Executive Summary
Belgium Country report on measures to combat discrimination
by Olivier de Schutter

1. Introduction

In Belgium, which has a population of slightly over 10 million, the main religions are Roman Catholicism (about 65% of the population are baptised, although a small minority practice regularly), Islam (about 350,000 persons), Protestant and Orthodox (each approx. 100,00 persons). There are estimated to be 40,000 persons of Jewish faith, and 21,000 Anglicans. The country's government type is that of a representative democracy premised upon a bicameral system. The official head of the State is the King (Albert II). The Prime Minister is the leader of the government. Government always consists of a coalition of different political parties since there are a multitude of parties that get elected into Parliament.

The implementation of the Equal Treatment Directives has occurred in a relatively favourable context in Belgium, because of the existence since 1981 of a Law criminalising certain acts inspired by racism or xenophobia (*Loi du 30 juillet 1981 tendant à réprimer certains actes inspirés par le racisme ou la xénophobie*). This law initially made it a criminal offence to publicly incite discrimination against a person or a group on the basis of 'race', colour, ascendancy or national or ethnic origin, and it was extended by the Law of 12 April 1994 to cover the provision of goods and services and employment relationships. In addition, there existed the Law of 15 February 1993 setting up the Centre for Equal Opportunities and Opposition to Racism (*Loi du 15 février 1993 créant le Centre pour l'égalité des chances et la lutte contre le racisme*).

On the other hand, the federal structure of the country has been, and still is, a complicating factor in the implementation, not only because of the uncertainties concerning the division of competences between the Federal State and the Regions and Communities, but also because the sociological and political context is different in each part of the country. While the French-speaking part of the country (French-speaking Community, Walloon Region and to a large extent the Brussels-Capital Region) has traditionally opted for an individualistic model of combating discrimination, the Dutch-speaking part (Flemish Region and Community) has been more willing to seek inspiration from the experiences of the United Kingdom or of the Netherlands. These countries have a more communitarian approach implying, for instance, a greater willingness to promote equal treatment through statistical monitoring of the situations of different groups within society and to allow for affirmative action schemes.

The stakes are also higher in the Flemish Region/Community, because of the relatively significant representation in that part of the country of the Vlaams Belang.[1] Its representation allows this extremist and xenophobic party to influence the debates on issues such as the integration of migrants or the wearing of headscarves by Muslim women in schools or in employment. Indeed, recent events have put a new strain on intercommunal relationships. While this has led the mainstream political parties to accuse the Vlaams Belang of igniting

[1] This is an extreme-right, nationalistic political party, previously called the 'Vlaams Blok', and whose denomination was modified after its constituent associations were convicted for incitement to racial hatred and discrimination on the basis of the Law of 30 July 1981.

such tensions and, thus, of being 'morally responsible' for the multiplication of racist incidents, it is uncertain that it will diminish the attractiveness of this party to the Flemish voters.

Despite these differences in sensitivities between different constituent parts of the country, agreement was reached on the Federal Law of 25 February 2003 on combating discrimination and amending the Act of 15 February 1993 setting up the Centre for Equal Opportunities and Opposition to Racism, which seeks to implement both Directives in a large number of spheres, even going beyond the scope of application of the Racial Equality Directive. However, this legislation is not fully compatible with the requirements of the Directives. In addition, the Law of 25 February 2003 has been partially annulled by the Belgian Constitutional Court (Court of Arbitration) on 6 October 2004. As a result, on 26 October 2006, the government has proposed to abrogate the Law of 25 February 2003, and to replace that legislation, while at the same time amending the Law of 30 July 1981 (which implements Belgium's obligations under the 1965 International Convention for the Elimination of All Forms of Racial Discrimination). The legislative package, whose adoption by Parliament is imminent at the closing of the report, is detailed hereunder.

The question of the coordination of the new legislative package with the legislation adopted at Regional or Community levels remains open, however, and the Council of State has unfortunately still not provided all the clarifications required concerning the division of competences between Federal State, Regions and Communities.

2. Main legislation

Belgium is party to most of the important international agreements relevant for counteracting discrimination, including the European Convention on Human Rights (although it did not ratify Protocol No. 12, which it signed on 4 November 2000), the Revised European Social Charter, the International Covenant on Civil and Political Rights (ICCPR) and the Optional Protocol to the Covenant, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (including the Optional Protocol to this Convention) and the Convention of the Rights of the Child. Belgium has signed, but still not ratified the Council of Europe Framework Convention for the Protection of National Minorities. The above-mentioned instruments constitute part of the domestic legal order and can be applied directly by domestic courts if the provision at stake is sufficiently clear and precise for direct application.

Articles 10 and 11 of the Constitution, which prohibits discrimination, are applicable generally, without any restriction either as to the grounds on which the discrimination is based (they require that the principle of equality be respected in relation to all grounds) or as to situations concerned (they are applicable to all contexts, going beyond not only employment and occupation, but also the scope of the Racial Equality Directive). However, they are in fact rarely invoked in private relationships, because of their very general formulation and the delicate issues which would be entailed by their invocation in this context, for instance to protect an individual from private acts of discrimination by an employer. These constitutional

provisions have been most effective when invoked against either legislative norms or administrative acts which violate the principles of equality and non-discrimination which they contain.

After it ratified, in 1975, the United Nations Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, Belgium adopted the Law of 30 July 1981 mentioned above. This is a criminal law prohibiting certain forms of discrimination against a person or a group on the basis of 'race', colour, ascendancy or national or ethnic origin. It is therefore of no use for discrimination on the other grounds mentioned in Directive 2000/78/EC. Moreover, the effective application of the Law of 30 July 1981 has been seriously impeded by the high level of evidence which is required in criminal matters, and which is especially difficult to meet where it would be necessary to prove an intent to commit a discrimination by the defendant. One of the bills contained in the legislative package proposed by the Government in October 2006 provides for the modification of the Law of 30 July 1981 criminalising certain acts inspired by racism or xenophobia, in order to implement both the Racial Equality Directive (2000/43/EC) and the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, in one single legislation prohibiting discrimination on grounds of 'race', color, descent, national or ethnic origin, and nationality. While the current Law is criminal, the proposed amendment will include civil provisions.

The most important of the instruments adopted for the implementation of Directive 2000/43/EC and Directive 2000/78/EC is a piece of federal-level legislation, the Law of 25 February 2003 on combating discrimination and amending the Act of 15 February 1993 setting up the Centre for Equal Opportunities and Opposition to Racism. This law seeks to implement both Directives in a large number of areas, even going beyond the scope of application ratione materiae of the Racial Equality Directive. The Law provides for civil remedies against discrimination in these fields, although it also contains a limited number of criminal provisions, which will be invoked essentially where discriminatory acts are committed by public officials. Although initially limited to a list of grounds of prohibited discrimination (including but not limited to the grounds mentioned in Article 13 EC), the Law should now be read as prohibiting direct and indirect discrimination on any ground, since its partial annulment by the Court of Arbitration (Constitutional Court) on 6 October 2004. Another of the bills contained in the legislative package proposed for adoption by the Government in October 2006 provides for the abrogation of the Law of 25 February 2003 and for the adoption, in its stead, of a specific law seeking to implement Directive 2000/78/EC of 27 November 2000, and prohibiting discrimination on all the grounds other than those dealt with by the other bills contained in the legislative package, which either were already present in the Federal Antidiscrimination Law of 25 February 2003 (age, sexual orientation, civil status, birth, property (Fr. 'fortune'), religious of philosophical belief, actual or future state of health, disability, physical characteristic, genetic characteristic, social origin), or were added in order to take into account the concern expressed by the Court of Arbitration in its judgment n° 157/2004 of 6 October 2004 that the list of grounds should not arbitrarily exclude certain grounds which are found in international human rights instruments (political opinion and language).

In addition to the two bills already referred to (the 'Racial Equality' bill prohibiting discrimination prohibiting discrimination on grounds of 'race', color, descent, national or

ethnic origin, and nationality, and the 'General Antidiscrimination' bill (covering age, sexual orientation, civil status, birth, property (Fr. 'fortune'), religious of philosophical belief, actual or future state of health, disability, physical characteristic, genetic characteristic, social origin, political opinion and language)), the legislative package also includes : a) one bill amending the Law of 7 May 1999 on equal treatment between men and women in working conditions, access to employment and to promotion opportunities, access to self-employment and social security,[2] in order to implement the directives relating to equal treatment between men and women adopted on the basis of Articles 13 EC[3] and 141 EC[4]; and b) one bill amending the Code of civil procedure as regards litigation based on the above antidiscrimination legislation.

Apart from the federal legislator, the Regions and Communities have adopted certain acts in their respective fields of competence. The Flemish Community/Region adopted the Decree of 8 May 2002 on proportionate participation in the employment market (*Decreet houdende evenredige participatie op de arbeidsmarkt*). This seeks both to prohibit direct and indirect discrimination on a number of grounds, including but not limited to those listed in Article 13 EC. These grounds are sex, race, colour, descent, national or ethnic origin, sexual orientation, marital status, birth, wealth, age, belief or conviction, present or future state of health, disability or physical characteristic. Furthermore it aims to encourage the integration of target groups into the labour market by positive action measures (preparation of diversity plans and annual reports on progress made) in the limited fields which fall under the competence of the Flemish Region or Community (public administration of the Region/Community, educational institutions, intermediaries in the labour market; and all employers, but with respect only to disability).

The French-speaking Community adopted a Decree on the implementation of the principle of equal treatment (*Décret relatif à la mise en œuvre du principe de l'égalité de traitement*) on 19 May 2004, which prohibits direct and indirect discrimination chiefly in the public administration of that Community and in the education sector. Under the terms of this decree, this prohibition relates to discrimination on grounds 'such as' race, ethnic origin, religion or belief, disability, age, or sexual orientation. The Walloon Region adopted a Decree of 27 May 2004 on equal treatment in employment and professional training (*Décret relatif à l'égalité de traitement en matière d'emploi et de formation professionnelle*), prohibiting direct and indirect discrimination in vocational guidance, socio-professional integration, the placement of workers, the promotion of employment and vocational training, in both the public and the private sectors, based on the following grounds : religious and philosophical convictions, a disability or a physical characteristic, current or future state of health, age, civil status, sex,

[2] *Loi sur l'égalité de traitement entre hommes et femmes en ce qui concerne les conditions de travail, l'accès à l'emploi et aux possibilités de promotion, l'accès à une profession indépendante et les regimes complémentaires de sécurité sociale,* Law on equality of treatment between men and women concerning working conditions, access to employment, opportunities for promotion, access to self-employment and social security. *Moniteur belge*, 19 June 1999.

[3] Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 39 of 14.2.1976, p.40) as amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 (OJ L 269 of 5.10.2002, p.15) and, now, Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ L 204, 26.7.2006, p. 23).

[4] Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJ L 373 of 21.12.2004, p.37).

gender, sexual orientation, ethnic or national origin, family or socio-economic origin or situation.

Finally, the German-speaking Community adopted a Decree on the guarantee of equal treatment on the labour market (*Dekret bezüglich der Sicherung der Gleichbehandlung auf dem Arbeitsmarkt*) on 17 May 2004, which prohibits direct and indirect discrimination with respect only to the bodies or persons who fall under the powers of the German-speaking Community. The grounds concerned are sex, race, colour, descent, national or ethnic origin, sexual orientation, civil status, birth, property, age, religious or philosophical convictions, current or future state of health, disability or physical characteristic.

Although only the Federal Law of 25 February 2003 was presented to the Court of Arbitration, the reasoning of the Court on the main point of the judgment – that discrimination on the grounds of political opinion or of language is no less deserving of protection than discrimination based on the grounds explicitly enumerated in the original version of the Law of 25 February 2003 – should logically be extended to the other legislation adopted in order to implement the EU anti-discrimination directives.

3. Main principles and definitions

Although the legislative instruments adopted in order to implement the directives have mostly reproduced the precise definitions of direct and indirect discrimination used in the directives, this has not been systematically the case. In particular, both because of its wide scope of application with respect to the grounds covered and with respect to the areas in which discrimination is prohibited, and because of its legislative history (the initial Bill was drafted before the EU Directives were adopted by the Council), the Federal Law of 25 February 2003 provides that a difference in treatment may be objectively and reasonably justified and thus not constitute discrimination even when it is based on a suspect ground, a provision which is incompatible with Article 2(2)(a) of the Directives. Nevertheless, with respect to employment and occupation, it does limit the possibility of such justification where the characteristic must constitute a genuine and determining occupational requirement. In addition, when defining indirect discrimination, neither the Federal Law of 25 February 2003 (Art. 2(2)) nor the Decree adopted by the Walloon Region (Art. 4, 3d indent) contain an explicit reference to the principle of necessity. Furthermore, the Federal Law does not impose that the aim pursued by the measure alleged to constitute indirect discrimination be legitimate. However, the discrepancies between the Federal Antidiscrimination law of 25 February 2003 and the Racial Equality and Employment Equality Directives shall be remedied by the adoption of the legislative texts proposed in the legislative package presented by the government on 26 October 2006, and whose adoption is imminent at the time of writing.

The other main concepts contained in the EU Directives (harassment, instruction to discriminate and victimisation) have been reproduced in the legislative instruments cited. However, it should be noted that the Decrees adopted by the French-speaking Community, the Walloon Region and the German-speaking Community do not contain any provisions on victimisation, because of the uncertainty concerning their power to adopt provisions relating to this aspect of protection from discrimination.

It should also be remarked that the notion of harassment in the Federal Law of 25 February 2003 currently coexists with the same notion as introduced in the Law of 4 August 1996 by the Law of 11 June 2002. This duplication could be the source of legal uncertainty, as harassment in the workplace would fall under either legislation, with different consequences concerning, *inter alia*, the protection from reprisals of witnesses of the harassment (no such protection is provided under the Law of 25 February 2003) or the power of the judge to deliver an injunction prohibiting the continuation of the discrimination (*action en cessation*) (such a possibility does not exist under the Law of 4 August 1996). Again, the legislative reform currently pending should remedy this, by providing that where the Law of 4 August 1996 (as amended) applies (i.e., in employment relationships), only this law shall be relied upon and not the prohibition of harassment as a form of discrimination in the three anti-discrimination statutes which are currently being proposed.

The Federal Law of 25 February 2003 provides that the absence of reasonable accommodation for a person with a disability constitutes discrimination and is prohibited (Art. 2(3)). In the Decree adopted on 8 May 2002 by the Flemish Region/Community, reasonable accommodation is described as a requirement of the principle of equal treatment. However, the types of reasonable accommodation mentioned in Art. 5 para. 4 do not appear under the definitions either of direct discrimination or of indirect discrimination. Remarkably, the concept of reasonable accommodation is mentioned without a specific reference to disability, but as a *general* requirement of equal treatment, thus potentially extending its scope to all grounds. The concept of reasonable accommodation for people with disabilities as it appears in the other instruments implementing Directive 2000/78/EC does not require further comment, although the forms under which reasonable accommodation may be required appear overly restrictive in the Decrees adopted by both the Walloon Region and the French-speaking Community.

Finally, it is uncertain whether either the Federal Law of 25 February 2003 or the regional or community instruments implementing the Framework Directives 2000/43/EC and 2000/78/EC will be interpreted as protecting the individual from discrimination based on their association with persons presenting certain characteristics. The wording of these instruments does not make such an interpretation very plausible. Not is a clear answer to this question provided in the texts contained in the legislative package proposed on 26 October 2006 for the reform of anti-discrimination law.

No specific rules exist as regards situations of multiple discrimination, nor are there plans to introduce such rules in the future. However, the recent legislative reforms aim at harmonizing, to the fullest extent possible, the protection of victims of discrimination whichever the ground of discrimination (although a complete harmonization could not be achieved ; in particular, victims of discrimination on grounds of 'race', color, or ethnic or national origin are protected not only through civil provisions, but also through the criminal provisions contained in the racial equality bill). Therefore, the victim of multiple discrimination should not be facing a difficult choice in having to decide which form of discrimination to complain of as a matter of priority.

4. Material scope

Although limited on one point in its scope of application by the judgment of the Court of Arbitration of 6 October 2004, the Federal Law of 25 February 2003 provides protection from both direct and indirect discrimination (Art. 2) in large areas of public life: the provision of goods or services when these are offered to the public; access to employment, promotion, conditions of employment, dismissal and remuneration, both in the private and in the public sector; the nomination of a public servant or his/her assignment to a service; the mention in an official document of any discriminatory provision ; and access to and participation in, as well as exercise, of an economic, social, cultural or political activity normally accessible to the public. The other legislative instruments adopted in order to implement the equal treatment directives have a material scope of application limited to the competences of either the Region or the Community (although in the framework of the Flemish Community/Region these are merged). Some uncertainties remain, regrettably, as to the precise delimitation of the powers respectively of the Federal State and the Regions and Communities in this field, which has constituted an obstacle in the process of implementation.

5. Enforcing the law

Typically, the victim of discrimination will turn to the Centre for Equal Opportunities and Opposition to Racism and seek advice from this organisation. If the Centre considers that an instance of discrimination has occurred, it will first seek to encourage an amicable settlement of the case, by ensuring that measures will be taken in order to avoid a repetition or a continuation of the discriminatory practice. If the attempt at mediation fails, the Centre may – with the consent of the victim, where there is an identified victim – file proceedings against the perpetrator of the discrimination, which can be done in two ways. The first way is to seek to obtain the criminal conviction of the perpetrator, if it concerns discrimination based on 'race' or colour, descent, ethnic or national origin which occurs either in the provision of a service or a good (Art. 2 of the Law of 30 July 1981) or in access to employment or to vocational training or in the course of dismissal procedures (Art. 2bis). The second method, used in all other cases, is to seek civil remedies by relying on the Federal Law of 25 February 2003, Chapter IV of which contains the civil provisions. Where the discrimination occurs in a situation covered by a Region or Community Decree, the Centre for Equal Opportunities and Opposition to Racism will not be able to go beyond its advisory role to the victim, because it has not yet been attributed the legal powers it would require to do more.

Whether or not he/she chooses to rely on the Centre for Equal Opportunities and Opposition to Racism, the individual victim of discrimination based on race or colour, descent, ethnic or national origin – in fact, on the grounds protected by Directive 2000/43/EC – has a choice of two routes. He/she may seek to obtain a criminal conviction of the author of the discrimination, if it occurs either in the provision of a service or a good (Art. 2 of the Law of 30 July 1981) or in access to employment or to vocational training or in the course of dismissal procedures (Art. 2bis). In this case the victim may file a complaint with the public prosecutor or an investigating judge, or even summon directly the defendant before the criminal division of a tribunal (*citation directe*). However the burden of proof in criminal procedures is entirely on the prosecution, and this route will not be the most effective in the

majority of cases. Very few criminal convictions have been pronounced on the basis of the law of 30 July 1981.

The more promising route – and the only one available for victims of discrimination on a ground other than race or ethnic or national origin, or of discrimination even on the basis of race or ethnic or national origin outside the scope of application of the Law of 30 July 1981 – will be to seek civil remedies by relying on the Federal Law of 25 February 2003, Chapter IV of which contains civil provisions. The Law nullifies any contractual clauses which go against its provisions, making this law paramount (Art. 18); it gives the judge the power to deliver an injunction prohibiting the continuation of the discriminatory practice when aggrieved parties lodge an injunction procedure ("action en cessation") alleging discrimination (Art. 19); it also gives the judge the power to order the cessation of that practice, under the threat of a fine (*astreinte*) (Art. 20). These actions are brought before civil tribunals (*tribunal de première instance, rechtbank van eerste aanleg*), or where an employment relationship is concerned, before specialised tribunals (*tribunal du travail, arbeidsrechtbank*).

In these proceedings, the individual victim may seek the assistance of organisations. In *criminal suits*, the Law of 30 July 1981 criminalising certain acts inspired by racism and xenophobia provided that certain associations whose mission is to defend human rights and combat racism and discrimination could claim damage as a result of a violation of the provisions of this legislation (see Art. 5 of the Law of 30 July 1981). However, both the Centre for Equal Opportunities and Opposition to Racism and associations who have a recognised legal interest in combating racism may only launch proceedings on the basis of the Law of 30 July 1981 with the agreement of the individual victim for certain offences defined in the Law including discrimination in employment (but not, notably, discrimination in the provision of goods or services). As regards *civil claims of discrimination*, the Federal Law of 25 February 2003 has largely borrowed from the Law of 30 July 1981 with respect to the *locus standi* of organisations. The Centre for Equal Opportunities and Opposition to Racism has received powers with respect to all grounds of discrimination (see art. 31 of the Law of 25 February 2003, which therefore complies with Art. 9(2) of Directive 2000/78/EC). In addition, article 31 (n. 2°, 3° and 4°) of the Law of 25 February 2003 also provides that every public utility institution and every association which has been legally founded for at least five years and states as its objective the defence of human rights or the fight against discrimination, as well as workers' and employers' organisations may file a suit on the basis of this Law, although these organisations also may only do so with the agreement of the victim, if there is an identifiable victim.

In order to facilitate the proof of discrimination, the law allows for a shifting of the burden of proof in civil procedures (this is excluded under the Law of 30 July 1981, which currently is a criminal legislation, and where the principle of the presumption of innocence predominates). Article 19(3) of the Federal Law of 25 February 2003 provides for such shifting of the burden of proof. The victim seeking damages in reparation of the alleged discrimination, on the basis of art. 1382 *Code Civil*, will be authorised to produce certain evidence – Art. 19 mentions "statistical data" and "tests de situation" as two examples – which, when presented to a judge, could lead the judge to presume that discrimination has occurred, thus obliging the defendant to demonstrate that, contrary to that presumption, there has been no discrimination. The conditions under which situation tests must be performed and may be considered valid should

be defined by a further executive regulation (Royal Decree); however, this text has not been adopted yet, despite attempts to find a consensus.

There have been no cases in Belgium where a finding of discrimination, whether direct or indirect, has been arrived at through the use of statistical evidence. This may be explained by the fact that Article 6 of the Law of 8 December 1992 (which was amended in order to implement Directive 95/46/EC) imposes strict limits to the processing of personal data. However, the Commission for the protection of privacy (Commission de protection de la vie privée), the independent authority monitoring compliance with this legislation, delivered an opinion where it considers that the processing of sensitive personal data in order to implement the affirmative duty to promote the equal treatment of certain target groups (under the system set up by the Flemish Decree of 8 May 2002) is not in violation of those restrictions.

The adoption of the legislative package proposed by the Government on 26 October 2006 will modify the current system of enforcement in one significant respect : instead of there being one criminal law (Law of 30 July 1981) applying to discrimination on grounds of 'race', colour, ascendancy or national or ethnic origin race or ethnic origin, and another general antidiscrimination law (Law of 25 February 2003) containing both civil and (some) criminal provisions for any form of discrimination (including discrimination based on race or ethnic origin), two separate legislative texts will coexist, which are essentially similar but cover different grounds of discrimination. One law (the Law of 30 July 1981 as amended) will prohibit discrimination on grounds of 'race', color, descent, national or ethnic origin, and nationality, but it will now include civil provisions in addition to criminal provisions ; another law (abrogating and replacing the Law of 25 February 2003) will concern all the other prohibited grounds of discrimination, with the exception of sex (covered by yet a third text). Both legislative texts will contain identical provisions relating to implementation, including in particular the role of organisations in assisting victims of discrimination, the shifting of the burden of proof, or the role of the Centre for Equal Opportunities and Opposition to Racism. However the legislative package currently proposed does not answer satisfactorily to the absence of any competence of the Centre for Equal Opportunities and Opposition to Racism as regards the enforcement of the legislative decrees adopted by the Regions and Communities (see hereafter).

6. Equality bodies

The Centre for Equal Opportunities and Opposition to Racism was created by an Act of Parliament of 15 February 1993. This Act was modified by the Law of 25 February 2003 in order to give the Centre a role in the supervision of this Law. This extended its remit not only to all the grounds of prohibited discrimination defined in Article 13 EC, but also to the supplementary grounds stipulated in the original version of the Law of 25 February 2003. The Centre issues reports and recommendations within its mandate. It also assists victims of discrimination, and it may file actions on the basis of the Law of 25 February 2003, although only with the consent of the victim of the alleged discrimination if the victim is a natural or legal person. The Centre has been established as an autonomous public service; although organically attached directly to the Prime Minister of the Belgian Federal Government, its independence is guaranteed under the 1993 Act and, in practice, it fulfils its mandate in an independent fashion.

Neither the Decree adopted by the French-speaking Community nor the Decree adopted by the Walloon Region provide for an adequate supervision of these decrees by an independent body. A protocol of agreement should be concluded between the French-speaking Community and the Walloon Region, on the one hand, and the Federal Government, on the other hand. The would be to invest the Centre for Equal Opportunities and Opposition to Racism with such a supervisory role as the Centre exercises under the Law of 25 February 2003 and will exercise under the Flemish Decree of 8 May 2002 and the Decree of the German-speaking Community of 17 May 2004. The legislative package which is to be adopted imminently does not solve this question.