



# Establishment and Functioning of Equality Bodies

## ECRI General Policy Recommendation No. 2: Key Topics

” Over the last years almost all member States of the Council of Europe have established independent equality bodies. These bodies play an essential role in advancing equality and combating discrimination and intolerance.

A rich and diverse system of equality bodies has emerged and many good practices have been developed. At the same time, many equality bodies suffer from shortcomings, in particular with regard to their independence and funding.

This General Policy Recommendation draws on best practices and contains standards to help States to further strengthen their equality bodies. It focuses on the key elements for the establishment, independence and effective functioning of equality bodies that make a real impact in the field of equality.

### KEY MESSAGE

Member States should establish strong equality bodies that are independent and effective.

Equality bodies should have two key functions: (i) to promote equality and prevent discrimination and (ii) to support people exposed to discrimination and intolerance and to pursue litigation on their behalf. In addition, they can be given the third function to take decisions on complaints.

Equality bodies should have the necessary competences, powers and resources to perform their tasks effectively, and be accessible to all.

### SELECTED RECOMMENDATIONS

#### 1. Establish a strong equality body.

- ▶ Equality bodies should be established by constitutional provision or parliamentary legislation.
- ▶ They should be mandated to promote and achieve equality, prevent and eliminate discrimination and intolerance, and promote diversity and good relations between the different groups in society.
- ▶ Their mandate should cover all areas in the public and private sectors.

#### 2. Ensure that equality bodies are fully independent.

- ▶ Equality bodies should be set up as a separate legal entity outside the executive and legislature.
- ▶ They should be fully independent at the institutional and operational level and work without interference from the State or political parties.



### 3. Give equality bodies the necessary competences to fulfil their functions.

- ▶ **Promotion and prevention:** Equality bodies should have the competences to promote equality and prevent discrimination, in particular by conducting inquiries, pursuing research, raising awareness, supporting good practice, making recommendations and contributing to legislation and policy formation.
- ▶ **Support and litigation:** They should have the competences to receive complaints from people exposed to discrimination and intolerance, provide them with personal support, legal advice and assistance, have recourse to conciliation procedures, provide legal representation to such people, pursue strategic litigation, and bring cases before institutions and courts.
- ▶ **Decision making:** They can have the additional competences to decide on complaints of discrimination by legally binding decisions that impose sanctions, or by making non-binding recommendations.

### 4. Establish the necessary framework to ensure that equality bodies are independent and effective.

- ▶ Equality bodies should be given adequate powers to obtain evidence.
- ▶ Persons leading the equality body should be selected through transparent, competency based and participatory procedures, not receive instructions, and be protected against threats, coercion and arbitrary dismissal.
- ▶ Equality bodies should decide independently on their internal structure, management of their budget, and recruitment and deployment of staff.
- ▶ They should be provided with sufficient staff and funds to implement all their functions and competences with real impact.
- ▶ They should be entitled to make statements independently. Parliaments and governments should discuss their reports and contribute to the implementation of their recommendations.
- ▶ They should develop a strategy for their action and update it regularly.
- ▶ Equality bodies should serve as model with regard to diversity and gender balance and involve stakeholders in their activities.

### 5. Ensure that equality bodies are easily accessible for people experiencing discrimination and intolerance.

#### ECRI – USEFUL LINKS

ECRI General Policy recommendation No. 2 on Equality bodies. <http://hudoc.ecri.coe.int/eng?i=REC-02rev-2018-006-ENG>

ECRI General Policy Recommendation No. 7 on National legislation to combat racism and racial discrimination. <http://hudoc.ecri.coe.int/eng?i=REC-07rev-2003-008-ENG>

UN Paris principles <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx> and general observations, <https://nhri.ohchr.org/EN/AboutUs/Governance/Documents/ICC%20SCA%20General%20Observations.pdf>

Equinet Working Paper on Developing Standards for Equality Bodies <http://www.equineteurope.org/Equinet-Working-Paper-on-Developing-Standards-for-Equality-Bodies>

#### FACTS AND FINDINGS

“People exposed to discrimination and intolerance face multiple problems and obstacles in addressing inequality. Many of them have neither the capacities nor the resources to enforce their rights. Equality bodies, therefore, have an important role in helping them to do so.”

“These persons often need, as a first step, personal and emotional support in order to deal with the discrimination or intolerance they experience. At the next level, they need legal advice to clarify their rights and possible ways of securing these rights. They then need legal assistance in approaching public and private institutions, decision making bodies and the courts with a view to realising their rights.”

“Equality bodies need to be independent, in particular of government, to be able to address issues of equality, discrimination and intolerance as they see fit and without interference from any quarter. Independence is a precondition for the effectiveness and impact of equality bodies.”

“The adequacy of funding and staffing of equality bodies is a key factor for their effectiveness and should be calculated on the basis of objective indicators.”

Quotes from the Explanatory Memorandum to ECRI General Policy Recommendation No. 2.