

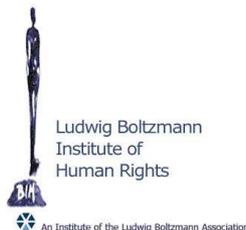


REPORT ON THE DEVELOPMENT OF STRATEGIES FOR THE HUNGARIAN EQUAL TREATMENT AUTHORITY

Activity 1.2

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Twinning Light project HU2004/IB/SO01-TL
Enforcement of equal opportunity policies and
the effective implementation of the anti-discrimination law



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CONTENTS

INTRODUCTION	3
HOW TO DEVELOP A STRATEGY?.....	9
DUTIES AND POWERS OF ETA - HOW TO ADOPT A MORE STRATEGIC APPROACH	11
Example of a Strategy: How to improve the outreach of the ETA: Stretching from Budapest to the whole country	18
Example of a Strategy: How the Equal Treatment Authority can be more effective in combating discrimination and promoting equality of opportunity for disabled people in employment	32
Example of a Strategy: How the ETA can be effective in eliminating discrimination by local authorities and encouraging local authorities to promote equal opportunities	48
Annex.....	55

INTRODUCTION

The Equal Treatment Authority (“the Authority” and “the ETA”) was established by the Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (“the Act”) (amended by the Act LXXXIII of 2005 and the Act CIV of 2006). The Act gives the Authority responsibility to oversee compliance with the obligations of equal treatment. The ETA became operational on 1 February 2005, and in the period of just over two years it has achieved a great deal, not only in responding to a rapidly increasing number of complaints of discrimination but also in other areas such as providing information to the public and building positive working relationships with other relevant public administration bodies and with NGOs, trade unions and others.

In its proposal for the current Twinning Light project the Authority recognised that, having developed its procedures in accordance with the Act and the Decree and having sought to use its resources to best effect to meet all of its statutory duties, there could be some benefit from fresh external perspectives on its work. The first stage of this project, the preparation of an assessment report, has been completed. This report on the development of strategies is the second stage. It builds on the picture of the Authority in the assessment report as well as on the statutory obligations of the Authority set out in the Act and, where relevant, the procedural and other requirements in Government Decree 362/2004 on the Equal Treatment Authority and the Detailed Rules of its Procedure (“the Decree”). The report has been prepared in collaboration with the Authority: a first meeting on 21 March 2007 at which they agreed on the general structure of the Report and a second meeting on 28 March 2007 at which the processes for the development of strategies recommended in this report were discussed and the Authority’s comments noted.

Purpose of this report

Broadly, the purpose of this report is to assist the Authority to work more effectively, along clear strategic paths, towards the achievement of its main goal: compliance with the principle of equal treatment, including the promotion of equal opportunities, on all grounds and across all relevant sectors.

This report is not intended to provide a comprehensive set of strategies covering all aspects of the work of the Authority; rather it is meant to be an aide to the Authority in developing strategies to give direction to its work. In preference to attempting to develop an overall strategy, which would remain at an abstract level, the report uses tangible examples of the development of particular strategies to achieve specific sub-goals.

Thus, the report aims to offer ways for the Authority to plan and structure its work in order to:

- maximise its resources, including the potential collaboration of different partners and stakeholders
- bring together in a focused way the different activities of the Authority in order to achieve sub-goals which the Authority has identified for itself.

In this context, if the main goal is, as stated above, to secure compliance with the principle of equal treatment, including the promotion of equal opportunities, on all grounds and across all relevant sectors, then the Authority could identify sub-goals for:

- the achievement of equal treatment and promotion of equality for members of one or more groups having the particular characteristics included in Article 8 of the Act, for example homosexuals or Jehovah's witnesses or people of Slovakian nationality;
- the achievement of equality of opportunities within a particular sector, one or more of the institutions, organisations or persons listed in Articles 4 and 5 of the Act, for example achieving equal treatment and equality of opportunities for users of services provided by health care institutions or the police; or
- the achievement of equal treatment and the promotion of equality of opportunities in the intersection of members of a particular group and a particular sector, for example Roma and private sector providers of restaurant services or women and institutions of higher education.

What is a strategy?

The term strategy comes from the Greek *strategia* meaning the function of a general. The concept of strategy has been borrowed from the military and adapted for use in business, politics and public administration. Dictionary definitions often define *strategy* in both a military and a civil society context. For example, the definition in the Oxford English Dictionary is:

“1. a plan designed to achieve a particular long-term aim.

2. the art of planning and directing military activity in a war or battle.”

The ETA may itself feel that both definitions are applicable, since they may see themselves as not only having a long term aim as stated in the Act but also involved in something like a military activity in a difficult “war” against discrimination.

What is clear in both the civilian and military definitions is that a strategy depends on there being a long-term aim, a goal or desired end. In order to develop a strategy the organisation needs to have a clear understanding of its goal. Without having a goal in view and a strategy for reaching that goal, the organisation risks missing opportunities for effective action and is likely to work in less coordinated, fragmented ways, even working at cross purposes with its allies.

Relevance of strategic planning to the work of the Equal Treatment Authority

The Equal Treatment and Promotion of Equal Opportunities Act (“The Act”)

Unlike many other public administration bodies, the ETA has a very clear statutory mandate in Article 13 of the Act, “Compliance with the obligations of equal treatment is overseen by a public administration body (hereinafter called the Authority)”. To understand this mandate more fully and how it is to be implemented it is necessary to refer to the preamble and to the other provisions of the Act that provide the framework and prescribe the powers and duties of the Authority and the roles of other bodies.

As stated in the preamble, Parliament has enacted the Act acknowledging the right of every person to live as a person of equal dignity, determined to provide effective legal protection to persons suffering from negative discrimination and stating that the promotion of equal opportunities is the duty of the State.

Article 1 confirms that the principle of equal treatment involves the treatment of all persons or groups of persons, legal entities and other organisations with “the same respect and deliberation” and their special considerations shall be “equally respected”.

Articles 4 and 5 define the public and private sector institutions, organisations or agencies and the natural and legal persons required to observe the principle of equal treatment.

Article 8 contains an open-ended list of characteristics of persons or groups protected by the Act against negative discrimination, including 19 named characteristics and “any other status, characteristic feature or attribute”.

Article 12 specifies the ways in which claims arising from violation of the principle of equal treatment may be enforced, including by the Authority, but also by lawsuits under personal law or labour law and procedures by the consumer protection, labour or offence authorities. Articles 15 and 15/A clarify the role of the Authority and other public administrative bodies and the courts in relation to enforcement of the Act. Article 16 states the range of sanctions available to the Authority if it establishes a violation of the provisions of the Act ensuring the principle of equal treatment.

Article 14(1) of the Act, amended by the Act CIX of 2006, states that the Authority:

a) shall, at request or in cases defined herein, conduct *ex officio* investigations to establish whether the obligations of equal treatment have been violated, and shall also conduct investigations at request to establish whether the employers obliged to do so have approved an equal treatment plan, and shall finally make decisions on the basis of the investigations;

b) pursuant to the right of *actio popularis*, may initiate a lawsuit with a view to protecting the rights of persons and groups whose rights have been violated;

- c) shall comment on drafts of legal acts, other legal instruments of public administration, as well as reports concerning equal treatment;
- d) shall make proposals concerning governmental decisions and legislation pertaining to equal treatment;
- e) shall regularly inform the public and the Government about the situation concerning the enforcement of equal treatment;
- f) in the course of performing its duties, shall co-operate with the NGOs and interest representation organisations and the relevant government agencies;
- g) shall continually provide information to those concerned and provide assistance in acting against the violation of equal treatment;
- h) shall assist in the preparation of governmental reports to international organisations, particularly to the Council of Europe concerning the principle of equal treatment;
- i) shall assist in the preparation of the reports for the Commission of the European Union concerning the harmonisation of directives on equal treatment;
- j) shall report to the Government annually on the activities of the Authority and its experiences obtained in the course of the application of this Act.

Article 18 enables the Authority as well as NGOs and interest representation organisations to represent complainants in procedures instigated because of a violation of the principle of equal treatment.

Article 20 enables the Authority as well as NGOs and interest representation organisations to instigate a lawsuit under personal or labour law in an *actio popularis* case.

The Act also establishes an Advisory Board of Equal Treatment (“the Board”) to assist the Authority in its law enforcement role. The Board is comprised of six persons with “outstanding experience in the protection of human rights within the area of enforcement of the obligations of equal treatment”. The Board adopts and provides to the Authority detailed, well-argued position papers interpreting principles contained in provisions of the Act and other relevant legislation. Implicit in the Board’s selection and treatment of issues is a broad, strategic approach, aiming to assist the Authority consistently to apply appropriate legal principles in its enforcement of the Act.

The Government Decree 362/2004 confirms that the Authority operates independently, with a national scope of authority. It specifies that, to meet its duties under Art. 14 of the Act to provide continuous information to the general public, the Authority is to publish regularly on its website its reports and recommendations and its decisions (anonymised where necessary).

The Assessment Report, prepared in March 2007 within the current Twinning light project, illustrates the multiple tasks currently carried out by the Authority. The replies to questionnaires included in the assessment report provide an indication of the perception of the authority by external agencies and organisations identified by the Authority as those with whom it already has a working relationship. These include a range of public administration bodies, NGOs, trade unions, employers' organisations and houses of equal chances. In summary the assessment report indicates that the Authority is carrying out a wide range of tasks giving priority to their duty to investigate all complaints specified by the Act, but also providing information through a well-regarded website, frequent appearances in the broadcast and print media, and its own Newsletter and building partnerships with other public administration bodies, NGOs, trade unions and houses of equal chances. The assessment report also indicates that the resources of the authority are stretched as it tries to cope with its current workload, that it is generally well regarded by external organisations but the ability of these organisations to support the work of the Authority, especially the houses of equal chances, needs to be strengthened by giving them more information and closer working relationships.

All of these elements - the obligations and opportunities provided by the Act, the refinement of the role of the Authority in the Decree and the picture of the Authority and its partners or potential partners in the assessment report -- point to the benefit the Authority could derive from a more strategic approach to its work. Having clear and well understood strategies in place should maximise the impact of the Authority in combating discrimination and promoting equality of opportunity and strengthen its ability to meet its statutory mandate in a focused and coherent way, utilising to the full both its own resources and the resources that it can draw on from external organisations with shared interests. This is the clear lesson from the experience of specialised equality bodies with longer histories in other parts of the EU, as well as from business organisations and, of course, the military.

Contents of this report

The report continues with two sections of general application, both of which will include relevant examples:

- How to develop a strategy, and
- How the Authority can adopt a more strategic approach in carrying out its duties and using its powers

The report then includes concrete examples of how to develop a strategy. The main purpose of these examples is to show that within a common structure there is wide scope for different approaches to the development of a strategy. For this purpose the authors of the report have selected four sub-goals, derived from the Authority's main goal, which relate to the current work of the Authority:

1. Equal Treatment of older people in employment

This sub-goal was topic of a short strategic workshop with ETA team members on Wednesday 21st of March 2007, see Annex I.

2. Improving the outreach of the ETA

3. Combating discrimination and achieving equality of opportunity for disabled people in employment
4. Eliminating discrimination by local authorities and encouraging local authorities to promote equal treatment

HOW TO DEVELOP A STRATEGY?

Strategic thinking is not as widespread throughout the world of business and administration as would be desirable. A major reason for this might be that it often seems that strategies only contain “very obvious” things.

Organisations tend to think that “as long as everyone knows what to do, there is no need for a more strategic approach”.

But experience shows that strategic efforts have a positive effect – they are worth the time spent on them as they save efforts elsewhere.

So it seems worth looking at the basic strategic circle. Its elements can be used in broad long term strategies as well as in short term strategic activity:



This wheel starts to spin with **strategic analysis** and spins until the aim it was started for has finally been reached. There are some steps in this wheel which are considerably different from “normal” – non-strategic thinking. The first step is strategic analysis: analysing the problems, the environment, barriers, restrictions, advantages and strengths. This analysis is not yet goal-oriented. It just produces knowledge

about a situation and should take into account a variety of factors and parameters which could or could not be useful in the further steps.

After this analysis, the strategy evolves only by making the right choices. Usually a strategic analysis gives food for thought for a broad range of possible directions to go.

In a second step, evolving from this ocean of possibilities, some clear **strategic choices** have to be made. This sounds obvious again, but it is not. Many organisations face problems in deciding the direction into which they want to develop and to exclude others. Especially the exclusion of some possible ways of proceeding – by way of prioritising - is an important and complicated part of a strategy. As you can see from the military origin of the word strategy, it is vital for success to concentrate power and resources for aiming at defined targets. Defining these targets (sub-goals) is the central objective of this step.

After having made the necessary choices it is time to **implement the strategy**. This means that particular activities have to be planned and conducted, disturbances and barriers have to be eliminated and activities not belonging to the strategy have to be terminated. It also means that the strategy has to be communicated to everybody involved.

A widely unloved part of a strategy is the **evaluation** of the whole process. It is often regarded as an unnecessary effort to do this as everybody seems to have a feeling about the degree of success anyhow. If one agrees that management should *strengthen strengths* first and then *weaken weaknesses* than it is obvious that evaluation plays an important role in a coherent strategy. One reason for this is very simple: At the stage of making strategic choices, one has to work on the basis of assumptions. These assumptions can be turned into certainties to some extent by evaluation. Another reason is that evaluation opens the possibility to learn from success and failure. Knowing about the strengths and weaknesses of a strategy gives the opportunity to adjust and refine or even rethink things. And this is the point where the wheel in the picture above starts to spin again from its starting point.

DUTIES AND POWERS OF ETA - HOW TO ADOPT A MORE STRATEGIC APPROACH

The Act on Equal Treatment and Promotion of Equal Opportunities provides the Hungarian Equal Treatment Authority with a wide range of duties and powers. The assessment report, on the basis of interviews and questionnaires, with information provided by members of the ETA, by public authorities and NGOs, shows that most of the ETA's duties are fulfilled but that there is a general overload of work, lack of time, money and (staff) resources, which restrains the potential capacities of the ETA and leads to it focussing on "reactive" tasks.

The assessment report shows that the main focus of the ETA's work is investigating cases on the basis of complaints it receives. There is strong cooperation with the media, which is illustrated by the authority being mentioned 172 times in media reports in 2006. The ETA also has strong, active networks with NGOs, interest groups and especially with some other public authorities. In addition the ETA provides information to the public on the legal framework for its work and on discrimination by operating two websites and by publishing a newsletter.

The annual report for 2005 presents an overview of the Authority's duties and tasks, procedural matters and obstacles. It includes examples of its cases to illustrate different forms of discrimination on different grounds and in different areas and how the ETA carries out its casework function. Cases in the annual report and the cases published on the Authority's website <http://www.egyenlobanasmod.hu/index.php?g=cases.htm> give a very good picture of what kind of complaints and what types of discrimination cases the Hungarian Equal Treatment Authority has to deal with.

Both reports as well as the cases show that a very high percentage of cases have to be dismissed, either because they do not fall within the competence of the Authority or because evidence of discrimination cannot be obtained. According to the number of cases concluded, the ETA's efforts to achieve settlement agreements between the parties have been quite successful. Both reports also show that improvements and allocating more time for some of the other tasks would help to make the investigation procedures more efficient – and so leave time for the other tasks again.

From a case-oriented approach to a case and policy-oriented approach

Investigating and deciding individual cases has to be one of the main tasks of the Equal Treatment Authority. It is the right of individuals who feel discriminated against to obtain a decision on the question of whether or not they were discriminated against according to the law in Hungary and – if positive – to obtain a binding decision that they have been treated unlawfully. Decisions of the Authority are very important to create case law and to transform the principles of non-discrimination and equal treatment into practice. Decisions of the Authority on the unlawfulness of discriminatory acts and imposition of sanctions can be a very important tool for raising awareness of the fact that discrimination is prohibited. Using this power in a more strategic way could ease the authorities' tasks and could quicken the process of

acceptance by society of the principle of equal treatment.

All the ETA's duties, powers and tasks have to be seen as tools to enable it to reach the overall aim of compliance with the principle of equal treatment within all relevant sectors and for all groups. To use these tools in the most efficient and most fruitful way in a more strategic way, the ETA needs to define sub-goals and to prioritise its duties and powers.

a. Defining sub-goals

Some of the obstacles and problems identified in the assessment report:

- Lack of public information on what discrimination is and on legal rights and duties under the Equal Treatment Act
- High percentage of ETA cases withdrawn by complainants
- High percentage of cases submitted to the ETA not falling within its competence
- Lack of awareness on discrimination on the part of local authorities
- Many ETA cases dismissed because of lack of evidence

Identifying obstacles and problems for the achievement of equal treatment in Hungarian society can be a very important basis for developing a strategy. Rather than accept these as permanent problems that have to be coped with on a day to day basis, their elimination can be defined as (positive) sub-goals and made part of a comprehensive change management process. So, based on the information obtained at the time writing this report, some sub-goals of the ETA could be, for example:

- Strengthen the outreach of the Equal Treatment Authority
- Making the ETA's work more effective
- Reach people most likely to be discriminated against
- Lower percentage of ETA cases withdrawn by complainants
- Lower percentage of cases submitted to the ETA not falling within its competence
- Stop discrimination by local authorities
- Achieve more equal treatment of disabled people in the labour market
- Greater availability of statistical data as a tool of evidence
- Promote the principle of equal treatment in the labour market
- Eliminate structural discrimination
- Stop discrimination in access to goods and services
- Promote equal opportunities in the public sector

b. Prioritizing

For the ETA to move away from a mainly reactive way of coping with its heavy workload a prioritization of its duties and powers can be helpful. Keeping in mind the overall goal of implementing equal treatment for all the grounds and everywhere in society, how could these be used in the most effective way?

Powers and duties of the ETA according to the „Act on Equal Treatment and Promotion of Equal Opportunities 2003 (last amended 2006) and the Government Decree 362/2004

- ✓ Ex officio investigations, when violation of Equal Treatment by the Hungarian State, local and minority self-governments and the bodies thereof, organisations exercising powers as authorities, armed forces and law enforcement bodies)
- ✓ At request investigations
- ✓ At request investigations on the existence of Equal Opportunities Plans, where obligatory (Budgetary Organisations employing more than fifty persons, legal entities, in which the state has a majority ownership, Art 63/4)
- ✓ Actio popularis
- ✓ Comment on drafts of legal acts
- ✓ Make legislative proposals
- ✓ Information on enforcement of equal treatment to public and government inter alia by running a regularly-up-dated website
- ✓ Publication of reports and recommendations and its (anonymised) decisions
- ✓ Creating and managing a data base
- ✓ Cooperation with NGOs, interest organisations and public authorities
- ✓ Information and assistance in acting against the violation of equal treatment to groups inclined to discrimination
- ✓ Assistance in preparing reports to International Organisations
- ✓ Assistance in preparing reports to the European Commission on the implementation of the directives on equal treatment
- ✓ Annual report to the Government
- ✓ Power to represent complainants in procedures (Art 18)
- ✓ Power to instigate action popularis at court (Art 20)
- ✓ Power to intervene in public administration procedures concerning the principle of equal treatment

Of course, any decisions as to which duties should be fulfilled first and which powers should be used cannot be answered generally but only according to the relevant sub-goal adopted by the ETA.

The following are three examples of possible sub-goals. Each begins with a relevant case to illustrate the problem the sub-goal is intended to tackle. There is then a short discussion of the different ways in which the ETA could use its duties and powers in relation to the achievement of the sub-goal and a suggested selection and prioritization of relevant duties and powers.

Sub-Goal: Stop discrimination in access to goods and services

A Turkish man wants to celebrate his birthday at the “Dragon Inn“ and invites several of his friends to join him. When the group wants to enter the place a man employed by the security service puts himself in their way and tells them to stop. There is no explanation as to why they are not allowed to enter. They remain there for a while – long enough to see that other people, none of whom are Turks, are let in as they had been before the group arrived.

To stop discrimination in a concrete case the authority can start investigation procedures and can put sanctions, like impose a fine, order that the situation constituting a violation of law be eliminated, prohibit the further continuation of the conduct constituting a violation of law, order that the decision establishing the violation of law be published, apply a legal consequence determined in a special act (Art. 16). Deciding on which of these possibilities would be the right one, has to be considered in a strategic way according to what sub-goal is planned to be reached on a more general level. If the authority decides that one aim should be to stop restaurant owners more effectively from proceeding with discrimination (which is important in means of reducing discrimination in society generally and which will reduce the authorities work on the long run), this can mean the need for more effective sanctions, which the authority has the power to mention in comments on drafts of legal acts, in making legislative proposals, in its annual reports to the government - and in its contributions to reports for international and European Organisations as well as in its public relations work, which again can put pressure on the legislation etc. So prioritizing in this case can mean

- ✓ At request investigations in concrete case
- ✓ Comment drafts of legal acts
- ✓ Make legislative proposals
- ✓ Publication of reports and recommendations and its (anonymised) decisions
- ✓ Assistance in preparing reports to International Organisations
- ✓ Assistance in preparing reports to the European Commission on the implementation of the directives on equal treatment
- ✓ Annual report to the Government

Sub-Goal: Eliminate structural discrimination

„I am a Roma woman. I have six children, five daughters (6, 10, 11, 12, and 16-years-old) and a son (4 years old). I was very angry. They put all my children into Class C right away. That is the class for the stupid. They call it a play class. There they study everything in a playful manner because their brain does not have the capacity to study better. They tested my 6-year-old daughter without me knowing about it. She knew already how to read when she went to school; still she was put in Class C. Now she teaches the others in her class“¹

¹ ERRC interview with Ms Gölles, 24 November 2002, Pécs, in: ERRC (ed.), „Stigmata: Segregated Schooling of Roma in Central and Eastern Europe, a survey of patterns of segregated education of Roma in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia,“ Budapest 2004, <http://www.errc.org/db/00/04/m00000004.pdf>, p.66.

Education is the key to take part in society, providing equal learning opportunities for all – irrespective of their background, is the most important factor to minimize discrimination. The educational situation of Roma children in Hungary – according to information by the Roma Rights centre, assessment of NGOs etc. – and well known to the Equal treatment authority of course – is characterized by a segregation policy by schools, by local authorities, which means institutional discrimination for children concerned and barriers on the way to equal opportunities.

To stop discrimination and to promote equal treatment for people treated in an unfavourable way because they are part of one of the groups protected by the scope of the Hungarian Equal Treatment legislation can mean the need for providing information to groups vulnerable to discrimination, the need for cooperation with NGOs and interest groups, the need for ex officio investigations, the use of the power to instigate class action at court and the use of the public media to create publicity, because the discriminatory treatment is not (only) affecting an individual but a whole group, e.g. by structures withstanding the principle of equal treatment like in educational systems with segregating structures.

- ✓ Ex officio investigations, when violation of Equal Treatment by the Hungarian State, local and minority self-governments and the bodies thereof, organisations exercising powers as authorities, armed forces and law enforcement bodies)
- ✓ Information and assistance in acting against the violation of equal treatment to groups inclined to discrimination
- ✓ Cooperation with NGOs, interest organisations and public authorities
- ✓ Information on enforcement of equal treatment to public and government inter alia by running a regularly-fed website
- ✓ Publication of reports and recommendations and its (anonymised) decisions
- ✓ Creating and managing a data base
- ✓ Actio popularis
- ✓ Power to represent complainants in procedures (Art 18)
- ✓ Power to instigate action popularis at court (Art 20)
- ✓ Power to intervene in public administration procedures concerning the principle of equal treatment

Sub-Goal: Promote equal opportunities in the public sector

The Client is a middle- aged deaf man who lodged a complaint against the secondary school he went to and he thought he was discriminated. The school started evening classes for deaf students and those who were hard of hearing. Because of his good communication skills he was placed in the class of the students who were only hard of hearing along with other three deaf people. As it was difficult for them to follow the instruction, he asked for a sign language interpreter for the 4 of them. First the school refused his request saying that their teachers were qualified interpreters. Finally, the Client himself provided for an interpreter. He thinks, however, that he was suffering a lot of insults from the Headmaster and the teachers of the school because of the presence of the interpreter. The staff thought the presence of the interpreter drawing the attention of the other students disturbed the classes. This is why the Client had to sit at a back desk which, he thought, was an offence. Neither could the other deaf

students watch the interpreter because they were behind them. The Client asked the Authority to start a procedure in the case because he thought he was discriminated.²

In this case the complainant was discriminated against by the refusal of the director to provide for equal access to education by translation and victimised by ways of harassment, when trying to fight for his right to equal access to education opportunities. The authority in this case supported the parties in settling their conflict by ways of an agreement, which might be the best starting point for a change of attitude in the future. Cases like this show the absence of awareness on discrimination, on what discrimination means for everyday life of persons concerned and the lack of information, what would be needed to provide equal opportunities.

Aiming at promoting equal opportunities and - by creating awareness on its benefits - stopping violations of the principle of equal treatment can mean the need for providing public and target group tailored information, training on what discrimination means and on the legal framework, the need for creating case law, developing codes of practise, providing consultation services for employers and suppliers of goods and services on how to develop and implement equal treatment/opportunities acts, providing information on best practise etc. So what makes sense to do for reaching a concrete aim can even go further the list of duties the authority is obliged to fulfil, but it can be an important tool to ease the authority's tasks and can make it work more efficiently.

- ✓ Information on enforcement of equal treatment to public and government inter alia by running a regularly-fed website
- ✓ Publication of reports and recommendations and its (anonymised) decisions
- ✓ Creating and managing a data base
- ✓ At request investigations on the existence of Equal Opportunities Plans, where obligatory (Budgetary Organisations employing more than fifty persons, legal entities, in which the state has a majority ownership, Art 63/4)

For implementing a more strategic approach, which can make the authority work a lot more effective, its work has to be seen as an active contribution within an ongoing process on the way to the realization of „the principle of equal treatment and the promotion of equal opportunities on all grounds and across all relevant sectors“. Investing resources on the more general level, working on the preventive level as well as on the reactive one at the same time is not a luxury but necessary, if resources are limited – as it spares time and resources in the long run and simply is necessary to reach the goal.

c. Action Planning

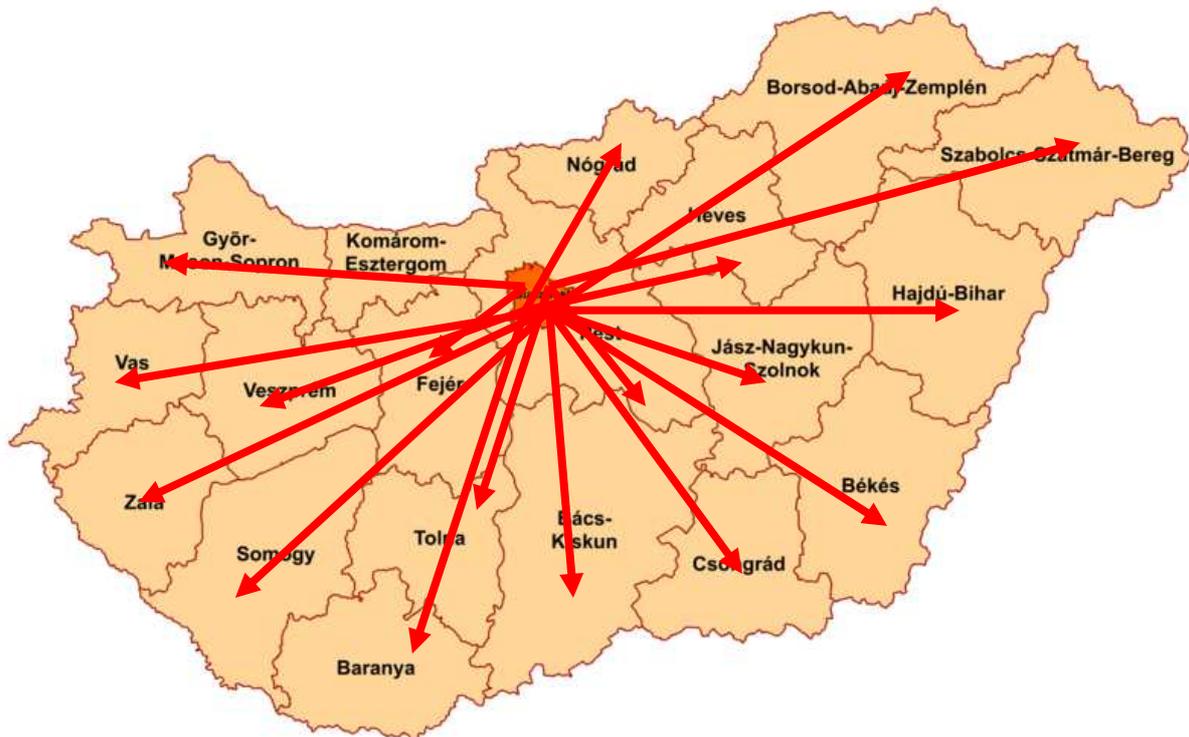
Concrete development of a strategy and planning of next steps has to be done according to each sub-goal's concrete circumstances. In terms of effectively implementing a strategic approach, concentrating on the concrete sub-goal should never be accompanied by losing the main goal out of sight, however.

² Case 6(605/2006). Cases of disabled People. Cases of the Authority,
<http://www.egyenlobanasmod.hu/index.php?g=cases.htm>

For planning a successful strategy potential activities then have to be linked to resources available, resources needed have to be identified and a realistic time-frame has to be set.
(as an example see Working Sheet Annex II)

Example of a Strategy: How to improve the outreach of the ETA: Stretching from Budapest to the whole country

1. The Problem

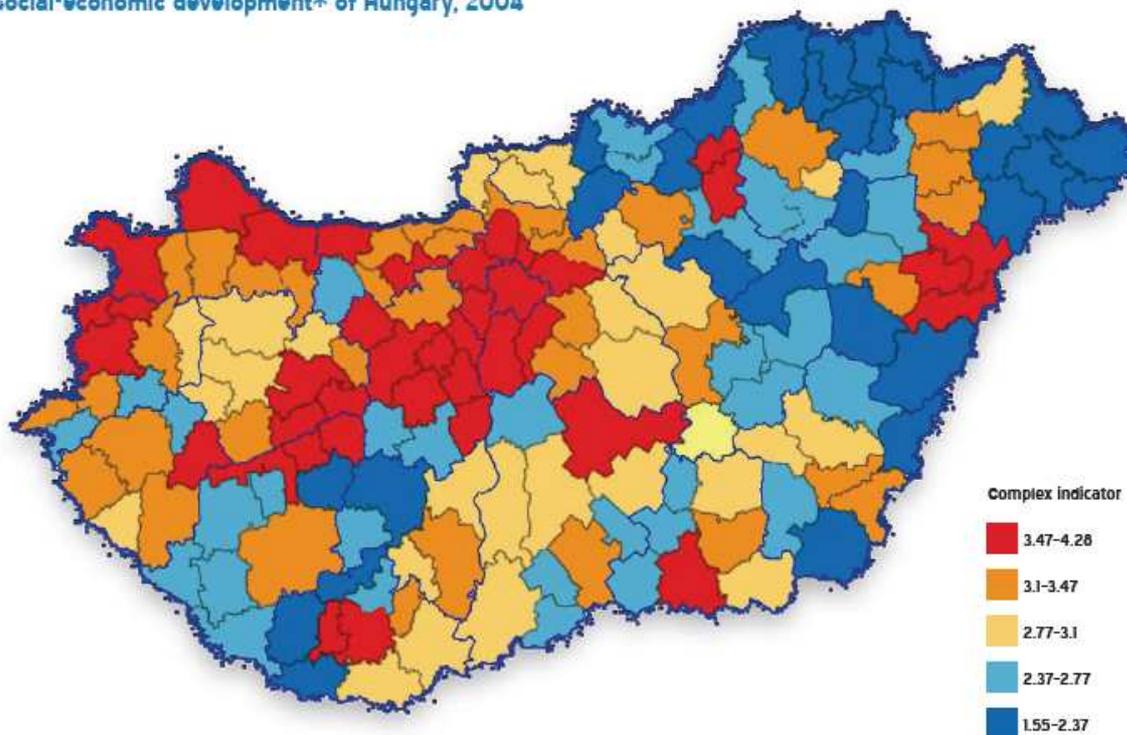


The Equal Treatment Authority is based in the capital city of Budapest, which is quite ideally located in the centre of Hungary and – in regard to traffic logistics is the absolute central point and ultimate traffic junction in the country. There is no other city in the country which could in anyway compete with the importance of Budapest or function as a second centre. Nevertheless, Hungary has 3152 localities: 289 towns and 2863 villages. While Budapest counts more than two million inhabitants, the next largest cities are considerably smaller, with only Debrecen and Miskolc having more than 200.000 inhabitants and Szeged, Pécs, Győr, [Nyíregyháza](#), [Kecskemét](#), and [Székesfehérvár](#) counting more than 100.000.

Also the socio-economic charts show a very special role of Budapest and its environs, as – for example, average wages tend to be nearly one-and-a- half times higher than in the Northern Plains region.

So the socio-economic status of the country is quite varying:

Social-economic development* of Hungary, 2004



Source: VÁTI, *based on the indicators of National Assembly Declaration No. 24/2001

This picture indicates that the most developed small regions can be found in Central Hungary, Mid-Transdanubia and Western Transdanubia, while the least developed areas can be found in Northern Hungary and eastern parts of the country as well as in Southern Transdanubia. It can also be deduced that there is a big difference between urban centres of the regions and the rural surroundings.

All these differences have to be taken into account when planning an equal provision of protection and information (prevention) against discrimination. The ETA is a relatively small institution to provide all the services to all the inhabitants of the Republic of Hungary.

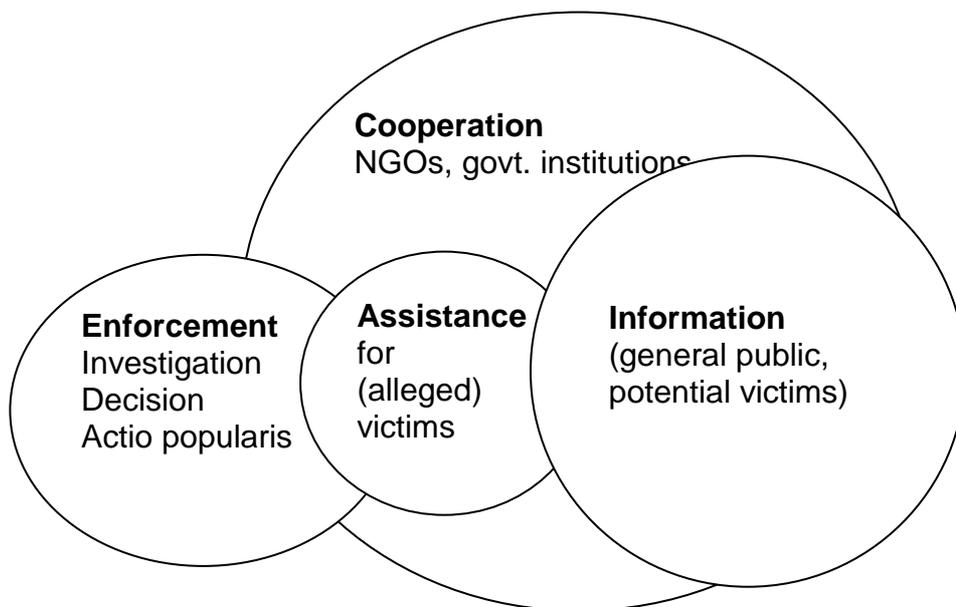
2. The services of the ETA – the flow of communication

Some of the duties of the ETA relate to the central government (like commenting on legislation and legal instruments, proposals on legislation and governmental decisions, informing the government about the situation, assistance in filing reports to international institutions and the EU, reporting to the government about ETA activities). For the fulfilment of these duties it is absolutely an asset to be located in Budapest.

Nevertheless, there are five duties which pose a challenge to the ETA in regard to its outreach into the whole territory of Hungary; as, according to the Equal Treatment Act, the ETA:

- ✓ shall, at request or in cases defined herein, conduct *ex officio* **investigations** to establish whether the obligations of equal treatment have been violated, and shall also conduct investigations at request to establish whether the employers obliged to do so have approved an equal treatment plan, and shall finally **make decisions** on the basis of the investigations;
- ✓ pursuant to the right of *actio popularis*, may initiate a **lawsuit** with a view to protecting the rights of persons and groups whose rights have been violated;
- ✓ shall regularly **inform** the public about the situation concerning the enforcement of equal treatment;
- ✓ in the course of performing its duties, shall **co-operate** with the NGOs and interest representation organisations and the relevant government agencies;
- ✓ shall continually **provide information** to those concerned and provide **assistance** in acting against the violation of equal treatment;

These duties can be grouped as follows:



From this picture we can draw the conclusion, that some of these duties are very closely interlinked and therefore support or hinder each other. And we can define the possibilities and limits of:

3. Cooperation

There is only one circle in the picture above where the duties of the ETA cannot be shared without considerable limits – this is the “Enforcement Circle”. As the ETA has been given specific tasks and powers in investigating cases, deciding on them and

taking actio popularis cases to court, this circle leaves only very limited room to share responsibilities.

Given this finding, it is clear that cooperation has to be used as an important tool and that the overall aim must be to reduce pressure on the “Enforcement Circle”, too.

Cooperation has a range of possible benefits. First of all it is an important strategy to involve other players in such a way that the work of the ETA is getting more effective. In a way, cooperation means to enlarge or improve the output of the Authority in using other players for its purposes. So cooperation can be an important tool to use the given resources more effectively.

3a. Overall organisational strategy and cooperation strategy

Before an organisation can take leadership in cooperation it has to be clear about its strategy regarding the desired development of the organisation itself. This is important to reduce possible conflicting strategies. A functioning cooperation can be very valuable but this can only be satisfactory if the partners are in roles which are suitable for their organisational development.

So for the strategy discussed here, it is important for the ETA to make a decision if it is a long term aim to keep as many functions as possible within the ETA and even broaden the mandate and tasks or to concentrate on specific exclusive duties.

Cooperation must not produce competition (be it direct or indirect) between the partners but has to produce added value for both sides.

3b. Possible allies, partners for cooperation

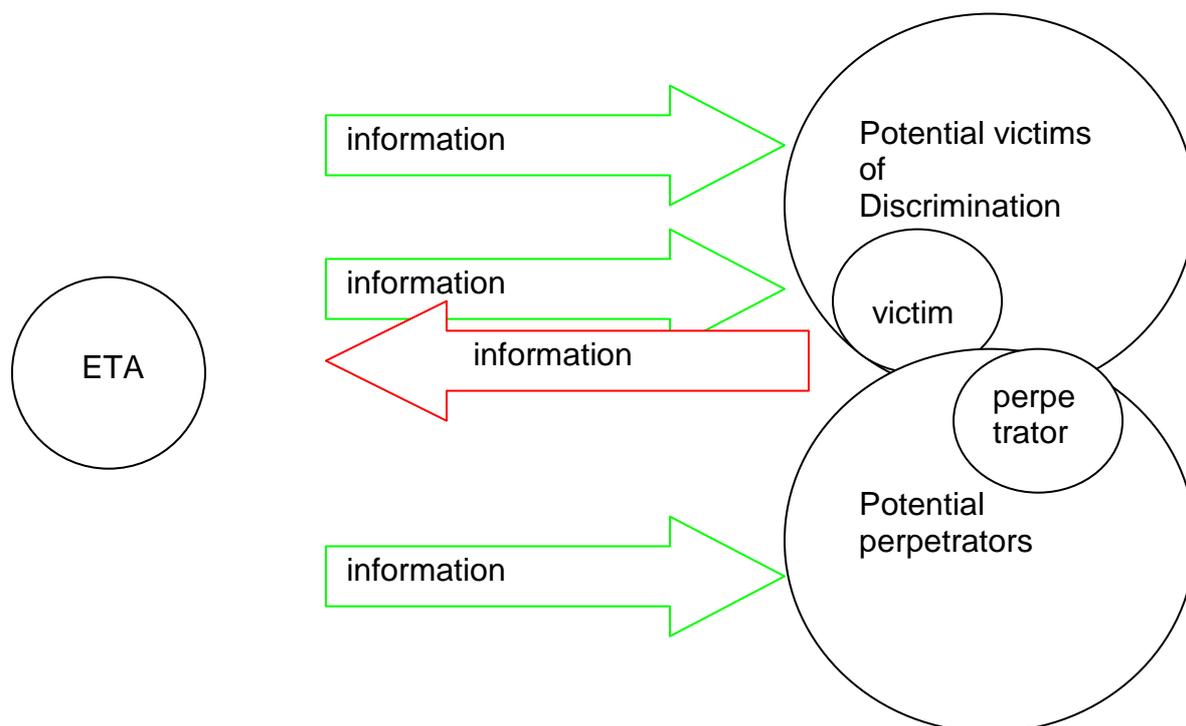
In an initial workshop, held with members of the ETA on March 21st 2007, the following (potential) allies to the Authority were identified:

- ✓ Public Administration Bodies
- ✓ NGOs & Interest Groups
- ✓ Houses of Equal Chances
- ✓ Trade Unions
- ✓ International Organisations
- ✓ Media

As additional players were identified:

- ✓ Employers
- ✓ Local Governments
- ✓ Local Authorities
- ✓ Educational Institutions
- ✓ Social Security Services
- ✓ Labour/Employment Centres
- ✓ Parliament

3c. Use and objective of cooperation



The figures (statistics) of the ETA clearly show that a major problem for the Authority is to get information about relevant cases of discrimination. In the vast majority of cases brought to the ETA, no discrimination could be established, so an enormous amount of energy and resources of the Authority is sacrificed for the wrong cases. In terms of prioritising, this means that the most relevant information that is missing in the general public is the definition of unlawful discrimination. The mere concept of discrimination is obviously widely misunderstood. This fact overburdens the ETA.

So the ideal aim of the strategy of the ETA must be to receive an increased number of relevant complaints to fulfil its legal duties.

This is a major challenge for the “communication strategies” which will be developed in the further run of this Twinning Light project.

4. Use of regional allies

There might be a number of different useful strategies to accomplish this goal, but this strategy tries to improve the outreach of the Authority into all the regions of Hungary. The example of the Austrian National Equality Body shows that having regional outlets is a most efficient way of increasing the number of complaints rapidly. As Austria’s geographic structure is quite similar to the Hungarian this might be an important point of reference. Nevertheless, maintaining regional outlets needs quite a lot of resources, which might not be made available to the Authority in a short-term or even long-term period. So it makes sense to develop a strategy to improve the

outreach in a different way without negatively interfering with a long-term aim to install regional offices of the Authority itself.

One thing seems quite clear: It is not possible to reach effects without having somebody (a physical person) in the area. All other means, like increased involvement of regional media, or internet sources can just accompany and accomplish such a strategy, as the basic effect of regional offices is based on two factors: lower barriers and more trust.

4a. Reducing the Barriers

Hungary is not a very big country, and Budapest lies comfortably right in the centre, so one might easily be misled by thinking that it is not a real challenge to turn to a Budapest based Authority in order to counteract discrimination – especially if investigations are usually thoroughly carried out in the region where the complaint originates. So it is usually the Authority to travel. Therefore, the need to travel might not be an important barrier, as there is no such need, as phoning and filing a written complaint to the Authority makes the latter travel, not the complainant. Eventually, it seems that the barriers are more psychological than physical.

One issue is that victims of discrimination – especially victims of harassment - usually are in an emotionally challenging situation. In such a fragile condition they generally prefer face-to-face consultation to any other form of communication. So the possibility to phone the Authority or file a written complaint is not really accommodating their needs.

Victims need somebody to listen to them and to show understanding and a supportive attitude towards their situation. Often they are uncertain, whether their claim is rightful or not, whether the situation is worth of counteracting it or just a nuisance they have to accept. Almost nobody wants to be seen as a victim, because in a general perception often voiced, victims are weak persons or somehow responsible for the assault. Too many people think that strong, self-conscious people do not get discriminated against.

All these factors make people refrain from contacting the Authority. They do not want to seem ridiculous or weak. They fear a total and humiliating defeat, when they travel a few hundred kilometres just to hear that their complaint was not justified. Another barrier might lie in the regional differences. Regional dialects mark people as Non-Budapesters and there might be a general stereotype that people living and working in the capital city do not understand life in the countryside (at least in Austria, such a prejudiced understanding is rather widespread). Some people from less developed regions might feel inferior to the urban civil servants or perceive them as arrogant.

So regional contact points have the following advantages to make them easier accessible for people from the region:

- ✓ They are closer geographically. This gives victims the possibility to “just stop by” when doing other things in the area, like shopping. They do not have to embark on a single purpose visit to the capital.

- ✓ Clients feel that they do not have to explain things that are “obvious to anybody living in the region”, like names of important persons, employers, regional nick-names.
- ✓ Regional dialect is not a barrier.
- ✓ Clients generally feel safer in their neighbourhood.

4b. Strategic Conclusions

At this point it is time to summarise the strategic objectives which could be established so far, to improve the outreach of the ETA:

- ✓ Establish regional contact points with physical persons to allow for face-to-face communication.
- ✓ Ensure a flow of communication with the public in the regions, to safeguard that the majority of complaints brought forward to the Authority will be relevant.

5. Identifying the most appropriate allies for the formation of contact points in the regions

Important preconditions:

- Low barriers in access for clients
- Fair distribution throughout the country
- Good (better: excellent) knowledge about discrimination
- Known to the people
- Good opening hours

Assets:

- Well established organisation
- Trusted to be helpful
- Already existing connection with discrimination/equality issues
- Established contact with vulnerable group(s)

Problems in identifying good partners:

- Horizontal responsibility for an in principle unlimited list of possible grounds for discrimination
- General low level of knowledge about discrimination
- Regional differences

Taking all this into consideration leads to the identification of three possible partners:

- ✓ Houses of Equal Chances
- ✓ NGOs & Interest Groups

✓ Trade Unions

5a. The Houses of Equal Chances (HEC) as local partners

SWOT –Analysis (exemplary) shows:

Strengths:

- Established throughout the country
- No specific connotation with a specific ground of discrimination
- Name implies connection with anti-discrimination
- Created by political will
- Generally positive attitude towards ETA
- Some contacts with NGOs established

Weaknesses:

- Only recently established
- Not coordinated centrally
- Possibility of rather important variations throughout the country
- Not too experienced with discrimination issues
- Contact with ETA not well established, yet

Opportunities:

- HEC still have to find a position – can be formed
- Close connection with local governments

Threats:

- Close connection with local governments
- Regional development can vary quite a lot

Strategic conclusions:

HEC is the player on the scene most suitable for a local partner to:

be a first contact point for people who think that they have been discriminated – open to all possible grounds. They can have an important “sifting” role in encouraging victims of discrimination to file a complaint with the ETA and advise others to turn to other competent authorities or institutions. They can help collecting evidence. In the long run they could also help mediate discrimination cases on the spot. The establishment of such contact points does not mean that regional offices would no longer be necessary or desirable.

Possible role of a regional contact point:

A regional contact point run by the HEC cannot and should not substitute regional offices of the ETA, but could function within the framework illustrated by the following table, which shows that the role of the ETA in regard to the complaint stays exclusive

after receiving the complaint, but quite some efforts can be put in by the HEC to ensure that relevant complaints make their way to the ETA. This way the cooperation does not create competition but serves the needs of both, the victims of discrimination and the ETA. And it could be a very suitable role for the HEC if they are willing to take it.

prevention	Information, campaigning
sifting	Information to individuals, counseling, redirect complaint to (other) relevant institution
complaining	File complaint to ETA
Enforcement procedure	Investigation
	Hearing
	Mediation
	Decision
	Enforcement
	Follow-up

ETA

What the ETA can do to accomplish this aim:

- Take leadership in the process
- Clearly state that this role of the HEC is needed and valued
- Provide intensive training on the key concepts of discrimination
- Establish individualised contact persons for the HEC
- Provide for standardised reporting mechanisms for complaints
- Give clear and comprehensible feedback to the alliance with the HEC and the cases forwarded
- Promote the important function of the HEC (communication strategy) in the regions
- Support networking with other players – esp. NGOs
- Evaluate the process and progress

5b. NGOs and “Interest Groups” as partners in the regions

SWOT ANALYSIS

	<i>positive</i>	<i>negative</i>
	Strengths	Weaknesses
<i>internal</i>	<ul style="list-style-type: none"> ▪ Well established contact with specific vulnerable groups. ▪ Interest in anti-discrimination. ▪ Very low barriers. ▪ Knowledge about group situation. 	<ul style="list-style-type: none"> ▪ Services not covering all regions. ▪ “Ground-bound”. ▪ Heterogenic scene of NGOs
	Opportunities	Threats
<i>external</i>	<ul style="list-style-type: none"> ▪ Strategic litigation ▪ Learning circle ETA-NGOs ▪ Willingness to network. ▪ Actio popularis 	<ul style="list-style-type: none"> ▪ Competition between NGOs. ▪ Possible antagonism NGO-governmental Authority.

Strategic Conclusions

NGOs can serve as important partners to reach specific target groups, especially those most vulnerable to discrimination. They can be most important for strategic action in relation to specific grounds of discrimination, also in their ability to use *actio popularis* powers. They can assist individual victims of discrimination to file well based complaints to the ETA.

What the ETA can do to accomplish this aim:

- Take leadership in the process
- Communicate that NGOs are seen as valuable partners in the fight against discrimination
- Identify the most suitable NGOs for cooperation in certain strategies
- Provide for intensive communication and networking
- Jointly develop strategies to counteract discrimination on specific grounds
- Establish individualised contact persons for the NGOs
- Support networking with other players – if needed for the strategy
- Evaluate the process and progress

	sex	race	colour	nationality	nation. orig.	language	disability	health	religion/belief	opinion	family stat.	parenthood	sex.orient	sex. Ident.	age	social stat.	financial stat.	part-time	membership	other
employment																				
access to employment																				
recruitment																				
reasonable accomm. pay																				
working conditions																				
promotion																				
vocational training																				
harassment																				
victimisation																				
termination																				
Education																				
segregation																				
access																				
conditions																				
harassment																				
Social Protection																				
access																				
provision with																				
Goods and Services																				
private sector																				
public sector																				

This (exemplary) table illustrates how cooperation with NGOs can be used to tackle the manifold duties in a strategic way (different colours represent different fictional NGOs).

5c. Trade Unions

	<i>positive</i>	<i>negative</i>
	Strengths	Weaknesses
<i>internal</i>	<ul style="list-style-type: none"> ▪ Well and long-time established. ▪ infrastructure ▪ low barriers for members. ▪ Knowledge about labour law. 	<ul style="list-style-type: none"> ▪ Prime interest in employment ▪ Comparably low rate of membership in unions. ▪ Usually member centred focus.
	Opportunities	Threats
<i>external</i>	<ul style="list-style-type: none"> ▪ Strategic litigation ▪ Political influence 	<ul style="list-style-type: none"> ▪ Possible conflicting interests in discriminatory employee-employee relationship ▪ Possible purely hostile relationship with employers.

Strategic Conclusions

Trade Unions can be an important ally in the fight against discrimination in the workplace. The existing infrastructure can be used to promote equal opportunities and to counsel individuals with discrimination-related questions. Trade unions can support their members in filing good and relevant complaints to the ETA.

What the ETA can do to accomplish this aim:

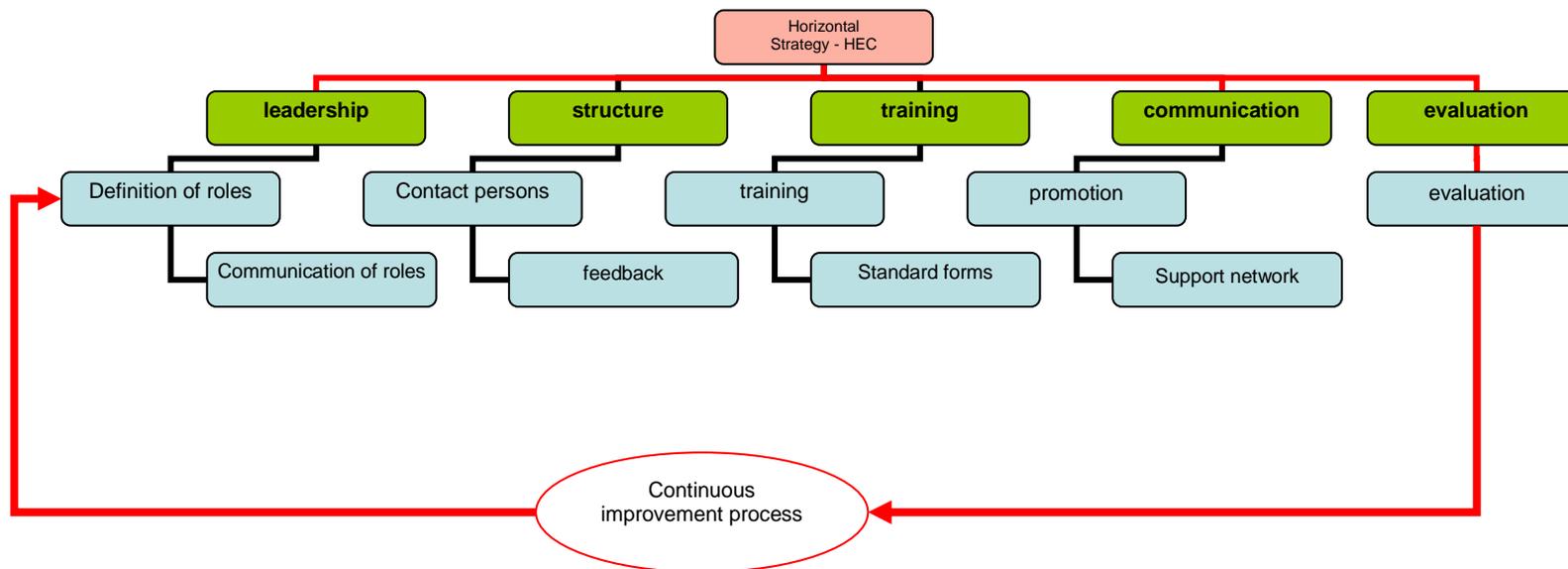
- Take leadership in the process
- Communicate that Trade Unions are seen as valuable partners in the fight against discrimination in the workplace
- Provide training for trade union counsellors in the regions and encourage their networking
- Provide for standardised reporting mechanisms for complaints
- Jointly develop strategies to counteract discrimination in specific business sectors
- Support networking with other players – if needed for the strategy
- Evaluate the process and progress

6. Timeline example

The steps for the establishment of HEC as regional contact points

- a. Take leadership in the process
- b. Clearly state that this role of the HEC is needed and valued
- c. Establish individualised contact persons for the HEC
- d. Provide intensive training on the key concepts of discrimination
- e. Provide for standardised reporting mechanisms for complaints
- f. Give clear and comprehensible feedback to the alliance with the HEC and the cases forwarded
- g. Promote the important function of the HEC (communication strategy) in the regions
- h. Support networking with other players – esp. NGOs
- i. Evaluate the process and progress

Important steps:



Time line (example)

month	1	2	3	4	5	6	7	8	9	10	11	12
Strat. step	leadership			training		communication				evaluation		
Strat. step		structure										
Strat. step						training						
Activity	Formulate policy	Meet HEC	Communicate roles	Basic Training Key concept	Basic Training Key concept	Develop Standard forms				Develop evaluation	evaluate	consider evaluation
Activity		Define roles			Identify Further Training needs	Promote HEC as partner	Promote HEC as partner	Promote HEC as partner				
Activity		Identify Contact persons					Contact local media		Establish Feedback mechanism			Steering meeting
Activity						Develop training	Develop training	2nd training	2nd training			Next years plan

Example of a Strategy: How the Equal Treatment Authority can be more effective in combating discrimination and promoting equality of opportunity for disabled people in employment

This section is one example of the development of a strategy for the ETA. It is concerned with how the ETA can be more effective in combating discrimination and promoting equality of opportunity for disabled people in employment. The six-staged approach could be replicated and/or modified by the ETA for the development of other strategies concerning its role in relation to one or more groups of persons with the characteristics protected against discrimination in the Act (Art. 8) and in relation to one or more of the fields within the scope of the Act (Arts. 4 and 5). The steps followed in this example are:

1. Identify the problem: significant disadvantage of disabled people in the labour market raising questions regarding the extent of unlawful discrimination
2. Specify sub-goal: To make the ETA more effective in combating discrimination and promoting equality of opportunity³ for disabled people in employment
3. Define the context within which the ETA will work to achieve this sub-goal:
 - a. Set out the legal framework for action to reach the sub-goal
 - b. Identify other actors or potential actors
4. Consider the scope of what the ETA could do: are there any barriers that prevent or make it more difficult for the ETA to act in any of the following areas of its work to achieve the above sub-goal:
 - a. Enforcement: investigations on request or ex-officio, *actio popularis* proceedings
 - b. Work with government: commenting on and proposing legislation, informing, reporting, co-operating
 - c. Work with civil society: informing, learning, co-operating and assisting
5. Draw up time-tabled action plan, prioritising what the ETA will do, when, in collaboration with whom. Identify how the ETA will be able to know if it is making sufficient progress towards the achievement of the above sub-goal
6. Evaluate the effectiveness of ETA actions: monitoring the impact and analysing the results of monitoring - where appropriate modifying the action plan.

Definition of disability:

The definition of disability in Article 4 of Act XXVI of 1998 on the Rights of Persons Living with Disability and their Equality of Opportunity (“the Disability Act”) makes the connection between a person’s physical or mental impairment and his or her disadvantage in participation in society.

³ It is noted that the specific mandate of the ETA in the Act is compliance with the principle of equal treatment. In relation to disabled people, the Act as well as other laws specifically provide for different, more favourable treatment and measures to give priority and to carry out modifications to equalise the opportunities for disabled people to participate in the life of society, including in the field of employment. The authors therefore consider it appropriate to use the term equality of opportunity within this sub-goal.

“A person living with disability (also referred to below as a “disabled person”) is anyone who is to a significant extent or entirely not in possession of sensory – particularly sight, hearing -- locomotor or intellectual functions, or who is substantially restricted in communication and is thereby placed at a permanent disadvantage regarding active participation in the life of society.”

1. The problem: significant disadvantage of disabled people in the labour market

a) Statistical evidence

The 2001 national census produced the following data⁴:

Total population of Hungary: 10,200, 298

Total disabled population: 577,006 or 5.7% of the total population

Of the total disabled population 60,332 people are employed, 10.5% of the total and 40,554 (7%) are unemployed and looking for work and 82.5% are not looking for work.

There are 289,529 disabled people between the ages of 15 and 59, of whom 29,589 (10.3%) are employed, 37,742 (13%) are unemployed and looking for work, and the remaining 76.7% are not looking for work.

Among the 84,294 younger disabled people (15 – 39), there is both a larger proportion in employment (13.3%) and a larger proportion of those who are unemployed who are looking for work (19%).

Between 1990 and 2001 the number of disabled people identified as “unemployed” rose far less than non-disabled “unemployed” This is explained⁵ as partly due to the labour market not receiving so many disabled job-seekers and partly due to the fact that many disabled persons do not believe that they can find a job and give up actively looking for employment.

Census data also indicate that disabled people generally have a lower level of education than non-disabled people. Census data show that disabled people are more likely to be living in villages and small communities rather than in towns or in Budapest, and suffer perhaps more severely the disadvantages arising from inequalities of settlement.⁶

For people with low level of education, employment rates are well below the average and unemployment, long-term unemployment and inactivity are higher. In 2003 the unemployment rate of people with a low level of education was 6.4% higher than the average. “Low education often goes with other disadvantages such as disability,

⁴ European Agency for Safety and Health at Work

http://hwi.osha.europa.eu/topic_integration_disabilities/hungary/key_national_statistics_html

⁵ op. cit.

⁶ op. cit.

Roma origin, residence in regions lagging behind etc. The accumulation of disadvantages makes it even harder to find a job...”⁷

b) Identifying barriers

The National Action Plan for Employment 2004 states,

“The social-economic transformation has put great burdens on the whole society, but disadvantaged groups are especially vulnerable to the risk of poverty and social exclusion. By now it has become evident that the labour market situation of certain disadvantaged groups does not improve automatically even in times of an economic expansion, but targeted programmes are needed that respond to their needs. People with a low education level, Roma people and people with disabilities are in a particular disadvantaged situation in the labour market. It is one of the priorities of the Government to improve the social situation and promote the labour market participation of disadvantaged people. A core activity of the PES is helping these people to improve their employability and facilitate access to jobs. In addition, a number of other actors have a role: local governments organise public works, social services provide support services, NGOs organise and implement targeted programmes.”⁸

Referring specifically to disabled people, the National Action Plan states, “The labour market integration of people with disabilities is often hindered by the lack of up-to-date skills and qualifications. Their employment opportunities are further narrowed by the limited accessibility of employment services and workplaces. Moreover employers are often not willing to hire disabled workers.”⁹

c) Evidence of discrimination

This succinct analysis in the National Action Plan raises questions about the extent to which unlawful discrimination, both direct and indirect, are the cause or one of the causes of the disadvantaged position of disabled people:

Lack of skills and qualifications: to what extent are disabled people discriminated against at every level of education, for example not admitted to certain institutions on grounds of their disability; or indirectly discriminated against because premises or forms of communication are not accessible; denied access to training or courses leading to qualifications by conditions relating to education or employment which, because of their disability, they cannot reasonably meet.

Limited accessibility of employment services and workplaces: Where employment services premises are not accessible, and no alternative arrangements are made to provide equivalent services to disabled people, the discrimination is very plain. While it would be unreasonable to expect every employer to make its premises accessible to people with every type of disability, there continue to be a very large number of

⁷ National Action Plan for Employment 2004 para 7.1.1

⁸ National Action Plan for Employment, 2004, para 7.1

⁹ National Action Plan for Employment para 7.1.3

employers who are unlikely to have considered what changes to premises or equipment or working practices would be necessary to accommodate disabled employees.

Employers unwilling to employ disabled workers: Such attitudes of employers, perhaps a majority of whom are unaware of their obligations under the Equal Treatment Act and other laws giving rights to disabled people, will manifest itself as direct and/or indirect discrimination when (if) a disabled person applies for a job or possibly when an existing employee becomes disabled.

Critically, the full extent of negative discrimination resulting in the low rates of employment of disabled people is unknown. As indicated above, very many disabled people who are capable of employment are not looking for work, so there is no objective measure of the compliance or otherwise by employers with the principle of equal treatment of disabled people. Undoubtedly the ETA, as well as the labour inspectorate, receives some complaints of employment discrimination on grounds of disability, but the above suggests that there are powerful disincentives for disabled people to seek employment and they also avoid putting themselves at risk of discrimination:

- Anticipation of rejection
- Anticipation of harassment by other workers.
- Lack of education
- Lack of relevant training/skills
- Non-accessibility of employment office for advice, training
- Non-accessibility of employers' premises
- Need for reasonable accommodation in order to perform the job
- Loss of state benefits

This suggests that if the ETA seeks to expose and eliminate discrimination against disabled people in employment then it cannot remain wholly reactive, waiting to receive cases from disabled clients. As the de-facto exclusion of a high proportion of disabled people from the labour market impacts on democracy generally and on social cohesion, it is a suitable area for focused attention by the ETA.

2. Adoption by the ETA of a sub-goal: To make the ETA more effective in combating discrimination and promoting equality of opportunity¹⁰ for disabled people in employment

To meet the above sub-goal the ETA, with a keen awareness and good understanding of the problem, will need to adopt a strategy that encompasses all of its activities and draws on the skills, experience, position and resources of other organisations.

3(a) Defining the context within which the ETA will work to achieve this sub-goal: the legal framework for action to reach the sub-goal

¹⁰ Please see footnote 1 above..

The following are the main laws providing a legal framework for combating discrimination and promoting equality of opportunity for disabled people in employment:

- Act XXII of 1992 on the Labour Code
- other laws regulating employment in the civil service/local authorities/budgetary agencies
- Act IV of 1991 on the promotion of employment and unemployment benefits.
- Act XXVI of 1998 on the Rights of Persons Living with Disability and their Equality of Opportunity (“the Disability Act”)
- Government decrees relating to physical access to financial support for disabled people, accessibility of public buildings, concessions relating to transport etc. building regulations etc.
- Government decrees on subsidies for employers of disabled workers and other incentives
- Act CXXV of 2003 (as amended) on Equal Treatment and Promotion of Equal Opportunities (“the Equal Treatment Act”)
- Government Decree 362/2004 on the Equal Treatment Authority and the Detailed Rules of its Procedure
- The Constitution
- EC Directive 2000/78
- ILO Conventions 111 and 159
- UN Convention on the Rights of Disabled People - open on 30 March 2007 for signature by member states

This long list of Hungarian laws and Government decrees, within the wider context of the Hungarian Constitution, the EC Directive, ILO Conventions and the new UN Convention, provides an unequivocal obligation on the state to act with energy and commitment to protect the rights of disabled people, to respect their personal dignity and to take appropriate measures to enable disabled people to participate as fully as possible in all aspects of the life of society.

Much of what is required under these laws falls well outside the mandate of the ETA as stated in the Equal Treatment Act. In order to plan its role, however, the ETA needs to be aware of the wider obligations on state institutions and on private employers. This is especially true as Art. 2 of the Equal Treatment Act requires provisions pertaining to the principle of equal treatment set out in other laws to be applied consistently with the provisions of that Act, as discussed in the Position No. 10.007/3/2006 of the Equal Treatment Advisory Board, September 2006, on the obligation of providing accessibility. The Board states

“The provisions regarding the requirement for equal treatment stipulated in various pieces of legislation, for instance in the Disability Act, shall be applied in accordance with the Equal Treatment Act. Accordingly, in the case of failure to observe the obligation of providing accessibility, the provisions of the Equal Treatment Act shall be applied to the range of persons and legal relationships falling within its scope.”

And the Board concludes, “*The scope of authority of the Equal Treatment Authority (EBH) includes the cases due to the failure to provide accessibility if the party in breach belongs to the scope of the Equal Treatment Act.*”

Among the provisions of the Disability Act that could come within the scope of the authority of the ETA in relation to equal treatment/equality of opportunity in employment are the following:

Art. 2 creating obligations to take special needs of disabled people into account

Art. 3 justifying giving priority to disabled people

Art. 5 the right of disabled people to man-made environment that presents no obstacles can be perceived and is safe

Art. 6 the right of disabled people to fully accessible information including information about their rights

Art. 7 the right of disabled people to accessible transport

Art. 15 the right of disabled people to integrated employment or, in the absence of such employment, to sheltered employment. Obligation on the employer to ensure suitable workplace environment including modification of tools and equipment (with central government funds available to cover costs of such modifications).

Art. 19 the right of disabled people to rehabilitation (defined in Art. 4 to include processes in the education, training, retraining and employment systems aimed at developing or maintaining the level of capability of the disabled person for participation in the life of society)

Art. 27 the right to legal redress: “Any person suffering an unlawful disadvantage because of his or her disability shall be entitled to all the rights which apply in the case of violation of individual rights.”

Art. 28 prescribing mandatory time limits for implementation of the Act including time limits for accessibility of public buildings (failure to make such buildings accessible not only prevents access by all members of the public but discriminates against certain disabled people in relation to employment within such buildings).

3(b) Define the context within which the ETA will work to achieve this sub-goal: who are the other actors or potential actors?

Statutory/governmental

- a. ETA Advisory Board
- b. Ministry of Social Affairs and Labour

- c. Other Ministries, for example Finance, Health, Justice
 - d. National Disability Council - initiates, advises on and co-ordinates government decisions regarding disabled persons and monitors implementation.
 - e. Public Employment Service
 - f. Labour Inspectorate
 - g. Other public administration bodies
 - h. Local authorities – employers; also involved in job creation through public works projects; under Equal Treatment Act (Art. 63(5)) may devise local equal opportunities programme, analysing state of affairs and defining objectives promoting equal opportunities for disadvantaged groups with particular attention, *inter alia*, to employment and stating a schedule for implementation.
 - i. Courts
 - j. Social Security services
 - k. Health services
 - l. European and international bodies – consider Hungarian compliance with EU and UN disability equality obligations
- Other – for example public foundations concerned to establish equal opportunities for disabled people

Non-statutory

a. Disabled people's interest representation organisations (members of Disabled People's Organisations Council including:

- National Federation of Disabled Persons' Associations (MEOSZ),
- Hungarian Association for Persons with Mental Handicap (ÉFOÉSZ)
- Hungarian Association of Deaf and Hard of Hearing
- Hungarian National Association for the Blind and Visually Impaired
- Hungarian Autistic Interest Organisation

b. Other interest representation organisations

c. NGOs especially those concerned with equality/human rights

NOTE: The Equal Treatment Act gives NGOs and interest representation organisations the rights to be a party in public administration procedures under the Act and to initiate procedures at the ETA in *actio popularis* complaints; the Act also enables NGOs and interest representation organisations to represent victims of discrimination in legal proceedings under the Act and to instigate *actio popularis* proceedings.

d. Trade Unions

e. Employers' organisations

f. Houses of Equal Chances

g. Media - print and broadcast

With so many institutions and organisations capable of playing a part in preventing discrimination and improving equality of opportunity for disabled people in employment why is there not greater progress?

The ETA could review its work with these different organisations and agencies: what is each doing and what more could they be doing? What could the ETA do to increase their involvement, commitment and contribution to the achievement of the ETA's above sub-goal?

Parties/potential parties in cases of discrimination

- a. Disabled people looking for work
- b. Disabled people in employment
- c. Disabled people seeking vocational training or undergoing training
- d. Employers obliged to draw up equal treatment/equal opportunities plan
- e. Other employers and other decision makers re different types of work
- f. Decision makers re access to vocational training and providers of training
- g. Existing workforce as potential sources of discrimination or harassment

The role played by any of the above parties/potential parties will be strongly influenced by their knowledge and understanding of their rights and obligations under the Equal Treatment Act, the Disability Act and other laws, their awareness of discrimination and their access to skilled advice. If disabled people are not aware of their rights, including their rights to bring cases to the ETA or other public administration bodies or the courts, unlawful direct and indirect discrimination will go unchallenged. If employers and other decision makers are not aware of their obligations, and the risk of investigation and/or legal proceedings, they are unlikely to change their policies and practices.

To secure meaningful compliance with the principle of equal treatment for disabled people in employment, the ETA with its partners will need to confront the negative factors that result in employer resistance to employing disabled people, which may include

- Fear, lack of understanding of disability
- Prejudice
- Anticipated additional costs - modification of physical premises, equipment, workplace practices and procedures and/or forms of communication to meet special needs -- and ignorance of the financial subsidies available for this purpose
- Anticipated additional burdens, for example, anticipated higher rate of sickness absence, lower productivity
- Anticipated prejudice of other employees resulting in disharmonious workplace and reduced productivity

4. Consider the scope of what the ETA could do: are there any barriers that prevent or make it more difficult for the ETA to act in any of the following areas of its work to achieve the above sub-goal:

- a. Enforcement: investigations on request or ex-officio, *actio popularis* proceedings**
- b. Work with government: commenting on and proposing legislation, informing, reporting, co-operating**
- c. Work with civil society: informing, co-operating and assisting and receiving requests for enforcement**

a) Enforcing the law

The ETA has a primary role to investigate whether the obligations of equal treatment have been violated on request by victims, NGOs and interest representation organisations, or ex-officio where the alleged violation is by the organisations/institutions in Art. 4(a) – (d). It can represent victims in legal proceedings and can instigate legal proceedings in *actio popularis* cases. It can impose sanctions, including ordering the unlawful conduct to cease, publicising its decision and imposing a fine. In all of its procedures instigated because of a violation of the principle of equal treatment the ETA is required to apply the sharing of the burden of proof.

Are there ways in which this enforcement role could be more effective in combating discrimination against disabled people in employment?

- Is the ETA receiving relevant cases alleging violation of the principle of equal treatment for disabled people in vocational training and employment? If not, why not?
- Is the ETA initiating investigation ex officio in relation to employment practices and the treatment of disabled job-seekers and employees by major public sector employers within Art.4(a) – (d); if not, why not?
- In investigating alleged violations of the principle of equal treatment is the ETA taking fully into account obligations on employers under the Disability Act, including obligations to modify tools and equipment and, in some cases, obligations to make premises fully accessible?
- Is the ETA fully applying the required sharing of the burden of proof, that is if a disabled victim has rendered it probable that he or she has suffered or is likely to suffer direct or indirect discrimination, harassment or victimisation, is the ETA then looking to the alleged violator/discriminator to prove that either that the circumstances rendering discrimination etc probable did not prevail or that he/she/it did observe the principle of equal treatment or in the instant case were not required to do so?
- In imposing sanctions for violation of the principle of equal treatment in relation to disabled people in employment is the ETA complying with its duty under Art. 16(2) Equal Treatment Act to take certain matters into consideration including those who have been affected by the violation of the law, the consequences (for the parties and for other disabled job-seekers or employees) of the violation of the law and the repeated violations of the law, having regard also to the requirements in Directive 2000/78 that sanctions must be effective, proportionate and dissuasive?

The ETA is in the process of improving its systems for data collection. Its enforcement role could be strengthened by the development of a database of cases from which data could be extracted on the basis of a range of criteria including grounds of discrimination, field in which discrimination occurred, if in employment

then by name, size, nature, location of employer, by sanctions imposed, whether ex officio or on request, and if the latter whether by an individual client or an NGO or interest representation organisation. The ETA could use these data in developing its strategies for enforcement, for provision of information and for strengthening its collaboration with other bodies. Data on the incidence of discrimination against disabled people in employment could help the ETA to target any ex-officio investigations or *actio popularis* cases where problems appear to be most severe, as well as to provide a solid basis for its representations to government and its work with the media.

In order to make its important enforcement role truly effective in combating discrimination against disabled job-seekers and employees the ETA will benefit from focused dialogue and increased collaboration with other of the key players listed above. The ETA already has positive contacts with NGOs and organisations representing the interests of disabled people, trade unions and employers' organisations and many of the statutory bodies listed above. It also has good access to the media.

The ETA could review its current relationships with external organisations in relation to its enforcement duties and powers. How could it strengthen the role of NGOs and disability organisations? For example NGOs and disability organisations could more actively advise victims of their rights to bring cases to the ETA, filtering out inappropriate and very weak cases, propose important ex officio and *actio popularis* cases for the ETA, represent victims before the ETA and the courts, assisting in the collection of relevant evidence and initiating *actio popularis* cases before the ETA and the courts. This may require training, improved communication systems for the regular provision of information by the ETA.

With their specialised knowledge, NGOs and disability organisations are able to keep the ETA informed of the impact of discrimination for purposes of the ETA's sanctioning powers as well as its duties to inform government of discrimination issues (see below). These organisations can assist the ETA in publicising its decisions and sanctions - aiming both to encourage further relevant cases and to dissuade employers from conduct that is unlawful.

b) Working with government: commenting on and proposing legislation, informing, reporting, co-operating

How can the ETA maximise its effectiveness in combating discrimination and promoting equality of opportunity for disabled people in employment in carrying out its duties under Art. 14 (c) – (f) and (j) of the Equal Treatment Act?

The ETA will need to have up-to-date knowledge of measures currently being taken by government to improve the employment position of disabled people, including the range of financial incentives for employers, quota obligations for employers with more than 20 employees, programmes for rehabilitation and training. In some cases the ETA may have a specific role, for example in relation to subsidies available to employers employing disabled workers, the ETA is asked to certify that it has not penalised an employer applying for subsidy.

Its experience in the investigation of relevant cases and in its ex officio investigations should give the ETA a picture of the impact of these measures and the nature and scale of the problem. For example, are the various incentives available to employers changing attitudes of employers towards the employment of disabled people? Has the requirement to make public buildings accessible been met? If not can the ETA show that failure to do so is operating as a form of discrimination against disabled people seeking advice, training or employment? Has the ETA been asked to investigate failure by specified employers to approve equal opportunities plans, and if so what has been their finding; have ETA sanctions resulted in approval of such plans by the employer concerned/by other employers?

c) Working with civil society: informing, learning, co-operating and assisting

How can the ETA in complying with its duties under Art. 14(e), (f) and (g) maximise its effectiveness in combating discrimination and promoting equality of opportunity for disabled people in employment?

The important two-way dialogue between the ETA and NGOs, disability organisations, trade unions and others in its enforcement role is discussed above.

This dialogue is possibly even more significant in relation to its duties to inform and assist. The ETA has acknowledged that a major barrier to compliance with the principle of equal treatment is the lack of knowledge of the rights and obligations under the Equal Treatment Act and other laws such as the Disability Act and the Labour Code across all sectors and civil society generally. While it is a duty of the ETA to provide information to the public and to provide information and assistance to persons likely to be victims of discrimination this is a task that will be far better achieved by collaboration with others.

In relation to the above sub-goal the critical target groups for information will be employers in the public and private sector providers of vocational training and disabled people who are in work and disabled people who are, or who could be, undergoing training and/or seeking work. Using its established networks the ETA can learn how best to inform each of these groups.

- For employers, the ETA could develop a code of practice on employers' legal obligations relating to all aspects of the employment relationship as set out in Art. 21 of the Equal Treatment Act including obligations under the Disability Act. Before publishing this code the ETA could consult employers' organisations, trade unions and disability organisations. The code could then be available and distributed through employers' organisation networks as well as provided to any employer with more than 20 employees who is subject to the quota requirement and to any employer who applies for any financial assistance or subsidy in relation to the employment of disabled people.
- As one barrier to employment for disabled people is lack of up-to-date skills and qualifications, to avoid discrimination in access to training or in the ways in which training is provided, the ETA could develop a similar code of practice for organisations and institutions providing vocational training.

- Trade unions are concerned with people in employment. ETA decided cases give some indication of the discrimination that can occur when an employee's capability is reduced due to work-related accident or illness or otherwise. The code of practice suggested above could be useful to trade unions in their efforts to protect the rights of their members who are disabled, in particular men and women who become disabled in the course of their employment. Trade union officials at workplace level may well benefit from training on the rights of disabled people in employment; the ETA could work with trade unions to design such training and train the trade union trainers.
- As indicated at the beginning of this section, the real issue is the high rate of unemployment of disabled people. They will not have access to the support of trade unions. A key aspect of disability is isolation, due to motor or sensory or intellectual impairments as well as prejudice within society, so that disabled people are perhaps less likely than the general population to be aware of their rights. To meet its duty to provide information to disabled people as part of the population will require special measures. To reach those disabled people who are or may in the future be looking for work, the ETA could collaborate with the Public Employment Service, which has responsibility for rehabilitation of disabled workers, and with disability organisations to provide information on disabled people's rights in accessible formats.
- In this context the ETA should recognise the important role of the media. Building on its good relationships with both the print and broadcasting media, the ETA could plan a "media campaign" to highlight the equality rights of disabled people. The campaign could have several aims: to make disabled people aware of their rights including their right to bring a case of discrimination or harassment to the ETA; to make employers aware of their obligations and the sanctions that could be imposed if they breach the principle of equal treatment - with examples of direct and indirect discrimination; and to challenge the fear and prejudice that inhibits employers from recruiting disabled workers. To mount such a campaign the ETA would benefit from collaboration with other key stakeholders, including the Ministry for Social Affairs and Labour and agencies such as the Public Employment Service that are directly involved in promoting employment of disabled people, as well as the disability organisations (with the possibility of finding an external source of funding)

5. Draw up a time-tabled action plan, prioritising what the ETA will do, when, in collaboration with whom. Identify how the ETA will be able to know if it is making sufficient progress towards the achievement of the above sub-goal

For purposes of drawing up an action plan, the ETA would need to start with the problem that triggered its adoption of the sub-goal, review the legal framework, the players and potential players, and the full scope of its powers and duties. It should consider examples of successful action as well as examples of actions that have not achieved the intended outcome.

The action plan should focus on the outcomes the ETA hopes to achieve en route to its sub-goal. Outcomes are often cumulative, the outcome of one measure relying on the outcomes of earlier measures.

In some cases it will be important to start with actions that can produce a positive outcome quickly; this provides encouragement and momentum to continue with other measures that may take much longer to show any effect.

Referring to the above, an Action Plan to achieve the sub-goal of making the ETA more effective in combating discrimination and promoting equality of opportunity for disabled people in employment could be divided into 4 overlapping parts summarised as:

1. Increase the knowledge base of ETA - how are laws, government programmes to promote employment of disabled people operating in practice, impact of discriminatory practices on disabled employees and job-seekers and potential job seekers
 - a) Review data from all sources
 - b) Engage in dialogue with disability organisations, other NGOs, trade unions, employers organisations to learn about the experiences of discrimination by disabled job-seekers and employees as well as examples of good practice
2. More effective enforcement
 - a) Review current enforcement procedures
 - b) Development of database of cases from which data could be extracted using a range of criteria
 - c) Information and training for disability organisations, TUs, NGOs to enable them to identify relevant cases, assist and support victims
3. Influencing government and public sector agencies
 - a) Informed by cases, analyses from database, dialogue with disability organisations, to comment on current and proposed laws and policies
 - b) To act as watchdog to ensure government measures intended to promote employment opportunities for disabled people are non-discriminatory
4. Improving public knowledge of equality rights of disabled people:
 - a) Develop Code of Practice for employers: consult, publish, distribute, promote
 - b) Develop Code of practice for training providers: consult, publish distribute, promote
 - c) Provide information for disabled people in accessible formats distributed through Public Employment Service, disability organisations, trade unions
 - d) Equip trade unions to advise and support their members: by providing information and training for trainers

e) Collaborate in mounting a media campaign to increase awareness of rights and obligations in relation to disabled people in employment and to challenge fears and prejudices of employers

Months	1	2	3	4	5	6
Increase knowledge base of ETA	Review data from all sources					
Increase knowledge base of ETA		Dialogue NGOs Etc				
More Effective Enforcement	Review Current procedures					
More effective enforcement			Develop database			
More effective enforcement			Information Training for NGOs, Disability Organisations, TUs			
Influencing government	Informed by cases, analyses, dialogue, comment on laws and policies					
Influencing government	Scrutinise measures intended to improve labour market situation of disabled people to ensure that these measures are not discriminatory					
Increase public Knowledge of disability equality Rights	Develop Code of Practice for Employers			Consult on Code of Practice for Employers		
Increase public Knowledge of disability equality Rights						Develop Code of Practice for Training providers
Increase public Knowledge of disability equality Rights			Information for disabled people in accessible formats			
Increase public Knowledge of disability equality Rights					Information and training for TU trainers	
Increase public Knowledge of disability equality Rights				Media campaign		

Months	7	8	9	10	11	12
Increase knowledge base of ETA						
Increase knowledge base of ETA				Dialogue with NGOs Etc		
More Effective Enforcement		Review current procedures				
More effective enforcement	Develop database					
More effective enforcement	Information Training for NGOs, Disability Organisations, TUs					
Influencing government	Informed by cases, analyses, dialogue, comment on laws and policies					
Influencing government	Scrutinise measures intended to improve labour market situation of disabled people to ensure that these measures are not discriminatory					
Increase public Knowledge of disability equality Rights	Publish Code of Practice for Employers	Distribute and promote Code of Practice for Employers				
Increase public Knowledge of disability equality Rights	Develop Code of Practice for Training Providers	Consult on Code of Practice for Training Providers	Publish Code of Practice for Training Providers	Distribute and promote Code of Practice for Training Providers		
Increase public Knowledge of disability equality Rights	Information for disabled people in accessible formats					
Increase public Knowledge of disability equality Rights	Information and training for TU trainers					
Increase public Knowledge of disability equality Rights	Media campaign					

6. Evaluate the effectiveness of ETA actions: monitoring the impact and analysing the results of monitoring - where appropriate modifying the action plan.

The actions set out above are intended to have different outcomes, some more easily measurable than others. In drawing up the action plan the ETA should have identified outcomes and ways of measuring their achievement. The following are some examples of evaluating effectiveness of actions and where the results of monitoring indicate that the desired outcomes are not being achieved, modifying, changing or adding to the prescribed actions.

- The effectiveness of some actions can be assessed only in terms of further actions, for example the effectiveness of actions to increase the knowledge base of the ETA can only be evaluated in terms of how it carries out its functions generally and how it carries out some of the other actions in the plan.

- On the other hand, the effectiveness of the media campaign could be monitored by means of public surveys, consultations, changes in the quality and quantity of cases concerning disability discrimination in employment. If after a number of months the particular form of the media campaign appears to be having very little impact, then the ETA with its partner organisations should review the content, the presentation and the media outlets being used in order to try to increase its impact.
- An intended outcome of the development of the ETA case database is that the ETA would work more effectively, efficiently, with greater consistency and focus when dealing with cases, conducting investigations and imposing sanctions, as well as responding to enquiries, making submissions to government and working with the media. If this is not happening then there may be problems with the database itself or it may be that ETA staff requires training in order to use the database to maximum effect.
- The development, distribution and promotion of ETA Codes of Practice have a longer evaluation period. The desired long-term outcome is the elimination of discrimination on grounds of disability by employers and training providers. Within the 12 months in the above diagram the ETA cannot know whether they have achieved or are on the way to achieving this outcome. It may be possible, however, to learn from employers' organisations whether most employers have the Code of Practice and what their reactions are. If distribution has not been sufficiently wide, then the ETA can consider further means to bring the Code to the attention of employers.

Example of a Strategy: How the ETA can be effective in eliminating discrimination by local authorities and encouraging local authorities to promote equal opportunities

Complaints of discrimination by local authorities were the most numerous ones in the first two years of the ETA's activity. Local authorities act as employers, landlords, social welfare institutions, are responsible for schools and education, etc. and as such play a very important role in Hungarian people's life.

So being confronted with several complaints about local authorities violating the principle of equal treatment, what would be the best strategy to stop discrimination by local authorities and – keeping in mind the overall goal – to encourage local authorities to promote equal opportunities.

A first response to a concrete complaint would be to investigate whether discriminatory treatment had taken place, and imposing effective sanctions would conclude the case. But what about the aim to encourage local authorities to promote equal opportunities? Sanctioning, including imposing substantial fine, can be an important tool to stop discrimination but on its own it will not motivate perpetrators to change attitudes and to bring the principle of equal opportunities to reality.

a. The Problem

Local authorities are very important employers, suppliers of goods and services, responsible for education and for social benefits. As such they can be key to overcoming structural discrimination in Hungarian society – and if they resist change they can present the most difficult barriers. Lack of information on the unlawfulness of discrimination, lack of will to change their attitude and lack of competence and resources to deal with clients in a non-discriminatory and respectful manner are some of the obstacles identified.

b. What activities could be set in order to make discrimination less likely in the future and to promote equal opportunities?

- ✓ Impose effective sanctions
- ✓ Use publicity as a sanctioning mechanism
- ✓ Using the potential of actio popularis to clarify legislation and to stop structural discrimination
- ✓ Strengthen relevance of non-legal methods of conciliation
- ✓ Provide Information not only on legal matters but on procedures as well (on Website)
- ✓ Provide information to potential victims by training and by leaflets on their rights
- ✓ Provide information to local authorities on their duties and raise awareness what discrimination really means
- ✓ Taylor Made Information on duties and rights for different target groups (groups inclined to discrimination AND local authorities)

- ✓ Provide list of NGOs, counselling services for matters not falling within the responsibility of the ETA
- ✓ Conduct Surveys
- ✓ Develop and „fill“ a database
- ✓ Raise awareness of legal obligation as well as of responsibility towards their clients
- ✓ Use case law (Hungarian as well as European) to develop Codes of Practise
- ✓ Raise awareness of the benefits of a society free of discrimination and providing equal opportunities
- ✓ Implementing tool of Contract Compliance, e.g. for developmental grant aimed at equalising regional development (foreseen in National Action Plan on Social Inclusion)
- ✓ Recognise examples of Best Practise by creating an award or by cooperation with media

What role could a concrete case play within a more general strategy?

Mr. K, a Hungarian citizen with Roma background, is living in a small village in the province of P. in a Roma neighbourhood. When getting up one morning in December, he realises that the heating of his house does not work and that electricity is not available as well. After unsuccessfully trying to find the cause of this breakdown of his home energy system, he goes to the village cafe to phone the local authority supplying his house with energy. The person in charge tells Mr. K that his house was cut off from the supply of energy as has been the whole neighbourhood, because the fees hadn't been paid for too long a time. When Mr. K said that he had been paying his fees on a regular basis, the answer is that the whole area was cut off energy supply as the debts were too high and that it was not possible technically to supply single houses. He should think about changing his place of living since living in a Roma neighbourhood means that you have to cope with all the problems your fellow Roma neighbours produce.

What could be the next steps?

1. Stop discrimination
The Local authority in this case is responsible for the conduct of their employee, harassing Mr. K. as a member of the Roma ethnic group and the local authority has been discriminating against Mr.K. by excluding him from the access to energy supply and by breaking the supply contract with him on the grounds of his living in a Romani neighbourhood. The Authority can impose a sanction according to its possibilities. With the aim to stop the local authority from similar actions in the future, the Authority can lobby for obtaining more effective sanction possibilities at the national and international level etc.
2. Stop discrimination and raise awareness
If the authority decides to aim at acting against similar discriminatory cases in a more general manner, it could make the case public, disseminate information on the unlawfulness of such practise to members of vulnerable groups, strengthen cooperation with NGOs and interest groups, do research

on similar cases and start ex officio investigations, file actio popularis to clarify the legal position.

3. Stop discrimination and promote equal opportunities

If the Authority decides to work on changing the local authority's attitude, if the case seems to be appropriate and if the complainant as well as the local authority agrees, the Authority can try to reach an agreement between both parties by ways of mediation procedures. Cooperation with NGOs offering conciliation services can ease this task. And if insight into the situation of both sides creates an atmosphere of better understanding, the Equal Treatment Authority could use this as an opportunity to promote equal opportunities. It could provide the local authority with information on how to avoid discrimination and make it aware of effects of discrimination for potential victims, develop codes of practise for local authorities and support the local authority with developing and implementing an equal opportunities plan.

Developing a strategy

As a starting point for developing a strategy a specific aim has to be defined. A quite optimistic goal could be e.g. a named local authority to be „Winner of the award on being „Promoter of Equal Opportunities of the Year“.

1	2	3
Case with Local Authority as Perpetrator	Seek for mediation procedures making both parties aware of what it means being discriminated against as well as being public authority and supplier of goods an services	Reach agreement both parties can go along with
Develop tailor-made Codes of Practise for Local Authorities	Support Development and Implementation of Equal Treatment Plans for Local Authorities	Award for being „Promoter of Equal Opportunities of the Year“ to Local Authority
4	5	6

c. Identify potential allies

At various stages of the process to the achievement of the defined target the ETA as strategic project leader has to find allies and cooperate with stake holders.

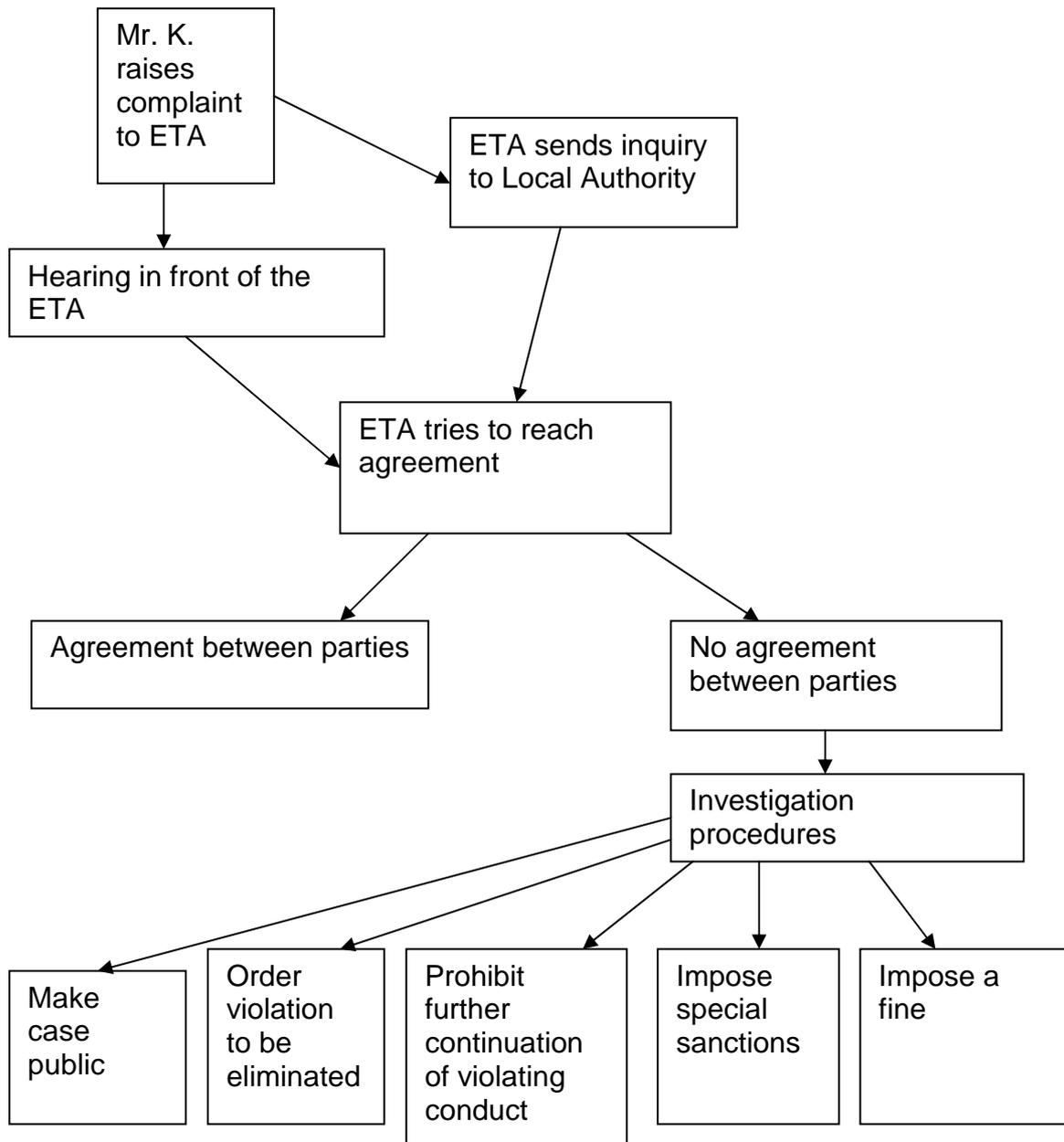
- **Houses of Equal Chances** are much closer to local authorities in terms of localisation and in terms of knowledge of the specific situation of vulnerable groups in the relevant area.
- **NGOs and Organisations representing vulnerable groups** are

experts on the situation of the specific group regarding structural discrimination.

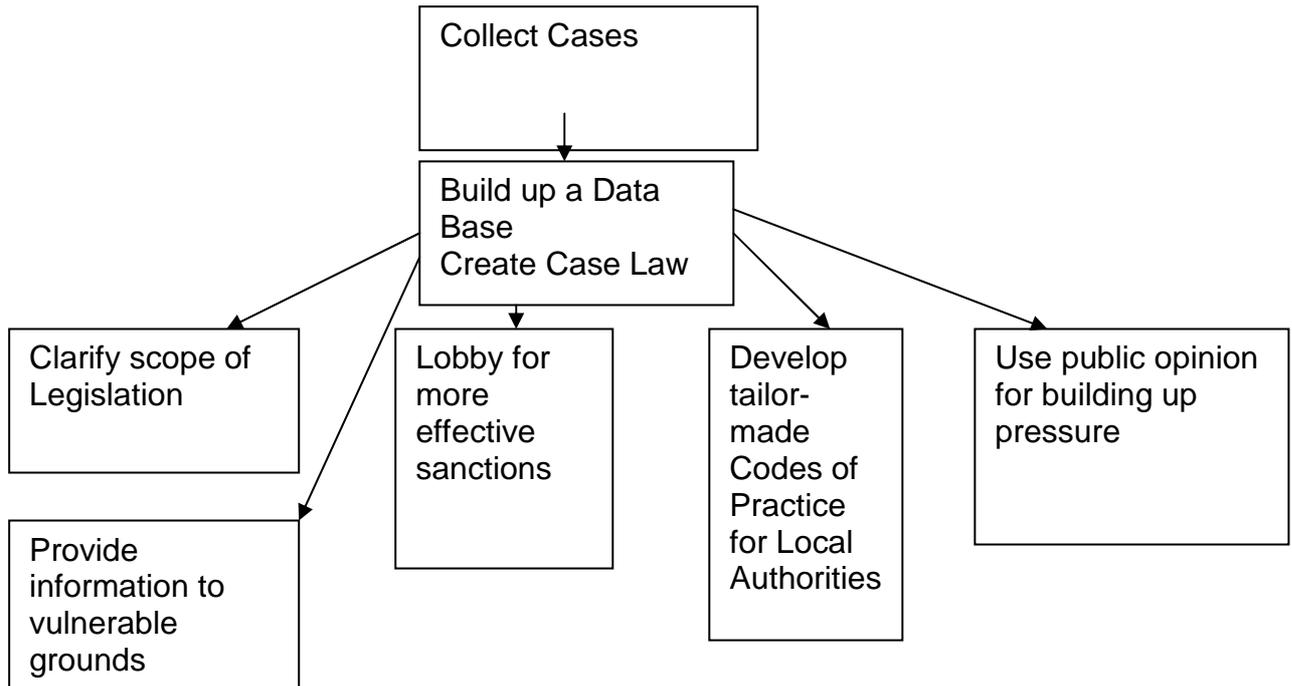
- One of the most effective means to change attitude is using public opinion. So collaboration with the **media**, making cases public, drawing attention of civil society to what happens in Hungary in terms of unlawful treatment of people because of their ethnic background, raising public awareness on what these everyday discriminations mean for individuals and for society.
- Even if there are a lot of complaints about local authorities violating the principle of equal treatment there are some **local authorities** acting in line with the legal requirements and/or even promoting equal opportunities, which could be presented as Best Practice Examples
- Case Law and Examples of best Practice on how to deal with discrimination cases with a structural dimension, on how to raise awareness and on how to successfully implement an equal opportunities approach in a strategic manner might be provided by **European Network and/or Project Partners** (e.g. Equinet)

d. Action Planning

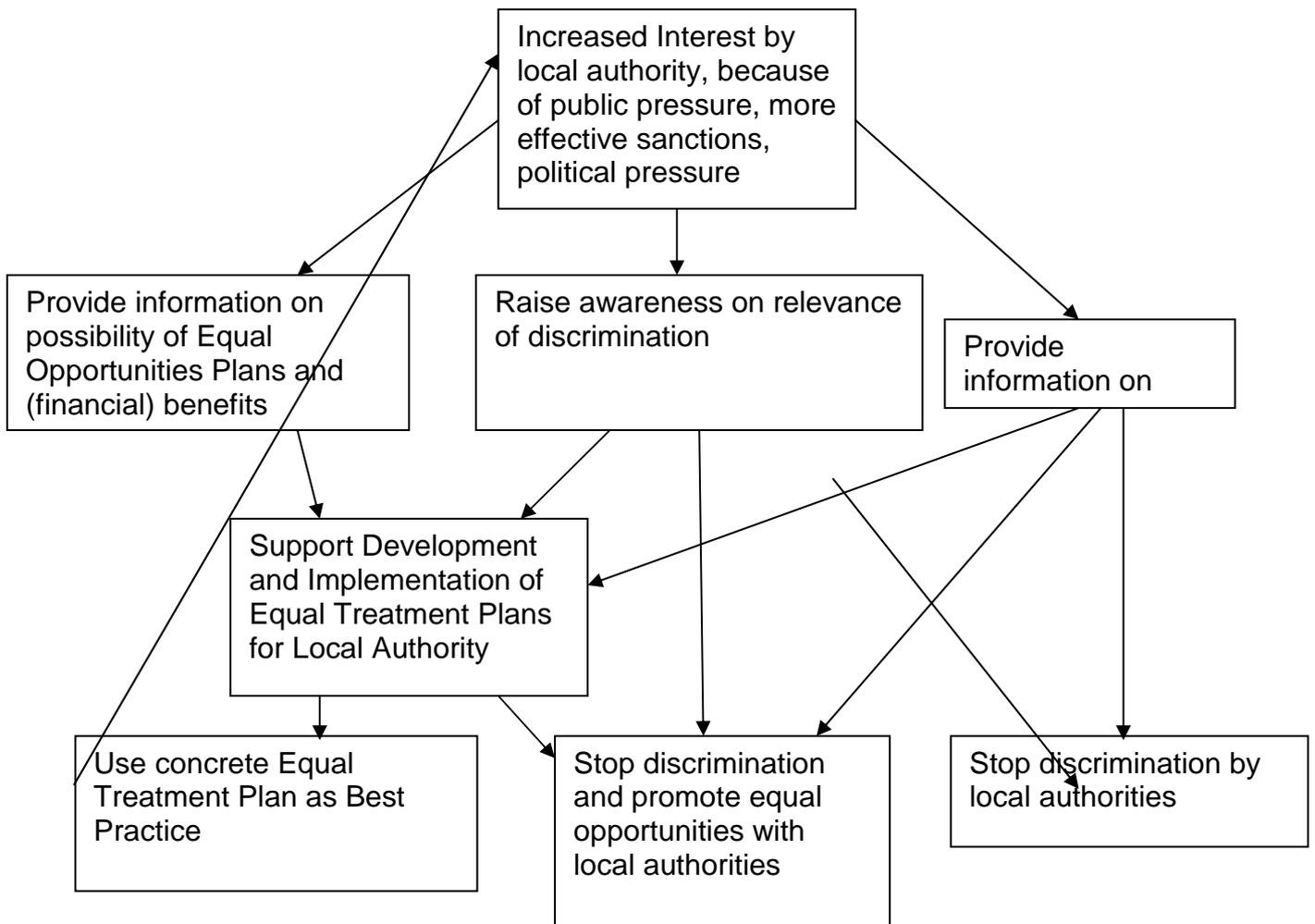
Single Case Level



General Level



Local Authority Level



Back to the single case level the investment of resources on a general level and on the local authority level will definitely decrease the number of cases where local authorities are accused of violating the principle of equal treatment. And cases which are filed at the Equal Treatment Authority will be more likely to be within their competence. Being aware of what discrimination means, being aware of public opinion and political pressure, settlements can save time and resources. More importantly they leave the way open for positive developments within the local authorities instead of manifesting their position as opponents.

e. Indicators of achievements

Developing a strategy according to a clearly defined goal needs to include indicators of achievement from the outset.

In the case chosen as an example some of these indicators could be, for example:

- Acknowledgement of the role of the Equal Treatment Authority
- More complaints because people know their rights
- Fewer complaints because people know their rights
- Fewer complaints because local authorities recognise the unlawfulness of discrimination
- More settlement agreements
- Development of Equal Opportunities Plans by Local Authorities
- Implementation of Equal Opportunities Plans by Local Authorities

f. Evaluation

When acting according to a strategic plan evaluation is one of the most important tools for the ongoing process. Achievement of the goal according to the timetable is just one part of the evaluation. But evaluation can not be done only afterwards, because by then it would be too late to change the strategy, if anything went wrong. Continuous monitoring has to be part of a strategic approach, looking at the above mentioned indicators of achievement, implementing reporting instruments on the state of the process, reflecting on things that worked out well and things that went wrong and regularly adapting the strategy according to these experiences are essential requirements for success. A final analysis of the strategic process will be the basis for formulating future subgoals - and for developing the next strategy.

Annex I

Development of a Strategy for the Hungarian ETA, Wednesday 21 March 2007

Overall Goal: Equal Treatment in Employment

Sub-goal: Equal treatment of older people in employment

Strategy: How can ETA most effectively achieve sub-goal

Actors:

Equal Treatment Authority

Employers

Trade Unions

Public Administrative Bodies

 Labour/Employment Centers

 Social Security Services

Local Authorities

Government (Ministries of Social Affairs, of Labour, . . .)

Houses of Equal Chances

Educational Institutions

People over 50

Other Employees

NGOs, Societies, Associations, Interest Groups, Groups Representing older, resp.
more experienced employees

Media

Volunteers

Courts

Development of a Strategy to reach Equal Treatment of more experienced people in the Labour Market
Actors: Employers (E), Local Authorities (LA), Parliament (P)

Activities	Why don't they do it?	Role of the ETA	What would ETA need?
Create Regulations (E) Staff Structures (E) Equal Treatment Plan (E) Implement Structures (E) Spread Information (LA) -Website -Public Hearings -Yearly Conferences of Notary Leadership of the Mayor/Notary (LA) Amend & Create Legislation (P) Honour Experience & Knowledge (P) Allocate More Money (P)	Market Situation (E) Transitional Period (E,P) „Jungle“ Hunger for Profit (E,LA) Lack of Protection of Interest of target group (E) No Interest (LA,P) Lack of Information (LA) Lack of Resources (LA) Lack of Will (LA) Lack of Awareness (LA) High Rate of Unemployment (P) Insufficient Control (of Black Market) (E)	Start Procedures (E,LA) Post Penalties (E,LA) Impose Effective Sanctions (E,LA) Make Cases Public (E,LA) Publicity (E,LA,P) -in International Arena (E,P) Recognising Good Practise (LA) Mediation (E,LA) Spread Info (E,LA) -of Good Practise (LA) Provide Info on Court Proceedings/Notary (E) Inform on Retribution (E,LA) Openness for diff. Methods according to circumstances (E,LA) Training/Education (E,LA,P) Research, Surveys (E,LA) Development of Strategy (E) Development of Info-material (E) Proposal on Legislation (P) Report on Situation (P) Newsletter (E,LA,P) Use the Media (P) Emphasize benefits of equal opportunities, social cohesion (E,LA,P)	MONEY & STAFF Law Implement Topic in Existing Procedures/Funding Info on Good Practise Change of Educational Curricula Researchers/Cooperation with Universities Funding

Annex II
Working Sheet Action Planning

Next Steps/Activities	Resources Available	Resources Needed	Time Frame