



2021



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Inclusive Recruitment

WorkingTogether



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Technical info

In order to ensure that the webinar runs smoothly:



Please remain muted throughout the whole meeting



If you would like to raise a question or share your view please raise a hand and wait until you are asked



REC

Please note that the webinar is recorded



Key Themes

Working Together as a year-run program

Already delivered

- ✓ Managing cultural diversity in the workplace (Feb-Mar)
- ✓ Inclusive recruitment (Mar-Apr)

Upcoming topics

- Inclusion and diversity as drivers supporting employee engagement and career development (May-Jun)
- Language ethics: communication and interpersonal relations (Sep-Oct)
- Inclusive Employer Branding (Nov-Dec)

Inclusion and diversity as drivers supporting employee engagement and career development

- Experts' personal experience and perspectives on evolving inequalities through their careers, where are we now, what progress can they observe
- Ways to reduce inequality in the workplace regarding development opportunities, chances of promotion and equal pay/salary
- Barriers to making more progress in equality in the workplace
- Companies' initiatives addressing increasing vulnerabilities for women in the workplace during the pandemic – BSS' perspective on women situation during pandemic, incl. equal parenting rights for woman & man
- Equality and a discrimination-free workplace best practices

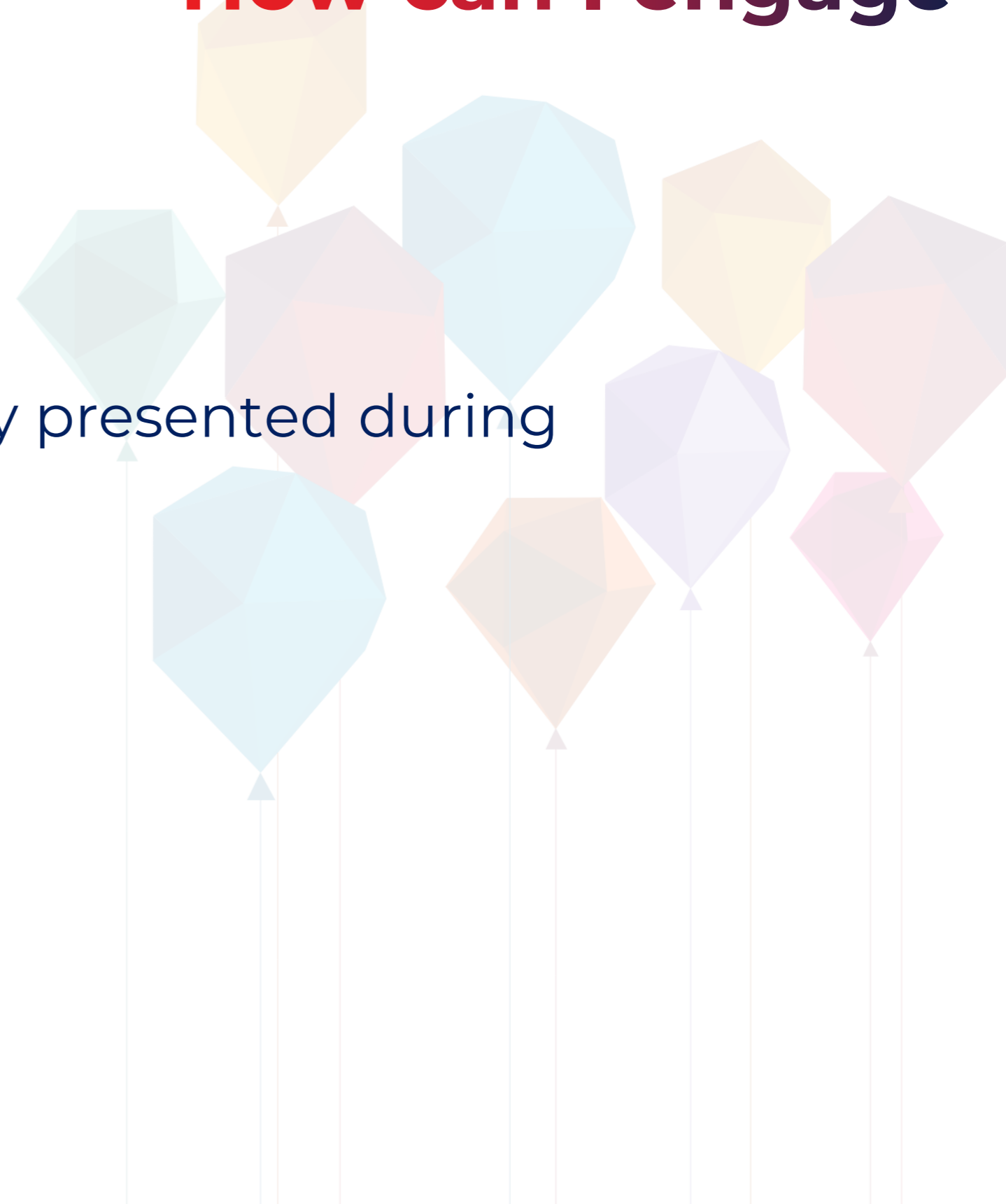




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How can I engage

- ✓ Your story, your case study may be presented during the next webinars
- ✓ Call for Papers
- ✓ White Paper



10:05 -10:30



Sarah Cheyne

Global Head Talent Experience, Inclusion and People Analytics

The Adecco Group

10:30 -10:50



Matthew Smith

Lead Resourcing Relationship Manager, West Region, Group Talent

Standard Chartered

10:50 -11:15



Anna Berger

Trainee Advocate, Labor Law Department

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Joanna Kalinowska

Advocate, Head of International Entities Department

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Rafał Wiatr

Attorney-at-law, Managing partner and Co-owner

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Sarah Cheyne

*Global Head Talent
Experience, Inclusion
and People Analytics*

The Adecco Group



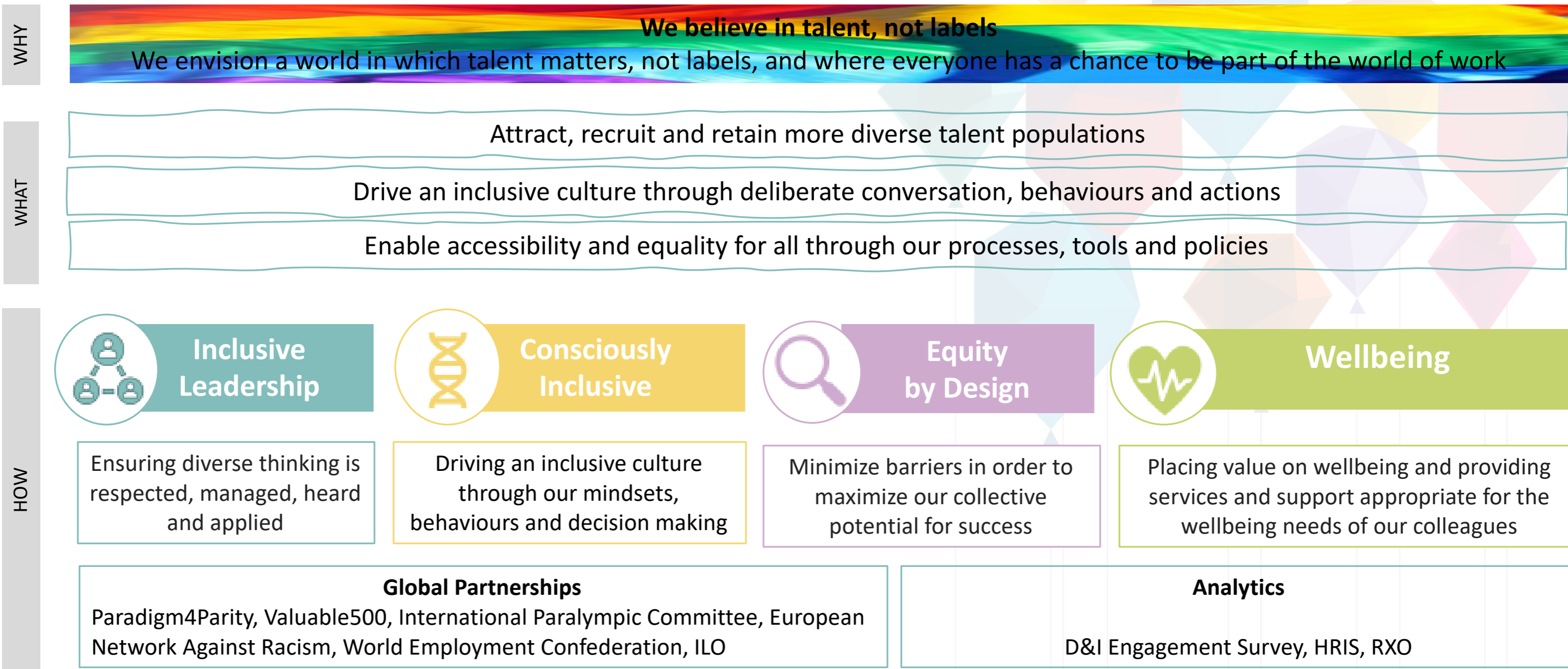
Importance of Inclusive Recruitment

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A bit about us ...

Our approach to D&I



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Inclusive Recruitment

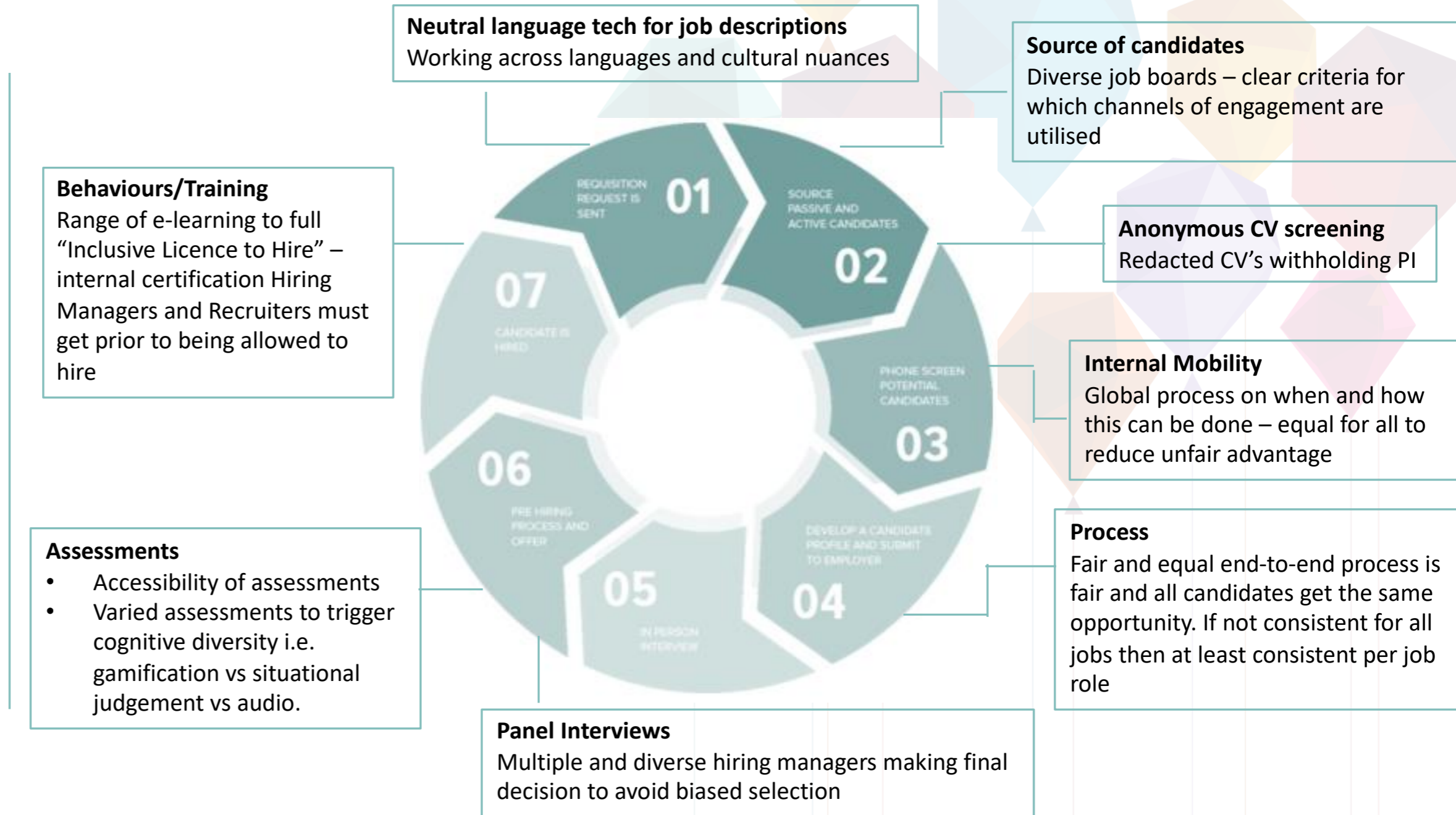
RXO - Pontoon

“Create a fully inclusive end-to-end careers experience for all candidates – through our 3rd D&I pillar Inclusive Led Design”

Addressed across the end-to-end spectrum of the candidate flow:

- Technology
- Process flow and steps
- Behaviours and dialogue and training

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Key Takeaways

- Prioritise an inclusive culture as much as a diverse workforce
- Consider all aspects of an inclusive hiring process (end-to-end)
- “Don’t waste a crisis” – opportunities opened up by Covid-19
- Significance (and challenge) of data





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Q&A





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Matthew Smith

*Lead Resourcing
Relationship Manager,
West Region, Group
Talent*

Standard Chartered





Risks & Traps

Recruit in one's own image

Quotas

Just like me

Halo effect

Anchoring bias

Inclusive Recruitment

Recency effect

Reverse discrimination

Lack of innovation

Not hiring the best candidates

Inclusive Recruitment

Tips & Hints

Define the role

Phone screen

Structured Interviews

Assessments

Panel Interviews –
including
interviewers outside
of team

Diverse Interview
panels

IV Questions
Guides

Diverse hiring
teams

Educational/Upskill
sessions

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Q&A



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*Trainee Advocate,
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*Attorney-at-law,
Managing partner and
Co-owner*

*Law company
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Inclusive Recruitment in Law

- ✓ Diversity & Inclusion as a trend which is not entirely reflected in the law
- ✓ Inclusion – there is no legal definition
- ✓ Inclusion – a definition to be reconstructed by legal cases, goals, internal policies
- ✓ A foundation for law changes
- ✓ A value to be followed by employers/leaders
- ✓ Creation of positive image of the company in the market

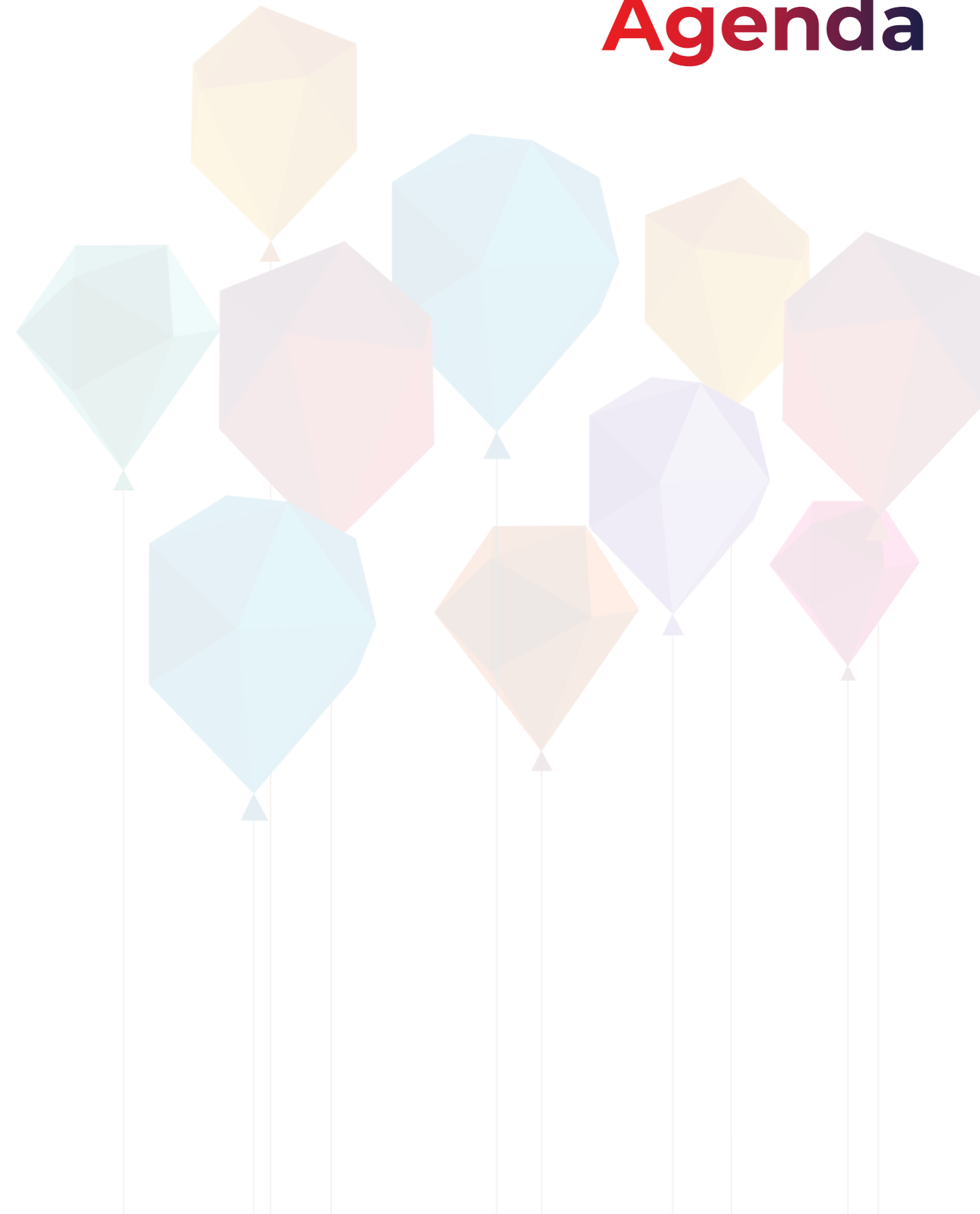




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- ✓ European Union law
- ✓ Polish law
- ✓ Tips for leaders/employers
- ✓ Positive discrimination
- ✓ Q&A

Agenda



✓ THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

Article 19 (ex Article 13 TEC)

*1. Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, **the Council**, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take **appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.***



✓ CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

Article 20 Equality before the law. Everyone is equal before the law.

Article 21 Non-discrimination.

*1. **Any discrimination** based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation **shall be prohibited.***

*2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, **any discrimination on grounds of nationality shall be prohibited.***



ANTI-DISCRIMINATION DIRECTIVES

- ✓ **76/207/EEC Council Directive of 9 Feb 1976** 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
- ✓ **Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex**
 - Article 4 Burden of proof**
 1. *Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.*
- ✓ **Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation**
 - Article 1 Purpose*

The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment.
- ✓ **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)**
- ✓ **Directive 2000/43/EC – implementing equal treatment irrespective of racial or ethnic origin**
 - Direct discrimination**
 - Indirect discrimination**



EUROPEAN UNION LAW

Burden of proof

The burden of proof determines which party is responsible for putting forth evidence in order to prevail on their claim.

The general rule is that the burden of proof lies with the party who makes the allegation. It means that anyone who wants a court to agree with a fact and draw the consequences, needs to prove this fact.

The COUNCIL DIRECTIVE 97/ 80/ EC REVERSED THE BURDEN OF PROOF in discrimination cases, requiring the employer to prove that a particular practice is not discriminatory.

It brings responsibilities for employers - creating internal procedures, gathering recruitment documentation - to ensure that the company is prepared in case a legal dispute occurs and there will be a necessity to provide evidences that practices were not discriminatory.



- ✓ **Supreme Court:** *Discrimination is inevitably linked to the violation of human dignity, respect for which is not only a legal imperative (Article 30 of the Polish Constitution; Article 113 of the Labour Code), but also a moral one.*
- ✓ **Polish Constitution - Article 32 - Equality and non-discrimination**
All are equal before the law. All are entitled to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life on any ground.
- ✓ **Labour Code**
- ✓ **Article 11 ind. 3 Prohibition of discrimination**
Any discrimination** in employment, direct or indirect, in particular on the grounds of sex, age, disability, race, religion, nationality, political opinion, union membership, ethnic origin, religion, sexual orientation, employment for a definite or indefinite period of time, full-time or part-time employment - **shall be unacceptable.





✓ **Labour Code**

Article 11 ind. 2 Principle of equal treatment of employees

*Employees shall have **equal rights** by virtue of **equal performance of the same duties**; this shall apply in particular to **equal treatment of men and women in employment**.*

Chapter IIa - Equal treatment in employment

Labour Code

Article 18 ind.3a. Prohibition of discrimination - definitions

§ 1. Employees should be treated equally in relation to establishing and terminating an employment relationship, employment conditions, promotion conditions, as well as access to training in order to improve professional qualifications, in particular regardless of sex, age, disability, race, religion, nationality, political beliefs, trade union membership, ethnic origin, creed, sexual orientation, as well as regardless of employment for a definite or indefinite period of time or full-time or part-time employment.

§ 2. Equal treatment in employment means not discriminating in any way, directly or indirectly, on the grounds specified in § 1.

Direct and indirect discrimination

Sexual harassment



Labour Code

Article 18 ind.3b. Catalog of infringements of the principle of equal treatment

§ 1 The violation of the principle of equal treatment in employment, subject to §§ 2–4, means an employer treating an employee differently on one or more grounds referred to in Article 18 ind.3a§1 with the effect of, in particular:

- 1) terminating or rejecting the establishment of an employment relationship,*
- 2) establishing disadvantageous conditions of remuneration for work or other employment, or the employee's not being selected for promotion or not being granted other work-related benefits,*
- 3) the employee's not being chosen to participate in training organised to improve professional qualifications,*

UNLESS THE EMPLOYER PROVES THAT IT WAS BASED ON OBJECTIVE REASONS.

§ 2. The principle of equal treatment in employment is not violated by conduct aimed at legitimately differentiating the situation of an employee that includes:

- 1) not employing an employee on one or more grounds referred to in Article 18^{3a} §1 where the type of work or the conditions of its performance mean that the characteristic or the characteristics referred to in that provision constitute a genuine and determining occupational requirement for the employee*



Labour Code

Article 18 ind.3d

*§ 1 Consequences of violation of the principle of equal treatment in employment.
A person against whom an employer has violated the principle of equal treatment in employment has **the right to compensation of at least the amount of the minimum remuneration for work, determined in separate provisions.***



Labour Code

Art. 22 ind.1 Employee's personal information

Catalog of personal data which may be requested by an employer from an employee - also applies to recruitment

The legal norm contained in Article 22 ind. 1 of the Labour Code allows to divide all circumstances concerning the life of an employee and a candidate for an employee into four spheres: personal identification, work, personal secret and private secret.

Article 22 ind. 1 of the Labour Code limits the employer's right to ask questions concerning two spheres of the candidate's life - the sphere of personal identification (but without the need to give the PESEL number) and the sphere of work, leaving the questions belonging to the private sphere and the sphere of personal secrecy outside the candidate's obligation to disclose them except when a special provision allows it.

Labour Code allows to gather additional personal data upon the consent of the candidate.





POLISH LAW

- ✓ **Labour Code**
- ✓ prohibition of discrimination
- ✓ order for equal treatment
- ✓ data which may be requested by an employer
- ✓ duty to prevent discrimination but without specific solutions
- ✓ **Burden of proof – lies with an employer as in the European Union law regulations**
- ✓ **The right to claim damages for breach of law**
- ✓ **Regulations as a basis for development in internal regulations**





- ✓ **RECRUITMENT**
- ✓ Job advertisement without wording suggesting any discriminatory preference
- ✓ Selection of candidates for an interview based on objective criteria (Amazon case)
- ✓ Interview - questions which cannot be asked, topics not to be discussed
- ✓ Interview - only data allowed by the law
- ✓ Interview - clear rules of the recruitment, transparent policy of hiring, providing feedback
- ✓ Gathering and archiving the whole documentary regarding recruitment including assessment of the candidate
- ✓ **Internal procedures, trainings, best practices, anti-discriminatory contacts**

- ✓ **WORKPLACE**
- ✓ Highlighting the company values including diversity and inclusion
- ✓ Transparent promotion policy
- ✓ Transparency on assessment and duties split
- ✓ Indirect discrimination
- ✓ Internal policies - in line with the law
- ✓ 'Le placard' ('Rumour') - French movie on risk of abuse by employees

POSITIVE DISCRIMINATION

- ✓ The only "but" in the anti-discrimination field

In the case of an appointment (including establishment as a civil servant or judge) which is not made for training purposes, women who have the same qualifications as men applying for the same post are to be given priority in sectors where they are under-represented.

In the case of an assignment to a position in a higher pay, remuneration and salary bracket, women who have the same qualifications as men applying for the same post are to be given priority if they are under-represented. This also applies in the case of assignment to a different official post and promotion.

There is under-representation if women do not make up at least half of the staff in the individual pay, remuneration and salary brackets in the relevant personnel group within a department. This also applies to the function levels provided for in the organization chart.

E. Kalanke vs. Freie Hansestadt Bremen (C-450/93)





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Q&A





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Thank You !