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Fighting for Sheltered Workshops or for Inclusive Workplaces? Trade Unions Pursuing Disability Rights in Belgium

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Abstract: The field of disability studies has largely overlooked the role of trade unions in the promotion of the rights of workers with disabilities. To address this oversight, this paper explores how union activists pursue disability rights and how this cause is situated in their struggle for workers' rights in Belgium, a country which both has a strong welfare system and gives a predominant role to social partners in industrial relations. It argues that there is a division of work inside unions between representatives at branch level who lobby to increase job opportunities in sheltered workshops and diversity officers at interbranch level who attempt to strengthen equality in the ordinary labour market. Although these two groups do not pursue disability rights in the same way, they share in common a reluctance to mobilise antidiscrimination law because the ideals of equality contradict the routinised practices of employers and of workers' organisations.

Keywords: Discrimination – Inclusion – Industrial Relations – Legal Mobilisation – Rights – Sheltered workshops (Entreprises de travail adapté).

Points of interest:

- In most countries, people with disabilities experience higher unemployment rates than those without a disability. When they work, they are more likely to be found at lower-skilled and part-time positions, as they face discrimination.
- In Belgium, trade unions are very active in supporting workers' rights but their attitude towards disability rights is still very poorly documented.
- Based on interviews with union activists, this study shows that trade unions focus mainly on the development of an adapted work sector, by increasing the number of places in sheltered workshops.
- Diversity officers working in trade unions aim to combat discrimination in employment but they are reluctant to criticise an employer who do not comply with the law because they fear to harm further negotiation with employers.

The field of disability studies has extensively explored the activities and strategies of non-profit organisations aimed at promoting social and policy change for people with disabilities (Bagenstos, 2009; Burke, 2004; Shakespeare, 2006; Vanhala, 2011). One of the

main historical aims of NGOs has been to promote the opportunity for everyone either to work or to benefit from social allowances in case of an incapacity to carry out paid work. Over the years, NGOs with diverging stance on disability employment inclusion have campaigned to facilitate access to the ordinary labour market for people with disabilities through three principal mechanisms: inducement schemes for employers, obligatory quota systems, and the obligation to provide reasonable accommodation. Compared with their focus on non-governmental organisations, disability studies have paid less attention to the role played by other organisations that also advocate for the rights of people with disabilities in employment, notably trade unions. This is particularly surprising given that, in many countries, trade unions are the first organisations that employees with disabilities contact when they face a situation of conflict in the workplace. This is especially true in Belgium, which is the most unionised European country after the Scandinavian countries, with 60% of public-sector and private-sector employees and 52% of the whole working-age population affiliated to a union (Visser, 2016).

This paper aims to address this oversight by exploring *how trade union activists pursue disability rights and how this cause is situated in their struggle for workers' rights*. Here, the term 'trade union activists' includes not only union representatives and diversity officers employed full-time by their union, but also workplace delegates working in various organisations who benefit from paid time off for trade union activities. This study focuses on Belgium, a country which both has a strong welfare system and gives a predominant role to social partners in industrial relations. From the 1960s to the 1980s, unions negotiated various collective agreements protecting and promoting the rights of workers with disabilities. Their involvement became more significant in 1995, when sheltered workshops became subject to labour rights legislation and were obliged to allow the creation of a union delegation if they employed more than fifty workers. Since then, trade unions have been very active in lobbying the government to create more job opportunities in these workshops. In the 2000s, under pressure from disability activists and social movements, but also from international organisations and regulations – such as the United Nations Convention for the Rights of People with Disabilities, the International Labour Organisation, and the Employment Equality Framework Directive – trade unions gradually paid greater attention to the inclusion and participation of workers with disabilities in the ordinary labour market. They recruited diversity officers to work towards this objective. In this paper, I argue that there is a division of work inside trade unions between union representatives at branch level who lobby to increase job opportunities in sheltered workshops, and diversity officers at interbranch level who attempt to

strengthen equality and inclusion for workers with disabilities. As a result, these two groups of union activists support two contradictory conceptions of disability rights: on the one hand, unions aim to reinforce the existing separated labour market for people with disabilities with the idea that disability is automatically equated with deficits and that it is impossible for people with disabilities to work in the ordinary labour market; on the other hand, unions also attempt to promote inclusion in the ordinary labour market. More surprisingly, empirical investigation has also shown that, although union representatives and diversity officers do not all pursue disability rights in the same way, they share in common a reluctance to mobilise antidiscrimination law as a resource for pursuing disability rights. This attitude can be explained not only by the fact that the ideals of equality and inclusion contradict the routinised practices of employers and of workers' organisations, but also by union activists' fear of producing inter-individual conflicts, between a worker and a employer, in a context mostly dominated by collective bargaining and negotiation.

Opening a dialogue between disability studies and industrial relations studies

This article aims to fill a gap in the existing literature by creating a dialogue between disability studies and industrial relations studies.

On the one hand, disability studies have extensively examined how different types of NGOs pursue disability rights. Some of them aim to empower people with disabilities to take control of their own lives and to influence public policies and practices, while others are charities or service providers. Disability studies have focused on the role of non-profit organisations in the diffusion of a new rights-based model of disability (Bagenstos, 2009; Burke, 2004; Heyer, 2015; Kelemen & Vanhala, 2010; Mor, 2005; Shakespeare, 2006), and on their various strategies for achieving this goal, including lobbying (Bengtsseon, 2000), strikes (Rimmerman & Herr, 2004), litigation (Vanhala, 2006, 2011), and bureaucratic rights enforcement (Revillard, 2017). Scholars have highlighted that the disability movement does not support a unified and monolithic goal (Bagenstos, 2009), but is instead divided depending on activists' identity (whether they are people with disabilities themselves, their relatives, or professionals) (Charlton, 2000), the type of disability, their support for either a medical or social approach to disability (Hughes & Paterson, 1997), and their conception of disability and participation in the labour market. Some groups support a separated labour market model in order to protect workers with disabilities and prevent unemployment, while other groups favour

a model of an inclusive labour market where the working environment is accessible to everyone, disabled or non-disabled. As this scholarship focuses exclusively on disability NGOs, its analyses of the contradictions within the movement are limited to sector-specific organisations, rather than taking into account the broader context of workers' struggles. As a result, disability studies have *overlooked the role of trade union organisations*, despite the fact that these have been strategic players in the promotion of disability rights in many European countries.

On the other hand, industrial relations studies have mostly focused on the changing regulatory environment of the workplace (Piore & Safford, 2006) and the evolving role of trade unions in the negotiation of collective agreements for all the workers belonging to their branch. Health and disability issues were historically among their concerns. Indeed, in the nineteenth century, as workplace accidents and diseases became the "first risk of modernity" (Moses, 2018), one of the main challenges for unions was to prevent death and work-related disability, as well as to apply pressure to nation states to develop social security systems that would be capable of managing and compensating for these risks (Boyer, 1988; Schurman et al., 1998). However, the literature on industrial relations has largely *overlooked the role of trade unions in pursuing the rights of their affiliates with disabilities* regardless of the origin – work-related or non-work-related – of their impairment. Just as for other minority groups – Black, Asians, and minority ethnics (BAME) (Frymer, 2007), women (Guillaume, 2015), or union delegates (Chappe, 2013) – labour organisations have developed specific activities to promote and protect workers with disabilities. Although unions have developed various mechanisms, such as self-organised groups of affiliates with disabilities (Humphrey, 1998), collective bargaining, or use of the court system to enforce statutory individual employment rights (Lejeune & Yazdanpanah, 2017), these activities have not been a focus of attention for industrial relations researchers.

Opening a dialogue between these two fields of scholarship allows me to formulate three main research questions that have not been addressed by existing literature. First, *are the strategies used by trade unions to promote the rights of their members with disabilities similar or distinct from those used by NGOs*? Trade unions can use a large variety of strategies to protect or promote the rights of their members with disabilities. Like NGOs, they can lobby political elites, or use the court system to enforce statutory individual employment rights. But they are also likely to organise strikes and resort to collective bargaining and negotiation with employers' organisations and the state. Second, among the various strategies at their disposal, *under what circumstances do union activists compel employers to justify their actions, or even*

sue them, if they do not comply with antidiscrimination law? When a worker is discriminated against because of their disability, do union activists perceive the recourse to antidiscrimination law as being complementary to collective bargaining, or alternatively as a threat to further negotiation? Third, *how do union activists define their role in assisting their affiliates with disabilities*? In other words, what sort of conceptions are they fighting for with regard to disability and the participation of workers with disabilities within the labour market? In their everyday work, do union activists primarily support a separated labour market model, an inclusion model, or a combination of both models? Because of their focus on sector-specific organisations, scholars have paid particular attention to the ways in which non-profit organisations pursue disability rights and to the division *between* various NGOs, while the present focus on workers' organisations allows me to pay more attention to the contradictions *within* organisations in the ways in which they pursue disability rights. To answer these three groups of questions, this article examines the activity of Belgian trade unions.

Pursuing disability rights within unions: Belgium as a case-study

Belgium is a relevant case study for exploring how trade unions pursue disability rights, not only because its welfare system historically provided strong socioeconomic rights for people with disabilities, but also because social partners have always played a significant role in industrial relations and in the determination of new rights. Trade unions are more likely to play a role in pursuing disability rights in this country than they are in many other European countries. Furthermore, only a few disability studies have taken this country as a case study (De Veirman, 2015; El Berhoumi & Hachez, 2015; Lejeune & Ringelheim, 2019; Marquis, 2015; Meier et al., 2016; Poirier, 2001; Vanderstraeten, 2015).

Belgian trade unions within their evolving political and legal environment

As in many other European countries, Belgian disability policy has historically been structured around two principles. The first principle was, and still is, to promote the *integration of workers with disabilities in employment*. After the Second World War, various types of mechanisms were put in place to reach this objective: the most important mechanisms were inducement schemes to encourage employers to recruit workers with disabilities, employment quotas in the public sector, and the creation of sheltered workshops (*ateliers protégés*), which employed a majority of workers with mental or physical disabilities outside the ordinary labour

market (Emmenuelidis, 2004). Access to these mechanisms depends on the job applicant or worker being recognised as disabled by an official institution. This condition is fulfilled if they reach a certain threshold of incapacity, which is determined by a doctor after a medical evaluation of their limitations (Ringelheim, 2018). In this context, trade unions primarily guaranteed the protection of employees with disabilities through several collective agreements: for example, Collective Agreement no. 26 (1975) concerned the rate of pay of disabled workers in the ordinary labour market, which has been modified several times since then, and Collective Agreement no. 38 (1983) concerned the recruitment of workers, and was modified in 2008 to include the prohibition of discriminatory practices, including on the basis of disability. In 1995, the *ateliers protégés* (sheltered workshops) were renamed *entreprises de travail adapté* (literally, 'businesses of adapted work') and became subject to labour rights legislation. Belgian unions applied pressure to obtain a guarantee that these sheltered workshops would adhere to minimum wages standards, but also that they would create a union delegation if they employed more than fifty workers. The second principle of disability policies in Belgium is that the social welfare model provides *specific socioeconomic rights and provisions* for people with disabilities who are not able to work. Those who are excluded from the paid-work system are entitled to social benefits of two types: unemployment benefits and a disability allowance. The idea behind this principle is that disability is perceived as a deficit of access to the labour market and must be compensated through special provisions (Barnes & Mercer, 2005).

Since the 1990s, the legal and political landscape regarding disability has changed, resulting in a transformation of the context in which Belgian trade unions operate to assist their affiliates with disabilities. Campaigns conducted by social movements and trends in public policies have both become increasingly orientated towards the diffusion of an *antidiscrimination rights model of disability* (Hachez & Vrielink, 2020). This new model did not replace the two former principles that structured disability policies in Belgium – the integration of workers with disabilities in employment and the guarantee of specific socioeconomic rights and provisions – but coexisted with them from this point on (Aucante & Baudot, 2018). According to this new approach, people with disabilities should not be seen as physically and mentally impaired, but as people with the right to fight for inclusion in society. They thereby become "active rights holders […] and […] should use the force of the law to protest their segregated status as a form of discrimination" (Heyer, 2015, p. 26). The Employment Equality Framework Directive 2000/78/EC, which aimed to combat discrimination, including on the grounds of disability, was passed in 2000 and became law in Belgium in 2007. This new legal environment has not only created new individual rights which

workers can enforce through the employment tribunal system, but has also created new opportunities for using the legal system to pursue disability rights and equality (Burke 2004). For example, a government agency has been created in Belgium to help individuals who experience discrimination to use the legal system to contest a violation of their rights. In the same period, the United Nations Convention on the Rights of People with Disabilities, ratified by Belgium, was conceived as a human rights instrument for promoting a greater inclusion of people with disabilities in various domains. Its article 27 focuses on work and ensures, among others, equal treatment on the basis of disability concerning all forms of employment and the ability for persons with disabilities to exercise their labour and trade union rights on equal basis with others. In this evolving legal and policy environment, major trade unions have gradually increased their internal resources and expertise, through the recruitment of diversity officers specialised in the antidiscrimination approach and in the enforcement of statutory rights at the interbranch level. Until now, these diversity officers within trade unions have not been the focus of any social science investigation, despite the fact that they play a role in the promotion and diffusion of disability rights.

Fieldwork: Exploring the everyday work of trade union activists

The analysis in this study is based on fieldwork conducted as part of a research project on disability rights in the workplace in Belgium and France (Lejeune et al., 2017). This collective and interdisciplinary project aimed to answer two main research questions. First, did antidiscrimination law and the duty of reasonable accommodation affect political and judicial activism in various organisations and professions: NGOs, trade unions, equality agencies, and the legal profession? Second, how does the law shape the everyday experience of disability in the workplace, both for workers with disabilities and for employers?

As part of this project, I conducted fieldwork in the three main trade union organisations in Belgium, which are all organised in two levels: an interbranch level and various branches corresponding to different sectors of activities, such as industry or education. In the three unions, diversity officers work at the interbranch level and sheltered workshops are part of one branch, which is not the same depending on the organisation concerned. The most important union in terms of members is the Christian trade union, named the *Confédération des syndicats chrétiens* (CSC) or *Algemeen Christelijk Vakverbond* (ACV), with 1,700,000 members (in a population of 11,000,000 of inhabitants). Sheltered workshops are part of the industry branch.

The second one is the Socialist trade union, named *Fédération générale des travailleurs belges* (FGTB) or *Algemeen Belgish Vakverbond* (ABVV), with 1,200,000 members. Sheltered workshops are part of a general branch. The third union, much smaller, is named the *Confédération générale des syndicats libéraux de Belgique* (CGSLB) or *Liberale Vakbond* (ACLVB), with 250,000 members. Sheltered workshops are part of the non-profit sector branch.

In 2016 and 2017, I conducted sixteen semi-structured interviews in the three main trade unions. I interviewed six diversity officers (*chargés de mission diversité*) and three legal officers (*juristes*) at the interbranch level, as well as five union representatives (*permanents*) and two delegates in the workplace (*délégués*) at branch level. I selected the interviewees because of their involvement to pursue disability rights. They were all identified as key partners by other organizations – Belgian Equality agency, disability NGOs, and sheltered workshops – or by workers with disabilities themselves. Through these interviews, I wanted to gather information not only about the practices of unions activists, but also about the meaning they give to their work, especially to their tasks related to the promotion of disability rights. In the interviews, I asked them to talk about their career in the workplace and as labour activists, and their initial education and life-long training. I also asked them to explain how the division of work was organised within the trade union, in which cases they would choose to file a formal complaint for a member or to take a case to court, and how they view the use of legal strategies, whether these are perceived as a resource or alternatively as a threat for further collective negotiation. In order to complement my understanding of the activities of the unions, I conducted six interviews with lawyers specialised in dispute resolution related to antidiscrimination, disability, and health. I also interviewed twelve workers who had experienced a conflict in the workplace related to disability or health condition. In this sample, there were seven workers who were represented by a union and five who were not; six men and six women; two managers, six service employees, and four blue collar employees; six workers with physical disabilities, two with mental ones, and four with sensorial ones. All the interviews lasted between one hour and a half and three hours, and were recorded and then transcribed.

The two concurrent conceptions of disability rights within trade unions

Trade union activists' own experiences and socialisation with regard to disability and health issues, both in the workplace and in the union, shape their attitudes in pursuing disability

rights. Two types of activists can be distinguished: representatives at branch level (1), and diversity officers at interbranch level (2).

Representatives at branch level: The right to inclusion as myth, the specialised labour market as goal

In the 1990s, when sheltered workshops employing workers with disabilities changed their name to *entreprises de travail adaptés* and became subject to labour rights legislation, trade unions assigned to certain branch federations the responsibility for these sheltered workshops. Union representatives working at branch level started to come into contact with union delegates and workers with disabilities and, through this experience, those representatives started to gain an increasing awareness of the everyday challenges and barriers that people with disabilities face in the labour market.

In Belgium, many union activists at branch level come to union from working on the shop floor. They used to be employed in a company before they were hired, either full-time or part-time, as permanent union representatives of their branch federation. As observed in other contexts (Hyman, 1975), becoming permanent members of union staff significantly improves their working conditions and offers them a professional status that they could not have hoped to reach in their original profession. My interviews reveal that this general trend is also observable among the small group of union activists who are in charge of disability at branch level: they come from working on the shop floor and, upon their arrival, they do not receive any training about disability or health. The story of one interviewee, Stéphane Poncelet (all the names have been changed to guarantee anonymity) is representative of the professional and union trajectories of activists at branch level. It also reveals how union representatives pursue the rights of workers with disabilities. Stéphane Poncelet is a union representative at the Christian Labour Confederation. Like many others in his branch federation, he started his professional career as a blue-collar worker in a construction company, where he became a union delegate after his father died in a work accident in the same company. After a few years as a union delegate, he applied to become a representative at the branch devoted to construction, industry, and energy, which has oversight over all the companies of this branch, but also over sheltered workshops employing people with disabilities. Until he was recruited as a permanent representative at branch level, he had never worked with any colleagues with disabilities and had no expertise related to disability. He considers that in his everyday work, he has to solve

various conflicts that happen in the organisations of his sector. Most of his work is devoted to negotiate with delegates and employers at collective level. When he receives individual complaints from workers, he always uses informal discussion with the employer to try to solve the conflict. According to him, even when workers believe they experience unfair or bad treatment due to their disability or health, he prefers to solve the dispute as an interpersonal conflict between one employer and one employee.

> *"Most of the time, when a conflict arises, we try to create a dialogue with the employer, and the employee. […] Most of the time, even when the employee says it is related to disability, we know that it is difficult to distinguish what caused the conflict: health or the bad relation with the employer? (Union representative CSC)*

Branch level activists address a wide variety of disputes between employers and workers. Some of them are related to health conditions or disability, but the majority are not. When branch representatives are contacted because workers face a conflict related to disability in the workplace, they have various options: first, if activists consider that the conflict involves legal issues, they contact the legal department at the interbranch level (this first option is described by activists as happening *"a few times a year"*); second, if the consider that the conflict might be related to an instance of discrimination, they therefore contact diversity officers, also at the interbranch level (this second option happens *"less than once a year"*); third, they solve the conflict by themselves at the branch level, without any assistance from either the legal or the diversity departments (this third option is the most common, as it happens *"several times each month"*). When they try to solve conflicts by themselves, union representatives rarely use antidiscrimination law as a tool to negotiate with the employer. This is also the case when they solve disputes related specifically to disability or health. As observed by one of them:

> *"The anti-discrimination law? I have never used it. It is outside the scope of what we do here." (Union representative FGTB)*

Several reasons might explain this limited recourse to the law. First, union representatives do not have legal expertise. They do not have any initial or life-long training in law owing to the division of work within trade unions between interbranch legal officers – responsible for cases requiring legal expertise – and labour activism at branch level. Second, as they explained in interviews, they know from their previous experience as blue-collar workers that colleagues with disabilities and health problems in their branch are usually dismissed if they are no longer able to perform the tasks mentioned in their work contract. As a result, they

are usually very pessimistic about the possibility for workers to pursue their rights and to remain in employment. In interviews, they give many accounts of former colleagues who were dismissed for medical reasons and were advised by their trade union representatives that there was nothing that they could do about it. For these reasons, they consider that the right to inclusion that is supposedly guaranteed by antidiscrimination law is no more than a myth, one that is contradicted by the everyday practices of employers with whom they interact, as well as the advice given by their union in similar situations in the past.

In this context, their activity is deeply rooted in routinised practices, which are carried out without a constant recourse to the law. Instead of using social or antidiscrimination law as a weapon to pursue disability rights, they draw attention to the good practices of employers who recruit workers with disabilities in order to inform other companies under the remit of the same branch of the conditions and financial incentives that this good practice can entail. As a union representative explains, his role is to make publicity to improve the recruitment of workers with disabilities in the workplace.

> *"Our main actions are aimed at putting companies with good practices in the spotlight. For instance, we have an employer who recruited several workers with disabilities. We try, for the disability day on 3 December, to emphasise these practices. We know journalists, we make good use of these connections too." (Union representative CSC)*

Union activists at branch level focus on recruitment but pay less attention to the other dimensions of employment, such as career advancement or safe and healthy working conditions. Additionally, they are reluctant to criticise employers who do not comply with social and antidiscrimination legislation, because they do not see the law as a useful tool for promoting or protecting disabled members' rights. Instead, they consider that the integration of workers with disabilities in the ordinary labour market only relies on "good will" of employers, not on any legal duty, as this union representative says:

> *"In the ordinary labour market, it's complicated to force employers to make an effort with workers with disabilities. With the support of the Professional Experience Fund [Fonds d'expérience professionnelle], we had an opportunity to encourage employers to maintain workers on the job after a work accident, even if they were less efficient. But the budget of this fund has decreased. Motivating employers has become harder. Everything relies on goodwill." (Union representative FGTB)*

Besides their activity to improve the recruitment of workers with disabilities in the ordinary labour market, one of the main tasks of union representatives is to advise workers who

are officially recognised as not being able to work in their company to ask for official recognition of their disability, so that those workers will become eligible for a job opportunity in one of the sheltered workshops. In this context, their attempts to achieve social change are mostly directed towards asking for more financial support from the government for sheltered workshops, in order to allow more people with disabilities to get a job in these organisations.

Even if these labour activists are particularly involved to pursue disability rights, they also reproduce the idea that people with disabilities do not fit to the norms of the ordinary labour market. Through their practices and discourses, they reinforce the idea that people with disabilities should not attempt to contest a rights' violation in the ordinary labour market, and thus shape the way workers with disabilities conceive their rights. A worker with disability I interviewed, who had been dismissed because he was no longer able to work as construction worker after he had a work accident, wanted to contest his dismissal before the court. However, after he met with a labour union activist, he decided to give up and to look for a job in a sheltered workshop. Another employee I interviewed, a medical nurse, was in conflict with her employer because he refused to accommodate her schedule to her disability. When I met her, she explained me that she had to fight to convince the union activist at branch level that the conflict was related to her disability.

> *"[The union representative] told me 'Ok, let's see what we can do [to solve your problem]'. So I was confident. But after a few weeks, I realized that he was not doing anything. […] When I told him that I had rights [because of my disability], he told me that changing my schedule could lead to conflicts with other nurses. […] And I realized that he would not do anything more." (Nurse with physical disabilities).*

By contrast with the construction worker, she highlights a gap between her own experience of discrimination based on disability, and the way the union activists handle the situation as an ordinary conflict with an employer. After many attempts, she succeeded to convince the branch level activist that she was victim of discrimination and met with a diversity officer at interbranch level.

Diversity officers at interbranch level: Mobilising antidiscrimination law with caution

For the last ten years, the three main trade unions in Belgium have recruited diversity officers in their confederations to monitor compliance with antidiscrimination principles at the branch and workplace levels. Their mission is both to negotiate with employers and, should the

need arise, to sue those who do not comply with antidiscrimination law, in collaboration with the union's legal department.

In comparison with union representatives, who assist workers in one specific branch, diversity officers work at the interbranch level and assist workers of all branches. My interviews show that they have completely different professional backgrounds from union representatives, as they are recruited straight out of college or university – after studying law, social sciences, or social work – or after a few years in the workplace, usually as white-collar workers. In my sample, none of them have previous experience as union delegates in the workplace before they become diversity officers, and some of them are not even affiliated to any union before they are recruited. As Stéphane Poncelet's story particularly reveals how branch-level activists become involved in the pursuit of disability rights, the story of Sarah Ben Ali illustrates the professional and union backgrounds of those who work as diversity officers, and their implication on the way they pursue the rights of workers with disabilities. She is diversity officer at interbranch level. She started to work for the CSC very soon after completing her degree in social work. Her parents and relatives were affiliated to the CSC, but she was not a member when she applied and was recruited. She first worked as head of the section devoted to young union activists and became a diversity officer seven years later, when the CSC created this position. In their everyday work, diversity officers do not have personal contact with union affiliates. Because of the division of work within their organisations, representatives at branch level play the role of "front-line" or "street-level" union activists: they are in contact with the workers from their branch and deal with a large number and variety of issues. In contrast, diversity officers work on a very limited volume of complaints, all of which are related to discrimination because diversity officers learn about these complaints only if local union representatives have considered they are likely to involve discrimination.

When diversity officers become aware that a member is involved in a dispute with their employer which is related to disability or a health problem, they have a different attitude towards engaging with the law compared with that of local activists, owing to their position within the union, their socialisation with regard to disability, but also the specific moment when they encounter the case. Diversity officers at interbranch level try to gain recognition as antidiscrimination legal experts within their organisation. They legitimise their position by constantly referring to antidiscrimination law in order to illustrate the extent of their expertise. Furthermore, they work with the officers of the Belgian Equality Agency (UNIA). They have internalised supranational regulations since their work is embedded in broader antidiscrimination and human rights networks. Their professional and union socialisation leads

them to view health and disability as problems to be solved primarily through the antidiscrimination legal framework. In their discourse, they consider antidiscrimination law as a weapon with which to protect workers from the arbitrary power of employers. They also compare their activity in combating disability discrimination in the workplace with their parallel struggles to reduce the pay gap between men and women and to improve diversity in the workplace. However, in practice, they do not immediately turn to antidiscrimination law to compel employers to justify their actions, even when they believe that an employer's practice is discriminatory. Instead they try to solve the problem by reminding the employer of their duty to comply with labour legislation. For example, when an affiliate with a disability had been dismissed because she was less productive than her colleagues, the diversity officer started by asking the employer to justify his decision, and reminded him that labour legislation prohibited unfair dismissal. It was only when this negotiation did not succeed that the diversity officer made explicit reference to antidiscrimination law.

> *"We always use conventional legal weapons first, not the antidiscrimination law. Here [in one case], we first began by asking why she had been dismissed. But we were not satisfied with the motivation given by the employer, who gave us two or three lines saying, 'She doesn't manage her projects well.' I thought this argument was very light. So I pressed the point with a recorded letter, explaining that they had hired a worker with disabilities and now they had to justify that the dismissal was not due to her disability… But as they justified the dismissal by the unsatisfactory results she had obtained… I became pretty sure that we had a case of discrimination."(Diversity officer, CSC)*

Diversity officers consider the threat of discrimination litigation as a useful weapon for forcing employers to change their practices. Employers are usually afraid to go to the labour court, especially in cases of discrimination, because they lack legal expertise in this area of law, in comparison with trials related to labour rights legislation.

> *"Large companies feel comfortable with labour legislation. They know it; they practice labour law in court everyday. If they dismiss an employee for very serious misconduct, they usually have arguments. But discrimination cases are different. […] Usually, they're not legally equipped to handle discrimination cases. This is not their everyday routine." (Diversity officer, CSC)*

However, diversity officers are very cautious when they first talk about antidiscrimination law, because they consider that it can harm further negotiation with the employer. One diversity officer explains that she has to *"be cautious when she turns to the law"*. She prefers to negotiate with the employer and to focus on one specific conflict. She always avoids resorting

to antidiscrimination legal arguments at first, because she considers that *"it makes the conflict bigger than it is"*.

> *"We always begin with a dialogue with the employer. We don't mention the law at the beginning. We have lawyers working for us, but at the beginning, we start with a meeting with the employer, and we try to negotiate a solution. But we go to this kind of meeting without any legal arguments, especially relating to antidiscrimination law… We talk about the specific issue concerning one worker in one specific situation, not about workers' rights in general. Because it makes the conflict bigger than it is. We are not in a situation of legal confrontation at all." (Diversity officer, CGSLB)*

Their caution first reveals their fear of producing conflicts with employers in a context mostly dominated by collective bargaining at the workplace level. Diversity officers have to take into account other activities being conducted by union representatives and delegates in the workplace. They consider that they always have to weigh up the pros and the cons when they resort to the law, because it can harm further negotiation with employers. Since union activists perceive discrimination as one issue among many others, they have to anticipate the impact of a legal strategy.

> *"It is important to know that, in the workplace, there are discriminatory practices, but there are also many other issues! We never call an employer to talk with them about one worker who believes that they were discriminated against, because we don't know the organisational context. Instead I call the branch representative. I talk with them about the case; I ask them how things are going in the workplace and if there are any ongoing conflicts; I ask them if they believe that we can handle this particular case easily. I can't rush about like a bull in a china shop [laugh]. I look at the context, the workplace. I don't want to damage the everyday work done by my union colleagues. Sometimes, in the workplace, they say 'Wait a bit, because for now, we have others issues in the organisation. We'll discuss your issue, but later'." (Diversity Officer, CSC).*

Antidiscrimination law creates new duties for employers, who have to fulfil their obligation to provide equal opportunities for all workers in terms of career advancement, training, or income. However, collective agreements still focus on the integration of workers in the labour market without any consideration for their conditions of work. In this context, diversity officers consider that the complexity of regulations is not conducive to compliance. It is rather a resource for employers who then choose which one they would prefer to apply, usually opting for the one that is less restrictive for them as employers. They also feel frustrated because they are not able to force employers to change their practices with a view to promoting inclusion and full participation of workers with disabilities.

"We have collective agreements on this side, legislative protections on the other… […] But ultimately, in the field, we don't know how to work simultaneously with all these texts. For instance, when you see the [unions'] evaluation of Collective Agreement 104 forcing employers to keep workers in their jobs, it's clear: employers can easily bypass their legal obligation… because it still comes down to employers' goodwill to comply, or not to comply, with this collective agreement. So this agreement doesn't have any impact! In this context, when you come to negotiate about antidiscrimination, reasonable accommodation… it doesn't work when they don't have to keep workers in their jobs." (Diversity Manager, CGSLB).

For all these reasons, even when diversity officers consider a situation to be discriminatory, they do not immediately talk about discrimination when they meet with employers. In one recent case, however, a union legal officer collaborated with the legal officers of the Belgian Equality Agency to protect a nurse's rights. The nurse worked in a public hospital and was a union delegate. After she had a work accident, she started to negotiate with the human resources department to benefit from accommodations in carrying out her tasks, she but did not get any answer. She got in touch with the union representative who put her in contact with the interbranch diversity officer.

"She had asked her employer to make accommodations in her workplace: they were very small changes, not that much, it was very cheap but the employer dug their heels in. Our union representative started to negotiate. Our regional legal officers did as well. I did. Even at the national level, we have a legal staff, working with lawyers in private practice. They also started to negotiate. The employer refused any discussion. Currently, UNIA is working on this case. This is a very big problem: the bad faith of employers. They could have made accommodations in her workplace, or modified her tasks, but they refused. It wasn't complicated: she had to display products on shelves, and she couldn't stoop down to take products any more, nor place them high up, because she had vertigo. We only asked them to put the boxes she needed at eye level. But they refused. Stubborn! Obstinate! Especially from a hospital chief! This is a case we're still working on with UNIA. We want to discuss the strategy we'll pursue. We have to do something, but we don't want to make the situation worse." (Diversity officer, CGSLB)

The diversity officer started to negotiate with the employer. She explained to them their duty to make accommodations in the workplace for their employee. She mentioned antidiscrimination law in the negotiation, but did not threaten to bring the case to court. When the Equality Agency was contacted, legal officers intervened. They framed the dispute as discrimination based on disability, and asked the employer to comply with the law. They threatened to take the case before the court if the employer was not willing to negotiate. But this case is exceptional, and in the majority of situations, diversity officers are afraid to

mobilise antidiscrimination law because they perceive this instrument to be a threat for future negotiation in the workplace.

Conclusion

This paper has explored how trade union activists pursue disability rights and how this cause is situated in their struggle for workers' rights in Belgium. Three main results are important for further research on disability and on industrial relations.

First, as observed by disability studies that focus on sector-specific organisations, *trade unions, like NGOs, also use various strategies to support the rights of their affiliates with disabilities*. On the one hand, union representatives working at branch level put the emphasis on establishing 'good practice' among employers, as well as political activism aimed at increasing the financial resources available to sheltered workshops, since they consider that, in the current situation, access to the ordinary labour market for workers with disabilities is very limited. On the other hand, diversity officers use antidiscrimination law to remind employers about their duties to recruit workers with disabilities and to treat them equally with other workers, but they are more reluctant to turn to the legal system because they have to negotiate their strategies with union activists at branch and company levels.

Second, the reason for their reluctance to turn to the law can be found in industrial relations studies. *Trade union activists have always avoided using the legal system as a strategy to protect some specific groups of workers because they are afraid of producing inter-individual conflicts in a context mostly dominated by collective bargaining*. As for other minorities, union activists are reluctant to criticise, let alone sue, employers who do not comply with the law and who discriminate on grounds of disability. The analysis of trade unions in Belgium has shown that in a few cases, workers' organisations have used the legal system to sue an employer who discriminated against an employee because of their disability. However these cases are exceptions to the general trend in trade union activity, because union activists are afraid of producing inter-individual conflicts, between one worker and one employer, in a context mostly dominated by collective bargaining, and see the use of antidiscrimination law as a threat to further negotiation in the workplace.

Third, as observed within the disability rights movement, *trade unions support two contradictory conceptions of disability rights at the same time*. On the one hand, union representatives at branch level consider the right to inclusion to be a myth: even if they know

that discriminating against workers on grounds of disability is prohibited, they also know that employers in their branch frequently dismiss workers who are no longer able to perform their employment contract for medical reasons and that trade unions do not contest these practices. Union representatives expend energy instead on supporting and reinforcing a strong separated labour market, since their professional experience – as blue-collar employees, in most cases – has convinced them that disability can automatically be equated with the impossibility of working in the ordinary labour market. On the other hand, diversity officers at interbranch level aim to reinforce inclusion and participation in the ordinary labour market. As a result, although Belgian trade unions are the first organisations that workers turn to when they experience a conflict in the workplace, they have not yet succeeded in becoming organisations that fully support the rights of workers with disabilities. Until now, they have not been able to embrace one unified conception of disability rights, nor to become the voice of those workers who face barriers in accessing employment and remaining in work, and who are discriminated against based on their disability.

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