Documenting LGBTI discriminations in the field of employment in Piedmont (DHCE)
THE PROJECT

The project's objectives were to contribute to tackle LGBTI people's discriminations in the field of employment by promoting cooperation and creating alliance between workers, employers and relevant stakeholders; to increase capacities of NGOs and Trade Union representative in documenting cases; to give victims support through a help-desk; to raise awareness of civil society through a communication campaign called “RAC-CONTA! lavoro”.

DHCE is an update of the Rac•conta! project, supported by ILGA-Europe, the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association within the project Step up reporting on homophobic and transphobic violence. The aim of the project was to empower European LGBTI civil society organisations to more consistently monitor and report homophobic and transphobic hate crimes and incidents. To prepare this work, ILGA-Europe had developed a harmonised data collection methodology in 2012. The methodology builds on international standards and on the expertise gained in different past activities, such as the elaboration of European-wide submissions to the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) in view of its Annual Report on Hate Crime, or ILGA-Europe’s participation to the Facing Facts! Making hate crime visible project. Step up reporting on homophobic and transphobic violence was launched in 2013. ILGA-Europe’s Documentation and Advocacy Fund, with the support of the Government of the Netherlands, provided resources to 12 national and local NGOs in Bosnia and Herzegovina, Greece, Ireland, Italy, Latvia, Lithuania, Moldova, Poland, Portugal, Spain, Turkey and Ukraine. These NGOs were trained on the methodology previously developed by ILGA-Europe, and committed to apply it in order to produce comparable data.

Rac•conta! Lavoro consisted on different phases and actions. A staff was trained on documentation of hate crimes and other discriminatory incidents based on SOGI within the working group of the three most important Trade Unions in Italy: CGIL, CISL, UIL. The staff took part on a focus group aimed to update the questionnaire used in Rac•conta! and explore more deeply the situation faced in the workplace and in the employment field. An help desk was settled in order to give information about LGBTI rights on labour, support victims and document violations. The project was realized in partnership with Coordinamento Torino Pride and CasArcobaleno.
THE LGBTI RESOURCE CENTER

The LGBTI Resource Center is a non-profit organization whose mission is to contribute to the elimination of all forms of discrimination and human rights abuses against LGBTI persons, and to promote full equality for such persons in Italy. The Center aims to achieve its mission through capacity-building activities for local and national LGBTI associations and organizations. In this context, capacity-building means any activity that will create, improve, and/or sustain the capabilities and competencies necessary for LGBTI individuals, associations, and organizations to efficiently solve problems and achieve their goals. One of the Center’s main focus is the advocacy action aimed at changing public policies, laws, regulations, and/or organizational structures in order to bring them in line with human rights principles related to LGBTI people.
WHAT IS DISCRIMINATING?

“the practice of unfairly treating a person or group of people differently from other people or groups of people”

Merriane Webster

Discriminating is using a difference of compensation towards certain people on the basis of their characteristics like age, religion, personal beliefs, disability, sexual orientation, social status, sexual or gender identity.

It can appear in different ways, from the limitation of the participation to the social and cultural aspects of everyday life to the loss of freedom, the loss of having a political active life, the loss of the job.
DISCRIMINATION AT THE WORK PLACE

Employment is a crucial aspect of everyone's life. The first article of the Italian Constitution says “Italy is a democratic Republic founded on labour”. Nevertheless, there are still a lot of people that have no possibility of living freely their identity at the workplace. In fact, the discriminations at the workplace can appear in many ways, direct and visible or indirect and almost invisible, from a limitation at the recruiting process, to worse workplace conditions; from diverse possibilities of promotion, pay or leaves to limitation on training possibilities, mobbing or layoff and so on.

Mobbing, for instance, is the situation where all the hostile behaviours, long-lasting and continuous, done individually or in group are submitted to a specific person due to his/her personal conditions, it can be done by colleagues (pair mobbing) and/or by supervisors (vertical mobbing or bossing), or from subordinates to supervisors (upward mobbing or staffing), it can be done in order to push the worker to resign. Mobbing can be: exclusion or marginalization from the work, can be via gossip, rumours and unfounded accusations. It is a deliberate attempt to force a person out of their workplace by humiliation, general harassment, emotional abuse and/or terror.

A sadly well known and still very common type of discrimination is the one towards women. Even though there are many laws that protect women at the workplace and, in particular, many of them are made to avoid discriminations based on gender identity (Law n. 903/1977; Law n. 125/1991; Decreet 198/2006; Decreet 5/2010; etc.) there are still a lot of cases of discrimination towards women like mobbing, harassment, visible pay gap, and a general unrespectful behaviour in the recruiting process like asking very personal questions about the interest in maternity or similar.

Discrimination toward people with disability is touched in the Law 68/99 that promotes inclusion and integration of people with disability in the workplace through a specific recruiting process and forcing the corporates to have a percentage of disable workers. Nevertheless, there are still a lot of discriminations on people with disability depending on the characteristic of the person and the type of disability: if it’s physical, cognitive, intellectual, mental, sensory or developmental.

In a general perspective what happen is that to the people with physical disability can be asked too much or to stay alone in a specific office (maybe because that was the one room that could be reached with wheelchairs); the people with psychiatric disability is treated as fool or mad due to stereotypes combined with the theme; the people with mental disability is the most employed but still with some difficulties.
DISCRIMINATION AGAINST LGBTI EMPLOYEES: LEGAL PROTECTION

The decree number 216 (09 July 2003) ensures: “... equity of treatment between people no matter what their religion, beliefs, disabilities, age or sexual orientation, at the workplace”, taking also into account “of the diverse consequences that discriminations have on men and women”

The decree describes three forms of discrimination:
Direct discrimination: it happens when, on the basis of a personal feature (in this case we are taking into account sexual orientation) a person is not treated with equity compared to another person in a similar situation.
Indirect discrimination: it happens when a usual procedure, apparently non discriminating, can put a LGBT person in an unfair position compared to other people.
Harassment: unwanted behaviours that are hostile, humiliating, frightening, offensive with the willing to offend and violate one's dignity.

The law considers discriminating even the order of discriminate someone because of his or her sexual orientation

Indirect discrimination can appear not very clearly, for instance it can be when certain rights are guaranteed only to married employees …
Harassments happens anytime that a person, due to sexual orientation, is constantly offended, threatened, insulted, a laughing stock by colleagues or bosses.

The decree “protect” LGBT employees in the following cases:
- in the accessing occupation process, in the recruiting criteria, in the employment conditions;
- in the occupation and in the working conditions (promotions, salary, leaves, layoff..)
- in the possibility of following courses, training, improvements and requalification tutors
- in the participation in activities of trade unions and similar
WHAT ABOUT TRANSGENDER PEOPLE?

The decree num. 216/2003, concerning sexual identity, defines discriminations only about sexual orientation and not about gender identity.

For what is concerned about discrimination on transgender people we have to look at a European Court of Justice sentence made in 1996 (C-13/94) that asked to apply all the dispositions declared in the European law 1976/207/CE that is about equity between men and women.

Compared to homo/bisexual employees transgender people lives a very different situation due to the fact that Italian law about the legal gender recognition (law n. 164/1982) ask for a long procedure to obtain the documents of the chosen gender identity. It can take a long time, even more than 5 years, and it can happen that a person will have the identity card got stuck in the gender they are born during all the transition till after the surgery required for the changing of the sexual attributions. That means clearly lots of annoying and discriminating situations in everyday life and at the workplace. For instance the changing of the name of the transgender person on the nametag or the working email address is done by just a few of human resources managers and in general in big companies that have taken some steps into the diversity management.

Luckily things are changing and in the last two years there had been a quite number of sentences giving the possibility to transgender people to obtain the documents before the surgery and there had been a interesting step taken by the Court of Cassation declaring, in 2015, that for the wellbeing of the transgender person is not always needed to go through the surgery in order to obtain the documents with the chosen gender.
RAC•CONTA! LAVORO: COLLECTED CASES

As we said, according to the decree n°216/2003 there are three categories of discriminatory incidents (direct, indirect, harassment). These are all represented in the six violations reported.

For this reason we believe it’s important to analyse these information from a qualitative point of view in order to deeper analyse the phenomenon despite the small number of reported cases.

Starting from direct discrimination we have three incidents reported: one of the three cases is the detriment of a gay man, the other two are against trans women, heterosexuals.

This is the first important aspect to consider: discrimination incidents occur even more to transgender people. Who, especially M to F, can be more visible and can suffer a very significant stigma, especially in types of job that are at front desks and in public.

The first case reported is about a man, gay, HIV-positive (age 48). He was not visible with colleagues except for one friend. As a consequence of a dispute between the two, the colleague/friend talked to other workers about the sexual orientation and the HIV-infection of the man. Since that moment the man has been victim of professional deskilling and demotion and this led him to termination.

The second case is about a woman, transsexual, heterosexual (age 39): the woman suffered mobbing actions from superiors due to her sexual identity and gender expression. She is visible with her family and at the workplace. After the transition operation, despite the delicate health conditions, she has been forced to frequently change her tasks on job, moving from a department to another, changing often team and responsibility. She has been the only one who suffered this kind of treatment (colleagues never experienced treatment like this).

The third case is similar to the second one: the victim is a woman, transsexual, heterosexual (age 45) and suffered professional demotion due to her sexual identity and gender expression. The management of the organization moved the woman to other task immediately after her M to F transition. Then they reduced the tasks of her new job. Now she is asking for the re allocation into the previous job.
We have recorded only one case of indirect discrimination: this is more difficult to identify and there is more difficult from the victims to denounce. This difficulty is probably due to the lack of awareness of LGBTI people about this issue, but the main reason lie in the delay of a Civil Partnership law in Italy. This has been approved in May and its operative since last 5th June. This case has been recorded on April. The victim is a gay man, working in the educational public service. Despite his long time career, he never advanced in the waiting list as his colleagues did. The reason lie in the parameters adopted to the list: it is based on the familiar size and number of family's components. Since the partnership with his partner was not recognised he couldn’t advance in the list. Furthermore he has no right to familiar discharge, or transfer (in order to be closer to the family unit) even if they are together since 24 years. More in general he has no right to social welfare provided for families since they were not considered as a family.

The last category of discrimination for the Italian law is harassment. Within this project we adopted a different classification, based on the criteria given by ILGA Europe. So that we can differentiate the last two cases reported in two different categories under the more general “harassment”: threats and psychological violence and damage of property. The fifth case is about a gay man (age 48), who was injured and threatened from some colleagues because he introduced a course on LGBTI issues in the school where he was working. The word they used and the behaviours adopted reveal the homophobic motivation of this discriminatory incident. The last case is about a gay man (age 42), repeatedly injured from colleagues. The incidents include the damage of property since the personal cabinet of the man has been damaged and covered with writings and signs with hate messages and homophobic contents.
OTHER INFORMATION

We want to give some information about these incidents, which could be relevant to better understand the problem: the number of perpetrator, which is always “more than one” with the exception of the fifth case. This element gives important information about the hostile working place environment. In 50% of incidents the perpetrator is a superior, manager or director. This fact gives information about the possible impact on the professional uncertainty of victims. In a socio-political age of work crisis this factor grows in importance.

The relatively high age of victims that denounced the incidents denotes a correlation between the denunciation of the events (to Trade Unions, Human Resource Office, Police or LGBTI Associations) and the awareness level of victims. What about younger people suffering the same incidents? …

All the six cases have been reported to Trade Unions, but only the cases of direct discrimination have been taken care of. The others haven’t been solved and in one case this led to contract termination. Every time the instance has been reported to the Human Resource Office (in three cases), the situation hasn’t been solved. This is relevant since it can denote an inadequate competence of people in charge of protecting workers from an hostile working environment.

All the victims are visible (for their sexual orientation or gender identity) and this is the reason why they have been victim of discrimination incidents. This lead us to think over the problem of visibility: while LGB people can choose to conceal their sexual orientation, majority of transgender people can’t. In particular people working in the same place before and after the transition cannot decide not to come out. This is the more vulnerable group.
CONCLUSIONS

What can be noticed in this project is that being part of the LGBT community and being in contact with other people is one of the most important features to react to discriminatory incidents in the workplace: taking with others like you may help you discover that there are services that can help you, like our help desk or trade union services, declaring and reporting cases can be done better if you have a group of people that support you as you are, and so on.

We strongly believe that a lot has to be done to improve reporting discriminatory acts in the workplace and we should pass through an increased attention inside the LGBT community.