

DAY 2. DISCRIMINATION IN THE WORKPLACE AND MIGRANTS' ECONOMIC INTEGRATION

2.1 PRESENTATION OF DAY 2 ACTIVITIES AND EXPECTED LEARNING OUTCOMES

During Day 2 participants will get acquainted with a more elaborated framework on the topic of Ethnic (and other forms of) Discrimination, and the obstacle that this may represent particularly for the economic integration of migrants into the local labor market. By assertively identifying the different types of discrimination that may be observed in the workplace, participants will be able at the same time to get a better understanding of the national and European legal framework that has been gradually elaborated to combat exclusion on different grounds (ethnicity, gender, age, etc.), and the different ways in which these may be interpreted and applied. Important will be the presentation of representative cases of discrimination that have been taken to the (European and/or national courts), and the results of such legal processes. Finally, some practical activities will be proposed to exemplify the mechanisms existing behind discrimination, and first brainstorming activities will be developed for the elaboration of a Diversity Management tailored proposal by the end of the week.

The main expected learning outcomes of Day 2 are: 1. Identifying different expressions of (multiple) discrimination; 2. Promoting open attitudes and concrete inclusive behaviors that may positively influence the good functioning of a diverse workforce; 3. Learning which are the main national and European institutions, together with the correspondent legal frameworks, that may be referred when assisting a concrete case of discrimination in the workplace; and 4. Develop further skills of consideration, attentive listening and empathy, toward those members of migrant and minority groups who have continuously experienced discrimination.

2.2 THE DARK SIDE OF DIVERSITY(IES): PREJUDICES, STEREOTYPES AND DISCRIMINATION(S)

The difficulties to integrate migrants (ethnic minorities or other kind of less favored groups) into the labor market do not lie only on the entrance stage as newcomers in the country of destination (immigration controls and the possibilities to –regularly- work) or as new entry job applicants for a certain job position, but in the way in which these people can actually contribute to the organization/company they are working for (or they will be working for), their possibilities to exercise agency inside and outside the workplace, and the opportunities to further develop their professional and personal skills. These positive outcomes, nevertheless, are further hindered when people are unwelcomed, mistreated and discriminated, because of their particular characteristics. During the first training day there were deeply studied the different types of diversit(ies) that may be observed in European societies (and not only) and in particular in the labor market. All those differences themselves are not a motive of judgement or discrimination but a particular characteristic of the individual or the group itself; however, such particularities may be given an evaluation judgment according to the way in which they are interpreted through the predominant local values, norms and worldviews, and these may importantly change from one society to the other and over time.

In general terms, **DISCRIMINATION** is usually based on **STEREOTYPES** and **PREJUDICES**, and refer to those attitudes, behaviors, formal and informal practices, arrangements and so on, resulting in a less favorable treatment of individuals or groups of individuals due to some of their characteristics such as race, ethnicity, age, socio-economic class, gender and sexual orientation.

STEREOTYPES, specifically, are oversimplified generalizations about groups of people. These may relate to several social categorizations and individuals' characteristics: race, ethnicity, age, gender, sexual orientation for example. They can be both, positive (usually about one's own group) and –very

often- negative (usually regarding other groups). In both cases, the elaboration and/or reinforcement of a stereotype is only based on generalizations that do not take into account more complex individual differences.

Whereas **PREJUDICES** may be defined as prejudgments. The term refers to those beliefs, thoughts, feelings and attitudes that someone may have regarding a group or an individual without previous real knowledge. A prejudice is not actually based on direct experience, but it can influence the way in which someone relates to others (biased thinking and behavior).

Discrimination may consist of conduct that intends to discriminate, or of practices that may have a (direct or indirect) discriminatory effect. Unlike many national rules, European law does not specifically define the types of conduct that are prohibited. Its wording suggests that not only actions (whether deliberately discriminatory or not) but also omissions and failures to act can lead to discrimination.

The key words used to describe the different situations that may lead to discrimination are:

- treatment
- provision, criterion or practice that would put persons at a disadvantage
- unwanted conduct
- adverse consequence

DISCRIMINATION at work can be **DIRECT** and/or **INDIRECT**. **Direct discrimination** is when a person is treated less favorably than others on the basis of their background and/or their personal/group characteristics.

Typical scenarios:

- Failure to recruit an applicant because of a protected characteristic.
- Discriminatory job advertisements.
- Estate agencies or property owners not renting to minority racial or ethnic tenants.
- Pay differences: in certain Member States statistics indicate that minority men earn less than majority men and minority women earn even less than majority women.
- Employees over 50 made redundant.
- Mandatory retirement age set at 58, 60 or 65.

However, there are also some exceptions to direct discrimination in European law e.g.:

Type of exception	Ground	Example
Genuine and determining occupational requirements	All grounds	It may be lawful to employ only a Black actor to play Othello or a Chinese chef in an authentic Chinese restaurant.
Positive action	All grounds	Disability quotas in employment, extra language classes for minority racial or ethnic groups, financial incentives to promote younger and/or older workers.
Employers with an ethos based on religion or belief.	Religion or belief	It is lawful to only employ a member of a certain church to be head of a denominational school. ¹

¹ For further info: European Commission (2011), How to present a discrimination claim. Handbook on seeking remedies under the EU Non-discrimination Directives:

Indirect discrimination is when a rule, decision, procedure, policy, criterion or practice that appears *prima facie* neutral, because it applies to all, leads to discrimination in its application, as it negatively affects persons of a particular background/with particular characteristics. Indirect discrimination is lawful if the provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. In practice, there is a broad range of justifications that may render a certain type of indirect discrimination lawful under European law. However, there are certain principles that limit which justifications are acceptable:

- Purely budgetary (financial) considerations can never serve as objective justification for discrimination.
- The aim of the practice must be unrelated to discrimination and mere generalizations are not sufficient.
- Proportionality requires that the concrete measure taken in order to achieve the legitimate aim should be suitable for achieving that aim.
- Proportionality also requires the respondent to show that another measure with a lesser or no detrimental effect would not be effective.

In European law the general definition of **indirect discrimination** is where an apparently neutral provision, criterion, or practice would put people sharing a protected characteristic at a particular disadvantage compared with other people.

Typical indirect discrimination scenarios:

- Language requirements that are not in fact necessary to fill lower ranking positions (language usually serves as a proxy for non-nationals who may belong to a minority race or for nationals who may belong to a minority ethnic group).
- Having performed military service as a requirement for recruitment (may discriminate against some religions).
- Dress codes.

Discrimination (either direct or indirect) can occur at all stages of the work process, (a) starting from the process of recruiting and entering a workplace and (b) passing through the work process at a specific space and (c) until the time of leaving a workplace; and may include: entrance opportunities, payment, labor rights, working hours, maternity protection, content of assigned work, training opportunities, performance appraisal, prospects of job development, job security, etc. There may be several types of discrimination on different grounds, however, their exact definition may differ in national/European law that need to be considered when presenting a case to the Courts. These are some of the more salient ones:

Ethnic discrimination	Ethnic discrimination is exercised through racist perceptions, comments and attitudes, and picks on victims based on their (perceived) racial and/or ethnic origin, ethnic and migratory background, skin color, language spoken, accent, etc.
Gender discrimination	Gender discrimination refers to discrimination exercised with sexist/misogynistic perceptions, comments, attitudes and mistreatments.

https://www.ab.gov.tr/files/ardb/evt/1_avrupa_birligi/1_6_raporlar/1_3_diger/European_Commission_How_to_Present_a_Discrimination_Claim_Handbook_onseeking_remedies_under_the_EU_Nondiscrimination_Directives.pdf

	Perpetrators pick on their victims based on their (perceived) gender identity/gender expression or sexual orientation, including both physical characteristics and social perceptions.
Religious discrimination	Religious discrimination includes forms of mistreatment based on religious beliefs/practices expressed by individuals, or due to their participation in a certain religious groups; as well as discrimination against persons who do not belong to (or are perceived not to belong to or identify with) a particular religious group.
Political discrimination	Political discrimination refers to discrimination against a person based on their (perceived) membership/affiliation to a political party/ political ideas/socio-economic views, or based on their (perceived) activities within non-governmental organizations.
Socioeconomic (class) discrimination	Social discrimination is exercised on the basis of social origin, based on the victim's (perceived) social class/socio-professional circumstances and it may limit the access of some people to certain categories of work.
Discrimination on the basis of family status	Discrimination related to a person's family situation. It may involve the recruitment process and/ or career opportunities and/ or wages, affecting mostly women who are (or may get) married or/ and women who have (or may have) children.

The combination of more than one grounds of discrimination leads to **MULTIPLE DISCRIMINATION**. For example, a Muslim Syrian woman employed in Spain that feels that her lack of promotion is due to the combined grounds of sex, religion, ethnic origin and nationality. For further information and examples on these and other important discrimination definitions and practices, such as **HARASSMENT** and **VICTIMIZATION**, *Topic 1 of MIGRAID's VET Material "Improving Social Partners' Skills and Capacities on Ethnic Diversity"* may be consulted in detail.

2.3 IMMIGRANTS' PARTICIPATION INTO THE EU LABOUR MARKET

INTEGRATION is a long term multidimensional process by which newcomers enter and adapt to the local hosting society. Such process includes several different areas of life: employment, education, language acquisition, knowledge and application of civic rules, cultural acquaintance, etc. From these, one of the main dimensions is the one related to **ECONOMIC INTEGRATION**, that refers to immigrants' participation rates in the local labor market, employment and unemployment rates, occupational status and general economic autonomy. Although integration is usually measured using as a reference point the one of local citizens (e.g. natives' employment rates), effective integration is also very much related to the valorization of immigrants' (formal and informal) educational background and previous work experiences (although there is a clear difference in over-qualification rates between immigrants 35%, and natives 28% in the EU).

The importance of this economic dimension lies in its relation to other life dimensions, e.g. access to employment, adequate income and opportunities for upward mobility affect the location and type of housing, which then impacts on the quality of education by determining access to particular schools. Furthermore, the importance of migrants' economic integration is strongly related to the weight that their contributions represent for the hosting national economies.

Labor market participation may be measured in terms of the Activity Rate to start with, which provides information on the number of economically active persons aged 20-64 as a percentage of the total population (in the same age group). At this respect, the data says that there is an important gap between migrants and native workers, such that during the period 2008-2016, TCN migrants systematically recorded lower activity rates than EU-born migrants (those born in a different EU Member State to the one in which they were living) or the native-born population, with these differences increasing over time. The biggest differences between activity rates for native-born and foreign-born populations were recorded in the Netherlands (where the native-born population had an activity rate that was 13.3 points higher than the equivalent rate for the foreign-born population), Latvia (10.3 points), France (9.9 points) and Germany (9.1 points).

There were eight Member States, the majority of which were in southern Europe, where the activity rate of the working-age population was higher among TCN migrants (rather than the native-born population); the gap was particularly large in Greece and Portugal, where rates for the foreign-born population were at least 5 points higher than those of the native-born population. However, higher occupation rates are not necessarily related with “quality” jobs; in Southern Europe in particular, TCN nationals are relatively more employed in underground positions or in regular but under-qualified and precarious jobs. Additionally, also in Southern Europe in particular, activity rates for women were systematically lower than the corresponding rates recorded for men in the same year 2016, highlighting that gender equality had yet to be achieved and that it does represent a salient challenge for both native and foreign born women into the labor market. This gap was even greater still among migrant women, and in particular, among migrant women born outside the EU, TCN. In the same direction, the EU-28 employment rate of foreign-born migrants was 66.0% compared with 71.8% for the native-born population. The EU-28 employment rate of migrants born outside the EU was 19.5 points higher for men than for women in 2016; this gender gap fell to a difference of 13.4 points for migrants born elsewhere in the EU and to 10.6 points for the native-born population. Such figures may reflect different opportunities and barriers for migrant men and women and/or cultural differences with respect to work-life balance within migrant households (Eurostat, 2017).

Even though there is this significant gap between immigrants and natives in the workplace, the participation of newcomers in the national economies is relevant because of its contribution to the national GDP and the expansion of the workforce particularly in aging societies. In most European countries, migrants contribute more in taxes and social contributions than what they receive in individual benefits. Thus, efforts to better integrate immigrants represent more of an investment than a cost.

2.4 CHALLENGES AND DIFFICULTIES OF IMMIGRANTS' INTEGRATION INTO THE LABOUR MARKET

Immigrants' integration (in particular economic integration) is very much desirable because of their contribution to the different national economies and economic sectors. However, it is not a linear process, and moreover it is very much compromised by several other factors such as: 1. the structural characteristics of the different national labor markets; 2. the last economic crisis and its multiple consequences; 3. the raise of anti-immigrant parties and conservative political postures against “aliens”; 4. the difficulties to productively manage diversity together with a crescent sense of distrust among local societies towards foreigners; and 5. the restrictions in assistive integrational services (e.g. language courses, job training, counseling). In the following table there may be observed some of the main specific challenges in the five participant countries of MIGRAID:

CYPRUS	ITALY	DENMARK	FRANCE	GREECE
<ol style="list-style-type: none"> 1. TCN are excluded from the Employment Equality Directive. 2. Restricted right for TCN to change jobs and employers. 3. TCN are excluded from labour rights such as unemployment benefit and pension. 4. Failure of the government to conclude bilateral agreements with countries of origin of migrants to facilitate transfer of their pension rights. 5. The labour market is segregated both horizontally and vertically. TCN are concentrated in unskilled labour (i.e. household and farming). 	<ol style="list-style-type: none"> 1. The difficulty of acting against discrimination in both the private and the public sphere. 2. The nature of the Italian economy, based on SMEs, makes it harder to monitor discrimination. 3. Undeclared work is even more complicated and almost impossible to monitor. 4. Access of employment in the public sector for non-Italians was restricted until recent times. 5. In several economic sectors, cases of discrimination of migrant workers continue to be a common practice. 	<ol style="list-style-type: none"> 1. The introduction of European directives has given rise to concerns that unskilled Danish workers might be deselected in favour of migrants or refugees. 2. Discrimination in the 'integration benefit' (2015) in particular as it provides that citizens not been residents in Denmark in 7 out of the last 8 years receive reduced benefits having direct effect to immigrants. 3. The governmental bill (2014) for differentiating the demands for working permits based on nationality judging citizens from particular countries as being less suited for integration than others. 	<ol style="list-style-type: none"> 1. In 2006, an immigration law created a new category of migrants -"skills and talents" for highly qualified foreigners compared to low-skilled foreigners. 2. Immigrants are more likely to have fixed-term contracts and have to ask for a work permit. 3. SMEs consider the employment terms for immigrants as dissuasive, which in turn lead to unequal opportunities. 4. There is no law that obliges companies to adopt Corporate Social Responsibility (CSR) strategies. However, the State encourages them to promote it. 	<ol style="list-style-type: none"> 1. The absence of coherent institutional framework and the chronic deficiency of Greek public administration resulted to a misregulated immigration flow without link to a specific growth national model. 2. The rise of financial crisis found Greece with a disintegrated migrant population facing an ever-increasing unemployment. 3. An important participation of immigrant populations into self-employment activities. 4. A chronic understaffing of the relevant public services.

As it may be observed, labor discrimination is not exclusive of the migrant population; however, foreigners, especially poor, low skilled, irregular migrants have higher probabilities to be discriminated, even more females than males. Such situation has been exacerbated specially during recent years when there was experienced a severe economic crisis around the world that hit almost every single country, although in different ways. Moreover, the immigration flows (within Europe and from other countries towards Europe) that were in progress during previous years were intensified (particularly in news media and public opinion's perceptions) during the recent arrival of what has been called "the recent refugee crisis" (Wihtol de Wenden in Ambrosini, 2016). Thus, the super-diversity condition that is currently (and increasingly) experienced in Europe, has created the need to elaborate a legal framework in each single country, and also at the European level, to combat discrimination and promote social inclusion.

2.5 EUROPEAN AND NATIONAL LEGAL FRAMEWORK

Immigrants' integration in the labor market and the management of ethnic diversity are not automatic nor simply processes. At this respect single European countries and the European Union itself, have importantly worked to build a very sophisticated legal framework with the main aim of ensuring human rights and an openly combat to (different forms of) discrimination. Its efficiency may depend on different factors such as the crossing of different jurisdictions or the specific timing of certain legal processes, among others; however, a very important first step is to gather a fundamental knowledge of the complexity of such framework.

Although each European country settles its own rules, needs and challenges on migration issues, there has been a series of shared efforts to create a comprehensive immigration policy. In this way, EU legislation provides a frame regarding conditions of entry and stay, and a common set of rights for certain categories of migrants such as seasonal employees and high skilled migrants, among others. Some of the most important legal texts relevant to migrants' employment are the following:

- [Directive 2014/66/EU](#) defining conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (UK, Ireland and Denmark do not take part);
- [Directive 2014/36/EU](#) on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment;
- [Directive 2011/98/EU](#) on a single application procedure for a single permit to reside and work in the EU and on a common set of rights for third-country workers; and
- [Directive 2009/50/EC](#) concerning the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, commonly called the 'Blue Card directive'.

The European Union and the Council of Europe both have the ambition to fight against discrimination. They have created quite a comprehensive set of rules, in particular thanks to their respective courts, the Court of Justice of the EU (ECJ) and the European Court of Human Rights (ECHR), and through primary law (e.g. founding treaties), secondary law (e.g. instructions) and European policies; moreover, Member States are parties of the European Convention of Human Rights (ECHR), which includes 47 Contracting States (including EU28). During the first period, equal treatment was more about making conditions for the smooth functioning of the common market and mainly concerned with equal pay for men and women. Emphasis on equal treatment and discrimination issues beyond narrow gender and ethnicity has been made since the 1990s principally, since the Treaty of Amsterdam in 1997, in which Article 13 states that the Council may take the necessary measures to combat discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The two most important Directives at this respect are actually born from Article 13 of the same Treaty: [Racial Equality Directive 2000/43/EC](#) and the [Framework Employment Directive 2000/78/EC](#).

Directive 2000/43/EC implements the principle of equal treatment between persons irrespective of racial or ethnic origin, focuses on discrimination based on racial or ethnic origin and extends beyond the shape of employment. Directive 2000/78/EC focuses exclusively on the field of employment addressing discrimination more broadly, including also discrimination on the grounds of religion or other beliefs, disability, age and, sexual orientation. As regards employment and occupation, the Directives cover these fields: 1. Conditions for access to employment, to self-employment and to occupation (including selection criteria, recruitment terms and promotions); 2. Access to all types and to all levels of vocational guidance, vocational training, retraining and vocational reorientation, including the acquisition of practical work experience; 3. Employment and working conditions,

including dismissals and pay; 4. and Membership of, and involvement in, an organization of workers or employers, or any organization whose members carry on a particular profession, including the benefits provided for by such organizations. Moreover, the Directive 2000/43/EC also refers to Social Protection; Social Advantages; Education; and Access to and supply of goods and services which are available to the public, including housing; whereas the Directive 2000/78/EC also refers to Vocational and adult training and university education.

The Non-discrimination Directives have to a great extent been transposed into national law, been monitored by the European Commission, and now provide effective protection to individuals and groups who face discrimination. However, although most states have incorporated all the grounds of discrimination included in the Non-discrimination Directives into their national anti-discrimination legislation, ***the majority of countries have chosen not to define them***. That means that depending on the defined discrimination ground, a particular case can refer to national or European law, and that certain concepts such as race and ethnic origin may overlap.

The key concepts of the Non-discrimination Directives and other European equality law include the definitions of direct and indirect discrimination, harassment, victimization and instructions to discriminate; the reversal of the burden of proof; adaptations of work places within reason that make it possible for a disabled person to work (known as “reasonable accommodation”); the defense of victims’ rights by non-governmental organizations and trade unions; and effective, proportionate and dissuasive sanctions including compensation. The importance of the EU system is that its laws take precedence over domestic law within its field of competence. This supremacy of EU law, and its supranational character, entails that national courts must give priority to EU law over inconsistent domestic provisions. In this way, ***EU non-discrimination law is not distinct from domestic law, but is part and parcel of it and under certain conditions has direct effect***. The Non-discrimination Directives apply to all persons, which means that protection is not conditional on citizenship, nationality or residence status; and both individuals and legal persons such as companies, public authorities, local councils, etc. The definition of the discrimination ground becomes fundamental also considering that unequal treatment may be actually justified by the same Directives when it is a matter of Positive Action. The Non-discrimination Directives permit Member States to take positive action measures to ensure full equality in practice, which means that they are permitted to maintain or adopt specific measures to prevent or compensate for disadvantages linked to a protected ground.

The Non-discrimination Directives place a duty on states to make available judicial and/or administrative procedures to victims of discrimination, and all states provide both judicial and non-judicial procedures. ***The type of judicial procedure initiated depends on what kind of law has been broken: civil, criminal, labor or administrative.*** Complaints about the public sector are often dealt with in administrative courts, while the private sector is dealt with in civil courts. In some jurisdictions, general non-judicial procedures as well as discrimination-specific procedures provide an effective alternative to the courts. European anti-discrimination law also places a duty on States to maintain bodies to promote equal treatment in relation to race and ethnic origin as well as gender (See [Equinet, European Directory of Equality Bodies](#)). Almost all States now have equality bodies or national human rights institutes acting as equality bodies. ***Among the general non-judicial bodies that can examine claims are inspectorates, ombudsmen and human rights institutes.***

In this part of the training program it will be particularly important to explain the process and requirements to present a particular case of discrimination (evidences and burden of proof); the different Courts to which the case may be presented (judicial and non-judicial procedures); and the main procedural barriers to overcome. In the same way it will be important to dedicate some space to the way in which the European Directives have been transposed into national law. For further

information, it will be fundamental to consult Topics 2 and 3 of the *MIGRAID's VET Material "Improving Social Partners' Skills and Capacities on Ethnic Diversity"*.

2.6 REPRESENTATIVE CASES OF DISCRIMINATION IN THE WORKPLACE

In this section only some examples of cases of discrimination (on different grounds) taken to the Courts (International Court of Justice, European Court of Justice, European Court of Human Rights, European Committee of Social Rights, Human Rights Committee or National Courts) will be briefly described. However, it will be important to identify and present further cases during the training week. To this purpose the Handbook on European Non-Discrimination Law (pages 135 to 143) may be consulted:

Name of the court: Swedish Labour Court

Date of decision: 4 December 2002

Name of the parties: The Ombudsman Against Ethnic Discrimination v. Tjänsteföretagens Arbetsgivarförbund and GfK Sverige Aktiebolag.

Reference number: case 2002 No. 128

Brief summary: Z.D. was a young woman, born in Bosnia but a Swedish resident since the age of ten. She applied for a position advertised by a marketing company. The work implied doing market evaluations through phone interviews. During the recruitment process – in between two planned interviews – Z.D. phoned the company. On this occasion the person in charge of the recruitment commented that Z.D. did not speak perfect Swedish. The conversation was terminated by the company and no more contacts were made with Z.D. The Labour Court – applying a reversed burden of proof – found that the recruitment process was terminated by the company for reasons (among others) related to the language skills of Z.D. These language requirements were not justified by the tasks to be performed and thus amounted to indirect discrimination according to the 1999 Act. (The company did not even try to defend the language requirements but argued other reasons not to hire Z.D.) This is the only case in which the Labour Court made a finding of ethnic discrimination based on the evidence under the act, SEK 40 000 (approx. 4 400 Euro) was awarded in damages to the job applicant.

Name of the Court: European Court of Human Rights

Date of decision: 6 April 2000

Name of the parties: Thlimmenos v. Greece

Reference number: 34369/97

Brief summary: In Greece, national law barred those with a criminal conviction from joining the profession of chartered accountants, since a criminal conviction implied a lack of honesty and reliability needed to perform this role. The applicant in this case had been criminally convicted for refusing to wear military uniform during his national service. This was because he was a member of the Jehovah's Witnesses, which is a religious group committed to pacifism. The European Court of Human Rights found that there was no reason to bar persons from the profession where their criminal convictions were unrelated to issues of reliability or honesty. In this case, the Greek government had discriminated against the applicant by failing to create an exception to the rule for such situations, violating the right to manifest his religious belief (under Article 9 of the ECHR) in conjunction with the prohibition on discrimination.

Name of the Court: European Court of Justice

Date of decision: 8 April 1976

Name of the parties: Defrenne v. Sabena

Reference number: 43/75 1976

Brief summary: A woman named Gabrielle Defrenne worked as a flight attendant for the Belgian national airline Sabena. Under Belgian law, female flight attendants were obliged to retire at the age of 40, unlike their male counterparts. Defrenne had been forced to retire from Sabena in 1968.

Defrenne complained that the lower pension rights this entailed violated her right to equal treatment on grounds of gender under article 119 of the Treaty of the European Community. The European Court of Justice held that article 119 of the Treaty of the European Community was of such a character as to have horizontal direct effect, and therefore enforceable not merely between individuals and the government, but also between private parties. Article 157 TFEU was invoked which stated "Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied".

2.7 DISCRIMINATION EXAMPLES OF THE PARTICIPANT SOCIAL PARTNERS AND SIMULATION ACTIVITIES

- During the last part of this day, participants will describe examples of discrimination on different grounds that they have had the opportunity to experience, testify (or just to know about it) either in their own organizations or in other companies/institutions. Together with the trainers and possibly law experts, the main doubts about the legal process that needs to be undergone when presenting particular cases of discrimination to the different Courts will be clarified, comparing the contents of the involved Laws and the juridical systems in the different countries involved.
- Video material on different types of discrimination may be exposed not only at the end of the session but also in between different sub-topics, some examples:
Gender discrimination: https://www.youtube.com/watch?v=snUE2jm_nFA&list=PLM99aBaeZrbToZ82gbLrj508ITtuG9gq
Stereotypes: <https://www.youtube.com/watch?v=65iC2I4KEXo>
What is privilege: <https://www.youtube.com/watch?v=hD5f8GuNuGQ>
Explaining privilege: <https://www.youtube.com/watch?v=4K5fbQ1-zps>
Don't put people in boxes: <https://www.youtube.com/watch?v=zRwt25M5nGw>
Tackling discrimination in the EU: https://www.youtube.com/watch?v=2kF_WWNICLO
- During this day participants will get to know some activities to understand the social and psychological mechanisms behind discrimination. For example, the Blue-eyes/Brown eyes Exercise and other activities developed by Jane Elliot (teacher, lecturer and diversity trainer) may be explained; for further information: <https://janeelliott.com/>. In particular, the Blue-Eyes/Brown Eyes is an exercise born the day after Martin Luther King was assassinated in 1968. Jane Elliott, who at that time was a third-grade teacher in Riceville, Iowa, divided her class for an exercise about discrimination. Students were arbitrarily divided into two groups: blue eyes-superior, and brown eyes-inferior. The teacher made a series of different statements that played blue eyed group in charge, whereas brown eyed students were not allowed to use the playground equipment, the drinking fountain or other facilities of the classroom, and were told that blue-eyed students were naturally better at Math, English, and other skills. The next day, the teacher said that she has made a mistake and the roles were reversed. Immediately, previously low-performing brown-eyed students were producing better work whereas blue-eyed students started to perform below their previous levels. The findings showed that the act of believing that one can have a good performance as part of the high-performance group in general increases the overall performance of the students, and the contrary for those who feel part of the "inferior" group. During the training week, this kind of exercises may be presented to the participants by explaining the exercise or by watching a segment of a movie related such as "Eye of the Storm" of Jane Elliot: <https://www.youtube.com/watch?v=6gi2T0ZdKvc> (see also Stanford prison experiment: <http://www.prisonexp.org/>).
- During this day, participants will be grouped in (diversified) teams and will start a brainstorming session to know each other better; to exchange ideas about the different modalities of diversity that have been (positively and negatively) experienced in their

organizations and the way they have (or have not) been managed. The most important part of this very first activity together is to get to know the potential difficulties that are experienced in different kinds of organizations on different diversity grounds. After sharing such experiences, team members will choose those cases in which they want to focus in order to create a diversity management proposal (e.g. different food requirements or working schedules for people with a different religious/cultural background; different ways of communicating relevant information; needs of (local) language acquisition by employers with an immigrant background; development of a new product/marketing strategy for a new target group based on different ethnic-cultural characteristics, etc.). People will also discuss on the very slight line that exists between diversity and discrimination so they can actually identify those expressions of diversity that have become more of a problem (or latent opportunity) within the organization and that actual need to be governed with creative innovative ways, and those that –differently- may be experienced smoothly without creating particular difficulties. During the next days, participants will study the concepts that will help them to write a more elaborated proposal according to the discussions sustained during these first exchanges.