

THE PERSISTANCE OF DISCRIMINATION, HARASSMENT AND INEQUALITY FOR WOMEN

An Equinet Perspective - Draft Version

March 2015

*The Work of
Equality Bodies
Informing a New
European
Commission
Strategy for Gender
Equality*



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Commission Strategy for Gender Equality*

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The Persistence of Discrimination, Harassment and Inequality for Women. The Work of Equality Bodies informing a new European Commission Strategy for Gender Equality is published by Equinet, the European Network of Equality Bodies.

Equinet brings together 42 organisations from 32 European countries which are empowered to counteract discrimination as national equality bodies across the range of grounds including age, disability, gender, race or ethnic origin, religion or belief, and sexual orientation. Equinet works to enable national equality bodies to achieve and exercise their full potential by sustaining and developing a network and a platform at European level.

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Executive Summary

Equinet has prepared this *Perspective* to gather the learning from the work of equality bodies across Europe so as to inform the preparation and content of a new European Commission Strategy for Gender Equality. It is based on a workshop of the Equinet Gender Equality Working Group and a survey of its member equality bodies that was responded to by twenty six equality bodies.

The work of the equality bodies is gathered and analysed under five different headings:

- **Mainstreaming led initiatives:** focus on issues of equal pay, work-life balance and policy-making.
- **Litigation led initiatives:** focus on issues of pregnancy related discrimination, harassment on the ground of gender and sexual harassment, and goods and services. Litigation led work included a focus on under-reporting of discrimination.
- **Communication led initiatives:** focus on addressing gender stereotypes.
- **Activities in relation to men:** focus on litigation, the role of men in gender equality, breaking stereotypes, and equality in the sphere of caring work.
- **Activities in relation to trans people:** focus on litigation, research and legal recognition of trans people.

Proposals for the new Strategy are set out based on this analysis of the work of equality bodies and on earlier Equinet initiatives in relation to violence against women, the Gender Goods and Services Directive, work life balance, equal pay, discrimination against trans people, and harassment on the ground of gender and sexual harassment.

These proposals include the need for the new Strategy to address the challenge of stimulating a new priority for gender equality, finding new activities capable of engaging with the impact of austerity policies, and establishing further ways to measure progress on gender equality.

They include the need to continue work on the areas prioritised under the current strategy, in particular addressing:

1. Gender budgeting and gender mainstreaming in policy-making, policy implementation and policy evaluation, in particular the Europe 2020 Strategy.
2. Further legislation at European level in relation to the need for reconciliation between work and family life, including a comprehensive leave framework encompassing different forms of statutory leave (including paternity leave), rights in relation to flexible working arrangements and continued work on and adoption of the Maternity Directive.
3. Action on violence against women including, in particular, harassment on the ground of gender and sexual harassment in the workplace, in education, and in the provision of goods and services.

4. Segregation in the labour market and unequal pay, with particular attention to transparency and the implementation of the European Commission recommendation on the gender pay gap.

They include the need to continue work on the horizontal issues prioritised under the current strategy, in particular addressing:

1. The role and contribution of men in relation to gender equality.
2. The elimination of discrimination, gaps in equal treatment legislation, realising the potential of equality bodies, and under-reporting of discrimination.
3. The elimination of pregnancy-related discrimination in employment, including further legislation to secure the rights of pregnant women and their protection from discrimination.

New priority themes are proposed as part of these proposals, in particular addressing:

1. Equality in the field of caring work including promoting workplace practice that is supportive of work-life balance, reversing the increased caring responsibilities on women as a result of austerity policies, the rights of domestic workers, and the role of men in caring work.
2. Stereotyping on the ground of gender in the media, advertising, and education.
3. Trans people, Intersex people, and gender identity/gender expression issues.
4. Multiple discrimination where the ground of gender intersects with the grounds of age, racial or ethnic origin, religion or belief, disability, and sexual orientation and with issues of poverty and of lone parenting.

The proposals include a focus on the need to further develop the infrastructure for equality, in particular addressing:

1. The inclusion of equality bodies in deliberation, decision-making and monitoring in relation to the Strategy at Member State and European levels.
2. Developing standards at European level to ensure that the conditions are sufficiently created for equality bodies to achieve their full potential in their work on gender equality.
3. Measures in equal treatment legislation that require equality action plans on the ground of gender by employers and service providers; that strengthen and support positive action on the ground of gender by employers and service providers; and that require public bodies to have due regard to gender equality in carrying out their functions.
4. In the absence of such measures, the new Strategy could promote and support the preparation and implementation of equality action plans on the ground of gender on a voluntary basis by employers and service providers; ensure clarification and a broader interpretation as to when positive action can be used and to what extent; and promote and support gender mainstreaming at a national level.

1. Introduction

The European Commission's Strategy for Equality between Women and Men 2010-2015¹ is now under review with a view to developing a new Strategy. Equinet has prepared this Perspective to gather the learning from the work of equality bodies across Europe so as to inform the preparation and content of the new Strategy.

The Perspective is based on a workshop of the Equinet Gender Equality Working Group and a survey of the 42 member equality bodies of Equinet (six of which have no mandate in relation to the ground of gender). Twenty six equality bodies responded from twenty four different countries out of the thirty six equality bodies with a mandate on the ground of gender.² This is a response rate of 72%.

Four of the equality bodies responding cover only the ground of gender (in Belgium, Finland, Italy, and Portugal), while in Croatia the equality body has a principal focus on the ground of gender. Twenty one of these equality bodies have a multi-ground mandate. Six of the equality bodies responding have a mandate that specifically covers trans people (in Belgium, Finland, Malta, Northern Ireland - by way of specific regulation, Serbia, and Sweden) and another five equality bodies work to an open list of grounds (in Bulgaria, Hungary, Romania, Slovakia, and Slovenia). Most of the equality bodies responding address the issues of trans people under the ground of gender.

The scope of twenty five of these equality bodies covers both employment and goods and services. Two of these equality bodies only cover employment in the public sector. One equality body has a mandate only in the field of employment. There are nine predominantly tribunal type equality bodies among the respondents, thirteen predominantly promotion type equality bodies and four combined tribunal/promotion type equality bodies.³ Eight of the equality bodies responding combine their equal treatment mandate with a human rights mandate (and one is about to do so), two of them combine it with an ombudsman mandate, and two of them with human rights and an ombudsman mandate.

Equinet published, in 2009, an opinion to inform the preparation of the current Strategy for Equality between Women and Men 2010-2015.⁴ This opinion recommended that the Strategy would focus on eight areas. These eight areas continue to have relevance for the next Strategy. They are:

1. Inequalities in relation to caring work and caring responsibilities.

¹ Strategy for Equality Between Women and Men 2010-2015, European Commission, Brussels, 2010 - http://ec.europa.eu/justice/gender-equality/files/strategy_equality_women_men_en.pdf.

² The 26 responses came from Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark (2), Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Malta, Netherlands, Northern Ireland, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Sweden, and United Kingdom.

³ Predominantly tribunal type equality bodies spend the bulk of their time and resources on hearing, investigating and deciding on individual instances of discrimination brought before them. Predominantly promotion type equality bodies spend the bulk of their time and resources on supporting good practice, raising awareness of rights, developing a knowledge base on equality and providing legal advice and assistance to victims of discrimination. Combined tribunal/promotion type equality bodies play both tribunal type functions and promotion type functions.

⁴ New Directions for Equality Between Women and Men, Equinet, Brussels, 2009 - http://www.equineteurope.org/IMG/pdf/EN_-_New_Directions_for_Equality_between_Women_and_Men.pdf.

2. Gender stereotyping as a causal factor in discrimination against women, as influencing choices made by women and men and leading to occupational segregation, and as influencing decisions made by policy makers, employers and service providers.
3. Gender equality in the workplace and in the labour market as a prerequisite for achieving economic growth and a return to high levels of employment.
4. Taxation and social protection systems that reflect differences in the labour market histories of men and women due to the unequal sharing of caring responsibilities or that are designed on the basis of a male breadwinner model or a model that defines women as dependent.
5. Equal treatment legislation that addresses the structural and systemic dimensions of the inequalities experienced by women alongside the effective implementation of equal treatment legislation across all Member States including support for equality bodies to be independent and effective.
6. The elimination of gender-based violence in all its forms and of human trafficking.
7. The particular situation and experiences of Trans people.
8. The multiple discrimination experienced by women, in particular the experience of minority ethnic women, older women and women with disabilities.

Equinet has, since this publication, implemented various activities relevant to the implementation of the Strategy for Equality between Women and Men 2010-2015. These activities could inform the next Strategy and some of their conclusions are referenced in this Perspective. They include an initiative to explore the engagement by equality bodies with issues of violence against women, and publications on:

- The Gender Goods and Services Directive;⁵
- Work life balance;⁶
- Equal Pay;⁷
- Trans People;⁸
- Harassment on the ground of gender and sexual harassment.⁹

⁵ Equality Bodies and the Gender Goods and Services Directive, Equinet, Brussels, 2014 - http://www.equineteurope.org/IMG/pdf/ggs_report_final_with_cover.pdf.

⁶ Equality Bodies Promoting a Better Work-Life Balance for All, Equinet, Brussels, 2013 - http://www.equineteurope.org/IMG/pdf/wlb_for_website.pdf.

⁷ Equal Pay for Equal Work and for Work of Equal Value: The Experience of Equality Bodies, Equinet, Brussels, 2013 - http://www.equineteurope.org/IMG/pdf/equal_pay_report_publication_.pdf.

⁸ Equality Bodies Promoting Equality & Non-Discrimination for LGBTI People, Equinet, Brussels, 2013 - http://www.equineteurope.org/IMG/pdf/lgbti_perspective_english_.pdf, and Making Equality Legislation Work for Trans People, Equinet, Brussels, 2011 - http://www.equineteurope.org/IMG/pdf/trans_opinion_english.pdf.

⁹ Harassment on the Basis of Gender and Sexual Harassment: Supporting the Work of Equality Bodies, Equinet, Brussels, 2014 - http://www.equineteurope.org/IMG/pdf/report_on_harassment_and_sexual_harassment-final_with_cover-2.pdf.

2. The European Strategy

2.1 *The Strategy for Equality between Women and Men 2010-2015*

The Strategy for Equality between Women and Men 2010-2015 provides an important context for the work of equality bodies.¹⁰ The Strategy is organised around five priority themes:

- Equal Economic Independence;
- Equal Pay for Equal Work and Work of Equal Value;
- Equality in Decision-Making;
- Dignity, Integrity and Ending Gender-Based Violence;
- Gender Equality in External Action.

A number of horizontal issues are identified in the Strategy, including monitoring the implementation of equal treatment legislation and developing new legal protection. Equality bodies are identified among the stakeholders for the Strategy. The equality bodies responding to the survey indicate that these six priority themes remain valid while they could be deepened and further expanded.

The Report on Progress on Equality between Women and Men 2013 identifies progress on gender equality, albeit at a slow and uneven rate.¹¹ At the current rate of progress it would be another seventy years before equal pay is achieved, forty years before housework is equally shared, thirty years before the employment rate for women hits the Europe 2020 75% target, and twenty years before there is gender balance in national Parliaments.

Gender gaps are shrinking in relation to employment but this is due to a worsening in the position of men due to the economic crisis rather than improvements in the position of women. There has been progress in relation to women in economic decision-making but gender balance remains a distant goal.

The Gender Equality Index of the European Institute for Gender Equality offers a user-friendly measure of progress on gender equality.¹² It consists of six core domains (work, money, knowledge, time, power and health) and two satellite domains (intersecting inequalities and violence) and measures how far the EU and its Member States are from achieving complete gender equality.

The first report, completed in 2010, found ‘with an average score of 54.0, (where 1 stands for absolute gender inequality and 100 for full gender equality), the European Union is only halfway towards a gender equal society’. The report identifies ‘that the domain of power highlights the biggest gender gaps, with an average score of only 38.0 at EU level’ and ‘the domain of time is marked by wide differences between women and men when it comes to time spent on unpaid

¹⁰ Strategy for Equality between Women and Men 2010-2015, European Commission, Brussels, 2010 - http://ec.europa.eu/justice/gender-equality/files/strategy_equality_women_men_en.pdf.

¹¹ Report on Progress on equality between women and men in 2013, Commission Staff Working Document, SWD(2014) 142 final, Brussels, 2014 - http://ec.europa.eu/justice/gender-equality/files/swd_2014_142_en.pdf.

¹² Gender Equality Index Report, European Institute for Gender Equality, Vilnius, 2010- <http://eige.europa.eu/apps/gei/content/Gender-Equality-Index-Report.pdf>.

caring and domestic activities. This is the second domain where the widest gender gaps can be observed, with an average score of 38.8 at the EU level’.

The Mid-Term Review of the Strategy by the European Commission sets out a significant list of achievements in relation to action on gender equality and acknowledges the continuing challenges in this area.¹³

It concludes: ‘The Women’s Charter and the Strategy for Equality between Women and Men continue to provide an ambitious policy framework for promoting gender equality in the EU. This Mid-Term Review of the Strategy sets out that the priorities of the Strategy are being addressed by the Commission and the European External Action Service and that progress has been made with almost all the key actions. The Mid-Term Review also confirms that all services are firmly committed to continuing to act between 2013 and 2015. This renewed commitment to gender equality is of particular importance taken the remaining gender gaps and the constant need to tackle unemployment and the social consequences of the crisis’.

The Mid-Term Review places a particular emphasis on the contribution made by gender mainstreaming at European level. It points to the inclusion of gender equality considerations in the European Commission’s impact statements and in evaluations, the role of the Inter-service group in putting gender mainstreaming into practice, and steps to reinforce the capacity of staff in all DGs to implement gender mainstreaming. It concludes: ‘the impact of EU legal measures, policies and spending programmes on both women and men needs to be taken into account in all areas. Gender mainstreaming as an integral part of the Strategy should be implemented, including through impact assessments and evaluations’.

The European Commission published a Recommendation in relation to equal pay in 2014.¹⁴ A toolbox of measures is available for Member States to take action on wage transparency. Member States are expected to implement one or more actions on employee rights to obtain information, employers regularly reporting on pay, conducting pay audits in large companies, and/or including equal pay issues in collective bargaining. They must report to the European Commission on their action in this regard by the end of 2015.

The Recommendation makes specific reference to equality bodies, stating that Member States should:

- ‘ensure that their national equality bodies’ powers and mandates cover issues related to gender pay discrimination, including transparency obligations’;
- ‘reduce procedural obstacles to the bringing of equal pay cases to court by enabling equality bodies to represent individuals in cases of pay discrimination’;

¹³ Mid-term review of the Strategy for Equality between Women and Men 2010-2015, Staff Working Document SWD(2013) 339 final, European Commission, Brussels, 2013 - http://ec.europa.eu/justice/gender-equality/files/strategy_women_men/131011_mid_term_review_en.pdf.

¹⁴ Commission Recommendation of 7.3.2014 on strengthening the principle of equal pay between men and women through transparency, C(2014) 1405 final, Brussels, 2014 - http://ec.europa.eu/justice/gender-equality/files/gender_pay_gap/c_2014_1405_en.pdf.

- ‘ensure closer cooperation and coordination between the national equality bodies and national bodies that have an inspection function in the labour market’.

2.2 Equality Bodies and the Strategy for Equality between Women and Men 2010-2015

Equality bodies are contributing to the implementation and impact of the Strategy for Equality between Women and Men 2010-2015. However, the survey suggests that this is more implicit than explicit, with few equality bodies reporting a direct engagement:

- Six equality bodies report that they view parts of their work as being within the framework of the Strategy, that their work contributes to the Strategy, and that the Strategy is supportive to the progress of this work.
- Three equality bodies report that their work is informed by the Strategy.
- One equality body reports that it used the Strategy in developing recommendations to Parliament.
- One equality body reports that they supported initiatives emerging from the Strategy in their communication with Government.

The more implicit contribution of equality bodies to the goals of the Strategy is seen by equality bodies as starting with casework under equal treatment legislation to combat discrimination. It includes projects and initiatives to support new practice by employers and service providers. Equality bodies have contributed by generating evidence and knowledge in relation to gender equality issues and by making policy recommendations in fields covered by the Strategy. In some instances equality bodies have pursued an intersectional approach in promoting gender equality, addressing issues of multiple discrimination.

There are barriers to equality bodies achieving their full potential in contributing to the implementation of the Strategy. The limited resources available to equality bodies set limits to their work and contribution. The focus on implementing projects as a means of securing additional resources for their work can result in a lack of a sustained strategy for change. The lack of political will for gender equality constrains their impact. In some instances issues in relation to the functions and powers of equality bodies can limit their potential. This is evident where tribunal type equality bodies cannot issue dissuasive and legally binding sanctions or where promotion type equality bodies cannot take cases to court.

2.3 Equality Bodies and the Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth

The Europe 2020 Strategy provides an important context for advancing the goals of the Strategy for Equality between Women and Men 2010-2015.¹⁵ This core

¹⁵ Communication from the Commission, A strategy for smart, sustainable and inclusive growth, COM(2010) 2020 final, Brussels, 2010 - <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>.

European Union policy is currently under review. It established three priorities for the period 2010 to 2020:

- Smart growth – developing an economy based on knowledge and innovation.
- Sustainable growth – promoting a more resource efficient, greener and more competitive economy.
- Inclusive growth – fostering a high-employment economy delivering economic, social and territorial cohesion.

Equinet has published a report on the engagement of equality bodies with the Europe 2020 Strategy.¹⁶ It concluded that the contribution being made by equality bodies to the Europe 2020 strategy was largely implicit rather than explicit. This underpins the value in more overtly linking their work to the processes shaping the implementation of the Europe 2020 strategy at Member State level. It found that a number of equality bodies plan to deepen their engagement with the Europe 2020 Strategy and with the European Structural and Investment Funds at Member State level over the coming period.

Equality bodies confirmed these findings in the workshop to prepare this Perspective. Some noted that they have championed a gender equality focus within the processes and structures for progressing National Reform Programmes. Some identified specific actions they have taken that have contributed to the goals of the Europe 2020 Strategy. Some stated that they have championed gender equality through the monitoring procedures for European Structural and Investment Funds.

Country Specific Recommendations relating to gender were made to thirteen Member States in 2013.¹⁷ These focused on the availability, quality, inclusivity or affordability of childcare (ten Member States), care services of older people (two Member States), fiscal disincentives to work (three Member States), the gender pay gap and the pension gap (one Member State), harmonisation of pensionable ages and rights (three Member States) and promotion of flexible working arrangements (one Member State). Such recommendations offer a useful lever to advance the work and objectives of equality bodies. However, the survey suggests that this opportunity has yet to be availed of by equality bodies.

¹⁶ Crowley N., Equality Bodies and the Europe 2020 Strategy, Equinet, Brussels, 2014.

¹⁷ Report on Progress on equality between women and men in 2013, Commission Staff Working Document, SWD(2014) 142 final, Brussels, 2014 - http://ec.europa.eu/justice/gender-equality/files/swd_2014_142_en.pdf.

3. The Context

The negative impact of the economic and financial crisis and of austerity policies on the work of progressing gender equality are noted by most equality bodies (sixteen equality bodies reported this as an issue). This issue was also raised in the Equinet opinion of 2009.¹⁸ The barriers to gender equality due to the economic crisis and austerity policies noted by equality bodies in the survey for this perspective include:

- The crisis and the economy are the dominant focus. New ideas on gender equality are seen as unimportant and irrelevant.
- Gender equality is being de-prioritised as a policy concern.
- Increasing numbers of people are seeking informal care arrangements, with women mainly taking on this role and being forced to give up their jobs as a result.
- Increasing numbers of migrant women are being employed as domestic workers, and their rights are not adequately protected or vindicated.
- Women are more affected by the poverty arising from austerity policies.
- Welfare reform is diminishing the income of women, particularly those in couples.
- Gender gaps are decreasing without any improvement in the situation of women.
- Discrimination has increased. More women are being made redundant or dismissed or discriminated against on the foot of being pregnant.
- Job losses in the public sector have a greater negative impact on women.
- It is more difficult for women to get jobs and more difficult for men to avail of flexible working arrangements.
- There is a loss of interest among employers in gender equality initiatives, in particular in relation to work-life balance.
- Diminishing resources are being provided to equality bodies and made available for gender equality initiatives. One equality body notes 'our work has been destroyed'.

The *Irish Human Rights and Equality Commission* (former Equality Authority) conducted research into the impact of austerity on gender equality. The first piece of research suggests men have lost out in comparison to women in terms of job losses.¹⁹ The narrowing of the gender gap in employment rates was the result of a leveling down due to the fall in men's employment rather any rise in women's employment. A second piece of research suggests that women in couples have lost out most in relation to individual disposable income.²⁰ The *Equality Commission for Northern Ireland* has conducted surveys on inequalities over the period 2006 to 2012 that establish that inequalities for women in

¹⁸ New Directions for Equality Between Women and Men, Equinet, Brussels, 2009 - [http://www.equineteurope.org/IMG/pdf/EN -
_New_Directions_for_Equality_between_Women_and_Men.pdf](http://www.equineteurope.org/IMG/pdf/EN_-_New_Directions_for_Equality_between_Women_and_Men.pdf).

¹⁹ McGinnity F. et al, Winner and Losers? The equality impact of the great recession in Ireland, Equality Authority and ESRI, Dublin, 2014 - <http://www.equality.ie/Files/Winners-and-Losers.pdf>.

²⁰ Keane C., Callan T., Walsh J.R., Gender Impact of Tax and Benefit Changes: A microsimulation approach, Equality Authority and ESRI, Dublin, 2014 - http://www.ihrec.ie/download/pdf/gender_impact_of_tax_and_benefit_changesfinal.pdf.

employment with respect to men have been persistent over this period and the attainment gap in education has increased over this period in favour of girls.

4. Equality Bodies: Vision

The core vision and goal for most equality bodies is the elimination of discrimination and securing compliance with equal treatment legislation. Some equality bodies pose this in more expansive terms. One equality body sets this out in terms of informing, educating and empowering people about their right to equal treatment. Another poses the potential in 'advancing case law', another in 'preventing discrimination' and another in 'increasing awareness of discrimination'. Some equality bodies identify a vision that combines combating discrimination and promoting equality.

Many equality bodies identify their vision and goals in terms of specific issues. These include addressing the gender pay gap, job recruitment, promoting and supporting a Diversity Charter Platform, improving women's representation in political and economic decision-making, promoting work-life balance and flexible working arrangements, combating discrimination linked to maternity and paternity leave, addressing sexual harassment, gender-based violence and trafficking, and hate speech.

Two equality bodies identify their vision and goals as including being a source of new ideas. This was stated by one equality body as being to 'gain, support, develop, and coordinate expertise on classic and emerging topics regarding equality between women and men'. Another equality body set out this goal as being to 'gain and spread knowledge of institutional discrimination'.

Two equality bodies name a focus on advancing institutional change as part of their vision and goals. One equality body identifies its objective to 'increase awareness and gender sensitivity of state institutions responsible for gender-based violence' and another to 'enable key actors to promote equal opportunities, both duty bearers and civil society'.

One equality body identifies its objectives in terms of highlighting key inequalities and securing action to address these by public authorities. Two equality bodies name their objectives in terms of promoting gender equality and gender mainstreaming. Few equality bodies, however, set out their vision in terms of the goal of equality, despite their work clearly contributing to this goal. Activities in support of gender equality in access to resources, power and influence, status and standing, and respect are named but goals in relation to these different dimensions of equality are not explicit.

Equality bodies identify the importance of intersectionality and the need to address the different situations and experiences of different groups of women. One equality body noted that gender plays a role on all grounds coming forward but it is not necessarily noted explicitly that this is the case.

Ethnicity (identified by thirteen equality bodies), age (identified by twelve equality bodies), and disability (identified by eight equality bodies) are the main intersections that are being addressed in the work of equality bodies on gender equality. The ground of religion is emerging as significant, particularly due to experiences of discrimination being brought forward by Muslim women (identified by seven equality bodies). Four equality bodies identify intersections

of the ground of gender with the ground of family status, two with the ground of sexual orientation, and one with poverty.

The *Irish Human Rights and Equality Commission* reports having conducted research that captures the specificity of the situation and experience of groups of people at the intersections between different grounds.²¹

²¹ For example: Pierce M., *Minority Ethnic People with Disabilities in Ireland*, Equality Authority, Dublin, 2003 - <http://www.equality.ie/en/Research/Research-Publications/Minority-Ethnic-People-with-Disabilities-in-Ireland.html>.

5. Equality Bodies: Mainstreaming Led Initiatives

Gender mainstreaming is an important focus in the work of equality bodies. In some instances this is done specifically on the ground of gender, in most instances it is done within a multi-ground approach. The dominant focus for this gender mainstreaming is organisational practice rather than public policy making. Within the field of organisational practice, employment policies, procedures and practices are the main focus.

5.1 Gender Mainstreaming in Organisations

One equality body identifies the purpose of this work as being to ‘increase employer capacity to address gender equality’. Another equality body suggests its work is to ‘support organisations in the development of gender equality policy’. One equality body sets out its purpose as being to ‘close the gap between legal obligation and implementation of those obligations’. This gap is seen as a product of ‘lack of mobilisation, awareness and support’.

5.1.1 Equal Pay

Twelve equality bodies report that this mainstreaming includes a particular focus on the issue of equal pay. It is of interest that equality bodies have brought their work on equal pay into this domain, often in place of the litigation domain. Equality bodies identify this gender mainstreaming approach to equal pay as a measure of the difficulty in taking and winning cases on equal pay for equal work and work of equal value.

The *Equality Commission for Northern Ireland* published a revised Code of Practice on Equal Pay in 2013. This gives practical guidance on how to promote equality of opportunity and to avoid sex discrimination in pay structures. It sets out the scope of the Equal Pay Act and provides guidance on concepts and definitions of like work, work rated as equivalent, and work of equal value. It gives guidance on pay during pregnancy and maternity, part-time work, and occupational pensions schemes. This is aimed primarily at employers and their representatives but has also been found useful by trade unions and advice centres. The Code of Practice is not legally binding but it is admissible in proceedings under the Act.

The *Danish Institute of Human Rights* has published research on access to justice in equal pay cases, made recommendations on the need to strengthen the position of victims in such cases, and participated in trade union conferences to debate these issues.

The *Federal Anti Discrimination Agency (FADA)* in Germany has developed a particular programme to encourage enrolled employers to deal with equal pay within their organisations and to use the associated expert evaluation programme for their pay system. This evaluation programme assists in identifying contributory factors to a pay gap in the organisation and the

measures to counter this. FADA also encourages employers to use anonymous job application procedures as a means of combating discrimination.

The *Irish Human Rights and Equality Commission* has developed an equal pay review tool in partnership with a national business association and has conducted research on the gender pay gap in Ireland.

The *Commission for Citizenship and Gender Equality* in Portugal works to encourage implementation of plans for equality in organisations. These plans focus on issues of equal pay as well as on women in decision-making and reconciliation of work and family life.

The *Ombud for Equal Treatment* in Austria contributed to the adoption of legislation on transparency of pay whereby companies have to report, internally within the company, on the average salaries of men and women in different positions and at different pay levels.

The *Public Defender of Rights* in the Czech Republic is involved in a project on the pay gap that seeks to both tackle the issue and to raise public discussion on the issue. Human resource professionals are trained and the outcomes of equal pay cases are shared with employers.

The *Defender of Rights* in France has produced a guide on job evaluation with a focus on equality between women and men and pursues a dialogue with targeted actors to identify good practice. It also uses its casework as a tool in this work.

The *Institute for Equality of Women and Men* in Belgium supports this gender mainstreaming through a network of organisations that it has set up to exchange good practice in promoting gender equality. It has developed a database of good practice and targets organisations that could be ambassadors for good practice in promoting gender equality. The focus for this work includes other issues alongside equal pay such as gender segregation, the glass ceiling and work-life balance.

The *National Commission for the Promotion of Equality* in Malta runs an 'Equality Mark' awards scheme for companies that demonstrate their commitment to ensuring that their policies and practices foster gender equality. The award looks at a range of areas including equal pay for equal work and work of equal value. Other areas include recruitment, harassment policies, working conditions, career development, and having an equality committee.

The *Netherlands Institute for Human Rights* conducted an investigation into equal pay between men and women in general hospitals. The investigation revealed that the average salary of women in all of the investigated job categories was lower than that of men. Similar research is planned by the Institute in the insurance sector and in universities of applied sciences.

Equal pay is one focus in the work of the *Equality Ombudsman* in Sweden in relation to the active measures required of employers and educational establishments. This work stands out for being based on a legal duty on employers and educational establishments to prevent discrimination. This is a duty to discover, remedy and prevent unfair gender differences. It is supported and monitored by the *Equality Ombudsman*. Gender gaps are surveyed, training is provided, and examples are offered on how organisations might pursue a more

systematic approach. This agenda includes a focus on equal pay, on a gender balance across different types of work, and on combining employment and parenthood.

Equal Pay for Equal Work and for Work of Equal Value: The Experience of Equality Bodies²²

In 2013 Equinet published a report on the work of equality bodies on the issue of equal pay. This explored the legal framework in relation to equal pay, the causes of the gender pay gap, and the projects and tools implemented by equality bodies in combating the gender pay gap. Three areas of work by equality bodies are explored.

The first area involves work by equality bodies in the provision of information to the general public and potential victims, the raising of awareness amongst different actors, and creating tools to facilitate the evaluation of jobs as well as diagnosing the causes of pay inequalities.

The second area involves work by equality bodies in monitoring wages in companies and compliance of employers with equal pay legislation, in particular when there are positive obligations on employers to take certain steps.

The third area involves activities by equality bodies to overcome the difficulty to access relevant information and data necessary to promote equal pay and to give assistance to victims of discrimination. This work depends on legislative provisions concerning pay transparency and access to information concerning remuneration as well as on cooperation with other actors.

The report identifies possible ways forward on this issue for equality bodies, national authorities and at the European level. Ways forward for

- Equality bodies include raising awareness, developing job evaluation methods free from gender bias, supporting enterprises monitoring pay schemes, playing a role in combating gender stereotypes, and cooperating with labour inspectors, social partners and civil society.
- National authorities include the importance of ensuring a comprehensive legal framework including positive duties on employers, non-discriminatory pay regulations, and access to relevant information for equality bodies and transparency of pay.
- European level policy makers include monitoring the implementation in practice of EU legislation and case-law, introducing positive obligations on employers and measures to increase pay transparency in EU law, and supporting independent and effective equality bodies.

5.1.2 Work-Life Balance

Work-life balance has also been a particular focus in this mainstreaming work.

²² Equal Pay for Equal Work and for Work of Equal Value: The Experience of Equality Bodies, Equinet, Brussels, 2013 - http://www.equineteurope.org/IMG/pdf/equal_pay_report_publication_.pdf.

The *Equality Commission for Northern Ireland* encourages employers to audit their policies and to develop equality action plans. It has developed a template policy for employers on flexible working and conducts training sessions on this for employers that are fully booked. It has also conducted research on childcare provision in maximising economic participation by women.

The *Irish Human Rights and Equality Commission* had a programme of supports for businesses to mainstream practices to support work-life balance.

The *National Equality Councilor* in Italy has an Observatory and Database on good practice with a particular focus on work-life balance.

The *Equality Ombudsman* in Sweden monitors the prohibition of less favourable treatment in the Parental Leave Act. This can lead to a claim for damages. The supervision of the implementation by employers of required active measures also include their measures to help enable both women and men employees to combine employment and parenthood.

5.1.3 Other Issues

Other actors beyond employers are also targeted in this mainstreaming work by equality bodies, raising issues other than equal pay.

The *Ombud for Equal Treatment* in Austria has developed good cooperation with the public employment services. This cooperation has focused on awareness of gender segregation in the job market and gender specific assignments of jobs.

In Italy the *National Equality Councillor* has worked with the relevant authorities to promote gender mainstreaming in health and safety at work.

The *Institute for Equality of Women and Men* in Belgium has a specific gender mainstreaming initiative that targets communicators in the public sector. This is concerned with combating sexism and gender stereotypes in the communications of public services.

The *Ombudsman for Gender Equality* in Croatia has participated in initiatives to raise awareness of the gender dimensions of the work done by the police force in dealing with gender-based violence.

The *Human Rights Defender* in Poland took up a case of sexual harassment in the police that was reported in the media and recommended special procedures to be implemented in the police force.

The *Equality and Anti-Discrimination Ombud* in Norway has identified equality in recruitment as a key objective. It has worked on a project with employers, trade unions and non-governmental organisations to develop guidance and to support good practice.

5.1.4 Barriers

There are difficulties reported in this gender mainstreaming work. It is hard to mobilise employer interest in gender equality in the current situation of economic and financial crises. There is a limited stock of exemplar organisations and good practices that can be called on in some jurisdictions. The work is

resource intensive and, at times, beyond the resources available to equality bodies.

5.2 Gender Mainstreaming in Policy-Making

Six equality bodies report work to support and encourage gender mainstreaming in policy-making. In two instances this is enabled by the inclusion in equal treatment legislation of positive duties on public bodies to have due regard to equality, including gender equality, in carrying out their functions.

The *Equality and Human Rights Commission* in Great Britain plays a number of roles in supporting the implementation of this type of public sector duty, in particular through guidance on how to meet the requirements of the duty and through actions monitoring the implementation of the duty. This is a multi-ground duty that includes the ground of gender.

The *Equality Commission for Northern Ireland* plays a number of roles in supporting and monitoring the positive duty on public bodies in Northern Ireland to have due regard to the need to promote equality of opportunity in carrying out their functions. This duty includes the ground of gender. It reports encouraging public authorities to make gender equality central to decision-making in public policies as a key achievement in this work.

The *Irish Human Rights and Equality Commission* reports the recent introduction of such a duty in Irish equal treatment legislation and that work in this field will feature in future plans. It has already supported research on the gender equality impact of the annual State Budget.

The *National Commission for the Promotion of Equality* in Malta reports extensive work on gender mainstreaming. This includes training and giving feedback on national policies. It has increased commitment to gender mainstreaming.

The *Danish Institute for Human Rights* has supported gender mainstreaming through monitoring Bills going through Parliament, conducting research on gender disaggregated statistics, and publishing an annual status report on key human rights issues including gender equality. It has run a conference on gender mainstreaming for municipalities.

The *Commission for Citizenship and Gender Equality* in Portugal has supported gender mainstreaming at all levels of the public administration in particular through promoting the adoption of plans for gender equality in these organisations.

The *Institute for Equality of Women and Men* in Belgium has conducted research to support gender mainstreaming.

Approaches to policy making that seek to be 'gender neutral' are noted as a barrier in this field. Gender neutral policy-making fails to take account of real differences in situations and experiences of women and men. It creates the conditions for institutional discrimination and a basis for indirect discrimination.

5.3 Gender Mainstreaming within Equality Bodies

Three equality bodies with a multi-ground agenda also report gender mainstreaming within their own work (*Danish Institute for Human Rights, Equality Ombudsman in Sweden and Netherlands Institute for Human Rights*).

6. Equality Bodies: Litigation Led Initiatives

Casework and litigation are core activities of equality bodies whether in hearing or mediating cases or in supporting claimants in cases of discrimination or taking cases in their own name.

6.1 Pregnancy Related Discrimination

Litigation on pregnancy related discrimination is a core focus in this work. It is reported by twenty equality bodies and emerges as a priority and the dominant issue for most of these equality bodies. Litigation work usually forms part of a wider strategy by equality bodies to combat this pregnancy related discrimination.

The *Equality Commission for Northern Ireland* identifies pregnancy related discrimination as the biggest area in its litigation work. It has launched a formal investigation into the treatment of pregnant workers and mothers in the workplace due to the high volume of cases.

The *Netherlands Institute for Human Rights* conducted an investigation into the prevalence and experiences by women of discrimination based on pregnancy or motherhood. The Institute also conducted an awareness raising campaign on this issue.

The *Equality and Human Rights Commission* in Great Britain has combined litigation with a study on pregnancy related discrimination and works to secure publicity for cases on this issue.

The Belgian *Institute for Equality of Women and Men* has conducted a study to increase awareness of the scope of this issue, produced a guide with tips for employers in managing this issue, and communicated on pregnancy related cases that have been addressed to them.

The *Equality and Anti-Discrimination Ombud* in Norway implemented a campaign on under-reporting of pregnancy related discrimination and conducted a survey on the extent of the issue.

The *Commission for Protection of Equality* in Serbia initiated an amendment in the Labour Law to improve protection for pregnant women.

The *Ombudsman for Gender Equality* in Croatia reports achieving significant progress in the rights of pregnant women in the labour market and the treatment of their labour contracts by the Croatian Health Administration Offices, involving an improved status for women and mothers in the labour market. It has conducted research on the position of pregnant workers and on the quality of health services for pregnant women.

The *Ombudsman for Equality* in Finland reports a campaign on pregnancy-related discrimination along with policy work in relation to such discrimination in relation to fixed-term contracts.

The *Irish Human Rights and Equality Commission* commissioned research on the extent of such discrimination and worked with employer associations to develop

a 'Maternity Positive Toolkit' and best practice guidelines in managing pregnant workers.

Equality Bodies Promoting a Better Work-Life Balance for All²³

Equinet published a perspective on the work of equality bodies in promoting work-life balance. Discrimination and related legal casework emerged as a common and significant focus for action on reconciliation of work and family life and work-life balance by equality bodies. There were high levels of pregnancy and maternity-related discrimination reported, This included discrimination in connection with taking up leave arrangements, denial of rights in access to statutory leave arrangements and in the access to flexible working arrangements in accordance with the specific provisions in equal treatment legislation in the different Member States.

Alongside litigation, equality bodies reported work in support of good practice by employers. This included providing advice and training to employers and social partner organisations on their obligations under equal treatment legislation in matters relating to these issues, promoting flexible working arrangements and the development of workplace cultures that are positive to this flexibility, and using cooperation, platforms for dialogue and partnership arrangements to support good practice.

Equality bodies have also conducted research and surveys to:

- identify the nature and scale of pregnancy related discrimination and action based on this discrimination;
- establish the prevalence and type of flexible working arrangements made available by employers;
- explore time use by men and women and the sharing of caring, housework and paid employment between women and men;
- and assess the business case for reconciliation of work and family life and work-life balance.

This experience suggested the importance of implementing legal duties on employers to consider or make accommodation for reconciliation of work and family life and work-life balance. It was also suggested that policies and programmes to support reconciliation of work and family life and work-life balance could be further developed and enhanced. Statutory leave provisions, flexibility in the workplace, as well as care services could be a focus for this. Reviewing the positive contribution of current policies and programmes to gender equality, the elimination of gender stereotyping, equality between women and men in the sharing of caring responsibilities, and equality on other grounds could be a focus for their enhancement.

²³ Equality Bodies Promoting a Better Work-Life Balance for All, Equinet, Brussels, 2013 - http://www.equineteurope.org/IMG/pdf/wlb_for_website.pdf.

6.2 Harassment on the Ground of Gender and Sexual Harassment

Harassment on the ground of gender and sexual harassment emerge as a second significant theme in the litigation work of equality bodies. Fourteen equality bodies report litigation on this issue. Work on this area is also pursued within a wider strategy on the issues involved.

The *Federal Anti Discrimination Agency (FADA)* in Germany will have this issue as a priority theme in 2015. Survey work will be done to establish the understanding and knowledge of this issue and the manner in which it is being handled. Gaps in the legislation will be explored in relation to higher education.

The *Defender of Rights* in France works with associations set up to combat violence at work on this issue.

The *Equality and Human Rights Commission* in Great Britain has conducted a full investigation on the issue.

The *Irish Human Rights and Equality Commission* has published a code of practice on sexual harassment and harassment in the workplace.

The *Ombud for Equal Treatment in Austria* conducts workshops in enterprises where sexual harassment has occurred.

The *Equality Ombudsman* in Sweden has prioritised work against sexual harassment and harassment in the education field, specifically in compulsory school and upper secondary school. The project includes all discrimination grounds from an intersectional perspective.

Harassment on the Basis of Gender and Sexual Harassment: Equality Bodies Experiences²⁴

Equinet published a report on harassment on the ground of gender and sexual harassment as a follow up to its training on the same topic. This report seeks to share experiences, ensure a correct interpretation of legal provisions, and provide ideas on how to tackle this issue. It identifies that equality bodies can play a wide range of roles in addressing these issues including to:

- Produce information materials and guidelines on harassment and sexual harassment;
- Make recommendations to policy makers on gaps in existing legislation;
- Use cases to raise the awareness of judges and of public opinion;
- Conduct research on the issues and their root causes;
- Play a role in combating gender stereotypes and sexism in society;
- Raise awareness of employers and supervisors through training and information on their responsibilities;
- Cooperate with advertising professionals to avoid sexist coverage or degrading images of women and girls in the media;
- Support exchange of good educational practice, as well as programmes

²⁴ Harassment on the Basis of Gender and Sexual Harassment: Equality Bodies Experiences, Equinet, Brussels, 2014 http://www.equineteurope.org/IMG/pdf/report_on_harassment_and_sexual_harassment-final_with_cover-2.pdf

and training for students, teachers and professionals in the education sector on the issue;

- Cooperate with women's organisations, NGOs and all civil society actors to fight under-reporting and support victims;
- Cooperate with employers and trade unions to develop anti-harassment policies, provide guidance on how to respect legal requirements, and create a culture of equality and rights in the workplace.

The report concludes that EU policy makers could take a number of steps including to:

- ensure that the provisions of the equal treatment Directives on this issue are correctly implemented;
- monitor that equality bodies have a clear mandate and resources to address this issue in the areas of employment, self-employment and access to goods and services;
- review the exclusion of the fields of the media, advertising and education from the equal treatment Directives;
- launch a procedure for accession of the EU to the Istanbul Convention on violence against women and domestic violence;
- and disseminate information about EU programmes and funding to address this issue.

It concludes that national authorities should:

- ensure their legislation is comprehensive in dealing with harassment on the ground of gender and sexual harassment;
- ratify and implement the Istanbul Convention;
- issue codes of practice on these issues;
- conduct awareness-raising activities on these issues, the tools to prevent them, and the relevant legal provisions;
- fund training on these issues for lawyers, judges, teachers, nurses, employers, trade unions, and police officers.

It concludes that social partners, at European and national levels should adopt formal agreements to implement written anti-harassment policies in collective agreements, reflecting a strong commitment to recognise the importance of the fight against harassment and sexual harassment in the workplace.

6.3 Other Employment Issues

Other employment issues also emerge, but to a lesser extent, in the litigation work of equality bodies. These include discriminatory advertising, issues in access to employment, gender preferences expressed in interviews for jobs in particular fields, and take up of family friendly arrangements at work. Equal pay cases also appear in this casework.

6.4 Goods and Services

Discrimination in employment is the predominant feature of this litigation work by equality bodies. However discrimination in goods and services is also a feature. Some equality bodies note very limited casework in this area.

The Belgian *Institute for Equality of Women and Men* breaks with these trends in reporting that cases on the gender ground in relation to goods and services now outnumber cases in relation to employment. This is principally due to cases in the field of culture and the media, most specifically sexist advertising.

A wide range of issues emerge in the litigation work in the field of goods and services including: media portrayal of women, pricing differentials in some leisure and other services, conditions for bank credit, education, access to financial services including insurance, sexual harassment, gender segregated services, and breast feeding in certain service provision areas.

Equality Bodies and the Gender Goods and Services Directive²⁵

Equinet published a report on the work of equality bodies on the gender ground in the field of goods and services with a view to establishing learning that could inform the review of the EU Directive 2004/113/EC. It found that the field of goods and services poses particular challenges given the high levels of underreporting and the low levels of rights-awareness. Equality bodies, it concluded, need to use their legal, promotional, communication and research work strategically in order to ensure that the Directive is effectively implemented.

It found that equality bodies currently work also in areas not covered by the Directive or in areas whose inclusion is left open by the Directive. The experience of equality bodies shows the importance of covering the media, advertisement and education. The manner in which health care is covered also needs clarification to ensure all healthcare-related goods and services, including services funded publicly as well as by direct transfer from the patient, are covered.

The report emphasised the importance of ensuring that the provisions of equal treatment in the area of goods and services cover all trans and intersex persons.

It noted that the material damage caused by discrimination based on gender in the area of goods and services is often considered lower in comparison with the field of employment. This may partially explain why there are relatively few court cases on goods and services and a lower level of sanctions. It concluded that monitoring was required to ensure the Directive's requirement of dissuasive, proportionate and effective penalties is fulfilled.

It also concluded that legislation in this field could be further improved by strengthening provisions on gender mainstreaming and including provisions on public sector equality duties.

²⁵ Equality Bodies and the Gender Goods and Services Directive, Equinet, Brussels, 2014 - http://www.equineteurope.org/IMG/pdf/ggs_report_final_with_cover.pdf.

6.5 Under-Reporting

Under-reporting of discrimination is a barrier to making progress through litigation on issues of gender equality. Under-reporting is identified as an issue on the gender ground by eighteen equality bodies, despite a significant level of casework on the gender ground.

Equality bodies are active on the issue of under-reporting. All have developed communication materials to provide information on rights and exercising rights. Many engage with civil society organisations to address this issue. Five equality bodies report having conducted research to explore the scale and causes of under-reporting.

The *Public Defender of Rights* in the Czech Republic has been involved in producing a TV series on specific cases.

The *National Council for Combating Discrimination* in Romania secured an increase in fines levied on foot of findings of discrimination.

Equality bodies identify a range of barriers in dealing with under-reporting. There are particular issues in this work for tribunal type equality bodies where their opinions are not legally binding. Follow-up by these equality bodies is important in securing implementation of their opinions. The *Netherlands Institute for Human Rights* has achieved a 75% implementation rate by ensuring follow-up to cases decided. However, they report particular difficulty in getting their opinions on pregnancy-related cases implemented by employers.

Two promotion type equality bodies identify particular barriers where they have no right of action before the courts. The inadequate application of burden of proof by the courts is raised as a barrier by three equality bodies.

More specifically, The *Danish Institute for Human Rights* suggests that the legal concepts in the field of goods and services are not well understood. It has published a legal analysis to address this issue.

The *Ombud for Equal Treatment* in Austria suggests that there appear to be particular barriers in bringing forward cases of sexual harassment in service provision settings.

7. Equality Bodies: Communication Led Initiatives

Equality bodies engage in a wide range of communication activities as part of their core functions. This work is principally centred on building an awareness of rights, providing information on rights under equal treatment legislation, and giving advice on how to exercise these rights. Equality bodies also implement communication initiatives to inform perspectives within institutions and to inform public opinion on gender equality issues. Many equality bodies report an engagement with civil society organisations in this work.

7.1 Gender Stereotypes

Challenging gender stereotypes, sexism in advertising and in the coverage of women in the media, and public statements that are sexist is a significant focus in the communication work of equality bodies. This reflects the importance of these issues to gender equality and the lack of powers available to most equality bodies to address these issues through litigation. Four equality bodies report dealing with these issues through cases that were referred to them (Belgium, Croatia, Romania and Serbia). Eighteen equality bodies reported significant communication work on these issues. It emerges as the key priority in this field of work.

The *Netherlands Institute for Human Rights* conducts training for people working in human resources on stereotypes under the title 'Unbiased Selection'. This is multi-ground training that includes the ground of gender. It is supported by their website and by brochures.

The *Public Defender of Rights* in the Czech Republic cooperates with NGOs to address sexism in advertising including gender stereotypes and degrading imagery.

The *Defender of Rights* in France organises a network of young ambassadors trained in fighting stereotypes.

The *Equality Ombudsman* in Sweden includes the challenging of stereotyping in all their work including training, legal processes and monitoring of active measures required of employers and educational establishments.

The *Equality Commission for Northern Ireland* has published two guidance tools on stereotyping, one for teachers and career advisors and one for training providers. These address gender-based occupational stereotyping in career guidance and in training. It also developed a poster competition for schools on the issue of gender stereotyping.

The *Federal Anti Discrimination Agency (FADA)* in Germany has conducted poster campaigns on stereotyping under titles such as 'No One Fits Into One Box'.

The *Ombud for Equal Treatment* in Austria has published information materials and conducted workshops on gender stereotyping particularly in relation to job advertisements.

The *Commission for Protection of Equality* in Serbia has had two videos broadcast on national television on the theme 'Discrimination is not a joke' and seeks to challenge stereotypes in all its activities.

The *Danish Institute for Human Rights* has produced a short film on educational guidance without gender bias.

The *Ombudsman for Gender Equality* in Croatia has focused on stereotyping in the media and in educational materials. It conducted research on the issue. It has issued warnings about stereotypes and made recommendations to, as well as run educational workshops for, advertising agencies and the media.

The *Commission for Citizenship and Gender Equality* in Portugal has published educational guides on gender and citizenship that include a focus on gender stereotyping. The guides cover school and vocational guidance, school curriculum, school organisations, fighting and preventing discrimination and violence, and professional training. They seek to mainstream consideration of gender in formal educational practice.

The *Irish Human Rights and Equality Commission* has done a body of work on stereotyping that includes gender among other grounds. This involved an exhibition on the impact of stereotyping, leaflets on the issue, resources to challenge stereotyping, and school-based curriculum resources on the issue. Introductory research was published on gender equality issues in the marketing and design of goods for children.

The *Slovak National Centre for Human Rights* and the *National Commission for the Promotion of Equality* in Malta have provided training on the issue of stereotyping.

7.2 Other Issues

Equality bodies report communication initiatives on a range of other issues including equal pay (identified by five equality bodies), women in decision making (identified by two equality bodies), work-life balance (identified by one equality body), pregnancy-related discrimination (identified by one equality body), and sexual harassment (one equality body).

7.3 Barriers

Eight equality bodies identify a particular challenge for their communication work in relation to a strong mythology persisting that gender equality has been achieved and gender inequality is no longer a problem. One of these noted that 'equal treatment is looked on as preferential treatment'. Another identified that building awareness about discrimination was a key objective to 'show that gender discrimination is still prevalent in society'.

One equality body notes a challenge in developing a sustained single ground focus to communication work in a context where their mandate is multi-ground.

8. A Place for Men

Nineteen equality bodies report that their work on gender equality includes a focus on men. Fourteen of these equality bodies report supporting casework pursued by men. The issues raised in this casework focus on goods and services with particular emphasis on gender based differential prices for leisure activities (identified by seven equality bodies), access to health (identified by one equality body), and access to housing (identified by one equality body). In the field of employment, access to particular fields of work considered to be for women (identified by seven equality bodies), reconciliation (identified by two equality bodies), pension age differentials (identified by one equality body), and bullying related to parenthood (identified by one equality body) were raised in casework.

Equality bodies have explored the issues of and for men in gender equality in a range of initiatives.

The *Federal Anti Discrimination Agency (FADA)* in Germany plans to commission an expert paper on men as victims of gender related discrimination.

The *Institute for Equality of Women and Men* in Belgium organised a conference on the role of men in gender equality.

The *Commission for Protection of Equality* in Serbia developed cooperation with a men's organisation on the issue of breaking stereotypes.

The *Irish Human Rights and Equality Commission* organised round tables with a men's organisation on the role of men in gender equality.

The *Slovak National Centre for Human Rights* participated in a project on the role of men in gender equality that produced a publication on this issue.

The *Equality Ombudsman* in Sweden monitors how employers implement required active measures including measures to promote an equal distribution of women and men in different types of work and in different employee categories, and, when recruiting new employees, to attract applicants of the under-represented sex (men or women depending on the circumstances).

Men and equality in the sphere of caring work has been a particular focus for this work.

The *Institute for Equality of Women and Men* in Belgium has conducted research on men and paternity leave and organised a conference on work-life balance.

The *Equality Ombudsman* in Sweden has focused on men in work as parents in its work on the active measures required of employers.

The *Defender of Rights* in France has raised issues of good practice in relation to parenthood and work for men with employers.

The *Danish Institute for Human Rights* has worked to raise awareness of the benefits of earmarked paternity leave.

9. A Focus on Trans People

Six equality bodies report a mandate that specifically includes Trans people (Belgium, Finland, Malta, Northern Ireland (by way of separate regulation), Serbia and Sweden) and another five equality bodies work to an open list of grounds (Bulgaria, Hungary, Romania, Slovakia and Slovenia). Twelve other equality bodies include initiatives in relation to Trans people as part of their work on the gender ground.

The issues raised in cases reported by Trans people include recognition at work in the gender with which they identify, access to gender specific facilities at work, access to employment, harassment at work, dismissal from work, access to insurance, harassment in service provision, and access to healthcare and social services.

The *Ombudsman for Equality* in Finland commissioned a survey on the equality questions for gender minorities.

The *Human Rights Defender* in Poland is planning research on Trans people on the labour market.

There are few discrimination cases reported by Trans people. Under-reporting is noted as a particular issue for Trans people by thirteen equality bodies. It is suggested that Trans people have particular anxieties about seeking help and do not know where to go to for help.

The *Ombud for Equal Treatment* in Austria commissioned an expert legal opinion to clarify the coverage of Trans people under equal treatment legislation.

Legal recognition for Trans people in the gender with which they identify is identified as an issue that is being worked on by seven equality bodies.

The *Ombudsman for Gender Equality* in Croatia is participating in the working group established by the Ministry of Health that has been given a mandate to draft a new legal framework to facilitate legal recognition of Trans people in the gender with which they identify.

The *Commission for Protection of Equality* in Serbia established a joint expert working group to look at the obstacles facing Trans people that has made recommendations to improve their status including through legal recognition. These recommendations have been presented at a round table event.

The *Institute for Equality for Women and Men* in Belgium has published research on the social and legal situation of Trans people.

Equality Bodies Promoting Equality and Non-Discrimination for LGBTI People²⁶

This Equinet perspective explores the work of equality bodies on LGBTI issues. It identifies seven steps that could be taken at European level to create a more

²⁶ Equality Bodies Promoting Equality & Non-Discrimination for LGBTI People, Equinet, Brussels, 2013 - http://www.equineteurope.org/IMG/pdf/lgbti_perspective_english.pdf.

effective context for this work:

1. Comprehensive protection from discrimination in all fields that names Trans people and Intersex people in an appropriate manner needs to be further developed at EU level and in the Member States
2. National strategies to advance equality for and eliminate discrimination against LGBTI people need to be encouraged and developed at EU and Member State level.
3. Positive duties on public bodies to have regard to equality in carrying out their functions to stimulate more planned and systematic approaches to equality for LGBTI people by public sector bodies could usefully be promoted and developed at Member State level. Commitments in the EU Treaties to non-discrimination mainstreaming could be more effectively implemented at EU level.
4. The specific naming of Trans people and Intersex people in equal treatment legislation was identified as valuable in the work of the equality bodies. Initiatives specifically targeting Trans people and Intersex people could usefully be taken at EU level.
5. It would be important that EU funding continues to be available to equality bodies to progress their work on LGBTI issues.
6. Steps could be taken to address data deficits in relation to LGBTI people at Member State and at European levels, while fully respecting and guaranteeing the privacy rights of all people.
7. Equinet could provide the most appropriate context for delivering training to further develop the capacity of equality bodies in this field.

10. Future Priorities

These proposals for the new Strategy are based on the work and experience of the equality bodies that is set out above and the learning from this. It draws in particular from the survey carried out on the work of equality bodies on the grounds of gender, from previous work done by Equinet with equality bodies on gender equality, and from the work of the Gender Equality Working Group.

A new context for the new Strategy

The new Strategy could articulate an understanding of equality as encompassing four linked objectives that emerge from the work of equality bodies. These four objectives relate to access to and enjoyment of:

- Resources including time, jobs, income, wealth and public goods such as health, education and accommodation;
- Representation, power and influence;
- Recognition, status and standing;
- Relationships of respect, dignity and caring.

Within these four objectives, action is required to eliminate discrimination against women, address the diversity of women (intersectionality) and achieve full equality in practice for women. This understanding of equality could also be applied across the six domains of work, money, knowledge, time, power, health and two satellite domains of intersectionality and violence in the Gender Equality Index of EIGE.

The context of the economic and financial crises and the accompanying austerity policies provide a very different context for a new Strategy for gender equality. There is a challenge to stimulate a new priority for gender equality, find new activities capable of engaging with the impact of austerity policies, and establish further ways to measure progress on gender equality.

This new context suggests continuity is needed in themes already developed in the previous strategy. However it also suggests the need to deepen work on some aspects of these themes, to introduce new themes, and to further develop the infrastructure for gender equality.

The new Strategy should continue and deepen work on the five priority areas identified in the current strategy

This work of equality bodies affirms the importance and continuing relevance of the priority areas in the current Strategy: Equal Economic Independence; Equal Pay for Equal Work and Work of Equal Value; Equality in Decision-Making; Dignity, Integrity and Ending Gender-Based Violence; and Gender Equality in External Action.

Gender mainstreaming remains an important priority in policy-making and in policy implementation or in the policies and in the practices of individual institutions and this should be reflected in the new Strategy. The Europe 2020 Strategy will continue to be an important policy arena within which to further progress gender mainstreaming in the next period in order to bring gender equality forward as a key requisite in responding to the economic and financial

crises. The focus on gender budgeting needs particular attention and development.

Further legislation is required at European level in relation to the need for reconciliation between work and family life. A comprehensive leave framework encompassing different forms of statutory leave including paternity leave and rights in relation to flexible working arrangements is needed. This could usefully include a commitment in the new Strategy to continue work on and adopt the Maternity Directive.

The position of women in the labour market continues to be marked by segregation and unequal pay. These issues demonstrate a remarkable persistence and resistance to change. Action could usefully be taken to better understand the current underlying mechanisms that sustain these issues and to more effectively respond to the persistence of these issues.

Action on transparency in pay is needed and the implementation of the European Commission Recommendation will be important in this regard. Implementation of the Recommendation should be prioritised in the new Strategy and equality bodies could usefully be mobilised in support of this. The capacity of equality bodies to litigate on this issue needs to be strengthened, particularly in relation to access to information.

Action on violence against women remains a central priority for the new Strategy, particularly in terms of developing uniform standards in combating and addressing the impact of this violence across the Member States. Harassment on the ground of gender and sexual harassment in the workplace and in the provision of goods and services should also continue to be a focus within action taken on violence against women. Broader and more effective action on issues of harassment and sexual harassment is needed within the workplace.

The new Strategy should continue and deepen work on the horizontal issues identified in current strategy

The work on the role of men in gender equality could be further developed under the new Strategy. The focus for action in this field could be on further exploring the contribution to be made by men to gender equality and mobilising men to make this contribution. Action could also include work on gender stereotyping as a block to men making a contribution to gender equality and initiatives to promote the role of men in caring work.

The theme of discrimination and the full and effective implementation of equal treatment legislation needs to come to the fore in the new Strategy. Gender based discrimination remains a significant and persistent barrier to equality. Gaps in equal treatment legislation need to be addressed, in particular the coverage of the fields of media, advertising and education and the inclusion of a named ground of gender identity and gender expression. The contribution of equality bodies to eliminating discrimination needs to be reinforced.

Pregnancy-related discrimination in employment requires a priority focus within this field of discrimination. Action is needed to address under-reporting of pregnancy-related discrimination, to change employer perspectives and practices in managing this issue in the workplace, and to ensure a more effective fulfillment of the rights of pregnant workers. Further legislation is required at

European level to ensure the rights of pregnant women and to secure a more effective protection from discrimination for pregnant women.

The New Strategy should include additional priority themes

The issue of care needs to be given priority in the new Strategy. Action on stimulating, informing, and implementing a workplace practice that is supportive of work-life balance is required. Standards in relation to care services are needed. The shift to informal care and the increased responsibilities falling on women as a result of austerity policies needs to be reversed. The rights of domestic workers need further protection and vindication. Equality in the sphere of caring work and the role of men in caring responsibilities needs to be promoted.

Stereotyping on the ground of gender remains a powerful influence on gender equality. It is a cultural phenomenon that has proven resistant to change. It continues to provide foundations for discrimination, segregation, and inequality. It should be another priority focus in the new Strategy.

Action is required to:

- Tackle this issue at source in the media, advertising and education;
- Render stereotyping visible and ensure it has no influence on decision-making within institutions and within the workplace, educational establishments, and public sector services as a priority;
- Promote traction at a societal level for values of equality, diversity and human rights that would undermine stereotypes.

Trans people, Intersex people, and gender identity/gender expression issues should be a focus for action within the Strategy. The particular situation and experiences of Trans people and Intersex people need to be specifically addressed. Action on stigma, access to appropriate health services, legal recognition, discrimination and under-reporting could be prioritised.

Multiple discrimination needs to be further developed as a focus for action within the new Strategy. The current focus on migrant women is valuable and should be deepened. It could usefully be expanded to include lone parents, older women, young women, women with a disability, Muslim women and women from minority ethnic groups. Women living in poverty should be a particular focus given the impact of austerity on poverty and on women in particular.

Specific actions are required to bring forward and promote responses to the situation and experience of these groups of women. Research on the situation, experience and needs of women at the intersections with other grounds of discrimination should be commissioned. Their particular needs could also be a focus within general measures addressing gender equality across the priority themes identified for the new Strategy.

The new Strategy should further develop the infrastructure for gender equality

Equality bodies need to have greater ownership of the Strategy as stakeholders. Steps should be taken at European level to ensure they are included in deliberation, decision-making and monitoring in relation to the Strategy at Member State and European levels. Equality bodies themselves also need to take

responsibility for the Strategy and address the priorities for the Strategy in their work more explicitly.

Standards need to be developed at a European level to ensure that the conditions are sufficiently created for equality bodies to achieve their full potential in their work on gender equality. Support should be made available to equality bodies to enable their work in contributing to the priorities of the Strategy. This would include information and funding supports and could be provided from European or Member State levels.

Organisations need to be supported to prepare equality action plans to advance gender equality in their employment practices and in the provision of services. Measures in equal treatment legislation that require equality action plans on the ground of gender by employers and service providers need to be more broadly implemented across the Member States. This could be promoted and supported from the European level and could be a focus within the new Strategy. In the absence of new measures in legislation actions, the new Strategy could promote and support action in developing and implementing equality action planning by organisations on a voluntary basis.

Measures in equal treatment legislation in relation to positive action on the ground of gender by employers and service providers need to be strengthened and more broadly implemented across the Member States. The jurisprudence of the Court of Justice of the EU is currently a significant barrier to this. As Equinet has previously pointed out, positive action is crucial to prevent or compensate for disadvantages linked to the protected characteristic in order to achieve full equality in practice.²⁷ Further clarification and a broader interpretation is required as to when such measures can be used and to what extent in order to facilitate a greater take up of positive action measures. This could be pursued through the new Strategy.

Public bodies need to be supported to effectively implement gender mainstreaming at national level. Measures in equal treatment legislation that require public bodies to have due regard to gender equality in carrying out their functions are a key stimulus to effective gender mainstreaming in policy-making, programme design, budgets and plans. These measures need to be more broadly implemented across the Member States and could be promoted and supported from the European level. The new Strategy could stimulate, support and secure such measures at Member State level. In the absence of new measures in legislation actions, the new Strategy could promote and support action on gender mainstreaming by public bodies on a voluntary basis.

²⁷ Report on the Implementation of the Race and Framework Directives, Equality Law in Practice, Equinet, Brussels, 2013
http://www.equineteurope.org/IMG/pdf/equinet_equality_law_in_practice_2013_report_final_covers.pdf

Annex One: Equinet Survey Questionnaire

1. Vision, Objectives and Achievements

- a. Do you have a legal mandate to deal with discrimination on the ground of gender? Does this mandate cover issues both inside and outside the labour market? Does your mandate include other grounds of discrimination (please specify)? Is your mandate combined with other functions such as human rights institution or ombudsperson (please specify)?
- b. What are the principal issues of inequality and discrimination facing women in the experience of your equality body?
- c. What specific objectives have you set for your work on gender equality?
- d. Do these objectives include work in relation to trans people (please specify)?
- e. Do these objectives include work in relation to men in gender equality (please specify)?
- f. What are your key achievements in your work on gender equality?
- g. Do you face particular barriers in your work on gender equality (please specify)?
- h. What are the other principal statutory bodies that have a mandate in relation to gender equality in your country?
- i. How do you work with these other statutory bodies? Are there any issues in relation to your links with these statutory bodies (please specify)?
- j. Is your work informed or shaped or supported in any way by the European Strategy for Equality between Women and Men 2010-2015 (please specify)? Does your equality body contribute in any way to achieving the objectives of this Strategy (please specify)?

2. Legal Work – Dealing with inquiries and providing legal support or deciding cases

- a. What are the main employment issues in the inquiries and complaints made by women, by men and by trans people on the gender ground (please specify which relate to women, which relate to men and which relate to trans people)?
- b. What are the main issues in the provision of goods and services or outside the labour market in the inquiries and complaints made by women, by men and by trans people on the gender ground (please specify which relate to women, which relate to men and which relate to trans people)?
- c. Do many of the inquiries and complaints from women, men and/or trans people refer to multiple discrimination? What are the most common other discrimination grounds that intersect with discrimination experienced by women, by men and by trans people (please specify which relate to women, which relate to men and which relate to trans people)?
- d. What particular barriers/difficulties do you face in developing legal work on the ground of gender?
- e. Are there any issues of discrimination on the ground of gender presented to your body that you are unable to deal with effectively due to gaps in your equal treatment legislation (please specify if so)?

- f. Is under-reporting an issue for women or for men or for trans people (please specify separately in relation to women, to men and to trans people)?
- g. Have you taken any action to specifically address under-reporting by women, by men and/or trans people (please specify)?

3. Promotion Work – Guidance and support to employers and service providers

- a. What objectives have you defined for your work to support good practice for gender equality by employers and/or service providers and/or other duty bearers (please specify)?
- b. What issues do you seek to address in supporting good practice for gender equality by employers, service providers and other duty bearers (please specify by sector and by which issues relate to women, which relate to men and which relate to trans people)?
- c. What are the main types of organisation that you are targeting in your work of supporting this good practice for gender equality?
- d. Have you taken any specific action to contribute to meeting the targets in the Europe 2020 strategy (particularly in the fields of employment, education and poverty reduction) in relation to women or men or trans people (please specify and specify which relate to women, which relate to men and which relate to trans people)?
- e. What barriers do you face in developing initiatives to support good practice in relation to gender equality?

4. Research Work – Conducting or commissioning surveys or research projects

- a. What objectives have you defined for your research work on gender equality?
- b. What issues were explored in the surveys or research projects on gender equality that you have implemented? Do any of these issues relate specifically to women or to men or to trans people (please specify)?
- c. What barriers do you face in the development of your research work on gender equality?

5. Communication work – Informing people who experience discrimination and building a culture of rights

- a. What objectives have you defined for your communication work in relation to gender equality? Do these objectives include work in relation to men in gender equality or in relation to trans people (please specify)?
- b. Could you briefly describe a significant communication initiative you have taken to raise awareness of the wider society about gender equality?
- c. Could you briefly describe a significant communication initiative you have taken to raise awareness of women of their rights?
- d. Could you briefly describe a significant communication initiative you have taken to challenge stereotypes of women and men?
- e. Could you briefly describe a significant communication initiative you have taken to challenge stigma about trans people?
- f. Do you have a regular cooperation or exchange with women and their organizations and/or with men and their organizations and/or with trans

people and their organizations (please specify)? Can you give details on how this is organised?

- g. What barriers do you face in the your communication work in relation to gender equality?

6. Policy Work – Influencing or engaging with policy development

- a. Could you briefly describe the nature of the political and social context for your work on gender equality? How does this context influence the approach you take to policy work on gender equality issues?
- b. Could you briefly describe the principal impact of austerity policies on gender equality and on your work on gender equality?
- c. Is there a national strategy in relation to gender equality in your country?
- d. If so did your equality body play any role in preparing, implementing or monitoring it? Does this strategy influence your approach to work on gender equality issues?
- e. Could you briefly identify any significant policy intervention you made in relation to gender equality issues? Did this policy intervention make an impact (please specify)?

7. Final Comment

- a. Is there any particular issue that you would like the European Commission to address in the new Strategy for Equality Between Women and Men from your experience?
- b. Is there any new legislation or policy initiative that you would like the European Commission to adopt in the new Strategy for Equality Between Women and Men from your experience?

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