We have a procedure for handling EO related problems. We won't victimize you for speaking out and will not allow any employee of this company to do so. Employees found to have engaged in unlawful behavior may be disciplined and, in serious cases, dismissed.

\_\_\_\_\_ Date \_\_\_\_\_ Signature of business operator / company seal

Adapted from: Hong Kong Equal Opportunities Commission: *Equal opportunity essentials kit for SME* (Hong Kong)



## 8.2 Revision of equality policies

An employer who responsibly manages its assets, capital and human resource performs periodic control over business processes and examine the possibility of any errors. He, therefore, conducts an audit that, in short, is a “retrospective review of the performance of business events, based on existing documents.”

The employer who is committed to the promotion and development of equal opportunities and non-discrimination at work is expected to review existing business practices in the field of HR. This includes the need to identify the possible need for amendments in all existing policies, practices and procedures with respect to recruitment, performance appraisal, training, promotion, salary, pays and bonuses, etc. Activities of this kind should be realized in cooperation with the trade union or employee representatives.

Practice shows that it is very difficult to identify possible failures or problems which are frequently hidden, and as such hamper the quality of equal opportunities policies implemented by the HR sector. In terms of identifying and eliminating problems it is need to perform an analysis of the structure of the workforce in the company - according to gender, age, ethnicity, education level etc. Unlike large, this method is generally very simple in small businesses. For the assessment of the situation once an informal review of salaries level is enough. On the other hand, at larger and more complex organizations, it is necessary to perform a detailed, often very complex analysis. But regardless the size of your company, you should always include representatives of employees or unions in the process.

### Guidelines for analyzing the data from a workforce assessment:

- ✓ Assess the **staff composition** in terms of sex, ethnicity etc. in different kinds of jobs in the company, for example in each major grouping within the organization (e.g. managerial, clerical, skilled or unskilled employees), each occupational group (e.g. engineering, process work) and type of employment (e.g. permanent, temporary, full or part-time).
- ✓ Look at what kinds of persons apply to work in your company, who you interview and who gets **recruited** in your company.
- ✓ Establish what the **pay levels** for different groups of employees are in your company.
- ✓ Compare **performance ratings** of different employee groups in the company.
- ✓ Monitor who applies for **training** opportunities in your company, and who is provided with training and in what work areas.
- ✓ Monitor what kinds of persons apply for **promotion** in your company, and who gets promoted.
- ✓ Analyze the **lines of progression**, i.e. the order of jobs employees pass through in the process of promotion. Establish the levels at which members of different groups of employees are working to identify possible barriers to employment promotion. Analyze whether some staff members are in positions where they cannot make full use of their skills and talents.
- ✓ Analyze who takes on **grievances** in your company, and for what reason.
- ✓ Analyze who is **absent or sick**, and for what reason.
- ✓ Analyze who you **dismiss** and who **leaves** the company, and for what reasons.

When analyzing the data look at significant differences between groups of workers (e.g. women, men, ethnic minority employees) and identify trends over the periods of time. When significant differences are found, the reasons for them should be analyzed. The findings of the workforce assessment will form the basis of defining the affirmative action measures to be taken in the company as part of its equality action plan.

In most cases, the workforce assessment requires **collection of personal information**, such as marital status, ethnicity, or age, from employees for analytical purposes. It is important to explain to employees that data is collected solely for the purposes of identifying areas for improvement in the company human resource practices and detecting needs for adoption of equality measures in the company. Employees should be ensured that their

personal data will be handled confidentially. In any case, provision of personal information should always be voluntary.

### Revision of earnings

Pay equity audits are carried out to assess whether salary levels for different jobs in the organization are determined at fair and equal level. The pay equity audit focuses on assessing the value of different jobs, by comparing knowledge, effort, responsibility and working conditions of different jobs.

Comparing the value of jobs should be done through a planned and structured process free from any discriminatory bias. Most often companies appoint a committee to plan and carry out the pay equity audit process. Both managers and employee or workers' organization representatives should be represented in the committee. The common steps of carrying out the audit include:

1. Identify jobs to be compared. E.g. to detect gender pay gap select some women-dominated jobs and some male-dominated jobs for comparison.
2. Choose a job evaluation method.
3. Develop tools for data collection, and gather data on the jobs to be compared.
4. Analyze the questionnaire results.
5. Determine value of jobs by assessing the skills, effort, responsibility and working conditions of these jobs.
6. Estimate wage gaps between jobs of equal value.
7. Make pay adjustments so as to achieve equal pay.

#### **Figure 5: Gender differences in wages and incomes in Montenegro**

The study "Gender differences in wages and incomes" shows that citizens of Montenegro and employers have significantly different perceptions of discrimination in respect of employment in Montenegro. While 60% of Montenegrin citizens believe that there is no discrimination in our country, only 35% of employers agrees. Also, there are differences in the perception of discrimination by men and women in Montenegro, as 55% of men and 64% of women believe that discrimination is present when it comes to labor rights: employment and termination of employment. 14% of Montenegrins spontaneously as a vulnerable group in terms of discrimination in labor law states the woman, and then the disabled and sick people. Contrary to that, only 7% of employers think so. The highest percentage of employers said the disabled, sick people, Roma population, older middle-aged people, and ultimately woman are discriminated the most. Furthermore, a total of 22% of the population and 1 in ten employers spontaneously states that women is the greatest vulnerable group in terms of discrimination in employment. Unlike employers, citizens state mothers with small children as vulnerable groups. Pregnant women is perceived to the vulnerable group by 3% of employers and 4% of the population.

Women are predominantly identified as victims of harassment at work among the population, but also among employers. Significantly more women (63%) compared to men (53%) believe that victims of harassment at work are mostly women. Based on this, we can only assume that women are more often victims of harassment at work than men are. On the other hand, only 1% of employers confirmed that the companies (organizations) where they govern a case of harassment occurred.

Source: Evropski pokret u Crnoj Gori, Socio-economic status of women in Montenegro. Available at: <http://emim.org/files/socio-ekonomski%20polozaj%20zena%20u%20crnoj%20gori.pdf>

### Guidelines for revision of the calculation of wages

- ✓ Ensure that **managers and employees** are equally represented in the pay equity audit committee. Minimum one representative of each job chosen for comparison should be invited to join the committee.
- ✓ Equal representation of women and men in the committee should also be ensured. If the comparison is about detecting pay differences between local and rural migrant employees both groups should be equally represented.
- ✓ Ensure that pay equity audit committee has been properly **trained** on pay equity before starting the audit process.
- ✓ Allow employees possibility to give their inputs and comments at every stage of the audit process.
- ✓ Ensure that the **criteria** used for assessing the value of the jobs are free from bias. Ensure that different types of skills, efforts, responsibilities and working conditions are all given attention and valued in an unbiased way
- ✓ Weigh the different criteria based on their relative importance.
- ✓ Take the **basic salary**, **flexible pay** (e.g. seniority increments, performance pay) and any **cash-value benefits** into account when comparing the pay levels for different jobs.

Note that if you find out that the pay for two jobs of equal value for two employees with the same seniority and same performance ratings is different, you have identified a pay gap.

Management tips 13: Sample Job Comparison Sheet				
Instructions: Score Job A and Job B 1-5 points for each criteria.				
Criteria			Job A	Job B
1. Skill				
1.1 Knowledge & education level				
1.2 Experience				
1.3 Initiative and ingenuity				
2. Effort				
2.1 Physical demand				
2.2 Mental or visual demand				
3. Responsibility				
3.1 Responsibility for equipment or process				
3.2 Responsibility for material or product				
3.3 Responsibility for safety of others				
3.4 Responsibility for work of others				
4. Working conditions				
4.1 Working conditions, and hazards				
4.2 Complexity of jobs				
4.3 The importance of avoiding mistakes				
4.4 Communication with colleagues				
4.5 Capability for work with confidential data				

*Adapted from: United Electrical, Radio and Machine Workers of America: UE Information for workers: Bargaining for pay equity.*

### 8.3 Definition of equality action plan

The equality policy adopted by the company needs to be backed up by concrete action to review and change company policies and practices. In order to ensure successful implementation of equality measures, it is best to formulate an **action plan** clearly defining the objectives, steps and timeline for implementation.

The company equality objectives should be defined on the basis of the needs and challenges identified in the equality audit. Workers' organization or other employee representatives should be consulted on setting the objectives and on selection of steps to achieve the objectives.

Special **affirmative action measures** could be defined to tackle the challenges identified in the workforce assessment.

The equality action plan should:

1. Describe the immediate objectives in specific terms.
2. Define the concrete steps and actions needed to achieve the objective.
3. Assign clear responsibility for achieving the objective.
4. Set a realistic target date.
5. Establish a procedure for evaluating the action taken

Some examples of action plan measures could include:

<b>Objective 1:</b>	<b><i>Ensure that all recruitment policies and practices are free from discrimination</i></b>
Steps:	Review all recruitment policies and procedures (including job application forms etc.), and remove any discriminatory elements in them. Train all staff involved in recruitment processes on non-discriminatory short listing and interviewing practices. Write objective job descriptions and competency statements for all jobs.
Responsibility:	Senior manager responsible for equality. Human resource department to carry out the review and to coordinate the training activities.
Target date:	Within 3 months
Evaluation:	Human resource department to monitor implementation of the activities, and to evaluate the impact on actual recruitment outcomes.

<b>Objective 2:</b>	<b><i>Eliminate all forms of harassment in the workplace</i></b>
Steps:	Develop, publicize and put in practice a company policy on sexual and discriminatory harassment and establish a procedure for handling related complaints. Train all staff and managers on the policy and use of the complaints procedure.
Responsibility:	Senior manager responsible for equality, human resource department
Target date:	Within 6 months
Evaluation:	Human resource department to monitor the use of the complaints procedure.

### Affirmative action measures

Affirmative action measures are special temporary measures to redress the effects of past or continuing discrimination in order to establish equality of opportunity and treatment between different groups of employees in the company. These measures target a particular group of employees or job applicants (such as women or men, workers with disabilities, ethnic workers, or older workers) that are underrepresented in the company or in certain kinds of positions in the company.

Some examples of affirmative action measures include:

- special recruitment programs
- special career development courses
- upward mobility programs
- goals, targets or quotas

### Practice example 11: Improving the position of women – IBM

The tradition of improving the position of women in IBM's lasts more than 50 years. The first woman in the IBM was employed in 1899 - long before women had the right to vote, and in 1945, the company received its first woman vice president.

One of the corporate social responsibility strategies of IBM globally is Diversity strategy. Diversity Strategy is about (improving the status of women, people with disabilities and the LGBT population). IBM for years is one of the most attractive companies for hiring women because it promotes better position of women in the labor market and allows them excellent working conditions (mothers and pregnant women).

Some examples of the behavior of IBM to strengthen the position of women in the labor market are: organization and training camps for girls in primary and secondary schools and guidance on technical colleges (greater mobility in becoming a staff working for IBM); hiring processes - an advertising campaign focused on women's employment; creating a database of women to be promoted and improved in future; mentoring programs and training specifically designed for women where they learn how to use their voice, hold meetings and presentations; seminars for man managers where they learn about best practices and proper treatment of employees, especially women; enabling flexible working hours for pregnant women and women with children, as well as work from home, paid leave after birth, paid care centers, medical program, etc.

Source: MEF internal documents – Unpublished training material

The affirmative action measures should be included in the company equality action plan, and clear objectives, steps, responsibility, timeframe and methods for monitoring effectiveness should be defined for each measure. For example:

<b>Objective 3:</b>	<i>Increase recruitment of ethnic minority applicants gradually by 10%.</i>
Steps:	Include a special notice in the job advertisements to encourage ethnic minority persons to apply. Place the advertisements in ethnic minority newspapers and community centers.
Responsibility:	Train all staff involved in recruitment on equality.
Target date:	Senior manager responsible for equality, human resource department
Evaluation:	Within 12 months
	Human resource department to monitor the ethnicity of new recruits.

<b>Objective 4:</b>	<i>Increase proportion of women in senior management positions up to 30%.</i>
Steps:	Advertise all opportunities for training and promotion openly and encourage women to apply. Ensure that training courses are organized so that women with family responsibilities can also attend. Provide individual career counseling to well-performing women with leadership potential.
Responsibility:	Within 3 years.
Target date:	Senior manager responsible for equality, human resource department
Evaluation:	Human resource department to monitor the sex of persons promoted.

**Management tips 14:****Examples of special equality measures adopted at company level**

The following are examples of strategies used in successful equality programs in New Zealand.

**Recruitment**

- Develop **specific recruitment programs** for occupations where, for example, women and members of ethnic groups are under-represented. Recruiting efforts might involve communication with relevant networks and the use of the ethnic press and radio etc.
- Develop **mature-age entry programs** and generally facilitate workforce re-entry through retraining programs and the like
- Liaise with relevant groups to determine strategies for increasing their representation, e.g. with ethnic minorities or workers with disabilities, either in the enterprise or the community
- Liaise regularly with educational institutions to facilitate the recruitment of technically and professionally qualified members of minority groups
- Review company job advertisements and career information materials to eliminate any existing bias in content, language and pictures
- Periodically review recruitment strategies for any remaining bias
- Developing training courses in selection techniques where possible sources of discrimination are described and discussed

**Training and staff development**

- Establish appropriate **career development courses**
- Extend training activities to provide **courses in necessary basic skills** such as the local language, letter writing and basic office administration skills. Course access should not be limited to people already in positions requiring the use of these skills
- Provide **induction courses** for all employees, including, where relevant, for specific groups of employees
- Provide for **individual career counseling** and ensure that all employees are told about this service
- Identify **training needs** for designated groups in consultation with the group of workers directly concerned
- Encourage members of particular groups to apply for and to enroll in both external and internal **training programs**, and review course nomination procedures
- Introduce periodic equality orientation courses for all staff, to provide information on equality and to promote continuing awareness of the need for equality promotion
- Examine existing training materials for bias. Develop new training material for use in equality orientation courses and in equality segments in other training courses
- Incorporate an equality segment into relevant training courses, such as public relations, supervisor development, effective management skills, interpersonal relations and organizational effectiveness courses

**Promotion and career opportunities**

- Develop **upward mobility programs** for low-level employees so that they have the opportunity to gain skills which will enable them to compete for higher-level positions, for example, through “bridging” positions
- Break down occupational stereotyping. Not only men, for example, are engineers nor women early childhood educators
- Implement job redesign and **job rotation** programs
- Compile **registers** and/or personnel skills inventories using objective criteria so that managers become more aware of who is available for management and top-level jobs
- Ensure that relevant **merit** is always the basic criterion for any appointment or promotion, and **team diversity** and **affirmative action** measures are taken adequately into consideration.

Source: New Zealand Employers' Federation: *A guide for employers on Discrimination in Employment* (Wellington, 1993).

## 8.4 Implementation of equality policy and action plan

The equality policy and action plan are only effective if they are made known to all staff and managers. Staff and managers should know what is and is not acceptable behavior or practice in the workplace, and what their rights and responsibilities are. To ensure that the equality policy is effectively communicated to all employees, information on the equality policy should be included in the dossiers given to all new employees and regular updates on the policy implementation should be provided to all staff. Some recommended avenues for communicating equality practices internally include:

- CEO speeches and messages;

- employee handbook, HR circulars, staff newsletter and company intranet;
- information flyers, handouts, brochures and other PR materials announcing the equality policy and showcasing success stories;
- posters highlighting equality of opportunity and treatment as the core value of the company;
- briefing sessions on the policy during staff meetings, company events or training workshops.

Training **managers, supervisors and staff involved in making recruitment and employment decisions** on equality is pivotal for success of any equality policy. Only if managers know how to ensure equality in every human resource management related decision they make can discrimination be eliminated in the company practices. Training should focus on providing managers with practical skills and tools for carrying out a fair recruitment process and managing a diverse work team. Managers should also be advised on how to develop the potential of team members while harnessing the differences that each team member brings. Equality training provided to **all staff** and managers can also help change the way staff and managers perceive differences, encouraging them to see diversity as a source of corporate strength

On the other hand, it is very important that the company provide conditions for constant two-way communication that will allow employees to express their views, suggestions and criticisms regarding the implementation of measures of equality. This can be achieved through the so-called formal mechanisms (e.g. suggestion box, participation in surveys organized by the HR department), informal conversation, in certain cases conversations that are treated as confidential.



**Management tips 19:****Guide for Ethical Business Conduct – the right way, every day**

Delhaize Group is an international retail chain from Belgium which is present in eleven countries on three continents. The following is an excerpt from the content of their universal, standardized codes (from 2010) entitled “Guide for Ethical Business Conduct – the right way, every day” It is important to emphasize that the application of this guide applies to all countries in which Delhaize operates.

*“The Company believes all associates deserve a workplace where they are respected and appreciated. Our policies are designed to ensure that associates are treated fairly and with respect and that associates treat others with that same respect. (...)The company is committed to make employment decisions without regard to gender, race, ethnicity, religion, sexual orientation, age, pregnancy, national origin, veteran or marital status, disability, or any other legally protected status.(...) All officers and other associates are expected to comply with applicable laws and Company policies relating to equal opportunity and non-discrimination.”*

*(...)If you observe or are subjected to harassment, you should report it immediately. The Company will promptly investigate all credible allegations of harassment and will take appropriate action in accordance with Company policy. Associates are expected to cooperate fully in the Company’s investigation of harassment complaints.*

*Retaliation against anyone who reports harassment or participates in an investigation will not be tolerated. (...)The Company will not retaliate against anyone who, in good faith, properly reports a possible violation of law or Company policy, nor will the Company tolerate any harassment or intimidation of any associate who reports a suspected violation or participates in an investigation of a suspected violation. (...)Any person who engages in retaliation, directly or indirectly, or encourages others to do so, may be subject to corrective action. (...)”*

Adapted from: “Guide for Ethical Business Conduct – the right way, every day”, Delhaize Group, 2010

Available on: <https://secure.ethicspoint.com/domain/media/srcs/gui/7392/code.pdf>

## 8.5 Monitoring of equality policy and action plan implementation

It is recommended that the equality policy be monitored regularly, preferably annually, to ensure that it is working in practice and that the actions taken to promote equality are successful. The review should be planned and implemented by a joint committee consisting of management and workers’ organization or other employee representatives.

The degree of formality needed will vary with the size of the organization. In a small organization an informal review to the functioning and the impacts of the policy and action plan may be enough. In a larger and more complex organization, a more formal analysis may be required.

A key part in measuring progress achieved is the feedback received from the employees. Also, a useful resource is the record of all decisions made in the company, as well as the records of the labor force.

Regarding the records of the labor force (and before the collection of personal data of employees), the employer should bear in mind the following:

- providing personal information by an employee (and job candidates) must be voluntary;



- each employee (and job applicant) must understand the purpose of gathering information and the importance of monitoring;
- personal data of employees (and job candidates) must be kept confidential.

The data analysis should focus on identifying any **impact** of the equality measures and affirmative action implemented in the companies. This should be done by reviewing any changes in the company staff composition in different jobs and at different levels. Same method of data analysis can be used as when conducting the workforce assessment.

- If the workforce assessment shows clear impacts (i.e. disappearance or reduction of the disparities), the equality policy and action plan have been successful. The need for continuing the existing positive measures should be assessed, and unnecessary measures should be removed.
- If no impact can be identified, the equality policy and action plan are not effective. The employers and workers should work together to design new, more effective measures to promote equality.
- The monitoring results should also be used to identify new areas for equality promotion. Clear objectives, steps, responsibility, timeframe and monitoring arrangements should be defined for these measures, and they should be made part of the company equality action plan.

While employers tend their company is free from discrimination, it is very difficult to pursue policies that will enable it. A sincere commitment to continuous investment in the development of measures of equality and non-discrimination is a strong precondition for any serious results.

All staff (employees at all levels), and the general public should constantly communicate the positive examples and specific information on progress made. It is important to create a good business climate, strengthen customer loyalty and motivation of employees, but also to build a brand and image that can significantly help in attracting qualified, talented workers, as well as new business associates, partners and customers.

## 9. Dealing with discrimination related complaints

Employers should set up a procedure for dealing with employee grievances and complaints of discrimination. A well-functioning internal procedure for grievance handling allows swift and flexible handling of the complaints, and as such can play an essential part in cultivating good worker-management relations. Discrimination related problems are best solved through practical amendments in policies or practices at the workplace level.

It is important to bear in mind that any discrimination related complaint requires an immediate response which would show that the company is absolutely dedicated to the prosecution of complaints and resolving concrete complaints. Any other treatment carries great risk and often comes back like a boomerang - employees may submit a lawsuit against the company (individual or collective), which indicates that the problem goes public. In addition to the costs of the trial and possible sanctions, this is a situation that can result in a disturbed public image of the company.

### Guidelines for developing a grievance procedure:

- Prepare the grievance procedure in written form. It can be prepared separately or as part of the equality policy.

- State the company's commitment to resolving any discrimination related grievance in fair, confidential, efficient and thorough manner.
- Commit to carrying proper investigations in each case and handling all grievances seriously.
- Ensure confidentiality of the procedure.
- Guarantee that both the complainant and respondent will be treated fairly. Both sides should be allowed to clarify and explain their position to avoid misunderstanding.
- Prohibit victimization and penalizing of the employee bringing the grievance
- Define the steps for bringing a complaint on discrimination. The steps should be simple and accessible to all employees.
- The complainant should be able to choose between an **informal procedure** and a **formal company investigation** to solve the issue. It is a good practice to define clear procedures for both approaches.
- Define the time frame for handling the case and giving a resolution.
- Provide for an avenue to bring the grievance up to the next level of management if the employee is not satisfied with the settlement.
- State that both sides of the dispute should act in good faith and collaborate to reach a settlement.

The procedure should be made known to all employees, and line managers should be trained on dealing with complaints in accordance with the procedure. The employers should also make sure that line managers and supervisors understand the importance of the grievance process and their personal role in maintaining harmony in the workplace amongst all employees.

The senior manager responsible for equality should be made accountable for ensuring the procedure is followed. The equality coordinator should monitor the use of procedure regularly, and take note of the outcomes of the procedures.

**Management tips 16:**  
**Sample procedure for handling equality related grievances**

Below is a sample procedure for handling equality related problems and grievances for SME developed by Hong Kong Equal Opportunities Commission. The Equal Opportunities Commission encourages companies to adapt the procedure to their specific company needs, adopt it, and endorse it with the company seal.

**Sample procedure for handling equality related grievances**

This procedure explains what to do if you have an equality related problem, issue or complaint.

At [company name] we understand that it may be hard for you to work to your full capacity if you are being treated unfairly or harassed at work. That is why we support equal opportunity in this workplace. You can obtain a copy of our equality policy from (say where).

[Add name of person responsible for equality] is responsible for making sure this procedure is followed and reviewed as necessary. If you bring a problem to us it will be handled confidentially, impartially and speedily.

**What to do if you have a problem**

We have outlined the procedure for handling problems in steps. Not all of these may apply to you, or you may follow them in a different order than shown here. You can seek help from the Equal Opportunities Commission at any time, though we recommend that you try to resolve the issue at work first, if possible.

**Step 1: Talk to the person/people involved**

If you can, it's best to try and resolve issues yourself and to do so as soon as possible after the incident. We understand that you may not always feel comfortable doing so, particularly if you have a problem with a supervisor.

**Step 2: Talk to the person responsible for equality**

If you would like to talk over an issue or find out what your rights are, make time to talk to our company's equality representative [insert name and contact details]. They will meet with you as soon as possible. In general they will not discuss your problem with anyone else without your permission. The only exception to this is if you tell them something that may affect someone's safety.

Depending on what you decide and after taking details from you, the equality representative will approach the other person(s) involved in the issue as soon as possible (and preferably within two workdays of meeting with you) and obtain their side of the story.

We strongly encourage timely complaint resolution. Within [time frame] after speaking to the other person(s), and [time frame] from the date you first approached them, the equality representative will speak to witnesses if they need further information. Witnesses may include people who didn't actually see what happened, but who observed your reaction or other related behavior.

The equality representative will then decide if they have enough information to know whether your allegation happened (using the standard of proof that it is more likely than not to have happened). They will also work out whether disciplinary action is required.

Where allegations are proved, the equality representative (or your manager) will resolve the problem by:

- bringing everyone together for a meeting to reach an agreement/resolve issues if the allegation is not of a serious nature
- taking appropriate disciplinary action (such as requiring an apology, counseling, an official warning, transfer, demotion, loss of promotion rights for a set period) against the person(s) responsible if the allegation is serious.

They may also arrange training on equality issues for all staff to ensure that everyone knows what is and isn't acceptable workplace behavior.

**Step 3: Contact the labor department hotline, workers' organization or a legal aid centre**

If you are unsatisfied with the decision reached under this procedure, or you do not feel comfortable bringing it to our attention, you can contact labour department hotline, workers' organization or a legal aid centre to get further advice.

**How will our company handle your problem?**

We will handle your problem:

- **Confidentially** -- Only those directly involved in your issue or complaint (including anyone helping to sort it out) will have access to information about it. Information about the problem will only go on an employee's file if they are disciplined in relation to it.
- **Impartially** -- Everyone involved in the issue will get the chance to tell their side of the story, and will be treated as fairly as possible. The person handling the issue or complaint will not make a decision or take any action until all relevant information has been gathered.
- **Speedily** -- We will handle all issues or complaints as quickly as possible. Where possible, we will try to resolve all issues within [time limit].

We will not tolerate **Victimization** -- Less favorable treatment or disadvantage of anyone involved in an issue or complaint being handled under this procedure will be disciplined. Malicious use of this procedure (for example, to lie about someone) will also be disciplined. We will not take any action without proof. We will investigate all issues before making a decision and/or taking action. We will only take action if we believe that it is more likely than not that the allegations happened.

\_\_\_\_\_  
Signature of business operator / company chop

Date \_\_\_\_\_

Source: Adapted from Hong Kong Equal Opportunities Commission: *Equal opportunity essentials kit for SMEs* (Hong Kong).



## **PART IV - EXTERNAL SUPPORT RESOURCES FOR EQUALITY MANAGEMENT AT COMPANIES**

## 10. Employers organizations

Access to advice and support from external support organizations and business networks was identified as a key to successful implementation of equality practices in companies (especially in SMEs) by two studies conducted by European Commission in 2005 and 2008. Due to their ability to share their experiences and good practices in implementing equality measures, the employers' associations have an important task in terms of activity of enterprises and support regarding to the application of measures of equality in their regular course of business.

MEF as an umbrella association and representative employers' federation in Montenegro, have key position and important role in a process of promotion of equality among companies – their members in Montenegro. The main expectation of role of employer's federation is to be active in this process and to provide services to companies harmonized with their needs.

## **Guidelines for employers' organizations actions**

### *1. Information and advice:*

- ✓ provide information on national labour legislation, international labour standards and other guidelines that are useful for members companies;
- ✓ Providing guidelines of good human resource management practices, like non-discrimination process of employment guideline;
- ✓ Preparation of document with examples of good practice of companies members, and distribution among other companies;
- ✓ Support to members companies in formulation and implementation of equality policies and programmes;
- ✓ Advices to member companies about other types of support (organizations and institutions where they ask for advice and guidelines).

### *2. Programs and networking:*

- ✓ Develop and deliver training and capacity building programmes to members on fair employment practices;
- ✓ Design and implement technical assistance programmes to provide practical education to member companies on how to develop their human resource management systems;
- ✓ Joint work with trade unions and participate in tripartite cooperation to promote equality, or join multi-stakeholder initiatives e.g. in the framework of UN Global Compact or national initiatives
- ✓ Regular networking meetings and joint sessions on key areas related to fair employment practices.

### *3. Lobbying, facilitating dialogue and raising awareness*

- ✓ Raise awareness among member companies about the business aspect case for equality;
- ✓ Cooperation with Government, Trade unions and other relevant parties with the goal to influence on national non-discrimination policies and to identify further measures for equality improvement;
- ✓ Cooperation with workers' organizations and NGOs to implement campaigns and raise public awareness about equality.

Organizing regular networking meeting and joint sessions on issues related to good human resource management practices and fair employment are a key strategy in promoting equality in companies. These semi-informal gatherings (e.g. "human resource managers clubs"), can serve as a platform to sharing best practices among member companies. Through networking, sharing, and benchmarking organizations can learn from each other's and adapt practices for further development of business practice.

**Useful links:**

- Montenegrin Employers Federation (MEF), [www.poslodavci.org](http://www.poslodavci.org)
- The Association of Business Women of Montenegro (APŽ), [www.poslovnazena.me](http://www.poslovnazena.me)
- International Organisation of Employers (IOE), [www.ioe-emp.org](http://www.ioe-emp.org)
- Businessseurope, [www.businessseurope.eu](http://www.businessseurope.eu)

## 11. State authorities, trade unions and non-governmental organizations

### State authorities

State authorities, like Ministry of Labour and Social Welfare (MRS) and Ministry for Human and Minority Rights (MMP), can provide support to companies in the context of introduction of the present (current) legislation and providing advice on the application of measures of equal opportunities and treatment within the scope of its competence. For example, MRS can provide to employers practical advices about how employers should calculate salary to employees during the period of parental leave. On the other side, information about illegal behaviour on workplace – that indicate mobbing on workplace to employers can be obtain at MMP.

MEF is representatives of interests of employers and official partner to Government and Trade union in tripartite social dialog in Montenegro. On bipartite level, dialog between representative of employers and Government is conducted on relation: MEF – MRS.

### Trade unions

Social dialog is a key of success in solving discrimination and promotion of equality. Activity that has for goal development and implementation of policies and plans for equality on the work place level should be realized in consultation and together with trade unions (and representatives of groups of employees on which this is directly related). Also, with the purpose of equality promotion it could be mobilised national bipartite or tripartite mechanisms.

On bipartite level, social dialog between employers and trade unions in Montenegro is conducted between: MEF – Confederation of trade unions of Montenegro (SSCG) and Union of free trade unions of Montenegro (USSCG).

### Non-Government Organizations

From the employer's point of view, Non-Government Organizations (NGO) can be very useful sources of information and guidelines, and also good support in a process of finding practical solutions for situations on workplace.



Support about questions related to promotion of equality and prevention of discrimination, and also information about legislation and examples of employment of marginalized groups can be obtained from, Union of the Blind of Montenegro and Association of Youth with disabilities of Montenegro.

#### Useful links

- Ministry of Labour and Social Welfare, [www.mrs.gov.me](http://www.mrs.gov.me)
- Ministry for Human and Minority Rights, [www.mmp.gov.me](http://www.mmp.gov.me)
- Confederation of trade unions of Montenegro, [www.sindikat.me](http://www.sindikat.me)
- Union of free trade unions of Montenegro, [www.usscg.me](http://www.usscg.me)
- Center for Development of Non-Governmental Organizations, [www.crnvo.me](http://www.crnvo.me)

#### Practical case 12:

##### Diversity charters – A new strategy to promote equality in the European Union

Diversity charters are the latest in the series of voluntary initiatives aimed at encouraging companies to implement and develop diversity policies.

A diversity charter consists of a short document signed by a company or a public institution. This diversity charter outlines the measures it will undertake to promote diversity and equal opportunities in the workplace, regardless on race or ethnic origin, sexual orientation, gender, age and religion. Development and signature of diversity charters is promoted by the European Commission.

Examples of national charters:

- France  
French national charter (launched in October 2004) is the first document of this type in Europe and, today is inspiration for many initiatives in other countries.  
By signing the National Charter, the company agrees to implement each of the six defined provisions for the promotion of diversity, and that the annual report on specific activities will submit through an online questionnaire. Until today, France has 3,000 of signatory of Charter, and the biggest part is small and medium companies. Host of the Charter is "IMS-Entreprendre pour la Cité" – French organization that work with 230 companies that dealing with promotion of corporate social responsibility.
- Germany  
For example, in Germany the national charter was launched on 1 December 2006 with the support of the Federal Government Commissioner for Migration, Refugees and Integration. The sponsor of the Charter is German Chancellor Angela Merkel. The German charter covers 10 fields of discrimination: gender, race, nationality, ethnic origin, religion, philosophy, physical ability, age, sexual orientation and identity. Since its launch the charter has been signed by over 1,500 companies employing more than 6.5 million employees. More than half of companies that signed this charter are in private sector (about 18% are big corporations).

Source : European Commission, Employment, Social Affairs and Equal Opportunities: *Diversity charter*, Available on: [http://ec.europa.eu/justice/discrimination/diversity/charters/index\\_en.htm](http://ec.europa.eu/justice/discrimination/diversity/charters/index_en.htm)

## 12. International Labor Organization (ILO)

ILO tripartite constituents – governments and employers’ and workers’ organizations – adopted a Declaration on Fundamental Principles and Rights at Work in 1998. Elimination of discrimination in employment and occupation was included as one of the four fundamental principles and rights covered in this Declaration. Fundamental principles and rights at work is critical for human dignity and economic development, and in times of crisis they serve to prevent a downward spiral in labour conditions and build sustainable economies. The position of non-discrimination as one of the corner stones of ILO’s work was reaffirmed in 2008 in the Declaration on Social Justice for a Fair Globalization.<sup>10</sup>

ILO publishes reports, guidebooks, good practice case studies and training materials to support ILO constituents in promoting equality and combating discrimination. Many of these materials provide practical guidance on improving human resource management in the companies. ILO supporting its constituents through implementation of technical cooperation projects (governments, employers’ organizations and workers’ organizations) in assisting local companies with the goal to align their practices with the principle of equal opportunity and treatment at work.

**Useful links:**

- ILO, International Labor Organization, [www.ilo.org](http://www.ilo.org)
- ITC-ILO, International Training Center of the ILO, [www.itcilo.org](http://www.itcilo.org)

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(Footnotes)

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