

**Study on Equality Bodies set up under Directives 2000/43/EC, 2004/113/EC and  
2006/54/EC**

**SYNTHESIS REPORT**

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## TABLE OF CONTENTS

<b>FOREWORD</b> .....	<b>7</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>8</b>
<b>ZUSAMMENFASSUNG</b> .....	<b>18</b>
<b>SOMMAIRE EXÉCUTIF</b> .....	<b>30</b>
<b>INTRODUCTION</b> .....	<b>43</b>
0.1 DIVERSITY OF EQUALITY BODIES RESEARCHED.....	43
0.2 FUNCTIONS OF EQUALITY BODIES .....	43
0.3 CLASSIFICATION OF EQUALITY BODIES.....	43
0.4 POTENTIAL OF EQUALITY BODIES .....	45
0.5 POTENTIAL AT THREE LEVELS.....	45
0.6 EXTENDING THE SCOPE OF PROTECTION OF FORMER GENDER BODIES AND CREATING INTEGRATED ANTI-DISCRIMINATION BODIES: POTENTIAL AND CHALLENGES.....	46
<b>1 UN, COUNCIL OF EUROPE, EU AND NATIONAL STANDARDS</b> .....	<b>49</b>
1.1 CURRENT CONTEXT OF EQUALITY BODIES IN THE EUROPEAN UNION.....	49
1.1.1 EFTA countries which are members of the EEA .....	53
1.2 INTERNATIONAL STANDARDS FOR EQUALITY BODIES.....	53
1.2.1 Standards relating to national human rights institutions: Paris Principles .....	54
1.2.2 UN Convention on the Rights of Persons with Disabilities (CRPD) ...	56
1.2.3 ECRI General Recommendations.....	57
1.3 OVERVIEW OF EQUALITY BODIES IN THE MEMBER STATES OF THE EU AND EFTA COUNTRIES .....	59
1.3.1 Legal basis.....	59
1.3.2 Grounds .....	59
1.3.3 Mandate: multi-ground vs. single ground-agenda.....	62
<b>2 THE EQUALITY BODIES – A QUANTITATIVE AND QUALITATIVE PICTURE..</b> <b>64</b>	
2.1 EQUALITY BODIES IN THE SURVEY – A BASIC OVERVIEW.....	64
2.2 GROUNDS.....	66
2.2.1 Multiple and intersectional discrimination.....	67
2.3 FUNCTIONS AND POWERS .....	70
2.4 STRUCTURES AND RESOURCES .....	71
2.4.1 Structure .....	71
2.4.2 Resources – financial .....	77
2.4.3 Resources – personnel .....	78
2.5 ACTIVITIES .....	79
2.5.1 Enforcing legislation.....	80
2.5.2 Increasing knowledge of equality and discrimination.....	99
2.5.3 Raising awareness of rights under equal treatment legislation, of the equality body and of issues of inequality and discrimination.....	101
2.5.4 Promoting equality .....	103
2.6 INDEPENDENCE .....	105
2.6.1 Independence – financial .....	107
2.6.2 Independence – personnel management .....	108
2.6.3 Independence – allocation of personnel and finance across grounds .....	110

2.6.4	Independence – powers .....	112
2.6.5	Independence – allocation of personnel and financial resources across powers .....	113
2.6.6	Independence – the effects of governance structure and legal status .....	113
2.6.7	Independence – predominantly tribunal-type bodies and predominantly promotion-type bodies compared .....	117
2.6.8	Independence – influence of stakeholders: governance structure, legal status, and type of bodies .....	118
<b>3</b>	<b>COMPLIANCE, IMPACT AND EFFECTIVENESS OF THE EQUALITY BODIES</b>	<b>120</b>
3.1	COMPLIANCE.....	120
3.1.1	A high level of compliance.....	120
3.1.2	Compliance issues – institutional architecture.....	121
3.1.3	Compliance issues – tribunal-type equality bodies.....	123
3.1.4	Compliance issues - resources .....	123
3.1.5	Compliance issues – regression in protection.....	124
3.1.6	Compliance – a context of change.....	125
3.2	IMPACT.....	126
3.2.1	Potential.....	126
3.2.2	Individual impact.....	128
3.2.3	Organisational impact .....	130
3.2.4	Policy impact.....	133
3.2.5	Stakeholder impact.....	134
3.2.6	Impact on public attitudes .....	134
3.2.7	Measuring impact.....	136
3.3	EFFECTIVENESS.....	137
3.3.1	Introduction .....	137
3.3.2	Foundations .....	138
3.3.3	Strategic mix .....	139
3.3.4	Adequate outputs .....	140
3.3.5	Quality outputs.....	143
<b>4</b>	<b>GOOD PRACTICE IMPLEMENTED BY EQUALITY BODIES.....</b>	<b>146</b>
4.1	STRUCTURE AND ORGANISATION – GOOD PRACTICE.....	147
4.1.1	Independence – formal and <i>de facto</i> .....	147
4.1.2	Networking with stakeholders at Member State and European Union levels .....	148
4.1.3	Securing stakeholder involvement in decision-making and in developing initiatives.....	150
4.2	ENFORCING LEGISLATION – GOOD PRACTICE.....	151
4.2.1	Effectiveness, proportionality and dissuasiveness of sanctions imposed by tribunal bodies .....	153
4.2.2	Securing alternative means of redress for victims of discrimination .....	154
4.2.3	Promoting legal certainty .....	155
4.3	KNOWLEDGE DEVELOPMENT – GOOD PRACTICE .....	158
4.3.1	Developing new data on discrimination and equality .....	158

4.3.2	Conducting innovative research and ensuring the impact of this work .....	158
4.4	BUILDING AWARENESS – GOOD PRACTICE.....	160
4.4.1	Implementing communication strategies .....	160
4.4.2	Securing a media profile for work outputs .....	160
4.4.3	Building awareness of the equality body and of equality legislation .....	161
4.5	PROMOTION – GOOD PRACTICE.....	163
4.5.1	Achieving policy change.....	163
4.5.2	Achieving change in the practice of organisations in employment and service provision .....	164
<b>5</b>	<b>SUPPORTING GOOD PRACTICE BY EQUALITY BODIES .....</b>	<b>170</b>
5.1	INTRODUCTION.....	170
5.2	EUROPEAN COMMISSION INITIATIVES THAT HAVE BEEN USED TO SUPPORT GOOD PRACTICE BY EQUALITY BODIES .....	171
5.3	INITIATIVES TAKEN BY MEMBER STATE AUTHORITIES TO SUPPORT GOOD PRACTICE BY EQUALITY BODIES .....	172
5.4	ROLES PLAYED BY THE SOCIAL PARTNERS IN SUPPORTING GOOD PRACTICE BY EQUALITY BODIES .....	174
5.5	ROLES PLAYED BY CIVIL SOCIETY IN SUPPORTING GOOD PRACTICE BY EQUALITY BODIES .....	174
5.6	ROLES PLAYED BY OTHER STAKEHOLDERS IDENTIFIED DURING THE STUDY .....	176
<b>6</b>	<b>CONCLUSIONS AND RECOMMENDATIONS .....</b>	<b>177</b>
6.1	THE POTENTIAL OF THE EQUALITY BODIES .....	177
6.1.1	Improving the situation of individuals who experience discrimination .....	178
6.1.2	Enabling change in policies, procedures and practices of organisation .....	178
6.1.3	Improving quality of policy and legislation .....	178
6.1.4	Improving stakeholder action .....	178
6.1.5	Improving public attitudes.....	179
6.2	PARAMETERS FOR REALISING THE POTENTIAL OF EQUALITY BODIES.....	179
6.2.1	How equality bodies do their business.....	179
6.2.2	Conditions created for equality bodies to do business.....	181
6.3	METHODOLOGY FOR MONITORING AND UPDATING INFORMATION ON EQUALITY BODIES .....	183
6.4	RECOMMENDATIONS TO EQUALITY BODIES ON ACTIONS TO IMPROVE THEIR EFFECTIVENESS .....	184
6.5	RECOMMENDATIONS AT MEMBER STATE AND EUROPEAN UNION LEVEL FOR ACTION TO SUPPORT EQUALITY BODIES TO REALISE THEIR POTENTIAL.....	186
6.5.1	European Union level.....	186
6.5.2	Country level .....	187
	<b>ANNEXES .....</b>	<b>189</b>
	<b>ANNEX 1 - TABLES ILLUSTRATING INDEPENDENCE PART .....</b>	<b>189</b>
	<b>ANNEX 2 – STUDY METHODOLOGY.....</b>	<b>196</b>
	<b>ANNEX 3 – SURVEY QUESTIONNAIRE.....</b>	<b>198</b>

**LIST OF TABLES**

Table 2.1: Classification of equality bodies into predominantly tribunal-type and promotion-type bodies .....	44
Table 3.1: Grounds covered by equality bodies.....	60
Table 3.2: Additional grounds not covered by EU Equal Treatment Directives .....	61
Table 3.3: Equality bodies with single-ground agendas .....	62
Table 3.5: Promotion-type and tribunal-type bodies by country .....	63
Table 4.1: Overview of equality bodies in the survey by country. Equality bodies in brackets: no questionnaire obtained.....	65
Table 4.2: Appointment of chairperson and board members for bodies governed by a collegiate body.....	72
Table 4.3: Categories of representatives with voting rights on collegiate boards .....	74
Table 4.4: Criteria used to hold heads of single-headed equality bodies accountable .....	76
Table 4.5: Possible means of law enforcement by promotion-type bodies .....	83
Table 4.6: Possible means of law enforcement by tribunal-type bodies .....	88
Table 4.7: Decisions by tribunal-type bodies and possible means of enforcement ..	91
Table 4.8: Pro-activity of equality bodies by taking cases to court.....	98
Table 4.9: Financial independence of equality bodies (absolute numbers).....	107
Table 4.10: Independence of equality bodies in personnel management (absolute numbers).....	109
Table 4.11: Independence to allocate personnel and financial resources over multiple grounds. Equality bodies competent for more than one ground (absolute numbers).....	111
Table 4.12: Equality bodies' independence to make decisions regarding implementation of their powers (absolute numbers).....	112
Table 4.13: Independence in allocating personnel and financial resources between the tasks of assisting individuals, hearing or investigating cases, and publishing reports and making recommendations (absolute numbers).....	113
Table A.1.1. Comparison of means for level of financial management independence, comparing different governance structures and legal status of equality bodies. ....	190
Table A.1.2. Comparison of means for level of independence in personnel management, comparing different governance structures and legal statuses of equality bodies .....	191
Table A.1.3. Comparison of means for levels of policy independence, comparing different governance structures and legal statuses of equality bodies ..	191
Table A.1.4. Comparison of means for level of independence in personnel management, comparing predominantly promotion-type and predominantly tribunal-type bodies.....	192
Table A.1.5. Comparison of means for level of policy-making independence and the allocation of resources across tasks and grounds .....	193
Table A.1.6. Equality bodies' perceptions of influence of stakeholders on their strategic decision-making processes: differences between bodies with different governance structures and legal statuses.....	194

## FOREWORD



For several years national Equality Bodies have provided tremendous help to victims of discrimination. These Equality Bodies were established pursuant to two EU directives protecting gender equality and prohibiting discrimination on grounds of race or ethnicity.

This report examines the current situation of the Equality Bodies and the factors enabling them to perform their functions, as well as the way they offer assistance to victims. It describes the funding and working of the Equality Bodies, the way they give advice or settle conflicts, their publications and surveys, the staffing as well as their statutory situation. The report is an inspiring read because it lists so many different ways to make these bodies an instrument that works well and gives so many convincing examples of good practices.

Member States play a crucial role in the fight against discrimination. I was glad to read that in many cases Member States have provided national Equality Bodies with more than just the minimum powers required under EU law.

I am convinced that Equality Bodies are of the utmost importance to raise awareness, give advice to citizens and support them in the fight against discrimination.

I am convinced that together we can achieve a fairer society which not only tolerates diversity but makes the best of it.

Viviane Reding

## EXECUTIVE SUMMARY

1. This report is based on pre-structured country fiches assessing the national bodies established to promote equality and combat discrimination prepared in all 27 European Union (EU) Member States and in the three EFTA countries. The 48 equality bodies identified in 29 countries are diverse in their history, structure, functions, scale and grounds covered. This is due among other circumstances to the broadly defined requirements of the EU Equal Treatment Directives. This report examines the factors that enable equality bodies to perform their main functions at three different levels: a) factors internal to the operations of the equality bodies and under its control; b) factors relating to the conditions created for the equality body to implement its mandate and outside its control (national level); c) factors external to the jurisdiction within which the equality body operates but that influence its ability to realise its potential (European level).
2. The EU Directives provide minimum requirements for the institutional arrangements of equality bodies, allowing their structures, competences and powers to be adapted to the national context. In general, a distinction can be made between bodies predominantly concerned with generating findings on discrimination (**'tribunal-type bodies'**) and those primarily providing legal advice and support to victims of discrimination (**'promotion-type bodies'**) and supporting good practice by employers and service providers.
3. More than half of the equality bodies are governed by a single head, the remaining ones by a board or a commission. Among the equality bodies that are governed by a board or commission there is great variety in the manner of appointment of members to the board as well as of chairpersons. The majority are appointed by the government and/or a minister. In the light of the supposed independence of equality bodies from government, the number of bodies with a board that includes government representatives and the relative share of central government representation is an important indicator.
4. Transfers from the central government budget are the sole source of income for the majority of equality bodies. Almost all bodies report insufficient financial resources to carry out the organisation's main tasks. Equality bodies show a large variation in the number of staff members. Women constitute a large share of their total number of staff. Staff members working at higher levels of the organisation primarily have a legal background, followed by a political science and/or public administration background. As is the case with financial resources, the country fiches report inadequate numbers of staff to fulfil the equality bodies' broad mandates.



## Activities

5. The EU Equal Treatment Directives specify three areas of competence for equality bodies in the national context: providing independent assistance to victims of discrimination in pursuing their complaints of discrimination, conducting independent surveys concerning discrimination and publishing independent reports and making recommendations on any issue relating to such discrimination. These provisions are rather broad and leave much discretion to the Member States.
6. Resources seem to be mainly allocated to enforcing legislation by providing assistance or by investigating and hearing cases of discrimination. Conducting independent surveys, publishing independent reports and making recommendations seem to form a smaller part of the everyday work of equality bodies. Equality bodies should be equipped with sufficient resources to be able to conduct their operations in a manner that is independent, effective and involves a strategic mix of actions across all their powers/functions. This includes monetary resources as well as the ability to employ experienced staff and be active in all areas included in their mandate.
7. The assistance offered to victims of discrimination in pursuing their complaints of discrimination by predominantly promotion-type bodies broadly falls within three categories, which are not mutually exclusive:
  - Achieving (informal) settlements,
  - Taking cases to a specialised equality tribunal,
  - Taking cases to court.
8. The services provided by predominantly tribunal-type bodies can be described within the following four categories:
  - Establishment of (informal) settlements,
  - Conducting investigations and hearing cases,
  - Issuing non-binding recommendations,
  - Issuing binding decisions.
9. Diverse methods of data collection and differing mandates regarding grounds and areas do not allow for a comparative assessment of data on complaints and success rates. However, under-reporting of cases of discrimination, especially in the areas of sexual orientation and religion, is quite evident. Challenging under-reporting requires awareness-raising activities and the development of an overall communication strategy to target vulnerable groups that are currently not aware of relevant legislation and services offered.

10. Follow-up procedures are especially relevant for tribunal-type bodies as they issue non-binding recommendations or binding decisions suggesting measures to change discriminatory policies and practices. These follow-up procedures are vital in enforcing anti-discrimination legislation and preventing future discrimination. Very few equality bodies seem to allocate resources to follow-up activities as there are no legal obligations in place.
11. According to the Equal Treatment Directives sanctions should be effective, proportionate and dissuasive. Some equality bodies are competent to levy fines when respondents do not provide them with information and documents requested and/or do not comply with the recommendations or decisions issued. Very few promotion-type bodies are mandated to impose fines. Hardly any equality bodies have the power to award compensation payments. Overall the issue of fines and compensation seems not to rank high on the agenda of equality bodies, which primarily aim at soft solutions resulting in settlements between the parties.
12. Effective enforcement of legislation requires pro-active equality bodies initiating investigations on their own when they suspect structural discrimination or violations of equality or anti-discrimination legislation, as measures suggested in reaction to complaints filed with the bodies might not cover all significant violations of and gaps in the implementation of the relevant legislation. Another aspect of effective enforcement of legislation is the competence of equality bodies to take cases to court on their own initiative, to act in an *amicus curiae* capacity or to launch *actio popularis* claims. There are only a few equality bodies that can engage in such activities and they very seldom make use of these powers.
13. For the purpose of increasing knowledge of equality and discrimination most countries have at least one equality body whose mandate explicitly includes conducting surveys, publishing reports and making recommendations on issues relating to discrimination. Promotion-type bodies seem to be more active in doing surveys and research; they focus on a broad range of issues relating to the overall phenomenon of discrimination within their respective societies. Tribunal-type bodies appear to concentrate on issues more closely related to their case work.
14. Awareness-raising is not explicitly mentioned in the EU Equal Treatment Directives but can be seen as an essential element in the promotion of equal treatment. Legal provisions in five countries explicitly make equality bodies responsible for awareness-raising, which, however, does not necessarily result in a high level of awareness-raising activities in all these countries. According to the Equal Treatment Directives the equality bodies are agencies for the promotion of equal treatment of all persons.

Promotional work conducted by equality bodies falls within three broad categories: activities empowering stakeholders to support equality policies and practices, supporting employers and service providers to implement good equality practice and measures empowering vulnerable groups.

15. In order to fully realise their potential in promoting equal treatment for all, equality bodies should develop a vision of their role within the administrative culture and society. Based on this vision they can prepare and implement a multi-annual strategic plan. Such a plan should enable them to undertake a strategic mix of activities aiming at enforcing equal treatment legislation, raising awareness of rights and obligations, building a knowledge base of discrimination and inequality, and promoting and supporting good practice by employers and service providers.

## Independence

16. Independence is considered a key pre-requisite for the effectiveness and impact of equality bodies. Without *de jure* independence, *de facto* independence in carrying out tasks is a lot harder to achieve and keep. Parameters for *de facto* independence include strong leadership, stakeholder involvement, plurality within the body's board and staff and a commitment to and interest in being independent. A high level of *de facto* independence has shown to be an important basis for effectively carrying out the tasks assigned and for further realising the potential of equality bodies.
17. Bodies with a higher formal degree of independence enjoy a higher degree of independence as regards personnel management and the use of powers compared to bodies governed by a single head and which lack their own legal personality. Compared to the 2008 Equinet independence survey the overall level of independence in personnel management has risen, whereas independence in financial management has declined. As regards equality bodies' policy-making independence in matters pertaining to their core tasks and allocation of resources between different grounds and tasks, a very high level of reported independence can be identified. But equality bodies with higher levels of *de jure* independence, i.e. bodies governed by a collegiate board and bodies with their own legal personality, report higher levels of independence on virtually every item than bodies with low degrees of *de jure* independence (i.e. bodies governed by a single head and bodies with no separate legal personality).
18. Predominantly tribunal-type bodies enjoy more independence in personnel management than predominantly promotion-type bodies. This is understandable in the light of the fact that tribunals employ staff with judiciary skills and lawyers. However, promotion-type bodies reported higher levels of independence in financial management than tribunals, particularly regarding reallocating the budget between personnel and running costs.

## Compliance, impact and effectiveness of the equality bodies

19. The country fiches produced for this synthesis report find a high level of formal compliance with the requirements specified in the Directives (independent assistance to victims, conducting independent surveys, publishing independent reports and making recommendations). A significant number of Member States have also gone beyond the minimum requirements by having equality bodies cover grounds additional to gender and racial or ethnic origin and by endowing them with powers and functions going beyond those required. Failures of compliance arise in relation to the absence of a body, the scope of the body designated and the functions accorded to the body.
20. There is a gap between legislation and its practical implementation in a number of countries. Most frequently this issue is raised in relation to resources and the inability to exercise powers due to lack of resources. Equality bodies in most countries cite lack of resources as an issue. However, there are particular and extreme examples where this results in a significant gap between what is legally stipulated and what is implemented. The issue of resources can be particularly damaging for the work of tribunal-type bodies as it can lead to a backlog of cases with significant delays in cases being heard. Any assessment of compliance in relation to equality bodies needs to acknowledge the dynamic context within which they operate. A lot of equality bodies are very new, some have had their mandates extended very recently, and many face imminent significant change.
21. Equality bodies emerge from the country fiches as necessary and valuable institutions for social change. They demonstrate potential, at a basic level, to stimulate and support the implementation of equal treatment legislation and to advance the objectives of this legislation. In doing so, they reveal a higher level potential to unlock the powerful business, economic and societal benefits that arise from greater equality and diversity.
22. Equality bodies must impact the following areas in order to influence the scale and nature of discrimination, under-reporting and equality in society: victims of discrimination to facilitate change in their situation and experiences; organisations which provide employment and/or goods and services so that they become more effective in complying with and going beyond relevant legislation; government policy and legislation; stakeholder action by mobilising a wider framework for action to maximise scarce resources; on public attitudes; and by becoming essential institutions for social change.
23. The effectiveness of equality bodies is founded on compliance with the EU Equal Treatment Directives in the functions that are allocated to the bodies.

An equality body has to have at least these three functions – providing independent assistance to victims, conducting independent surveys, and publishing independent reports and making recommendations – in order to be effective. It has to be structured, led and resourced in a manner that ensures it can implement all three functions independently. The equality body has to be able to actually implement its functions if it is to be effective. It must have sufficient financial resources, adequate staff numbers, and the staff competencies needed to produce outputs from all of its functions.

24. As regards ability to make an impact, three key indicators for effectiveness emerge from the country fiches: performance of functions, production of outputs in relation to each function and production of these outputs to a standard and quality that achieves impact.

### **Good practice implemented by equality bodies**

25. Several equality bodies have been very pro-active in elaborating and implementing strategies to make the best out of their structural and organisational limitations, their mandate, resources, knowledge and expertise, support provided, etc. in order to enhance protection against discrimination and promote equality effectively. A wide range of examples of good practice were identified that could help to enhance efficiency and impact of equality bodies if transferred to other national contexts.
26. Equality bodies have enhanced their level of *de facto* independence by guaranteeing strong leadership of their organisations and by ensuring an external appearance of independence by means of creating their own communication strategy. They have enhanced their factual power (and overcome a lack of resources) by establishing strong ties to civil society organisations and other stakeholders through institutionalised networking and stakeholder involvement in decision-making and development of initiatives.
27. Equality bodies have developed several strategies to enhance accessibility to their services by limiting factual barriers and regionalising their services. In terms of ensuring that their mostly non-binding decisions are complied with, a few equality bodies have introduced follow-up procedures to monitor the implementation of opinions and recommendations.
28. Equality bodies have been very active in contributing to the development of knowledge on discrimination and they have developed and implemented various strategies in order to raise awareness of discrimination, rights and obligations and ways of enforcing victims' rights.
29. Equality bodies have been active in promoting issues of non-discrimination and equality. They are involved in legislation and policy development in order to achieve policy change.

Moreover they have developed various tools to achieve change in the practices of organisations as employers and service providers.

### **Supporting good practice by equality bodies**

30. Strategic networking with relevant stakeholders is of great importance to exchange experiences, raise awareness of the work of equality bodies, strategically place recommendations for improving practices and legislation and maximise resources.
31. Quite a few equality bodies do not only depend on transfers from the central government budget but also on projects financed by the EU. A broad range of external support is essential for equality bodies to effectively fulfil their mandates.
  - National authorities play the central role of providing equality bodies with the core funding they require to implement their functions under the equal treatment legislation.
  - Trade unions provide important support to equality bodies. This support can involve cooperation in promoting workplace practices for equality and non-discrimination and in providing support to victims of discrimination to pursue cases.
  - Non-governmental organisations have emerged as important voices advocating compliance with the Equal Treatment Directives and opposing any regression in protection against discrimination. They play a range of roles that can support the work of equality bodies.
  - Equinet, the network of equality bodies, provides a valuable opportunity for peer support between equality bodies and is further identified as an important source of support in times of difficulty for equality bodies.

### **Conclusions**

32. Equality bodies are high potential actors in terms of combating discrimination and promoting equal opportunities. Effective implementation of the tasks required by the Equal Treatment Directives would alone give them high potential in terms of social change. Equality bodies could go even further in terms of rights enforcement as well as of policy change in areas such as:
  - improving the situation of individuals who experience discrimination by assisting them to enforce their rights (promotion-type bodies) and by deciding cases of discrimination (tribunal-type bodies) and as such also providing greater legal certainty and reducing structural discrimination;

- enabling change in policies, procedures and practices of organisations by providing guidance, advice and support for good practice (promotion-type bodies) and requiring change through orders, recommendations or advisory opinions (tribunal-type bodies) and thus making organisations more effective in preventing discrimination, adjusting for diversity and promoting equality;
  - improving the quality of policy and legislation by providing their expertise and knowledge based on survey work (promotion-type bodies) and their interpretation of equal treatment legislation in their (advisory) opinions (tribunal-type bodies);
  - improving stakeholder action by stimulating and guiding activities of NGOs, trade unions, business networks, national/local authorities and other stakeholders;
  - improving the public's attitude by contributing to building a culture of compliance with equal treatment legislation among employers and service providers, a culture of rights among groups experiencing discrimination and inequality, and a societal culture that values equality.
33. In order to realise their potential, equality bodies have to be provided with the necessary formal and practical framework by governments of the Member States. The European Union and/or the international context may also have a favourable or unfavourable impact. Moreover equality bodies themselves will have to examine the question of whether their structures and activities could be optimised to capitalise on their potential.
34. In terms of the internal parameters that are beneficial for equality bodies to realise their potential, we have identified the following as key:
- ensuring *de facto* independence;
  - ensuring strong leadership and good management;
  - developing a vision and elaborating and implementing an overall multi-annual strategic plan;
  - introducing a strategic mix of actions across their different powers/functions in order to achieve outputs in all areas of competences;
  - pro-actively seeking to ensure compliance with legislation and developing standards for equality (including strategic litigation);
  - networking with relevant stakeholders in order to profit from expertise and ensure accessibility;
  - elaborating and implementing a communication strategy for presenting the equality body to the public and creating a media profile.
35. Conditions that should be created and ensured for equality bodies to do their business at national level would include:

- provision of sufficient resources;
- guarantee of formal *de jure* independence;
- establishment of separate bodies responsible for promotional and tribunal-type tasks;
- assignment of a mandate extensive enough to enable realisation of their potential;
- creation of a political environment favourable and supportive to issues of non-discrimination and equality.

36. Achievement of equality bodies' potential can also be supported externally by

- providing EU funding,
- EU legislation,
- international standards.

### Recommendations

37. Equality bodies themselves have a wide range of options to ensure maximisation of their potential and improvement of their effectiveness. Our recommendations based on the research findings include:

- Equality bodies should develop and implement multi-annual strategic plans.
- Equality bodies should collect data on discrimination (monitoring) and measure the impact of their work on the basis of indicators and targets set out in their strategic plans (evaluation).
- Equality bodies should ensure that they deploy all of their different powers.
- Equality bodies should pro-actively seek to solve legal uncertainties and remove structural discrimination.
- Equality bodies should engage in structured networking with relevant stakeholders.
- Tribunal-type equality bodies should take steps to ensure that their sanctions are effective, dissuasive and proportionate.
- Equality bodies should develop a strategy specifically in relation to under-reporting.
- Equality bodies should have employment policies and procedures that ensure a multi-disciplinary and diverse staff team.

38. The European Commission plays a valuable and necessary role in supporting equality bodies to realise their potential. It is important that this support is maintained and further developed as follows:

- The European Commission should encourage the development of standards for the structures, powers and operation of equality bodies.



- The European Commission should further study the respective architecture of promotion-type and tribunal-type equality bodies with a particular focus on the implications for independent support to victims.
  - The European Commission should continue its work of securing compliance across all Member States in the transposition of the EU Equal Treatment Directives.
  - The European Commission should further develop its funding for equality bodies under the PROGRESS initiative and through the European Social Fund.
39. National and local authorities are key to the independence and effectiveness of equality bodies. In order to fulfil their supportive role:
- National authorities should establish a clear and transparent process for calculating and attributing an adequate resource base to equality bodies.
  - National authorities should ensure and provide for the independence of equality bodies.
  - National authorities should review the powers accorded to equality bodies to ensure that they can be strategic in their enforcement work.
  - National authorities should consider the introduction of a positive duty for the public and private sectors to have due regard to equality when carrying out their business. Equality bodies could be given a role in monitoring and supporting the implementation of such obligations.
  - National and local authorities should demonstrate leadership in equality by developing protocols for cooperation with equality bodies.
  - National and local authorities should take action to reduce under-reporting of discrimination.
  - National local authorities should ensure that national statistics agencies gather data and produce reports on equality and non-discrimination.

## ZUSAMMENFASSUNG

1. Dieser Bericht beruht auf einem vorstrukturierten Länderüberblick, in dem die nationalen Stellen zur Förderung der Gleichbehandlung und Bekämpfung von Diskriminierung in allen 27 Mitgliedstaaten der Europäischen Union (EU) sowie in den drei EFTA-Ländern bewertet werden. Zwischen den 48 ermittelten Gleichbehandlungsstellen in 29 Ländern bestehen Unterschiede, was Entwicklung, Struktur, Aufgaben, Größe und Abdeckung von Diskriminierungsgründen angeht. Dies ist unter anderem den breit definierten Bestimmungen der EU-Gleichbehandlungsrichtlinien geschuldet. Dieser Bericht untersucht die Faktoren, die dafür sorgen, dass die Gleichbehandlungsstellen ihre Hauptaufgaben auf drei verschiedenen Ebenen wahrnehmen können: a) interne Faktoren innerhalb des Zuständigkeitsbereichs der Gleichbehandlungsstelle; b) Faktoren, die mit den für die Gleichbehandlungsstelle geschaffenen Bedingungen zur Ausübung ihres Mandats in Verbindung stehen und auf die die Stelle selbst keinen Einfluss hat (nationale Ebene); c) Faktoren von außerhalb der Gerichtsbarkeit der Gleichbehandlungsstelle, welche die Ausschöpfung ihres Potenzials beeinflussen (europäische Ebene).
2. Die EU-Richtlinien legen Mindestanforderungen für die institutionelle Ausgestaltung von Gleichbehandlungsstellen fest und sorgen so dafür, dass ihre Strukturen, Zuständigkeiten und Befugnisse an den jeweiligen nationalen Kontext angepasst werden können. Im Allgemeinen kann unterschieden werden zwischen solchen Stellen, deren Hauptaufgabe in der Erzeugung neuer Richtersprüche zu Diskriminierungsfällen besteht (**„gerichtsähnliche Organe“**) und solchen, die hauptsächlich Rechtsberatung und Hilfe für Diskriminierungsopfer zur Verfügung stellen (**„Unterstützungsorgane“**) und bewährte Praktiken von Arbeitgebern und Dienstleistern unterstützen.
3. Über die Hälfte der Gleichbehandlungsstellen unterstehen einem einzigen Oberhaupt, die anderen werden von einem Vorstandsausschuss oder einer Kommission geleitet. Zwischen den Gleichbehandlungsstellen unter der Leitung eines Vorstandsausschusses oder einer Kommission bestehen erhebliche Unterschiede bezüglich Ernennung von Vorstandsmitgliedern und Vorsitzenden. Zumeist werden diese von der Regierung und/oder von Minister/-innen eingesetzt. In Anbetracht der vermeintlichen Unabhängigkeit der Gleichbehandlungsstellen von der Regierung ist die Zahl der Einrichtungen, in deren Vorstandsausschuss Regierungsvertreter/-innen sitzen, sowie der relative Anteil von Vertreter/-innen der Zentralregierung ein wichtiger Indikator.
4. Mitteltransfers aus dem Budget der Zentralregierung sind für die meisten Gleichbehandlungsstellen die einzige Einnahmequelle. Fast alle Organisationen klagen über unzureichende finanzielle Mittel zur Ausübung ihrer Hauptaufgaben. Die Anzahl der Mitarbeiter/-innen der verschiedenen Gleichbehandlungsstellen variiert stark.

Frauen machen einen großen Anteil des Gesamtpersonals aus. Übergeordnete Mitarbeiter/-innen haben zumeist eine juristische Ausbildung. Am zweithäufigsten ist ein Hintergrund in Politikwissenschaft und/oder Staatsverwaltung. Neben ungenügenden finanziellen Mitteln wird im Länderüberblick über unzureichende Mitarbeiterzahlen für die Ausübung der breiten Mandate der Gleichbehandlungsstellen berichtet.

## Aktivitäten

5. Aus den EU-Gleichbehandlungsrichtlinien gehen drei Zuständigkeitsbereiche für Gleichbehandlungsstellen im nationalen Kontext hervor: Bereitstellen von unabhängiger Unterstützung für Diskriminierungsopfer, die Diskriminierungsklage einreichen; Durchführen von unabhängigen Studien zu Diskriminierung; und Veröffentlichen von unabhängigen Berichten sowie Aussprechen von Empfehlungen zu Fällen, die mit Diskriminierung zu tun haben. Diese Bestimmungen sind relativ breit angelegt und lassen den Mitgliedstaaten einen großen Ermessensspielraum.
6. Die zur Verfügung stehenden Ressourcen werden allem Anschein nach hauptsächlich zur Durchsetzung der Rechtsvorschriften eingesetzt, und zwar in Form von Unterstützungsangeboten oder Untersuchung von und Befassung mit Diskriminierungsfällen. Das Durchführen von unabhängigen Studien, Veröffentlichen von unabhängigen Berichten und Aussprechen von Empfehlungen dagegen scheint im Arbeitsalltag der Gleichbehandlungsstellen eine geringere Rolle zu spielen. Gleichbehandlungsstellen sollten über ausreichende Mittel verfügen, um unabhängig, effektiv und mithilfe eines strategischen Tätigkeitsmixes über alle Verantwortungs-/Aufgabenbereiche hinweg agieren zu können. Hierzu zählen sowohl Finanzmittel als auch die Fähigkeit, erfahrenes Personal einstellen und auf allen unter das Mandat fallenden Gebieten aktiv sein zu können.
7. Die Unterstützung, die Diskriminierungsopfern für ihre Diskriminierungsklage von Stellen, die vornehmlich als Unterstützungsorgane fungieren, angeboten wird, kann grob in drei Kategorien eingeteilt werden, die sich nicht gegenseitig ausschließen:
  - Erzielen einer (informellen) Einigung,
  - Anrufen eines Gleichstellungsgerichts,
  - Anrufen eines Gerichts.
8. Die Dienstleistungen von Stellen, die vornehmlich als gerichtsähnliche Organe fungieren, können in folgende vier Kategorien eingeteilt werden:
  - Erzielen einer (informellen) Einigung,
  - Untersuchung von und Befassung mit Fällen,
  - Aussprechen nicht bindender Empfehlungen,

- Aussprechen verbindlicher Entscheidungen.
9. Eine vergleichende Bewertung der Daten zu Klageerhebung und Erfolgsquoten ist aufgrund der unterschiedlichen Methoden zur Datenerhebung und verschiedenen Mandate (Aufgabenbereiche) nicht möglich. Was jedoch deutlich wird, ist eine Untererfassung von Diskriminierungsfällen, besonders in den Bereichen sexuelle Orientierung und Religion. Um gegen diese Untererfassung vorzugehen, braucht es Sensibilisierungsmaßnahmen und die Entwicklung einer umfassenden Kommunikationsstrategie. Die Zielgruppen dieser Maßnahmen müssen schutzbedürftige Personengruppen sein, die gegenwärtig nicht wissen, welche Rechtsvorschriften anwendbar sind und welche Dienste angeboten werden.
  10. Follow-Up-Verfahren sind besonders für gerichtsähnliche Organe von großer Bedeutung, da sie nicht bindende Empfehlungen bzw. verbindliche Entscheidungen aussprechen, in denen Maßnahmen gegen diskriminierende Methoden und Praktiken vorgeschlagen werden. Diese Follow-Up-Verfahren sind entscheidend für die Durchsetzung von Antidiskriminierungsgesetzen und die langfristige Verhütung von Diskriminierung. Da keine rechtlichen Verpflichtungen dahingehend existieren, scheinen nur sehr wenige Gleichbehandlungsstellen Ressourcen auf Follow-Up-Aktivitäten zu verwenden.
  11. Laut den Gleichbehandlungsrichtlinien sollten Sanktionen wirksam, verhältnismäßig und abschreckend sein. Manche Gleichbehandlungsstellen sind befugt, Bußgelder zu verhängen, wenn der/die Beklagte angeforderte Informationen und Dokumente nicht bereitstellt und/oder den Empfehlungen bzw. Entscheidungen nicht nachkommt. Nur sehr wenige Unterstützungsorgane sind zur Auferlegung von Geldstrafen ermächtigt. Gleichbehandlungsstellen haben fast nie die Befugnis, Schadenersatzzahlungen zuzusprechen. Insgesamt scheinen die Themen Geldbußen und Schadenersatz in der Prioritätenliste der Gleichbehandlungsstellen nicht sehr weit oben zu stehen, da größtenteils „softe“ Lösungen, d.h. eine Einigung der Parteien, angestrebt werden.
  12. Voraussetzung für eine wirksame Durchsetzung der Rechtsvorschriften sind proaktive Gleichbehandlungsstellen, die selbst Untersuchungen anstrengen können, wenn strukturelle Diskriminierung oder ein Verstoß gegen ein Gleichbehandlungs- bzw. Antidiskriminierungsgesetz vermutet wird. Dies ist nötig, da vorgeschlagene Maßnahmen als Reaktion auf Klagen, die bei den Stellen eingehen, nicht unbedingt alle erheblichen Verstöße gegen und Lücken in der Umsetzung der relevanten Rechtsvorschriften abdecken. Ein weiterer Aspekt für die wirksame Durchsetzung der Rechtsvorschriften ist die Befugnis von Gleichbehandlungsstellen, Fälle in Eigeninitiative vor Gericht zu bringen, als sachverständiger Berater vor Gericht zu fungieren und Popularklage zu erheben. Nur ein paar Gleichbehandlungsstellen können dergestalt handeln, und diese machen nur sehr selten von solchen Kompetenzen Gebrauch.

13. Die meisten Länder haben mindestens eine Gleichbehandlungsstelle, deren Mandat ausdrücklich das Durchführen von Studien, das Veröffentlichen von Berichten und das Aussprechen von Empfehlungen zu Diskriminierungsthemen umfasst. Dies soll zur Sensibilisierung für Gleichbehandlung und Diskriminierung beitragen. Unterstützungsorgane scheinen im Bereich Umfragen und Studien aktiver zu sein. Sie konzentrieren sich auf eine Vielzahl von Bereichen, die mit dem übergreifenden Phänomen der Diskriminierung in der jeweiligen Gesellschaft zu tun haben. Für gerichtsähnliche Organe dagegen scheinen Themen im Mittelpunkt zu stehen, die eher mit ihrer Fallarbeit verbunden sind.
14. Sensibilisierung wird in den EU-Gleichbehandlungsrichtlinien nicht ausdrücklich erwähnt, kann aber als wichtiges Element zur Förderung der Gleichbehandlung angesehen werden. In fünf Ländern existieren Rechtsvorschriften, nach denen Sensibilisierung ausdrücklich in den Verantwortungsbereich der Gleichbehandlungsstellen fällt. Dies führt jedoch nicht notwendigerweise dazu, dass in den jeweiligen Ländern auch tatsächlich viele Sensibilisierungsmaßnahmen ergriffen werden. Gemäß den Gleichbehandlungsrichtlinien sind Gleichbehandlungsstellen Einrichtungen für die Förderung der Gleichbehandlung aller Personen. Von Gleichbehandlungsstellen ergriffene unterstützende Maßnahmen können in drei Kategorien eingeteilt werden: Befähigung von Interessenvertretern, Gleichstellungsmaßnahmen und -praktiken zu fördern; Unterstützung von Arbeitgebern und Dienstleistern bei der Umsetzung von bewährten Praktiken hinsichtlich Gleichbehandlung; und Maßnahmen für die Befähigung von schutzbedürftigen Personengruppen.
15. Um ihr Potenzial für die Förderung der Gleichbehandlung für alle in vollem Umfang ausschöpfen zu können, sollten Gleichbehandlungsstellen eine Vision für ihre Rolle in Verwaltungskultur und Gesellschaft entwickeln. Ausgehend von dieser Vision können sie dann einen mehrjährigen strategischen Aktionsplan ausarbeiten und umsetzen. Ein solcher Plan sollte sie wiederum in die Lage versetzen, mit einem strategischen Tätigkeitsmix auf folgende Ziele hinarbeiten: Durchsetzung von Gleichbehandlungsvorschriften, Sensibilisierung für Rechte und Pflichten, Erstellen einer Informationsbank zu Diskriminierung und Ungleichheit sowie Förderung und Unterstützung bei der Anwendung bewährter Praktiken durch Arbeitgeber und Dienstleister.

## Unabhängigkeit

16. Unabhängigkeit wird als wichtige Grundvoraussetzung für die Effektivität und Wirksamkeit von Gleichbehandlungsstellen angesehen. Ohne *rechtmäßige* Unabhängigkeit ist *faktische* Unabhängigkeit für die Arbeit in der Praxis sehr viel schwerer zu erreichen und zu erhalten. Zu den Rahmenbedingungen für *faktische* Unabhängigkeit zählen Führungsstärke, Beteiligung von Interessenvertretern, Pluralität innerhalb des Vorstands und des Personals der Einrichtung sowie Engagement für und Interesse an Unabhängigkeit.

Starke *faktische* Unabhängigkeit hat sich als wichtige Grundlage für eine wirksame Ausführung der zugewiesenen Tätigkeiten und bessere Ausschöpfung des Potenzials der Gleichbehandlungsstellen erwiesen.

17. Stellen mit einem höheren Grad an offizieller Unabhängigkeit können auch in den Bereichen Personalführung und Ausübung von Kompetenzen eigenständiger handeln als Einrichtungen, die einem einzigen Oberhaupt unterstehen und über keine eigene Rechtspersönlichkeit verfügen. Im Vergleich mit der von Equinet in Auftrag gegebenen Unabhängigkeitsstudie von 2008 ist der Grad der Unabhängigkeit in der Personalführung insgesamt angestiegen, während Unabhängigkeit in der Finanzbuchhaltung abgenommen hat. Was die Unabhängigkeit der Gleichbehandlungsstellen bei der Strategieplanung bezüglich Kernkompetenzen und Mittelverwendung auf verschiedene Fälle und Aufgaben angeht, wurde ein sehr hoher Grad an Unabhängigkeit gemeldet. Gleichbehandlungsstellen mit mehr *rechtmäßiger* Unabhängigkeit, d.h. Stellen mit einem Kollegialvorstand und Einrichtungen mit eigener Rechtspersönlichkeit, berichten jedoch über einen höheren Grad an Unabhängigkeit bei nahezu allen Aspekten als Stellen mit niedrigerer *rechtmäßiger* Unabhängigkeit (d.h. Einrichtungen, die einem einzigen Oberhaupt unterstehen und Organe mit keiner eigenen Rechtspersönlichkeit).
18. Stellen, die vornehmlich als gerichtsähnliche Organe fungieren, genießen stärkere Unabhängigkeit bei der Personalführung als Stellen, die hauptsächlich als Unterstützungsorgane fungieren. Angesichts der Tatsache, dass Gerichte Personen mit Rechtskenntnissen und Jurist/-innen anstellen, ist dies verständlich. Allerdings meldeten Unterstützungsorgane stärkere Unabhängigkeit bei der Finanzbuchhaltung als Gerichte, besonders wenn es um die Neuverteilung von Geldern für Personalkosten und laufende Ausgaben geht.

### **Regelerfüllung, Wirkung und Effektivität der Gleichbehandlungsstellen**

19. Aus dem für diesen Synthesebericht erstellten Länderüberblick geht ein hoher Grad an formaler Konformität mit den Bestimmungen der Richtlinien hervor (unabhängige Unterstützung für Opfer, unabhängige Studien, unabhängige Berichte und Empfehlungen). Eine erhebliche Zahl von Mitgliedstaaten erfüllt mehr als nur die Mindestanforderungen, indem die Gleichbehandlungsstellen neben den Diskriminierungsgründen ‚Geschlecht‘ und ‚rassische/ethnische Herkunft‘ weitere Gründe abdecken und indem sie umfassendere Befugnisse und Aufgaben vorweisen können als nur die unbedingt geforderten. Nichterfüllung der Anforderungen findet sich in Verbindung mit dem Fehlen einer Einrichtung, den Kompetenzen der zuständigen Stelle sowie den ihr zugewiesenen Aufgaben.
20. In einigen Ländern besteht eine Diskrepanz zwischen Gesetzgebung und praktischer Umsetzung dieser Gesetze.

Diese Problematik wird zumeist in Verbindung mit fehlenden Ressourcen und der daraus resultierenden Unfähigkeit, von bestimmten Befugnissen Gebrauch zu machen, genannt. Die Gleichbehandlungsstellen der meisten Länder führen fehlende Mittel als Problem an. In extremen Einzelfällen führt dies zu einer erheblichen Diskrepanz zwischen rechtlichen Bestimmungen und gelebter Praxis. Das Problem mangelnder Ressourcen kann besonders die Arbeit von gerichtsähnlichen Organen beeinträchtigen, da Fälle liegen bleiben und somit erst mit erheblicher Verzögerung gehört werden könnten. Will man den Grad der Regelerfüllung bei Gleichbehandlungsstellen bewerten, so muss der dynamische Kontext, in dem sie agieren, ebenfalls in Betracht gezogen werden. Viele Gleichbehandlungsstellen sind sehr jung, für manche wurde das Mandat erst vor kurzem erweitert, und viele stehen unmittelbar vor beträchtlichen Veränderungen.

21. Der Länderüberblick zeigt auf, dass Gleichbehandlungsstellen notwendige und wertvolle Institutionen für sozialen Wandel sind. Sie weisen das Potenzial dazu auf, auf grundlegender Ebene die Umsetzung von Gleichbehandlungsvorschriften anzuregen und zu unterstützen und auch die Ziele dieser Gesetzgebung weiter voranzubringen. Auf höherer Ebene führt dies dazu, dass sie der Schlüssel zu den enormen geschäftlichen, wirtschaftlichen und gesellschaftlichen Vorteilen sein könnten, die sich aus mehr Gleichbehandlung und Vielfalt ergeben würden.
22. Gleichbehandlungsstellen müssen in folgenden Bereichen Wirkung zeigen, um Ausmaß und Art von Diskriminierung, Untererfassung und Gleichbehandlung in der Gesellschaft zu beeinflussen: Diskriminierungsopfer - Veränderungen in ihrer Situation und ihren Erlebnissen ermöglichen; Organisationen, die als Arbeitgeber und/oder Anbieter von Waren und Dienstleistungen fungieren - damit sie sich wirksamer an relevante Rechtsvorschriften halten und mehr als nur die Mindestanforderungen erfüllen; Regierungspolitik und Gesetzgebung; Einbeziehung der Interessenvertreter - Mobilisierung eines weiteren Rahmens, um das meiste aus knappen Ressourcen zu machen; öffentliche Meinungsbildung; und selbst unverzichtbare Institutionen für sozialen Wandel werden.
23. Die Effektivität der Gleichbehandlungsstellen gründet sich auf Einhaltung der EU-Gleichbehandlungsrichtlinien innerhalb ihres jeweiligen Aufgabenbereichs. Um Effektivität zu garantieren, muss eine Gleichbehandlungsstelle mindestens drei Aufgaben haben: Opfern unabhängige Unterstützung anbieten, unabhängige Studien durchführen sowie unabhängige Berichte veröffentlichen und Empfehlungen aussprechen. Die Einrichtung muss so strukturiert, geleitet und finanziert sein, dass die unabhängige Durchführung aller drei Aufgaben gewährleistet ist. Die Gleichbehandlungsstelle muss in der Lage sein, ihren Aufgaben auch tatsächlich nachzukommen, wenn sie effektiv sein soll. Sie muss über genügend finanzielle Mittel, angemessene Mitarbeiterzahlen und Personal mit den geeigneten Fähigkeiten verfügen, um auf allen Aufgabenbereichen Leistung zu erbringen.

24. Aus dem Länderüberblick gehen drei wichtige Indikatoren für Effektivität bzw. Wirksamkeit hervor: Wahrnehmung von Aufgaben, Leistungserbringung bezüglich einzelner Aufgaben und Leistungserbringung von einem solchen Standard und einer solchen Qualität, dass sie Wirkung zeigt.

### **Durchsetzung von bewährten Praktiken in Gleichbehandlungsstellen**

25. Einige Gleichbehandlungsstellen haben sich sehr proaktiv gezeigt und Strategien ausgearbeitet und umgesetzt, um das Beste aus ihren strukturellen und organisatorischen Begrenzungen, ihrem Mandat, ihren Ressourcen, ihrem Wissen und Fachwissen, der verfügbaren Unterstützung etc. zu machen und somit den Schutz gegen Diskriminierung zu verbessern und Gleichbehandlung wirksamer zu fördern. Es wurden viele Beispiele für bewährte Praktiken gefunden, die die Leistungsfähigkeit und Wirksamkeit von Gleichbehandlungsstellen verbessern könnten, wenn sie auf andere nationale Kontexte übertragen würden.
26. Gleichbehandlungsstellen haben den Grad ihrer *faktischen* Unabhängigkeit erhöht, indem sie Führungsstärke für ihre Organisation gewährleisten und durch eine eigene Kommunikationsstrategie sicherstellen, dass sie von außen als unabhängig erkannt wird. Sie konnten ihr Leistungsvermögen verbessern (und das Problem fehlender Finanzmittel lösen), indem sie durch institutionalisiertes Networking und Einbeziehung von Interessenvertretern in die Entscheidungsfindung und die Entwicklung von Initiativen starke Verbindungen zu zivilgesellschaftlichen Organisationen und anderen Interessenvertretern knüpften.
27. Gleichbehandlungsstellen haben mehrere Strategien ausgearbeitet, um ihre Dienste besser zugänglich zu machen, indem sie Hemmnisse abgebaut und Dienstleistungen regionalisiert haben. Um die Befolgung ihrer zumeist nicht bindenden Entscheidungen zu gewährleisten, haben ein paar Gleichbehandlungsstellen Follow-Up-Verfahren zur Überprüfung der Umsetzung von Stellungnahmen und Empfehlungen eingeführt.
28. Gleichbehandlungsstellen tragen aktiv zur Bewusstseinsbildung bezüglich Diskriminierung bei und haben verschiedene Strategien entwickelt und umgesetzt, um die Sensibilisierung für Diskriminierung, Rechte und Pflichten sowie Arten der Durchsetzung von Opferrechten zu erhöhen.
29. Gleichbehandlungsstellen spielen eine große Rolle bei der Förderung von Nichtdiskriminierung und Gleichbehandlung. Sie sind an der Ausarbeitung von Rechtsvorschriften und Richtlinien beteiligt, um einen Kurswechsel herbeizuführen. Darüber hinaus haben sie verschiedene Instrumente entwickelt, um die Methoden von Organisationen als Arbeitgeber und Dienstleister zu verändern.



## **Förderung von bewährten Praktiken durch Gleichbehandlungsstellen**

30. Strategisches Networking mit relevanten Interessenvertretern ist sehr wichtig für den Erfahrungsaustausch, die Sensibilisierung für die Arbeit von Gleichbehandlungsstellen, strategische Empfehlungen zur Verbesserung von Methoden und Gesetzgebung und zur Maximierung von Ressourcen.
31. Einige Gleichbehandlungsstellen sind nicht nur von Mitteltransfers aus dem Budget der Zentralregierung abhängig, sondern sind auch auf von der EU finanzierte Projekte angewiesen. Damit Gleichbehandlungsstellen ihre Mandate wirksam erfüllen können, ist Unterstützung aus vielen externen Bereichen unerlässlich.
  - Die Schlüsselrolle bei der Finanzierung von Gleichbehandlungsstellen spielen nationale Behörden. Sie stellen das Kapital bereit, mit dem die Stellen ihren Aufgaben gemäß den Gleichbehandlungsvorschriften nachkommen können.
  - Die Unterstützung durch Gewerkschaften ist für Gleichbehandlungsstellen sehr wichtig. Diese Unterstützung kann sich in Form von Zusammenarbeit bei der Förderung einer betrieblichen Praxis der Gleichbehandlung und Nichtdiskriminierung äußern oder auch durch die Unterstützung von Diskriminierungsopfern, die Klage einreichen möchten.
  - Nichtregierungsorganisationen haben sich als einflussreiche Befürworter der Gleichbehandlungsrichtlinien und als Gegensprecher jeglicher Rückschritte beim Schutz gegen Diskriminierung hervorgetan. Sie können die Arbeit der Gleichbehandlungsstellen in vielerlei Hinsicht unterstützen.
  - Equinet, das europäische Netz nationaler Gleichbehandlungsstellen, bietet wertvolle Möglichkeiten zur gegenseitigen Unterstützung der Gleichbehandlungsstellen und leistet wichtige Dienste, wenn eine Einrichtung schwierige Zeiten durchmacht.

## **Schlussfolgerungen**

32. Gleichbehandlungsstellen kommt eine potenziell wichtige Rolle bei der Bekämpfung von Diskriminierung und der Förderung von Chancengleichheit zu. Allein durch die wirksame Umsetzung der Gleichbehandlungsrichtlinien könnten sie für starken gesellschaftlichen Wandel sorgen. Gleichbehandlungsstellen könnten noch weiter gehen, nämlich hinsichtlich Durchsetzung von Rechten und einem Kurswechsel in Bereichen wie:
  - Verbesserung der Lage von Personen, die Diskriminierung erfahren, durch Unterstützung bei der Durchsetzung ihrer Rechte (Unterstützungsorgane) und Entscheidung von Diskriminierungsfällen (gerichtsähnliche Organe); damit wird gleichzeitig für größere Rechtssicherheit und geringere strukturelle Diskriminierung gesorgt;

- Herbeiführen von Veränderungen in Richtlinien, Vorgehensweisen und Methoden vieler Organisationen durch Handlungsempfehlungen, Beratung und Unterstützung von bewährten Praktiken (Unterstützungsorgane) und Fordern von Veränderungen durch Anordnungen, Empfehlungen oder Gutachten (gerichtsähnliche Organe); als Folge könnten Organisationen wirksamer agieren bei der Verhütung von Diskriminierung, Anpassung an Vielfalt und Fördern von Gleichbehandlung;
  - Verbesserung der Qualität von Regelwerken und Rechtsvorschriften durch Bereitstellung von Fachwissen und Erkenntnissen aus Studien (Unterstützungsorgane) sowie ihrer Auslegung der Gleichbehandlungsvorschriften in Gutachten/Stellungnahmen (gerichtsähnliche Organe);
  - Verbesserung der Einbeziehung von Interessenvertretern durch Anregung und Anleitung zu Aktivitäten von NRO, Gewerkschaften, Unternehmensnetzwerken, nationalen/lokalen Behörden und anderen Interessenvertretern;
  - Verbesserung der öffentlichen Einstellung durch Schaffung einer Kultur der Einhaltung von Gleichbehandlungsvorschriften bei Arbeitgebern und Dienstleistern; einer Kultur der Rechte bei Gruppen, die von Diskriminierung und Ungleichheit betroffen sind; und eine gesellschaftliche Kultur, in der Gleichbehandlung groß geschrieben wird.
33. Damit sie ihr Potenzial in vollem Umfang ausschöpfen können, muss den Gleichbehandlungsstellen von den Regierungen der Mitgliedstaaten das notwendige formale und praktische Bezugssystem bereitgestellt werden. Die Europäische Union und/oder der internationale Kontext könnten ebenfalls eine – positive oder negative – Wirkung haben. Darüber hinaus werden Gleichbehandlungsstellen sich selbst die Frage stellen müssen, ob ihre Strukturen und Aktivitäten optimiert werden könnten, um ihr Potenzial zu verwirklichen.
34. Die folgenden internen Rahmenbedingungen wurden für die Ausschöpfung des Potenzials von Gleichbehandlungsstellen als wichtig erkannt:
- Sicherstellen von *faktischer* Unabhängigkeit;
  - Gewährleisten von Führungsstärke und gutem Management;
  - Entwickeln einer Vision sowie Ausarbeitung und Umsetzung eines umfassenden mehrjährigen strategischen Aktionsplans;
  - Einführen eines strategischen Tätigkeitsmixes über die verschiedenen Verantwortungs-/Aufgabenbereiche hinweg, um in allen Zuständigkeitsbereichen Leistung zu erbringen;
  - proaktives Bemühen um Einhaltung der Rechtsvorschriften und Ausarbeitung von Standards für Gleichbehandlung (einschließlich strategischer Prozesse);

- Networking mit relevanten Interessenvertretern, um von Fachwissen zu profitieren und Zugänglichkeit zu gewährleisten;
  - Ausarbeitung und Umsetzung einer Kommunikationsstrategie, um die Gleichbehandlungsstelle in der Öffentlichkeit vorzustellen und ein Medienprofil zu entwickeln.
35. Zu den Bedingungen, die geschaffen und gewährleistet werden sollten, damit Gleichbehandlungsstellen ihrer Arbeit auf nationaler Ebene nachgehen können, zählen:
- Bereitstellen ausreichender Mittel;
  - Garantieren von formaler *rechtmäßiger* Unabhängigkeit;
  - Einrichten von separaten Organen für unterstützende und gerichtsähnliche Tätigkeiten;
  - Übertragung eines Mandats, das umfassend genug ist, damit diese Stellen ihr Potenzial verwirklichen können;
  - Schaffung eines politischen Umfelds, das Nichtdiskriminierung und Gleichbehandlung begünstigt und fördert.
36. Die Verwirklichung des Potenzials von Gleichbehandlungsstellen kann auch von außen unterstützt werden, z.B. durch
- Bereitstellen von EU-Geldern,
  - EU-Gesetzgebung,
  - internationale Normen.

## Empfehlungen

37. Den Gleichbehandlungsstellen selbst stehen viele Möglichkeiten zur Verfügung, um ihr Potenzial stärker auszuschöpfen und ihre Effektivität zu verbessern. Basierend auf den Forschungserkenntnissen lauten einige unserer Empfehlungen:
- Gleichbehandlungsstellen sollten mehrjährige strategische Aktionspläne ausarbeiten und umsetzen.
  - Gleichbehandlungsstellen sollten Daten zum Thema Diskriminierung erheben (Beobachtung) und in ihren strategischen Aktionsplänen Indikatoren und Ziele festlegen, um die Wirkung ihrer Arbeit erfassen zu können (Evaluierung).
  - Gleichbehandlungsstellen sollten sicherstellen, dass sie alle ihre Kompetenzen nutzen.
  - Gleichbehandlungsstellen sollten sich proaktiv darum bemühen, Rechtsunsicherheiten sowie strukturelle Diskriminierung zu beseitigen.
  - Gleichbehandlungsstellen sollten strukturiert mit den relevanten Interessenvertretern zusammenarbeiten.

- Gerichtsähnliche Gleichbehandlungsstellen sollten Maßnahmen ergreifen, die die Effektivität, abschreckende Wirkung und Verhältnismäßigkeit ihrer Sanktionen gewährleisten.
  - Gleichbehandlungsstellen sollten eine Strategie entwickeln, um speziell gegen Untererfassung vorzugehen.
  - Die Beschäftigungspolitik und weiteren Verfahrensabläufe von Gleichbehandlungsstellen sollten die Beschäftigung eines multidisziplinären und vielfältigen Mitarbeiterteams garantieren.
38. Der Europäischen Kommission kommt bei der Unterstützung von Gleichbehandlungsstellen und der Verwirklichung ihres Potenzials eine wichtige Rolle zu. Diese Unterstützung muss bestehen bleiben und auf folgende Weise weiter ausgebaut werden:
- Die Europäische Kommission sollte sich für die Ausarbeitung von Standards für die Strukturen, Kompetenzen und Arbeitsweise der Gleichbehandlungsstellen einsetzen.
  - Die Europäische Kommission sollte den jeweiligen Aufbau von Unterstützungsorganen und gerichtsähnlichen Organen näher untersuchen und sich dabei besonders auf die unabhängige Unterstützung von Opfern konzentrieren.
  - Die Europäische Kommission sollte innerhalb der Regierungsexpertengruppe für den Bereich der Nichtdiskriminierung ein Verfahren entwickeln, um bewährte Praktiken und Strategien mit Gleichbehandlungsstellen auszutauschen und sie so zu unterstützen und einzubeziehen.
  - Die Europäische Kommission sollte sich wie bisher weiterhin in allen Mitgliedstaaten für die Einhaltung der Umsetzungsbedingungen der EU-Gleichbehandlungsrichtlinien einsetzen.
  - Die Europäische Kommission sollte Finanzierung für Gleichbehandlungsstellen im Rahmen des PROGRESS-Programms und durch den Europäischen Sozialfonds weiter ausbauen.
39. Nationale und lokale Behörden spielen eine Schlüsselrolle, was Unabhängigkeit und Effektivität von Gleichbehandlungsstellen angeht. Folgendes sollte getan werden, um dieser unterstützenden Funktion gerecht zu werden:
- Nationale Behörden sollten ein eindeutiges und transparentes Verfahren zur Berechnung und Beimessung einer angemessenen Ressourcenbasis für Gleichbehandlungsstellen einführen.
  - Nationale Behörden sollten die Unabhängigkeit von Gleichbehandlungsstellen gewährleisten.
  - Nationale Behörden sollten die Befugnisse der Gleichbehandlungsstellen regelmäßig überprüfen, um sicherzustellen, dass sie in der Praxis strategisch arbeiten können.

- Nationale Behörden sollten in Erwägung ziehen, dem öffentlichen Sektor und der Privatwirtschaft die positive Pflicht aufzuerlegen, den Aspekt der Gleichbehandlung im Arbeitsalltag gebührend zu berücksichtigen. Gleichbehandlungsstellen könnten bei der Überwachung und Hilfe zur Umsetzung solcher Verpflichtungen eine Rolle spielen.
- Nationale und lokale Behörden sollten beim Thema Gleichbehandlung eine Führungsrolle einnehmen, indem sie eine geregelte Vorgehensweise für die Zusammenarbeit mit Gleichbehandlungsstellen vorsehen.
- Nationale und lokale Behörden sollten aktiv gegen die Untererfassung von Diskriminierungsfällen vorgehen.
- Nationale und lokale Behörden sollten dafür sorgen, dass nationale Statistikbehörden zum Thema Gleichbehandlung und Nichtdiskriminierung Daten erheben und Berichte verfassen.

## SOMMAIRE EXÉCUTIF

1. Le présent rapport se fonde sur des fiches pays préétablies d'évaluation des organismes de promotion de l'égalité nationaux mis en place dans le but de promouvoir l'égalité et de combattre la discrimination, préparées dans les 27 États membres de l'Union européenne (UE), ainsi que dans les trois pays de l'AELE. Les 48 organismes de promotion de l'égalité identifiés dans 29 pays diffèrent quant à leur histoire, leur structure, leurs fonctions et l'étendue et les domaines dont ils sont chargés. Ceci découle, entre autres, de l'ouverture avec laquelle les exigences y afférentes sont définies au sein des directives européennes relatives à l'égalité de traitement. Le présent rapport étudie les facteurs qui permettent aux organismes de promotion de l'égalité d'accomplir leurs principales fonctions à trois niveaux différents, à savoir : a) les facteurs internes au fonctionnement des organismes de promotion de l'égalité et qui se trouvent sous le contrôle de ces derniers, b) les facteurs afférents aux conditions mises en place pour que les organismes de promotion de l'égalité s'acquittent de leur mission et qui échappent au contrôle de ces derniers (niveau national) et enfin, c) les facteurs extérieurs à la juridiction dans laquelle les organismes de promotion de l'égalité interviennent, mais qui exercent une influence sur leur capacité à exploiter leur potentiel (niveau européen).
2. Les directives européennes prévoient des exigences minimales en ce qui concerne les dispositions institutionnelles des organismes de promotion de l'égalité, permettant ainsi que leurs structures, leurs compétences et leurs attributions soient adaptées aux contextes nationaux. En général, il apparaît possible d'opérer une distinction entre les organismes chargés, principalement, de rendre des décisions en matière de discrimination (ci-après, les « **organismes de type juridictionnel** ») et ceux qui se consacrent, surtout, à la fourniture de conseils juridiques et à l'aide aux victimes de la discrimination (ci-après, les « **organismes de promotion** »), et qui soutiennent, en outre, les bonnes pratiques des employeurs et des prestataires de services.
3. Plus de la moitié des organismes de promotion de l'égalité sont présidés par une seule personne, alors que le reste d'entre eux sont dirigés par un conseil ou par une commission. Parmi les organismes de promotion de l'égalité gérés par un conseil ou par une commission, il existe une diversité importante quant au mode de désignation des membres de ces organes, ainsi que de leurs présidents. La plupart d'entre eux sont désignés par le gouvernement et/ou par un ministre. En ce qui concerne l'indépendance présumée des organismes de promotion de l'égalité à l'égard des gouvernements, le nombre d'organismes dotés d'un conseil qui comporte des représentants du gouvernement et la part de représentation du gouvernement central au sein de ceux-ci constituent des indicateurs importants.
4. Les transferts à partir des budgets des gouvernements centraux sont la seule source de revenus pour la plupart des organismes de promotion de l'égalité.

La quasi-totalité de ces organismes font état de ressources financières insuffisantes pour mener à bien leurs principales missions. Le nombre des membres du personnel des organismes de promotion de l'égalité apparaît fort variable. Les femmes représentent un pourcentage important dans ces effectifs. Les membres du personnel qui opèrent aux échelons les plus élevés de ces organismes possèdent, en général, un bagage juridique, ou encore, bien que moins souvent, en sciences politiques et/ou dans le domaine de l'administration publique. Ainsi que cela est le cas en ce qui concerne les ressources financières, les fiches pays font état d'un nombre insuffisant de salariés pour que les mandats étendus des organismes de promotion de l'égalité puissent être remplis.

### Activités

5. Les directives européennes relatives à l'égalité de traitement individualisent trois domaines de compétence au profit des organismes de promotion de l'égalité sur le plan national, à savoir : apporter aux victimes une aide indépendante pour engager une procédure pour discrimination, procéder à des études indépendantes concernant les discriminations, ainsi que publier des rapports indépendants et formuler des recommandations sur toutes les questions liées aux discriminations. Ces dispositions apparaissent plutôt larges et laisse une latitude considérable aux États membres.
6. Les ressources semblent être attribuées dans le but, principalement, de faire appliquer la législation en apportant de l'aide aux victimes ou en enquêtant et en statuant sur des cas de discrimination. La réalisation d'études indépendantes, la publication de rapports indépendants et la formulation de recommandations semblent ainsi représenter une partie moins importante du travail quotidien de ces organismes de promotion de l'égalité. Aussi, ces derniers devraient se voir accorder des ressources suffisantes, afin d'être en mesure de fonctionner d'une manière indépendante et efficace et impliquant une combinaison stratégique d'actions concernant l'ensemble de leurs attributions/fonctions. Ceci inclut les ressources financières, ainsi que la capacité d'engager du personnel expérimenté et de se montrer actif dans l'ensemble des domaines couverts par leur mandat.
7. L'aide aux victimes de discrimination pour engager des procédures pour discrimination, principalement apportée par les organismes de promotion, relève, en général, des trois catégories ci-dessous, lesquelles ne s'excluent pas mutuellement :
  - la conclusion d'accords transactionnels (informels) ;
  - l'introduction d'actions devant les tribunaux spécialisés en matière d'égalité ;
  - l'introduction d'actions juridictionnelles en général.

8. Les services proposés par les organismes de type juridictionnel peuvent se résumer au moyen des quatre catégories suivantes :
  - la conclusion d'accords transactionnels (informels) ;
  - la réalisation d'enquêtes et le fait de statuer sur des cas de discrimination ;
  - le prononcé de recommandations non contraignantes ;
  - le prononcé de décisions contraignantes.
9. Les différentes méthodes utilisées pour la collecte des données et la diversité des mandats quant aux domaines et aux sujets traités ne permettent pas la réalisation d'une évaluation comparative des données afférentes aux procédures pour discrimination et du taux de succès y associé. Toutefois, le degré insuffisant de signalement des cas de discrimination, notamment en ce qui concerne les discriminations liées à l'orientation sexuelle et à la religion, apparaît plus qu'évident. Des activités de sensibilisation s'avèrent nécessaires pour y parer, ainsi que la mise en place d'une stratégie de communication d'ensemble, laquelle ciblerait les groupes vulnérables qui ne sont pas encore informés de la législation applicable et des services proposés.
10. Les procédures de suivi revêtent une relevance toute particulière pour les organismes de type juridictionnel, dans la mesure où ces derniers émettent des recommandations non contraignantes ou des décisions contraignantes, proposant ainsi des mesures en vue de la modification des politiques et des pratiques discriminatoires. De telles procédures de suivi sont essentielles pour l'application de la législation de lutte contre la discrimination, ainsi qu'afin d'éviter des discriminations ultérieures. Très peu d'organismes de promotion de l'égalité semblent attribuer des ressources aux activités de suivi, aucune obligation légale n'existant à ce propos.
11. D'après les directives européennes relatives à l'égalité de traitement, les sanctions devraient être effectives, proportionnées et dissuasives. Certains organismes de promotion de l'égalité sont compétents pour imposer des amendes aux parties mises en cause qui ne mettent pas à leur disposition les informations et les documents demandés et/ou qui ne se conforment pas aux recommandations formulées ou aux décisions rendues. Rares sont les organismes de promotion mandatés en vue de l'imposition d'amendes. Pratiquement aucun organisme de promotion de l'égalité ne dispose de la faculté d'accorder des indemnités. Dans l'ensemble, l'imposition d'amendes et l'allocation d'indemnités semblent peser bien peu dans les programmes de ces organismes de promotion de l'égalité, lesquels visent, principalement, à trouver des solutions souples donnant lieu à la conclusion d'accords entre les parties impliquées.



12. Une application efficace de la législation nécessite des organismes de promotion de l'égalité proactifs, susceptibles d'entamer des enquêtes de leur propre chef lorsqu'ils soupçonnent une discrimination structurelle, ou encore des violations de la législation relative à l'égalité ou à la lutte contre la discrimination, dans le mesure où les solutions proposées suite à des procédures introduites auprès de ces organismes pourraient ne pas couvrir l'ensemble des violations importantes ou des lacunes dans la mise en œuvre de la législation applicable. Un autre aspect de la mise en œuvre efficace de la législation est la compétence des organismes de promotion de l'égalité pour porter des affaires devant les tribunaux à leur propre initiative, ainsi que pour agir en tant qu'*amicus curiae* ou pour introduire des *actio popularis*. Peu d'organismes de promotion de l'égalité disposent de la possibilité d'entreprendre de telles activités et lorsque cela est le cas, ce n'est que très rarement qu'ils font usage de ces pouvoirs.
13. Afin d'augmenter les connaissances en matière d'égalité et de discrimination, la plupart des pays disposent d'au moins un organisme de promotion de l'égalité, dont le mandat inclut expressément la réalisation d'études, la publication de rapports et la formulation de recommandations sur toutes les questions liées aux discriminations. Les organismes de promotion semblent se montrer plus actifs dans la réalisation d'études et de recherches. Ils se concentrent sur une gamme étendue de questions afférentes au phénomène de la discrimination en général, au sein de leurs sociétés respectives. Les organismes de type juridictionnel semblent se focaliser, quant à eux, sur des questions liées d'une manière plus étroite à leurs études de cas.
14. Les actions de sensibilisation ne sont pas expressément mentionnées dans les directives européennes relatives à l'égalité de traitement, mais elles peuvent être considérées en tant qu'éléments essentiels pour la promotion de l'égalité de traitement. Les dispositions légales de cinq pays chargent de façon explicite les organismes de promotion de l'égalité d'une telle tâche, ce qui ne donne pas nécessairement lieu, néanmoins, à un taux élevé d'activités de sensibilisation dans lesdits pays. Selon les directives européennes relatives à l'égalité de traitement, les organismes de promotion de l'égalité sont des agences chargées de la promotion de l'égalité de traitement au profit de tous. Le travail en vue de la promotion de l'égalité accompli par ces organismes relève des trois grandes catégories suivantes : des activités visant l'implication des parties prenantes pour apporter leur soutien à des politiques et des pratiques de défense de l'égalité, un soutien apporté aux employeurs et aux prestataires de services pour la mise en œuvre des bonnes pratiques en matière d'égalité et des mesures d'implication des groupes vulnérables.
15. Afin de réaliser pleinement leur potentiel de promotion de l'égalité de traitement pour tous, les organismes de promotion de l'égalité devraient développer une vision de leur rôle au sein de la culture administrative et de la société. C'est sur la base d'une telle vision qu'ils seront en mesure d'élaborer et de mettre en œuvre des programmes stratégiques pluriannuels.

De tels programmes devraient leur permettre d'entreprendre tout un ensemble d'activités stratégiques, visant à l'application de la législation relative à l'égalité de traitement, à la sensibilisation sur les droits et les obligations existants en la matière, à la mise en place d'une base de connaissances sur la discrimination et sur les inégalités et à la promotion et au soutien des bonnes pratiques chez les employeurs et les prestataires de services.

## Indépendance

16. L'indépendance est considérée comme une condition préalable pour l'efficacité et l'impact des organismes de promotion de l'égalité. À défaut d'une indépendance de droit, l'indépendance de fait pour accomplir leurs missions s'avère bien plus difficile à atteindre et à conserver. Les paramètres qui entrent en ligne de compte en ce qui concerne l'indépendance de fait incluent un *leadership* fort, l'implication des parties prenantes, la pluralité au sein de l'organe de direction de l'organisme de promotion de l'égalité et du personnel de celui-ci, ainsi qu'un engagement et un intérêt en termes d'indépendance. Un niveau élevé d'indépendance de fait s'est avéré constituer une base importante pour une exécution efficace des missions assignées, ainsi que pour la réalisation plus en avant du potentiel des organismes de promotion de l'égalité.
17. Les organismes qui disposent d'un degré plus élevé d'indépendance formelle jouissent également d'un degré d'indépendance plus important en ce qui concerne la gestion de leur personnel et l'usage de leurs attributions, par rapport aux organismes gérés par un représentant unique et qui sont dépourvus de personnalité morale propre. Comparé à l'enquête réalisée par Equinet en 2008 sur l'indépendance, le niveau général d'indépendance en termes de gestion du personnel s'est vu rehaussé, alors que celui en matière de gestion financière a reculé. S'agissant de l'indépendance des organismes de promotion de l'égalité dans l'établissement de règles dans des domaines afférents à leurs missions essentielles, ainsi que dans l'allocation des ressources en fonction des différents motifs et de leurs missions diverses, un niveau très élevé a été rapporté en la matière. Néanmoins, les organismes de promotion de l'égalité qui jouissent des niveaux les plus élevés d'indépendance en droit, c'est-à-dire, ceux gérés par un organe collégial et ceux qui disposent de la personnalité morale, font état de niveaux d'indépendance plus importants (et cela pratiquement à tous les niveaux) que ceux qui jouissent d'un faible degré d'indépendance en droit (à savoir, les organismes de promotion de l'égalité gouvernés par un représentant unique et ceux qui ne bénéficient pas d'une personnalité morale propre).
18. Les organismes à prédominance juridictionnelle jouissent d'une indépendance plus élevée en matière de gestion de leur propre personnel que ceux principalement de promotion. Ceci est compréhensible si l'on tient compte du fait que les tribunaux emploient du personnel doté de compétences judiciaires ainsi que des avocats.

Toutefois, les organismes de promotion ont fait état de niveaux plus élevés d'indépendance dans le domaine de la gestion financière que ceux de type juridictionnel, notamment en ce qui concerne la réattribution du budget entre le personnel et les frais de fonctionnement.

### **Conformité, impact et efficacité des organismes de promotion de l'égalité**

19. Les fiches pays utilisées dans le cadre du présent rapport de synthèse révèlent un haut degré de conformité formelle aux exigences posées par les directives européennes (apporter une aide indépendante aux victimes, procéder à des études indépendantes, publier des rapports indépendants et formuler des recommandations). Par ailleurs, un nombre significatif d'États membres sont allés au-delà desdites exigences, missionnant leurs organismes de promotion de l'égalité, pour couvrir des motifs de discrimination additionnels par rapport au genre, à la race ou aux origines ethniques et leur confiant des pouvoirs et des fonctions qui dépassent ceux requis par les directives. Les défauts de conformité constatés concernent l'absence de mise en place d'un organisme de promotion de l'égalité, le domaine d'intervention de l'organisme désigné et les fonctions attribuées à ce dernier.
20. Dans certains pays, il existe un écart entre le droit en vigueur et sa mise en œuvre effective. Ceci est le cas, le plus souvent, en ce qui concerne les ressources et l'impossibilité d'exercer les attributions confiées en raison de l'insuffisance des ressources. Dans la plupart des pays, les organismes de promotion de l'égalité évoquent le manque de ressources comme source de difficulté. Toutefois, on trouve des exemples particuliers et extrêmes dans lesquels une telle situation donne lieu à un écart important entre ce qui est prévu par la loi et ce qui est réellement appliqué. La question des ressources peut s'avérer particulièrement dommageable en ce qui concerne le travail accompli par les organismes de type juridictionnel, dans la mesure où les affaires qui y sont instruites peuvent se retrouver bloquées, avec des retards considérables dans leur traitement. Toute évaluation de la conformité des organismes de promotion de l'égalité doit tenir compte du contexte dynamique dans lequel ceux-ci interviennent. Nombre d'organismes de promotion de l'égalité viennent pratiquement d'être créés, certains ont vu leurs mandats élargis très récemment et beaucoup d'entre eux se voient confrontés à des changements significatifs imminents.
21. Les fiches pays font ressortir que les organismes de promotion de l'égalité constituent des institutions aussi nécessaires que précieuses pour les transformations de la société. Ils démontrent un potentiel, à un niveau de base, de stimulation et de soutien de la mise en œuvre de la législation relative à l'égalité de traitement, ainsi que pour l'avancement des objectifs de cette dernière. Ce faisant, ils révèlent un potentiel plus important pour débloquer les importants bénéfices commerciaux, économiques et sociétaux qui découlent d'une égalité et d'une diversité accrues.

22. Les organismes de promotion de l'égalité devraient exercer un impact sur les domaines suivants, afin de pouvoir avoir une influence sur l'étendue et sur la nature de la discrimination, de l'insuffisance quant au signalement et de l'égalité dans la société ; les victimes de discrimination, afin de faciliter l'évolution de leur situation et de leurs expériences ; les organisations qui procurent de l'emploi et/ou des biens et des services, de sorte qu'elles deviennent plus efficaces en ce qui concerne le respect (voire le dépassement) de la législation applicable ; les politiques gouvernementales et la législation; les actions menées par les parties prenantes, en mobilisant un cadre d'action plus large, afin de maximiser les ressources rares, ainsi que sur l'attitude du public et en s'érigeant en tant qu'institutions clés pour le changement de la société.
23. L'efficacité des organismes de promotion de l'égalité se fonde sur leur conformité aux directives européennes relatives à l'égalité de traitement dans le cadre des fonctions leur revenant. Afin de pouvoir être efficace, un organisme de promotion de l'égalité se doit d'avoir au moins les trois fonctions suivantes : apporter une aide indépendante aux victimes, procéder à des études indépendantes et publier des rapports indépendants et formuler des recommandations. Il doit être structuré, géré et disposer de ressources, de manière à pouvoir s'assurer d'être en mesure de mener à bien les trois fonctions ci-dessus en toute indépendance. Un organisme de promotion de l'égalité efficace doit être capable d'accomplir réellement les fonctions qui sont les siennes. Il doit disposer de ressources financières suffisantes, ainsi que d'un personnel en nombre approprié et les membres de ce dernier doivent posséder les compétences requises pour obtenir des résultats à partir de l'ensemble de ses fonctions.
24. En ce qui concerne la capacité d'exercer un impact, trois indicateurs essentiels d'efficacité ressortent des fiches pays, à savoir : la performance dans les fonctions, la production de résultats par rapport à chacune des fonctions en cause et la production desdits résultats à un niveau et selon une qualité susceptibles d'exercer un tel impact.

### **Les bonnes pratiques mises en œuvre par les organismes de promotion de l'égalité**

25. Certains organismes de promotion de l'égalité ont fait preuve d'une grande proactivité dans l'élaboration et la mise en œuvre de stratégies visant à tirer parti au maximum de leurs limitations structurelles et organisationnelles, ou de leurs mandats, de leurs ressources et de leurs connaissances et de leurs expertises, des aides fournies, etc. et cela afin d'accroître la protection vis-à-vis de la discrimination et de promouvoir l'égalité de façon efficace. De nombreux exemples de bonnes pratiques ont été ainsi identifiés, susceptibles de contribuer à améliorer l'efficacité et l'impact des organismes de promotion de l'égalité, s'ils étaient transposés à d'autres contextes nationaux.

26. Les organismes de promotion de l'égalité ont accru leur niveau d'indépendance de fait, en assurant un fort *leadership* à leurs organisations, ainsi qu'une image d'indépendance vis-à-vis de l'extérieur, en développant leur propre stratégie de communication. Ils ont également étendu leurs pouvoirs de fait (et surmonté un manque de ressources), en établissant des liens solides avec les organisations de la société civile et d'autres parties prenantes, par la constitution de réseaux institutionnalisés et l'implication des parties prenantes dans les prises de décision et l'élaboration d'initiatives.
27. Les organismes de promotion de l'égalité ont développé plusieurs stratégies visant à améliorer l'accessibilité aux services qu'ils proposent, en limitant les obstacles de fait ainsi qu'en régionalisant leurs services. Afin de s'assurer de ce que leurs décisions (pour la plupart, non contraignantes) soient respectées, quelques organismes de promotion de l'égalité ont introduit des procédures de suivi, pour surveiller l'application de leurs avis et de leurs recommandations.
28. Les organismes de promotion de l'égalité se sont montrés extrêmement actifs en ce qui concerne leur contribution au développement des connaissances sur la discrimination et ils ont mis en place et appliqué des stratégies variées, dans le but d'augmenter la prise de conscience du public en ce qui concerne la discrimination, ainsi que les droits et les obligations en la matière et les moyens à disposition pour que les droits des victimes puissent être mis en œuvre.
29. Les organismes de promotion de l'égalité ont aussi fait preuve de dynamisme en ce qui concerne la promotion des questions afférentes à la lutte contre la discrimination et à l'égalité. Ils s'impliquent dans l'élaboration de la législation et des politiques visant à atteindre des changements en la matière. De plus, ils ont développé plusieurs outils pour la modification des pratiques des organisations en tant qu'employeurs et prestataires de services.

### **Le soutien aux bonnes pratiques de la part des organismes de promotion de l'égalité**

30. Le « réseautage » stratégique avec les parties prenantes concernées revêt une énorme importance en matière d'échange d'expériences, de sensibilisation sur le travail accompli par les organismes de promotion de l'égalité, de placement stratégique des recommandations afin d'améliorer les pratiques et la législation, et de maximisation des ressources.
31. Nombreux sont les organismes de promotion de l'égalité qui non seulement dépendent des transferts en provenance du budget du gouvernement central du pays dans lequel ils opèrent, mais également de projets financés par l'UE. Un éventail élargi de soutiens extérieurs est essentiel pour permettre aux organismes de promotion de l'égalité de s'acquitter de leurs mandats d'une manière efficace.

- Les autorités nationales jouent un rôle central en apportant aux organismes de promotion de l'égalité le financement de base dont ceux-ci ont besoin pour accomplir les fonctions mises à leur charge par la législation relative à l'égalité de traitement ;
- Les syndicats apportent un soutien important aux organismes de promotion de l'égalité. Ce soutien peut prendre la forme d'une coopération afin de promouvoir des pratiques sur le lieu de travail dans un but d'égalité et de lutte contre la discrimination, ainsi que la mise à disposition d'une aide aux victimes de discrimination, en ce qui concerne la mise en œuvre de poursuites ;
- Les organisations non gouvernementales se sont érigées en tant que porte-parole importants en matière de conformité aux directives relatives à l'égalité de traitement, ainsi qu'en tant qu'opposantes à tout recul dans la protection contre la discrimination. Elles jouent toute une série de rôles susceptibles de soutenir le travail accompli par les organismes de promotion de l'égalité ;
- Le réseau des organismes de promotion de l'égalité Equinet constitue, quant à lui, une opportunité précieuse pour que les organismes de promotion de l'égalité puissent se procurer le soutien de leurs pairs. En outre, il représente également une source de soutien de taille pour ces organismes de promotion de l'égalité en période de difficulté.

## Conclusions

32. Les organismes de promotion de l'égalité constituent des acteurs dotés d'un potentiel élevé en ce qui concerne la lutte contre la discrimination et la promotion de l'égalité. Seule une application effective des missions confiées aux organismes de promotion de l'égalité par les directives relatives à l'égalité de traitement apporterait à ces derniers un haut potentiel en termes de changement social. Les organismes de promotion de l'égalité pourraient aller bien au-delà en matière de défense des droits ou de modification des politiques et cela dans des domaines tels que :
  - l'amélioration de la situation des personnes qui font l'objet de discrimination, en les aidant à faire valoir leurs droits (organismes de promotion) et en tranchant des cas de discrimination (organismes de type juridictionnel) et en tant que tels, en apportant une sécurité juridique plus importante et en faisant reculer la discrimination structurelle ;
  - la facilitation de la modification des politiques, des procédures et des pratiques des organisations, en proposant pour ce faire des orientations, des conseils et du soutien en matière de bonnes pratiques (organismes de promotion), ainsi qu'en impulsant le changement au moyen de décisions, de recommandations ou d'avis non contraignants (organismes de type juridictionnel), de façon à aider les organisations à faire preuve de plus d'efficacité en matière de prévention contre la discrimination, de prise en compte de la diversité et de promotion de l'égalité ;

- l'amélioration de la qualité des politiques et de la législation, en apportant leur expertise et leurs connaissances fondées sur leur travail de recherche (organismes de promotion), ainsi que leur interprétation de la législation relative à l'égalité de traitement, dans leurs avis (consultatifs) (organismes de type juridictionnel) ;
  - en améliorant les actions menées par les parties prenantes, en stimulant et en orientant les activités des ONG, des syndicats et des réseaux d'affaires, ainsi que des autorités nationales/locales et du reste des intervenants concernés ;
  - en améliorant l'attitude du public, en contribuant à la mise en place d'une culture de respect de la législation relative à l'égalité de traitement par les employeurs et les prestataires de services, ainsi que d'une culture en matière de droits, au sein des groupes qui font l'objet de discriminations et d'inégalités et d'une culture sociétale qui accorde de la valeur à l'égalité.
33. Afin d'être en mesure de réaliser leur potentiel, les organismes de promotion de l'égalité devraient se voir accorder, par les gouvernements des États membres de l'Union européenne, un cadre formel et pratique approprié. L'Union européenne et/ou le contexte international pourraient, également, exercer un impact favorable ou défavorable, en fonction de leur action. Par ailleurs, les organismes de promotion de l'égalité eux-mêmes devraient se pencher sur la question de savoir si leurs structures et leurs activités pourraient être optimisées, afin de capitaliser sur leur potentiel.
34. S'agissant des paramètres internes bénéfiques pour que les organismes de promotion de l'égalité puissent réaliser leur potentiel, nous avons identifié ceux qui suivent, en tant que paramètres essentiels :
- assurer une indépendance de fait ;
  - assurer un *leadership* fort et une bonne gestion ;
  - développer une vision, élaborer et mettre en œuvre un programme stratégique annuel général ;
  - introduire un ensemble stratégique d'actions par rapport à leurs différentes attributions/fonctions, afin d'atteindre des résultats dans l'ensemble de leurs domaines de compétence ;
  - chercher, de façon proactive, à s'assurer du respect de la législation et développer des normes en matière d'égalité (y compris dans le domaine du contentieux stratégique) ;
  - participer à des réseaux avec les parties prenantes concernées, dans le but de tirer avantage de leur expertise, ainsi que d'assurer l'accessibilité ;
  - élaborer et mettre en œuvre une stratégie de communication, afin de présenter l'organisme de promotion de l'égalité auprès du public et de créer un profil médiatique.

35. Les conditions à créer et à assurer pour que les organismes de promotion de l'égalité puissent mener leur action sur le plan national devraient inclure :
- la mise à disposition de ressources suffisantes ;
  - la garantie d'une indépendance formelle de droit ;
  - la création d'organismes séparés, chargés, respectivement, des missions de promotion de l'égalité et de celles de type juridictionnel ;
  - l'attribution d'un mandat suffisamment étendu pour leur permettre de réaliser leur potentiel ;
  - la mise en place d'un environnement politique favorable et qui apporte son soutien aux questions afférentes à la lutte contre la discrimination et à l'égalité.
36. De même, la réalisation du potentiel des organismes de promotion de l'égalité pourrait être appuyée également de l'extérieur, par :
- la mise à disposition de financements de l'UE ;
  - la législation européenne ;
  - des règles internationales.

### Recommandations

37. Les organismes de promotion de l'égalité disposent eux-mêmes d'un large éventail d'options afin d'assurer la maximisation de leur potentiel, ainsi que l'amélioration de leur efficacité. Nos recommandations sur ce point, fondées sur les résultats de nos recherches, sont celles qui suivent :
- les organismes de promotion de l'égalité devraient développer et mettre en œuvre des programmes stratégiques pluriannuels ;
  - ils devraient collecter des données concernant la discrimination (suivi) et mesurer l'impact de leur travail sur la base des indicateurs et des cibles établis dans leurs programmes stratégiques (évaluation) ;
  - ils devraient s'assurer de ce qu'ils déploient l'ensemble de leurs différentes attributions ;
  - ils devraient chercher, de façon proactive, à apporter une réponse aux incertitudes légales, ainsi qu'à supprimer la discrimination structurelle ;
  - les organismes de promotion de l'égalité devraient organiser des réseaux structurés avec les parties prenantes concernées ;
  - les organismes de type juridictionnel devraient prendre des mesures visant à assurer que les sanctions infligées par leurs soins soient effectives, dissuasives et proportionnées ;
  - les organismes de promotion de l'égalité devraient développer une stratégie spécifique concernant le nombre insuffisant de signalements ;



- ils devraient se doter de politiques en matière d'emploi, ainsi que de procédures visant à s'assurer que leur personnel soit multidisciplinaire et diversifié.
38. La Commission européenne joue un rôle précieux et nécessaire en ce qui concerne le soutien apporté aux organismes de promotion de l'égalité, afin de permettre à ces derniers de réaliser leur potentiel. Il importe que ledit soutien soit maintenu et développé encore davantage et cela comme suit :
- la Commission européenne devrait encourager le développement de règles de base concernant les structures, les attributions et le fonctionnement des organismes de promotion de l'égalité ;
  - elle devrait étudier plus en avant les architectures respectives des organismes de promotion et de ceux de type juridictionnel, se concentrant, tout particulièrement, sur les implications en ce qui concerne le soutien indépendant apporté aux victimes ;
  - elle devrait développer des procédures, au sein du groupe d'experts gouvernementaux sur la non-discrimination, pour l'échange de bonnes pratiques et de politiques en matière de soutien aux organismes de promotion de l'égalité et d'engagement vis-à-vis de ces derniers ;
  - la Commission européenne devrait poursuivre ses efforts visant à assurer la conformité, dans l'ensemble des États membres, à la transposition des directives européennes relatives à l'égalité de traitement ;
  - elle devrait développer davantage le financement accordé par ses soins aux organismes de promotion de l'égalité et cela tant dans le cadre de l'initiative PROGRESS que par le biais du Fonds social européen.
39. Les autorités nationales et locales ont un rôle de choix à jouer en ce qui concerne l'indépendance et l'efficacité des organismes de promotion de l'égalité. Afin de remplir leur rôle de soutien en ce sens :
- les autorités nationales devraient mettre en place des processus clairs et transparents, pour le calcul et l'attribution d'un socle approprié de ressources aux organismes de promotion de l'égalité ;
  - elles devraient garantir l'indépendance des organismes de promotion de l'égalité, ainsi qu'y contribuer ;
  - elles devraient revoir les attributions confiées aux organismes de promotion de l'égalité, afin de s'assurer de ce que celles-ci sont susceptibles de s'avérer stratégiques dans le cadre du travail d'application accompli par ces derniers ;
  - elles devraient envisager l'introduction d'une obligation positive, à la charge tant du secteur public que du secteur privé, de tenir dûment compte de l'égalité dans le cadre de leurs activités. Les organismes de promotion de l'égalité pourraient se voir confier un rôle de suivi et de soutien en ce qui concerne la mise en œuvre desdites obligations ;

- tant les autorités nationales que locales devraient faire preuve de *leadership* dans le domaine de l'égalité, en développant des protocoles de coopération avec les organismes de promotion de l'égalité ;
- elles devraient prendre des mesures visant à faire reculer l'insuffisance dans le signalement des cas de discrimination.
- les autorités nationales devraient s'assurer de ce que les organismes nationaux chargés des statistiques collectent des données et rédigent des rapports concernant l'égalité et la lutte contre la discrimination.

## INTRODUCTION

40. This report is based on country fiches prepared in all the European Union Member States and in the EFTA countries on national bodies established to promote equality and combat discrimination within their jurisdictions. The country fiches cover 30 countries and identify 52 different organisations. However, not all of these organisations qualify as an equality body as required by the Equal Treatment Directives. Moreover, out of the 30 countries we assessed in our research, we could only consider 29 in the following report as there is no equality body in Poland.
41. Forty-eight organisations in 29 countries were identified as having been established or designated as equality bodies under the Equal Treatment Directives and as implementing to some extent the functions required under the Equal Treatment Directives by the research team. These 48 equality bodies are subject of this report.

### 0.1 Diversity of equality bodies researched

42. The 48 equality bodies are diverse in their histories, structures, functions, scale and grounds covered. The requirements to establish or designate such bodies under the Racial Equality Directive (2000/43/EC) and the Gender Equality Directives (2004/113/EC and 2006/54/EC) are broadly framed and thus enable this diversity.

### 0.2 Functions of equality bodies

43. This overall diversity of equality bodies is a focus for examination throughout this report. However, the research team identified the functions of equality bodies as a core issue for early classification owing to:
- the Equal Treatment Directives' core focus on functions;
  - the centrality of functions accorded to the equality body for its effectiveness and impact and for the strategies and activities it might deploy;
  - the diversity of perceptions held within equality bodies and among external observers regarding the correct classification of specific equality bodies.

### 0.3 Classification of equality bodies

44. The research team identified two broad classifications for use through this report:
- **Predominantly tribunal-type equality bodies.** These equality bodies are impartial institutions which spend the bulk of their time and resources hearing, investigating and deciding on individual instances of discrimination brought before them.

- **Predominantly promotion-type equality bodies.** These equality bodies spend the bulk of their time and resources on a broader mix of activities that include supporting good practice in organisations, raising awareness of rights, developing a knowledge base on equality and non-discrimination, and providing legal advice and assistance to individual victims of discrimination.

45. Within the 48 equality bodies included in the research, 24 were identified as predominantly tribunal-type bodies and 24 as predominantly promotion-type bodies. These are set out in the table below:

**Table 2.1: Classification of equality bodies into predominantly tribunal-type and promotion-type bodies**

<b>Predominantly tribunal-type bodies</b>
<ul style="list-style-type: none"> <li>• Austria – Equal Treatment Commission, Federal Equal Treatment Commission</li> <li>• Bulgaria – Protection Against Discrimination Commission</li> <li>• Cyprus – Ombudsman</li> <li>• Czech Republic – Public Defender of Rights</li> <li>• Denmark – Board of Equal Treatment</li> <li>• Estonia – Chancellor of Justice, Gender Equality and Equal Treatment Commissioner</li> <li>• Finland – National Discrimination Tribunal</li> <li>• Greece – Office of Greek Ombudsman, Labour Inspection Body, Equal Treatment Committee, Office of the Consumer Ombudsman</li> <li>• Hungary – Equal Treatment Authority</li> <li>• Iceland – Gender Equality Complaints Committee</li> <li>• Ireland – Equality Tribunal</li> <li>• Italy – National Office for the Fight against Racial Discrimination (UNAR)</li> <li>• Latvia – Ombudsman</li> <li>• Lithuania – Office of the Equal Opportunities Ombudsperson</li> <li>• Netherlands – Equal Treatment Commission</li> <li>• Norway – Equality Ombudsman, Equality and Anti-discrimination Tribunal</li> <li>• Romania – National Council for Combating Discrimination</li> <li>• Slovenia – Advocate for the Principle of Equality</li> </ul>
<b>Predominantly promotion-type bodies</b>
<ul style="list-style-type: none"> <li>• Austria – Ombud for Equal Treatment</li> <li>• Belgium – Centre for Equal Opportunities and Opposition against against Racism, Institute for Equality of Women and Men</li> <li>• Denmark – Danish Institute for Human Rights</li> <li>• Finland – Ombudsman for Minorities, Ombudsman for Equality</li> <li>• France – Equal Opportunities and Anti-discrimination Commission (HALDE)</li> <li>• Germany – Federal Anti-discrimination Agency</li> <li>• Iceland – Centre for Gender Equality</li> <li>• Ireland – Equality Authority</li> </ul>

- Italy – Office for the Promotion of Equal Treatment in Access to and Supply of Goods and Services
- Liechtenstein – Office of Equal Opportunities
- Luxembourg – Centre for Equal Treatment
- Malta – National Commission for the Promotion of Equality for Men and Women, National Commission for Persons with Disabilities
- Portugal – Commission for Equality in Labour and Employment, Commission for Citizenship and Gender Equality, High Commission for Immigration and Intercultural Dialogue
- Slovakia – Slovak National Centre for Human Rights
- Spain – Council for Promotion of Equal Treatment of all Persons without Discrimination, Women’s Institute
- Sweden – Equality and Anti-discrimination Ombudsman
- UK – Equality Commission for Northern Ireland, Equality and Human Rights Commission

#### **0.4 Potential of equality bodies**

46. The main aim of the research was to examine the potential of equality bodies and to identify the factors that enable them to realise their potential. The research team identified a broad spectrum of areas within which to examine the potential of equality bodies. This included their potential to:

- empower and assist individual people who experience discrimination;
- enhance organisational performance in the public and private sectors through investment in effective equality and non-discrimination systems;
- enhance policy and legislation through the inclusion of an appropriate equality and non-discrimination perspective;
- stimulate a wider framework of institutions to engage in promoting equality and combating discrimination;
- influence public attitudes towards a greater commitment to equality and non-discrimination.

#### **0.5 Potential at three levels**

47. The research team decided to look for elements of this spectrum of potential at three different levels. These levels were identified according to factors that:

- were internal to the operations of the equality body and were under its control (internal level);
- related to the conditions created for the equality body to implement its mandate and that were outside its control (national level);
- were external to the jurisdiction within which the equality body operated but that had some influence over the equality body’s capacity to realise its potential (European level).

## 0.6 Extending the scope of protection of former gender bodies and creating integrated anti-discrimination bodies: potential and challenges

48. From its inception, the European Union's legal and political strategies for promoting equality among its citizens had focused primarily on sex and EU (formerly European Community–EC) nationality. The situation changed significantly with the introduction of other grounds of discrimination – ethnic and racial origin, religion and belief, sexual orientation, age and disability – by Directives 2000/43/EC and 2000/78/EC. The question arises as to how gender fares in this increasingly complex web of anti-discrimination law.
49. Several countries started out with separate equality bodies specifically responsible for fighting gender discrimination and promoting gender equality. Many of these equality bodies have since evolved or been merged into equality bodies responsible for all (or most) grounds of discrimination covered by the Directives. This has happened through an extension of mandate in Austria, Estonia, Liechtenstein, Lithuania, Malta, Norway, Slovenia and Sweden (where four ombudsmen were merged into one). In some countries the original gender equality body was dissolved and a new integrated equality body was created, as in Denmark, France, Ireland, the Netherlands, and the United Kingdom. Especially in the newer EU Member States, one integrated equality body was established from scratch, often with a view to meeting the legal requirements for EU accession, i.e. in Bulgaria, the Czech Republic, Hungary, Latvia, Romania and Slovakia. However, a new central equality body was also established in Germany (in 2006) which now exists besides State anti-discrimination agencies both at *Länder* and regional level.
50. The trend towards establishing one integrated equality body can have its problematic aspects. The merging of equality bodies or the expansion of their mandate without additional resources may hamper their ability to effectively fulfil their tasks. The simple extension of the original gender equality body's mandate may not be a logical development that will produce synergies but instead signal or be conceived as a problematic downgrading and de-prioritising of gender issues.
51. The question in several countries was whether gender would lose or has lost ground. To some it does seem so, as one stakeholder stated in a remark rather typical of this sort of discussion: 'Due to the increase in the grounds covered, gender has been given less priority. In many cases, bodies covering different grounds have been merged into one body without an accompanying increase in staff – therefore fewer resources [are] available for gender issues.'<sup>1</sup>
52. Fear of a downgrading of the issue of gender is still standing in the way of creating an integrated equality body covering gender, racial and ethnic origin in Belgium.

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<sup>1</sup> Summary of EU stakeholders' views on the challenges and potential of equality bodies.

Not only was a merger of the respective bodies originally opposed by women's rights organisations, it is still 'firmly opposed by the [Institute for the Equality of Women and Men] IEWM, out of fear that gender equality would lose attention if the IEWM's activities were to be integrated into an equality body competent for multiple discrimination grounds'.

53. But are these fears justified? The following passages look at countries where an expansion of the gender equality body's mandate has taken place or a new integrated body has been created in order to provide a basis for evaluating this question.
54. In Liechtenstein the mandate of the original gender equality body was significantly expanded in 2005 to issues of disability, migration/integration, social disadvantage and sexual orientation. The country fiche states that '[u]nfortunately, the broadening of the mandate has not been accompanied by a significant increase in its human resources since the post for integration issues that was initially planned has not yet been established.' The number of staff continues to be small (1.5 full-time equivalent); on the other hand, the Liechtenstein equality body did witness a continuous increase in its total annual budget from EUR 232 000 in 2004 to EUR 371 000 in 2007.
55. In Austria, the new competences accorded to the gender equality bodies, the Equal Treatment Commission as well as the Ombud for Equal Treatment, in the process of transposing the new Directives resulted in a significant expansion with of equality bodies and a division of tasks between three senates of the Equal Treatment Commission and the three Ombuds. Resources have been increased, even if not to an amount that would guarantee anti-discrimination work on the other grounds to be as effective as that on gender. As to the status of gender as a ground of discrimination, stakeholders have voiced the opinion that the senate/ombudsperson dealing with gender (Senate I/OET I) has 'more power than the other two, since it coordinates the work of the respective equality body.' According to the stakeholders, the issue of gender dominates within the Ombud for Equal Treatment and the topic of 'discrimination' is still first and foremost associated with women.
56. Similar observations were made regarding the Estonian equality body, namely that 'the Gender Equality and Equal Treatment Commissioner and her advisor seem to be more competent in the area of gender discrimination than in discrimination on other grounds. [Some stakeholders] believe that the Commissioner's office staff should be specifically trained to deal with grounds of discrimination other than gender.'
57. In Lithuania, the budget was doubled when the mandate of the Equal Opportunities Ombudsperson was extended to cover other grounds as well. Two more full-time posts were initially created, followed by an additional full-time post in 2007. The Ombudsperson's budget has been increased.

In Estonia, the Gender Equality and Equal Treatment Commissioner had a small but slightly rising budget from 2005 to 2008, but funding was reduced in 2009-2010 in spite of an extension of its mandate (due to the economic crisis). In Malta, the budget was not raised in 2007 when the National Commission for the Promotion of Equality for Men and Women had its mandate extended, nor were staff numbers increased; no data was provided for the period after that. For Norway, we do not have data for the period before the extension of the mandate (considered very broad). However, the country fiche also mentions that the Ombud's resources are limited and make it necessary to prioritise, even though resources rose considerably from 2008 to 2009. The 2009 budget of the integrated Swedish Equality Ombudsman was roughly the same as the total budget for the four separate ombudsmen before they were merged in 2008. Finally, no data exists for Slovenia from before the expansion of the mandate.

58. It remains open to discussion how gender is seen to fare in terms of budget and status when there is no separate body responsible for gender issues. The examples mentioned show no downgrading or de-prioritisation of gender issues in budgetary terms. This does not reveal anything in terms of whether the equality bodies' resources as such suffice for their daily work. This is also not to say that the merger of separate bodies or the creation of one new integrated body has necessarily been a success story. The fear that gender may lose ground in the absence of a specific gender equality body may be contrasted, however, with the hope that the gender ground might in fact gain from an integrated approach. It has to be kept in mind that half of the people vulnerable to discrimination on 'other' grounds are also women. After a period of adjustment, equality bodies can become stronger when they have a new and broader mandate. Finally, since discrimination is often based on more grounds than just gender ('intersectional gender discrimination'), an integrated approach can make sure that this is adequately taken account of.
59. Finally, it should be pointed out that it would be preferable not to create a hierarchy of types of discrimination (as the Directives unfortunately do by introducing different standards for different grounds of discrimination<sup>2</sup>). No ground should lose out or win to the detriment of another. An integrated approach should lead to a strengthening of all grounds – and it should ensure that a person who experiences multiple discrimination does not have to compartmentalise her experiences and choose which ground is the most salient.

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<sup>2</sup> See Elisabeth Holzleithner, *Mainstreaming Equality: Dis/Entangling Grounds of Discrimination*, *Transnational Law and Contemporary Problems* 14:3 (2005), 927-957.



## 1 UN, COUNCIL OF EUROPE, EU AND NATIONAL STANDARDS

### 1.1 Current context of equality bodies in the European Union

60. The 1997 Treaty of Amsterdam, which entered into force on 1 May 1999, introduced legislative competence for the European Community in the area of non-discrimination and equality: Article 13 of the Treaty establishing the European Community (TEC) (now Article 19 of the Treaty on the Functioning of the European Union)<sup>3</sup> authorises the Council of the European Union to adopt measures to combat discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation. Based on Article 13 TEC, the Council adopted directives covering discrimination on different grounds:

- on the ground of race and ethnic origin within and outside working life<sup>4</sup> (Racial Equality Directive, 2000/43/EC);<sup>5</sup>
- on grounds of religion or belief, disability, age and sexual orientation in employment and occupation, as well as in vocational training (Employment Equality Directive, 2000/78/EC);<sup>6</sup>
- on grounds of sex within and outside working life<sup>7</sup> (Gender Equality Directive on Goods and Services, 2004/113/EC;<sup>8</sup> Gender Equality Directive (recast), 2006/54/EC<sup>9</sup>).

61. Thus, discrimination based on the grounds religion or belief, disability, age and sexual orientation is only prohibited with regard to employment, occupation and vocational training – but not in areas outside working life.

The recent Commission proposal for a ‘horizontal directive’,<sup>10</sup> at the time of writing still under discussion in the Council,<sup>11</sup> would extend the prohibition of discrimination on these grounds to areas outside working life.<sup>12</sup>

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<sup>3</sup> *Official Journal of the European Union*, 2010/C 83/01, 30.03.2010. The Treaty of Lisbon introduced a new legislative procedure: the Council (acting unanimously) now has to obtain the consent of the European Parliament with regard to measures taken under Article 19 (1) Treaty on the Functioning of the European Union.

<sup>4</sup> In employment, occupation and vocational training and in non-employment areas (social protection, health care, education, access to goods and services, including housing, which are available to the public, etc).

<sup>5</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>6</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

<sup>7</sup> The same areas as with regard to the grounds of race or ethnic origin are covered except for education and media and advertising.

<sup>8</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principles of equal treatment between men and women in the access to and supply of goods and services.

<sup>9</sup> Council Directive 2006/54/EC 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).

62. The implementation of these norms requires effective independent institutions to provide assistance to victims of discrimination, develop a knowledge base on discrimination, build awareness of rights under the legislation and support good practice by those with obligations under the legislation. Therefore, the Racial Equality Directive (Article 13), the Gender Equality Directive on Goods and Services (Article 12) as well as the Gender Equality Directive (recast) (Article 20) (but not the Employment Equality Directive) oblige EU Member States to establish one or more equality bodies which have the following competences:
- '[...] providing independent assistance to victims of discrimination in pursuing their complaints of discrimination';<sup>13</sup>
  - 'conducting independent surveys concerning discrimination';<sup>14</sup>
  - 'publishing independent reports and making recommendations on any issue relating to such discrimination'.<sup>15</sup>
  - The Gender Equality Directive (recast) (2006/54/EC) adds following competence: 'at the appropriate level exchanging available information with corresponding European bodies such as any future European Institute for Gender Equality'.<sup>16</sup>
63. Equality bodies 'may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights'.<sup>17</sup>

<sup>10</sup> Commission Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM/2008/0426 final, 2 July 2008.

<sup>11</sup> Compare e.g. Progress Report of May 2010, Interinstitutional File 2008/0140 (CNS), available at: <http://register.consilium.europa.eu/pdf/en/10/st09/st09535.en10.pdf> (02.08.2010). The latest discussion was held in June 2010: <http://europa.eu/rapid/pressReleasesAction.do?reference=PRES/10/156&format=HTML&aged=0&lg=en&guiLanguage=en> (02.08.2010).

<sup>12</sup> The proposal mentions the areas of social protection, including social security and health care; social advantages; education; and access to and supply of goods and services which are available to the public, including housing.

<sup>13</sup> See Article 12 (2)(a) Directive 2004/113/EC; Article 13 (2) Directive 2000/43/EC; Article 20 (2)(a) Directive 2006/54/EC.

<sup>14</sup> See Article 12 (2)(b) Directive 2004/113/EC; Article 13 (2) Directive 2000/43/EC; Article 20 (2)(b) Directive 2006/54/EC.

<sup>15</sup> See Article 12 (2)(c) Directive 2004/113/EC; Article 13 (2) Directive 2000/43/EC; Article 20 (2)(c) Directive 2006/54/EC.

<sup>16</sup> Article 20 (2)(d) Directive 2006/54/EC. The European Institute for Gender Equality (<http://www.eige.europa.eu>) was set up in 2006 and has its office in Vilnius, Lithuania. Its opening was marked at a conference on 16 June 2010, in Vilnius; see <http://www.eige.europa.eu/openingconference> (13.08.2010).

<sup>17</sup> See Article 13 (1) Directive 2000/43/EC; Article 12 (1) Directive 2004/113/EC (adds 'or the implementation of the principle of equal treatment'); Article 12 (1) proposed directive (adds 'including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC'); similar wording in Article 20 (1) Directive 2006/54/EC ('may form part of agencies with responsibility at national level for the defence of human rights or the safeguard of individuals' rights').

64. Thus, equality bodies under current EU directives are required to cover as a minimum the grounds of racial and ethnic origin (Racial Equality Directive (RED)) as well as sex (Gender Equality Directive on Goods and Services, 2004/113/EC; Gender Equality Directive (recast)) – both within and outside working life. However, they are not required to cover religion or belief, disability, age and sexual orientation in employment and occupation. The recent Commission proposal for a ‘horizontal directive’ would require States to have one body or several bodies ‘for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation’. These bodies would also have to deal with those grounds *outside* the labour market.<sup>18</sup> The tasks are listed in a similar manner to that in the other directives mentioned above.<sup>19</sup>
65. In some countries equality bodies have already – before the adoption of the ‘horizontal directive’ – been given a broader mandate than required by the Racial Equality and Gender Equality Directives (i.e. covering other grounds than gender, racial and ethnic origin in employment and occupation and outside working life) – for detailed information see chapter 4.2 below.
66. In contrast to other international standards (see chapter 3.2 below) the EU Directives do not contain detailed requirements as to how an equality body should be structured (e.g. which form it should take or who it should be composed of) and *how* it should execute its functions (e.g. what procedures are to be used or what scale of initiative is required). The Directives merely oblige EU Member States to establish one or several bodies for the ‘promotion, analysis, monitoring and support of equal treatment of all persons without discrimination’<sup>20</sup> on the grounds of sex and racial or ethnic origin. According to the Directives, these bodies may also form part of other national agencies responsible for the defence of human rights or safeguard of individuals’ rights. The Directives contain provisions on the required competences of the bodies. However, they do not contain specific requirements regarding effectiveness or independence other than that the competences should be carried out independently.

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<sup>18</sup> Commission Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM/2008/0426 final, 2 July 2008, Article 12 (1).

<sup>19</sup> Commission Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM/2008/0426 final, 2 July 2008, Article 12 (2).

<sup>20</sup> Wording of Article 12 (1) Directive 2004/113/EC and Article 20 (1) Directive 2006/54/EC. Article 13 (1) Directive 2000/43/EC uses the phrase ‘bodies for the promotion of equal treatment’.

67. In order to better support the development and work of equality bodies across the Member States and to enhance their impact, closer cooperation between equality bodies at EU level finally led to the establishment of the European Network of Equality Bodies (Equinet) as a formal organisation in 2007.<sup>21</sup> Equinet currently consists of 33 equality bodies from 28 European countries.<sup>22</sup> This network facilitates peer support and information exchange between equality bodies to support uniform implementation of EU anti-discrimination law and the strengthening of legal protection for individuals affected by discrimination. It enables equality bodies to work together in exploring effective approaches to strategic litigation, promoting good practice and developing strategic approaches within their work. It identifies the learning from the work of equality bodies at Member State level and communicates this to the European Commission to assist policy formation.
68. The European Commission has convened an EU Network of Gender Equality Bodies in line with commitments contained in its 'Roadmap for equality between women and men 2006-2010'.<sup>23</sup> Meetings of gender equality bodies are convened twice a year to exchange information, learn from the shared experience of implementing the Gender Equal Treatment Directive and discuss issues of common concern in their work.
69. Equality bodies face the significant obstacles of under-reporting and lack of resources in their work. The awareness of victims of discrimination and the public at large of equality bodies (and also of the right to equal treatment) is rather low. In a recent survey (EU-MIDIS) on awareness of rights and equality bodies with regard to discrimination on account of racial or ethnic origin, 80% of respondents 'could not think of a single organisation that could offer support to victims of discrimination – be this government-based, an independent institution or authority, such as an equality body, or an NGO.' When given the name of an equality body in the respective Member State, 60% of respondents stated that they had never heard of them.<sup>24</sup> Most equality bodies routinely report having inadequate resources for their work. Some equality bodies are currently facing the impact of the financial crisis in the form of funding cutbacks – some so severe as to undermine their effectiveness and independence.

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<sup>21</sup> Equinet builds on the two-year project 'Strengthening cooperation between specialised bodies for the implementation of equal treatment legislation' (2002-2004). It is currently funded by PROGRESS (European Community Programme for Employment and Social Solidarity (2007-2013)). Information is available from the Equinet website <http://www.equineteurope.org/266.html> (03.08.2010).

<sup>22</sup> Information is available from the Equinet website <http://www.equineteurope.org/266.html> (03.08.2010).

<sup>23</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Region, A Roadmap for equality between women and men 2006-2010, COM(2006) 92 final, {SEC(2006) 275}, 01.3.2006.

<sup>24</sup> EU Agency for Fundamental Rights, EU-MIDIS, European Union Minorities and Discrimination Survey, *Rights Awareness and Equality Bodies, Strengthening the fundamental rights architecture in the EU III*, Data in Focus Report, May 2010, available at: [http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS\\_RIGHTS\\_AWARENESS\\_EN.PDF](http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_RIGHTS_AWARENESS_EN.PDF) (07.07.2010), p. 3.

Despite all evidence to the contrary provided by research on the benefits of a diverse and discrimination-free working environment,<sup>25</sup> equality and non-discrimination are still sometimes regarded as obstacles to economic recovery and development.

### 1.1.1 EFTA countries which are members of the EEA

70. States of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA) (i.e. Norway, Iceland, and Liechtenstein) are to a certain extent required to establish equality bodies. While Directives 2006/54/EC and 2004/113/EC have been incorporated into the Agreement on the EEA (Annex XVIII),<sup>26</sup> this agreement does not cover discrimination on the grounds of race or ethnic origin, religion or belief, disability, age or sexual orientation. As such they are only required to establish an equality body on the ground of gender.

### 1.2 International standards for equality bodies

71. International standards have been established for national human rights institutions (NHRI), which have a broader human rights mandate than equality bodies (Paris Principles) and for specialised bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level (ECRI General Policy Recommendations No. 2 and No. 7).<sup>27</sup> All of these legally non-binding standards are relevant to equality bodies, but they are more detailed and impose higher requirements than the EU Directives. (For instance, the EU Directives do not explicitly require the body to be independent from the government or any other body; the criteria for determining 'independence' are not specified.<sup>28</sup>)
72. Currently, the EU Directives mentioned above do not expressly refer to any of these international standards. However, the Commission's proposal for a draft directive on discrimination outside the labour market makes explicit reference to the Paris Principles in its preamble.

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<sup>25</sup> For an overview and further resources see

[http://ec.europa.eu/employment\\_social/fdad/cms/stopdiscrimination/diversity\\_in\\_the\\_eu/diversity\\_business/benefitsofdiversity.html?langid=en](http://ec.europa.eu/employment_social/fdad/cms/stopdiscrimination/diversity_in_the_eu/diversity_business/benefitsofdiversity.html?langid=en) (13.08.2010).

<sup>26</sup> Agreement on the European Economic Area, Annex XVIII 'Health and Safety at Work, Labour Law, and Equal Treatment for Men and Women', 03.07.2010, available at:

<http://www.efta.int/~media/Documents/legal-texts/eea/the-eea-agreement/Annexes%20to%20the%20Agreement/annex18.ashx> (05.08.2010).

<sup>27</sup> The European Commission against Racism and Intolerance (ECRI) is an independent human rights monitoring body of the Council of Europe specialised in combating racism, racial discrimination, xenophobia, antisemitism and intolerance (see [http://www.coe.int/t/dghl/monitoring/ecri/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/default_en.asp) (07.10.2010)).

<sup>28</sup> EU Agency for Fundamental Rights (2010), *National Human Rights Institutions in the EU Member States: Strengthening the fundamental rights architecture in the EU I*, p. 11.

The European Parliament has argued that a reference to independent functioning and adequate funding should be included in the operative part of the proposed directive<sup>29</sup> to prohibit discrimination outside the labour market and to require institutions to comply with these standards.<sup>30</sup>

73. These international standards are – in contrast to the norms of the Directives – not legally binding. However, they have to be taken into consideration in good faith by UN and/or CoE Member States. Apart from this, international law instruments (e.g. the Convention on the Protection of the Rights of Persons with Disabilities (CRPD) and the Optional Protocol to the UN Convention against Torture (OPCAT)) increasingly make explicit reference to the Paris Principles and require institutions to fulfil their requirements.

### 1.2.1 Standards relating to national human rights institutions: Paris Principles

74. The Paris Principles<sup>31</sup> were established by the United Nations. They are the principal source of normative standards for national human rights institutions (NHRIs) and establish minimum requirements for their effective functioning. An NHRI is an officially established and state-funded national non-judicial entity independent from the government, mandated to promote and protect international human rights standards at national level. An NHRI is thus vested with a broader mandate than an equality body. NHRIs are regarded as key components of effective national human rights protection systems in that they address the so-called ‘implementation gap’ by monitoring the effective implementation of international human rights standards at the national level.

<sup>29</sup> Parliamentary report A6-0149/2009, 20.03.2009, amendment 69 and p. 48, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2009-0149+0+DOC+PDF+V0//EN> (05.08.2010).

<sup>30</sup> Apart from this, UN treaty bodies have always regarded NHRIs as a means to facilitate implementation of international instruments, i.e. assisting States to comply with their reporting obligations and closely monitoring follow-up to their concluding observations and recommendations. The Committee on the Rights of the Child considered in its General Comment No. 2 that the establishment of NHRIs fell within the commitment made by States Parties upon ratification to ensure the implementation of the CRC. See e.g. Committee on the Rights of the Child (2002) *The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child*, CRC/GC/2002/2 or Committee on the Elimination of Racial Discrimination (1993) *General Recommendation No. 17 on the Establishment of national institutions to facilitate implementation of the Convention*.

<sup>31</sup> Principles relating to the Status of National Institutions (The Paris Principles) adopted by General Assembly Resolution 48/134 of 20 December 1993, available at: <http://www2.ohchr.org/english/law/parisprinciples.htm> (02.08.2010). The International Coordinating Committee (ICC) applies these Principles as benchmarks to determine the accreditation status of NHRIs; the ICC also monitors compliance. UN organs repeatedly reiterate their continued importance and recognise the value of further strengthening their application. The Vienna Declaration and Programme of Action (VDPA) encouraged the establishment and strengthening of NHRIs in compliance with the Paris Principles. The Paris Principles are continually interpreted by an organ of the International Coordinating Committee (ICC) (Sub-Committee on Accreditation) in the form of General Observations (Observations as of June 2009 available at: <http://www.nhri.net/2009/General%20observations%20June%202009%20%28English%29.pdf> (05.08.2010).

75. In order to ensure the effective functioning of an NHRI, the Paris Principles require that an NHRI is based on a binding legislative act securing the existence, pluralistic composition and competence of the institution. The Principles aim to secure the institution's independence through pluralism in the composition of its board, adequate resources (possession of its own staff and premises as well as freedom from financial control) and a stable mandate (e.g. appointment of members by an official act establishing the specific duration of their mandate). According to the Paris Principles an NHRI should have the following responsibilities: drafting opinions, recommendations, proposals and reports on its own initiative, examining draft legislation as well as legislation and administrative provisions in force, and making proposals for initiatives to put an end to human rights violations. An NHRI may also be authorised to hear and consider complaints concerning individual cases. An NHRI should increase public awareness of all forms of discrimination, in particular racism, and maintain consultation with other relevant bodies and NGOs.
76. While the Paris Principles are – in contrast to the Directives – not binding under international law, they have been described as ‘the most authoritative instrument in this area’.<sup>32</sup>
77. At the moment five equality bodies of the 30 countries assessed are also NHRIs and consequently have to meet the requirements of the Paris Principles: two equality bodies are fully accredited NHRIs (A-status), namely the Danish Institute for Human Rights (DIHR) and the British Equality and Human Rights Commission;<sup>33</sup> three equality bodies have been awarded B-status (i.e. not fully in compliance with every principle or insufficient information provided): these are the equality bodies of Belgium (the Centre for Equal Opportunities and Opposition against Racism (CEOOR)), the Netherlands and Slovakia. The mandate of the current Dutch equality body (Equal Treatment Commission) is likely to be extended so that it becomes the Institute for Human Rights and Equal Treatment in future.<sup>34</sup> In the other countries assessed, either no accredited NHRI exists at all (Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Malta, and Sweden) or the equality bodies and the accredited NHRIs are separate bodies (e.g. France, Germany, Greece, Ireland, Luxembourg, Poland, Portugal, and Spain).<sup>35</sup>

<sup>32</sup> EU Agency for Fundamental Rights (2010) *National Human Rights Institutions in the EU Member States: Strengthening the fundamental rights architecture in the EU I*, p. 11.

<sup>33</sup> A-status means that a body is in full compliance with each of the Paris Principles. See Accreditation Status as of January 2010 at:

[http://www.nhri.net/2009/Chart\\_of\\_the\\_Status\\_of\\_NIs\\_January\\_2010.pdf](http://www.nhri.net/2009/Chart_of_the_Status_of_NIs_January_2010.pdf) (05.08.2010).

<sup>34</sup> According to the Dutch country fiche the Dutch government agreed on 1 April 2010 to the proposal for a Bill to establish an Institute for Human Rights and Equal Treatment (ETHRC) in compliance with the requirements of the Paris Principles; the tasks of the Equal Treatment Commission are planned to be merged into the new institute. See Dutch country fiche, p. 5, paragraph 10.

<sup>35</sup> See International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Chart of the Status of National Institutions, available at:

[http://www.nhri.net/2009/Chart\\_of\\_the\\_Status\\_of\\_NIs\\_January\\_2010.pdf](http://www.nhri.net/2009/Chart_of_the_Status_of_NIs_January_2010.pdf) (07.10.2010).

## 1.2.2 UN Convention on the Rights of Persons with Disabilities (CRPD)<sup>36</sup>

78. The CRPD aims at promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. It obliges contracting parties to take measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprise (Article 4(1)(e) CRPD). This requirement was taken up in the proposed directive prohibiting discrimination beyond the labour market. According to the CRPD, States Parties are required to 'in accordance with their legal and administrative systems, [to] maintain, strengthen, designate or establish [...] a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation [...]'. When establishing an 'independent mechanism', contracting parties have to take into account the Paris Principles (Article 33(2) CRPD). As stated above, these requirements are more specific and go beyond those contained in the EU Directives, especially regarding the composition of the specialised bodies.
79. The European Union has signed (not ratified) the UN Convention on the Rights of Persons with Disabilities (on 30 March 2007).<sup>37</sup> By the end of 2010 the Commission will have adopted a new European disability strategy for 2010-2020 containing a framework for implementing the CRPD.<sup>38</sup> While 29 out of 30 countries assessed in this report have signed the Convention,<sup>39</sup> only 15 out of the 30 countries have ratified it;<sup>40</sup> 11 out of these 15 have ratified the Optional Protocol<sup>41</sup> guaranteeing (groups of) individuals access to the UN Committee on the Rights of Persons with Disabilities in order to file a complaint when their rights under the UN Convention have been violated.<sup>42</sup>

<sup>36</sup> UN Convention of the Rights of Persons with Disabilities adopted by the UN General Assembly on 13 December 2006, available at: <http://www2.ohchr.org/english/law/disabilities-convention.htm> (02.08.2010).

<sup>37</sup> On 26 November 2009, the Council adopted a decision on the conclusion of the CRPD.

<sup>38</sup> The current strategy is the European Action Plan 2008-2009 on the Situation of disabled people in the European Union (Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the European Union: the European Action Plan 2008-2009, 26.11.2007, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0738:FIN:EN:PDF> (02.08.2010)).

<sup>39</sup> i.e. every country except for Liechtenstein.

<sup>40</sup> As of 2 August 2010: Austria, Belgium, the Czech Republic, Denmark, France, Germany, Hungary, Italy, Latvia, Portugal, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

<sup>41</sup> Optional Protocol to the Convention on the Rights of Persons with Disabilities, available at: <http://www.un.org/disabilities/convention/optprotocol.shtml> (02.08.2010).

<sup>42</sup> As of 2 August 2010: Austria, Belgium, France, Germany, Hungary, Italy, Latvia, Lithuania, Portugal, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.



80. Out of the 15 countries which have ratified the CRPD, four countries have a special body (not an equality body) in place to comply with Article 33(2) CRPD (Austria, Hungary,<sup>43</sup> Portugal and Spain), and in six countries equality bodies have tasks regarding disability which comply or are at least likely to comply with Article 33(2) CRPD (the Czech Republic,<sup>44</sup> France<sup>45</sup>, Latvia,<sup>46</sup> Slovakia, Sweden,<sup>47</sup> the United Kingdom<sup>48</sup> and Denmark<sup>49</sup>). In four countries the equality bodies deal with disability but it is either not clear or not likely that they fulfil the requirements of Article 33(2) CRPD (Belgium,<sup>50</sup> Germany,<sup>51</sup> and Slovenia<sup>52</sup>). In one country (Italy) there is currently no body at all dealing with disability discrimination.

### 1.2.3 ECRI General Recommendations

81. Details of the establishment, functioning and execution of powers of specialised bodies in the field of equal treatment and non-discrimination in relation to racism, xenophobia, anti-Semitism and intolerance (in particular principles with regard to the statute, possible forms, functions, responsibilities, administration, functioning and mode of operation of such bodies) can be found in ECRI General Recommendation No. 2.<sup>53</sup>

<sup>43</sup> The National Disability Council fulfils the role of independent mechanism; however, according to the country fiche this body does not meet the criteria of independence.

<sup>44</sup> According to the country fiche, this equality body complies with the Paris Principles.

<sup>45</sup> According to country fiche, 'France was already in compliance with [the CRPD's] requirements before ratification'.

<sup>46</sup> The equality body, the Ombudsman, was officially designated as an independent mechanism; however, the country fiche does not contain information on whether it fulfils the Paris Principles.

<sup>47</sup> The Ombudsman fulfils the principles of Article 33(2) CRPD.

<sup>48</sup> The two equality bodies are designated (together with two other bodies) to perform this role.

<sup>49</sup> From 1 January 2011, the Danish government has decided that The Danish Institute for Human Rights shall serve as an independent body to promote, protect and monitor the implementation of the UN Convention on the Rights of People with Disabilities as required by article 33, section 2 of the Convention. The task of promoting, protecting and monitoring the rights of persons with disabilities will be shared with the Parliamentary Commissioner for Civil and Military Administration in Denmark (Folketingets Ombudsmand – [www.fo.dk](http://www.fo.dk)) and the Central Disability Council (Det Centrale Handicapråd – [www.dch.dk](http://www.dch.dk)).

<sup>50</sup> According to the country fiche it is not likely that the body fulfils the Paris Principles.

<sup>51</sup> According to the country fiche, this body may be in compliance with the Paris Principles.

<sup>52</sup> The equality body (Advocate) is competent for disability cases but does not fulfil the role of independent mechanism; there is also another body (the Directorate for the Disabled under the Ministry of Labour, Family and Social Affairs).

<sup>53</sup> ECRI General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, anti-semitism and intolerance at national level, CRI (97) 36 of 13 June 1997, available at:

[http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N2/Rec02en.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N2/Rec02en.pdf) (02.08.2010).

ECRI General Policy Recommendation No. 7 ('national legislation to combat racism and racial discrimination')<sup>54</sup> also contains details of the competences of a specialised body. As stated above, none of these recommendations are legally binding, but Member States of the Council of Europe have to consider them in good faith.

82. While leaving countries room for manoeuvre regarding the form of body, ECRI recommendations relate to
- the legal basis for specialised bodies ('constitutional or other legislative text'; terms of reference should specify composition, areas of competence, statutory powers, accountability and funding);
  - functions and responsibilities: according to General Recommendation No. 7, national law should specify *inter alia* the following competences: 'assistance to victims';<sup>55</sup> 'investigation powers';<sup>56</sup> 'the right to initiate, and participate in, court proceedings';<sup>57</sup> 'monitoring legislation and advice to legislative and executive authorities';<sup>58</sup> and 'awareness-raising of issues of racism and racial discrimination among society and promotion of policies and practices to ensure equal treatment'.<sup>59</sup>
  - administration and functioning (composition – pluralism; independence and accountability – safeguards against arbitrary dismissal, management of its own staff and budget; sufficient resources – expertise, staff, budgetary means; accessibility);
  - style of operation (politically independent performance of functions; earning credibility through high quality work);
  - Recommendation No. 7 suggests that a separate body can be tasked with the adjudication of complaints through binding decisions.<sup>60</sup>

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<sup>54</sup> ECRI General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, adopted on 13.12.2002, CRI(2003)8, available at: [http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N7/ecri03-8%20recommendation%20nr%207.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N7/ecri03-8%20recommendation%20nr%207.pdf) (06.08.2010).

<sup>55</sup> i.e. providing general advice, legal assistance (including representation in proceedings before the courts) and assistance in seeking friendly settlement of complaints. See ECRI General Policy Recommendation No. 7, paragraph 24; explanations in paragraph 51.

<sup>56</sup> e.g. requesting the production for inspection and examination of documents and other elements; seizure of documents and other elements for the purpose of making copies or extracts; and questioning persons. ECRI General Policy Recommendation No. 7, paragraph 24; explanations in paragraph 52.

<sup>57</sup> ECRI General Policy Recommendation No. 7, paragraph 24; explanations in paragraph 52.

<sup>58</sup> ECRI General Policy Recommendation No. 7, paragraph 24.

<sup>59</sup> e.g. campaigns together with civil society; train key groups; issue codes of practice; and support and encourage organisations working in the field of combating racism and racial discrimination. See ECRI General Policy Recommendation No. 7, paragraph 24, explanations in paragraph 54.

<sup>60</sup> ECRI General Policy Recommendation No. 7, paragraph 55: 'In addition to these functions, the national specialised body may be attributed other responsibilities. Moreover, another body could be entrusted with the adjudication of complaints through legally-binding decisions, within the limits prescribed by the law.'

### 1.3 Overview of equality bodies in the Member States of the EU and EFTA countries

83. The EU Directives mentioned above provide minimum requirements for the institutional arrangements of equality bodies. In this way structures, competences and powers can be adapted to the national context (e.g. taking account of existing infrastructure). Thus equality bodies vary considerably across the EU with regard to their legal basis, structure, competences or powers. As far as the legal basis is concerned, the following observations can be made with regard to the 30 countries assessed:

#### 1.3.1 Legal basis

84. Most equality bodies have their legal basis in ordinary law; only one equality body is founded in constitutional law (the Estonian Chancellor of Justice was incorporated based on a constitutional provision; its mandate as an equality body, however, was provided by ordinary law only). Equality bodies in Portugal have been created by a Decree-Law (e.g. Commission for Citizenship and Gender Equality (CIG)) or are at least governed by a Decree-Law (High Commission for Immigration and Intercultural Dialogue (ACIDI)). While the Romanian equality body (Romania National Council for Combating Discrimination (NCCD)) was established by a government ordinance, the latter was later ratified as law so that its legal basis is now a law.

#### 1.3.2 Grounds

85. Out of the 29 countries which have equality bodies, 27 have equality bodies responsible for the grounds specified in Directives 2000/43/EC, 2004/113/EC and 2006/54/EC (i.e. racial/ethnic origin and gender). One country has an equality body responsible only for gender (Iceland) and one country has equality bodies responsible only for racial/ethnic origin (Italy). Out of these 29 countries four do not cover additional grounds (Finland, Iceland, Italy and Spain).<sup>61</sup> In some cases the grounds racial and ethnic origin on the one hand and gender on the other hand are dealt with by separate equality bodies (e.g. Belgium, Spain and Portugal).

86. Out of the 29 countries assessed, 21 countries have equality bodies which cover the grounds mentioned in Directive 2000/78/EC and in the proposed directive on discrimination beyond the labour market (i.e. age, sexual orientation, religion/belief and disability).<sup>62</sup> In Liechtenstein only the grounds of disability, social disadvantage and sexual orientation are covered.

<sup>61</sup> In Finland, additional grounds are covered only in employment by the Health and Safety Inspectorates, and so not covered by an equality body as such.

<sup>62</sup> BE, BG, CY, CZ, DK, EE (both EBs); FR, DE, EL (but split between 4 EBs depending on the sector), HU, IE (both EBs); LV; LT (workplace, education, provision of goods and services); LU (employment and social relations); NL, NO (both EBs); RO, SK, SI (any area of social life), SE. However, it is not clear from the Latvian country fiche whether age is covered by the equality body.

In some countries these grounds are only covered within the workplace, whereas in others they are only covered outside it (e.g. in the United Kingdom age is currently not covered with regard to goods and services). One country covers disability alone as an additional ground (Malta). The Austrian equality bodies cover all the grounds mentioned above in working life except for disability (this ground is covered by a separate body).

**Table 3.1: Grounds covered by equality bodies**

Country	Minimum grounds (Directives 2000/43/EC, 2004/113/EC, 2006/54/EC) required to be covered by an equality body (i.e. gender and racial/ethnic origin)	Grounds covered by Directive 2000/78/EC not required to be covered by an equality body (i.e. age, sexual orientation, religion/belief, disability)
AT	✓	✓ (disability covered by separate body)
BE	✓	✓
BG	✓	✓
CY	✓	✓
CZ	✓	✓
DE	✓	✓
DK	✓	✓
EE	✓	✓
EL	✓	✓
ES	✓	No additional grounds covered
FI	✓	No additional grounds covered
FR	✓	✓
HU	✓	✓
IE	✓	✓
IS	Only gender	No additional grounds covered
IT	Only racial/ethnic origin	No additional grounds covered
LI	✓	disability, sexual orientation
LU	✓	✓
LV	✓	✓ <sup>63</sup>
LT	✓	✓
MT	✓	Only disability
NL	✓	✓
NO	✓	✓
PL	NO EQUALITY BODY	
PT	✓	No additional grounds covered

<sup>63</sup> Paragraph 4 of the national fiche states: 'The mandate of the office is more general: the protection of human rights and ensuring that the principle of good governance be observed [...]. It covers discrimination on all grounds including race or ethnic origin, religion, disability, sexual orientation as provided by the Directives and on other additional grounds such as language found in Latvian legislation, which often leaves the list open-ended, adding to it "and other circumstances"; no list is included in the Ombudsman law.'

RO	✓	✓
SI	✓	✓
SE	✓	✓
SK	✓	✓
UK	✓	✓

87. Seventeen countries have equality bodies which also cover grounds not envisaged in the EU Directives (e.g. grounds deriving from the constitution or from international legal obligations); some legal bases of equality bodies even provide an 'open list' of grounds (e.g. Hungary and Romania).

**Table 3.2: Additional grounds not covered by EU Equal Treatment Directives**

Country	Additional grounds (not envisaged in the EU Directives)
BE	nationality, national origin, civil status, birth, fortune, actual or future state of health, political conviction, physical or genetic characteristic, social origin
BG	nationality, genetic characteristics, education, political affiliation, personal or public status, family status, property status, any other ground provided by law or international treaty
CY	Open list, birth, wealth, social class, language, community, political or other conviction given as examples (in constitution)
CZ	nationality (national origin)
EE	open list, language, political or other belief, property or social status given as examples
FR	open list, family/marital status, way of life, genetic characteristics, nationality, physical appearance, state of health, pregnancy, surname, political opinion, trade union activity given as examples
HU	open-ended list naming 19 items
IE	marital status, family status, traveller community
LI	social disadvantage
LV	language 'and other circumstances'
LT	social status, language, origins and nationality
NL	nationality, marital status, political belief, working time, permanent or temporary employment contract, chronic disease
NO	national origin, language, political conviction, trade union membership, temporary or part-time employment
PT	nationality (because 'often connected with ethnic origin discrimination')
RO	open-ended list: e.g. nationality, language, social status, chronic disease, HIV positive status, membership of a disadvantaged group
SI	nationality, other personal circumstances
SE	transgender identity or expression; also persons disadvantaged in working life connected with taking parental leave (indirect sex discrimination)
UK	political belief, marital status, transgender

### 1.3.3 Mandate: multi-ground vs. single ground-agenda

88. A further distinction can be drawn between bodies pursuing a multi-ground equality agenda and bodies with a mandate focusing on one specific ground. There are also countries which have integrated bodies but still have a separate one focusing on a single ground (e.g. Belgium). There are also countries which do not have any integrated equality bodies at all (e.g. Spain, Finland, Iceland, Italy, and Portugal). Recent plans to expand or integrate mandates on different grounds include:

- Finland: draft Equal Treatment Act – single body for all grounds of discrimination (except gender)
- Iceland: transposition of Directives 2000/43/EC and 2000/78/EC under discussion
- Spain: the government is currently preparing an integrated equality bill
- The Netherlands: the equality body will be integrated into the Institute for Human Rights and Equal Treatment

**Table 3.3: Equality bodies with single-ground agendas**

Country	Grounds covered per equality body	Remarks
BE	1 EB gender	
DK	1 EB racial/ethnic origin	expansion planned
ES	1 EB gender; 1 EB ethnic origin	integrated equality bill planned
FI	2 EBs for ethnic origin; 1 EB for gender;	single body planned (except for gender)
IS	2 EBs for gender	
IT	1 EB racial/ethnic origin	
MT	1 EB disability	
PT	2 EBs gender; 1 EB racial/ethnic origin	

**Table 3.4: Equality bodies with multi-ground agendas**

Country	EBs with multi-ground agendas	Remarks
AT	✓ (2 EBs)	but separate body for disability (not an EB)
BE	✓	
BG	✓	
CY	✓	
CZ	✓	
DE	✓	
DK	✓	

Country	EBs with multi-ground agendas	Remarks
EE	✓ (2 EBs)	
EL	✓ (4 EBs)	4 EBs competent in different areas of life
FR	✓	
HU	✓	
IE	✓ (2 EBs)	
LI	✓	disability, social disadvantage, sexual orientation
LU	✓	
LV	✓	
LT	✓	
MT	✓	1 EB – gender/racial origin
NL	✓	
NO	✓ (2 EBs)	
RO	✓	
SI	✓	
SE	✓	
SK	✓	
UK	✓ (2 EBs)	

89. In general, a distinction can be made between bodies predominantly concerned with generating findings on discrimination ('tribunal-type bodies') and those primarily providing legal advice and support to victims of discrimination ('promotional-type bodies'). In the 29 countries assessed which have equality bodies, 11 countries had only (one or more) predominantly promotional bodies; 13 had only (one or more) tribunal bodies; and five had both types of bodies.

**Table 3.5: Promotion-type and tribunal-type bodies by country**

11 countries which have only promotional equality bodies	13 countries which have only tribunal bodies	Five countries which have both types of bodies
1 EB: DE, FR, LI, LU, SK, SE	1 EB: BG, CY, CZ, HU, IT, LV, LT, NL, RO, SI	1/1: DK, IE, IS
2 EBs: BE, MT, ES, UK	2 EBs: EE, NO	2 prom/1 trib: FI
3 EBs: PT	3 EBs: -	2 trib/1 prom: AT
	4 EBs: EL	

## 2 THE EQUALITY BODIES – A QUANTITATIVE AND QUALITATIVE PICTURE

90. The findings presented in this part of the report were collected by means of a survey. A questionnaire was sent to the country experts who were asked to forward it to the relevant officials of all equality bodies in their country. Some parts of this chapter (see 4.3 and 4.5) are based on information extracted from the country fiches drafted exclusively for this study by the country experts.

### 2.1 Equality bodies in the survey – a basic overview

91. The country fiches of the 29 countries covered by this report present 52 organisations, some more extensively than others, that are part of national equal treatment machinery. Only 48 of these organisations qualify as an equality body as defined by the Equal Treatment Directives, however.
92. These 48 promotion- and/or tribunal-type bodies that fulfil the tasks specified in European and national equal treatment legislation form part of their country's formal equal treatment framework. Some countries have, in line with ECRI Recommendation No.7, separate bodies for promotional and awareness-raising work and for tribunal-like functions.
93. Next to these bodies some country fiches report on bodies that fulfil functions in this set-up but are not legally designated as such. Alongside the official equality bodies in Spain, i.e. the Women's Institute and the Council for the Promotion of Equal Treatment of all Persons without Discrimination on the Grounds of Racial and Ethnic Origin, an active part is played by non-governmental bodies such as the National Disability Council, National Roma Council, and the Forum for the Social Integration of Immigrants. In Malta, some equal treatment tasks are handled by the industrial tribunals (in the domain of employment) alongside the National Commission for the Promotion of Equality between Men and Women and the National Commission for Persons with Disabilities. Finally, in Hungary the Roma Anti-discrimination Network and the National Disability Council are mentioned alongside the Equal Treatment Authority and the Equal Treatment Advisory Board.
94. The core of this part of this synthesis report concentrates on the formal equality bodies that were analysed in the country fiches and that filled in the survey questionnaire sent to them in March 2010. The questionnaire was based on one originally developed in 2006 by Kutsal Yesilkagit (Utrecht University) as part of an assignment from Equinet, the network of specialised equality bodies.
95. National experts sent the survey questionnaire to equality bodies in their respective countries. Table 4.1 gives an overview by country of equality bodies that took part in the survey.



Of a total of 48 officially recognised equality bodies present in 29 countries, 40 bodies returned a survey questionnaire.<sup>64</sup> Surveys are missing for nine bodies. In some cases it proved difficult to find out why the survey was not returned. In others, the reasons turned out to be obvious. In the case of Romania, the National Agency for Equal Opportunities was in the middle of a process of dissolution and restructuring within the Romanian Ministry of Labour. The Austrian Equal Treatment Commission eventually reported to the national expert that they found it impossible to answer a large number of the survey questions and were instead interviewed on a number of topics in the survey. Their views were integrated in the Austrian national country fiche.

96. Tribunal-type and promotion-type equality bodies were equally represented in the survey with twenty of each type.

**Table 4.1: Overview of equality bodies in the survey by country. Equality bodies in brackets: no questionnaire obtained**

Country	Equality bodies in the survey
Austria	Ombud for Equal Treatment (Equal Treatment Commission) (Federal Equal Treatment Commission)
Belgium	Institute for the Equality of Men and Women Centre for Equal Opportunities and Opposition to Racism
Bulgaria	Commission for Protection against Discrimination
Cyprus	Ombudsman's Office
Czech Republic	Public Defender of Rights
Denmark	Danish Institute for Human Rights Board of Equal Treatment
Estonia	Office of the Chancellor of Justice Gender Equality and Equal Treatment Commissioner
Finland	Ombudsman for Equality Discrimination Tribunal of Finland Ombudsman for Minorities
France	Equal Opportunities and Anti-discrimination Commission (HALDE)
Germany	Federal Anti-discrimination Agency
Greece	Office of the Ombudsman Equal Treatment Committee Labour Inspectorate (Office of the Consumer Ombudsman)
Hungary	Equal Treatment Authority
Iceland	Gender Equality Complaints Committee Centre for Gender Equality
Italy	National Office for the Fight against Racial Discrimination

<sup>64</sup> We also received a survey questionnaire from the Polish Government Plenipotentiary for Equal Treatment, but since this body does not qualify as an equality body, we have not taken its responses into account.

<b>Country</b>	<b>Equality bodies in the survey</b>
	(Office for the Promotion of Equal Treatment in Access to and Supply of Goods and Services)
Ireland	Equality Authority (Equality Tribunal)
Latvia	Office of the Ombudsman
Liechtenstein	Office of Equal Opportunity
Lithuania	Office of the Equal Opportunities Ombudsperson
Luxembourg	Centre for Equal Treatment
Malta	National Commission for the Promotion of Equality for Men and Women National Commission Persons with Disability
The Netherlands	Equal Treatment Commission
Norway	Equality and Anti-discrimination Ombud (Equality and Anti-discrimination Tribunal)
Poland	NO EQUALITY BODY
Portugal	High Commission for Immigration and Intercultural Dialogue Commission for Equality in Labour and Employment (Commission for Citizenship and Gender Equality)
Romania	National Council for Combating Discrimination
Slovakia	National Centre for Human Rights
Slovenia	Government Office for Equal Opportunities (Advocate of the Principle of Equality)
Spain	Council for the promotion of equal treatment of all persons without discrimination of the grounds of racial and ethnic origin (Women's Institute)
Sweden	Equality Ombudsman
The United Kingdom	Equality and Human Rights Commission Equality Commission for Northern Ireland

## 2.2 Grounds

97. Out of the 29 countries that have equality bodies, 27 have equality bodies responsible for the grounds specified in Directives 2000/43/EC, 2004/113/EC and 2006/54/EC (i.e. racial/ethnic origin and gender). One country has an equality body responsible only for gender and one country has equality bodies responsible only for racial/ethnic origin. Out of the 29 countries mentioned, four have no additional grounds covered. In some cases the respective grounds of racial/ethnic origin and gender are dealt with by separate equality bodies.

Out of 29 countries assessed, 21 countries have equality bodies which additionally cover grounds listed by Directive 2000/78/EC and the proposed directive on discrimination beyond the labour market (i.e. age, sexual orientation, religion/belief, and disability). In one country only the grounds of disability, social disadvantage, and sexual orientation are covered. In some countries, these grounds are only covered within the workplace; in others, they are only covered outside it. One country covers disability alone as an additional ground. Seventeen countries have equality bodies which cover additional grounds not listed in the EU Directives (e.g. grounds deriving from the constitution or from international legal obligations); some legal bases of equality bodies even provide an 'open list' of grounds.

### 2.2.1 Multiple and intersectional discrimination

98. Issues of multiple discrimination<sup>65</sup> have increasingly become the object of theoretical, political and legal scrutiny. Are national equality bodies equipped to deal with these issues? This is a question of awareness and the assignment of competences as well as of resources.
99. Generally speaking, multiple discrimination in the context of EU law can be understood 'as consisting in any combination of discrimination on the grounds of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation.'<sup>66</sup> Basically two cases have to be distinguished: cases in which the grounds of discrimination are separable and each of the grounds can be 'proven' (additional or compound discrimination), on the one hand, and other cases where the different grounds are so intertwined that they are impossible to separate (intersectional discrimination), on the other. The paradigmatic case of intersectional discrimination is that of ethnic minority women facing discrimination in a situation where neither ethnic minority men nor ethnic majority women suffer from discrimination.<sup>67</sup> In such cases the comparator is 'missing' and it may be impossible to establish a valid case of discrimination even if the harm caused by the interaction of discrimination grounds is obvious.
100. Our observations will be structured using several questions as a basis: Has the problem of multiple or intersectional discrimination already become topical for national equality bodies? Have they already dealt with cases of intersectional gender discrimination?

<sup>65</sup> See e.g. Dagmar Schiek/Victoria Chege (eds), *European Union Non-Discrimination Law. Comparative perspectives on multidimensional equality law* (2009); European Network of Legal Experts in the Field of Gender Equality (Susanne Burri/Dagmar Schiek), *Multiple Discrimination in EU Law. Opportunities for legal responses to intersectional gender discrimination?* (2009), available at <http://ec.europa.eu/social/BlobServlet?docId=3808&langId=en> (06.08.2010).

<sup>66</sup> European Commission, *Tackling Multiple Discrimination. Practices, policies and laws* (2007), available at <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=51&type=2&furtherPubs=no> (06.08.2010).

<sup>67</sup> See Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine*, University of Chicago Legal Forum (1989) 139.

Do the country's statistics (if statistics exist that break down queries and cases according to different grounds) also show multiple discrimination? How are cases handled where two or more grounds of discrimination interplay? Is it possible to deal with (the intersection of) all the grounds of discrimination involved or do complainants have to choose the single ground which is most 'promising'?<sup>68</sup> Do the bodies provide special measures/procedures for cases of multiple/intersectional discrimination?

101. The country fiches show that many countries have not yet specifically addressed the issue of multiple discrimination.<sup>69</sup>
102. In a small number of countries, the handling of multiple discrimination cases has become at least an issue for institutional reflection by equality bodies, even though the number of cases detected may still not be significant. In France, the HALDE is said to have made 'noticeable efforts to comply with the recommendations issued by the European Commission concerning multiple discriminatory practices'. However, identification of multiple discrimination patterns is impossible due to the fact that complaints are allocated to a single category in the statistics. The same holds for the HALDE's decisions on multiple discriminatory behaviours; they cannot be detected either. The Lithuanian Equal Opportunities Ombudsman does take situations of multiple discrimination into account. The Lithuanian report mentions cases concerning the interrelation of gender and age or of religion and ethnicity, and the Ombudsman's website presents a project called 'A Closer Look at Multiple Discrimination' that includes legal training, an awareness-raising campaign and other activities that aim at combating multiple discrimination.
103. When the Centre for Equal Treatment in Luxembourg is contacted by a victim whose file includes multiple or intersectional discrimination, the most salient form of discrimination will be focused on. The reason for not addressing multiple or intersectional discrimination as such is a limitation of resources and capabilities. A campaign has sought to raise awareness of the complexities of privilege and discrimination with large notices in newspapers and bus stops stating among other things: 'Looking for a white male, aged 25-35, heterosexual and Catholic'. These adverts have attracted a great deal of public attention.
104. The Netherlands are among those few countries where multiple discrimination has already drawn significant attention, a fact which is reflected in the Opinions issued by the Equal Treatment Commission. In 2009, multiple discrimination was addressed in 22 cases that resulted in an Opinion.

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<sup>68</sup> This used to be the case in the UK; see Sarah Hannett, Equality at the Intersections: The Legislative and Judicial Failure to Tackle Multiple Discrimination. *Oxford Journal of Legal Studies* 23:1 (2003), 65-86.

<sup>69</sup> Several country fiches do not contain any information on the issue: CY, CZ, EL, ES, HU, IT, LV, SK. Others state that the issue is still un- or at least underdeveloped: BG, EE, FI, IS, LI (apart from government remarks claiming that the centralisation of all questions relating to equal opportunities makes it possible to combat multiple discrimination), NO, PT, SI.

When multiple grounds are addressed in one case, all the grounds are scrutinised in turn to see if there has been a breach of equality laws. In Sweden, activities have concentrated on Roma and women from outside Europe as groups facing significant exclusion.

105. The Bulgarian country fiche mentions that there have been some cases involving gender and age as well as grounds not covered by the Directives, such as education or personal status, but that nevertheless the issue has not really become significant. The same holds for Malta, where multiple discrimination is mentioned as having come to the attention of the Commissions, especially in relation to the combination of gender and disability, but no further information is provided. The fiches of three countries (Germany, Ireland and Romania) contain statistics that include cases of multiple discrimination, but these are not dealt with in any detail.
106. None of these countries have special institutional arrangements for dealing with multiple discrimination cases. According to the country fiches, only Austria specifically provides such measures. Here, issues of multiple discrimination involving gender are the responsibility of bodies that are primarily competent for gender. Multiple discrimination has been addressed in a significant number of cases decided by Senate 1 of the Equal Treatment Commission and the Federal Equal Treatment Commission respectively, all of which are published on the internet. The country fiche comes to the conclusion that 'at least in employment-related cases, cases of multiple discrimination in which the discrimination ground is not clearly evident (e.g. in cases of ethnic origin and/or religion) can be countered accordingly.' Moreover, multiple discrimination has to be taken into account when deciding on the amount of damages. This is quite a unique situation; in contrast, the Lithuanian country report specifically mentions concerns that instances of multiple discrimination do not attract greater sanctions.
107. In Belgium, the CEOOR and the IEWM cooperate in cases of multiple discrimination. One contact person is designated for the complainant. There is, however, no specific legal provision which governs the way in which this discrimination of a 'mixed nature' should be dealt with. According to CEOOR figures, this only happens once or twice a year. The CEOOR and the IEWM have also collaborated in this area in the framework of a project, during which a seminar was organised on the topic of discriminations based both on gender and origin.
108. The statistics of most countries reviewed do not provide any data on cases of multiple discrimination. Countries that do provide them are Austria, Germany, and Ireland; the Dutch statistics contain opinions that may include multiple discrimination grounds, therefore, as the national expert explains, 'a discrepancy is possible between the total amount of cases and the total amount when broken down into discrimination grounds.'

109. Clearly, multiple discrimination is a slowly evolving field and will need more attention to enable equality bodies to treat queries and cases in an adequate fashion. In order for this to happen, a few preconditions are necessary. There should be no legal or other hierarchy between the grounds of discrimination. Where different provisions exist, these have to be rationally related to the specifics of the respective ground. For instance, a special approach may be justified when it comes to gender and reproduction. Providing sufficient resources, including a staff and budget, is, of course, a basic requirement of a well-functioning equality body. Finally, a commitment to both fighting multiple discrimination and promoting diversity should ensure that no ground loses out. In this sense, promoting diversity means paying attention to the interaction of specific discrimination grounds – including gender.

### 2.3 Functions and powers

110. The EU Equal Treatment Directives specify three areas of competence for equality bodies in the national context: providing independent assistance to victims of discrimination in pursuing their complaints of discrimination, conducting independent surveys concerning discrimination, and publishing independent reports and making recommendations on any issue relating to such discrimination. These provisions are rather broad and leave much discretion to the Member States in their implementation. The focus of the competences of individual equality bodies depends on whether they were conceived more as promotion-type or tribunal-type bodies.
111. Promotion-type bodies (24 of the 48 bodies under scrutiny, N=24) focus on providing information, giving advice and providing legal assistance to applicants. In most cases they try to achieve informal settlements between the two parties. In the case of a failure to reach an agreement, quite a few of the bodies can launch an investigation to decide whether the respective case is likely to succeed before a special equality tribunal or a court. By taking cases to court they enforce legislation. Equality bodies that have a clear strategy dictating what kind of cases they take to court can contribute to enhancing legal certainty, dissuading potential offenders by having compensation payments awarded to victims, and raising the judiciary's awareness of discrimination. Some equality bodies can start investigations on their own; some can act as *amicus curiae* or launch *actio popularis* claims. These bodies can play a more active role in enforcing legislation independently of the complaints filed with them. All the promotional bodies have a mandate to conduct surveys, publish research and recommendations, but not all have sufficient resources to carry out these tasks and not many have developed a strategy on how to make effective use of their competences. Some bodies have an explicit mandate to conduct awareness-raising or promotional work. Quite a lot of promotion-type bodies actively give support to employers and service providers in developing good practices.

112. Tribunal-type bodies (N=24) are impartial institutions which issue recommendations, opinions or decisions. However, most of them try to achieve (informal) settlements before they start investigating and hearing a case. Half of these bodies can launch non-binding recommendations and the other half can issue binding decisions. A few bodies can only address binding decisions to public authorities and not to private organisations. Those bodies that can take binding decisions usually have the power to enforce these decisions by taking the respective case to court. However, very few bodies undertake follow-up activities evaluating whether their recommendations or decisions have been complied with. Quite a few bodies can impose fines when the respondents do not provide them with the information or documents requested or do not comply with their recommendations. Only very few bodies can award compensation payments. Quite a few bodies can start investigations on their own initiative; hardly any may initiate *ex officio* court proceedings. A few more can act in an *amicus curiae* capacity. Almost all of the bodies have a legal mandate to conduct surveys, publish reports and issue recommendations on general issues of discrimination. The Board of Equal Treatment in Denmark does not even have an implicit mandate for these powers. Only a few tribunal-type bodies have a legal mandate to do promotional work and even fewer to conduct awareness-raising. Hardly any are involved in supporting good practice by employers and service providers.

## 2.4 Structures and resources

### 2.4.1 Structure

113. The variety in the structures and types of equality bodies is substantial. One way to handle this variation is to group these bodies on the basis of various structural features. A distinction can be made between equality bodies governed by a collegiate board or a single-apex leadership; another grouping can be formed on the basis of whether bodies are part of another administrative entity or are stand-alone bodies with their own legal personality.
114. In the survey, somewhat less than half of the equality bodies (17) reported having a board or a commission as their governance structure in comparison to 23 bodies that reported having a single-headed governance structure (N=40).<sup>70</sup>
115. In almost all countries with more than one equality body, all the bodies in that country have the same governance structure, i.e. either a board/commission or a single head. The only exceptions are Greece and Portugal. In Greece the Commission for Equal Treatment is governed by a commission and all other equality bodies – the Labour Inspectorate, the Consumer Ombudsman and the Ombudsman – are governed by a single head.

<sup>70</sup> At the time of writing, the status of one body was not entirely clear. The descriptions in the country fiche of this body's governance structure did not match the description that respondents from this body gave in their survey questionnaire.

The same is true for Portugal: while the High Commission for Integration and Intercultural Dialogue is governed by a single head (i.e. the Commissioner), the Commission for Equality in Labour and Employment is governed by a collegiate board.

116. Of the equality bodies that have filled in the questionnaire, 28 reported having their own legal personality and constitute a body that is not part of a ministry or another organ of central government. Of the 12 bodies that reported that they did not have a separate legal personality, nine reported that they enjoy some independence within the ministry or central government organ of which they form a part.
117. We also examined how predominantly tribunal-type and predominantly promotion-type bodies were governed. Only four tribunal-type equality bodies are governed by a collegiate board. These are the Danish Board of Equal Treatment, the Dutch Equal Treatment Commission, the Greek Equal Treatment Committee, and the Romanian National Council for Combating Discrimination.
118. The remaining 16 predominantly tribunal-type bodies in the survey are governed by a single head.
119. Thirteen predominantly promotion-type bodies are governed by a collegiate board, while seven are governed by a single head.
120. We tested (independent samples t-test) whether the type of governance structure significantly differed between tribunal-type and promotion-type bodies and found that such was the case. Tribunal-type equality bodies have a single headed leadership significantly more often than predominantly promotion-type bodies. The latter are significantly more often governed by a collegiate board than the former.

#### **2.4.1.1 Structure – bodies governed by a collegiate body (competences, appointments and composition)**

121. There is great variety in the appointment procedures for board members and chairpersons. Table 4.2 displays the appointment procedures of the 17 equality bodies governed by a collegiate body.

**Table 4.2: Appointment of chairperson and board members for bodies governed by a collegiate body**

Appointment procedure	Board members	Board chairperson
By government and/or minister	10	9
<i>Idem</i> , but after nomination by/ consultation of the organisation	1	1



<i>Idem</i> , but after nomination by/ consultation of stakeholders	2	-
By the organisation itself	-	3
Other	4	3
Total	17	16
Information missing	-	1

122. Equality bodies governed by a collegiate board whose chairperson is appointed by the government are the Belgian Centre for Equal Opportunities and Opposition to Racism, the Belgian Institute for the Equality of Women and Men, the British Equality and Human Rights Commission, the Greek Equal Treatment Committee, the Irish Equality Authority, the Maltese National Commission for the Promotion of Equality for Men and Women, the Maltese National Commission for Persons with Disabilities, the Portuguese Commission for Equality in Labour and Employment, and the Spanish Council for Promotion of Equal Treatment of all Persons without Discrimination.
123. Equality bodies governed by a collegiate board whose board members are appointed by the government or minister are the same as those whose chairperson is appointed by the government or minister, except the Spanish Council for Promotion of Equal Treatment of all Persons without Discrimination but including the Danish Board of Equal Treatment, the Finnish Ombudsman for Minorities, and the Equality Commission for Northern Ireland.
124. Chairpersons may have far-reaching competences such as setting the body's agenda, engaging in formal interactions with political parties and the administrative organs, and forming the linchpin of a network that connects the equality body with a broader range of civil society organisations. We see that in more than half of cases (9) the chairperson is appointed by the government and/or the minister; in one case it is the government or minister that appoints the chair after hearing the equality body itself. We may add to this list Luxembourg as the appointment of the chairperson is the prerogative of the Grand Duke (on a proposal from the Chambers of Deputies), and France, where the appointment of the HALDE chair is ultimately the competence of the President of the French Republic. In the case of the Danish Board of Equal Treatment, which is a tribunal-type body, the appointment is made by the judiciary, i.e. the president of the Danish courts.
125. The appointment of other members of collegiate boards is also predominantly a competence of the government. In 13 cases it is ultimately the government or the minister who appoints the members. Of course, one should not *a priori* exclude any influence by stakeholders, and the organisations may themselves try to influence the appointment procedure. Their influence, however, is non-binding and can be overruled by the government.

126. In Luxembourg members of the equality body are also appointed by the Grand Duke on a proposal from the Chambers of Deputies. The selection of these members is not entirely devoid of politics, however. According to the country fiche, a candidate was rejected by the majority of members of Parliament, even though he had credentials as a long-time supporter of foreigners' rights, for which he had fought all his life through an association giving support to foreign workers. In the end a candidate close to the leading governmental party was chosen instead.
127. The role of parliament in the appointment procedure is further evident in the case of the Romanian National Council for Combating Discrimination. The National Council is governed by a Steering Board whose members are appointed by Parliament convened in joint session. This joint session is preceded by hearings organised by six parliamentary committees that deal with equal treatment policies. Article 24 of the Anti-discrimination Law states that proposals for appointments should be sent to the Permanent Bureaus of the two Chambers of Parliament 30 days prior to the vacation of the posts. After the Permanent Bureaus have published the posts and the candidates on their websites, hearings are organised by the relevant committees. After being elected by the Parliament, the members of the Steering Board convened in a collegiate body appoint the President and the Vice-President of the National Council on Combating Discrimination.<sup>71</sup>
128. Finally, we have also looked at the composition of the collegiate boards. Who are the representatives on the boards? Do they have voting rights and how many members have voting rights? Table 4.3 provides an overview of the composition of the boards and describes the presence or absence of members with voting rights.

**Table 4.3: Categories of representatives with voting rights on collegiate boards**

Categories of representatives on board	Voting rights		Total (boards)
	Yes	No	
Central government	5	12	17
Societal groups (e.g. discriminated groups)	9	7	16*
Stakeholders (e.g. human rights organisations)	6	10	16*
Experts (e.g. lawyers)	7	9	16*
Management (of the body itself)	4	13	17

\* One response missing for each item

<sup>71</sup> Equality Bodies Country Fiche: Romania, p. 8.

129. In the light of the independence of equality bodies from government, the number of bodies with a board including government representatives and the relative share of central government representation is an important indicator. Central government representatives are found in the collegiate boards of the equality bodies in Greece (Commission for Equal Treatment: one out of five members), Malta (National Commission for Persons with Disability, seven out of 14 members), Portugal (Commission for Equality in Labour and Employment, three out of eight members), Slovakia (National Centre for Human Rights, one out of nine members), and Spain (Council for the Promotion of Equal Treatment, seven out of 29 members). Central government representatives are present on the boards of a relatively small number of equality bodies in a small number of countries. Their share of representation is fairly low, but note that in Malta half collegiate board members are representatives of central government, which points at considerable potential political influence.
130. It should be noted, however, that even a single government representative, e.g. a civil servant from the parent ministry, may wield substantially more power than can be assumed on the basis of numbers alone.
131. As for other categories of representatives, we find that more than half of the equality bodies with collegiate boards have representatives from societal (minority) groups. The board of the Spanish Council for the Promotion of Equal Treatment is reported to have 12 out of 29 members elected from societal groups, i.e. five more than from the central government. In the Portuguese Commission for Equality in Labour and Employment four out of eight members are from societal groups. The Centre for Equal Treatment in Luxembourg even reported that all five of its members are from societal groups; they are selected on the basis of their skills and their representation of societal groups likely to face discrimination. The Romanian Anti-discrimination Law provides that when making appointments for members of the Steering Board of the National Council for Combating Discrimination the authorities, among other criteria, should encourage 'the presence of persons belonging to national minorities or to disadvantaged categories'.

#### **2.4.1.2 Structure – bodies governed by a single head (appointment and accountability)**

132. The majority of equality bodies in the survey have a single-headed governance structure. They are most often headed by a director, ombudsperson, commissioner or the like. In this part we will examine how these persons are appointed, what their terms of appointment are, and how often and to whom they are accountable.
133. Of the 23 equality bodies that reported being governed by a single head, 17 heads are appointed by the government, one by Parliament (Lithuania) and two by Parliament after nomination by a minister or government.

Of the remaining four bodies, we lack information on the appointment procedure for one body (see also footnote 71). The remaining three bodies reported that their heads were appointed by a different procedure than the one described in the questionnaire.

134. The heads of these single-headed equality bodies have a variety of titles. However, the majority are governed by an ombudsperson; this is the case in Austria, Finland (2), Greece (2), Latvia, Liechtenstein, Lithuania, Norway, and Sweden.
135. In Slovenia, the Advocate of the Principle of Equality is the designated equality body, but works within the Government Office for Equal Opportunities. The Advocate is a single civil servant appointed by the Government for a period of five years on the proposal of the Director of the Government Office based on a public application procedure. The Advocate has no staff member at all to support his/her work.<sup>72</sup>
136. The Bulgarian Protection against Discrimination Commission has the features of a body governed by a collegiate board. The Commission consists of nine members of which five are appointed by Parliament and four by the President of Bulgaria. Concern was expressed by stakeholders that the decision-making is organised in a way that gives prominence to the chair of the Commission.
137. The heads of equality bodies are overwhelmingly (19 out of 22) appointed on the basis of fixed contracts. Only the heads of the Austrian (Ombud for Equal Treatment), Icelandic (Centre for Gender Equality) and Liechtenstein equality bodies are appointed on the basis of a permanent contract.
138. The overwhelming majority of heads are appraised either by the government or parliament. Nine out of 22 equality bodies governed by a single head reported that their heads were appraised by the government and/or the minister. Eight out of 22 bodies reported that their heads were appraised by parliament. Only the Greek Consumer Ombudsman and the Slovenian Government Office for Equal Opportunities reported that their heads were appraised both by the government and by parliament.
139. Table 4.4 presents the criteria to which heads are held accountable.

**Table 4.4: Criteria used to hold heads of single-headed equality bodies accountable**

Accountability criteria	Accountability			Total (boards)
	Yes	To some extent	No	
Results & achievement	5	8	9	22*

<sup>72</sup> Equality Bodies Country Fiche: Slovenia, p. 3.

of goals				
General functioning of the body	10	3	8	21**
Financial administration	12	7	3	22*
Compliance with rules	10	5	7	22*
Other	2	3	17	22*

\* Two responses missing, \*\*three responses missing.

140. The overview shows that accountability criteria based on financial administration and compliance with rules were most often reported.

#### 2.4.2 Resources – financial

141. Seventy-five per cent (30 out of 40) of equality bodies participating in the survey reported income transfers from the central government budget as their sole source of income. Another seven reported that their income sources were mixed but still mainly emanated from central governmental transfers. Only two bodies, the Danish Institute for Human Rights and the Maltese National Commission for the Promotion of Equality for Men and Women, stated that their main source of income was mixed but mainly from other sources than central government transfers. The Danish body generates – quite insufficiently as reported in the country fiche – revenue by fundraising.
142. Bodies with mixed revenue streams reported receiving partial funding from the EU. From 2005 to 2008 (the years for which data is available) more than half of the total budget of the Maltese equality body consisted of EU funding for specific projects. The exact share of EU funding amounted to 45%, 52%, and 56% in 2005, 2006 and 2007 respectively. Government matching was a prerequisite for receiving these funds and the Maltese equality body depended on the government's willingness and support for EU funding (that had to be spent on specific and delineated projects).
143. Another form of mixed budget is presented in the Hungarian country fiche. The Hungarian Equal Treatment Authority may use 50% of the fines it imposes for a number of designated purposes. The other 50% is provided at the discretion of the Minister of Social Affairs and Labour for programmes aimed at promoting equal treatment and opportunities.

The ETA may use the fines for the following purposes: (i) expenditure related to the operation of the Equal Treatment Advisory Board; (ii) publishing information leaflets and booklets to promote the idea of equal treatment and to inform the public about the activities of the Authority; (iii) organising conferences and events for legal professionals; (iv) providing civil servants working for the Authority with in-service training; (v) fees for experts supporting the work of the Authority; (vi) supporting education aimed at raising awareness of the requirement of equal treatment.<sup>73</sup>

144. Most bodies report that their financial resources are insufficient to carry out the organisation's main tasks. The Norwegian Equality and Anti-discrimination Ombud is a case in point. The Ombud has too few resources to fulfil the requirements of its broad mandate and is forced to prioritise between different (equally important) tasks. ECRI's fourth report on Norway recommended that the Norwegian authority should be given sufficient financial and personnel resources to fulfil its remit.<sup>74</sup> The situation of Norway is a good representation of the financial situation of most other equality bodies.
145. The financial crisis has made the situation of many equality bodies more precarious and the country fiches on many bodies reported that they have been confronted with substantial cutbacks. Even bodies that previously had sufficient resources to fulfil their tasks have reported that the financial crisis has dealt a blow to their financial and personnel resources. In Lithuania, for example, where resources were deemed adequate until 2008, it is reported that due to cuts in 2009 and the financial plans for the coming years, the equality body will be forced to cut its budget for awareness-raising and promotional work. It is not always clear, however, whether the financial crisis was really the reason behind cutbacks or whether it has been used as a veil for disguising politically-motivated decisions to curb equality bodies' resources.

### 2.4.3 Resources – personnel

146. There exists a very large variation between equality bodies in terms of staff. Without regard to the type and powers of the body, the variation runs from 1.75 FTE (full-time equivalents) (Estonian Gender Equality and Equal Treatment Commissioner) to the 828 FTE working at the Greek Labour Inspectorate. An assessment of the share of personnel working on equality issues is hampered by a large number of missing responses – many reported not knowing this figure or by stating that it was impossible to calculate it for their organisation – but the data at hand show again a large variation running from 1 FTE (Estonian GEETC and Spanish Council for the Promotion of Equal Treatment) to 520 FTE (UK Equality and Human Rights Commission).

<sup>73</sup> Equality Bodies Country Fiche: Hungary, p. 5.

<sup>74</sup> ECRI, Report on Norway, fourth monitoring cycle (2009), available at: [http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle\\_04/04\\_CbC\\_eng/NOR-CbC-IV-2009-004-ENG.pdf](http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_04/04_CbC_eng/NOR-CbC-IV-2009-004-ENG.pdf) (23.03.10)

147. Women constitute a large share of the total number of staff working for equality bodies.
148. Staff working at higher levels of the organisation primarily have a legal background, followed by political science and/or public administration.
149. As is the case with financial resources, and very much related to this issue, the country fiches report inadequate staff numbers to fulfil the broad mandates of equality bodies.

## 2.5 Activities

150. This sub-chapter attempts to identify and assess the output of equality bodies based on the information provided in the country fiches. The assessment not only looks at the competences specified in the relevant EU Equal Treatment Directives – providing independent assistance to victims of discrimination in pursuing their complaints of discrimination, conducting independent surveys concerning discrimination and publishing independent reports and making recommendations on any issue relating to such discrimination – but also highlights different interpretations of these EU provisions and activities that go beyond these specifications.
151. Most equality bodies seem to mainly allocate their resources to enforcing legislation by providing victims of discrimination with different services categorised as ‘assistance’. Even promotion-type bodies that have the power to take action on their own initiative by either taking cases to court or by investigating issues that have not been reported to them, do not make use of these powers very often. The same is true for tribunal-type bodies, which, however, have no power to select the cases that they deal with and therefore have a restricted role as pro-active players. Conducting independent surveys, publishing independent reports and making recommendations seem to be activities that form a greater part of the everyday work of equality bodies that have been operating for a longer period of time. The resources and staff skills necessary for these activities do not seem to rank as high on the agenda as those necessary for assisting victims. Increasing knowledge, raising awareness of equality and discrimination, and promoting equality are on the one hand activities directly linked to providing assistance and are informed by this activity, but on the other hand they may require additional skills and strategies. When these activities are undertaken in cooperation with relevant stakeholders in the field (e.g. national, regional and local public authorities, trade unions, NGOs, etc.) they can provide fresh input on how legislation can be enforced in such a way as to contribute to structural societal change and make equality a key value in European states and societies.
152. Equality bodies have to develop a vision of their role and a set of criteria to decide on how to allocate their resources in order to engage in a strategic mix of these four categories of activities.

So far only a few equality bodies have developed overall strategies. Equinet has issued a publication on the strategic role of equality bodies and underlined the importance of their having an overall strategy to enable them to focus on the most important discrimination issues, determine use of financial support, distribute tasks within the organisation, facilitate evaluation of its work and respond to questions put by political actors and sceptics at any point in time.<sup>75</sup> The Equality and Anti-discrimination Ombudsman in Sweden has drafted a vision and strategic plan<sup>76</sup> in the wake of the merger of the different ombudsman's offices into one single body. The plan enables the body to effectively allocate its resources to the different powers included in its mandate, to develop criteria for selecting cases, and to maximise its resources by cooperating with and empowering relevant stakeholders to support its work. The Equality Commission for Northern Ireland has also worked out a detailed vision enhancing its decisions on resource allocation.<sup>77</sup> Such plans also make it easier for equality bodies to identify their strengths and weaknesses and to spot gaps that should be worked on.

### 2.5.1 Enforcing legislation

153. The requirement to enforce legislation is primarily understood as assisting victims of discrimination in pursuing their complaints. This rather broad and indeterminate provision in the EU Equal Treatment Directives has resulted in the establishment of very different types of support for victims of discrimination. Some Member States have not further specified the nature of this assistance in their legislation and have just copied the EU Equal Treatment Directives; others have tried to incorporate more detailed provisions. Only Cyprus has not explicitly included assistance to victims in its legislation. Equality bodies put assistance into practice in different ways, determined by their previous experience of supporting victims of discrimination or other human rights violations as well as organisational context (stand-alone bodies vs. bodies integrated into other structures, promotion-type bodies vs. tribunal-type bodies, or separation vs. non-separation of promotion-type and tribunal-type bodies).

#### 2.5.1.1 The process of assisting victims by predominantly promotion-type bodies

154. The assistance offered to victims of discrimination in pursuing their complaints of discrimination by predominantly promotion-type bodies broadly falls within three categories, which are not mutually exclusive:

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<sup>75</sup> Equinet (2009): Strategic Role of Equality Bodies, p. 8, available at: <http://www.equineteurope.org/450422.html>, 20.08.2010.

<sup>76</sup> The plan is provided in Equinet (2009): Strategic Role of Equality Bodies, pp. 54-58, available at: <http://www.equineteurope.org/450422.html>, 20.08.2010.

<sup>77</sup> The plan is provided in Equinet (2009): Strategic Role of Equality Bodies, pp. 31-38, available at: <http://www.equineteurope.org/450422.html>, 20.08.2010.



- Achieving (informal) settlements and issuing findings or recommendations. During this phase equality bodies act as impartial mediators aiming to eliminate current discriminatory practices and making suggestions how these practices can be changed.
- Taking cases to a specialised equality tribunal. This further step becomes necessary when no satisfactory settlement can be achieved. However, this option is not available to all equality bodies; there are only four countries (Austria, Finland, Iceland and Ireland) where both tribunal-type bodies and promotion-type bodies covering the relevant areas and grounds of discrimination co-exist, and promotion-type bodies can forward complaints to tribunal-type bodies.
- Taking cases to court. This power is available to less than half of promotion-type bodies (N=24) and turns them into organisations combating discrimination on behalf of victims. By taking cases to court binding decisions and compensation payments can be achieved.

155. The following sections describe these different phases of support.

#### **2.5.1.1.1 Complaints**

156. In predominantly promotion-type bodies, complaints are typically dealt with as follows. As soon as a complaint is filed, which can usually be done either orally or in writing, the applicant is given information on the legal situation and advice on different roads to redress. If further action is necessary, the complaint is examined in more detail. The equality body tries to determine whether the complaint falls within the scope of its competences. Many promotional bodies are vested with the power of inquiry. Some bodies can conduct on-site visits (e.g. Austria (Ombud for Equal Treatment), France, and Sweden), others can request information and documents or call on people that might be able to provide relevant information. Sometimes only public authorities are obliged to provide information (e.g. Belgium and Slovakia) and sometimes equality bodies can issue conditional fines in order to make respondents supply information (e.g. Finland (Ombudsman for Minorities and Ombudsman for Equality), and Iceland (Centre for Gender Equality)).

#### **2.5.1.1.2 Turning complaints into cases**

157. Usually promotion-type bodies aim to find 'soft' solutions and try to achieve an informal agreement between the complainant and the respondent. Very few equality bodies have the ability to provide formal means of alternative dispute resolution (e.g. Belgium, Portugal (Commission for Citizenship and Gender Equality and Commission for Equality in Labour and Employment), and the United Kingdom). Some equality bodies cooperate with external mediators (e.g. the Netherlands and Slovakia).

If no agreement can be reached, some promotion-type bodies can issue warnings, reminders, advice or recommendations addressed to the respondent (about how) to stop discrimination (e.g. Belgium, Finland (Ombudsman for Minorities and Ombudsman for Equality), France, Germany, and Portugal (High Commission for Immigration and Intercultural Dialogue)) and/or release opinions (Belgium (Centre for Equal Opportunities and Opposition against Racism) and Portugal (Commission for Equality in Labour and Employment)). These suggestions usually prohibit continuance of the discriminatory conduct, ask for discriminatory practices or policies to be eliminated and/or suggest measures stopping and preventing discriminatory practices. However, these findings are not binding and they cannot be enforced. About one third of promotional bodies cannot take proceedings any further (e.g. Germany, Liechtenstein, Luxembourg, Portugal (High Commission for Immigration and Intercultural Dialogue), and Spain). Most of them inform the complainants of their legal options and some arrange legal advice by other organisations.

### 2.5.1.1.3 Taking cases to tribunals or courts

158. The other promotion-type bodies can either request a tribunal-type body to examine a case (e.g. Austria (Ombud for Equal Treatment), Finland (Ombudsman for Equality and Ombudsman for Minorities), Iceland (Centre for Gender Equality), and Ireland (Equality Authority)) and/or take it to court (e.g. Belgium, Finland, France, Ireland (Equality Authority), Malta, Slovakia, Sweden, and the United Kingdom). When a promotion-type body takes a case to an equality tribunal and is not content with its decision, some bodies try to fight these outcomes. In Austria the Ombud for Equal Treatment can obtain a declaratory judgment from a labour or civil court when it does not agree with a decision of the Equal Treatment Commission or when respondents do not comply with the suggestions issued by the Commission. In Denmark the Danish Institute for Human Rights supports complainants to file an application for legal aid when the Institute does not agree with the decisions taken by the Board of Equal Treatment .
159. Few bodies that can initiate court proceedings can actually represent victims in court (Ireland (Equality Authority), Portugal (High Commissioner for Immigration and Intercultural Dialogue), Slovakia, Sweden and the United Kingdom). When an equality body takes a case to court on behalf of a complainant, it turns these equality bodies from an impartial institution to one clearly representing the interests of the alleged victim. The transfer of the case to a different counsellor or department within the equality body highlights this change.

**Table 4.5: Possible means of law enforcement by promotion-type bodies**

Country	Equality body	Complaints		Turning complaints into cases			Taking cases to court/tribunals		
		On-site visits	Issuing fines to make respondents supply requested information	Formal ways of alternative dispute resolution	Issuing warnings/reminders/advice/recommendations	Releasing opinions	Taking case to tribunal	Taking case to court	Representing victims in court
Austria	Ombud for Equal Treatment	X					X		
Belgium	Centre for Equal Opportunities and Opposition against Racism			X	X	X		X	
	Institute for Equality of Women and Men			X	X			X	
Denmark	Danish Institute for Human Rights						X		
Finland	Ombudsman for Minorities		X		X			X	
	Ombudsman for Equality		X		X		X	X	

France	Equal Opportunities and Anti-discrimination Commission (HALDE)	X			X			X	
Germany	Federal Anti-discrimination Agency				X				
Iceland	Centre for Gender Equality		X				X		
Ireland	Equality Authority						X	X	X
Malta	National Commission for the Promotion of Equality for Men and Women							X	
	National Commission for Persons with Disabilities							X	
Portugal	Equality and Anti-discrimination Ombudsman			X		X			

	Equality Commission for Northern Ireland			X					
	High Commission for Immigration and Intercultural Dialogue				X				X
Slovakia	Slovak National Centre for Human Rights							X	X
Sweden	Equality and Anti-discrimination Ombudsman	X						X	X
United Kingdom	Equality Commission for Northern Ireland							X	X
	Equality and Human Rights Commission							X	X

160. Although quite a lot of promotional bodies can initiate court proceedings, few (e.g. Belgium, Ireland (Equality Authority), Sweden, and the United Kingdom) have developed detailed criteria for deciding which cases to take to court. Among these criteria are interpretation of current legislation; reinforcement of legislation and strengthening of equality rights both with a beneficial impact on future victims of discrimination, the interests of the respective victim and the potential impact on his/her situation, and the balance between the different grounds of discrimination and resources available to the body (including cooperation with other organisations able to represent victims in courts). These criteria try to balance the benefits for the individual victim, such as compensation payments gained by taking his/her case to court, with the general public interest in improving legal certainty and establishing discrimination in an area prone to violations by many actors. Such cases play a pivotal role in enforcing legislation, bringing about real changes in discriminatory practices and raising awareness of the seriousness of legal violations in regard to discrimination. It is precisely the bodies that have developed criteria for selecting cases that involve themselves in strategic litigation.

#### **2.5.1.2 Assistance to victims by predominantly tribunal-type bodies**

161. The services provided by predominantly tribunal-type bodies can be divided into the following four categories:
- Establishment of (informal) settlements. Almost all the tribunal-type bodies first of all aim to achieve a settlement between the applicant and the respondent. If no settlement can be reached further investigations of the case become necessary.
  - Conducting investigations and hearing cases. Many of the resources of tribunal-type bodies are devoted to collecting information and documents and talking to witnesses, experts and the parties involved in order to establish whether discrimination has taken place or not.
  - Issuing non-binding recommendations. Half the tribunal bodies (N=24) can – after they have established discrimination – only make suggestions about how to eliminate discriminatory practices. Their ability to enforce such suggestions very much depends on their standing.
  - Issuing binding decisions. Having established discrimination, half the tribunal bodies can issue binding decisions. In most countries these decisions can be reviewed by courts and in some they can be enforced if the respondent does not comply by taking the case to court. Beyond that, very few tribunal-bodies can either represent victims in court or refer cases to court.
162. The following sections describe the different types of proceedings that tribunal-type bodies can undertake.

### 2.5.1.2.1 Complaints

163. Applications to predominantly tribunal-type bodies mostly have to be submitted in writing, but some also accept oral submissions. These bodies are less service-oriented than 'promotional' bodies: only a few provide more general information on the legal situation or on what to do in cases of discrimination, and some of course give information on proceedings before the respective tribunal. Almost all these bodies have some kind of informal settlement procedure. Only a few bodies can facilitate binding settlements (e.g. Estonia (Chancellor of Justice, valid for private organisations), Hungary and Ireland (Equality Tribunal)). If no such agreement can be reached and the applicant wishes to continue with the proceedings, further investigations are necessary.

### 2.5.1.2.2 Turning complaints into cases

164. If further investigations are necessary, quite a few equality bodies can exercise the power of inquiry themselves or ask other bodies to undertake investigations (e.g. in Austria the Equal Treatment Commission can ask the Ombud for Equal Treatment to investigate). They can conduct on-site visits (e.g. Cyprus, Estonia (Chancellor of Justice) and Norway (Equality and Anti-discrimination Tribunal)); others can examine witnesses (e.g. Cyprus and Italy (National Office against Racial Discrimination)), talk to people or organisations such as trade unions, the police, and NGOs that might be able to provide relevant information (e.g. Italy (National Office against Racial Discrimination)) or request information and documents (e.g. Estonia (Chancellor of Justice), Latvia, the Netherlands, Romania, and Slovenia). Sometimes only public authorities are obliged to provide information requested (e.g. Slovakia). Sometimes equality bodies can themselves issue fines in order to make respondents supply the requested information (e.g. Latvia and Romania) or ask competent institutions to do so (e.g. Slovenia). The Advocate of the Principal of Equality in Slovenia can request information but cannot establish the facts of a case when the statements of the opposing parties contradict each other. Some bodies can hold hearings with both parties (e.g. Bulgaria, Hungary, Romania, and Slovenia) and a few bodies can question witnesses and invite experts (e.g. Austria (Equal Treatment Commission, Federal Equal Treatment Commission) and Norway (Equality and Anti-discrimination Tribunal)).

**Table 4.6: Possible means of law enforcement by tribunal-type bodies**

Country	Equality body	Complaints Facilitating achievement of binding settlement	Turning complaints into cases						
			On-site visits	Examining witnesses	Talking to individuals/ organisations	Requesting information/ documents	Issuing fines or having them issued	Hearings with both parties	Questioning witnesses and inviting experts
Austria	Equal Treatment Commission								X
	Federal Equal Treatment Commission								X
Bulgaria	Protection Against Discrimination Commission							X	
Cyprus	Ombudsman		X	X					
Estonia	Chancellor of Justice (private organisations)	X	X			X			
Hungary	Equal Treatment Authority	X						X	
Ireland	Equality Tribunal	X							
Italy	National Office			X	X				



	for the Fight against Racial Discrimination								
Latvia	Ombudsman					X	X		
Netherlands	Equal Treatment Commission					X			
Norway	Equality and Anti-discrimination Tribunal		X						
Romania	National Council for Combating Discrimination					X	X	X	
Slovenia	Advocate for the Principle of Equality					X	X	X	

165. These further investigations, conducted in various ways, can result in recommendations, opinions or decisions being issued. Such documents contain information on whether a violation of the relevant legal act has been established. When this question is answered in the affirmative, they prohibit continuance of the discriminatory conduct, ask that discriminatory practices or policies be eliminated and/or give guidance on how policies and practices should be changed.
166. Eleven tribunal-type bodies<sup>78</sup> (N=24)<sup>79</sup> can issue binding decisions at the end of the investigation procedure. Only two equality bodies can decide to award compensation payments to the victim – the Estonian Chancellor of Justice<sup>80</sup> and the Irish Equality Tribunal. In most cases the decisions are either enforceable by issuing fines when the respondents do not comply (e.g. Bulgaria and Norway (Equality and Anti-discrimination Tribunal)) or by taking the case to a court which can either decide to quash or uphold the tribunal's decision. When the court agrees with the tribunal's decision, it may issue fines and/or award compensation payments to the claimant. The focus of these court cases is clearly on the individual applicant and getting his/her claims enforced. They can be seen as a quality check for decisions taken by the equality tribunals and also as an indicator of the level of awareness of discrimination within the ordinary courts.

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<sup>78</sup> Bulgaria, Cyprus, Denmark (Board of Equal Treatment), Estonia (Chancellor of Justice), Finland (National Discrimination Tribunal), Hungary, Iceland (Gender Equality Complaints Committee), Ireland (Equality Tribunal), Norway (Equality and Anti-discrimination Tribunal), and Romania.

<sup>79</sup> Information on Italy is missing.

<sup>80</sup> Only true of mediation procedures between private parties resulting in a legally binding agreement.

**Table 4.7: Decisions by tribunal-type bodies and possible means of enforcement**

<b>Binding decisions</b>			<b>Non-binding decisions</b>		
<b>Country</b>	<b>Equality body</b>	<b>Additional enforcement powers</b>	<b>Country</b>	<b>Equality body</b>	<b>Additional enforcement powers</b>
Bulgaria	Protection Against Discrimination Commission	Issuing fines when respondents do not comply with suggested measures	Austria	Equal Treatment Commission	
Cyprus	Ombudsman			Federal Equal Treatment Commission	
Estonia	Chancellor of Justice	Awarding compensation payments	Czech Republic	Public Defender of Rights	
	Commissioner for Gender Equality and Equal Treatment		Denmark	Board of Equal Treatment	
Finland	National Discrimination Tribunal		Greece	Office of Greek Ombudsman	Bringing cases involving public authorities to the competent supervising authorities
Hungary	Equal Treatment Authority			Office of the Ombudsman for Consumers	
Iceland	Gender Equality Complaints Committee			Labour Inspection Body	
Ireland	Equality Tribunal	Awarding compensation payments		Equal Treatment Committee	
Norway	Equality and Anti-discrimination Tribunal	Issuing fines when respondents do not comply with suggested measures	Latvia	Ombudsman	
Romania	National Council for		Lithuania	Equal Opportunities	



	Combating Discrimination			Ombudsperson	
			Netherlands	Equal Treatment Commission	Strategically forwarding opinions to relevant organisations Bringing case to the attention of the relevant minister Taking legal action to obtain a judgment
			Norway	Equality and Anti-discrimination Ombudsperson	Referring cases to Equality and Anti-discrimination Tribunal
			Slovenia	Advocate for the Principle of Equality	Transferring case to competent inspection services if respondent does not comply with recommendations

167. Eleven tribunal-type bodies can only issue non-binding recommendations or opinions.<sup>81</sup> A very few of these bodies can nevertheless try to enforce their recommendations. In Greece the two Ombudsman Offices can bring cases involving public authorities to the attention of the competent supervising authorities. In the Netherlands the Equal Treatment Commission can revert to soft sanctions by strategically forwarding their opinions to relevant organisations, bringing a case to the attention of the relevant minister or taking legal action to obtain a judgment stating that the discriminatory conduct is unlawful, prohibiting its continuation and ordering its rectification. In Norway the Anti-discrimination Ombudsperson can refer cases to the Equality and Anti-discrimination Tribunal, which can issue binding decisions. In Slovenia the Advocate for the Principle of Equality can transfer cases to the competent inspection services if a respondent does not comply with its recommendations.
168. However, equality bodies do not seem to use their powers to enforce compliance either with their requests for information or decisions very frequently. The mandate to issue binding opinions or fines enhances the effectiveness and impact of their recommendations on the policies and practices of the respondent. However, it is clear that the standing and image of the respective equality body and its use of follow-up procedures can help to compensate where the finding is not binding.

### 2.5.1.3 Data on complaints, cases and enforcement

169. The data on complaints and enforcement provided in the country fiches does not allow any reliable comparisons between countries or equality bodies. The statistics compiled by the national experts seem to rather reflect the strategic, structural, organisational and procedural challenges faced by equality bodies. We therefore list some of the factors influencing the numbers of complaints equality bodies have to deal with:
- Number of grounds and areas (employment, goods and services, housing, etc.) falling within the mandates of the bodies. Quite a few bodies cover additional grounds not specified in the Equal Treatment Directives (see chapter 4.2). In what way do the bodies deal with multiple/intersectional discrimination (see chapter 4.2.1)? How are transgender issues dealt with – are they associated with any of the grounds covered by the Equal Treatment Directives or is transgender seen as a separate ground?
  - Awareness of relevant legislation. Do people know about the prohibition of discrimination? Do people recognise discrimination?
  - Awareness and standing of equality bodies.

<sup>81</sup> Austria (Equal Treatment Commission, Federal Equal Treatment Commission), the Czech Republic, Greece (Office of Ombudsman, Labour Inspection Body, Equal Treatment Committee, Office of the Consumer Ombudsman), Latvia, Lithuania, the Netherlands, Norway (Equality and Anti-discrimination Ombudsperson), and Slovenia.

Do people and relevant organisations know about the existence and competences of the equality body? Would they rather report discrimination to an equality body or to other bodies?

- Number of equality bodies. Is there a single equality body? Is there a dual system of promotion-type and tribunal-type bodies within one country? Do cases show up in more than one statistic because they can be dealt with by different equality bodies?
- Strategic role of equality bodies. Does the equality body devote most of its resources to assisting victims? Does the equality body actively promote its services to victims of discrimination? Are all the different grounds and areas dealt with in the same way? How skilled are staff members at dealing with different grounds and areas? Is it a tribunal-type body that has to deal with all cases or is it a promotion-type body that can, for instance, select cases it wants to take to court?
- Definition of the concept of complaint. Are all contacts registered, including those not falling within the competence of the respective body? When does a complaint turn into a case?
- Evaluating the success of equality bodies. Does the equality body count the number of informal settlements? Does the body count the number of decisions in which discrimination was established? Does the body follow up on how many of its suggestions or recommendations have been implemented? Does the body count the number of decisions upheld by courts?

170. Due to the diverse methods of data collection and the differing mandates in terms of grounds and areas, the share of complaints for specific areas and grounds cannot be assessed in a comparative manner. However, particularly high levels of under-reporting can be spotted in the statistics provided in the country fiches. Discrimination on the ground of sexual orientation and religion seem to be under-reported in most countries under observation, and this is also true to a lesser extent for age. With regard to sexual orientation under-reporting seems to be closely related to homophobic attitudes prevailing within society and the fear of making one's sexual orientation public. Multiple or intersectional discrimination shows up in very few statistics – i.e. only in Austria, Germany and Sweden. Transgender issues are included in the statistics of the Institute for Equality of Women and Men in Belgium and the Equality Ombudsman in Sweden.

171. When trying to assess how many complaints turn into cases resulting in an informal mediation, a recommendation or decision or in judicial proceedings we see a great deal of variation. These numbers can be analysed in different ways.

When looking at promotion-type bodies they show the ratio between the number of contacts asking for information or not falling within the competence of the respective body and the number of complaints; they are an indicator of how well the mandate and profile of equality bodies have been communicated; they reflect the resources available to the equality body; or they show that the equality body primarily takes cases to court for strategic purposes. The numbers reflecting success rates of promotion-type bodies are *inter alia* determined by how well they have drawn up their criteria for taking cases to court and whether judges are fully aware of anti-discrimination legislation and its specificities. Tribunal-type bodies usually have to deal with all cases brought before them, meaning that the number of applications also depends on public relations work, on how well they communicate their mandate and on what image the body has developed among potential applicants. As these bodies have to deal with all cases, they have to cope with a backlog of cases not only due to scarce resources but also to the time taken for hearing cases and the delays caused by bureaucratic procedures. This means that cases cannot always be heard within a reasonable time span. The success rates of tribunal-type bodies show the number of cases in which discrimination was established, which might tell us about how capable the body is of establishing discrimination and how well they monitor the implementation of their recommendations.

#### 2.5.1.4 Follow-up ensuring the impact of recommendations or decisions

172. Follow-up procedures are especially relevant for tribunal-type bodies as they issue non-binding recommendations or binding decisions suggesting measures to change discriminatory policies and practices. These follow-up procedures are vital in enforcing anti-discrimination legislation and preventing future discrimination. They could also improve the standing of equality bodies as the addressees of the measures would see that they have to take the recommendations or decisions seriously and really go about changing practices. However, very few equality bodies seem to allocate resources to follow-up activities as there are no obligations in this respect and their already scarce resources seem to be firmly devoted to hearing cases. However, the Dutch Equal Treatment Commission is an exception. It sees an active follow-up policy as essential in enhancing compliance. In more than 70% of cases which resulted in opinions recommending individual or structural measures, steps were taken to redress the existing discrimination or prevent future discrimination. The success of the Commission is attributed to its image as an authority on the enforcement and monitoring of equality and non-discrimination legislation.
173. Promotion-type bodies primarily aim to reach informal settlements and only a few issue recommendations, which are in any case not binding. Some of them involve themselves in follow-up procedures to see what impact settlements and recommendations have on their addressees.

The Equality Commission for Northern Ireland did a follow-up on the 52 settlements achieved between 2008 and 2009 and found improved equality practices in 49 of the cases (94%). The French Equal Opportunities and Anti-discrimination Commission has to be notified of measures adopted by the parties involved to implement the Commission's recommendations.

### 2.5.1.5 Sanctions

174. According to the Equal Treatment Directives sanctions should be effective, proportionate and dissuasive. The competences of some equality bodies allow them to levy fines when respondents do not provide them with information and documents requested and/or do not comply with recommendations or decisions issued. Very few promotion-type bodies are authorised to impose fines. Among them are the Ombudsman for Minorities and the Ombudsman for Equality in Finland, the Centre for Gender Equality in Iceland and the High Commission for Immigration and Intercultural Dialogue in Portugal. Some equality bodies can apply to other organisations empowered to issue fines in order to support them to get the relevant documents. Of course, many promotion-type bodies can take cases to court and achieve compensation payments for their victims when the courts establish discrimination. However, as equality bodies in general do not take many cases to court, sanctions do not play an important role.
175. Tribunal-type bodies – especially those that can issue binding decisions – can impose fines if their requests are not complied with or respondents ignore their decisions. These powers are not used very often and it is not clear if their use is unnecessary or if equality bodies do not dare to do so. Three equality bodies – as reported in the country fiches – have the power to award compensation payments. In Denmark the Board of Equal Treatment can ask a court to enforce its decisions. Thus, if the Danish court agrees with the decision of the Board it can force the respondent to pay compensation. Settlements achieved by the Chancellor of Justice in Estonia, which are binding, can include compensation payments. The Equality Tribunal in Ireland is also allowed to award compensation payments to the complainant. It is rather unclear how often and what amounts of compensation payments are awarded by these equality bodies.
176. Overall the issue of fines and compensation seems not to rank high on the agenda of equality bodies, which primarily aim to achieve soft solutions resulting in settlements between the parties.



### 2.5.1.6 Pro-activity of equality bodies

177. Effective enforcement of legislation also calls for pro-active equality bodies initiating investigations of their own accord when they suspect structural discrimination or violations of equality or anti-discrimination legislation, as measures suggested in reaction to complaints filed with the bodies might not cover all significant violations of and gaps in the implementation of the relevant legislation. Rather few equality bodies, including both promotion- and tribunal-type bodies, have the power to start investigations on their own or to produce opinions on issues not related to complaints. Equality bodies in Austria (Ombud for Equal Treatment), Latvia and Norway (Equality and Anti-discrimination Ombudsperson) have taken the initiative in investigating discriminatory advertisements: the Latvian Ombudsman has been successful twice in having fines imposed for advertisements that discriminate against sexual minorities or are racist. The British Equality and Human Rights Commission is allowed to carry out inquiries into any matter relating to any of its duties. Usually these inquiries look at discrimination in specific sectors of the economy (e.g. banking, the meatpacking industry, and construction). Terms of reference have to be established for each inquiry and interested persons given the opportunity to participate; the Commission can compel witnesses to give evidence. The stakeholders interviewed considered some of these inquiries good pieces of research which succeeded in generating positive media attention. However, very few of the bodies authorised to take action on their own initiative make use of these powers.
178. Another aspect of effective enforcement of legislation is the competence of equality bodies to take cases to court on their own initiative, to act in an *amicus curiae*<sup>82</sup> capacity or to launch *actio popularis* claims. There are very few equality bodies that can initiate court proceedings on their own (e.g. Hungary). A handful of equality bodies can initiate an *actio popularis* claim (e.g. Bulgaria, Hungary, Slovakia, Ireland and the United Kingdom) and a few more can act in the capacity of *amicus curiae* (e.g. Bulgaria, Finland (Ombudsman for Minorities, Ombudsman for Equality), France, Ireland (Equality Authority), Latvia, Lithuania, Norway (Equality and Anti-discrimination Ombudsperson), Romania, Slovenia and the United Kingdom). This concept does not exist in all legal systems under observation. The decision about whether a body can act in this capacity sometimes depends on the courts and not solely on the equality body's competences. Once again, even bodies that have these powers very seldom use them.

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<sup>82</sup> This means that representatives of the equality body can act as experts advising the court in respect of anti-discrimination and equality law without becoming party to the proceedings.

**Table 4.8: Pro-activity of equality bodies by taking cases to court**

Country	Equality body	Initiate court proceedings on its own	Initiate an <i>actio popularis</i> claim	Act in <i>amicus curiae</i> capacity
Bulgaria	Protection against Discrimination Commission		X	X
Finland	Ombudsman for Minorities			X
	Ombudsman for Equality			X
France	Equal Opportunities and Anti-discrimination Commission (HALDE)			X
Hungary	Equal Treatment Authority	X	X	
Ireland	Equality Authority		X	X
Latvia	Ombudsman			X
Lithuania	Equal Opportunities Ombudsperson			X
Norway	Equality and Anti-discrimination Ombudsperson			X
Romania	National Council for Combating Discrimination			X
Slovakia	Slovak National Centre for Human Rights		X	
Slovenia	Advocate for the Principle of Equality			X
United Kingdom	Equality Commission for Northern Ireland		X	X
	Equality and Human Rights Commission		X	X

## 2.5.2 Increasing knowledge of equality and discrimination

179. Most mandates of at least one equality body in each country explicitly include conducting surveys, publishing reports and making recommendations on issues concerning discrimination. The exceptions are Liechtenstein, the Netherlands and Malta. However, lacking an explicit provision in this respect does not seem to prevent these bodies from getting involved in such activities. The terms 'surveys', 'reports' and 'recommendations' are very broad and unspecific and leave much leeway to legislators, who most of the time took over the wording of the EU Equal Treatment Directives, and to the equality bodies themselves. Equality bodies compile the following range of documents or publications: representative surveys, research reports, reports on inquiries, annual reports, evaluation reports, reports on monitoring activities as well as publications of decisions and court cases. The publication of decisions issued by equality bodies is a low-threshold measure which can gain impact when decisions are described in a reader-friendly and instructive manner. Equality bodies in almost half the countries under observation try to maximise their resources in this area by either cooperating with, or commissioning research to, universities, research centres, independent experts, national statistics offices and NGOs. The equality bodies in the Czech Republic and Spain seem not to have published any reports so far. By conducting independent surveys as well as publishing reports equality bodies not only aim at increasing their own knowledge of equality and discrimination but also the awareness and knowledge of relevant stakeholders.
180. The issues raised by the surveys and research in each country under investigation seem to reflect the level of awareness of discrimination within different societies and among important decision-makers, the body of relevant research already available, the extent of strategic networking and the expertise as well as resources available within the bodies to conduct surveys and research.
181. Six broadly defined aims guide the survey and research activities of the equality bodies:
- Understanding and analysing the phenomenon of discrimination within respective societies. Projects within this category look at perceptions and attitudes (Cyprus, Luxembourg, Liechtenstein, Romania, and Slovakia), levels of discrimination (Norway) and the causes and consequences of discrimination (France and the United Kingdom).
  - Some equality bodies do research on issues they have highlighted as major challenges to emphasise the necessity of tackling these problems and taking adequate measures to improve the situation (Greece, Liechtenstein, Lithuania, and Slovakia).
  - Research beneficial to victims tries to analyse how the accessibility of equality bodies can be improved (Finland) or to draw on findings as a source of information for future legal action (Belgium and Bulgaria).

- Some publications focus on the work with potential or alleged perpetrators with the aim of enforcing legislation and changing discriminatory practices (Austria, Ireland, and the United Kingdom).
  - Activities aiming at empowering different target groups and encouraging the public to comply with relevant legislation have a preventive implication (Austria, Cyprus, Ireland, Malta, the Netherlands, and the United Kingdom).
  - The last category encompasses research generating data aiming at collecting evidence as well as forming a basis for monitoring and evaluation. Among these activities are situation testing (France and Ireland), the generation of statistics and indicators (Belgium, Ireland, and the United Kingdom) and assessing the impact of policies, legislation and programmes (Belgium, the Netherlands, and the United Kingdom).
182. Another essential element in increasing knowledge of equality and discrimination is a close analysis of the challenges, drawbacks and gaps in the implementation of equal treatment legislation. The Centre for Equal Opportunities and Opposition against Racism in Belgium and the Equal Treatment Commission in the Netherlands regularly evaluate the implementation of relevant legislation and issue recommendations addressed to the government. The Dutch Government responds to the Commission's reports and sometimes commissions external research on issues highlighted.
183. Hardly any equality bodies seem to evaluate their own work. We collected evidence on self-evaluation by the Equal Treatment Commission in the Netherlands, the Equality Authority in Ireland and the Equality Commission for Northern Ireland in the United Kingdom.
184. Almost all equality bodies have to publish annual reports, which are mostly addressed to parliament, or sometimes to the government or individual ministries. Some equality bodies receive most of their media attention in connection with the presentation of the annual report (Austria, Greece, Lithuania, Portugal, and Slovenia). These reports describe the activities carried out, summarise the cases handled, list statistics and may include recommendations on the improvement of relevant legislation. The country fiche on Hungary refuted the independence of the Equal Treatment Authority's annual report as government bodies are asked to comment on the report and the supervisory ministry has a final say on its content. Hardly any of these reports analyse trends, the situation of vulnerable groups or any other broader implications of the work of equality bodies.
185. There are hardly any legal provisions explicitly including monitoring as a task of equality bodies – exceptions are legal provisions in Iceland, the Netherlands and the UK.

Monitoring activities conducted relate to equality plans (Portugal and Sweden) or statutory equality duties (the United Kingdom), generating data (Belgium), observations of trends and developments regarding discrimination and equal treatment and assessments of the effectiveness of relevant legislation (Austria, Belgium, Iceland, the Netherlands, Slovakia, and the United Kingdom). In more general terms monitoring is not very well integrated into the everyday work of equality bodies and is not done in a systematic and strategic way.

186. It is rather difficult to establish trends concerning activities to develop knowledge undertaken by promotional- and tribunal-type bodies. However, promotion-type bodies seem to be more active in doing surveys and research; they focus on a broad range of issues relating to the overall phenomenon of discrimination within their respective societies. Tribunal-type bodies appear to concentrate on issues more closely related to their case work. Knowledge development seems to be less influenced by the category of body than by general levels of awareness of discrimination and attitudes to racist, homophobic and related forms of intolerance as well as the overall resources allocated by societies to research on discrimination.

### **2.5.3 Raising awareness of rights under equal treatment legislation, of the equality body and of issues of inequality and discrimination**

187. Awareness-raising is not explicitly mentioned in the EU Equal Treatment Directives, but it can be seen as an essential element contributing to the promotion of equal treatment. Measures aiming at raising awareness of the principle of equality should alert stakeholders and the general public to the existence of discriminatory structures, practices and incidents to make sure that this social phenomenon is taken seriously and adequate policies, programmes and measures are developed to eliminate current discrimination and prevent it in the future. They should of course also make potential victims aware of both their rights and the competent bodies that offer support in claiming their rights. Legal provisions in five countries (promotion-type bodies: Malta, Portugal, Spain, and Sweden; tribunal-type body: Norway) make equality bodies explicitly responsible for awareness-raising, which, however, does not necessarily result in a high level of awareness-raising activities in all these countries.
188. Equality bodies in 15 countries<sup>83</sup> were actively involved in awareness-raising, equally divided between promotion- and tribunal-type bodies. The most common tools used were information campaigns and educational activities. The campaigns consisted of TV/radio spots, posters, newspaper articles, seminars and action weeks. These campaigns combat prejudices and stereotypes and try to promote equality as a core value in society.

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<sup>83</sup> Austria, Belgium, Cyprus, France, Germany, Greece, Ireland, Italy, Liechtenstein, Lithuania, the Netherlands, Norway, Romania, Slovakia, and the United Kingdom.

The equality bodies in Liechtenstein, Norway and Romania try to cooperate with and make use of their stakeholder networks in order to maximise their resources. Educational activities such as training, seminars, e-learning tools, lectures and conferences and round tables were most often targeted at civil servants at national, regional and local level, police officers, labour inspectors, placement officers, social partner organisations, employers, judges, lawyers and media professionals, less often at students, teachers and medical staff.

189. We could not identify significant differences between the awareness-raising activities of promotion-type and tribunal-type bodies respectively because both involve themselves in awareness-raising campaigns as well as education. However, tribunal-type bodies seem to specify the target groups for their seminars and training in a more strategic manner. These target groups encompass not only potential offenders identified in the course of the equality body's casework, but also potential stakeholders who could support them in their awareness-raising work.
190. In order to maximise resources aiming at awareness-raising, equality bodies should develop an overall media strategy helping them decide which media would be appropriate for communicating information on legislation, cases, events or equality issues by and large to the target groups they would like to address. None of the country fiches mentions overall media strategies established by specific equality bodies. The heads of the Norwegian and Swedish equality bodies are quite active in participating in debates on radio or TV. The Equality and Human Rights Commission in the United Kingdom seems to concentrate its resources on communicating issues that spark debates and encourage people to think about the kind of Britain they want to live in and cases, inquiries of their own and research pointing to essential challenges. The Equality Commission for Northern Ireland has a clear focus on stories concerning individuals that everybody can understand. The equality bodies in Belgium encourage the media to cover cases where either of the two bodies is involved in litigation or they issue press releases responding to events related to discrimination and equality in Belgian society. These strategies contribute to public recognition of the names of the bodies. The Ombudsman for Minorities in Finland extensively advertises in magazines and newspapers popular among minorities at risk of discrimination. It especially focuses on magazines read by groups that are under-represented in its client data base.
191. Quite a few equality bodies issue press releases and draft articles themselves. Reporting on cases seems to be more popular than on events. A quantitative comparison of how often equality bodies are mentioned and in connection to which issues is not possible.

The tone of articles published was predominantly described as neutral;<sup>84</sup> criticism was voiced in connection to internal developments or the finances of equality bodies and in relation to controversial stances taken by equality bodies that are not in line with the opinions of decision-makers or attitudes within society.

#### 2.5.4 Promoting equality

192. According to the Equal Treatment Directives equality bodies are agencies for the promotion of equal treatment of all persons. Once again promotion-type bodies seem to be more active in promotional work than tribunal-type bodies. However, as the examples below will show, the two types of bodies do not seem to focus on different or mutually exclusive kinds of promotional work. In some countries promotional work is carried out to a large extent in the context of projects funded by the EU. The promotional work undertaken by equality bodies falls within three broad categories: actively presenting services offered with the aim of increasing visibility of the bodies, activities empowering stakeholders to implement policies and practices promoting equality, and measures empowering vulnerable groups.

- **Visibility of equality bodies.** The equality bodies in Austria, France, Germany and Luxembourg have specifically aimed to promote their services. The Austrian Ombud for Equal Treatment publishes a 'case of the month' highlighting issues of discrimination and describing the actions taken on behalf of a client. Quite a few applicants have indicated lately that these presentations of cases encouraged them to turn to the Ombud. The HALDE in France has advertised its services by having videos broadcast and airing weekly radio programmes. On the other hand there are bodies that tend to refrain from actively advertising their services as their resources might not suffice for handling more complaints.
- **Empowering stakeholders.** Stakeholders primarily supported in their efforts to promote equality are either public authorities, employers or the media. Public authorities in the United Kingdom are systematically targeted by the bodies to support them in complying with their statutory equality duties. Measures on a much smaller scale are taken in Estonia and Lithuania where the equality bodies have launched a handbook on gender mainstreaming for municipalities, and Iceland and Portugal where the administration is supported in the implementation of equality plans.

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<sup>84</sup> An analysis of the tone of reporting was provided in 14 reports: Austria, Belgium, Bulgaria, Cyprus, Finland, France, Iceland, Liechtenstein, Lithuania, Luxembourg, Romania, Slovenia, Sweden, and the United Kingdom.

Activities targeting employers or specific professional groups in the workplace including a brochure on benefits of gender equality planning at the workplace (Finland), on gender budgeting for civil servants (Lithuania) and on improving employment relations for people with disabilities (Slovakia); materials supporting managers in identifying harassment and other forms of discrimination (Green House, Sweden); codes of conduct on sexual harassment in the workplace (Cyprus); advice on the implementation of equality plans (Portugal, Sweden, and the United Kingdom); and support to employer networks on equality (the United Kingdom). Handbooks, recommendations and codes of conduct combating stereotyping are addressed to the media (Bulgaria, Cyprus, and Portugal). Further stakeholders are targeted by a brochure published by the Ombud for Equal Treatment in Austria, which gives support to NGOs, advice services and trade unions to identify discrimination and learn about means of redress, and by educational activities in Luxembourg which support social workers, placement officers, trade unions and NGOs in their fight against discrimination.

- **Empowering vulnerable groups.** Not many of the measures taken fall within this category: positive action measures (Italy), targeting resources on affected groups (Ireland), campaigns to increase the number of women in elected bodies (Iceland, Liechtenstein, and Norway), and work with groups facing exclusion especially Roma (Sweden).
193. Two activities that do not fit into these three categories are an agreement between the HALDE in France and 35 partner organisations on promoting equality and a campaign by the Equality and Anti-discrimination Ombudsperson in Norway convincing politicians to sign a declaration obliging them to refrain from racism and discrimination during election campaigns. Violations of the declaration were followed up and generated a great deal of media attention.
194. An essential task in promoting equality is to support employers and service providers in developing good practices. Only a few equality bodies are specifically mandated to do promotional work, which include a good mixture of promotion- and tribunal type bodies.<sup>85</sup> However, none of the tribunal-type bodies specifically mandated to promote good practices have so far become active in this regard; most bodies active in this area are promotion-type bodies. Support for developing good practice is largely provided by motivating companies to participate in competitions for (gender) equality awards which oblige companies to analyse their equality plans or other measures aimed at improving equality.

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<sup>85</sup> Promotion-type bodies: Denmark (Institute for Human Rights), Ireland (Equality Authority), Spain (Equal Treatment Council), and Sweden; tribunal-type bodies: Estonia (Commission for Gender Equality and Equal Treatment), Italy (National Office against Racial Discrimination) and Latvia.



It is not always clear whether companies are awarded a prize for just having implemented a successful project or for having initiated structural and cultural change which makes (gender) equality a core value of the organisation. Belgium, France, the Netherlands, Ireland and the United Kingdom promote good practice and give support to organisations in developing and implementing equality plans, equal opportunities policies or statutory duties in a more systematic way. Both equality bodies in the United Kingdom have the power to draft codes of practice which provide regulatory guidance to employers and service providers on how to comply with specific parts of British anti-discrimination law. The content of such codes must be taken into account where relevant by courts and tribunals as guidance when interpreting and applying anti-discrimination law. These codes are powerful tools for promoting good practice and for influencing the developing interpretation of the law. In the absence of evaluations, it is impossible to assess the impact of these activities.

195. Equality bodies in 40% of the countries under evaluation do not undertake any activities to support good practice by employers and service providers. The reasons for this might be that most are tribunal-type bodies and that some of them have reported severe budget cuts.

## 2.6 Independence

196. Independence is considered a key factor in the effectiveness and impact of equality bodies. The need for the independence of equality bodies is stated in a variety of official documents: the Equal Treatment Directives, the United Nations Commission on Human Rights Resolution 1992/54 (the Paris Principles), and the Council of Europe's European Commission against Racism and Intolerance (ECRI) Recommendation No. 2.

197. The relevant equal treatment directives and the provisions therein on independence are:

- Article 13 of the Racial Equality Directive (2000/43/EC);
- Article 7 (inserting Article 8a) of Directive 2002/73/WE of 23 September 2002 amending Council Directive 76/207/EEC (Gender Equality Directive);
- Article 12 of Directive 2004/113/EC;
- Article 20 of Directive 2006/54/EC (recast);
- Article 20 of the Proposal for a Council Directive (COM(2008) 426 final).

198. Although the wording slightly differs between directives (i.e. depending on the grounds which the directive covers), they all refer to the specialised equality bodies' independent performance of their functions. They should be able to:

- provide independent assistance to victims of discrimination in pursuing their complaints of discrimination;

- conduct independent surveys concerning discrimination;
  - publish independent reports and make recommendations on any issue relating to such discrimination.
199. The European Union leaves the issue of the body's status to the Member States. To cite Article 12 of 2004/113/EC, Member States have discretion to 'designate and make the *necessary arrangements* for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex. These bodies *may form part of agencies charged at national level* with the defence of human rights or the safeguard of individuals' rights, or the implementation of the principle of equal treatment [our italics].' Member States are only charged with ensuring 'necessary arrangements'; whether the body will actually be 'part of agencies at the national level' is up to the Member State.
200. Compared with the provisions outlined in the Directives, the Paris Principles and the ECRI Recommendation seem to be more concerned with the organisational features of independence. We can list the following common provisions on the independence of specialised equality bodies as follows, in a non-hierarchical order:
- function without interference from the state,
  - allocation of organisational resources as management sees fit,
  - freedom in appointment of staff,
  - possession of their own premises,
  - adequate and/or sufficient funding,
  - freedom to define tasks,
  - clear legal mandates and terms of reference,
  - pluralist representation on commissions and/or board,
  - ability to communicate freely with the general public,
  - transparency.
201. In this report we focus on the following dimensions of independence and assess these for the equality bodies in this survey: financial independence, personnel/HRM independence, policy-making independence, and structural independence. The dimensions are the same as in the Equinet report *Between Impartiality and Responsiveness. Equality Bodies and Practices of Independence* (2008). That report presented the findings of the previous version of the current survey questionnaire. Our findings can be regarded as a follow-up to and replication of the analysis in that report.
202. The framework for this study of independence consists, alongside the four dimensions mentioned above, of the distinction between *de jure* and *de facto* independence. Next, it is important to realise that independence is not a static quantity and that it can change over time due to effects of certain events (e.g. change of government, new legislation, scandals, and so on).

We will also therefore assess the more dynamic aspects of independence with respect to equality bodies. Special reference will be given to accessibility as an additional dimension of independence that is relevant in the specific case of equality bodies.

203. Our assessment of the independence of the equality bodies is organised as follows:

1. an overview of equality bodies' own perceptions of their degree of financial, personnel, and policy-making independence;
2. an examination of possible associations between the financial, personnel, and policy-making independence and the structure and type of body;
3. possible relationships between these features and the potential impact of external events on equality bodies.

### 2.6.1 Independence – financial

204. Table 4.9 provides an overview of the level of financial independence as rated by the equality bodies in this survey. We asked our respondents to rate their level of financial independence using four central indicators for financial management systems within public organisations. Measuring a body's degree of financial independence gives us an insight into how much discretion the management of a body enjoys when it comes to the allocation of financial resources to its various tasks and programmes. These indicators are the possibility (for the management) (1) to shift resources between personnel and running costs, (2) to shift resources between budget and investments, (3) to take out loans for investments, and (4) to carry over the budget from one year to the next.

**Table 4.9: Financial independence of equality bodies (absolute numbers)**

	Level of financial independence			Total (N)
	No, not at all	Yes, but with prior approval or conditions set by (parent) ministry or government	Yes, fully without prior approval or conditions set by (parent) ministry or government	
Shift between personnel and running costs?	20	9	12	41
Shift between budget and investments?	23	9	9	41

Take out loans for investments?	37	1	3	41
Carry budget over to subsequent years?	25	13	3	41

205. The table shows that the financial independence of equality bodies is greatest for managerial decisions regarding reallocations of resources between personnel and running costs, moderately great for managerial decisions on carrying over the budget to subsequent years, and, finally, limited for reallocations between budget and investments and even more so for taking out loans.
206. Fifteen equality bodies reported having no financial independence at all in all four dimensions. These are the Austrian Office for Equal Treatment, the Bulgarian Commission for Protection against Discrimination, the Cypriot Ombudsman, the Czech Republic’s Public Defender of Rights, the Danish Board of Equal Treatment, the Finnish Ombudsman for Equality, the Finnish Ombudsman for Minorities, the Greek Commission for Equal Treatment, the Greek Consumer Ombudsman, the Greek Labour Inspectorate, the Irish Equality Authority, the Liechtenstein Office of Equal Opportunity, the Luxembourg Centre for Equal Treatment and the Icelandic Gender Equality Complaints Committee.
207. Remarkably, 10 of these 15 bodies are bodies with a separate legal personality. At the same time, 11 of them are governed by a director or ombudsperson. Greece and Finland are represented by multiple equality bodies in our survey. Three of the four Greek equality bodies and two of the three Finnish bodies reported having no financial independence at all as regards the items presented to them in our survey.
208. Only one equality body reports full financial independence in all dimensions of financial independence: the Belgian Centre for Equal Opportunities and Opposition to Racism.

### 2.6.2 Independence – personnel management

209. The degree of independence enjoyed by specialised equality bodies in terms of personnel management may be indicative of the extent to which the management is able to shape the organisation’s expertise, culture and ultimately performance. Table 4.10 provides an overview of answers provided by our respondents about their level of independence as regards the management of their staff.

We asked our respondents to what extent their bodies enjoyed independence in terms of (1) deciding the level of salaries, (2) setting conditions for promotion, (3) appraising their personnel, (4) appointing their own personnel and (5) deciding to downsize their organisations.

210. Overall, and especially compared to the findings for financial independence, we see that a relatively large number of equality bodies enjoy substantial independence as regards their personnel management policies. More than half reported full independence as regards staff appraisals, followed by appointment of personnel and setting conditions for promotion. If we include the response category of 'only after approval of the ministry or government', we find that equality bodies' abilities to intervene in their personnel policies are quite substantial.

**Table 4.10: Independence of equality bodies in personnel management (absolute numbers)**

	Level of independence in personnel management			Total (N)
	No	Only after approval of (parent) ministry or government	Yes	
Salaries	16	7	16	39*
Conditions for promotion	13	4	22	39*
Appraisal of personnel	10	1	28	39*
Appointment of personnel	13	3	23	39*
Downsizing of organisation	13	6	19	38**

\* two missing answers

\*\* three missing answers

211. Notice should be taken, however, of the fact that in many cases independence in personnel management is limited by laws regulating civil or public service personnel. It is also essential to compare independence in personnel management with adequacy of staffing, as inadequate staffing may well coincide with a large degree of independence in personnel management.

212. Only three equality bodies reported no independence in personnel management for any of the five criteria: the Finnish Ombudsman for Equality, the Liechtenstein Office of Equal Treatment, and the Spanish Council for the Promotion of Equality. Note that the former two bodies also reported having no independence in financial management. If we exclude the last dimension (i.e. downsizing, as this could be deemed of indirect concern to personnel management), again only these three bodies turn up.
213. Considerably more equality bodies reported full independence in all aspects of personnel management. Thirteen bodies responded positively to all questions in this respect:
- Belgium – Centre for Equal Opportunities and Opposition against Racism,
  - Bulgaria – Protection Against Discrimination Commission,
  - Denmark – Board of Equal Treatment ,
  - Denmark – Danish Institute for Human Rights,
  - Estonia – Chancellor of Justice, Commissioner for Gender Equality and Equal Treatment,
  - France – Equal Opportunities and Anti-discrimination Commission (HALDE),
  - Hungary – Equal Treatment Authority,
  - Latvia – Ombudsman,
  - Lithuania – Equal Opportunities Ombudsperson,
  - Norway – Equality and Anti-discrimination Ombudsperson,,
  - Slovakia – Slovak National Centre for Human Rights,
  - Sweden – Equality and Anti-discrimination Ombudsman,
  - UK – Equality Commission for Northern Ireland.
214. Note that the Belgian Centre for Equal Opportunities and Opposition to Racism here too turns out to have full independence in all aspects of this dimension.
215. Of these bodies, seven are governed by a single head (director, commissioner or ombudsman) and six are governed by a collegiate board. Interestingly, 11 have a legal personality of their own, while two are part of another government body.

### **2.6.3 Independence – allocation of personnel and finance across grounds**

216. The number of grounds covered by an equality body is significant in terms of management's capacity to allocate adequate resources to each ground. Thirty-eight equality bodies responded to the question of how free they were to allocate their staff for work over the various grounds.

Of these, only 28 had powers in two or more grounds, with a maximum of 10 grounds covered by any one body.<sup>86</sup> Table 4.11 presents the freedom of equality bodies covering more than one ground to allocate their personnel over the various grounds.

**Table 4.11: Independence to allocate personnel and financial resources over multiple grounds. Equality bodies competent for more than one ground (absolute numbers)**

Level of independence	Number of bodies
The organisation takes the decision itself	18
The organisation takes the decision itself, but the minister/ministry is explicitly consulted	1
The organisation takes the decision itself under explicit restrictions set by the ministry	1
The minister takes the decision after having consulted the organisation	4
Neither the minister nor the organisation since the legislation involved leaves no room for discretion	4
Total (bodies in absolute numbers)	28

217. The majority of bodies covering two or more grounds can decide on how to allocate their personnel and financial resources over the various grounds they cover without any recourse to the minister or ministry or to any other regulation. Of the 13 bodies that covered all 10 grounds given in the survey questionnaire, i.e. the bodies that must prioritise most of all, eight reported that it was the organisation itself that decided allocation. One body reported that the organisation had to consult the ministry first, and three bodies reported that the relevant legislation did not leave any room for the body's management to allocate financial and staff resources.

218. The three bodies that reported that the minister enjoys the prerogative to decide this question are: the Portuguese High Commissioner for Immigration and Intercultural Dialogue, the Greek Labour Inspectorate and the Office of Equal Opportunity in Liechtenstein.

<sup>86</sup> We asked about the following 10 grounds in the survey: sex, age, disability, race/ethnicity, political opinion, nationality, religion, beliefs, sexual orientation, and civil status. Some equality bodies cover more/other grounds, i.e. transgender identity is covered by the Swedish equality body.

## 2.6.4 Independence – powers

219. The Equal Treatment Directives (2000/43/EC, 2004/113/EC and 2006/54/EC) require Member States to designate bodies that have the powers to: a) provide independent assistance to victims of discrimination in pursuing their complaints of discrimination; b) conduct independent surveys concerning discrimination; and c) publish independent reports and make recommendations on any issue relating to such discrimination. Table 4.12 summarises equality bodies' independence in this respect.

**Table 4.12: Equality bodies' independence to make decisions regarding implementation of their powers (absolute numbers)**

	Assistance to victims	Conduct surveys	Publish reports
The organisation takes the decision itself	36	35	33
The organisation takes the decision itself, the minister/ministry is slightly involved	1		2
The organisation takes the decision itself, but the minister/ministry is explicitly consulted	0	0	1
The minister takes the decision after having consulted the organisation	1	1	1
Neither the minister nor the organisation since the legislation involved leaves no room for discretion	1	3	1
Total (bodies)	39	39	38

220. The table shows that almost without exception the vast majority of equality bodies enjoy full independence to exercise the powers that are entrusted to them, as required by the Directives.



221. The Dutch Equal Treatment Commission does not provide independent assistance to victims of discrimination as they cannot reconcile this power with their (quasi-)tribunal role. Assistance to victims is provided by anti-discrimination agencies across the Netherlands.

### 2.6.5 Independence – allocation of personnel and financial resources across powers

222. In a similar vein as above, we asked our respondents to rate their perceived level of independence in making decisions as regards the allocation of personnel and financial resources between the tasks of assisting individuals, hearing or investigating cases, and publishing reports and making recommendations.

**Table 4.13: Independence in allocating personnel and financial resources between the tasks of assisting individuals, hearing or investigating cases, and publishing reports and making recommendations (absolute numbers)**

Level of independence	Number of bodies
The organisation takes the decision itself	30
The organisation takes the decision itself, but the minister/ministry is explicitly consulted	2
The organisation takes the decision itself, under explicit restrictions set by the ministry	2
The minister takes the decision after having consulted the organisation	2
Neither the minister nor the organisation since the legislation involved leaves no room for discretion	2
Total (bodies in absolute numbers)	38*

\* three missing answers

223. An overwhelming majority reports that they perceive themselves to be fully independent when taking decisions regarding the allocation of resources over various tasks.

### 2.6.6 Independence – the effects of governance structure and legal status

224. Two often used indicators of structural independence are governance structure (i.e. single-headed body or collegiate board?) and legal personality (i.e. does the body have its own charter or is it part of another government entity?). Governance structure and legal personality are *de jure* features of an organisation, but they may be indicators for the amount of *de facto* independence the equality body enjoys in its day-to-day functioning.

In this sub-chapter we will present our main findings as regards the effects of these indicators on the level of independence regarding financial management, personnel management, and policy independence. For reasons of readability and clarity we present the tables with our main findings in Annex 1.

225. Collegiate boards function as a shield for the organisation: it is to the board that the managing director and staff are answerable, not to the minister or ministry. Bodies with a governing board cannot be subject to direct political interference. *De facto* independence may be substantial, as studies in the field of public administration have shown, when these bodies possess discretionary decision-making authority – it allows them to take decisions with relatively little influence from political decision-makers. By the same token, a legal personality sets a body even further apart from the political orbit. Bodies that are part of a ministry fall under the regime of ministerial accountability. Although the commissioners responsible for the implementation of anti-discrimination laws may be given an independent position by law, the staff who prepare investigations, surveys, and reports will be, as civil servants, part of the ministerial hierarchy, and therefore amenable to political instructions. A separate legal personality also, *de jure* at least, restrains ministers or the government from interfering with the body's internal organisation; whereas in many countries the (re)organisation of a ministerial department is the prerogative of the minister, bodies with a separate legal status usually fall under a different regime as regards their internal organisation than ordinary ministerial departments.
226. First we present the relationship between *de jure* structural independence and independence in financial management (see Table A.1.1. Annex 1). We found that equality bodies governed by a collegiate board have significantly more independence in reallocating their budgets between personnel and running costs than equality bodies run by a director, commissioner or ombudsperson. As for the other dimensions of financial independence, we find no significant differences between equality bodies with different governance structures and legal statuses. The scores even show that equality bodies considered less independent in terms of governance structure and legal status enjoy higher degrees of independence for the items 'shifts between budget and investments' and 'taking out loans for investment'. In the case of 'carrying budget over years' it seems that structure does not matter at all.
227. The findings for 'governance structure' are contrary to the findings of the Equinet report<sup>87</sup> except for the ability to shift resources between personnel and running costs.

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<sup>87</sup> Equinet (2008): Between Impartiality and Responsiveness: Equality Bodies and Practices of Independence p. 29 [http://www.equineteurope.org/practices\\_of\\_independence\\_to\\_print\\_1.pdf](http://www.equineteurope.org/practices_of_independence_to_print_1.pdf) (27.10.2010)

In contrast to the findings of the survey of two years ago, we now found that equality bodies governed by a collegiate board enjoy less financial independence than bodies governed by a single head. As regards the financial management tool of shifting budgets over two or more years, we see that the extent of an equality body's structural independence does not make any difference.

228. The same inference can be drawn when reported levels of independence in financial management are compared to the legal status of equality bodies. Compared to two years ago, equality bodies with their own legal personality reportedly still enjoy a higher degree of independence as regards the ability to reallocate resources between personnel and running costs, but less independence where the other dimensions of financial independence are concerned.
229. One explanation for these different observations may be that the findings are influenced by the fact that the scope of bodies participating in this present survey is substantially wider than in the previous one (21 then, 40 now). The current analysis covers almost all equality bodies in the EU and EEA/EFTA countries, meaning that our research population is almost complete. Furthermore, in the past two years some new bodies have been established and some previously existing bodies have been merged (for example the four Swedish ombudsmen have now merged into a single entity).
230. Other explanations that cannot be inferred directly from this data but may well be possible given the analyses presented in country fiches are as follows:
  - a. The financial crisis that erupted in 2008 and 2009 has caused governments to curb the equality bodies' independence in financial management.
  - b. Right-wing and conservative coalitions in a number of European countries have taken measures (or it is anticipated that they will do so) to tune down the discretionary powers of equality bodies regarding financial management.
231. Measures to decrease the financial independence of bodies do not necessarily require relatively lengthy or cumbersome legal changes, but can also be achieved by ministerial decisions and/or changes in the ways in which politically responsible bodies handle the financial management of equality bodies.
232. Second, we examined the effects of governance structure and legal status for levels of independence in personnel management (see Table A.1.2. in Annex 1). We find that the legal status of an equality body, i.e. whether the body is part of another body and lacks legal personality or is a separate entity with its own legal personality, has a significant impact on the level of personnel management independence reported.

To be more precise: equality bodies with their own legal personality report (significantly) higher levels of independence in personnel management than bodies that are part of a ministry or another public body.

233. The observations for governance structure are not only non-significant but also more mixed. Bodies governed by a collegiate board report higher levels of independence for decisions concerning salaries, promotions and personnel appraisals, but lower levels of independence for decisions concerning the appointment of personnel and the reorganisation and/or downsizing of the organisation.
234. Compared to the findings of the 2008 Equinet survey, we can make the following observations:
- For the effects of legal personality: we see no changes in the relative scores for independence in the various dimensions of personnel management. The relative superiority of equality bodies with their own legal personality over those without in terms of independence in personnel management has remained unaltered.
  - For the effects of governance structure: we see that two changes have occurred, namely reported levels of independence in personnel management regarding decisions concerning promotions and appraisal have increased in favour of equality bodies governed by a collegiate board. The other scores have remained the same.
235. Overall we can conclude in comparison to two years ago that the net independence in personnel management of equality bodies has increased.
236. Finally, we also ran these tests for the levels of independence reported by equality bodies with different structures for decisions concerning use of their powers (assistance to victims, hearing and investigation of cases, and publishing reports and making recommendations) as well as the levels of independence reported for allocating their personnel and financial resources between these powers and the grounds they are competent for (see Table A.1.3. in Annex 1). Almost all the findings in these tests confirmed that equality bodies governed by a collegiate board and/or that have their own legal personality have higher levels of independence (albeit not significantly) than bodies governed by a single head and/or that lack their own legal personality.
237. As an overall conclusion so far, we can make the following four points:
1. For two of the three dimensions of independence examined here, i.e. independence in personnel management and in use of powers, governance structure and legal status seem to matter. That is, bodies with higher formal degrees of independence enjoy a higher degree of independence in these dimensions than bodies governed by a single head and without their own legal personality.

2. As regards equality bodies' independence in personnel management, we found that compared to the previous Equinet independence survey in 2008, overall independence in personnel management has risen.
3. As regards independence in financial management, we found that overall independence has declined in comparison to the 2008 Equinet survey.
4. As regards the equality bodies' policy-making independence in matters pertaining to their core tasks and allocation of resources over different grounds and tasks, there is a very high level of reported independence (given the scores in Table A.1.3. of close to one). But equality bodies with higher levels of *de jure* independence, i.e. bodies governed by a collegiate board and bodies with their own legal personality, report higher levels of independence on virtually every item than bodies with low degrees of *de jure* independence (i.e. bodies governed by a single head and bodies with no separate legal personality).

### **2.6.7 Independence – predominantly tribunal-type bodies and predominantly promotion-type bodies compared**

238. The differences between predominantly tribunal-type bodies and predominantly promotion-type bodies regarding independence in personnel management, financial management and policy-making are given in Table A.1.4. of Annex 1.
239. These findings show that predominantly tribunal-type bodies enjoy more independence in personnel management than predominantly promotion-type bodies. This is understandable in the light of the fact that tribunals employ qualified or professional judges and lawyers. However, the latter type of bodies reported higher levels of independence in financial management than tribunals, particularly regarding shifting the budget between personnel and running costs. It is not clear why this is the case, but one could argue that promotion-type bodies have more varied functions (i.e. recommendations, surveys, awareness-raising) that require more flexible financial management than tribunals where the main tasks are hearing and investigating individual cases.
240. Furthermore we also compared perceived levels of independence in the allocation of resources among tasks and between grounds (see Table A.1.5. in Annex 1). We find that predominantly promotional bodies report overall higher levels of independence in both dimensions, except as regards decisions concerning the hearing and investigation of individual cases. These findings show that there are clear differences between predominantly promotional and predominantly tribunal-type bodies.

## 2.6.8 Independence – influence of stakeholders: governance structure, legal status, and type of bodies

241. How do equality bodies rate the relative influence of stakeholders in their environment (see Table A.1.6. in Annex 1)? When we compare equality bodies with different governance structures we find that equality bodies with a collegiate board perceive higher levels of influence from all stakeholders (except the EU and parliament) than equality bodies governed by a single head. The findings for equality bodies with different legal statuses show a somewhat more mixed picture. Equality bodies with their own legal personality report higher levels of influence from parliament, government, the finance minister, the EU, consultants, and to some extent public opinion than equality bodies without a legal personality. The latter are more influenced by their parent minister, courts (slightly), political parties, and civil society.
242. What does this mean, and do governance structure and legal status, i.e. both measures of formal or *de jure* independence, have an effect on the *de facto* independence of equality bodies in their relationship with external stakeholders? Although definitive conclusions cannot be drawn, we believe that the following preliminary inferences can be drawn:
- Looking at influence scores by governance structure: equality boards with a collegiate board are somewhat more political than equality boards governed by a single head. Bodies with collegiate boards that may include representatives from government, stakeholders or target/discriminated groups are more involved in public debates and/or are more affected by political parties, debates within the media, (controversial) court decisions, and public opinion. Another possible inference is that equality bodies with their own board and legal personality lack the shelter of a politically responsible actor, i.e. a minister or government, and are more 'out there', visible and therefore more likely to be involved in debates and politics.
  - Vicinity to a parent minister, as is the case for equality bodies without a legal personality, matters as well. These bodies report higher levels of influence from the parent minister than bodies that have their own legal personality.
243. We examined the same questions for predominantly tribunal-type and predominantly promotion-type bodies (see Table A.1.7. Annex 1). The results are interesting. Overall, predominantly promotion-type bodies report that they perceive greater influence of stakeholders on their strategic decision-making processes than predominantly tribunal-type bodies.
244. There are two exceptions. The first is the relative influence of the EU. Predominantly tribunal-type bodies perceive the relative influence of the EU on their strategic decision-making processes to be higher than predominantly promotion-type bodies.

245. The explanation might very well be that tribunal-type bodies are more affected by EU directives and other policy initiatives than promotion-type bodies.
246. The second exception is the minister of finance: tribunal-type bodies perceive greater influence of ministers of finance on their strategic decision-making processes than promotion-type bodies. In combination with the finding in Table A.1.4. – where we found that tribunal-type bodies reported lower levels of independence in financial management than promotion-type bodies – this finding strongly suggests that while tribunals may perhaps perceive themselves to be more independent from external stakeholders than promotion-type bodies, they may still have a considerably lower level of financial independence. This might not impede on the independence of the tribunals in performing their core task – i.e. the hearing and investigation of cases – but it may mean that they experience greater inadequacy of resources than promotional-type bodies.
247. An important finding is that the perceived differences in levels of influence are significant for political parties, civil society, the government, and the parliament. Despite the fact that predominantly tribunal-type bodies have lower levels of financial independence, they act with greater independence from these central political and societal stakeholders than predominantly promotion-type bodies.

### 3 COMPLIANCE, IMPACT AND EFFECTIVENESS OF THE EQUALITY BODIES

#### 3.1 Compliance

##### 3.1.1 A high level of compliance

248. Equality bodies in a number of Member States existed prior to the Equal Treatment Directives (2000/43/EC, 2004/113/EC and 2006/54/EC) with their requirements to establish such bodies in relation to the grounds of gender and racial or ethnic origin. However, these Equal Treatment Directives have stimulated a remarkable growth in the establishment, or further development, of equality bodies across the Member States and the EFTA/EEA countries. There are now equality bodies in all Member States except Poland.
249. The Equal Treatment Directives (2000/43/EC, 2004/113/EC and 2006/54/EC) require the designation by the Member States of bodies that:
- provide independent assistance to victims of discrimination in pursuing their complaints of discrimination;
  - conduct independent surveys concerning discrimination;
  - publish independent reports and make recommendations on any issue relating to such discrimination.
250. The Directives allow these bodies to form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights.
251. The country fiches prepared for this synthesis report find a high level of formal compliance with this requirement. A significant number of Member States have also gone beyond the minimum requirements of the Equal Treatment Directives.
252. The equality bodies in a significant number of countries cover grounds beyond gender and racial or ethnic origin. In Hungary, for example, there is an open-ended list that names 19 categories of people against whom discrimination is prohibited. In Ireland nine different grounds are protected from discrimination in both employment and service provision.
253. In some other countries the powers and functions of the equality bodies go beyond those required by the Equal Treatment Directives. In France, for example, the HALDE can present observations, on its own initiative or at the request of the courts, to the civil, criminal and administrative courts. In the United Kingdom the Equality and Human Rights Commission and the Equality Commission for Northern Ireland have the functions of enforcing general statutory equality mainstreaming duties that require public authorities to have due regard to the need to provide for equality of opportunity.



In Sweden the Equality Ombudsman checks the equality plans of employers and universities and may apply to the Board against Discrimination to issue an order to comply with a specific request if they fail to fulfil their duties.

254. Failures in compliance arise in relation to the absence of a body, to the scope of the body designated and to the functions accorded to the body.
255. Poland is the only Member State that has not designated an equality body. In 2007 the Ministry of Labour and Social Policy introduced draft legislation that aimed to implement the Equal Treatment Directives. Since then there have been several versions of the draft law. The most recent version suggests that the Commissioner for Civil Rights Protection (Ombud) might be the designated body. The NGO sector have criticised this proposal, arguing for a separate institution.
256. Denmark has yet to finally designate an equality body in relation to the grounds of gender (Directives 2004/113/EC and 2006/54/EC). From 2011, the Danish Institute for Human Rights is, however, expected to be appointed as the promotional body for gender equality.
257. Questions arise in relation to the ground of racial or ethnic origin (Directive 2000/43/EC) in relation to Malta and Lithuania. In Malta the National Commission for the Promotion of Equality for Men and Women has a mandate in relation to the ground of racial or ethnic origin in the provision of goods and services. However, this does not extend to the field of employment. In Lithuania, while the Equal Opportunities Ombudsperson can investigate complaints of discrimination on the ground of racial or ethnic origin, the body does not have explicit powers to provide assistance to victims of discrimination on this ground or to conduct independent surveys in relation to discrimination on this ground. Neither Iceland nor Liechtenstein has transposed Directive 2000/43/EC covering the ground of racial or ethnic origin, but as noted above, the Directive has not been incorporated into the EEA Agreement.
258. Questions arise in relation to the conduct of independent surveys. In Slovenia (both the Advocate of the Principle of Equal Treatment and the Human Rights Ombudsman), Finland (the Ombudsman for Equality), Lithuania (the Equal Opportunities Ombudsman in relation to the ground of racial or ethnic origin) and Liechtenstein (the Office of Equal Opportunities) the power to conduct independent surveys does not fall within the remit of the equality bodies.

### **3.1.2 Compliance issues – institutional architecture**

259. Fifty per cent (N=48) of the equality bodies identified in the country fiches are tribunal-type bodies as opposed to promotion-type bodies. It is not clear if assistance to victims can be provided where the only equality body available is a tribunal-type body.

260. The Equal Treatment Directives do not define what is meant by 'independent assistance to victims of discrimination'. This lack of definition is reflected at the level of Member States as the wording of the Equal Treatment Directives is merely replicated in national legislation.
261. In a number of countries this assistance is understood in terms of providing information on procedures that have to be followed to lodge and pursue a case. In Bulgaria, for example, the Protection against Discrimination Commission only provides consultations on the formal and procedural aspects of complaints. In Romania, the National Council for Combating Discrimination only provides advice about to how to write complaints and to proceed with the case.
262. In other countries this assistance is seen in terms of resolving the complaint brought forward. In Greece, for example, it is argued that the role of the Ombudsman, the Consumer Ombudsman and the Labour Inspection Body as mediators in cases equates to compliance with the requirement to provide assistance to victims. In Italy it is suggested that the National Office against Racial Discrimination has the power to provide assistance to victims of discrimination by conducting individual inquiries. In Malta the National Commission for the Promotion of Equality for Men and Women's power to conduct independent investigations, either *ex officio* or upon receipt of a complaint, is deemed to be an important tool to assist victims of discrimination.
263. In the Netherlands the Equal Treatment Commission is a tribunal-type equality body. The Equal Treatment Commission does not provide assistance to victims of discrimination as this was considered to be incompatible with its role as a formal decision-making body. In the Netherlands compliance with the Equal Treatment Directives has been ensured through a nationwide network of 43 local and regional anti-discrimination agencies which provide independent assistance to victims of discrimination in any legal procedure including procedures before the Equal Treatment Commission. Since 2009 all municipalities have been required by law to provide any person who feels that they have faced discrimination with access to independent assistance, provided through these anti-discrimination agencies.
264. ECRI General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination makes a useful distinction between the 'national specialised body' to combat racism and another body 'entrusted with the adjudication of complaints through legally binding decisions'.

This best practice of combining a promotion-type body with a separate tribunal-type body in the same jurisdiction has only been implemented by a small number of Member States, namely Ireland (the Equality Authority and the Equality Tribunal), Denmark (the Danish Institute of Human Rights and the Board of Equal Treatment), Austria (the Ombud for Equal Treatment and the Equal Treatment Commission), Finland (the Ombudsman for Minorities and the National Discrimination Tribunal – on the ground of racial or ethnic origin outside the workplace), Sweden (the Equality Ombudsman and the Board Against Discrimination) and Iceland (the Centre for Gender Equality and the Gender Equality Complaints Committee on the ground of gender).

### **3.1.3 Compliance issues – tribunal-type equality bodies**

265. Just over 54% (N=24) of tribunal-type equality bodies cannot make legally binding decisions. This raises issues in relation to the need for sanctions that are effective, proportionate and dissuasive. In certain circumstances where such sanctions are not available in any other setting, this points to another issue of compliance.
266. In Lithuania the Equal Opportunities Ombudsperson does not have the power to issue legal sanctions to compensate the victim. In Austria the Equal Treatment Commission cannot impose penalties or award compensation. The same situation pertains to Iceland, Norway and Liechtenstein. In Malta neither the National Commission for the Promotion of Equality for Men and Women nor the National Commission for Persons with Disabilities have the power to order redress in successful cases. In Latvia the Ombudsman cannot impose sanctions. In Cyprus the sanctions are deemed to be so minor as to cast doubt over whether they are a real deterrent. In Greece only the Labour Inspection Body has the power to impose sanctions.
267. In the Netherlands the Equal Treatment Commission's power to impose sanctions is limited and its opinions are non-binding. It has worked to address this by investing resources in a follow-up policy. After an opinion has been issued, the parties involved are actively monitored and urged to implement its recommendations. In 79% (2008 figure) of cases which resulted in opinions that specified individual or structural measures, such measures were indeed taken to redress existing discrimination or to prevent future discrimination.

### **3.1.4 Compliance issues - resources**

268. There is a gap between legislation and its practical application in a number of countries that is essential to consider in any examination of compliance. This issue has been raised in Portugal in relation to protracted and bureaucratic procedures involving the different bodies that can play a role in a particular case. However, more frequently the issue is raised in relation to inadequate resources and the resulting inability to implement powers.

This issue of resources is referenced in chapter 4.4.2 above where most bodies noted insufficient financial resources and a number of bodies reported significant budget cuts in the context of the financial crisis.

269. The lack of resources is raised by equality bodies as an issue in most countries. However, there are particular and extreme examples where lack of resources results in a significant gap between what is legislated for and what is implemented.
270. In Slovenia the Advocate for the Principle of Equality consists of one civil servant. This body cannot dedicate time to tasks other than examining cases. In Estonia the Gender Equality and Equal Treatment Commissioner has a staff of two. This makes it impossible to fulfil some obligations including organising large-scale awareness-raising initiatives or commissioning in-depth surveys and analyses. In Latvia the Prevention of Discrimination section of the office of the Ombudsman has been reduced to two staff members. The capacity of the office to implement the tasks specified in the Directives has been undermined and there was a backlog of 242 cases still pending at the end of 2009. The Centre for Equal Treatment in Luxembourg also has a staff of two. In Italy the country fiche suggests that the absence of outputs of the Office for the Promotion of Equal Treatment in Access to and Supply of Goods and Services is such that the body can hardly be qualified either in form or substance as an equality body.
271. Less extreme but still serious examples where a lack of resources precludes implementation of the functions set out in the Equal Treatment Directives come from Italy (where UNAR does not conduct surveys), Lithuania (the Equal Opportunities Ombudsperson has published no independent surveys), Liechtenstein (the Office of Equal Opportunities is not provided with sufficient resources to provide assistance to victims), Hungary (the Equal Treatment Authority does not have the resources to conduct any other activities besides investigating individual cases), and Slovakia (the Slovak National Centre for Human Rights has only assisted a small number of cases out of hundreds of complaints received annually).
272. The issue of resources takes a particular damaging form in relation to the work of tribunal-type bodies as it can lead to a backlog of cases with significant delays in cases being heard. In Ireland a backlog of up to seven or eight years is reported for the Equality Tribunal. In Romania a lack of funding to hold hearings is reported to have resulted in a backlog of cases. Delays in proceedings lead to decisions coming too late after the event. In Norway it is reported that on average it takes 44 weeks from the Equality and Anti-discrimination Ombud receiving a claim to the body issuing a statement.

### **3.1.5 Compliance issues – regression in protection**

273. The Equal Treatment Directives demonstrate a concern to ensure there is no regression in protection against discrimination.

The preamble to the Directives states that the implementation of the Directives 'should not serve to justify any regression in relation to the situation which already prevails in each Member State'. While it is not suggested that a diminution of resources could *per se* be identified as a compliance issue, it could be important to assess instances where a reduction has had a severely negative impact on the work of equality bodies.

274. The economic downturn creates a difficult context for all publicly funded bodies, including equality bodies. A certain level of restrictions is to be expected. However, a number of instances are reported in the country fiches where the restrictions applied to equality bodies are disproportionate and amount to a regression in the protection against discrimination. The seven examples given are:
- In Bulgaria there was an initiative to downsize the Protection against Discrimination Commission from nine members to five. In May 2010 this proposal was changed to a reduction to seven members.
  - In Romania the National Council for Combating Discrimination experienced budget cuts of 30% in 2009 and again in 2010.
  - In Latvia the Office of the Ombudsperson had its budget reduced by 28% from the 2008 level in 2009 and by 57% from its 2008 level in 2010.
  - In Luxembourg the budget of the Centre for Equal Treatment was reduced by 54% in 2010.
  - In Lithuania the budget of the Equal Opportunities Ombudsperson was reported to be sufficient to fulfil its tasks up to 2008. In 2009 its budget was reduced by 17% and the National Anti-discrimination Programme, from which it had drawn additional funds, no longer allocated funds for educational and awareness-raising activities.
  - In France the French Government has proposed merging the HALDE with a new office, the *Defenseur des Droits*.
  - In Ireland the budget of the Equality Authority was cut by 43% in 2008.

### 3.1.6 Compliance – a context of change

275. Any examination of compliance in relation to equality bodies needs to acknowledge the dynamic context within which they operate.
276. Many of the equality bodies are very new. The Centre for Equal Treatment in Luxembourg, for example, became operational in 2008; the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin in Spain was established in late 2009; the Board of Equal Treatment in Denmark was established in 2009; and the Public Defender of Rights in the Czech Republic was established in late 2009.

277. Some equality bodies have had their mandates extended very recently. In Estonia, for example, the mandate of the Gender Equality Commissioner was expanded to include the grounds of religion or belief, disability, age, sexual orientation and racial or ethnic origin in 2009 and the body became the Gender Equality and Equal Treatment Commissioner.
278. Many of the equality bodies face imminent significant change. Spain, for example, is preparing a new integrated equality act. Finland is examining a new Equal Treatment Act with the possibility of a multi-ground Ombudsman for Equal Treatment. In the Netherlands a new Commission for Equal Treatment and Human Rights has been proposed.

## 3.2 Impact

### 3.2.1 Potential

279. Equal treatment legislation is based on a desire to affect levels of discrimination in society and the degree of equality enjoyed by different groups covered. Equality bodies are designed to assist in achieving this aim.
280. It would be difficult to establish direct causality between the work of the equality bodies and levels of discrimination, under-reporting and equality. There are a broad range of societal and global factors that can and do influence the scale and nature of these issues. It is necessary therefore to isolate a number of factors that equality bodies can more visibly impact on and that have an influence on the scale and nature of discrimination, under-reporting and equality in society. These factors must obviously be such that the equality bodies' mandates allow them to have an impact on them. Similarly these factors must have an obvious causal link with changes in the levels of discrimination, under-reporting and equality.
281. Five such factors can be identified:
1. Impact on individuals who experience discrimination. Equality bodies can affect such individuals and enable change in their situation and experience.
    - Promotion-type equality bodies can support them to challenge discrimination effectively.
    - Tribunal-type equality bodies can issue recommendations or orders that resolve discriminatory situations.
  2. Impact on organisations, which provide employment and/or goods and services. Equality bodies can enable change in the policies, procedures and practices of these organisations such that they are more effective in preventing discrimination, adjusting for diversity and promoting equality.
    - Promotion-type equality bodies can provide guidance, advice and support for good practice by organisations.

- Tribunal-type equality bodies can require such change through the orders or recommendations they issue, through any follow-up to these orders or recommendations and through advice that they issue to companies on request.
3. Impact on statutory policy and legislation. Equality bodies can inform policy and legislation with their expertise in and knowledge of equality, discrimination and equal treatment legislation and with their experience of implementing and interpreting equal treatment legislation. They can also shape the process by which legislation and policy are prepared through encouraging equality mainstreaming.
    - Promotion-type equality bodies can support equality/non-discrimination mainstreaming in policy-making and can enable evidence-based policy-making through their survey work.
    - Tribunal-type bodies can influence legislation through their interpretation of equal treatment legislation in their findings in cases of discrimination and through the provision of advisory opinions on general questions of discrimination.
  4. Impact on stakeholder action. Equality bodies can mobilise a wider framework for action on discrimination, under-reporting and equality across civil society and the public sector.
    - Promotion-type equality bodies can stimulate, guide and support NGOs, trade unions, business networks, educational and training institutions and national/local authorities to play more active roles in combating discrimination and advancing equality.
    - Tribunal-type equality bodies can impact on this wider framework for action through the provision of advisory opinions and through a ripple effect from media coverage of their work.
  5. Impact on public attitudes. Both types of equality body can contribute to:
    - a culture of compliance with equal treatment legislation among employers and service providers. The work of equality bodies can be such as to ensure that employers and service providers are conscious of equal treatment legislation as they make decisions and that they are aware of the implications of making discriminatory decisions.
    - a culture of rights among groups experiencing inequality and discrimination and throughout society. The work of the equality bodies can be such as to ensure that people who experience discrimination are aware that they have rights and are confident that they can exercise them to good effect. Equality bodies can also contribute to creating a context where it is seen by all as normal to seek to exercise one's rights under equal treatment legislation.
    - a societal culture that values equality, that is aware of the moral case for equality and that understands the importance of equality for business performance, economic development and societal well-being. Equality bodies can put this diverse and convincing case for equality.

282. The equality bodies emerge from the country fiches as necessary and valuable institutions for social change. At the basic level, they demonstrate potential to stimulate and support the implementation of equal treatment legislation and to advance the objectives of this legislation. In doing so, they reveal a higher level potential to unlock the powerful business, economic and societal benefits that arise from greater equality and diversity. Ultimately they offer potential:

- to improve the situation of individuals experiencing the barriers of inequality and discrimination;
- to enhance organisational performance by enabling businesses to invest effectively in diversity and equality systems;
- to improve policy-making and ensure the greatest impact from scarce resources for all in society;
- to mobilise and contribute to a broader institutional drive for equality and non-discrimination;
- to build and inform a public supportive of and committed to equality and non-discrimination.

### 3.2.2 Individual impact

283. The impact of equality bodies on individual victims of discrimination is significant in scale and in nature.

284. The scale of the impact can be seen in the work of a body like the HALDE. In the five years since its establishment in December 2004, it dealt with 30 000 complaints and 1 418 of these resulted in 'deliberations' (i.e. decisions) handed down by the HALDE Council. Sixty-four per cent of HALDE recommendations and 79% of its recommendations before the courts were respected over this period. The scale of impact is also evident in the Belgian country fiche. The Centre for Equal Opportunities and Opposition to Racism and the Institute for the Equality of Women and Men are deemed to have an important place in Belgian society when it comes to dealing with individual complaints regarding discrimination: the powers and expertise of these bodies are unmatched.

285. This scale of impact is also growing. Many equality bodies report significant growth in the number of complaints they are receiving. In Lithuania, for example, the number of complaints received by the Equal Opportunities Ombudsperson has grown by a factor of almost seven since its establishment in 1999. In Slovenia the number of complaints to the Advocate for the Principle of Equality grew from 47 in 2008 to 74 in 2009. One measure given for the growing impact of the Office of the Greek Ombudsman is the increasing number of complaints received and the rate of disputes which have been resolved successfully. It received 26 complaints in 2005 and 256 complaints in 2009.



286. The Swedish country fiche offers a useful perspective on this issue of scale in pointing out that the number of individuals receiving redress will always be small in relation to the number of complaints brought to the equality body, and the number of complaints brought will always be small in relation to the discrimination occurring. Equality bodies by their nature will only deal with the tip of the iceberg that is discrimination in their society. In this context appropriate selection of cases to support, and the criteria on which such choices are made, can be important in ensuring that the cases have a ripple effect such that the benefit goes wider than the individual complainant.
287. The nature of the impact on the individual concerned is, at first, immediately obvious: the incident is satisfactorily resolved with changes made in relation to the discrimination practiced. It can in some instances go further and involve payment of compensation to the victim of the discrimination. However, it is clear that there is a broader and equally important psychological impact. This is recognised in the Netherlands country fiche where the evaluation of the work of the Equal Treatment Commission highlighted the fact that complainants felt supported by the recognition of their legal position.
288. Impact on individuals is by no means inevitable. Under-reporting of discrimination is one particular barrier evident in all the country fiches. In Estonia, for example, it is reported that the number of discrimination-related conciliation procedures at the Chancellor of Justice is anything but large. This is deemed to be due to the design of legal remedies, court practices, difficulties in access to legal aid and an undeveloped legal culture. In Cyprus it is noted that Cypriot society tends to shun away from resolving conflicts in such a public manner as in court. In Austria lack of knowledge of rights is pointed to as a cause of under-reporting.
289. The lack of powers available to the equality body can also militate against this type of impact. In Bulgaria, for example, the Protection against Discrimination Commission is deemed to have insufficient impact in terms of individual redress. This is explained by the fact that the monetary sanctions applied are inadequately dissuasive and the rate of implementation of its decisions is poor. In Italy a lack of impact in this regard is explained in terms of UNAR lacking legal standing to sue on behalf of victims of discrimination.
290. An equality body's impact or lack of impact at the level of the individual can also be attributed to its prioritisation of its activities. In Slovakia, for example, the country fiche suggests that the Slovak National Centre for Human Rights takes a limited interest in dealing with individual complaints, including representation of victims of a breach of the principle of equal treatment in court proceedings. In the UK the Equality and Human Rights Commission has decided to focus on strategic litigation involving a limited number of cases and provides second tier legal advice to funded casework agencies. As such it has limited direct impact on victims of discrimination but it does fund 94 legal projects run by 77 organisations.

### 3.2.3 Organisational impact

291. Equality bodies emerge from the country fiches as having significant influence on the practice of organisations in the private and public sectors. Three main sources of influence are evident:
- The recommendations and orders issued by equality bodies have a very immediate and direct influence on the specific organisations found to have engaged in discriminatory behaviour. This impact of tribunal-type equality bodies can go beyond the discriminatory practice involved in the particular case to a broader systemic or structural change within the organisation designed to prevent further incidents of discrimination. This impact is further strengthened in some instances where companies seek advice from equality bodies about how to apply the legislation to particular situations.
  - The promotional work of equality bodies in guiding and supporting good practice has a broader if less immediate impact on organisations. This impact of promotion-type equality bodies results from support given to organisations to help them take a planned and systematic approach to equality thus eliminating and preventing discrimination as well as advancing equality across the grounds covered by equal treatment legislation.
  - In a number of jurisdictions equal treatment legislation imposes particular duties on organisations in the public and private sector in relation to the promotion of equality. These duties allied to the monitoring work of equality bodies are particularly effective in influencing organisational practice.
292. In relation to the impact of tribunal-type organisations the example of the Netherlands is striking: 79% of organisations found by the Equal Treatment Commission to be in breach of equal treatment legislation have taken individual or structural measures to redress individual discriminatory practices or to prevent discrimination. In France the HALDE reports that 80% of their observations addressed to public authorities are implemented.
293. The Dutch Equal Treatment Commission demonstrates that tribunal-type equality bodies can have a further impact when they are respected for their expertise in interpreting equal treatment standards. It regularly issues advice explaining how standards are to be applied in relation to particular issues such as age discrimination by supermarkets, race discrimination in schools, and standards for appearance and uniforms in the police forces. This type of impact is also evident in a more limited respect in Austria where companies actively seek the advice of the Equal Treatment Commission to avoid gender-discriminatory text in job advertisements.
294. There are limits and barriers to the impact that recommendations and orders issued by equality bodies can have on organisations.

It is noted, for example, that the impact of the findings of the Ombudsman in Cyprus is usually limited to termination of the discriminatory practice by the employer rather than actions to prevent future discrimination. It is also suggested that a case regarding discrimination in education in 2005 demonstrates that decisions of the Ombudsman can be disregarded where they conflict with State policy. The case related to an instruction by the Ministry of Education asking all schools to record the contact details of foreign parents enrolling children in order to communicate them to the immigration authorities. In Latvia the Ombudsman has reported that its decisions have a limited impact as local government, ministries and other institutions tend to ignore them. In Hungary it is suggested that the orders made by the Equal Treatment Authority are not always effective or dissuasive given the lack of effective follow-up and monitoring mechanisms. In Iceland the Gender Equality Committee rarely finds in favour of the applicant and has been criticised for being employer-centred, conservative and overly legalistic. In Austria the Equal Treatment Commission has been criticised because its decisions are unclear to the people affected by discrimination as well as the respondents.

295. Equality bodies have developed broad-ranging work in promoting equality by devising and supporting good practice by employers and service providers. In Belgium, for example, the Centre for Equal Opportunities and Opposition against Racism and the Institute for the Equality of Women and Men are both considered to have had an impact on practice by organisations through their work of training, information and sensitisation. The Centre for Equal Opportunities and Opposition against Racism conducts wide-ranging training on topics such as diversity management, intercultural communication and reacting to prejudice, racism and discrimination. The Institute for the Equality of Women and Men has organised seminars and published brochures on gender mainstreaming. It has set up a website to gather and promote good practice in companies seeking to maximise the potential of their women employees.
296. The Commission for Citizenship and Gender Equality in Portugal is reported to have had an impact in changing practices in public and private companies. It has produced guides on topics such as citizenship and equality for all Portuguese schools, the implementation of equality plans in central and local administration and the implementation of equality in enterprises. It has organised prizes for institutions with exemplar policies in the area of equal opportunities for women and men and for journalism on equality between women and men.
297. In Malta the National Commission for Persons with Disabilities has published guidelines on the development of buildings which are open to the public and which are of major use. The Malta Environment and Planning Authority is required to forward any such development plans to the equality body to verify if they conform to these guidelines.

Developers are required to obtain a certificate from the equality body indicating that the finished building is in line with these guidelines before a compliance certificate can be issued entitling the developers to apply for electricity and water supplies. The National Commission for the Promotion of Equality for Men and Women has also developed a certification process for private companies. The certificate is awarded to companies which demonstrate that gender equality is a core value in their business.

298. There can be difficulties for equality bodies in playing this role. In Austria, for example, the impact of the Ombud for Equal Treatment's work to support good practice by organisations is seen as rather low since employers regard the equality body as supporting people affected by discrimination and therefore their opponent. Employers rarely approach the equality body on their own initiative for support.
299. In a number of jurisdictions equal treatment legislation places obligations on public and private sector organisations to be pro-active in promoting and advancing equality. The equality body can play a number of roles in supporting and monitoring the implementation of these duties. This combination of legal duty and support and monitoring by an equality body can be particularly successful in ensuring an impact on organisational practice.
300. In Sweden, for example, there are statutory duties requiring equality plans for different grounds. In particular the country fiche reports that an extensive inspection of the wage surveys required under these statutory duties demonstrated that a combination of statutory duty and inspection was an effective way of addressing individual wage discrimination.
301. In Norway the work of the Equality and Anti-discrimination Ombud in annually reviewing reports from municipalities on gender equality is noted for its impact. Most municipality reports did not fulfil the requirements of the Gender Equality Act but follow-up activities by the equality body have ensured an improvement. These reviews are seen as giving the equality body an important opportunity to promote equality regardless of individual complaints.
302. The experience in Northern Ireland of these legal duties poses a useful challenge to equality bodies to ensure such duties can realise their full potential. Northern Ireland legislation places a statutory duty on designated public authorities to have due regard to the need to promote equality of opportunity on a number of grounds. A review of this duty by the Equality Commission for Northern Ireland emphasised its positive impact in promoting informed and evidence-based policy that reflects the needs of individuals in terms of equality of opportunity and good relations. It noted, however, that there is less evidence that the legislation has had the intended impacts and outcomes for individuals and called for a shift in gear from public authorities away from concentrating on the process of implementing the duty towards achieving outcomes.

### 3.2.4 Policy impact

303. Equality bodies have influenced the drafting of new legislation and policies and the redrafting of existing legislation and policies. This impact depends on their status and standing in most instances. Equality bodies are seen as holders of particular knowledge and expertise on equality and discrimination and as holders of particular experience from their implementation of equal treatment legislation. They are engaged with policy-makers not due to any representative standing but due to their standing as authorities on equality, non-discrimination and equal treatment legislation.
304. The role of equality bodies also makes them well suited to provide input into the drafting of equal treatment legislation. This potential contribution can be recognised in equal treatment legislation itself. In Ireland, for example, the Equality Authority is afforded a role under its statutory mandate to keep the equality legislation under review and to make recommendations to the Government where necessary. The Equal Treatment Commission in the Netherlands is legally responsible for the evaluation of all relevant equal treatment acts. The Government officially responds to their reports and they are then discussed in Parliament.
305. Evidence of impact on legislation and policy can be seen in Greece, for example, where it is reported that changes have taken place in statutory policy and practice after interventions by the Greek Ombudsman. The Equality Commission in Northern Ireland reports meeting their target of having 50% of their key policy recommendations in relation to policy priorities accepted. These were in areas such as the Government's sixth periodic report under CEDAW (the Convention on the Elimination of all Forms of Discrimination against Women), the promotion of equality and good relations in schools and the review of the statutory duties on the public sector to have due regard to equality. The High Commission for Immigration and Intercultural Dialogue, the Commission for Citizenship and Gender Equality and the Commission for Equality in Labour and Employment (CITE) in Portugal are reported to have influenced draft legislation and policies such as the Third National Plan for Equality – Citizenship and Gender (all three equality bodies) and the National Plan for Employment (CITE). In Slovakia the Slovak National Centre for Human Rights is regularly requested to provide comments on draft legislation and to provide expert opinions regarding legislation on discrimination and human rights in general. In Lithuania the Office of the Equal Opportunities Ombudsperson is frequently requested to provide expert comments on draft legislation and policy documents on anti-discrimination and human rights in general.
306. Tribunal-type bodies can make a particular contribution to policy-making in their findings, which contribute to new interpretations of legal terms and concepts. Promotion-type bodies can also claim this form of impact from their support to claimants in such strategic cases.

The work of the Belgian Centre for Equal Opportunities and Opposition against Racism in the case *CEOOR v Firma Feryn* (Case C-54/07) before the European Court of Justice provides an example of this.

307. Equality bodies experience barriers in making an impact on policy and legislation. In Cyprus the Ombudsman has the right to refer laws, regulations and practices containing discriminatory provisions to the Attorney General. Not all the recommendations of the equality body are taken up by the Attorney General, which means the discriminatory law/regulation/practice remains in force. In the Netherlands the Equal Treatment Commission cannot scrutinise pre-existing laws. Institutions in Bulgaria do not acknowledge the Protection against Discrimination Commission and fail to involve it in drafting or critically assessing new legislation and policy.

### 3.2.5 Stakeholder impact

308. Equality bodies influence the level of commitment, expertise and work of other stakeholders in relation to equality and non-discrimination. In particular they impact on trade unions, business networks and non-governmental organisations. This impact is valuable in further developing and extending an institutional framework that contributes to the elimination of discrimination and the promotion of equality in society.
309. The country fiches present limited evidence of this kind of impact. Belgium provides a particular example where the Centre for Equal Opportunities and Opposition against Racism has made a particular investment in this type of strategy and is deemed to have had a significant impact by supporting the work of other organisations. The Institute for the Equality of Women and Men is also lauded for its impact, which is described as being achieved through its structural cooperation with associations grouping women's organisations. In Austria the Ombud for Equal Treatment's training work with trade unions is acknowledged. This training formed part of an awareness-raising strategy.

### 3.2.6 Impact on public attitudes

310. The activities, and in particular the awareness-raising work, of equality bodies have an important range of impacts on the culture of the society around them. These include:
- developing a culture of compliance with equal treatment legislation among employers and service providers;
  - developing a culture of rights within groups experiencing discrimination and across the wider society;
  - developing a culture within the wider society that values equality and has no place for discrimination.

311. Media coverage of cases can be valuable in building a culture of compliance. The cases taken up by the Equality Ombudsman in Sweden, for example, generate public debate through newspaper articles and other media coverage. This creates a situation where it is reasonable to assume that employers and service providers are influenced by reports of the experiences of someone in a similar business who has been found to be in breach of equal treatment legislation. In this way the perception of risk of being caught becomes more important than the actual risk of being caught. In a different type of example, in Portugal the High Commission for Immigration and Intercultural Dialogue is deemed to have had a great impact on institutional practice in public and private sector organisations and to have obtained voluntary respect for the law in many cases.
312. Bulgaria provides an example where equality bodies impact on developing a societal culture of rights. The Protection against Discrimination Commission is found to have increased the visibility of discrimination as a breach of law and anti-discrimination as a matter of rights: before anti-discrimination law and the work of the equality body there was no sense among the general public that discrimination was a challengeable breach of rights. In Hungary the increasing level of complaints to the Equal Treatment Authority demonstrates an increased culture of rights with greater awareness of equal treatment legislation and of the equality body.
313. In Sweden a special awareness-raising initiative by the Equality Ombudsman with the Roma provides an example of building a culture of rights within groups experiencing discrimination. This initiative was visibly successful with increased awareness of rights among Roma and increased use of anti-discrimination legislation.
314. Levels of public regard for the equality body are also evidence of the development of a culture of rights. In France survey results in 2009 show that 83% of people surveyed deem the HALDE's actions useful and 96% deem the HALDE necessary. In the Netherlands 44% of respondents believed that the work of the Equal Treatment Commission has led to a decrease in unequal treatment.
315. Equality bodies demonstrate a wide ranging impact on public attitudes to equality, diversity and non-discrimination. Examples include:
- In Estonia stakeholders, in a discussion of the impact of the equality bodies, believed that there have recently been positive changes in public attitudes regarding groups such as disabled people, children and older people.

- The Ombudsman in Cyprus is credited with playing an important role in changing the terms of the immigration debate, which had been dominated by racist and xenophobic discourse, and with having left its mark on public debate in relation to issues such as the hiring of minority ethnic people by the police force and legal recognition of same-sex marriages.
- In Lithuania complex awareness campaigns run by the Equal Opportunities Ombudsperson in 2007 demonstrated impact in terms of increased public sensitivity to disabled people, ethnic minorities and other minority groups.
- In Malta the National Commission for the Promotion of Equality for Men and Women is deemed to have brought about cultural change in making the general public more aware of acceptable norms in relation to equality and non-discrimination.
- The Commission for Equality in Labour and Employment in Portugal is found to have been very effective in changing mentalities in the field of labour and attitudes towards women at work, in particular those concerning equal treatment of women and men in the labour market.
- In Romania annual surveys conducted by the National Council for Combating Discrimination assessing public attitudes and perceptions show a gradual societal change for the better – although it is pointed out that it cannot be clear if this is caused by the work of the equality body or others.

### 3.2.7 Measuring impact

316. It is clear from the country fiches that little work has been done to develop and implement appropriate methods to assess the impact of equality bodies. Assessments made in the country fiches are based on the opinions of stakeholders and analyses by equality bodies themselves. Limited data has been gathered to establish baselines against which to measure impact. There is little evidence of indicators and targets for impact being developed and measured by equality bodies. Few studies of the impact of equality bodies have been conducted. The United Kingdom and the Netherlands offer useful examples on the way forward in this regard.
317. In the UK the Equality and Human Rights Commission is required under equal treatment legislation to measure and report on the progress of society towards one where equality, human rights and good relations are enjoyed and respected. The Equality and Human Rights Commission will measure its effectiveness in terms of whether it can see improvements in the equality and human rights profile of British society as measured in its Triennial Review, the first of which is to be published in 2010.



318. The Equality Commission for Northern Ireland publishes a range of data measuring the impact of their own activities – for example whether employers have acted differently following advice from the Commission. The Commission’s draft strategic plan sets out evidence of impact of its activities along with clear targets for impact.
319. In the Netherlands the impact and effectiveness of the Equal Treatment Commission is assessed every five years as part of an internal and external evaluation of the General Equal Treatment Act.

### **3.3 Effectiveness**

#### **3.3.1 Introduction**

320. The effectiveness of an equality body is founded on:
- Compliance with the EU Equal Treatment Directives in the functions allocated. An equality body has to have at least three functions – providing independent assistance to victims, conducting independent surveys, and publishing independent reports and making recommendations – in order to be effective.
  - Compliance with the EU Equal Treatment Directives in being structured, led and resourced in a manner that ensures it can implement all three functions independently. This independent functioning can be important for effectiveness.
  - An ability to implement all of its functions. The equality body has to be able to actually implement its functions if it is to be effective. It must have sufficient financial resources, adequate staff numbers, and the staff competencies needed to produce outputs from all of its functions.
321. If an equality body does not have these three foundations, it does not have the means to carry out its tasks and cannot be effective. However, these three foundations by themselves are not enough to guarantee effectiveness: equality bodies also need the ability to make an impact.
322. As regards the ability to make an impact, three key indicators for effectiveness emerge from the country fiches:
- The equality body needs to deploy all its functions so as to achieve a strategic mix of outcomes. This mix needs to include outputs for enforcement of equal treatment legislation, awareness-raising of rights under the legislation, knowledge development in relation to discrimination and inequality, and promotion and support of good practice by employers and service providers.

This mix, to be strategic, needs to take account of the particular societal context of the equality body and of the roles played by other stakeholders committed to advancing equality and combating discrimination.

- The equality body needs to produce outputs in relation to each of its functions on a scale that is adequate to have an impact on individuals, organisations, policy, stakeholder action and public attitudes.
- The equality body needs to produce these outputs to a standard and quality that realises their potential to make these impacts.

### 3.3.2 Foundations

323. The country fiches demonstrate a high level of compliance with the EU Equal Treatment Directives where the establishment of equality bodies is concerned. This provides a solid foundation for effectiveness.
324. A small number of the countries covered have no equality body on any ground (Poland) or have no equality body with full responsibility for the ground of race (Malta, Iceland and Liechtenstein) or the ground of gender (Denmark<sup>88</sup>).
325. Equality bodies in a small number of countries have not been afforded the required functions. In Cyprus the equality body is not empowered to provide assistance to victims. In Slovenia, Finland, Lithuania and Liechtenstein there are equality bodies that do not have the power to conduct surveys.
326. The foundations for effectiveness are compromised in some instances, according to the country fiches, where a lack of resources means that the body is unable to implement all of its functions.
327. A particularly fundamental issue for effectiveness is raised by the institutional architecture for the equality bodies. As we have seen, two core types of equality bodies emerge from the country fiches – promotion-type bodies and tribunal-type bodies. Both can be effective in accordance with the understanding of effectiveness set out above. However, this understanding of effectiveness points to the importance and potential of promotion-type equality bodies with their greater capacity to produce a strategic mix of outputs across the different functions of enforcing the legislation (through assistance to victims of discrimination and pursuing cases in their own name), raising awareness of rights, developing knowledge of discrimination and inequality and promoting good practice by organisations. This further supports the good practice recommended by ECRI in their policy recommendation that countries should ideally have two equality bodies – one promotion-type body and a separate tribunal-type body. This good practice is evident in Ireland, Denmark, Austria, Finland, and Iceland.

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<sup>88</sup> From 2011, the Danish institute for human Rights in Denmark will serve the role as the promotional gender equality body

### 3.3.3 Strategic mix

328. To achieve a strategic mix of outputs an equality body needs to plan to maximise the potential of scarce resources and to integrate what it does within a wider context of stakeholder action promoting equality and combating discrimination. This strategic mix of outputs is a factor in effectiveness that lies within the control of equality bodies.
329. The importance of a strategic mix of outputs was reinforced for the Dutch Equal Treatment Commission during the first evaluation of the equality body in 1999 that recommended that in order to strengthen its impact and effectiveness, the Equal Treatment Commission should make greater use of competencies other than the power to decide cases, which it had prioritised up to that point. The Swedish Equality Ombudsman and Swedish stakeholders agreed that impact mainly derives from the combination of supporting individual cases and promotional work based on these cases. Stakeholders in Lithuania expressed a similar opinion on the importance of this strategic mix of outputs when they pointed out that the absence of long-term and short-term strategic vision reduces the Equal Opportunities Ombudsperson's ability to perform the job effectively.
330. One indicator as to whether an equality body has identified, and is pursuing, this strategic mix of outputs is the preparation and implementation of a multi-annual strategic plan. The country fiches indicate that less than half of the 48 equality bodies have a strategic plan and that tribunal-type bodies are more likely to have one than promotion-type bodies.
331. The mere existence of a strategic plan is of course a limited indicator. The content and quality of the strategic plan and its implementation must also be considered. This arises in the UK context where the Equality and Human Rights Commission has a business plan with five strategic priorities. However, stakeholders are still critical of the Commission's absence of vision, sense of priorities and lack of strategic leadership.
332. Strategic planning or its lack can be linked to the level and certainty of resource availability. In Cyprus it is pointed out that the Ombudsman does not have a communication strategy as it does not have steady and regular funding for communication activities.

### 3.3.4 Adequate outputs

333. The adequate scale of outputs is a factor in effectiveness that lies largely outside the control of equality bodies. The key issue presented in the country fiches relates to the level of financial and human resources afforded to the equality body.
334. The nature of inequality and discrimination suggests that equality bodies will never have an ideal amount of resources to implement their mandate. The scale of these problems is such that there will always be more that could and should be done. This raises the issue of what is enough – what is an adequate scale of resources?
335. The answer to this question will always be country-specific. However, it does require a more scientific approach to be developed to calculate what adequate resources for an equality body might be. This calculation will be based on a number of factors including:
- the population, size and economic circumstances of the country;
  - the level and nature of discrimination experienced in the country on the different grounds;
  - the range of different stakeholders, other than the equality body, involved in combating discrimination and promoting equality and the different roles they take on;
  - providing sufficient resources so that the equality body can implement each and every one of its functions;
  - providing sufficient resources so that the equality body can produce a critical mass of outputs, sufficient to have an impact on discrimination and inequality;
  - providing sufficient resources so that the equality body can operate strategically, including evaluating its output, so as to have an impact on the root causes of discrimination and inequality.
336. Adequacy of resources emerges as an issue in almost all the country fiches and can be identified as the major barrier to effectiveness.
337. There are a number of equality bodies that are presented as being adequately resourced. Equality bodies in this situation are identified in:
- the Netherlands (Equal Treatment Commission),
  - the UK (Equality and Human Rights Commission and Equality Commission for Northern Ireland),
  - Portugal (Commission for Equality in Labour and Employment, Commission for Citizenship and Gender Equality and High Commission for Immigration and Intercultural Dialogue),

- Belgium (the Centre for Equal Opportunities and Opposition to Racism and the Institute for the Equality of Women and Men),
  - Sweden (the Equality Ombudsman),
  - Germany (Federal Anti-discrimination Agency),
  - France (HALDE).
338. It is important to note that issues of resources are raised even in relation to these bodies – issues such as work required that cannot be done, stretched resources, potential threats to funding due to the economic crisis and cutbacks in the public sector, threatened restructuring and the pressure of increasing demand outstripping the availability of resources.
339. There are, as noted in chapter 4.2.2 above, a significant number of equality bodies that are presented as not having sufficient resources to implement some of their functions. These are identified in the country fiches for:
- Slovakia (the budget is completely insufficient for the Slovak National Centre for Human Rights to fulfil tasks prescribed by law);
  - Norway (the Equality and Anti-discrimination Ombudsman has limited resources and struggles to choose which tasks have to be given lower priority);
  - Finland (the Ombudsman for Equality is forced to concentrate on handling discrimination cases and cannot execute all its powers effectively, and the Ombudsman for Minorities has also drawn attention to its inadequate resources);
  - Cyprus (under-funding and under-staffing have been a constant problem and have been recorded in almost every report issued by the Ombudsman);
  - Estonia (the very small staff numbers and budget of the Gender Equality and Equal Treatment Commissioner make it virtually impossible for the Commissioner to fulfil some of her obligations);
  - Iceland (the limited financial resources of Centre for Gender Equality potentially impede and diminish the its effectiveness);
  - Slovenia (the Advocate of the Principle of Equality is a single civil servant primarily performing the task of examining cases, which in practice takes all of his/her time and s/he cannot consequently dedicate sufficient time to other tasks such as necessary promotional or awareness-raising activities);
  - Hungary (the existing powers of the Equal Treatment Authority are not fully made use of due to a lack of resources, a low budget and under-staffing);
  - Bulgaria (the staffing of the Protection against Discrimination Commission is not adequate to fulfil the requirements of an increasing case- and workload);

- Liechtenstein (the Office of Equal Opportunities is not provided with adequate resources to provide assistance to victims of discrimination);
  - Ireland (lack of resources for the Equality Tribunal has resulted in a backlog of cases with cases occasionally taking up to seven or eight years to be decided);
  - Austria (the Ombud for Equal Treatment has been hampered by a lack of resources when carrying out surveys, the Ombud has not been able to expand the competences of its regional offices beyond the ground of gender, and proceedings of the Equal Treatment Commission are lengthy);
  - Denmark (the main barrier identified by the Danish Institute for Human Rights is the lack of resources);
  - Italy (the annual budgetary resources allocated to UNAR are not sufficient to guarantee effective support to victims to help bear the burden of legal expenses in law suits, and the absence of outputs of the Office for the Promotion of Equal Treatment in Access and Supply of Goods and Services calls into question whether it can qualify as an equality body).
340. Budget cutbacks of a scale that cannot be explained by economic recession are, as noted in chapter 4.2.2 above, recorded in a number of countries as significantly diminishing the effectiveness of equality bodies. This issue is identified in:
- Ireland (43% cut in budget in 2008 to the Equality Authority),
  - Lithuania (a budget cut of 17% to the Equal Opportunities Ombudsperson in 2008),
  - Romania (a budget cut of 30% in 2008 and almost 30% in 2009 to the National Council for Combating Discrimination),
  - Latvia (a decrease of 57% in the budget of the Ombudsman between 2008 and 2010),
  - Luxembourg (the budget of the Centre for Equal Treatment was reduced by 54% in 2010).
341. In most instances the equality body is located in the country's capital city. This is considered important for effectiveness as can be seen from the experience of two equality bodies forced to locate outside the capital city. In Iceland the Centre for Gender Equality is located in Akureyri, 600 km away from all major public bodies. Stakeholders have criticised this as promoting rural development at the expense of the Centre's efficiency. In Ireland the decentralisation of the Equality Authority to Roscrea, a small town 134 km from the capital city and with poor transport links, is seen as impeding accessibility. An advance party of 15 staff is currently located there.

### 3.3.5 Quality outputs

342. The standard and quality of outputs is a factor in effectiveness that lies largely within the control of equality bodies, although lack of resources can be an impediment. The key elements that make a particular contribution to standards in, and quality of, outputs, which emerge from the country fiches include:
- staff competencies,
  - local and/or regional presence,
  - stakeholder participation,
  - media engagement,
  - follow-up to casework decisions.
343. The country fiches report a high calibre of staff available to the equality bodies. In the UK, for example, stakeholders felt that both the Equality Commission for Northern Ireland and the Equality and Human Rights Commission had good skilled staff working with them. A broad spectrum of professional backgrounds is evident in most equality bodies and this appears to serve their work well. In Portugal, for example, the High Commission for Immigration and Intercultural Dialogue has five specially qualified staff to assist victims of discrimination consisting of two lawyers, two psychologists and one social assistant. In Norway staff members of the Equality and Anti-discrimination Ombudsman have professional backgrounds in law, behavioural sciences, political science, public administration and administrative/financial control.
344. Stakeholders criticised the Equal Treatment Commission in the Netherlands on the grounds that so many of its staff have a legal background; some stakeholders believed that a more multi-disciplinary staff composition would improve its functioning. In Malta stakeholders have raised an issue in relation to the National Commission for the Promotion of Equality for Men and Women and the National Commission for Persons with Disabilities in that the people appointed to the commissions do not have sufficient knowledge or experience in the field of non-discrimination. Stakeholders have also criticised the lack of staff with legal training.
345. The Ombud for Equal Treatment in Austria provides a clear demonstration of the importance of a local/regional presence for an equality body. The Ombud with responsibility for gender established five regional branches in 2001. This has brought about a significant increase in the number of cases brought to the Ombud with cases doubling in 2001 alone. The same approach has not been implemented on the other grounds. In Slovakia the Slovak National Human Rights Centre improved accessibility to its services by establishing seven regional offices in 2007. In Hungary the Equal Treatment Authority, in partnership with local Houses of Equal Opportunities, has placed a legal referee in the House of Equal Opportunities in each of the 19 counties and in Budapest.

In the Netherlands the Equal Treatment Commission benefits from the work of the nationwide network of 43 local and regional anti-discrimination agencies which provide assistance to victims of discrimination. In Finland stakeholders were explicit that the Ombudsman for Minorities would be more effective if it created regional offices.

346. It is important to note that this valuable approach raises the issue of quality. In Bulgaria the Protection against Discrimination Commission established 15 regional representative offices. However, their effectiveness was deemed questionable as they were largely unknown to the public. The link to resources is also evident where the National Council for Combating Discrimination in Romania tried to increase visibility and accessibility by opening local offices in several regions. This initiative was hindered by a lack of financial and human resources, and only two local offices are active in preventing and monitoring discrimination, providing specialised assistance and collaborating with local NGOs.
347. A number of low-cost innovations are also evident in creating a local/regional presence for equality bodies. In Ireland the Equality Authority developed a relationship with pre-existing Citizen Information Centres and provided training and materials to enable them to provide information on rights under equal treatment legislation to local people. In Belgium the Centre for Equal Opportunities and Opposition to Racism provides a list of contact points across the country where citizens can receive information and advice. In France the HALDE arranged for teams of local volunteers to be assigned to every *Maison de la Justice et du Droit* to meet with victims of discrimination on a weekly basis to try to find solutions to their issues in coordination with the HALDE's legal affairs department.
348. Civil society participation in decision-making by equality bodies provides valuable information and knowledge and offers the opportunity to strengthen relationships that enable the work of equality bodies. This participation is evident in a significant number of equality bodies.
349. In Ireland, for example, four members of the current Board of the Equality Authority are drawn from organisations representing societal groups concerned with the Equality Authority's core tasks. In Belgium stakeholders have some influence on the long-term objectives of the Centre for Equal Opportunities and Opposition to Racism as they are involved in evaluating the body's strategic plan. In Romania the National Council for Combating Discrimination consults with civil society in key matters such as when it adopts a strategy or internal regulations on procedures and practices. In Malta the National Commission for Promotion of Equality for Men and Women consults other stakeholders before preparing action plans and invites them to participate in projects.



350. The issue of quality also arises in relation to stakeholder participation. Both the Equality and Human Rights Commission and the Equality Commission for Northern Ireland consult with community groups and NGOs in the preparation of strategic plans and on specific issues. However, stakeholders criticised this participation as tokenistic.
351. A media presence provides valuable visibility for equality bodies, their work and equal treatment legislation. A number of equality bodies have built up a good media profile. In Cyprus, for example, the Ombudsman makes regular media and public appearances in areas within her competency. The commissioner, the executive director and staff of the National Commission for the Promotion of Equality for Men and Women in Malta appear regularly on TV and radio programmes to assist awareness-raising. The media is the main source of communication with society for the Equal Opportunities Ombudsperson in Lithuania. In Finland stakeholders express disappointment with the level at which the Ombudsmen have acted as opinion leaders on issues that fall within their remit. In the Netherlands stakeholders feel that the Equal Treatment Commission needs to be more visible and participate more actively in public debate.
352. Follow-up to cases decided by the equality body emerges in the country files as a key element in the effectiveness of tribunal-type bodies. In Hungary stakeholders felt that sanctions of the Equal Treatment Authority were not always effective given the lack of follow-up and monitoring mechanisms. In the Netherlands the Equal Treatment Commission has developed an active follow-up policy. After an opinion is issued the parties involved are actively monitored and urged to implement the recommendation. In 2008 an impressive 79% of defendants found by the Equal Treatment Commission to have been in breach of equal treatment legislation and for which individual or structural measures to redress individual discriminatory practices or precautions to prevent such discrimination were recommended, have actually implemented such measures.

## 4 GOOD PRACTICE IMPLEMENTED BY EQUALITY BODIES

353. Examples of good practice can serve as a valuable tool to enable learning from experiences in other jurisdictions. The question in this regard is how to identify a practice employed in one national context as suitable for others. We therefore developed the following parameters for good practice which we applied to the examples provided by the national experts in order to make our selection.

### Key (necessary) parameters:

- **Part of an overall strategy:** Is the initiative elaborated and implemented as part of an overarching strategy?
- **Impact:** Is there any evidence that the initiative has a measurable impact in reaching its aims, in achieving change or appearing to present the potential to achieve change in areas such as under-reporting, the success rate of casework, and the practice of organisations, policy-making and public attitudes?
- **Transferability:** Does the initiative have the potential to be one that others can copy, and that can be transferred to other settings and/or Member States?
- **Sustainability:** Does the initiative have the potential to contribute to enduring changes in the work of the equality body or in wider society?
- **Innovation:** Is this a new type of initiative or does it present a new way of doing an existing task? Is there added value?

### Further (ideal) parameters:

- **Relevance** for the aims of combating discrimination and promoting equality: Is the initiative an adequate means to reach the aims?
- **Stakeholder involvement:** Are members of groups affected by discrimination, NGOs, etc. involved?
- **Monitoring and evaluation:** Has a permanent review procedure been established; is it conducted regularly; has an assessment been made, and are the evaluation findings fed into the process on a continuous basis?

354. In practice it was difficult to use these parameters to select from the examples provided as the information available was either not sufficient or it was impossible to answer questions regarding impact because monitoring and evaluation were lacking (or were not reported on). Still, we could identify a variety of initiatives we would deem likely to fulfil most of the criteria and which might assist equality bodies in other countries in improving the impact and efficiency of their work.

355. What might work well in one national context might not be the ideal solution in other national contexts.

Transferability may depend not only on structural, legal and political circumstances but also on the level of implementation of anti-discrimination legislation and policies and the experience of the equality bodies, their staff and the general public with non-discrimination and equality of opportunities. Hence, we have analysed not only the transferability of a good practice in general but we have also taken into consideration the circumstances in which it is being implemented. So if, for example, a project in Malta designed to raise awareness of discrimination<sup>89</sup> brings together nine stakeholder organisations and spreads information about discrimination and how to combat it, this might not seem more than routine for institutions in other Member State. If we take into account, however, that this example was the first initiative of this nature in the country and it resulted in networking by organisations involved in this area and in enhancing their knowledge, it could be considered as a good practice for a country at that specific stage of awareness and practice regarding discrimination.

#### 4.1 Structure and organisation – good practice

##### 4.1.1 Independence – formal and *de facto*

356. Leadership turns out to be an important determinant of *de facto* independence. The HALDE makes an illustrative case for how strong leadership can add substantially to a high level of *de facto* independence. The HALDE's Chairman is directly appointed by the President of the French Republic, a feature that could, in theory, greatly undermine the institution's independence from political influence. Still, under the chair of Louis Schweitzer, in spite of his close ties with both the worlds of business and politics (as former chief of staff to socialist Prime Minister Laurent Fabius at the time when the latter was Minister of the Budget, former Chairman of the French automobile manufacturer Renault and current member of the boards of Veolia, BNP Paribas, l'Oréal and Volvo) the HALDE has proved to be more self-governing and independent than many expected.
357. Equality bodies' leadership need to be brave enough to openly criticise powerful actors whenever they display discriminatory behaviour, as the Swedish Ombudsman Katri Linna did in an article she wrote together with Sami leaders where she rebuked the Swedish government for their policies towards the Sami. That the reverse situation can be detrimental to *de facto* independence is shown by the case of Lithuania. The political constellation and the appointment procedures of ombudspersons work against pro-active and independently acting ombudspersons. Action is 'punished' by the ombudsperson not being re-elected, which makes ombudspersons more passive and obedient to the political will.

<sup>89</sup> Project Mosaic, see chapter 6.4.3 and <http://www.mosaic.gov.mt/about-us?l=1> (28.07.2010)

358. Good relationships with the parent ministry may enhance the latter's trust in the equality body, and hence the body's independence. This can be achieved by, among other things, abiding by (informal) norms or rules of the game when the parent ministry and equality body interact. The Northern Ireland Equality Commission's (ECNI) relationship with the ministry is based on a 'no surprises principle'. Without compromising its independence, ECNI informs the parent ministry whenever, for example, it is about to issue a recommendation or criticise public bodies or firms for having acted in a discriminatory way.
359. Strong formal embedding of the equality body in law, in line with the Paris Principles, ensures a high level of independence for the Czech Republic's Public Defender of Rights. The institution was established by a law, which specifies its mission, goals, competence and tasks and sets out the legal framework enabling it to establish its own policy and manage its own activities. It has a similarly high degree of independence in managing its resources. Expenses generated by the activities of the Public Defender of Rights as well as the running costs of the Office are covered in a separate chapter of the national budget. The details are contained in Law No. 218/2000 Coll. on state budget rules. According to this law, the Office manages its own budget and drafts a proposed budget after consultations with the Ministry of Finance. If the government does not agree with the draft budget submitted by the Office, the final decision is made by the Budgetary Committee of the Deputy Chamber of Parliament. This arrangement very strongly safeguards the independence of the institution from the executive branch.
360. The Dutch Equal Treatment Commission is quasi-judicial body that actively strives to act independently of both governmental and societal interests. For this reason, the ETC is not charged with assisting victims of discrimination – this task is delegated to the anti-discrimination agencies. The ETC's independence is also very much an expression of its members' desire to be independent. The mission of the ETC as well as its internal organisational culture is strongly geared towards keeping an independent position in society. This means that the ETC seldom initiates networking activities with stakeholders and is highly selective when it decides whether to accept invitations from third parties to meetings, seminars, campaigns or networks.

#### **4.1.2 Networking with stakeholders at Member State and European Union levels**

361. The Office for Equal Opportunities in Liechtenstein has a staff of only two permanent members and one intern. It is also part of the central administration, and its parent ministry is heavily involved in its decisions on personnel and financial management and even with regard to issuing surveys, reports and recommendations and allocating available resources over the various areas covered by the Office. The presence of a network of NGOs, especially in the area of gender, has proven to be quite an important factor in the Office's successful awareness-raising campaigns.

The Office's relationship with NGOs has been based on a high degree of reciprocity. While for their part, the NGOs have supported the Office by developing ideas for awareness-raising, the Office has helped the NGOs to implement these. The network has been institutionalised as the Women's Network. Membership is open to NGOs and governmental organisations. The members pay a membership fee of about EUR 100. Large-scale projects are financed with the help of contributions from members and sponsorship from organisations and other funds.

362. The office of the Ombudsperson in Lithuania has no mandate to conduct networking activities; however, in practice it maintains very active links with various national and international actors. There is permanent cooperation and exchange of information with national Lithuanian NGOs through joint projects. Networking with foreign equality bodies through Equinet, institutions and various NGO forums (Age Platform, Social platform for disabled people etc.) provides support, knowledge, and information about good practices in other countries. Equinet support, for example, was extremely important in maintaining an independent office for the Equal Opportunities Ombudsperson in Lithuania when the Parliament was considering reorganising the Ombudspersons' offices in 2009.
363. The fact that a lack of mandate for networking does not necessarily stand in the way of active and successful networking is also demonstrated by the Greek Ombudsman. The Greek Ombudsman not only participates actively in all of Equinet's networks, in 2006 he also launched a pilot open-communication network with NGOs and other civil society bodies involved in protecting and supporting the Roma. The network currently numbers more than 30 partners. This initiative aims at encouraging mediation by these bodies between the target population group and the government, dissemination of crucial information on institutional tools and know-how, and information-gathering on the fundamental problems faced by these groups, but above all its main objective has been to coordinate joint action by participating bodies.
364. The Office for the Promotion of Equal Treatment in Access to and Supply of Goods and Services in Italy is building a National Network of Anti-discrimination Antennae (ATA) to detect incidents of discrimination at local level and forward information to UNAR. For this purpose, a digital platform shared by regional 'antennae' has been set up within UNAR's IT system. The same information platform could therefore be shared between the local bodies which form the ATA national network and other civil society associations. This would enable UNAR to create dialogue between the various structures and to monitor cases of discrimination in real time at both national and local level.
365. The role of Equinet, the European Network of Equality Bodies, is of crucial importance for European networking among national equality bodies.

Equinet plays a pivotal role in exchanging experience in dealing with individual cases and contributes to the harmonisation of the implementation of the relevant EU Directives in the various Member States.

#### **4.1.3 Securing stakeholder involvement in decision-making and in developing initiatives**

366. Stakeholder involvement can be ensured by their permanent inclusion in the governing boards of the equality bodies. Of the 17 equality bodies governed by a collegiate board, six bodies reported having stakeholders with voting rights in their boards. The Irish Equality Authority board has no less than 11 of its 16 members representing stakeholders.
367. Although it has recently been created by a merger of four single-ground ombudsman offices, the Swedish Ombudsman works with focus groups on different types of questions. For example, the Ombudsman invited all the groups representing people with different disabilities to focus group meetings when it was working on the issue of the equality body's accessibility. In cases where the Ombudsman is working on broader themes, such as discrimination within health care, the Ombudsman invites umbrella organisations such as the Swedish Disability Federation to represent all the groups falling within a broader category. By their very nature focus groups are informal and can be low cost. They present added value to all their participants in terms of networking: apart from being an information-gathering instrument for the equality body, focus group meetings provide ample opportunity for the various groups attending to exchange information and views.
368. The HALDE provides another good practice for securing stakeholder involvement. The HALDE ensures the commitment of prominent figures recognised for their involvement in the field of anti-discrimination through an Advisory Committee. The Advisory Committee consists of 18 people and was established by an implementation order of the law that established the HALDE. Among the members of the Advisory Committee are the Chairman of the *Mouvement contre le racisme et pour l'amitié entre les peuples* (MRAP, the Movement against Racism and for Friendship between Peoples), the Vice-Chairman of the *Ligue Internationale contre le Racisme et l'antisémitisme* (LICRA, the International League against Racism and Anti-Semitism), the spokeswoman of a professional gay association, four university professors, the Vice-Chairman of the association *SOS Racisme*, the Chairman of an association representing Travellers, the Advocate General of the Court of Cassation, the Secretary-General of an association representing disabled people, and a former member of the *Haut Conseil de L'Intégration* (the High Council for Integration). The Council may request an opinion of the Advisory Committee to clarify its debates. The members of the Advisory Committee do not receive fixed remuneration but are compensated for each working session.

369. In Finland, the Ombudsman for Minorities cooperates closely with the Advisory Board for Minority Issues, which was set up by the Government Decree on the Ombudsman for Minorities. The Decree provides that the duty of the Advisory Board for Minority Issues is to formulate proposals and issue opinions on monitoring discrimination against ethnic minorities and safeguarding the status and rights of foreigners, and to improve cooperation among the authorities and organisations in monitoring and preventing discrimination. The Decree also provides, *inter alia*, that NGOs representing groups relevant to the operations of the Ombudsman for Minorities are to be part of the Advisory Board, as well as labour market organisations and officials from various ministries. The Ombudsman for Equality has the right to participate in the meetings. The Advisory Board for Minority Issues is appointed for a three-year term and convenes three to four times a year.
370. The Norwegian Equality and Anti-discrimination Ombudsperson has established a User Committee. The purpose of the committee is to strengthen the Ombud's knowledge of current issues and trends and it is an interdisciplinary committee for cooperation and exchange of experiences with interest groups and NGOs. In addition, the committee provides input into the Ombud's promotional work. The User Committee for 2009-2011 consists of 14 people with expertise in discrimination on the grounds of gender, ethnicity, disability, sexual orientation, religion, membership of ethnic minorities and age. Representation on the committee reflects the diversity of the population and comes from different parts of the country. The Ombud appoints committee members upon suggestions from relevant interest groups and organisations. The User Committee has four meetings every year. In addition to the User Committee, the Ombud also established the User Forum in 2006 where NGOs and other representatives met to contribute their experiences and information on the different grounds of discrimination. The Ombud gradually changed the form of the User Forum from regular meetings to *ad hoc* seminars where specific topics were discussed.
371. In Portugal, the Commission for Citizenship and Gender Equality, which is an official department of the Presidency of the Council of Ministries, is supported by the legally established Consultative Board, which ensures the participation of government departments and non-governmental organisations in the pursuit of the Commission's objectives. The NGO section of the Consultative Board consists of national organisations with the same objectives as the Commission and which are engaged in the promotion of citizenship, human rights, women's rights and gender equality. There are 40 NGOs on this Board, which constitutes an important network.

#### 4.2 Enforcing legislation – good practice

372. Access to legal advice and other services as well as legal representation by equality bodies is key to their effectiveness, while access barriers contribute to under-reporting.

## **A – Comprehensive approach**

373. The lack of an EU obligation for equality bodies to provide services for all the Article 19 grounds means that access is not guaranteed in a comprehensive manner in several countries. However, 19 countries out of 30 have chosen to establish equality bodies with competences going beyond the minimum requirements of the Directives in terms of grounds covered. Austria, Bulgaria, Denmark, Germany, Hungary, Luxembourg, Romania, Slovakia and the UK, for example, cover all the grounds mentioned in Article 19 or more. This comprehensive approach is an important good practice in securing equal access to justice across all the grounds.

## **B – Barrier-free access**

374. Most equality bodies try to limit barriers impeding access to their services. This can, for example, be by way of exemptions from the legal costs of tribunal bodies (offered by all equality bodies), toll-free numbers (for example Slovenia, Austria, Belgium, and France), a frequently-asked question section on the website (for example Portugal), or a simple discrimination complaint form on their websites (for example Belgium). In France, the HALDE's contact details can be found on the premises of every public institution, hospital, victims' support association, etc. The Portuguese High Commissioner for Immigration and Intercultural Dialogue (ACIDI) has acknowledged the (frequently neglected) issue of language barriers and introduced a telephone translation system<sup>90</sup> which provides information about various issues in 50 different languages and is available all over the country free of charge.

## **C – Regionalisation**

375. In Hungary cooperation between the Equal Treatment Authority and the Houses of Equal Opportunities located in each of Hungary's counties has been established in order to facilitate decentralised access to information. Referees (solicitors and attorneys at law) act as the first point of contact for people affected by discrimination, providing assistance in formulating complaints and forwarding them to the ETA and operating as a kind of filtering system for their content at the same time.

376. In Austria five regional offices of the Ombud for Equal Treatment were established in 2001 and brought a significant increase in cases. Cases nearly doubled in 2001 from 850 to 1 548, with further increases every subsequent year (2 118 in 2002, 3 398 in 2003, and 4 558 in 2004). All staff members of the regional as well as of the head offices meet once a year in order to discuss common strategies and exchange new developments.

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<sup>90</sup> <http://www.acidi.gov.pt/modules.php?name=Content&pa=showpage&pid=1089> (30.07.2010)



The competences of these offices are restricted to gender issues and have not been extended to the other grounds (even though this possibility has been provided for in Equal Treatment legislation since 2004), which severely impedes accessibility.

377. In Slovakia the Slovak National Human Rights Centre improved accessibility of its services by establishing seven regional offices in 2007.
378. A network of regional and local anti-discrimination agencies (ADAs) has generally taken over the tasks of providing personal legal assistance in the Netherlands since 2009, enabling the Equal Treatment Commission to focus on its tribunal tasks. The Dutch Parliament has introduced this separation of powers *inter alia* in order to fulfil ECRI General Policy Recommendation No.7<sup>91</sup> It adopted the Municipal Anti-discrimination Facilities Act<sup>92</sup> which obliges all municipalities to establish anti-discrimination facilities and guarantee that promotional tasks are carried out at local level.
379. The French HALDE is assisted by eight regional/local offices situated in the biggest urban agglomerations (both in metropolitan France and in overseas departments and territories). Moreover, since 2007 the institution has arranged for teams of local contact people to be assigned to regional Centres for Law and Justice. These volunteers meet weekly with alleged victims of discrimination and try to find solutions in coordination with the HALDE's Legal Affairs Department.<sup>93</sup>

#### **4.2.1 Effectiveness, proportionality and dissuasiveness of sanctions imposed by tribunal bodies**

380. The Equal Treatment Directives oblige Member States to provide a framework that enables effective, proportionate and dissuasive sanctions to be issued. Very few equality bodies are empowered to issue legally binding decisions or sanctions. This task is left to the courts. Equality bodies, however, have developed various ways to enhance compliance with their recommendations. The Dutch Equal Treatment Commission has implemented an active follow-up procedure for monitoring and enhancing compliance with its non-binding opinions. This includes checking that the party found guilty of discrimination has taken individual and/or institutional measures in order to stop discrimination.

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<sup>91</sup> ECRI General Policy Recommendation No 7 on National Legislation to combat racism and racist discrimination, adopted 13 December 2020, recommending in its paragraph 55 that 'another body could be entrusted with the adjudication of complaints through legally-binding decisions'. [http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N7/ecri03-8%20recommendation%20nr%207.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N7/ecri03-8%20recommendation%20nr%207.pdf) (16.08.2010)

<sup>92</sup> The Netherlands/*Wet Gemeentelijke anti-discriminatie voorzieningen Staatsblad* 2009 nr. 313 (27.09.2009)

<sup>93</sup> See the list of local contact people: <http://www.halde.fr/-Information-par-region-.html> (05.08.2010)

This monitoring has led to a success rate of 79% for cases in which measures to redress or prevent the discriminatory practice recommended by the ETC are actually put in place.<sup>94</sup> This decision-making task is evaluated annually by the ETC itself and by independent experts in its five-yearly evaluation.

381. Despite its lack of authority to impose sanctions, the French HALDE is deemed to be effective as it monitors the implementation of its recommendations, requests notification of the measures adopted in order to fulfil them and may publish a special report in the *Journal Officiel* (the official gazette) if it deems the measures insufficient. In 2009 the collegial body issued 412 'deliberations' (recommendations) that led to 442 measures being taken, among which 163 recommendations were addressed to the government.
382. In Sweden the Equality Ombudsman checks the equality plans of employers and universities and may apply to the Board against Discrimination to issue an order to comply with a specific request if the companies and educational institutions fail to fulfil their duties. Similarly, in Iceland the Centre for Gender Equality may impose fines if employers of a certain size do not put in place adequate gender equality plans.

#### **4.2.2 Securing alternative means of redress for victims of discrimination**

383. For some individual victims the process of investigating, hearing and (not) establishing discrimination does not lead to the most satisfactory solution.

#### **A - Alternative dispute resolution**

384. If its clients are favourable to the idea, the Austrian Ombud for Equal Treatment tries to achieve dispute resolution before requesting a decision by the Equal Treatment Commission. Three of its employees are qualified mediators. In 2009, 44 cases were settled by mutual agreement, most in the area of gender discrimination. The Dutch Equal Treatment Commission has introduced the option of referring cases to an external mediator if both parties agree and are ready to accept mediation criteria such as mutual secrecy regarding the content of the procedure. This solution is also applied by the Irish Equality Tribunal. It can guarantee the highest level of formal and *de facto* impartiality of the mediator and as such qualifies as best practice in this regard. A survey conducted in the Netherlands in 2007 revealed that many complainants would prefer assistance in terms of (legal) advice, information about the outcomes of previous cases and informal interventions rather than a thorough legal investigation of their cases. This was subsequently provided either by the ETC itself or by referring complainants to other organisations.

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<sup>94</sup> Commissie gelijke behandeling (2005) *Het verschil gemaakt: Evaluatie AWGB en werkzaamheden CGB 1999-2004*, pp.94-95 and Commissie gelijke behandeling *Annual Report 2008*.

### 4.2.3 Promoting legal certainty

#### A – Action on an equality body’s own initiative to clarify questions of general interest

385. The Belgian Centre for Equal Opportunities and Opposition to Racism<sup>95</sup> and the Institute for the Equality of Men and Women<sup>96</sup> have the legal competence to initiate court proceedings on their own initiative in specific cases of perceived violations of grounds falling within the scope of their mandate. They can do this without a person individually complaining and are accorded the status of a party to the proceedings. The *Feryn* case, initiated by the CEOOR, led to an ECJ decision clarifying a question of legal interpretation of Member States’ legislation.<sup>97</sup>
386. The National Council for Combating Discrimination in Romania is also entitled to initiate cases *ex officio* when cases of discrimination are reported publicly and there are no individual complainants. In 2009, the Council investigated 15 such cases and found discrimination in six of these, leading to five recommendations, two warnings and one administrative fine. The Council, however, is not entitled to initiate court proceedings on its own initiative.
387. In the Netherlands the Equal Treatment Commission is entitled to initiate an investigation on its own initiative (*Onderzoek uit eigen beweging*, OUEB) when various complaints and/or publications in the press or other media suggest structural discrimination by a company or in a specific sector. The results are published in an opinion including specific recommendations for structural measures and adaptations. This power assists in making structural discrimination visible and in developing strategies to fight it. The companies and/or organisations investigated are obliged to cooperate and grant access to all relevant information and documents; they are also offered guidance on how to reduce structural discrimination patterns within their institution. If its opinions are systematically ignored, the ETC can even bring cases to the minister concerned. Furthermore, it has the power to file a case with a court in order to obtain a declaratory judgement that the conduct reported was unlawful discrimination; this judgement includes a prohibition of such conduct and/or an order to rectify the conduct. These soft sanctions in addition to the ETC’s high degree of acceptance as the expert institution for any questions relating to discrimination have proved highly effective and mean that the ordinary civil courts, which can issue bindings sanctions, are rarely chosen as a means of redress.

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<sup>95</sup> *Centrum voor gelijkheid van kansen en voor racismebestrijding/ Centre pour l’égalité des chances et la lutte contre le racisme*

<sup>96</sup> *Instituut voor de gelijkheid van vrouwen en mannen/ Institut pour l’égalité des femmes et des hommes*

<sup>97</sup> *Centrum voor gelijkheid van kansen en voor racismebestrijding [CEOOR] v. Firma Feryn NV*, ECJ/C-54/07, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:223:0011:0012:EN:PDF> (03.08.2010).

## **B – Publication of case law**

388. The publication of opinions of equality bodies (for example, in Austria, the Netherlands, and Denmark) is a valuable tool to enhance legal certainty. Case law is an important source of information for victims of discrimination to decide if they should file their case; it contributes to the comparability of decisions and to clarification of questions of legal interpretation. Moreover it can also provide companies in their roles of employers as well as of providers of goods and services with guidelines on their actions' potential for discrimination and hence contribute to preventing discrimination.

## **C – Providing opinions to encourage the correct application of the law**

389. The Dutch Equal Treatment Commission is entitled to issue advisory opinions<sup>98</sup> on certain aspects of equal treatment legislation in specific situations, (amendments to) legislation, and compliance with international equality standards. Advisory opinions can be given at the specific request of organisations or on its own initiative. They can be aimed at the government, ministers and governmental departments or civil society organisations. Although the legal mandate of the ETC does not cover this advisory competence, it has proven to be a very strategic and effective tool enabling the ETC to improve interpretation of statutory equality standards and to explain their practical application to a wider public. Advisory opinions contribute to the development of knowledge and often lead to structural measures to combat and prevent discriminatory practices or to amendments to equal treatment legislation. The ETC is considered an authority on equal treatment and is often requested to give its expert opinion. Advisory opinions are published on the ETC's website and are distributed amongst stakeholders. Both the ETC and stakeholders are convinced that advisory opinions contribute greatly to awareness-raising and have proven to be an effective tool to improve application of equal treatment standards and legislation. The ETC has issued advice on how to interpret equal treatment concepts in relation to particular issues such as age discrimination by supermarkets, race discrimination in schools, and standards for appearance and uniforms in the police forces.

390. The Finnish Ombudsman for Equality has published guidelines<sup>99</sup> which clearly state that the Act on Equality of Men and Women should be interpreted as being applicable to transgender people. It recommends employers include transgender people in their gender equality plans and introduce measures to prevent discrimination against gender minorities and ways to improve their conditions of work and study systematically through planning.

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<sup>98</sup> <http://www.cgb.nl/publicaties/adviezen> (30.07.2010)

<sup>99</sup> [http://www.tasa-arvo.fi/en/discrimination/gender\\_variation](http://www.tasa-arvo.fi/en/discrimination/gender_variation) (30.07.2010)

## D - Monitoring the correct application of law - proactive inspection

391. In Sweden the actual implementation of wage equality was enhanced by the (former) Equality of Opportunities Ombudsman by way of a large inspection survey targeting a quarter of the whole Swedish workforce (1 million out of a total 4 million). Sweden's largest employers were obliged to present their wage distribution figures accompanied by letters explaining the purposes of the inspection and making suggestions for improvement, and they were subsequently contacted by telephone. Moreover, advice on how to improve wage equality was offered. As a result, 44% of employers found wage differences and more than 5 000 persons (90% women) had their wages corrected. The opportunity to avoid pecuniary fines and the cooperative approach used can be considered as success factors.
392. In France, the HALDE conducted an audit of (in-)equality in career paths and pay in national broadcasting companies (*France Télévision, Radio France, and the SAEF*) according to employees' age and gender in 2009.<sup>100</sup> This also included a survey on experiences of discrimination. The survey findings were submitted to the French Senate and the National Assembly. In theory, the audit could serve as a reference model; in practice, however, it was of limited success due to the low level of participation of a mere 9%. In Sweden the first round of the inspection survey described above had experienced a low response rate.
393. The Bulgarian Protection against Discrimination Commission has strong case law against media hate speech, in particular against Roma. It critically assesses media self-regulation and denounces empty measures. It instructs media to introduce real mechanisms for self-assessment, and to periodically report on results. It has banned reporters from mentioning ethnicity where this is not pertinent to content.
394. The National Commission for Persons with Disabilities in Malta must be formally consulted by all developers of buildings, which are accessible to the public. The Commission's approval of plans (including the adequacy of any potential exceptions) has to be obtained prior to an application for a building permit. For this purpose, the equality body also has published accessibility guidelines that are available on its website and holds pre-submission meetings with applicants.

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<sup>100</sup> <http://www.halde.fr/IMG/pdf/rapport-SNP.pdf>

## 4.3 Knowledge development – good practice

### 4.3.1 Developing new data on discrimination and equality

#### A – Making discrimination visible

395. The Icelandic Centre for Gender Equality in cooperation with Statistics Iceland and the Ministry of Social Affairs collects data on the status of women and men. A brochure giving statistics on different aspects of gender equality, including influence and power, education, income and wages is published annually in print and electronically. The information is widely used in public debate on issues of gender equality and wage gaps.<sup>101</sup>
396. The Lithuanian Ombudsman's Office for Equal Opportunities has funded research on the situation of vulnerable groups in order to gain knowledge about their situation and about potential issues of discrimination. On the basis of these research findings the equality body has formulated recommendations for the elaboration and improvement of policies. This included research on the social exclusion of the Roma community, LGBT rights, employment and education opportunities for disabled people, age discrimination in the public sector and discrimination on the grounds of religion and belief,<sup>102</sup> which contributed to a broadening of public discourse on social integration policies.
397. The Centre for Equal Treatment in Luxembourg commissioned a benchmark survey of the incidence and public perception of discrimination based on a variety of factors (ethnic origin, sex, nationality, age, religion, etc.) to measure the frequency and perception of discrimination in the year of its foundation (2009).<sup>103</sup>
398. The National Council on Combating Discrimination in Romania conducts annual surveys which produce valuable data on discrimination, perceptions of and attitudes towards discrimination, and knowledge of anti-discrimination law among the general population.

### 4.3.2 Conducting innovative research and ensuring the impact of this work

#### A – Creating an understanding of discrimination

399. The Luxembourg benchmark survey mentioned above included an analysis of data obtained on the consequences of discriminatory incidents, whether the victims spoke out about them and how they dealt with them.

<sup>101</sup> [http://jafnretti.is/D10/\\_Files/Women%20and%20Men-2010.pdf](http://jafnretti.is/D10/_Files/Women%20and%20Men-2010.pdf) (30.07.2010)

<sup>102</sup> <http://www.lygybe.lt/?pageid=10&id=66> (30.07.2010)

<sup>103</sup> <http://www.cet.lu/en/content/download/216/1736/version/1/file/TNS+ILRES+CET+Conférence+de+presse+21+avril+proposition%5B1%5D.pdf> (30.07.2010)

The survey then also analysed data regarding witnesses of discrimination and perceptions among the general public of the possible importance of the CET in fighting discrimination. The poll found that the public saw the CET as potentially most useful in fighting discrimination with respect to disability, race and gender. The survey helped to introduce and publicise the CET's work, while responses to general questions about discriminatory incidents and perceptions of these fed into its strategy development.

400. In 2007, the Norwegian Minister of Labour started a survey to establish the extent of discrimination on the grounds of ethnicity in the governmental sector. The survey was carried out in all ministries and the agencies associated with ministries. The Equality and Anti-discrimination Ombud was given the task of summarising the survey and making recommendations. One conclusion of the survey was that the governmental sector did not take racism and discrimination seriously enough and that the sector lacked a systematic and long-term strategy on fighting discrimination on grounds of ethnic origin. Based on these findings, the Ombud started cooperation with various public institutions,<sup>104</sup> conducted training and suggested activities to prevent discrimination. It also cooperated with trade unions and the Confederation of Norwegian Enterprises (NHO).
401. The Swedish Ombudsman has been commissioned by the Swedish Parliament to carry out a survey on discrimination in housing. The request also included a recommendation to use practical testing as a method of gathering data, for example by sending out applications from fictive applicants that revealed that they belonged to various groups.
402. The Slovenian Office for Equal Opportunities has conducted specific research on violence against older women<sup>105</sup> which confirmed that older women are more frequently victims of violence than older men or younger women. This finding is considered especially valuable because questions of multiple discrimination are not addressed very often in Slovenia.

## **B – Equality Measurement Framework**

403. The Equality and Human Rights Commission in the UK has developed a new measurement framework that aims at assessing equality and human rights in various fields of life.<sup>106</sup> It monitors the central and valuable things in life that people actually achieve – such as enjoying an adequate standard of living, being healthy, having good opportunities for education and learning, enjoying legal security, and being free from crime and the fear of crime.

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<sup>104</sup> Such as the Directorate of the Norwegian Labour and Welfare Administration, the Norwegian Police University College, the Agency for Public Management and eGovernment (Difi), Posten Norge AS, the Directorate of Health and the Norwegian Public Roads Administration.

<sup>105</sup> <http://www.uem.gov.si/fileadmin/uem.gov.si/pageuploads/Nasilje-HO.ppt> (30.07.2010)

<sup>106</sup> <http://www.equalityhumanrights.com/fairer-britain/equality-measurement-framework/> (30.07.2010)

It is particularly concerned with the position of individuals and groups with regard to characteristics such as age, disability, ethnicity, gender, religion or belief, sexual orientation, transgender and social class.

#### 4.4 Building awareness – good practice

##### 4.4.1 Implementing communication strategies

404. The Austrian Ombud for Equal Treatment is structurally incorporated within the competent ministry, the Federal Ministry for Women and Public Administration. Despite the insufficiently clear formal independence of its ombudspersons, it is reported to have a high level of *de facto* independence in its practical work. In order to ensure that its services to victims of discrimination are perceived as independent, its own website and corporate identity were considered essential. These were strategically planned and successfully implemented in 2008. Since May 2008 the OET has published a biannual newsletter providing information on trends in advice work, events in the field of equal treatment and non-discrimination, and recent developments in national and European case law. This last section also includes legal opinions on questions that are considered of general interest to readers and is a valuable source of information on legal interpretation and developments. The newsletter is sent to 901 recipients. Besides publishing all of its (advisory) opinions on its website, the Dutch Equal Treatment Commission strategically communicates them to stakeholders such as the local and regional anti-discrimination agencies with the aim of promoting its interpretation of equality standards and creating legal certainty.

##### 4.4.2 Securing a media profile for work outputs

405. During the term of office of the first Advocate, the Slovenian Office for Equal Opportunities cooperated with a weekly law journal (*Pravna Praska*), which published summaries of the opinions of the Advocate for the Principle of Equality along with summaries of judgements of national and international courts.

406. A special issue on discrimination of the children's newspaper *Mon quotidien* was published in cooperation with the French HALDE.<sup>107</sup> The issue included tools for explaining various cases of discrimination, comic strips and information and was designed for use in school civic education classes. In addition to all of the subscribers, every pupil of the age of 11 received an individual copy of the newspaper at the end of 2007, which led to approximately 680 000 copies being disseminated.

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<sup>107</sup> [http://www.halde.fr/IMG/pdf/Mon\\_Quotidien\\_HALDE\\_v2.pdf](http://www.halde.fr/IMG/pdf/Mon_Quotidien_HALDE_v2.pdf) (30.07.2010)



### 4.4.3 Building awareness of the equality body and of equality legislation

#### A – Networking

407. MOSAIC,<sup>108</sup> an EU-funded project run by the National Commission for the Promotion of Equality in Malta, brought together nine stakeholder organisations to start networking among those institutions on issues of discrimination.
408. In Austria the Ombud for Equal Treatment has institutionalised networking with various stakeholder organisations, for example women's and girls' organisations that offer information on the services of the Ombud and the legal framework and with NGOs active in the field of anti-discrimination, by holding regular meetings where legal staff exchange information and opinions on general questions as well as specific cases.
409. In Italy UNAR launched a network against racism addressing young people aged 18-25 called 'NE.A.R. to UNAR' in 2010.

#### B – Training

410. The Austrian Ombud for Equal Treatment has been very active in the last year in providing training for various groups such as entrepreneurs, shop stewards, providers of goods and services and journalists in order to raise awareness of the relevance of discrimination in the participants' respective fields of activity, inform them about the practical implications of legal provisions prohibiting discrimination and to encourage changes in the practices of employers and service providers and in reporting by the media.
411. In the course of a twinning project in 2006, three employees of the Slovenian Ombudsman were trained as trainers and then carried out numerous training sessions both in Slovenia and abroad. The project itself lasted for one year (2006), but the training activities continued after the project. The project<sup>109</sup> covered all the grounds of discrimination. During this time the Ombudsman itself became more aware of the problem of discrimination, reflected in its annual reports where discrimination was introduced as a separate area of monitoring.

#### C – Information campaigns

412. The Office for Equal Opportunities in Lithuania has produced and broadcast 17 documentaries (entitled the 'People's Code') presenting real people who have experienced discrimination, supplemented with interviews with experts, politicians, etc. providing information on the wider context.

<sup>108</sup> <http://www.mosaic.gov.mt/about-us?l=1> (28.07.2010)

<sup>109</sup> <http://www.varuh-rs.si/index.php?id=1049&L=6> (30.07.2010)

The documentaries presented human experiences in everyday life and provoked public discussion and debate in media and society.

413. In 2010 the Centre for Equal Opportunities in Luxembourg has been organising a series of evening round table discussions on different discrimination grounds and areas where discrimination is particularly prevalent.<sup>110</sup> The events have been well attended and have received significant press coverage, providing additional publicity for the CET and allowing the general public and policy-makers to receive an in-depth and personalised view of the forms of discrimination covered.
414. The Norwegian Equality and Discrimination Ombud launched an 'awareness tour in 2007 with the purpose of publicising the Equal Treatment Directives and their implementation in Norwegian law. The tour, which employed two performing artists to attract the public's attention, received extensive publicity in media. The Ombud also arranged stands and 13 seminars and lectures for schools, NGOs, workplaces, unions and other organisations around the country.<sup>111</sup>
415. In Romania the National Council on Combating Discrimination ran a campaign called 'Racism spoils the game. Violence destroys lives.'<sup>112</sup> At the beginning of important football games, players and referees wore t-shirts with the campaign's slogan, and banners with pro-equality and anti-racism messages were displayed around the edges of the field. Educational meetings were held in parallel in high schools and a TV spot was used.
416. The former Swedish Equality Ombudsman conducted the national 'baby-carrier campaign' (*barnvagnskampanjen*) in 2007, designed to promote the idea of combining work and parenthood for both men and women. The campaign 'carried' information about anti-discrimination and parental leave legislation in a baby carrier to the public in various cities throughout Sweden. The campaign led to an increase in complaints and is considered to have addressed key issues of gender discrimination.
417. The Office for Equal Opportunities in Slovenia published a guide for employers and employees on their rights and obligations. The Office aimed at raising awareness among employers of the unlawfulness of asking a job applicant about his/her family or marital status, pregnancy, family planning or other information not directly related to the employment relationship. At the same time the campaign aimed to provide this information to job seekers so that they do not have to answer such questions.

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<sup>110</sup> <http://www.cet.lu/en/Home-Page> ('Agenda') (30.07.2010)

<sup>111</sup> <http://www.ido.no/Global/Bevisstkampanje/Diverse/Good%20Practice.pdf> (30.07.2010)

<sup>112</sup> <http://www.cncd.org.ro/agenda/Campanii-si-proiecte/RASISMUL-STRICA-JOCUL-VIOLENTA-DISTRUGE-VIETI-3/> (30.07.2010)

418. In January 2010, the Austrian Ombud for Equal Treatment started a new service, the 'Case of the Month'.<sup>113</sup> Each month, a selected case is presented on the Ombud's website, explaining the circumstances of the case, different arguments (of both sides), a description of the advice process and an assessment by the Ombud.

#### 4.5 Promotion – good practice

##### 4.5.1 Achieving policy change

419. In Belgium the Centre for Equality of Opportunities and Opposition to Racism formulates recommendations to present to the Parliament and each ministry at the start of their term of office and was tasked with developing a national action plan as a follow-up to the 2001 World Conference against Racism. The CEOOR has the competence to issue opinions and recommendations to the public authorities aimed at improving legislation relevant to its field of competence. An example of this advisory role can be found in a series (approximately 40) of detailed recommendations addressed to the federal Parliament and government in 2008, including the recommendation to install a system of labour market monitoring.<sup>114</sup>
420. The Bulgarian Equal Treatment Commission monitors the compliance of national law and practice with international and EU law and orders ministers to take concrete measures in the event of discrepancies. It orders ministers and other high-ranking officials to take specific measures to stop discrimination, and instructs institutions to amend legislation. To give an example, having held the Minister of Education to account for not having accommodated learning to children with disability needs, it recommended legislative reform, including special measures to secure an education adapted to each child's specific needs. It also ordered the Minister of Healthcare to amend secondary legislation in order to include a hitherto excluded category of patients among the recipients of treatment subsidies. As a result of equality body recommendations, Parliament adopted an explicit duty in the 2009 state budget law to adapt the built environment in terms of accessibility. The government then provided in secondary legislation for a minimum of BGN 150 000 to be spent on accessibility by organisations with capital expenditure of over BGN 2 000 000.

<sup>113</sup> <http://www.gleichbehandlungsanwaltschaft.at> ('Fall des Monats') (30.07.2010)

<sup>114</sup> CEOOR (February 2008), *Focus 2011, Aanbevelingen van het Centrum voor Gelijkheid van Kansen en voor Racismebestrijding ter attentie van het federale parlement en de federale regering*, p. 42. Available online at <http://www.diversiteit.be/diversiteit/files/File//centrum/2008/Focus%202011%20Centrum.pdf> (last visited: 21.04.2010) (Dutch); CEOOR (February 2008), *Focus 2011, Recommendations du Centre pour l'Égalité des chances et la lutte contre le Racisme à l'attention du Parlement Fédéral et du Gouvernement*, p. 40. Available online at <http://www.diversiteit.be/diversiteit/files/File//centrum/2008/Focus%202011%20Centre.pdf> (last visited: 21.04.2010) (French).

421. The French HALDE plays no direct political role, but the institution's advice and expertise is sought by the government on bills and policy relating to discrimination or the promotion of equality. It may directly intervene against the public authorities, propose amendments or recommend changes to legislation or regulations, and issue opinions on the prevention or countering of discriminatory practices. In order to reveal discriminatory practices, the HALDE undertakes discrimination 'testing'.<sup>115</sup> Moreover, the HALDE's recommendations made on its own initiative are a driver for clarification and change. For example, the Ministry of Higher Education and Scientific Research followed a HALDE recommendation by taking measures to ensure that disabled people would be assisted during tests and exams. However, the HALDE cannot examine legislative bills on its own initiative.
422. As part of its mandate, the Norwegian Equality and Anti-discrimination Ombud has to ensure that Norwegian legislation and administrative practice are in line with Norway's obligations under the UN Convention on the Elimination of All Forms of Discrimination against Women. This is done by way of a yearly 'milestone conference'<sup>116</sup> addressing and involving gender equality NGOs and policy-makers.

#### **4.5.2 Achieving change in the practice of organisations in employment and service provision**

##### **A – Mainstreaming equality strategies**

423. The Gender Equality and Equal Treatment Commissioner in Estonia in cooperation with the Office of the Equal Opportunities Ombudsperson in Lithuania has run a project aiming at mainstreaming gender equality in municipalities. Through providing training for selected municipal staff, seminars on gender equality, study visits to Sweden and round table discussions at municipal level, the project aimed to encourage balanced participation by men and women in the social and economic development of their community and to increase the analytical and practical capacities of local authorities to implement real gender equality policies by ensuring that different interests, values and life experiences would be taken into account when decisions are taken at local level. A follow-up project included training for civil servants in ministries and Parliament in order to build their capacity to undertake gender mainstreaming activities in their field of competence. A manual on 'gender budgeting' was published as a result.

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<sup>115</sup> Authorised by the circular interpreting the provisions of Law No. 2006-396 of 31 March 2006 on equal opportunity through the prevention of discrimination and implementation order No. 2006-641 of 1 June 2006 on settlements that may be offered by the HALDE. CRIM 2006-16 E8/26-06-2006, NOR: JUSD630082C : <http://www.halde.fr/IMG/pdf/1665-2.pdf>

<sup>116</sup> Organised by the Equality and Anti-discrimination Ombud, the Ministry of Children, Equality and Social Inclusion, the Ministry of Foreign Affairs, the Ministry of Labour, Reform - resource centre for men and FOKUS - Forum for Women and Development.

424. In Finland the Act on Equality between Men and Women obliges employers to actively develop and implement a gender equality plan for the workplace if they regularly employ more than 30 persons. The content of the plan should be primarily concerned with pay and other terms of employment. The minimum requirements for gender equality plans are stated in the Act on Equality between Men and Women. Equality planning is an employer's obligation; the employer is responsible for ensuring that the gender equality plan is in compliance with the requirements of the Act on Equality between Men and Women. The equality plan must be drawn up in collaboration with staff. The Ombudsman for Equality provides advice on how to draft and implement Equality Plans on its website<sup>117</sup> and (along with regional Occupational Health and Safety Inspectorates) conducts inspections at workplaces. Furthermore, it is the Ombudsman for Equality's policy to check whether or not an employer has implemented a gender equality plan when they receive an enquiry or a complaint concerning the workplace.
425. In Norway, employers in their annual reports have to include a description of the gender equality situation as part of their annual reports, detailing the gender distribution of employees in various departments and data on wage differences, the gender of part-time and full-time employees, frequency and duration of leave of absence by gender, and allocation of resources to male and female employees. Measures that have been undertaken in the past year and will be undertaken in the future must be stated. When the report does not comply with requirements, the Ombud can require the employer to remedy the situation. The Ombud provides advice and guidance to employers in order to help to develop good practice. Since 2006, the Ombud has inspected gender equality reports from the municipalities. To begin with, these reports were not up to standard, but follow-up activities such as a guide and seminars have led to an improvement. Municipalities that participate in this programme subsequently fulfil requirements. This contributes to an extended focus on equality.
426. In Iceland enterprises and institutions with more than 25 employees are obliged to implement a gender equality programme or mainstream gender equality perspectives into their personnel policy. This specifically has to include a statement of aims and a plan of how they are to be achieved in order to guarantee employees their rights under the Gender Equality Act, and it has to be reviewed at three yearly intervals. The Centre for Gender Equality is the authority responsible for monitoring this obligation. It has to be provided with a copy of the gender equality plan or personnel policy. The Centre can also request an action plan and/or a report on further developments. In cases of non-fulfilment the Centre has the power to instruct the institution to remedy the situation within a reasonable time limit and can impose *per diem* fines until the instructions have been complied with.

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<sup>117</sup> [http://www.tasa-arvo.fi/en/promoting\\_equality/workplace/planning](http://www.tasa-arvo.fi/en/promoting_equality/workplace/planning) (30.07.2010)

The same applies if the Centre for Gender Equality deems the gender equality programme of an enterprise or institution unsatisfactory, or if gender equality perspectives have not been mainstreamed in its personnel policy with sufficient clarity. The Centre is furthermore mandated to provide knowledge and advice on how to implement gender mainstreaming in organisations.

427. The UK equality bodies have an extensive mandate to monitor the implementation of equality duties. The Equality Commission of Northern Ireland is competent to approve the equality schemes that public authorities are obliged to draw up in order to fulfil their duties of promoting equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without, and which have to be reported to the ECNI. The situation in Great Britain is based on a similar model but with a limit on the duty to the promotion of equality in relation to gender race and disability (with extensions in relation to sexuality, age and religion when the Equality Act 2010 comes into force). The ECNI also has responsibility, where appropriate, to investigate alleged breaches of equality schemes. The British Equality and Human Rights Commission has the power to assess compliance by public authorities with their positive equality duties and issue a 'compliance notice' in the event of failure.

## **B – Equality check for companies**

428. The Portuguese Commission for Equality in Labour and Employment has developed a self-assessment tool for companies.<sup>118</sup> The tool is designed to analyse management policies and practices in relation to gender equality, balance between work and family, and the protection of maternity and paternity rights. Based on the results of the self-assessment, companies can identify the areas to which they should give more attention and consider developing indicators to enhance equality.
429. The former Swedish Ombudsmen for equality on the grounds of sex, ethnicity and race, and Handisam (the Agency for Disability Policy Co-ordination) have developed a method to be used by employers to detect discrimination and harassment in their organisation, known as the 'Green House Project'.<sup>119</sup> The method is innovative in that it is designed to be easy to use by people with little knowledge of discrimination, deemed an important factor for success, especially in SMEs. Thirty-seven per cent of participants in conferences where the method was presented alongside the Anti-discrimination Act said they would use it and 2% stated that they already used it.

<sup>118</sup> <http://www.cite.gov.pt/pt/dsie/index.html> (02.08.2010)

<sup>119</sup> <http://www.do.se/sv/Om-DO/Vaxthuset/Om-Vaxthuset/> (02.08.2010)

An evaluation by the Equality Ombudsman revealed the need for more examples showing the benefits of managing diversity and that companies would be interested in obtaining an official seal of approval by the Ombudsman when they fulfil all their duties under anti-discrimination law. The project is being continued by the new Swedish Equality Ombudsman.

### **C – Codes of conduct**

430. The equality authorities in Cyprus and Ireland have developed and published codes of conduct/practice on harassment and sexual harassment in the workplace.

### **D – Guides on rights and obligations**

431. The Belgian Centre for Equal Opportunities and Opposition to Racism has published ten easy-to-read and comprehensive guides on rights and obligations in regard to discrimination and disability.<sup>120</sup> The guides also include advice for different sectors about how to avoid discrimination and provide equal opportunities for people with disabilities, for example how reasonable accommodation can be provided, etc. The Cypriot Equality Authority undertook the initiative of sending letters to employment agencies, newspapers, radio stations and employers' organisations informing them of the provisions of anti-discrimination law as regards recruitment procedures and the content of job adverts.
432. The Dutch Equal Treatment Commission launched a website on equal treatment in recruitment and selection in 2009.<sup>121</sup> The website was developed in cooperation with the *Stichting van de Arbeid* (Labour Foundation), the *Nederlandse Vereniging voor Personeelsmanagement & organisatiewontwikkeling* (Dutch Organisation for Personal Management and Organisational Development), and the expert centres LEEFtijd and Art.1 in reaction to many queries on these issues. The content is based on equal treatment legislation, ETC Opinions and Advisory Opinions and addresses HR and personnel managers as well as applicants for posts. The guide answers questions on themes such as pregnant applicants, headscarves, staff diversity, and more generally about what equal treatment means in practice. There is no information on the effectiveness of this instrument yet, but stakeholders are very positive about cooperation with the ETC on this project and its results.

<sup>120</sup> [http://www.diversiteit.be/?action=publicatie\\_detail&id=104&thema=3](http://www.diversiteit.be/?action=publicatie_detail&id=104&thema=3) (30.07.2010)

<sup>121</sup> <http://www.wervingenselectiegids.nl/> (30.07.2010)

## E – Good practice compendium

433. The HALDE (France) has published a guide on practices promoting equal opportunities.<sup>122</sup> It is based on a synthesis of questionnaires sent to all firms and presents examples from the workplace of good practice to foster equality between men and women as well as initiatives aiming at reducing discrimination towards any of the protected groups. The guide aims at contributing to achieving change in the practice of organisations in employment and service provision.
434. The Belgian Institute for the Equality of Men and Women<sup>123</sup> has set up an online good practice database of initiatives aiming to promote equality between men and women in Belgian enterprises.

## F – Equality bodies supporting positive action/removing barriers

435. In Italy UNAR in cooperation with private foundations and several companies has organised an equal opportunities career forum (*diversitalavoro*) with the purpose of bringing together disadvantaged people (with a focus on people with disabilities and people with a migrant background) and company representatives in order to overcome barriers for both sides, to enable people seeking jobs to present themselves and for companies to offer job opportunities and discover 'new talents'.<sup>124</sup>
436. An online database was created by the Belgian Institute for the Equality of Women and Men to provide the contact data of female experts in many different fields of society. This initiative could be considered as a positive action measure based on the knowledge that women experts are less well-known due to a lack of being involved in expert networks.<sup>125</sup>
437. In the UK the Equality Commission for Northern Ireland (ECNI) launched a campaign called 'Women in Local Councils – Making a Difference'.<sup>126</sup> The initiative aims to encourage the integration of men and women into non-traditional roles and ensure equality of opportunity in terms of access to all levels of employment, leadership and training and in relation to promotional opportunities. The initiative specifically wishes to address the under-representation of women at senior officer levels and as elected representatives.

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<sup>122</sup> <http://www.halde.fr/IMG/pdf/guide-entreprises-4.pdf> (02.08.2010)

<sup>123</sup> *Instituut voor de gelijkheid van vrouwen en mannen/Institut pour l'égalité des femmes et des hommes*, <http://www.igvm-action.be/action/action.php?langue=nl> (30.07.2010)

<sup>124</sup> <http://www.diversitalavoro.it/progetto/> (28.07.2010)

<sup>125</sup> <http://vegastar.be/> (30.07.2010)

<sup>126</sup> [http://www.equalityni.org/sections/default.asp?cms=employers\\_Employment%20equality%20plan\\_s\\_case%20studies\\_local%20government%20gender%20initiative&cmsid=129\\_311\\_389\\_449&id=449&secid=3](http://www.equalityni.org/sections/default.asp?cms=employers_Employment%20equality%20plan_s_case%20studies_local%20government%20gender%20initiative&cmsid=129_311_389_449&id=449&secid=3) (30.07.2010)



Since the launch of the Women in Local Councils initiative in January 2006, the percentage of female district council chief executives has increased from zero in 2005 to 11.5% in 2009. In the same period, the percentage of female district council chief officers increased from 16% to 23%. In 2005, 54% of councils (14 out of 26) had no women in their top two management tiers; but by 2009 this had halved, to seven councils (27%).

## G – Awards

438. In Italy UNAR has created a national award with the intention of identifying best practices adopted in workplaces in regard to interethnic coexistence and social cohesion, which was awarded for the first time in January 2010.
439. The Danish Institute for Human Rights has created a yearly award (MIA award) which is awarded to companies and/or institutions for outstanding work in the field of equal opportunities.<sup>127</sup>
440. The Equality and Discrimination Ombud in Norway has created an equality award for good practice in the workplace against discrimination. The award has been given to individual people active in the field (including several celebrities) and has attracted widespread media attention.
441. The Office for Equal Opportunities in Liechtenstein in cooperation with NGOs awards an equal opportunities prize to projects promoting equal opportunities and a prize called *DemoGrazia* granted to a person or a group of people, which has demonstrated moral courage.

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<sup>127</sup> <http://www.miaaward.info/> (30.07.2010)

## 5 SUPPORTING GOOD PRACTICE BY EQUALITY BODIES

### 5.1 Introduction

442. A significant number of equality bodies have benefited from external support from the European Commission, national/local authorities and civil society. The European Commission plays a particularly important role in this regard with nearly 48% (N=48) of all the equality bodies receiving some form of financial support through European Union funding programmes.
443. This external support is important in a context where most equality bodies report constraints due to limited resources. External support can reflect a significant percentage of their annual budget. In Denmark, for example, it was noted that such fundraising is crucial to maintaining staffing levels in the Danish Institute for Human Rights. In Malta the National Commission for the Promotion of Equality for Men and Women and the National Commission for Persons with Disabilities can avail itself of the closed calls for project funding issued by the European Commission to undertake projects which at times include the functions assigned to them by law.
444. External support is valuable in stimulating additional effort and innovation by equality bodies. It can draw equality bodies into fields of endeavour that might remain neglected were it not for this financial stimulus. In Lithuania, for example, the National Anti-discrimination Programme enabled the Equal Opportunities Ombudsperson to conduct work in the fields of education, awareness-raising and research.
445. It enables new relationships of cooperation and coordination between equality bodies and other stakeholders working on equality and discrimination issues. A wide range of equality bodies were centrally involved in the coordination and implementation of the European Year of Equal Opportunities for All in 2007. This established and developed their engagement with stakeholders including NGOs, employers and trade unions in a manner that has left a lasting legacy.
446. It can afford useful recognition to equality bodies that underpins their necessary status and standing as authoritative bodies on the issues of discrimination and equality. In Luxembourg, for example, activities funded under PROGRESS have enabled the Centre for Equal Treatment to host a series of round table discussions on specific areas of discrimination. These events have promoted the Centre's role as a resource in combating discrimination.
447. There can be pitfalls in this external support that need to be managed and avoided. These are identified in a number of the country fiches and include:
- Scarce human resources may be spent on preparing applications and fulfilling the accompanying bureaucratic requirements if successful.

- The work of the equality body may increasingly focus on international initiatives rather than national level work.
- Issues around independence and potential limitations on the practice of independence may emerge where government departments are the conduit or contact point for European Union resources.
- Dependency on occasional external funding to implement core functions accorded by law to the equality body may limit the body's ability to fulfil its mandate.
- The body's ability to formulate strategic approaches to its work may be hampered by the need to pursue the priorities of the funding entity.

## **5.2 European Commission initiatives that have been used to support good practice by equality bodies**

448. The equality bodies have benefited from a broad range of European Commission funding sources. These include Phare, PROGRESS, the European Social Fund, the Community Framework Fund, the Lifelong Learning Programme, the European Year of Equal Opportunities for All, and the Youth and Fundamental Rights and Citizenship Programmes.
449. This external support has been valuable for the finance it provides as well as for the finance it can leverage for the equality body from government as matched funding. The funding has been particularly valuable in enabling equality bodies to engage in:

- outreach work,
- awareness-raising,
- support to good practice.

450. In Finland the PROGRESS initiative supported a pilot project by the Ombudsman for Minorities to test different models of organising regional advisory services. Three different models were tested in three different locations. In Slovakia the Slovak National Centre for Human Rights was funded to implement a project entitled 'Advisory Services aiming at Creating Regional Administrative Capacity' in 2007. This led to the creation of seven regional offices each with one staff member, covering all of Slovakia's regions. It is suggested that this project has considerably improved the accessibility of the Slovak National Centre for Human Rights to people at risk of discrimination.

In Bulgaria the PROGRESS initiative funded the Protection against Discrimination Commission to publicise domestic and European equal treatment legislation in two projects. The equality body provided training to 1 100 individuals (police officers, magistrates, local and central authorities, trade unions, NGOs, journalists, media experts and teachers).

The French equality body, the HALDE, has benefited from PROGRESS funding to support the development of tools for awareness-building and public information campaigns. These include *La Brochure Ville* ('The City Booklet'), *Le Guide PME* ('The Guide for Small and Medium Businesses'), two leaflets on housing and a Traveller initiative (training materials on legal rights, the production of a film, and training courses organised with the *Fédération nationale des associations solidaires d'action avec les Tsiganes et les Gens du voyage*, the National Federation of Associations for Unity of Action with Gypsies and Travellers). In Iceland the Centre for Gender Equality has conducted training for public officials, published training materials and held a conference and several seminars on gender mainstreaming with support from PROGRESS.

451. In Sweden the Equality Ombudsman has used EU funding to support the Green House Project. This has emerged as an important tool to support good practice particularly in the public sector. It is a user-friendly tool that is to be applied by employers to detect discrimination in their organisation. In Cyprus the Office of the Ombudsman is implementing a number of activities for 2010 under the PROGRESS programme. These include the publication of two codes of practice: a code for the media on how news and issues that concern people from minority ethnic groups should be presented and a code on combating disability discrimination in the field of employment. In Belgium the Institute for the Equality of Women and Men received funding under PROGRESS in 2008 to conduct a cycle of four seminars. These seminars aimed to sensitise, inform and train people with political and administrative responsibility on the application of the Belgian law of 2007 on the integration of a gender dimension into Belgian federal policies.

### **5.3 Initiatives taken by Member State authorities to support good practice by equality bodies**

452. National authorities play the central role of providing the equality bodies with the core funding they require to implement their functions under equal treatment legislation. National authorities also play a key role as a conduit for equality bodies to access European Union funding, including in some instances making the necessary matched funding available to them. However, beyond these core supports national and local authorities only emerge in a few instances as providers of external support to the equality bodies.
453. The external support provided by national and local authorities can take a number of valuable forms. These different forms include:
- supporting initiatives by equality bodies as part of the operational programmes prepared by the national authorities to access and apply European Union Structural Funds;
  - providing additional funds to enable the equality body to further develop and expand its capacity and impact;

- engaging with the equality body so that its objectives can be effectively progressed within the public sector.
454. In Hungary an equal treatment referee system has been funded under the Social Renewal Operative Programme. The project, referred to as the TAMOP project, is funded from 2009 for 46 months. The project has established an equal treatment referee system which involves placing 20 lawyers in 'Houses of Equal Opportunities' in every county and in the capital. These lawyers forward discrimination claims to the equal treatment authority, provide assistance to complainants and operate as a filtering system for complaints. Further elements of the project include:
- a campaign to raise awareness among the general public,
  - training for teachers, social workers and the media combined with workshops for NGOs and public administration officials,
  - research projects on areas such as discrimination in employment and public administration, awareness of rights and social attitudes towards non-discrimination and diversity.
455. In Ireland the Equality Authority has been funded under the Human Capital Investments Operational Programme to implement a project under the title 'Equality Mainstreaming Unit'. The objective of the project is to contribute to addressing labour market gaps for specific groups experiencing barriers to participation and employment including barriers of gender inequality and wider inequalities. The project involves:
- providing support packages for equality mainstreaming by providers of vocational education and training, and of labour market services;
  - consultant support to small and to medium size enterprises in promoting planned and systematic approaches to workplace equality;
  - support for developing sectoral approaches/projects for promoting workplace equality;
  - development of research and resource materials.
456. In 2007 a pilot project was carried out with the Ombudsman for Minorities in Finland. This was called ESKO (coordination of advisory services against ethnic discrimination by the Employment Development Centre for South-eastern Finland). ESKO aimed to coordinate regional advisory services and to organise data collection on discrimination. It was funded by national and regional authorities.
457. The Lithuanian Equal Opportunities Ombudsperson received funding under the National Anti-discrimination Programme 2006-2008. This funding enabled the equality body to conduct educational, awareness-raising and research activities. The new National Anti-discrimination Programme 2009-2012, however, did not allocate budgets for these activities in 2009.

458. The Centre for Equal Opportunities and Opposition to Racism in Belgium receives particular support from the public authorities. This is implemented through cooperation protocols between the equality body and the various public authorities. These protocols confirm and enable the equality body as the centre for expertise on discrimination and equality for these public authorities.

#### **5.4 Roles played by the social partners in supporting good practice by equality bodies**

459. Trade unions provide important support to equality bodies. This support can involve:
- work with the equality body in promoting workplace practices for equality and non-discrimination;
  - providing support to victims of discrimination to pursue cases.
460. In Sweden, for example, the Equality Ombudsman can be dependent on the trade unions in litigation work. The Equality Ombudsman cannot go to court to represent a member of a trade union if the trade union decides it wants to proceed with the case itself. The cooperation can be mutually beneficial as the trade unions take on responsibility for a lot of cases. Issues can arise where the trade union decides only to proceed on labour law violations and not on discrimination and where the claimant does not want the Equality Ombudsman to contact their trade union.
461. The Austrian Ombud for Equal Treatment highlights the support it receives from networking activities that involve trade unions, universities and training organisations. The Ombud for Equal Treatment benefits from these relationships in terms of reputation, acknowledgement of its expertise and access to a wider public. The Equality Authority in Ireland works with the social partners in the promotion of equality. Trade unions and business networks are involved in the management and work of the Equality Mainstreaming Unit which seeks to contribute to addressing labour market gaps for groups experiencing inequality.

#### **5.5 Roles played by civil society in supporting good practice by equality bodies**

462. Civil society at European Union level and national level is identified as a source of support to the equality bodies. Equinet, the European Network of Equality Bodies, is identified at European Union level. NGOs and trade unions are identified at national level.
463. Equinet provides a valuable opportunity for peer support between equality bodies. In Austria, for example, the Ombud for Equal Treatment points to the value in learning from experiences in other countries.

The Slovak National Centre for Human Rights points to benefits from the sharing of experience and exchanging information with other members of Equinet.

464. Equinet is further identified as an important source of support in times of difficulty for equality bodies. The National Council for Combating Discrimination in Romania, for example, highlighted support from Equinet in signalling to the Romanian Parliament the negative impact of the delays in appointing new members to the NCCD. In Bulgaria the Protection against Discrimination Commission noted Equinet's useful role in raising the dangers of reducing the number of members of the Commission. The role of Equinet in supporting the preservation of the Equal Opportunities Ombudsperson in Lithuania from termination due to the economic crisis is noted. Non-governmental organisations have emerged as important voices for compliance with the Equal Treatment Directives and against any regression in protection against discrimination. In Bulgaria a coalition of human rights NGOs led by the Bulgarian Helsinki Committee protested against government plans to reduce the size of the Protection against Discrimination Commission. The Equality Rights Alliance of NGOs and trade unions formed in Ireland to protest against cuts in funding to the Equality Authority. In Poland NGOs created a special NGO coalition to monitor the legislative process and to advocate equality legislation. In Romania an informal Anti-discrimination Coalition brought together human rights and anti-discrimination non-governmental organisations. The coalition had a key role in monitoring and pressing for improvements in anti-discrimination legislation and was proactive in the recent appointment of the Board of the National Council for Combating Discrimination.
465. Non-governmental organisations play a range of roles that can support the work of equality bodies. These roles include:
- referring victims of discrimination to equality bodies;
  - supporting victims of discrimination to pursue cases under equal treatment legislation;
  - raising awareness of the services of the equality bodies;
  - providing information and knowledge to equality bodies on the situation and experience of inequality and discrimination by particular groups;
  - providing a channel of communication between equality bodies and groups experiencing discrimination.
466. In Malta, for example, the National Commission for the Promotion of Equality for Men and Women and the National Commission for Persons with Disabilities reference the support received from NGOs through the information they relay and the victims of discrimination they refer to the equality bodies. The Equal Opportunities Ombudsperson in Lithuania has created strong cooperation channels with human rights NGOs and NGOs that represent the different grounds of discrimination.

In 2007 this cooperation produced effective public campaigns to raise awareness of the needs and rights of specific groups. In Liechtenstein the Office of Equal Opportunities reports the benefits of the knowledge and information it receives from NGOs working in the areas of disability, age, sexual orientation, and migration and integration. It notes that NGOs do most of the advice work with victims of discrimination. In Sweden the accessibility of the Equality Ombudsman is enhanced by 12 local NGOs running an anti-discrimination bureau. Their funding does not usually allow them to go to court on behalf of the claimant but they often do the initial work on a case and then turn it over to the Equality Ombudsman.

## **5.6 Roles played by other stakeholders identified during the study**

467. The Dutch Equal Treatment Commission points to a further potential source of valuable support for equality bodies – political support. Political support for the Equal Treatment Commission seems to have increased over recent years, which the Commission believes has improved its position in society and its image as an authoritative and independent body.



## 6 CONCLUSIONS AND RECOMMENDATIONS

468. Our analysis of the structure, organisation, functions and activities of equality bodies in the countries of research revealed a wide variety of organisational solutions, broad differences in the allocation of resources, great diversity in the mandates granted to equality bodies based on the highly general parameters set out by the Equality Directives, and very different ways of bringing legislative principles into practice.
469. Equality bodies were designated as predominantly tribunal or predominantly promotional on the basis of their main mandates and related tasks, a distinction, which was carried through the whole research. This was done taking into account the different needs and aims of such organisations and in order to produce appropriate conclusions and recommendations for both types of bodies.

### 6.1 The potential of the equality bodies

470. Equality bodies are high potential actors in terms of combating discrimination and promoting equal opportunities. They are legally designated to deal with these topics, are backed up by Member States' obligation to establish them under the EU Anti-discrimination Directives, and most of them have broad mandates to fulfil their tasks.
471. The Equal Treatment Directives (2000/43/EC, 2004/113/EC and 2006/54/EC) require the designation by the Member States of bodies that:
- provide independent assistance to victims of discrimination in pursuing their complaints of discrimination;
  - conduct independent surveys concerning discrimination;
  - publish independent reports and make recommendations on any issue relating to such discrimination. Moreover, Directive 2006/54/EC requires equality bodies competent for gender issues to cooperate with the European Institute for Gender Equality.
472. Effective implementation of the tasks required by the Equal Treatment Directives would alone give equality bodies high potential in terms of social change. And equality bodies could even go further in terms of rights enforcement as well as of policy change. Analysis of the information provided in the national country fiches as well as the findings of a meeting with European stakeholders led to the identification of five high potential areas for equality bodies, detailed below.

### **6.1.1 Improving the situation of individuals who experience discrimination**

473. Equality bodies can assist in improving the situation of individuals who experience discrimination, increase the level of action taken against discrimination and level down discriminatory structures by supporting victims to challenge discrimination effectively (predominantly promotion-type bodies); by deciding if discrimination has occurred or not and as such providing legal certainty and building a basis for redress (predominantly tribunal-type bodies); and by raising awareness of the situation of vulnerable groups and combating discriminatory structures (both).

### **6.1.2 Enabling change in policies, procedures and practices of organisation**

474. Equality bodies can enable change in the policies, procedures and practices of organisations to make them more effective in preventing discrimination, adjusting for diversity and promoting equality and so by decrease the number of discriminatory incidents and structures. They can provide guidance, advice and support for good practice by organisations (predominantly promotion-type bodies), and can require such change through orders or recommendations, follow-up to these orders or recommendations, and advice to companies issued on request (predominantly tribunal-type bodies).

### **6.1.3 Improving quality of policy and legislation**

475. Equality bodies can inform policy and legislation with their expertise in and knowledge of equality, discrimination and equal treatment legislation and with their experience of implementing and interpreting equal treatment legislation. They can also shape the process by which legislation and policy are prepared through encouraging equality mainstreaming and as such become key actors in policy change. They can support equality/non-discrimination mainstreaming in policy-making and enable evidence-based policy-making through their survey work (both types of bodies) and/or influence legislation and promote legal certainty through interpreting equal treatment legislation in their findings in cases of discrimination and through providing advisory opinions on general questions of discrimination (predominantly tribunal-type bodies).

### **6.1.4 Improving stakeholder action**

476. Equality bodies can mobilise a wider framework for action on discrimination, under-reporting and equality across civil society and the public sector. They can stimulate, guide and support NGOs, trade unions, business networks, educational and training institutions and national/local authorities to play more active roles in combating discrimination and advancing equality (predominantly promotion-type bodies) and impact on this wider framework for action through providing advisory opinions and achieving a ripple effect from media coverage of their work (both types of bodies).

### 6.1.5 Improving public attitudes

477. Both types of equality body can contribute to realising a culture of compliance with equal treatment legislation among employers and service providers. The work of the equality bodies can be to ensure that employers and service providers are conscious of equal treatment legislation as they make decisions and that they are aware of the implications of making discriminatory decisions. They can contribute to realising a culture of rights among groups experiencing inequality and discrimination and across society. Equality bodies can also ensure people who experience discrimination are aware that they have rights and have confidence that they can exercise them to good effect. The equality bodies can moreover contribute to creating a context where it is seen by all as normal to seek to exercise one's rights under equal treatment legislation. They can contribute to realising a societal culture that values equality, that is aware of the moral case for equality and that understands the importance of equality for business performance, economic development and societal wellbeing. Equality bodies can make this diverse and convincing case for equality through their work.

## 6.2 Parameters for realising the potential of equality bodies

478. In order to realise their potential, equality bodies have to be provided with the necessary formal and practical framework by the governments of the national Member States. The European Union and/or international context may also produce favourable or unfavourable conditions. Moreover, equality bodies themselves will have to examine whether their structures and activities could be optimised to capitalise on their potential.

### 6.2.1 How equality bodies do their business

#### 6.2.1.1 *De facto* independence

479. A high level of *de facto* independence has shown to be an important basis for effectively carrying out the tasks assigned and for further realising the potential of equality bodies. Parameters for *de facto* independence include strong leadership, stakeholder involvement, plurality within the board and staff of the body and a commitment to and interest in being independent.

#### 6.2.1.2 Strong leadership

480. Strong leadership is another important parameter to guarantee *de facto* independence. Even if a body is incorporated within a ministerial structure and/or cannot be considered as formally independent, it can still be highly influential and effective if it is able to develop strong leadership. A body with strong leadership can, moreover, even use political and/or stakeholder influence to its benefit rather than experiencing it as an obstacle to independence.

### **6.2.1.3 Good management**

481. Strong leadership needs to be accompanied by good management. Good management ensures that staff and resources are organised in the best possible way and makes the most out of them.

### **6.2.1.4 Vision and strategy**

482. In order to realise their potential equality bodies have to develop a vision of their role within administrative culture and society and as regards equality. Based on this vision they have to prepare and implement a multi-annual strategic plan.

### **6.2.1.5 Strategic mix**

483. Equality bodies' strategies should be deployed in order to achieve outputs in all of their areas of competence. When drawing up their strategies, equality bodies should take care that a mix of activities aiming at enforcing equal treatment legislation, awareness-raising of rights and obligations, knowledge development in relation to discrimination and inequality, and promotion and support of good practice by employers and service providers is achieved. To be strategic, this mix needs to take account of the particular legal and societal context within which the equality body is operating, its range of competences and the roles played by other stakeholders in society that are committed to advancing equality and combating discrimination. And it has to be adequate to realise the vision of equality.

### **6.2.1.6 Skills mix**

484. Equality bodies should ensure that they can apply a mix of different skills in order to be able to deploy all of their functions to best effect and to achieve a ripple effect from the work done.

### **6.2.1.7 Pro-activity**

485. Equality bodies should be pro-active in order to make a change. For tribunal bodies this can mean introducing follow-up procedures for cases decided in order to guarantee compliance, initiating (court) proceedings on their own initiative in order to enhance legal certainty and/or reduce structural discrimination, or formulating advisory opinions addressed to the government, stakeholders or other relevant actors. For both types of body this can mean carrying out research into various questions related to discrimination, developing and implementing initiatives aiming at raising awareness of discrimination, actively seeking to become a 'player' in policy change in the national and/or legal context or creating ways of changing attitudes among employers and service providers.

For promotion-type bodies this can mean becoming active in strategic litigation, finding and choosing cases that have a potential for social change and/or investing in work to support good practice and thus preventing discrimination in key sectors. It can further mean engaging in a wider strategic enforcement strategy and deploying powers to take cases to court in their own name, to act as *amicus curiae* in relevant cases and to conduct inquiries.

#### **6.2.1.8 Networking**

486. Networking has shown to be a valuable tool for equality bodies to enhance their potential. Establishing cooperation with NGOs representing victims of discrimination and other stakeholders active in the field can be valuable additions in terms of knowledge and expertise, ensuring accessible assistance to victims of discrimination, and improving the rate of uptake of their services by victims. Networking with government representatives, even if informal, can contribute to their influence on legislation and policy development. Creating a platform for dialogue with employers' and business organisations can help the topics of non-discrimination and equality to find their way into the policy and philosophy of companies and service providers beyond mere legal compliance. Networking in the international context, for example via Equinet or the International Ombudsman Institute, provides national equality bodies with a chance to exchange experience, learn about examples of good practice in other national contexts and strengthen their role at EU level and consequently also at national level.

#### **6.2.1.9 Communication strategy**

487. Elaboration and implementation of a sound communication strategy is key for success. This should include creation of a media profile, a strategy for presenting services on offer, and a strategy for presenting cases to the public. A strategically-guided media presence results in valuable visibility for equality bodies, their work and equal treatment legislation.

### **6.2.2 Conditions created for equality bodies to do business**

#### **6.2.2.1 Resources**

488. Equality bodies have to be equipped with sufficient resources to do their business in a way that maximises their potential. This includes monetary resources as well as the ability to employ experienced staff and be active in all areas that form part of their mandate.

#### **6.2.2.2 De jure independence**

489. Independence in carrying out tasks is key to realising equality bodies' potential. If there is no *de jure* independence, *de facto* independence is a lot harder to achieve and keep.

*De facto* independence should not be dependent on strong leadership (even if this helps) but be ensured by formal guarantees of an independent status – in its organisational set-up as well as in its operations.

### **6.2.2.3 Tribunal/promotion-type bodies**

490. Establishment of both promotional and tribunal-type bodies at the same time would ensure a separation of the partial task of assisting victims of discrimination and the impartial task of deciding on questions of discrimination. This would enhance the credibility of both institutions and as such build a basis for high potential bodies.

### **6.2.2.4 Mandate**

491. The mandate given to equality bodies should be extensive enough to enable them to realise their potential. Equality bodies also need to be equipped with the powers and functions necessary to fulfil their mandate. This would, for example, have to include the ability to initiate proceedings in their own name in cases of general interest, the competence to issue advisory opinions on questions of legal interpretation or structural discrimination, a formal (advisory) role in legislation and policy development, and a monitoring role regarding the compliance with equal treatment legislation and the implementation of positive duties.

### **6.2.2.5 Political environment**

492. A political environment that is positive towards equality in society has a beneficial influence on the capability of equality bodies to realise their potential. Only if political will and general attitudes are imprinted by the acknowledgement that combating discrimination and improving equality are key for successful societies will equality bodies have a solid basis for their work and be able to make change happen.

### **6.2.2.6 EU funding**

493. Funding by European Union programmes can enable equality bodies to fulfil their mandate in such a way so as to maximise their potential. EU funding can, for example, provide opportunities to exchange experience with other equality bodies, enable awareness-raising campaigns to be conducted, and support publications by equality bodies that contribute to greater legal certainty throughout Europe and compensate for deficiencies at national level.

### **6.2.2.7 EU legislation**

494. EU legislation has been the main driver for the establishment of equality bodies throughout Europe.

More extensive regulations at EU level should help to level up protection for all groups protected by Article 19 and equalise standards for equality bodies in different national contexts concerning, for example, their level of independence, the resources allocated to them and their mandate.

#### **6.2.2.8 International standards**

495. International standards can be used to equalise standards for equality bodies in different national contexts and can contribute to greater legal certainty for people in terms of rights and obligations imposed by equal treatment legislation.

### **6.3 Methodology for monitoring and updating information on equality bodies**

496. This report is based on data collected by mainly two means: a survey questionnaire that was distributed to the equality bodies and pre-structured country fiche sheets that were sent to and completed by a network of national experts.

497. The survey questionnaire is identical to the questionnaire that was developed and applied by Equinet in 2008 (Equality Bodies and Practices of Independence). This questionnaire is in turn based on a generic survey questionnaire that was developed by an international consortium of political science and public administration scholars specialising in public sector organisations (for more information, see [www.soc.kuleuven.be/io/cost](http://www.soc.kuleuven.be/io/cost)).

498. As the same survey was applied as in 2008 with only minor adaptations, this research team was able to compare the answers over a period of time. Comparing the two survey outcomes was shown to be of value. This was most visible in the case of independence in financial management: while reported levels of independence in personnel management were at the same level as in 2008, levels of independence for various aspects of the financial management of equality bodies turned out to be lower than reported in 2008. The most likely interpretation is that financial crisis has had an effect.

499. This brief example shows that the survey questionnaire can be a good monitoring instrument to measure independence levels and relationships between reported independence levels and other relevant features of the equality bodies over established intervals of time.

500. The use of the survey in combination with the qualitative country fiches is advisable as the descriptions within the country fiches may provide a more in-depth look behind the figures presented in the survey.

## 6.4 Recommendations to equality bodies on actions to improve their effectiveness

501. Equality bodies are faced with the challenge of making the most of scarce resources. They need to add value within a context where a range of other stakeholders play roles in promoting equality and combating discrimination. They hold a range of powers that need to be deployed strategically to best effect.
502. RECOMMENDATION: Equality bodies should develop and implement multi-annual strategic plans. These plans should be produced in consultation with civil society. They should include indicators of success and targets to be achieved. They should ensure that equality bodies play a decisive role in developing knowledge of discrimination, raising awareness of equal treatment legislation and promoting policy-making and good practice that reflect a commitment to equality and non-discrimination.
503. Equality bodies need to demonstrate their impact in order to sustain focus on their potential and ensure support for their work, to verify that strategies pursued are relevant to the context they operate within, and to identify and address barriers to their effectiveness.
504. RECOMMENDATION: Equality bodies should collect data on and measure the impact of their work on the basis of indicators and targets set out in their strategic plans. There should be an internal and an external evaluation of the equality bodies in the final year of their strategic plans. Relevant civil society organisations should participate in these evaluations.
505. Equality bodies are, and need to be, afforded a broad range of different powers. At a minimum they are required to have powers to provide assistance to victims of discrimination, to conduct surveys and to publish reports and make recommendations. It is the interaction and strategic mix of these powers that enable equality bodies to maximise their impact.
506. RECOMMENDATION: Equality bodies should ensure that they deploy all of their different powers. This should be done within a strategic enforcement approach that ensures that:
- the most appropriate power is deployed in each instance;
  - a mix of powers is deployed that takes account of the most effective interactions between the different powers and of what other stakeholders are doing;
  - a critical mass of output is achieved in relation to the deployment of each of the different powers.
507. NGOs, trade unions and business networks can provide important support, information and channels of communication to equality bodies.



These organisations are also stakeholders in that they are impacted by the work of equality bodies. It is important that an equality body harnesses their support and secures their input into its work.

508. RECOMMENDATION: Equality bodies should develop structured networking with relevant stakeholders. This structured networking should enable these stakeholders to contribute to planning, implementing and evaluating the work of the equality body on an ongoing basis. It should enable a broad institutional framework for action on equality to emerge.
509. Sanctions ordered by equality bodies are required to be effective, proportionate and dissuasive. In many instances equality bodies are limited in this regard by the provisions of the equal treatment legislation they operate under. However, it is also clear that there are steps that can be taken by equality bodies to give expression to this requirement.
510. RECOMMENDATION: Tribunal-type equality bodies should take steps to ensure that their sanctions are effective, dissuasive and proportionate. Equality bodies should:
- ensure that they make full use of the opportunities afforded to them by equal treatment legislation by making orders that are proportionate, effective and dissuasive in relation to all respondents;
  - minimise the bureaucracy required to pursue a case, ensure that their procedures are accessible and eradicate backlogs in the hearing of cases;
  - consult relevant stakeholders when developing their procedures and practices;
  - implement a process for following up orders to ensure their implementation.
511. High levels of under-reporting continue in all jurisdictions. This poses a threat to the impact, and the very relevance, of equal treatment legislation. Equality bodies face the challenge of ensuring that they are accessible and make their full contribution to minimising the under-reporting of discrimination.
512. RECOMMENDATION: Equality bodies should develop a strategy specifically in relation to under-reporting. This strategy should include:
- the development of a local/regional presence for the equality body such that the general public in any area has ready access to information on their rights under equal treatment legislation and those who feel they have experienced discrimination can receive necessary support and advice;

- initiatives to mobilise, enable and support other stakeholders, in particular NGOs and trade unions, to take on advocacy roles in supporting people who have experienced discrimination to come forward and secure redress;
- an engagement with the media such that the equality body is a visible and well-known champion of equality and non-discrimination. This builds awareness of, and trust in, the equality body among those who experience discrimination;
- conducting regular surveys to secure visibility for, and an understanding of the causes of, under-reporting by different groups experiencing discrimination.

513. The staff of equality bodies need to hold a skills base that enables a strategic mix, and a critical mass, of outputs from the various powers held by the equality body. The staff could usefully reflect diversity in society so as to conform to international standards, maximise organisational performance and build trust across all sectors of society.

514. RECOMMENDATION: Equality bodies should have employment policies and procedures that secure a multi-disciplinary and a diverse staff team.

## **6.5 Recommendations at Member State and European Union level for action to support equality bodies to realise their potential**

### **6.5.1 European Union level**

515. The European Commission plays a valuable and necessary role in supporting equality bodies to realise their potential. This role has included taking proceedings in relation to inadequate transposition of the Directives within Member States, supporting the establishment and functioning of Equinet, providing funding for the work of equality bodies and promoting the visibility and standing of equality bodies. It is important that this support is maintained and further developed.

516. RECOMMENDATION: The European Commission should encourage the development of standards for the structures, powers and operation of equality bodies. The standards would:

- be based on international standards such as the Paris Principles, the UN Convention on the Rights of Persons with Disabilities, and Policy Recommendations No. 2 and No. 7 of the European Commission against Racism and Intolerance;
- afford clarity and definition to the powers laid out for equality bodies in the EU Equal Treatment Directives;

- lend clarity and definition to the requirements of independence in relation to the structure of, appointments to and accountability required of equality bodies;
  - establish effectiveness indicators for the operation of equality bodies that would encompass strategic planning, stakeholder networking, the deployment of all powers and achieving a critical mass of outputs across all these powers.
517. RECOMMENDATION: The European Commission should further study the different architectures of promotion-type and tribunal-type equality bodies with a particular focus on the implications for independent support to victims of discrimination where a tribunal-type body alone has been established.
518. RECOMMENDATION: The European Commission should continue its work of securing compliance across all Member States in the transposition of the EU Equal Treatment Directives.
519. RECOMMENDATION: The European Commission should further develop its funding for equality bodies under the PROGRESS initiative and through the European Social Fund. The regulations and procedures governing these resources should make specific reference to equality bodies and enable the latter to directly access them. A particular focus on support to equality bodies to enable them to meet the challenge of under-reporting and to encourage good equality practice in organisations would be valuable.

### 6.5.2 Country level

520. National and local authorities are key to the independence and effectiveness of equality bodies. They also provide the financial resources for their work. These authorities can enhance the status and standing of an equality body so that it is, and is seen as, an authoritative presence in society. These authorities can enable and encourage the independence necessary for the equality body.
521. RECOMMENDATION: National authorities should establish a clear and transparent process for calculating and attributing an adequate resource base to equality bodies. They should ensure that it cannot be reduced without clear rationale and broad and public debate.
522. RECOMMENDATION: National authorities should underpin the independence of equality bodies by:
- establishing an open, transparent and non-political appointment process for appointing commissioners or board members and senior staff within the equality body;
  - developing a range of accountabilities for equality bodies – to their sponsoring department to ensure they remain within their legal mandate and apply high standards of financial control; to civil society to ensure

that they meet the needs of people who experience discrimination; and to Parliament to ensure that they reach their full potential;

- establishing a structure for equality bodies that is separate from government and free from state control;
- promoting a broad understanding of the potential of equality bodies, their role and their need for independence.

523. RECOMMENDATION: National authorities should consider the introduction of positive duties on public-sector and private-sector organisations to have due regard to equality in carrying out their business. Equality bodies could be given a role in monitoring and supporting the implementation of this obligation. Such an obligation would maximise the potential of the equality bodies, enhance the performance of organisations in the public and private sectors and reduce levels of discrimination.

524. RECOMMENDATION: National and local authorities should demonstrate a leadership for equality by developing cooperation protocols with equality bodies. These protocols would commit public-sector organisations to engaging with equality bodies to develop good practice in employment and service provision and to promote knowledge about respect for equal treatment legislation among their employees, the public they serve and those organisations to whom they contract work to.

525. RECOMMENDATION: National and local authorities should take action to reduce under-reporting of discrimination. Funding programmes should be developed to support awareness-raising campaigns, to implement educational initiatives in schools, and to provide a range of advocacy support services (through NGOs and trade unions) to victims of discrimination.

526. RECOMMENDATION: National local authorities should ensure that national statistics agencies gather data and produce reports on equality and non-discrimination. This would enable scientific calculation of the resources necessary and an assessment of the effectiveness and impact of equality bodies and other non-discrimination initiatives.

## ANNEXES

### Annex 1 - Tables illustrating independence part

This Annex presents the tables that belong to the analysis under paragraphs  
“Independence – the effects of governance structure and legal status”  
“Independence – predominantly tribunal-type bodies and predominantly promotion type bodies compared”  
“Independence – influence of stakeholders: governance structure, legal status, and type of bodies”

#### *Brief note on reading statistics in the tables*

Before we proceed presenting the findings in our tables we will provide a brief note on how the findings in the tables should be read. First, the tables offer the results of a statistical t-test. A t-test is a technique which is used to compare the answers of two or more groups of categories. Here we use the t-test to compare the answers that were given by equality bodies that are governed by a single head versus those that are governed by a collegiate board; equality bodies with a legal personality versus those without a legal personality; and tribunal-type versus promotional-type of bodies. The aim of the analysis is to see whether there exist differences in the answers given by the different categories of equality bodies, in order to examine whether attributes of the formal independence of equality bodies do matter (or not) for how independent they are in practice.

Second, the cells in the table contain three types of information. First, a cell presents the mean value, e.g. 2.27, of the response of a subgroup of equality bodies, i.e. bodies governed by a single head. Second, the figures between brackets are so-called “standard errors”. The value of a standard error indicates how varied equality bodies from the same group have answered a survey question. The higher the value of the figure within the brackets is, the more variation there is in the answers of equality bodies. E.g., a standard error of (.66) as compared to a standard error of (.27) means that in the case of the mean that has a standard error of (.66), the answers of the equality bodies was more varied – the difference between highest and lowest answers is higher – than in the case of the standard error of (.27).

Third, some cells have asterisks (“\*” or “\*\*”). An asterisk indicates that the difference between the means of the responses of the different categories of equality bodies is *not* based on a coincidence and that the difference is a systematic one. Two asterisks indicate that the difference is stronger than there is only one asterisks. If no asterisks is provided, we cannot with certainty tell that the difference is based not on coincidence.

Finally, in order to indicate how many equality bodies have provided an answer to a specific survey question, we provide the exact number of respondents by the expression "N = ...". For example, "N=40" means that 40 equality bodies have answered a specific questions, and so on. Some question are not answered by all equality bodies for different reasons, e.g. because of relevance of the question. Then the number of respondents is given that have actually responded to the question.

*The findings presented in the tables*

**Table A.1.1. Comparison of means for level of financial management independence, comparing different governance structures and legal status of equality bodies.**

(Response categories to "Can your organisation itself ..." are '1 = No', '2 = Yes within conditions set by minister', '3 = Yes')

	Governance structure (N=40)		Legal personality (N=40)	
	Single head	Collegiate board	No	Yes
Shift resources between personnel and running costs?	1.61 (.16)*	2.12 (.22)*	1.83 (.24)	1.82 (.17)
Shift resources between budget and investments?	1.74 (.17)	1.59 (.21)	1.83 (.24)	1.61 (.16)
Take loans out for investments?	1.21 (.13)	1.12 (.12)	1.42 (.23)	1.07 (.07)
Shift budget over years?	1.49 (.14)	1.47 (.15)	1.50 (.19)	1.46 (.12)

Two sample t-test with unequal variances. Standard errors in brackets.\*\* Significant at  $p < .10$

#### Explanatory note

Let us take one line from the table: "Shift resources between personnel and running costs?" With regard to this financial management item, equality bodies were asked to rate their level of independent with regard to taking decisions concerning budget shifts from funds allocated to running costs to personnel costs, vice versa. Equality bodies governed by a single head reported a lower degree of independence (1.61) than equality bodies governed by a collegiate board (2.12).

Given the answer categories (1 = “No” to 3 = “Yes”), this finding means that equality bodies governed by a collegiate board enjoy more independence as regards these decisions than equality bodies governed by a single head.

**Table A.1.2. Comparison of means for level of independence in personnel management, comparing different governance structures and legal statuses of equality bodies**

(Response categories to “Can your organisation itself decide on...” are ‘1 = No’, ‘2 = Yes within conditions set by minister’, ‘3 = Yes’)

	Governance structure		Legal personality	
	Single-head	Collegiate board	No	Yes
Salaries (N=39)	1.91 (.20)	2.12 (.22)	1.5 (.23)*	2.22 (.17)*
Conditions for promotions (N=39)	2.05 (.20)	2.47 (.21)	1.58 (.26)**	2.52 (.15)**
Evaluation of personnel (N=39)	2.41 (.19)	2.53 (.21)	1.83 (.30)*	2.74 (.13)*
Personnel appraisals	2.32 (.20)	2.18 (.23)	2.08 (.29)	2.33 (.18)
Downsizing of organisation	2.23 (.20)	2.06 (.23)	1.83 (.27)	2.31 (.17)

Two sample t-test with unequal variances. Standard errors in brackets. \* Significant at  $p < .10$ , \*\* Significant at  $p < .05$

#### Explanatory note

In the row “Salaries” and column “Legal personality” we see that equality bodies without a legal personality enjoy a lower degree of independence to set the level of the salaries of their personnel (the score is 1.5) than equality bodies that do have their own legal personality (the score here is 2.22)

**Table A.1.3. Comparison of means for levels of policy independence, comparing different governance structures and legal statuses of equality bodies**

(Response categories to “With respect to the discrimination ground(s) your body covers, which of the following statements is valid for decisions concerning...?” are ‘1 = The organisation takes the decision itself...’ to ‘7 = Neither the ministry/minister nor organisation takes the decision on this matter, since the relevant legislation leaves no room for discretion’).

<i>Decisions concerning</i>	<i>Governance structure</i>		<i>Legal personality</i>	
	Single head	Collegiate board	No	Yes
Independent assistance (N=38)	1.27 (.27)	1.06 (.06)	1.64 (.54)	1.00 (.00)
Hearing and investigating cases (N=38)	1.27 (.27)	1.75 (.51)	1.55 (.55)	1.44 (.31)
Issuing reports & recommendations (N=39)	1.50 (.26)	1.41 (.35)	1.83 (.44)	1.30 (.23)
Allocation of resources: grounds (N=37)	2.68 (.49)	1.87 (.49)	2.67 (.53)	2.20 (.46)
Allocation of resources: tasks (N=37)	1.81 (.36)	1.56 (.41)	1.91 (.48)	1.62 (.33)

Two sample t-test with unequal variances. Standard errors in brackets. \* Significant at  $p < .10$ , \*\* Significant at  $p < .05$

#### Explanatory note

Given the fact that answer categories in our survey started from the highest degree of independence ("1 = The organisation takes the decisions itself...") we can see that equality bodies governed by a collegiate board report a lower level of independence than equality bodies governed by a single head as regards decisions concerning the hearing and investigation of cases do (a score of 1.75 versus a score of 1.27, respectively).

#### **Table A.1.4. Comparison of means for level of independence in personnel management, comparing predominantly promotion-type and predominantly tribunal-type bodies**

(Response categories to "Can your organisation itself decide on..." are '1 = No', '2 = Yes within conditions set by minister', '3 = Yes')

	Predominantly promotional	Predominantly tribunal	Total (bodies)
<i>Financial independence</i>			
Shift resources between personnel and running costs?	2.05 (.20)	1.60 (.18)	40
Shift between budget and investments?	1.65 (.20)	1.70 (.18)	40



	Predominantly promotional	Predominantly tribunal	Total (bodies)
Take out loans for investments?	1.20 (.14)	1.15 (.11)	40
Shift budget over years?	1.50 (.14)	1.45 (.15)	40
<i>Personnel management</i>			
Salaries	1.95 (.21)	2.06 (.22)	38
Conditions for promotions	2.25 (.20)	2.28 (.23)	38
Personnel appraisal	2.35 (.21)	2.67 (.18)	38
Appointment of personnel	2.25 (.20)	2.33 (.23)	38
Downsizing of organisation	2.00 (.20)	2.39 (.22)	37

Two sample t-test with unequal variances. Standard errors in brackets. \* Significant at  $p < .10$ , \*\* Significant at  $p < .05$

#### Explanatory note

Same reasoning as above.

#### **Table A.1.5. Comparison of means for level of policy-making independence and the allocation of resources across tasks and grounds**

(Response categories to "With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid for decisions concerning ..." are '1 = The organisation takes the decision itself...' to '7 = Neither the ministry/minister nor organisation takes the decision on this matter, since the relevant legislation leaves no room for discretion')

<i>Decisions concerning</i>	Predominantly promotional	Predominantly tribunal	Total (bodies)
Independent assistance (N=38)	1.05 (.05)	1.32 (.32)	38
Hearing and investigating cases* (N=38)	2.00 (.54)	1.00 (.00)	38
Issuing reports &	1.35 (.22)	1.58 (.37)	39

recommendations (N=39)			
Allocation of resources: grounds (N=37)	1.83 (.20)	2.84 (.48)	37
Allocation of resources: tasks (N=37)	1.28 (.20)	2.11 (.48)	37

Two sample t-test with unequal variances. Standard errors in brackets. \* Significant at  $p < .10$ , \*\* Significant at  $p < .05$

#### Explanatory note

Idem as above.

#### **Table A.1.6. Equality bodies' perceptions of influence of stakeholders on their strategic decision-making processes: differences between bodies with different governance structures and legal statuses**

("To what extent are the following stakeholders taken into account by you, in one way or another, whenever your organisation takes decisions with regard to policies regarding assistance to victims of discrimination, the conduct of surveys and the issuing of recommendations and opinions?" Answer categories 1 = Not at all, 2 = To some extent, 3 = To a large extent)

	Governance structure		Legal personality	
	Single head	Collegiate board	No	Yes
Parliament	1.68 (.14)	1.65 (.17)	1.50 (.15)	1.74 (.14)
Government	1.64 (.15)	1.82 (.15)	1.58 (.13)	1.78 (.13)
Parent minister	-	-	1.91 (.21)	1.68 (.14)
Finance minister	1.29 (.10)	1.31 (.12)	1.27 (.14)	1.31 (.09)
European Union	2.00 (.15)	1.88 (.17)	1.83 (.17)	2.00 (.18)
Courts	2.05 (.15)	2.12 (.19)	2.09 (.21)	2.07 (.14)
Political parties	1.29 (.10)	1.33 (.16)	1.42 (.15)	1.25 (.11)
Clients/victims	2.10 (.18)	2.27 (.21)	-	-
Civil society	2.05 (.15)	2.26 (.18)	2.17 (.21)	2.12 (.15)
Media	1.52 (.13)	1.69 (.15)	1.67 (.14)	1.56 (.13)
Consultants	1.33 (.11)	1.67 (.20)	1.25 (.13)	1.60 (.14)
Public opinion	1.52 (.11)	1.69 (.15)	1.58 (.15)	1.60 (.12)

Two sample t-test with unequal variances. Standard errors in brackets. \* Significant at  $p < .10$ , \*\* Significant at  $p < .05$

Explanatory note

Equality bodies with a governing board perceive the government to be less influential than equality bodies that are governed by a single head (second row: 1.64 against 1.82)

**Table A.1.7. Equality bodies' perceptions of influence of stakeholders on their strategic decision-making processes: differences between predominantly tribunal-type and predominantly promotional type of bodies**

("To what extent are the following stakeholders taken into account by you, in one way or another, whenever your organisation takes decisions with regard to policies regarding assistance to victims of discrimination, the conduct of surveys and the issuing of recommendations and opinions?" Answer categories 1 = Not at all, 2 = To some extent, 3 = To a large extent)

	Predominantly promotional	Predominantly tribunal	Total (bodies)
Parliament	1.74 (.15)	1.60 (.15)	39
Government**	1.95 (.16)	1.50 (.14)	39
Parent minister*	1.94 (.15)	1.56 (.16)	36
Finance minister	1.28 (.11)	1.36 (.11)	37
European Union	1.84 (.16)	2.05 (.15)	39
Courts	2.22 (.17)	1.95 (.15)	38
Political parties*	1.47 (.15)	1.16 (.09)	36
Clients/victims	2.33 (.16)	2.00 (.20)	36
Civil society**	2.41 (.15)	1.90 (.16)	37
Media	1.76 (.14)	1.45 (.14)	37
Consultants	1.61 (.18)	1.37 (.11)	37
Public opinion	1.67 (.14)	1.53 (.12)	37

Two sample t-test with unequal variances. Standard errors in brackets. \* Significant at  $p < .10$ , \*\* Significant at  $p < .05$ , \*\*\* Significant at  $p < .01$

Explanatory note

Same as above

## Annex 2 – Study methodology

Two data collection techniques have been employed at national level and European level:

1. Survey (questionnaire)
2. Pre-structured country report templates guiding data collection by national experts
3. Questionnaire followed by a focus group meeting with representatives of EU stakeholders.

### Ad. 1 Survey questionnaire

The survey questionnaire is the same survey that was used by the Equinet study on Equality Bodies and Practices of Independence. The questionnaire was designed by Kutsal Yesilkagit (University of Utrecht) and based on a survey questionnaire developed by an international research consortium, funded by ESF COST, of public administration scholars ([www.soc.kuleuven.be/io/cost](http://www.soc.kuleuven.be/io/cost)).

The survey consists of ten sections:

1. general questions: background information on the equality body (budget over a number of years, sources of income, number of FTEs, etc.)
2. personnel policies: appointment, salaries, appraisal, promotions, reorganisations, and background of staff members
3. financial management: possibilities of shifting the budget, taking loans, etc.
4. tasks and their execution: hearing and assistance, recommendations and opinions, allocation of resources among grounds and tasks
5. performance measures and management: goal specification, target assessments, accountability, audit practices
6. governing structure: issues related to bodies governed by a collegiate board (appointment of chairperson, members, identity of members)
7. governing structure: issues related to bodies governed by a single head (appointment, terms, accountability)
8. contacts with stakeholders: meetings with minister/government, rating levels of influence of stakeholders on equality bodies' decision-making, nature of relationship to stakeholders, impact of events on equality bodies' decision-making processes.
9. organisational culture: rating the relevance of a series of characteristic of the body
10. open section: definition of independence, equality bodies' own assessment of de fact independence, miscellaneous.

Main statistical techniques used are frequency displays cross-tabulations, and independent samples means tests (t-tests). The data collected by the survey questionnaire have been processed and analyzed by the statistical program STATA 10.1 SE

The survey questionnaire is attached below.

#### Ad. 2 Guideline for the Country Fiches

The attached guidelines for the Country Fiches are developed by the senior expert team of this research project.

The guidelines for the country fiches prescribed to the national experts the topics that needed to be covered by them and hence their data collection strategy, covering:

- the powers (legal basis and authority, governance structure, decision-making competences, grounds covered);
- resources (personnel, financial, management); and
- outputs (numbers of complaints dealt with, the numbers of surveys, studies and recommendations/opinions).

The data to be gathered were obtained by the national teams from the websites of the equality bodies, annual reports, and equal treatment legislation. Furthermore, the national experts conducted focus group interviews with representatives of the national equality bodies included in the study and with a representative cross-section of national stakeholders. Instructions for the focus group interviews were included in the guidelines.

#### Ad 3 Questionnaire followed by a focus group meeting with EU stakeholders

A letter was sent to all European Union level stakeholders to request their involvement and assistance.

A questionnaire was subsequently sent to the EU stakeholders to ascertain their perspective and expectations on the potential of equality bodies. A copy of the questionnaire is attached in annex 3. The response to the questionnaire was unfortunately low: 7 out of 17. All but one of the social partner EU stakeholders declined to respond.

After the return of the questionnaire one focus group meeting was held with the EU level stakeholders who responded to the questionnaire to discuss the preliminary findings from the study and to elaborate on the responses to the EU level stakeholder questionnaire.

The procedure with the network of equality bodies – Equinet – has been different. Their views have been gathered in a special meeting with the Board of Equinet.

## Annex 3 – Survey questionnaire

Survey questionnaire<sup>128</sup>

### Researcher

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National Expert who sent the questionnaire to the Equality Body  
Name and contact details

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<sup>128</sup> This questionnaire is based on a questionnaire that was developed in 2006 by Kutsal Yesilkagit and colleagues as part of an assignment of Equinet – the network of specialised equality bodies. The questions in this survey are therefore largely identical to the questions of that survey.



## Background information

*The information provided on your equality body will be used for drafting a national report which will form the bases for a synthesis study on equality bodies in all EU and EFTA Member States set up under Directives 2000/43/EC, 2004/113/EC, and 2006/54/EC. It aims at providing an objective basis to assess the extent to which equality bodies established in the Member States are in compliance with the directives and to identify best practice in carrying out the tasks assigned to them. In targeting these aims the study will try to develop standards for the independence and effectiveness of equality bodies, which will be based on best practice and should ensure that equality bodies are assisted, encouraged and required to meet their full potential in securing the effective implementation of the directives in all Member States of the EU and the EFTA.*

We would therefore like to ask you to provide the following information on your equality body.

Please return the filled in questionnaire to address from which you received it not later than **19 March 2010**.

### Full name of the organisation in the national language and in English

National language:  
English

Background of the respondent(s)

A. What is your, main respondent, position within your organisation?

My formal position within the organisation is ....

B. How many staff members have assisted in completing this questionnaire?

Number of respondents next to main respondent.....

C. If other staff members have filled (parts of) the questionnaire, could you please indicate their formal positions within the organisation and which questions they have filled in between the brackets?

Position other respondent(s)	Questions answered by respondent
1	
2	
3	
4	
5	

D. In which country is your organisation based?

--

**Section 1. General questions**

1. In what year was your organisation established in its current legal form as a specialised equal treatment body?

Year:
-------

2 a. How many staff members did your organisation have by the end of 2009?

Numbers in FTE (please give total and numbers of women/ men):
---

2 b. How many of the total number of staff members substantially (> 0,5 fte) worked on equal treatment?

3 a. What was the *total* budget of your organisation in (if applicable) 2004, 2005, 2006, 2007?

Size 2000 (x 1000 euro)
Size 2001 (x 1000 euro)
Size 2002 (x 1000 euro)
Size 2003 (x 1000 euro)
Size 2004 (x 1000 euro)
Size 2005 (x 1000 euro)
Size 2006 (x 1000 euro)
Size 2007 (x 1000 euro)

3 b. What was the size of the total budget *allocated to tasks concerning equal treatment* in (if applicable) 2004, 2005, 2006, 2007?

Size 2000 (x 1000 euro)
Size 2001 (x 1000 euro)
Size 2002 (x 1000 euro)
Size 2003 (x 1000 euro)
Size 2004 (x 1000 euro)
Size 2005 (x 1000 euro)
Size 2006 (x 1000 euro)
Size 2007 (x 1000 euro)

4. What is the main source of income of your organisation? (only one answer possible)



<input type="radio"/> Solely transfer/budget allocation/subsidies from governmental bodies (both parent ministry and other bodies on the same and other governmental levels)
<input type="radio"/> Mixed, but mainly transfer/budget allocation/subsidies from governmental bodies (both parent ministry and other bodies on the same and other governmental levels)
<input type="radio"/> Mixed, but mainly some kind of other sources of income (including self-generated income)
<input type="radio"/> Solely some kind of other sources of income (including self-generated income)

5. Has your organisation a legal personality separate from that of the parent ministry?

<input type="radio"/> Yes
<input type="radio"/> No

6. If your organisation has an own legal personality/corporate status, is it vested in:

<input type="radio"/> Civil law
<input type="radio"/> Administrative law
<input type="radio"/> Criminal law
<input type="radio"/> Other, namely.....

7. If your organisation does not have legal personality separate from that of the state, then, is your organisation:

<input type="radio"/> Component of a ministerial ministry
<input type="radio"/> Independent (has some kind of independent status) within a ministerial ministry
<input type="radio"/> Other affiliation

8. Given the administrative organisation in your country; which ministry is the *parent ministry* of your organisation, given the ties your organisation has with the ministry/ministry for the execution of your task?

The ministry responsible for:
<input type="radio"/> General public services
<input type="radio"/> Defence
<input type="radio"/> Public order and safety
<input type="radio"/> Justice and integration
<input type="radio"/> Economic affairs
<input type="radio"/> Environmental protection
<input type="radio"/> Housing and community amenities
<input type="radio"/> Health
<input type="radio"/> Recreation, culture and religion
<input type="radio"/> Education

<input type="radio"/> Social protection
<input type="radio"/> Foreign Affairs
<input type="radio"/> Other, namely...

9 a. What is the *primary task* of your organisation?

Primary task:
---------------

9 b. What is the *secondary task* of your organisation?

Secondary task:
-----------------

9 c. What is the *tertiary task* of your organisation?

Tertiary task:
----------------

9 d. Would you describe your organisation primarily as

<input type="radio"/> tribunal (focus on generating judgments and findings on discrimination)
<input type="radio"/> promotional/consultative body (focus on providing legal advice and support to victims of discrimination)
<input type="radio"/> mixture of both
<input type="radio"/> Other:

## Section 2. Personnel policies - staff

10. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the level of salaries?*

<input type="radio"/> Yes
<input type="radio"/> No
<input type="radio"/> Only after the approval of the mother ministry

11. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the conditions for promotions?*

<input type="radio"/> Yes
<input type="radio"/> No
<input type="radio"/> Only after the approval of the mother ministry

12. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the way of evaluating personnel?*

<input type="radio"/> Yes
<input type="radio"/> No
<input type="radio"/> Only after the approval of the mother ministry

13. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the way of appointing personnel?*

<input type="radio"/> Yes
<input type="radio"/> No
<input type="radio"/> Only after the approval of the mother ministry

14. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning general criteria of downsizing in the organisation?*

<input type="radio"/> Yes
<input type="radio"/> No
<input type="radio"/> Only after the approval of the mother ministry

- 15 a. What is the most prevalent professional background of the staff at the following levels of your organisation?

	Higher level	Meso level	Lower level
Technical training	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Medical training	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Economics	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Business administration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legal training	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Behavioral sciences (e.g. psychology, pedagogy, etc)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Political science and/or public administration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
History	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Languages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Administrative-financial training	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15 b. Does the staff of your organisation reflect the diversity of society?

<input type="radio"/> Yes
<input type="radio"/> No

15. c. If yes, please specify how this diversity has been achieved?

--

15 d. Have there been any changes in the composition of staff the since 2000? Please specify.

--

### Section 3. Financial management

16. Can your organisation itself *shift between the budgets for personnel and running costs?*

<input type="radio"/> Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry
<input type="radio"/> Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry
<input type="radio"/> No

17. Can your organisation itself *shift between the budgets for personnel or running costs on the one hand and investments on the other hand?*

<input type="radio"/> Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry
<input type="radio"/> Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry
<input type="radio"/> No

18. Can your organisation itself *take loans for investments*?

- |   |
|---|
| <input type="radio"/> Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry |
| <input type="radio"/> Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry            |
| <input type="radio"/> No  |

19. Can your organisation itself *shift its budget over a the course of a couple of years*?

- |   |
|---|
| <input type="radio"/> Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry |
| <input type="radio"/> Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry            |
| <input type="radio"/> No  |

#### Section 4. Execution of main tasks

20. With respect to giving assistance to victims, what is it that your organisation actually does predominantly when it gives assistance to victims?

- |   |
|---|
| <input type="radio"/> My organisation predominantly/solely hears and investigates cases               |
| <input type="radio"/> My organisation predominantly/solely provides independent assistance to victims |
| <input type="radio"/> A combination of both   |
| <input type="radio"/> Other, ...  |

21. For which ground(s) of discrimination does your organisation have formal legal authority?

- |  |
|--|
| <input type="radio"/> Sex                    |
| <input type="radio"/> Age                    |
| <input type="radio"/> Disability             |
| <input type="radio"/> Race and ethnic origin |
| <input type="radio"/> Political opinion      |
| <input type="radio"/> Nationality            |
| <input type="radio"/> Religion               |
| <input type="radio"/> Belief                 |
| <input type="radio"/> Sexual orientation     |
| <input type="radio"/> Civil status           |
| <input type="radio"/> Other, namely....      |

22. What is the scope that your organisation covers for these grounds?

<input type="checkbox"/> Employment
<input type="checkbox"/> Goods and services
<input type="checkbox"/> Education
<input type="checkbox"/> Social protection, including social security
<input type="checkbox"/> Health care and social advantages
<input type="checkbox"/> Other, namely .....

23. With respect to the ground(s) your organisation covers, which of the following statements is most valid, for decisions concerning *the provision of independent assistance to victims?* (only one answer is possible)

<input type="checkbox"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions
<input type="checkbox"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions
<input type="checkbox"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry
<input type="checkbox"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry
<input type="checkbox"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation
<input type="checkbox"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation
<input type="checkbox"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter

24. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, for decisions concerning *the hearing and investigation of cases and giving a judgment or opinion in individual cases?* (only one answer is possible)

<input type="checkbox"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions
<input type="checkbox"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions
<input type="checkbox"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry
<input type="checkbox"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry
<input type="checkbox"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation
<input type="checkbox"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation
<input type="checkbox"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter

25. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, for decisions *concerning the issuing of surveys, reports and recommendations with the purpose of giving an advice in general to governments and non-governmental parties?* (only one answer is possible)

<input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions
<input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions
<input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry
<input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry
<input type="radio"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation
<input type="radio"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation
<input type="radio"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter

26. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, with respect to decisions regarding *the allocation of personnel and financial resources between the grounds you cover?* (only one answer is possible)

<input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions
<input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions
<input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry
<input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry
<input type="radio"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation
<input type="radio"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation
<input type="radio"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter

27. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, with respect to decisions regarding *the allocation of your organisation's budget between, on the one hand, the tasks aimed at assisting or hearing and investigating individual cases and, on the other hand, the issuing of general reports, surveys and recommendations aimed at other organisations?* (only one answer is possible)

<input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions
<input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions
<input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry
<input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry
<input type="radio"/> The <i>minister/ministry</i> takes the decisions, after having consulted the organisation
<input type="radio"/> The <i>minister/ministry</i> takes the decisions, independently of the organisation
<input type="radio"/> Neither the <i>minister/ministry</i> , nor the <i>organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter

### Section 5. Goals, audit and performance of the organisation

28. Are the goals of the organisation specified in *form of (quasi-)contract with parent minister* (e.g. covenant, performance agreements)?

<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

29. Are the goals of the organisation specified in *form of establishment statute or act*?

<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

30. Are the goals of the organisation specified in *subsidy documents*?

<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

31. Are the goals of the organisation specified in *budget allocation document/letter of allocation*?



<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

32. Are the goals of the organisation specified in *letter of regulation*?

<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

33. Are the goals of the organisation specified in *document focusing on individual objectives for the director of the organisation*?

<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

34. Are the goals of the organisation specified in *documents with only internal purpose within organisation*?

<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

35. Are the goals of the organisation specified in *other documents*?

<input type="radio"/> Yes, containing measurable targets
<input type="radio"/> Yes, without measurable targets
<input type="radio"/> No

36. Is the organisation involved in the setting of (non-financial) organisational goals?

<input type="radio"/> We set the goals ourselves
<input type="radio"/> We set the goals after having consulted an elected authority (e.g. minister) or an administrative unit (e.g. parent ministry)
<input type="radio"/> We set the goals together with an elected authority (e.g. minister) or an administrative unit (e.g. parent ministry) as equal partners in a process of negotiation
<input type="radio"/> An elected authority (e.g. minister) or an administrative unit (e.g. parent ministry) sets the goals after having consulted our organisation

37. How frequently does your organisation report about *results and achieved goals* (other than purely financial goals) to an elected authority (e.g. minister) or an administrative unit (e.g. parent ministry)?

<input type="radio"/> By monthly reports or more frequently
<input type="radio"/> By reports every 2 to 4 months
<input type="radio"/> By reports every half-year
<input type="radio"/> By yearly reports
<input type="radio"/> By reports with a frequency of less than one year
<input type="radio"/> No reporting/not applicable

38. Who evaluates the achievement of goals by your organisation?

<input type="radio"/> The organisation itself
<input type="radio"/> The parent ministry and/or minister
<input type="radio"/> Third parties by order of the ministry and/or minister
<input type="radio"/> Third parties by order of the organisation itself (i.e. consultants, accountants)

39 a. Are there rewards in case of achievement of goals/targets for the organisation?

<input type="radio"/> Yes
<input type="radio"/> No

39 b. If 'yes' what are these rewards? (please specify, multiple answers are possible)

The rewards are:
------------------

40. Are there sanctions in case of bad results or failure to achieve goals or targets?

<input type="radio"/> Yes
<input type="radio"/> No

41. If 'yes' what are these sanctions? (please specify, multiple answers are possible)

--

## Section 6. Governing structure of the organisation: Council, Board, Commission

42. Is your organisation governed by a council, board or a commission?

<input type="radio"/> Yes <i>(please fill in questions 43 to 51, and then continue with question 63)</i>
<input type="radio"/> No <i>(please go directly to questions 52 to 62, and then continue with question 63)</i>

43. What competences does this council, board or commission have?

<input type="radio"/> Only decision-making competence
<input type="radio"/> Only advisory competence

<input type="radio"/> Both decision-making and advisory competences
<input type="radio"/> Other, namely

44 a. By whom are the members of the council, board or commission appointed?

<input type="radio"/> By the government or minister
<input type="radio"/> By the government or minister after nomination by or consultation of the organisation (e.g. management or staff members)
<input type="radio"/> By the organisation itself
<input type="radio"/> By the government or minister after nomination by or consultation of interest groups and/or stakeholders of the organisation
<input type="radio"/> By the parliament after nomination by minister or government
<input type="radio"/> By another actor, namely

44 b. By whom is the chairperson or president of the council, board or commission appointed?

<input type="radio"/> By the government or minister
<input type="radio"/> By the government or minister after nomination by or consultation of the organisation (e.g. management or staff members)
<input type="radio"/> By the council, board or commission of the organisation
<input type="radio"/> By the government or minister after nomination by or consultation of interest groups and/or stakeholders of the organisation
<input type="radio"/> By the parliament after nomination by minister or government
<input type="radio"/> By another actor, namely

45 a. Are there central governmental representatives *with voting rights* in the council, board or commission?

<input type="radio"/> Yes
<input type="radio"/> No

45 b. If yes, how many council, board or commission members are central governmental representatives *with voting rights*?

{number} out of {number} total members

46 a. Are there other (e.g. non-central) governmental representatives with voting rights in the council, board or commission?

<input type="radio"/> Yes
<input type="radio"/> No

46 b. If yes, how many council, board or commission members are other (e.g. non-central) governmental representatives *with voting rights*?

{number} out of {number} total members

47 a. Are there members from organisations representing societal groups that are concerned with your core tasks (e.g. labor unions, women's organisations, ethnic minorities etc.) *with voting rights* in the council, board or commission?

<input type="radio"/> Yes
<input type="radio"/> No

47 b. If yes, how many members from organisations representing societal groups that are concerned with your core tasks (e.g. labor unions, women's organisations, ethnic minorities etc.) are *with voting rights* in the council, board or commission?

{number} out of {number} total members

48 a. Are there members from other stakeholders *with voting rights* in the council, board or commission?

<input type="radio"/> Yes
<input type="radio"/> No

48 b. If yes, how many members from other stakeholders have *voting rights* in the council, board or commission?

{number} out of {number} total members

49 a. Are there independent experts *with voting rights* in the council, board or commission?

<input type="radio"/> Yes
<input type="radio"/> No

49 b. If yes, how many members with an expert background have *voting rights* in the council, board or commission?

{number} out of {number} total members

50. What is the professional background of members with an expert background?

<input type="checkbox"/> economics and/or business administration
<input type="checkbox"/> technical training
<input type="checkbox"/> medical training
<input type="checkbox"/> legal training
<input type="checkbox"/> behavioral sciences
<input type="checkbox"/> political science and/or public administration
<input type="checkbox"/> history
<input type="checkbox"/> linguistics
<input type="checkbox"/> other, namely...

51 a. Are there members from the top management of the organisation *with voting rights* in the council, board or commission?

<input type="checkbox"/> Yes
<input type="checkbox"/> No

51 b. If yes, how many members from the top management of the organisation *with voting rights* are in the council, board or commission?

{number} out of {number} total members

### Section 7. Governing structure of the organisation: Director, Ombudsman, Commissioner

**Note: questions 52 to 62 should only be answered if your answer to question 42 was no.**

52. By whom or what actor is the director, ombudsman, commissioner appointed?

<input type="checkbox"/> by a council, board or commission
<input type="checkbox"/> by government or minister
<input type="checkbox"/> by government or minister after nomination by or consultation of the board or of the organisation itself (i.e. management or staff members)
<input type="checkbox"/> by general council of the organisation (in case of company meeting of shareholders, general assembly)
<input type="checkbox"/> by parliament after nomination by minister or government
<input type="checkbox"/> by another actor, namely ....

53. On what type of contract is the director, ombudsman, commissioner appointed?

<input type="radio"/> permanent/regular contract
<input type="radio"/> fixed term

54. Is the director, ombudsman, commissioner evaluated by the government or minister?

<input type="radio"/> Yes
<input type="radio"/> No

55. Is the director, ombudsman, commissioner evaluated by a (governing) board?

<input type="radio"/> Yes
<input type="radio"/> No

56. Is the director, ombudsman, commissioner evaluated by the parliament?

<input type="radio"/> Yes
<input type="radio"/> No

57. Is the director, ombudsman, commissioner evaluated by others?

<input type="radio"/> Yes, namely by....
<input type="radio"/> No

58. Is the director, ombudsman, commissioner accountable to the oversight authority on the basis of results and goal achievement?

<input type="radio"/> Yes, to a large extent
<input type="radio"/> Yes, to some extent
<input type="radio"/> No

59. Is the director, ombudsman, commissioner accountable on the basis of the general functioning of the organisation?

<input type="radio"/> Yes, to a large extent
<input type="radio"/> Yes, to some extent
<input type="radio"/> No

60. Is the director, ombudsman, commissioner accountable on the basis of administration of financing, budgeting, and accounting?

<input type="radio"/> Yes, to a large extent
<input type="radio"/> Yes, to some extent
<input type="radio"/> No

61. Is the director, ombudsman, commissioner accountable on the basis of legality or compliance to rules, regulations, and precepts?

<input type="radio"/> Yes, to a large extent
<input type="radio"/> Yes, to some extent
<input type="radio"/> No

62. Is the director, ombudsman, commissioner accountable on the basis of other aspects?

<input type="radio"/> Yes, to a large extent. These aspects are .....
<input type="radio"/> Yes, to some extent
<input type="radio"/> No

### Section 8. Contact with stakeholders

63. How many times (approximately) does your organisation have formal contact (in formal steering meetings with written proceedings) with an elected authority (e.g. minister) or an administrative unit that can be considered the superior of your organisation (e.g. parent ministry)?

<input type="radio"/> Once or more times a week
<input type="radio"/> Once or more times a month
<input type="radio"/> Trimestrial
<input type="radio"/> Twice a year
<input type="radio"/> Once a year
<input type="radio"/> Never
<input type="radio"/> not relevant

64. To what extent are the following stakeholders taken into account by you, in one way or the other, whenever your organisation takes decisions with regard to policies regarding assistance to victims of discrimination, the conduct of surveys and the issuing of recommendations and opinions?

	To a large extent	To some extent	Not at all
Parliament	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Government	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Minister of parent ministry	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Minister of finance and/or treasury	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other ministries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
European Union	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Courts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Political parties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Clients	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Civil society organisations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consultants	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Public opinion	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Advisory board of organisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Governing board of organisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Others	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

65. If you have mentioned 'Others' in the table above, what is the identity of these stakeholders and how influential do you rate them

Name stakeholder	To a large extent	To some extent	Not at all
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

66. How would you describe your relationship with your stakeholders? ('1 = competitive, we almost always have different views', '2 = strategic, in certain situations we share the same views', '3 = partnership, we almost always share the same views')

	1	2	3
Parliament	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Government	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Minister of parent ministry	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Minister of finance and/or treasury	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other ministries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
European Union	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Courts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Political parties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Clients	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Civil society organisations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consultants	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Public opinion	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Advisory board of organisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Governing board of organisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Others:			
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

67 a. To what extent do the following events or situations with which your organisation may be confronted in practice, have an influence on the decision-making processes with regard to your core tasks?

	Not relevant	No influence at all	Some influence	High influence	Very high influence
Change of government	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Change of director	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Change of board members	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Change of board chairperson	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New or amended <i>European</i> legislation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New or amended <i>national</i> legislation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Public presentations by opinion leaders (i.e. political speeches)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mediatized scandal related to equal treatment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reorganisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An exceptional case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Conflict with opposing stakeholders	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Entering of durable partnership with stakeholders	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Court decision	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
.....	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

67 b. How much per cent of the resident population aged 16 and beyond would know the name of the equality body and what its competencies are?

<input type="radio"/> 0-5%
<input type="radio"/> 6-20%
<input type="radio"/> 21-50%
<input type="radio"/> 51-75%
<input type="radio"/> 76-100%
<input type="radio"/> cannot be assessed

### Section 9. Culture of the organisation

68. How would you characterise your organisation in terms of the following list of terms? ('1= not characteristic at all', '2 = not characteristic', '3 = most often not characteristic', '4 = neutral', '5 = somewhat characteristic', '6 = very characteristic' '7 = very much characteristic')

	1	2	3	4	5	6	7
Oriented at task fulfilment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Innovative	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attention for personnel development	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trust in our organisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Respect for the individual rights of staff members	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
High attention for details	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Emphasis on quality of service delivery	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Promotion opportunities within the organisation	0	0	0	0	0	0	0
Financial rewards	0	0	0	0	0	0	0
Conciseness	0	0	0	0	0	0	0
Risk taking	0	0	0	0	0	0	0
Give clients what they desire	0	0	0	0	0	0	0
Hard working	0	0	0	0	0	0	0
Empathy with staff members	0	0	0	0	0	0	0
Integrity	0	0	0	0	0	0	0
Equal payment for same functions	0	0	0	0	0	0	0
Honesty	0	0	0	0	0	0	0
Attention and care for staff members	0	0	0	0	0	0	0
Cooperation with colleagues	0	0	0	0	0	0	0
Respect for clients	0	0	0	0	0	0	0
Pay for performance	0	0	0	0	0	0	0
Target oriented	0	0	0	0	0	0	0
Prepared for experimentation	0	0	0	0	0	0	0
Precision	0	0	0	0	0	0	0
Opportunities for moving ahead (in careers)	0	0	0	0	0	0	0
Care for staff members	0	0	0	0	0	0	0
Accuracy	0	0	0	0	0	0	0
Team spirit	0	0	0	0	0	0	0
Delivering promises made	0	0	0	0	0	0	0
Results orientation	0	0	0	0	0	0	0
Performance-driven pay	0	0	0	0	0	0	0
Teamwork	0	0	0	0	0	0	0

Tailor-made career development	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperation within the organisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

69. On a scale of 1 (=extremely poor) to 10 (= excellent) would you assess your organisation on the following items?

	Score (from 1 to 10)
Efficiency	
Effectiveness	
Quality of hearing and evaluating individual cases	
Quality of independent assistance to victims	
Quality of conducting surveys	
Quality of the conduct of recommendations	
Motivation of the staff members	
Satisfaction among the staff members	
Quality of the management	
Internal cohesion of the organisation	
Stability of the organisation within its environment	
Flexibility of the organisation	
Responsiveness of the organisation to the society	
Accountability of the organisations to society	
Democratic standards of service delivery	

## Section 10. Open questions

In this final section, we like to offer you the opportunity to comment in the form of answers to a number open questions.

70. Definition of independence. How would you define for your organisation what the meaning of 'independence' would be with regard to your organisation's core competences?

71. Given your definition of independence above, how independent do you believe your organisation is in practice? Please also indicate whether, according to you, the level of independence of your organisation is stable or not over a substantial period of time.



72 a. What are, according to you, the most important factors that affect the level of independence of your organisation?

72 b. What initiatives has your organisation been especially proud of since 2000?





## End of survey

This is the end of the survey. We sincerely thank you for your time and patience. Should you have additional comments or remarks, please feel free to state them below.

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Should you have any request for information or questions regarding the interpretation or filling in the questionnaire, please do not hesitate to contact dr. Kutsal Yesilkagit. However, also be so kind as to send a c.c. mail to the national expert who send you the questionnaire so that s/he is informed.

The addresses are given on the title page of this document