

COLLECTION AND USE OF COMPLAINTS DATA BY EQUALITY BODIES

EQUINET REPORT:
WORKING GROUP
ON RESEARCH AND
DATA COLLECTION

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The Collection and Use of Complaints Data by Equality Bodies

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Collection and Use of Complaints Data by Equality Bodies is published by Equinet, European Network of Equality Bodies. Equinet brings together 47 organisations from across Europe 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 members: Commissioner for the Protection from Discrimination, **Albania** | Austrian Disability Ombudsman, **Austria** | Ombud for Equal Treatment, **Austria** | Unia (Interfederal Centre for Equal Opportunities), **Belgium** | Institute for Equality between Women and Men, **Belgium** | Institution of Human Rights Ombudsman, **Bosnia and Herzegovina** | Commission for Protection against Discrimination, **Bulgaria** | Office of the Ombudsman, **Croatia** | Ombudsperson for Gender Equality, **Croatia** | Ombudswoman for Persons with Disabilities, **Croatia** | Office of the Commissioner for Administration and the Protection of Human Rights (Ombudsman), **Cyprus** | Office of the Public Defender of Rights, **Czech Republic** | Danish Institute for Human Rights, **Denmark** | Gender Equality and Equal Treatment Commissioner, **Estonia** | Ombudsman for Equality, **Finland** | Non-Discrimination Ombudsman, Finland | Defender of Rights, **France** | Public Defender (Ombudsman), **Georgia** | Federal Anti-Discrimination Agency, **Germany** | Greek Ombudsman, **Greece** | Office of the Commissioner for Fundamental Rights, **Hungary** | Irish Human Rights and Equality Commission, **Ireland** | National Office Against Racial Discrimination, **Italy** | Ombudsperson Institution, **Kosovo*** | Office of the Ombudsman, **Latvia** | Office of the Equal Opportunities Ombudsperson, **Lithuania** | Centre for Equal Treatment, **Luxembourg** | National Commission for the Promotion of Equality, **Malta** | Commission for the Rights of Persons with Disability, **Malta** | Council on Preventing and Eliminating Discrimination and Ensuring Equality, **Moldova** | The Protector of Human Rights and Freedoms (Ombudsman), **Montenegro** | Netherlands Institute for Human Rights, **Netherlands** | Commission for Prevention and Protection against Discrimination, **North Macedonia** | Equality and Anti-Discrimination Ombud, **Norway** | Commissioner for Human Rights, **Poland** | Commission for Citizenship and Gender Equality, **Portugal** | Commission for Equality in Labour and Employment, **Portugal** | High Commission for Migration, **Portugal** | National Council for Combating Discrimination, **Romania** | Commissioner for Protection of Equality, **Serbia** | National Centre for Human Rights, **Slovakia** | Advocate of the Principle of Equality, **Slovenia** | Council for the Elimination of Ethnic or Racial Discrimination, **Spain** | Institute of Women and for Equal Opportunities, **Spain** | Equality Ombudsman, **Sweden** | Equality and Human Rights Commission, **UK – Great Britain** | Equality Commission for Northern Ireland, **UK – Northern Ireland**

**This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.*

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This report was prepared by the members of the Equinet working group on research and data collection. The working group consists of nearly 30 national experts representing over 25 equality bodies from over 20 European countries.

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The report summarizes the results of a survey conducted among 46 Equinet members in autumn 2018. In total, 23 equality bodies in 22 countries have answered the questionnaire.

[List of participating equality bodies in the survey](#)

Ombud for Equal Treatment, **Austria**; Institute for the Equality of Women and Men, **Belgium**; Unia (Interfederal Centre for Equal Opportunities), **Belgium**; Institution of Human Rights Ombudsman, **Bosnia and Herzegovina**; Office of the Ombudswoman, **Croatia**; Office of the Public Defender of Rights, **Czech Republic**; Board of Equal Treatment, **Denmark**; Non-Discrimination Ombudsman, **Finland**; Federal Anti-Discrimination Agency (FADA), **Germany**; Greek Ombudsman, **Greece**; Office of the Commissioner for Fundamental Rights, **Hungary**; Office of the Ombudsman, **Latvia**; Office of the Equal Opportunities Ombudsperson, **Lithuania**; Centre for Equal Treatment, **Luxembourg**; National Commission for the Promotion of Equality, **Malta**; Office of the Commissioner for Human Rights, **Poland**; Commission for Equality in Labour and Employment, **Portugal**; Commissioner for Protection of Equality, **Serbia**; National Centre for Human Rights, **Slovakia**; The Advocate of the Principle of Equality, **Slovenia**; Council for the Elimination of Racial or Ethnic Discrimination, **Spain**; Equality Ombudsman, **Sweden**; Equality and Human Rights Commission, **UK- Great Britain**

Executive Summary

One of the most important tasks of equality bodies is providing support to individuals that experience discrimination. Therefore, equality bodies offer legal counselling to persons that have felt discriminated against and some of them also have the competence to pursue litigation on behalf of the victims. In doing so, equality bodies collect information on these complaints. Such complaints data are not only necessary to document the counselling process, but also form a valuable source of information for other purposes. For instance, they are regularly used to provide statistics for the reports of equality bodies or as a source for qualitative research.

Given the importance of this kind of data collection for equality bodies, this report is dedicated to the question, how equality bodies collect and use data on complaints and what challenges they face in doing so. The primary goal is to identify commonalities among equality bodies regarding the information on complaints they collect and the purposes for which they use these data. In doing so, the report is aimed at developing recommendations on how the collection and use of complaints data can be improved and at showcasing practices that might help to overcome commonly shared challenges. Last but not least, the report also tries to assess the feasibility of a possible future report on the work and experiences of equality bodies throughout Europe that may be based on such complaints data.

One has to keep in mind that equality bodies in different European countries are quite diverse when it comes to their mandate, the functions they fulfill and the grounds of discrimination they are responsible for. Of course, this diversity is also reflected in the results of a survey that we shared with our membership. However, the findings show some important commonalities with regard to the information on a given complaint that equality bodies collect:

- Although there are some differences in how equality bodies define a complaint, there are also categories that apply to all or at least most of their definitions: All 23 participating equality bodies count complaints filed by the potential victim as a complaint. Complaints filed by any other person than the victim or by an institution are counted as complaints by 78% of the equality bodies. Hence, those two types of requests might form the starting point for a common **definition of “complaints”** across Equinet members.
- Most of the equality bodies also collect **information on the area of life** in which the discrimination took place: The vast majority (91%) documents the number of complaints in the domain of work and employment; between 70% and 78% also keeps track of the number of cases in the fields of healthcare, access to goods and services, education and housing.
- In total, 65% of the equality bodies participating in the survey collect the **number of cases for all six grounds of discrimination** that are mentioned in Article 19 of the Treaty on the Functioning of the European Union. 87% collect the number of complaints relating to discrimination on grounds of ethnic or racial origin. The number

of cases related to the other five protected characteristics are only slightly less often counted (between 83% and 74%). Variations are mostly due to the fact that the mandate of some equality bodies is limited to a single or a few grounds.

- It is noteworthy that the overwhelming majority of equality bodies (70%) collect key information on complaints such as area of life, ground(s) but also form(s) of discrimination (such as harassment, direct or indirect discrimination etc.) **for each and every complaint that is filed.**

The survey also wanted to shed light on the question of how equality bodies are dealing with complaints and what information they are collecting regarding the outcome of a complaint:

- **When dealing with a complaint**, the great majority of equality bodies (78%) investigate the applicability of the national antidiscrimination legislation to the complaint. Over half of the respondents (61%) also systematically (i.e. for each and every complaint) collect information whether the case resulted with a finding that there had been an act of discrimination under the national antidiscrimination legislation, compared to 26% of the participating equality bodies that do not collect such information.
- All participating equality bodies collect information on the number of cases received in a given year, but significantly less equality bodies (61%) collect information on the number of cases closed in the year.
- The extent of variation concerning the information collected by equality bodies on the outcome of a complaint is more evident when it comes to the question whether equality bodies collect follow up **information on compliance with recommendations** issued as a result of a complaint. Around two thirds of the participating equality bodies (67%) collect data on the number of fulfilled recommendations, while the percentage decreases when it comes to the number of partially fulfilled (53%) and ignored recommendations (59%).

Almost all the equality bodies (91%) systematically collect information about **complainants**: mostly on their sex (77%), region of residence (50%) and whether the complainant is a natural or a legal person (68%). The majority of equality bodies participating in the survey (70%) also collect data regarding the alleged perpetrators: mostly on whether the **perpetrator** is a natural or legal person (50%) and if a legal person, what type of body it is, that is, state/private/NGO (50%).

The survey results show that equality bodies collect data on complaints for **various reasons** and to achieve different goals:

- All participating equality bodies report collecting such data for their reports or other publications (100%). A marked majority of the surveyed equality bodies (86%) also collect complaints data for the purpose of policy advocacy or to raise public awareness. Comparatively fewer (59%) of the participating equality bodies collect complaints data

to document and facilitate the counselling process, whereas roughly the same percentage (55%) of the equality bodies do so for research purposes in order to analyse data on complaints in research projects that the equality body conducts or commissions.

- When it comes to the **use of the complaints data**, the main challenge faced by more than half of the participating equality bodies lies in the data interpretation, especially due to underreporting or the so-called “iceberg effect,” but also due to frivolous/vexatious complaints (60%). Another challenge reported by exactly half of the surveyed equality bodies relates to the fact that information about specific aspects of a complaint is often not collected systematically but only if it is relevant for a specific case.

Given the fact that equality bodies use complaints data for different important purposes including in relation to their statutory duties on producing reports and surveys but also, crucially, as evidence to inform the development of policies and laws with impact on equality, equality bodies are well advised to focus on improving the collection and use of complaints data and to work on prevailing challenges. Given the direct link between equality data and ensuring the effective implementation of equality legislation, national authorities should provide equality bodies with adequate and secure resources to enable them to develop the necessary infrastructure for complaints data collection (e.g. statistical literacy of staff, comprehensive complaints database). Therefore, the report also provides recommendations how this might be achieved.

Introduction

One of the core functions of equality bodies is the provision of independent assistance to victims of discrimination. Although the EU Equality Directives¹ setting up equality bodies do not spell out what the provision of independent support to victims of discrimination entails, the Recommendation of the European Commission on Standards for Equality Bodies suggests that this assistance involves a range of competences such as receiving and handling individual or collective complaints; providing legal advice to victims, including in pursuing their complaints; engaging in activities of mediation and conciliation; representing complainants in court; and acting as *amicus curiae* or expert where required; engaging or assisting in strategic litigation to address structural or systematic discrimination; deciding on cases with legally binding decisions, imposing adequate, effective and proportionate sanctions.²

In engaging in one, more or all of the above activities (depending on their mandate), equality bodies collect valuable information on discrimination complaints filed by the victims of discrimination, by third parties reporting instances of discrimination or in some cases (again depending on their mandate) by the equality bodies themselves (*ex officio* investigations). According to the definition provided in the European Handbook on Equality Data, complaints data “are generated as a by-product of the work carried out by those bodies” and “typically include information on the numbers and types of complaints filed with a particular body within a particular timeframe, typically a year. Other data may also be available, such as aggregate profiles of offenders/respondents and complainants, broken down by variables such as age and gender”.³

In this vein, complaints data also form a valuable source of information for other purposes. For instance, they can be used in equality bodies’ reports in order to showcase the work and experiences of the organization and to prove that discrimination is a problem which needs to be addressed. Furthermore, data on complaints can also be understood as a source for qualitative research. Thus, they can be used to trace the level of awareness of individuals affected by discrimination of their rights or their knowledge of counselling bodies respectively, to describe the type and nature of typical discrimination cases or to assess the equality bodies’ performance in handling complaints. Last but not least, they might be useful for comparisons with the results of victimization surveys in order to investigate levels of underreporting.⁴ Of course, there are also important limitations when it comes to using and interpreting complaints data, such as the lack of representativeness.

¹ The Racial Equality Directive (2000/43/EC) and the Gender Equality Directives (2006/54/EC, 2004/113/EC and 2010/41/EU)

² Commission Recommendation of 22.06.2018 on standards for equality bodies, p. 6: https://ec.europa.eu/info/sites/info/files/2_en_act_part1_v4.pdf.

³ Makkonen, T. (2016). European handbook on equality data. 2016 revision, p. 33: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=54849

⁴ For an overview of the advantages of the collection and use of complaints data see Makkonen, T. (2016). European handbook on equality data. 2016 revision, p. 10 and p. 72.

Bearing in mind the importance of data on complaints for the work of equality bodies, the members of the Equinet working group on research and data collection (and of the preceding Cluster respectively⁵) have dedicated much of their work to this topic. The documentation and analysis of data on complaints, especially for reporting purposes, is one of the commonalities that all equality bodies that participated in the Cluster share. Therefore, the members have already exchanged information on different ways of collecting data on complaints, identified common challenges and shared some good examples. However, a comprehensive overview of data collection activities by equality bodies in general and their purposes is still missing.

For this reason, in 2018 the Cluster decided to carry out a survey among Equinet members in order to shed light on the following questions:

- What kind of information on complaints is collected by equality bodies?
- How do equality bodies use data on complaints and for what purposes?
- What challenges do equality bodies face with regard to data on complaints – not only when it comes to collecting data but also when analysing and using it?
- What are good examples for the successful collection and use of data on complaints?

This report summarizes the results of the survey. It aims at providing an overview of the ways in which equality bodies collect and use data on complaints. This overview should help to identify commonalities and differences among equality bodies and shed light on the comparability of this data across different European equality bodies. Thus, the results may also help to assess the feasibility of a possible future report on the work and experiences of equality bodies throughout Europe⁶ based on complaints data. Finally, the report will identify common challenges encountered by equality bodies when dealing with complaints data and provide recommendations for improving the collection and use of complaints data by equality bodies by showcasing good practices.

The report also advocates for the collection and use of complaints data in the first place, in order to make visible discrimination and the work of equality bodies in combatting it. The importance of data collection has also been highlighted in the 2018 Commission Recommendation on Standards for Equality Bodies. The Recommendation is addressed to Member States and sets out common standards regarding the functioning of equality bodies across the EU Member States. When it comes to preparing and publishing independent reports of high quality on discrimination issues (which is one of the core competences of equality bodies set out in the Racial Equality Directive and the Gender Equality Directives), the Recommendation is requesting Member States *“to enable equality bodies to conduct independent research. This could include collecting data in particular on the number of*

⁵ The survey has been developed and conducted by the members of the Equinet Cluster on Research and Data Collection which was a two year initiative aiming to provide a platform for staff members of equality bodies responsible for research and data collection. Meanwhile, the Cluster has been replaced by a new permanent Working Group on Research and Data Collection that will continue the work of the Cluster.

⁶ This report refers to European equality bodies and not only to equality bodies in EU Member States as Equinet includes EU candidate and potential candidate countries, as well as European neighborhood countries.

complaints per discrimination ground; the duration of administrative proceedings from submission of the complaint to the closure of the case; the outcome of administrative proceedings; and the number, duration and outcome of judicial cases in which the equality bodies is involved".⁷ Another impetus for strengthening the existing capacities of equality bodies to collect and use complaints data comes from the revised (2017) General Policy Recommendation No. 2 of the Council of Europe's European Commission against Racism and Intolerance, which explicitly encourages the collection of disaggregated data on discrimination complaints in the section on independence and effectiveness in the Explanatory Memorandum to the recommendation: *"Annual reports should identify the core issues arising with respect to equality, discrimination and intolerance and the recommendations of the equality body. They should also give an account of the activities of the equality body and the outcomes of these, including disaggregated data on discrimination complaints and their outcomes."*⁸

In addition to the above recommendations, the Guidelines on improving the collection and use of equality data developed by the Subgroup on Equality Data under the mandate of the European Commission's High Level Group on Non-discrimination, Equality and Diversity in 2018, acknowledge the importance of complaints data as one source (among others) contributing to ensure the comprehensiveness of empirical evidence on discrimination. In specific, guideline no. 6 requires the EU Member States to *"establish or further develop an efficient system for collating and regularly publishing statistical data on reported cases of discrimination and their administrative or judicial outcomes"*.⁹

The report is structured as follows: The next chapter briefly informs about the methodology of the survey and compares the sample of participating equality bodies with the entirety of all equality bodies in Europe with regard to important structural features such as mandate, function or grounds of discrimination. The following chapters more or less follow the structure of the questionnaire of the survey, beginning with the kind of requests counted as a complaint by equality bodies (section I). Section II summarizes what kind of information equality bodies collect concerning a specific complaint, followed by an overview on how equality bodies deal with the complaints and what data on the outcome they collect (Section III). Whereas section IV features the results on collected information with regard to complainants and alleged perpetrators, section V continues looking at the purposes complaints data are collected and used and what kind of challenges equality bodies face in doing so. The report concludes with recommendations on improving the collection and use of complaints data.

⁷ Commission Recommendation of 22.06.2018 on standards for equality bodies, p7: https://ec.europa.eu/info/sites/info/files/2_en_act_part1_v4.pdf.

⁸Council of Europe Commission against Racism and Intolerance. General Policy Recommendation No.2: Equality Bodies to combat racism and intolerance at national level. Adopted on 7 December 2017.

⁹ European Commission (2018). High Level Group on Non-discrimination, Equality and Diversity. Subgroup on Equality Data. Guidelines on improving the collection and use of equality data, p. 14: https://ec.europa.eu/info/sites/info/files/final_guidelines_4-10-18_without_date_july.pdf

Information about the survey

The survey was carried out online. The link to the questionnaire was sent to all Equinet members in September 2018, after having conducted a pre-test among the members of the Cluster on Research and Data Collection. At that time, Equinet had 46 members in 34 countries. Until December 2018, 23 equality bodies in 22 countries had filled in the questionnaire. This results in an overall response rate of 50%. The number of participating equality bodies and the number of countries differ as in some countries there is more than only one equality body. Specifically, in Belgium the two equality bodies – Unia, Interfederal Centre for Equal Opportunities and the Institute for the Equality of Women and Men, which focuses exclusively on the ground of gender - took part in the survey. Only in a few cases, the questions have not been answered by all participating equality bodies, either because the respective question did not apply to them or because they chose not to answer it for other reasons. In any case, these answers have been counted as missing values and have not been included in the analysis. Therefore, percentages always refer to the number of valid cases for a specific question or item.

While interpreting the results of the survey, one has to keep in mind that equality bodies are quite diverse with regard to some essential characteristics, such as mandate, functions, resources or broader institutional architecture. This is illustrated by the 2018 report “Equality Bodies making a Difference” in which the author, Niall Crowley, maps equality bodies in terms of mandate, functions, grounds and resources.¹⁰ While this typology aptly illustrates the impressively wide variety of differences between equality bodies, it is also suited to assess if the sample of equality bodies that participated in the survey provides a more or less representative overview of all Equinet member organizations.

Regarding mandate, one can distinguish between organizations that are only responsible for equality and organizations that are also entitled to other mandates, such as a mandate for human rights or a mandate as an ombudsperson. Table I.1 shows that the majority of equality bodies in Europe operate as a single-mandate body (65%). This is also reflected in the sample of participating equality bodies (61%). Furthermore, the equality bodies that took part in the survey also seem to be appropriately represented regarding functions. As for the entirety of equality bodies across Europe, almost all of them practice the functions of promoting equality and preventing discrimination as well as supporting people affected by discrimination and (at least some of them) pursuing litigation on their behalf. Besides, around six out of ten equality bodies in Europe have the competence to take decisions on complaints (this encompasses both legally binding as well as non-binding decisions).¹¹ Those bodies are also reasonably covered by the survey. Lastly, the Crowley report differentiates between equality bodies that

¹⁰ Crowley, N. (2018). Equality bodies making a difference: <https://www.equalitylaw.eu/downloads/4763-equality-bodies-making-a-difference-pdf-707-kb>

¹¹ The classification of functions is based on: Council of Europe, European Commission against Racism and Intolerance (ECRI) (2017). General Policy Recommendation No. 2: Equality Bodies to Combat Racism and Intolerance at National Level, p. 5: <https://rm.coe.int/ecri-general-policy-/16808b5a23>.

only cover a single ground (e.g. gender), those that cover multiple grounds and those that are responsible for all six grounds set out in Article 19 of the Treaty on the Functioning of the European Union (ethnic or racial origin, age, sex, religion or belief, sexual orientation, disability) or more. Among all equality bodies in Europe, around two-thirds cover all six grounds or more, whereas only a few of them are responsible for one or several grounds. This relation can also be found in the survey sample with 18 out of 23 organizations in the “all-six-or-more”-category. However, equality bodies with a responsibility for only one or a few of the protected grounds are also represented in the survey sample.

Table I.1: Equality bodies by mandate, functions and grounds of discrimination

		Equality bodies participating in the survey	All equality bodies
Mandate	single-mandate	14 (61%)	30 (65%)
	multi-mandate	9 (39%)	16 (35%)
Functions	promotion and prevention	22 (96%)	42 (91%)
	support and litigation	21 (91%)	39 (85%)
	decision-making	15 (65%)	28 (61%)
Grounds	single-ground	3 (13%)	9 (20%)
	multi-grounds	2 (9%)	6 (13%)
	all six grounds or more	18 (78%)	31 (67%)
Total		n=23	n=46

Source: The classification of equality bodies to the different categories is based on Niall Crowley’s report “Equality bodies making a difference” (2018). Three equality bodies that took part in the Equinet survey had not been included in Crowley’s map.

Furthermore, the equality bodies’ capability to effectively collect and use data on complaints depends on their available financial and personnel resources. Also in this regard, the participating organizations reflect the significant differences between individual equality bodies across Europe very well. On the one hand, there are equality bodies such as the Equality and Human Rights Commission in UK (budget of EUR 23.1 million and 172 staff) or the Equality Ombudsman in Sweden (budget of EUR 12 million and 95 staff) that are – in comparison to other bodies but also in relation to the countries’ populations – quite well equipped. On the other hand, there are organizations such as the Council for the Elimination of Racial and Ethnic Discrimination in Spain (budget of EUR 0.52 million and one staff member)

or Slovenia (seven staff members and a budget of EUR 0.2 million) that have to cope with relatively little resources.¹²

To sum up, the sample of participating equality bodies well reflects the diversity of all European equality bodies regarding the characteristics mentioned above. However, this diversity is, of course, also reflected in the results of the survey that are presented in the next sections of the report and it might lead to problems in terms of comparability.

¹² Crowley, N. (2018). Equality bodies making a difference, pp. 111-116:
https://ec.europa.eu/info/sites/info/files/equality_bodies_making_a_difference.pdf.

I: Definition of a complaint

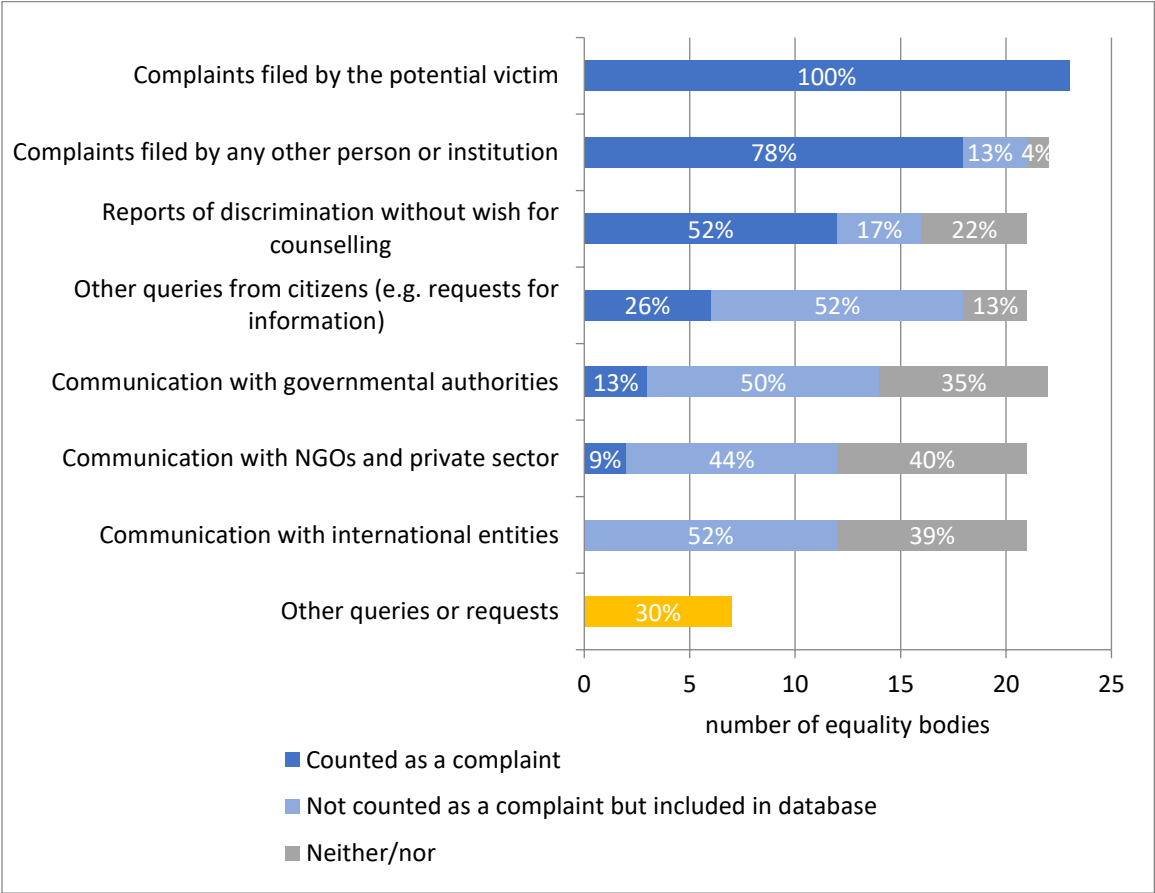
Discussions within the Cluster on Research and Data Collection and previous work by the Equinet secretariat led to the impression that there are significant differences in how equality bodies **define a complaint**. This is also reflected in different wordings as not all equality bodies would speak of complaints when it comes to requests that are collected in their databases and/or published in their reports. For instance, some equality bodies use the term “requests for counselling” or “requests” in general instead. Therefore, the questionnaire contained an extended list of different types of requests that equality bodies might receive, and for each type of request, asked what different actions equality bodies take:

- whether such a request is counted as a complaint,
- or if such a request is not counted as a complaint but included in the equality body’s statistical database anyway,
- or if it is neither counted as a complaint nor included in the database.

Not surprisingly, all 23 equality bodies that participated in the survey count complaints filed by the potential victim as a complaint (Graph I.1). The vast majority (78%) also counts complaints filed by any other person than the victim or by an institution, such as NGOs or ombudspersons, as a complaint. Furthermore, at least half of the equality bodies (52%) also count reports of discrimination where the person has no wish for counselling but only wants to document the incident as a complaint, too. Other queries or requests are for the most part not counted as a complaint (e.g. requests for information or communication with other institutions) but in many cases included in the statistical database anyway.

Seven equality bodies have also used the possibility to add other types of requests to the list that might also be counted as a complaint. At least, four of them mentioned that also cases initiated by the equality body itself are counted as a complaint. This might often be the case when information on discrimination is published by the media and the equality body takes action subsequently (“*ex officio investigations*”).

Graph I.1: Requests that are counted as a complaint and/or included in statistical database (n=23)



Q: Which of the following do you – in your equality body – count as a complaint and what is not counted as a complaint but included in your statistical database anyhow? Missing values: no answer

Furthermore, some respondents also made specifications to the answers they have given using the possibility to add open answers. For instance, two equality bodies (“Equality and Human Rights Commission” in UK and the “Council for the Elimination of Racial or Ethnic Discrimination” in Spain) explained that they have subcontracted the service to assist victims of discrimination either to a network of NGOs or to another third-party institution. Thus, they do not collect data on complaints by themselves but receive statistical information on complaints from those other entities. This is probably also the reason why the Council for the Elimination of Racial or Ethnic Discrimination in Spain is one of the organizations that count communication with NGOs as a complaint, as they explain: *“The National Equality Body subcontracted the Service to assist victims of discrimination to a network of 8 NGO [...] Complaints filed by a NGO recognized as official entity to report is included as complaint.”*

As the results show, there is quite some variation in what is counted as a complaint across equality bodies, but also some **important commonalities**: All or at least the vast majority of participating bodies count both complaints filed by the potential victim as well as complaints filed by another person/institution as a complaint. As mentioned above, the survey is also

supposed to inform on the feasibility of future comparative research that might try to shed light on the work of equality bodies across Europe in a more comprehensive way. For doing so, it would be a prerequisite that equality bodies derive a common and generally accepted definition of a complaint in order to analyze their data respectively in a joint report. Hence, those two categories of requests might form the starting point for such a definition. In addition, it might be discussed if such a common definition shall also comprise “ex officio investigations” although this category is only relevant for some of the equality bodies.

To reach this goal, however, it would also be necessary that equality bodies are able to differentiate between those different types of requests based on the information in their databases. Therefore, the questionnaire also asked those equality bodies that count more than one specific type of request as a complaint (n=22), if the equality body is **able to report the exact number of files for a specific type of complaint** (e.g. number of “complaints filed by the potential victim” or number of “reports of discrimination without wish for counselling”) or if they are only able to report the overall number of complaints. In total, 16 out of 22 equality bodies (73%) are able to report the exact number of files for each category that is counted as a complaint within their specific reporting system. The other six institutions are not able to do so. However, the National Commission for the Promotion of Equality in Malta, which is one of those six, explained: *“Complaints lodged by the victim and complaints lodged by someone else are collected under one category. However, this information is included in the complaint’s file and can easily be extracted.”*

II: Information about the complaint

The survey wanted to shed light on the question of what kind of information on complaints equality bodies regularly collect. One important piece of information is in which **area of life** the discrimination took place. Therefore, the survey contains a list of areas or domains that are particularly relevant when it comes to discrimination and asks whether the equality body documents the number of complaints in this respective area. Furthermore, equality bodies were also asked to indicate whether the respective area of life is covered by the national antidiscrimination legislation or not.

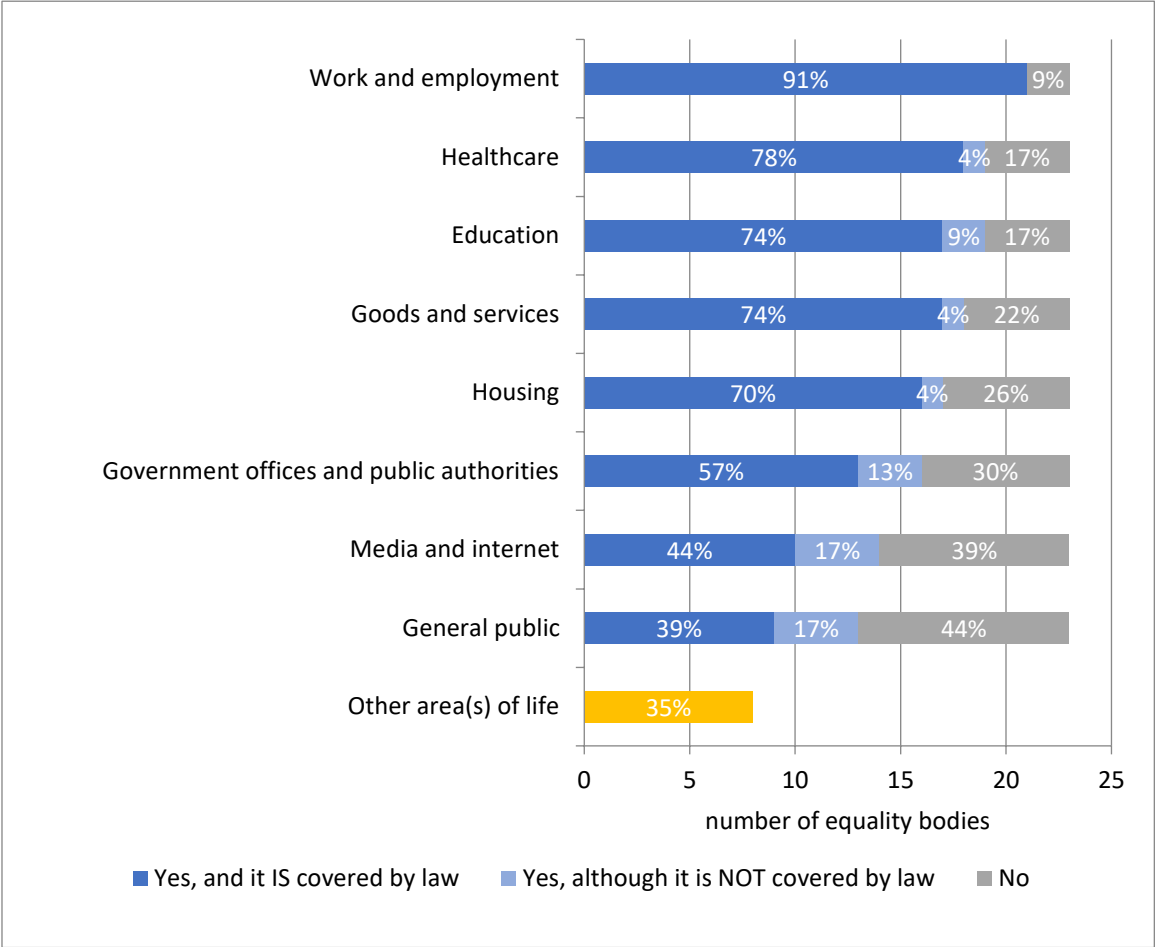
Most of the participating equality bodies collect the number of complaints for various areas of life (Graph II.1). Only two out of 23 (9%) indicate that they do not collect information on any of the areas mentioned in the questionnaire. The remaining 21 equality bodies (91%) keep track of the number of complaints where discrimination has been reported in the domain of work and employment. Between 70% and 78% of equality bodies document the number of cases in the fields of healthcare, access to goods and services, education and housing. Slightly more than half of equality bodies (57%) are able to report the number of cases related to government offices and public authorities. The results also show that most equality bodies only collect information about those domains that are covered by national antidiscrimination legislation. However, some of them also document discrimination cases in areas, such as media and internet and the general public or governmental offices/public authorities that are not covered by the regime of their national antidiscrimination legislation.

Besides, 8 equality bodies (35%) also mentioned other domains for which they keep track of the number of complaints. Most frequently, respondents mentioned the field of social protection (6 equality bodies / 26%). This domain might encompass pension as well as health and unemployment insurance as well. Some equality bodies also specified that the national legislation provides protection against discrimination only for some grounds in this field, as the following quote by the Greek Ombudsman demonstrates: *“We also cover the areas of taxation and social protection (social security and health care) as it is included in the national legislation against discrimination for some grounds of discrimination (race, colour, national origin).”* This might be related to the scope of the EU’s Racial Equality Directive (Directive 2000/43/EC) that obliges Member States to provide protection against racial or ethnic discrimination with regard to social protection. Three equality bodies answered that they are able to report the number of complaints that relate to membership in unions and professional associations (in one case also in other organizations such as political parties or civil society organizations). Finally, another three equality bodies (13%) collect the number of complaints related to access to cultural activities.

There is some variation when it comes to the material scope of the national antidiscrimination legislation, i.e. the domains or situations in which the respective acts do apply. This is also reflected in the answers to this specific question. But those areas that are covered in the EU’s Equality Directives form a common basis among equality bodies participating in the survey

with respect to areas of life: namely work and employment and – at least in combination with some grounds of discrimination – the access to goods and services (18 out of 23 equality bodies collect data for those two domains). However, based on the results and the answers to the open-ended question, one cannot tell with certainty if the participating equality bodies all apply the same definitions of areas of life (e.g. it might differ what is subsumed under the category “goods and services” or “health care”). This might also be reflected in the data on complaints and might lead to problems of comparability.

Graph II.1: Areas of life for which the number of complaints is collected (n=23)



Q: Regarding the area of discrimination, please specify for each of the following categories if you collect data on the number of complaints?

Another key piece of information regarding complaints is the **discrimination ground**. Almost all participating equality bodies collect data on the grounds of discrimination and are therefore able to report the number of cases that are related to specific characteristics. Only the Ombudsman’s Office of the Republic of Latvia answered “no” for each of the categories asked, specifying that they do apply another system of categories, differentiating between various fields of rights such as “*children rights, social, economic or cultural rights or political or civil rights*”. Furthermore, two equality bodies (9%) only document cases that are related to discrimination on grounds of sex/gender, namely the Institute for the Equality of Women and Men in Belgium and the Commission for Equality in Labour and Employment (CITE) in

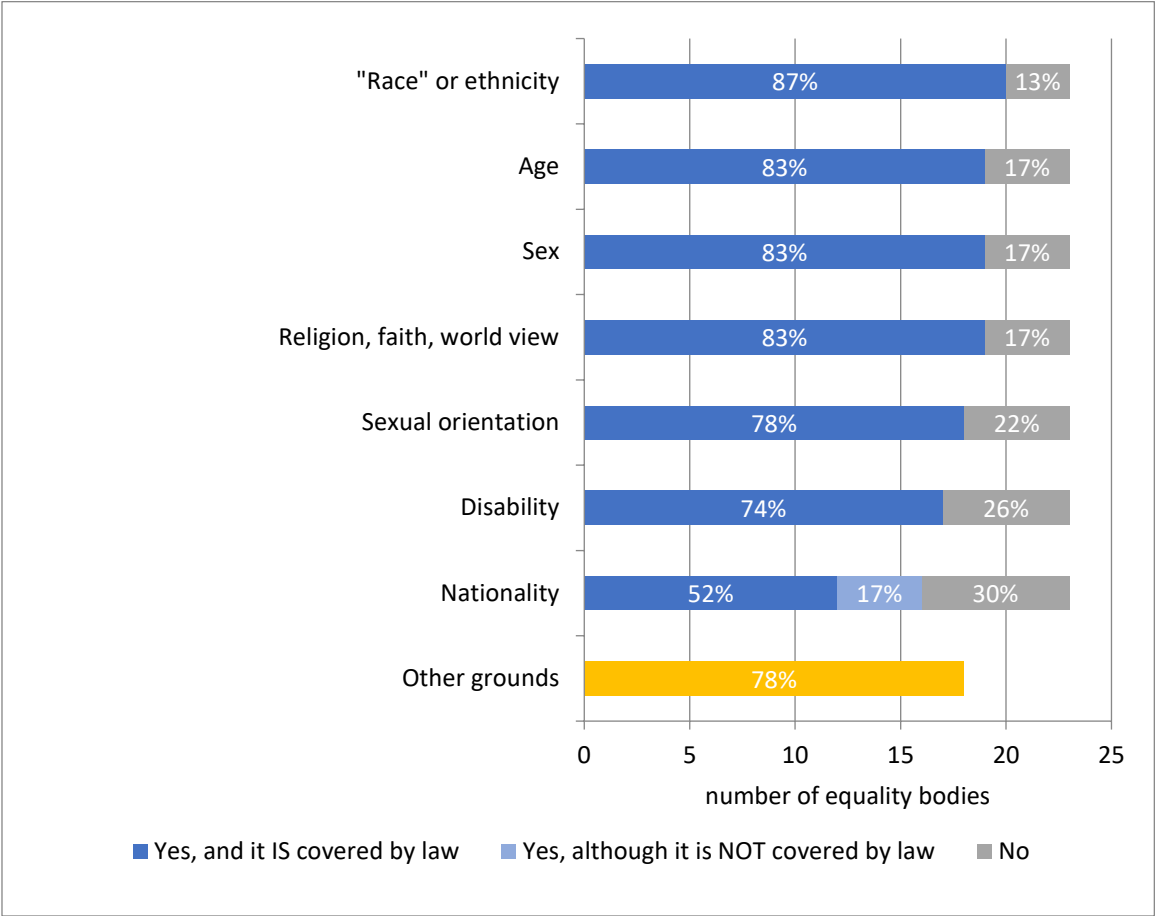
Portugal. Both of them only deal with gender-based discrimination. One equality body is only responsible for ethnic or racial discrimination (Council for the Elimination of Racial or Ethnic Discrimination in Spain) and is therefore only documenting such cases. This, of course, would also have to be taken into account in case of a possible future comparative report on EU level.

In total, 20 out of 23 equality bodies (87%) collect the number of complaints relating to discrimination on grounds of ethnic or racial origin (Graph II.2). Most of them (83%) are able to report the number of cases related to discrimination on grounds of age, sex and religion or belief respectively. Almost as many equality bodies answered that they collect the number of cases related to sexual orientation (78%) and disability (74%). Thus, these six grounds of discrimination, that are also mentioned in Article 19 of the Treaty on the Functioning of the European Union, clearly form the common denominator across the participating equality bodies when it comes to collecting information on the discrimination grounds (15 out of 23 equality bodies, 65%, collect the number of cases for all six grounds). Variations are mostly due to the fact that some equality bodies are responsible only for a single or few grounds¹³. Apart from that, 16 out of the 23 equality bodies (70%) also document discrimination based on the nationality of the victim; four of them do so although this ground is not covered by the national legislation in the respective country.

The variation concerning grounds of discrimination that are protected by national antidiscrimination law is even larger than differences concerning the material scope as some of the countries have extensive or even open-ended lists of protected characteristics. Furthermore, many equality bodies do not only collect the number of complaints that relate to protected characteristics, but also document complaints to which the national legislation does not apply. Therefore, most of the respondents (18 out of 23 equality bodies, 78%) have used the open-ended answer category to indicate other grounds of discrimination that are documented in their databases. Most frequently, equality bodies also collect the number of complaints where discrimination took place on grounds of social status/origin or wealth/property respectively (12 equality bodies, 52%). 10 equality bodies also have the category “marital or civil status” in their data collection system; just as many as equality bodies that explicitly mentioned that they are not only counting complaints concerning discrimination based on the sex of the complainant, but also gender, gender expression or gender reassignment. It is not clear from the answers if other equality bodies subsume such cases under a broader category “sex or gender” or if they also assign the cases to separate categories. Other grounds of discrimination that are quite often documented by equality bodies are “political or other belief” and “language” (both 7 equality bodies, 30%).

¹³ For instance, the Ombud for Equal Treatment in Austria that has participated in the survey has a mandate for all grounds but disability. Cases related to discrimination on grounds of disability are handled by another organization, the Austrian Disability Ombudsman.

Graph II.2: Grounds of discrimination for which the number of complaints is collected (n=23)



Q: Regarding the discrimination ground, please specify for each of the following categories if you collect data on the number of complaints?

The survey does not provide detailed information on whether equality bodies are able to differentiate even further, i.e. being able to report the number of files in which discrimination took place on grounds of a specific religious denomination (e.g. Muslim, Jewish etc.). However, some equality bodies indicated, for instance, that they assign discrimination based on pregnancy/maternity as a separate category rather than subsuming it under a broader category “sex and gender-based discrimination” or that they are able to document the number of cases where discrimination took place because of the skin colour of the person affected.

The respondents were also asked to specify **how they determine the area of life and the ground(s) of discrimination for a specific case of discrimination**; whether it is based solely on the information given by the complainant or if it is based on the legal assessment of the lawyers/counsellors or on a combination of both sources of information. The results show that there is quite some variation in how area of life and ground are decided. When it comes to the area of life in which the discrimination took place, in nine out of 22 equality bodies (41%) the lawyers assign the incident to an area of life based on their legal assessment. Four equality bodies (18%) solely rely on the assessment made by the complainant. The rest of the

respondents (9 equality bodies, 41%) stated that both sources of information might be important for the decision. Regarding the decision which ground(s) of discrimination is/are relevant in a specific case, the equality bodies seem to rely only slightly more on the assessment given by the complainant. Thus, seven equality bodies (out of 23 equality bodies that have answered this question) determine the grounds based on the legal assessment of their employees (30%), five equality bodies based on the information given by the complainant (22%) and eleven equality bodies ticked both answer categories (48%), indicating that both sources of information might be relevant in one case or the other.

Most of the participating equality bodies also specify in their database if a complaint can be assigned to one (or more) **form(s) of discrimination**. For instance, 12 out of 23 equality bodies (52%) systematically indicate whether it was direct or indirect discrimination (Graph II.3). Direct discrimination means that a person is treated less favourably than another person in a similar situation on grounds of a protected characteristic; whereas indirect discrimination occurs when a seemingly neutral rule leads to disadvantage for a person or a group as a result of a particular characteristic.¹⁴ Besides, 65% of the participating equality bodies can report the number of cases where discrimination took place in form of harassment¹⁵ and 48% can report the number of complaints related to sexual harassments based on their data. Almost half of the respondents answered that they also specify whether the discrimination was in the form of instruction or incitement or not (11 equality bodies, 48%). An example of instruction to discriminate would be a situation, in which an employer instructs the human resources department not to promote people with disabilities.¹⁶ Five of them (22%) mentioned retaliation/victimization as a specific form of discrimination that they do document. Victimization takes place if someone is treated less favourably because of claiming or making a complaint of discrimination or because a person is helping someone else to take action against discrimination.¹⁷ Other forms of discrimination were mentioned by six equality bodies (26%), most frequently the rejection of reasonable accommodation or inadequate accessibility. Besides, six equality bodies (26%) also state that they do not collect information on the number of cases for different forms of discrimination. However, this must not necessarily mean that no information on forms of discrimination is available at all, as the following quote by the National Commission for the Promotion of Equality (NCPE) of Malta demonstrates: *“The outcomes of complaints are not systematically categorized under any of the above categories, with the exception of sexual harassment. However, such information is*

¹⁴ European Union Agency for Fundamental Rights and Council of Europe (2018): Handbook on European non-discrimination law. 2018 edition, pp. 43-59.

¹⁵ According to the Handbook on European non-discrimination law, harassment is classified as discrimination, if “unwanted conduct related to a protected ground takes place; with the purpose or effect of violating the dignity of a person; and/or creating an intimidating, hostile, degrading, humiliating or offensive environment” (p. 64).

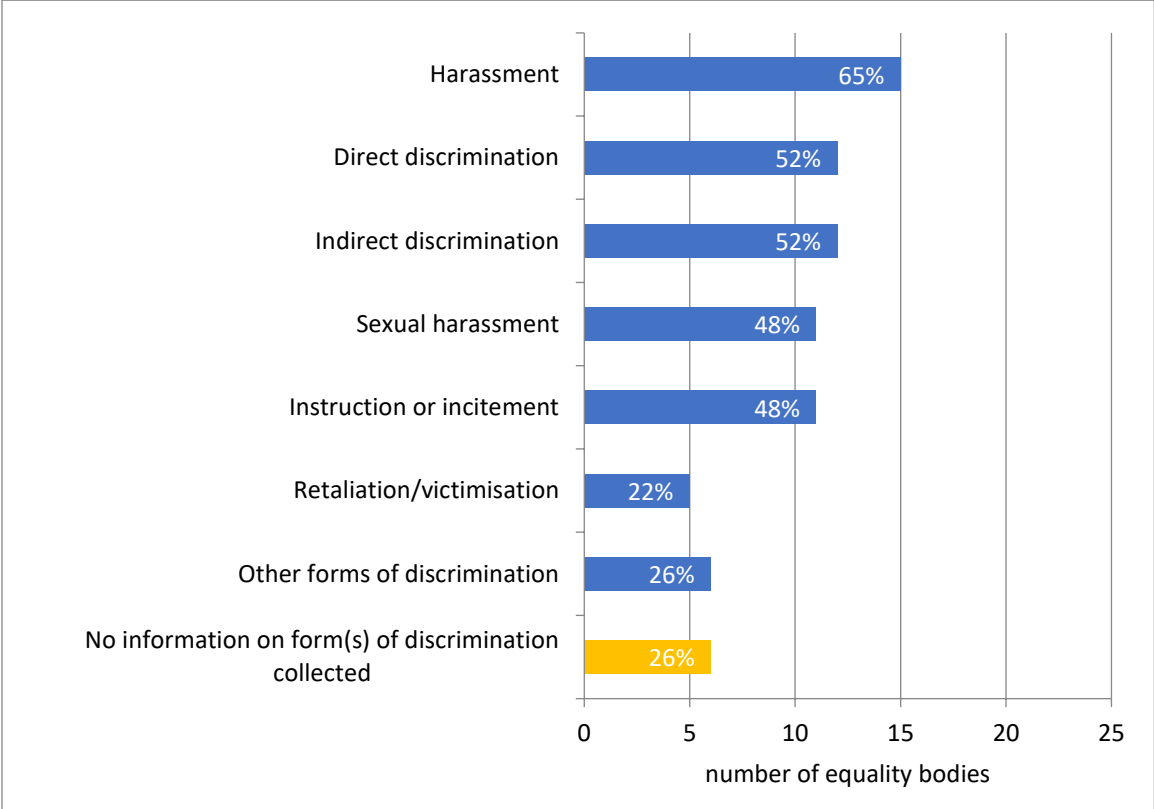
¹⁶ Federal Anti-Discrimination Agency (2019): Guide to the General Equal Treatment Act. Explanations and Examples, p. 25.

¹⁷ Equality and Human Rights Commission (2019): What is victimisation?

<https://www.equalityhumanrights.com/en/advice-and-guidance/what-victimisation>

collected and can be easily extracted from the complaints' files (for example, if we receive a request to provide such data).”

Graph II. 3: Forms of discrimination for which the number of complaints is collected (n=23)



Q: Regarding different forms of discrimination, do you collect data on the number of complaints in the following categories?

To achieve a better understanding of the data collection activities of equality bodies, the questionnaire also asked whether this information on area of life, ground(s) and form(s) of discrimination is **collected for each complaint** that is filed or only under specific circumstances. This is an important question in order to be able to assess the degree to which equality bodies collect such information systematically. Furthermore, if equality bodies collect data for each complaint and thus also for complaints that are not covered by the national antidiscrimination legislation, they might be better suited to point to protection gaps in the law. 20 equality bodies have answered this question. Most of them (14 equality bodies; 70%) collect such key information for each and every complaint that is filed, two equality bodies (10%) only for complaints where they previously decided that it is an act of discrimination. One equality body, Unia (Interfederal Centre for Equal Opportunities) in Belgium, indicated that they do collect this information on a complaint if it falls under the national antidiscrimination legislation, if Unia has the mandate to deal with the complaint and if the complainant desires counselling or legal advice. Three equality bodies (13%) stated that they do not collect such information. With a look at the open-ended answers they have given to specify this, it is mostly because they have a limited mandate (e.g. only responsible for gender based discrimination in the labour market), because they are part of multi-mandate

institutions that include a human rights or Ombudsperson mandate or they do collect some information e.g. on grounds of discrimination but not in such small categories or within another system/classification.

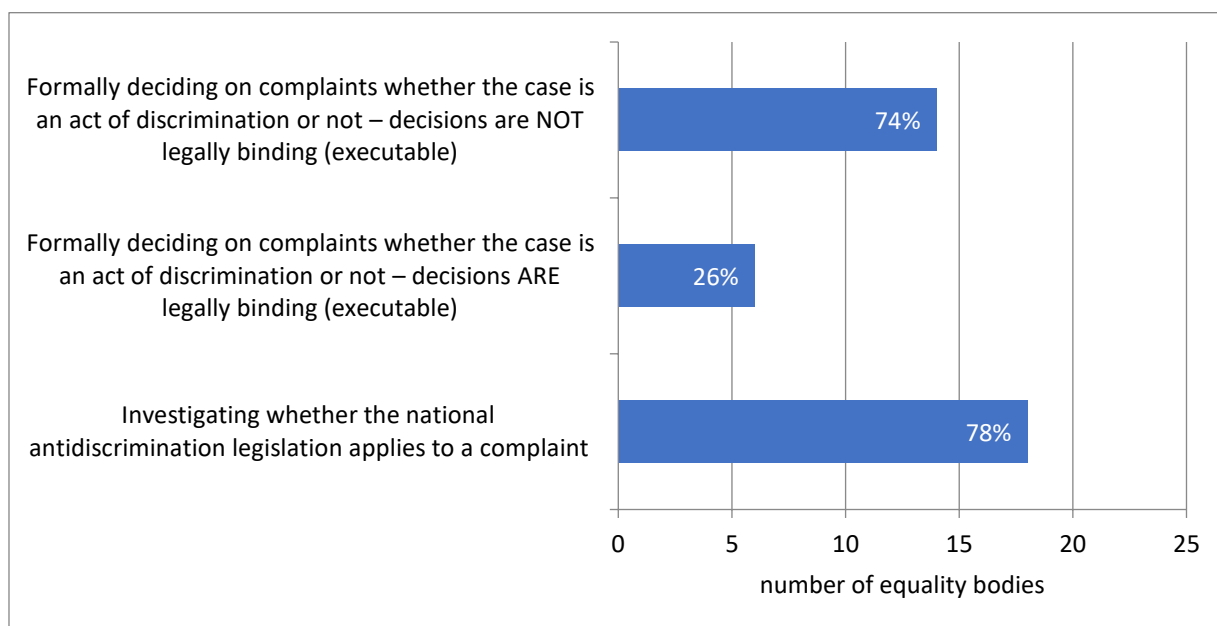
Finally, the participating equality bodies have also been asked in an open-ended question if they collect **any other information on complaints** that they find useful for their purposes. Here (and also in open-ended answers to previous questions), some equality bodies indicated that they also collect information on the specific mechanism of discrimination or the situation/context in which the discrimination took place. This might be illustrated by the following quote by the Danish Board of Equal Treatment: *“We also register if a complaint regarding the labour market concerns discrimination in connection with job advertisements or dismissal. Outside the labour market, we register if the complaint concerns the denial of access, i.e. to a night club.”* Furthermore, a few of the responses referred to information collected by the equality body on the steps or types of interventions taken by the equality body in response to the complaint. Two equality bodies also collect information on steps or actions taken by the complainant before contacting the equality body (e.g. which other institutions had been contacted beforehand).

III: Information about the outcome of a complaint

Depending on their mandate, equality bodies have different **ways of dealing with a complaint** and hence there are differences in what constitutes the outcome of a complaint between equality bodies in different EU Member States and how systematically different information regarding these outcomes is collected. The third section of the survey aims to capture these differences and provide insight as to the comparability and comprehensiveness of data on outcomes as one aspect of complaints data collected by European equality bodies.

All of the surveyed equality bodies (23) answered the question whether the outcome of a complaint they receive consists in investigating whether the national antidiscrimination legislation applies to a complaint or not or whether they are also able to formally decide on a complaint (i.e. whether the case is an act of discrimination or not), either with legally binding decisions or with decisions that are not legally binding. Responses to this question indicate that 78% of the participating equality bodies investigate the applicability of the national antidiscrimination legislation to a complaint compared with the remaining 22% of the surveyed equality bodies that do not conduct such an investigation (Graph III.1). Furthermore, only 26% of the respondents report that the equality body they represent issues legally binding decisions, while the overwhelming majority of surveyed equality bodies (74%) respond that the decisions they issue are not legally binding. Only three of the surveyed equality bodies (13%) reported activities different from investigating the applicability of the national antidiscrimination legislation to a complaint and formally deciding on a complaint when acting upon a complaint.

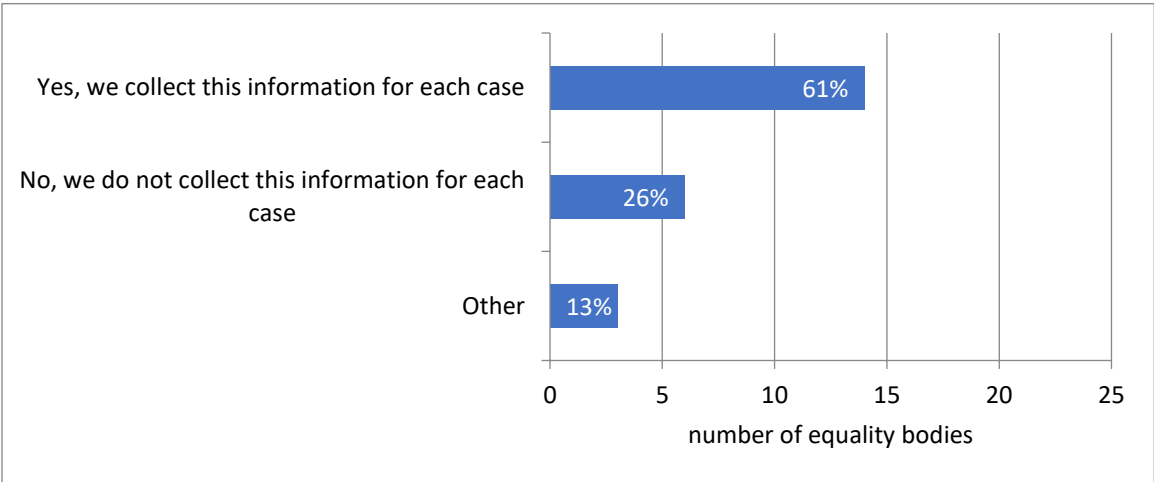
Graph III.1: Activities of equality bodies when dealing with complaints (n=23)



Q: Depending on their mandate, equality bodies have different ways of dealing with a complaint. Which of the following activities does your equality body undertake regularly when dealing with complaints? Multiple answers possible.

Participating equality bodies were also asked whether they systematically collect **information on the outcome of a complaint** for each case, that is, whether the case resulted in a finding that there had been an act of discrimination under the national antidiscrimination legislation or not. The results are promising as 61% of the responding equality bodies answer this question in the affirmative, whereas only 26% of the surveyed equality bodies respond that they do not collect this information for each case (Graph III.2). It is noteworthy that 13% of the respondents indicate that the question is either not applicable to their context or that they have imminent plans to initiate data collection on the outcome of complaints in the near future.

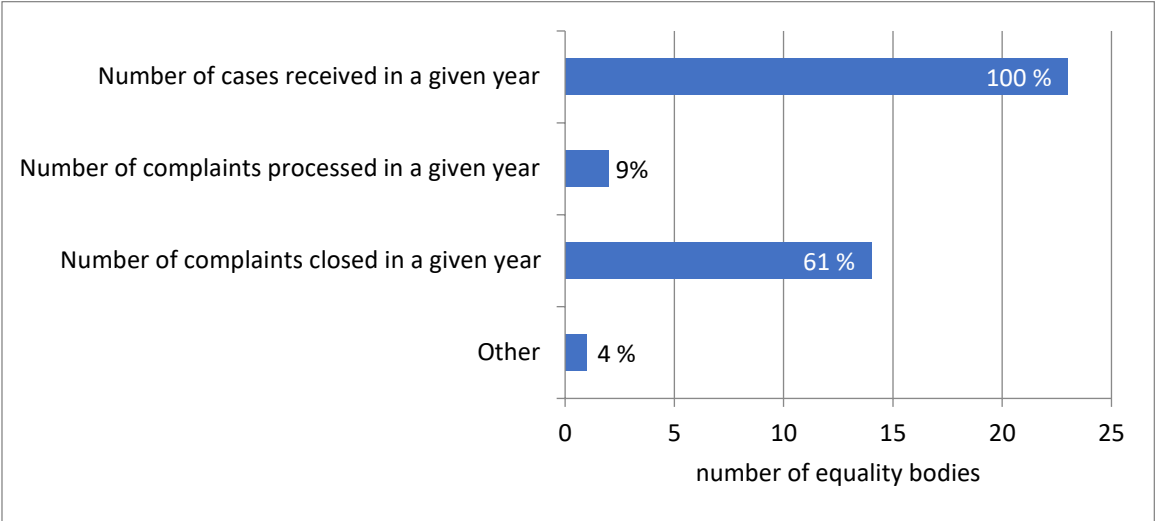
Graph III.2: Number of equality bodies that systematically collect information on the outcome of a complaint (n=23)



Q: Does your equality body systematically collect information on the outcome of a complaint, i.e. whether there is an act of discrimination under the national antidiscrimination legislation or not?

When it comes to gathering information on the number of complaints for the purpose of annual statistics, all of the responding equality bodies report that they collect data on the number of **received complaints** (Graph III.3). By contrast, the great majority (91%) of responding equality bodies do not systematically collect information on complaints **processed/handled** in a given year. Furthermore, 61% of the surveyed equality bodies keep track of the number of complaints **closed** in a given year, while only one equality body reported alternative parameters for collecting information on the different stages of handling a complaint. Namely, the Ombudsman of Bosnia and Herzegovina in the Annual Report submitted the following: *“the number of complaints received in the reporting period, the total number of citizens addresses (including telephone calls, e-mail, written complaints), number of transferred cases from the previous year, number of closed complaints from the reporting period, number of complaints from previous years, which were closed during the reporting period, as well as the manner of closing the case.”*

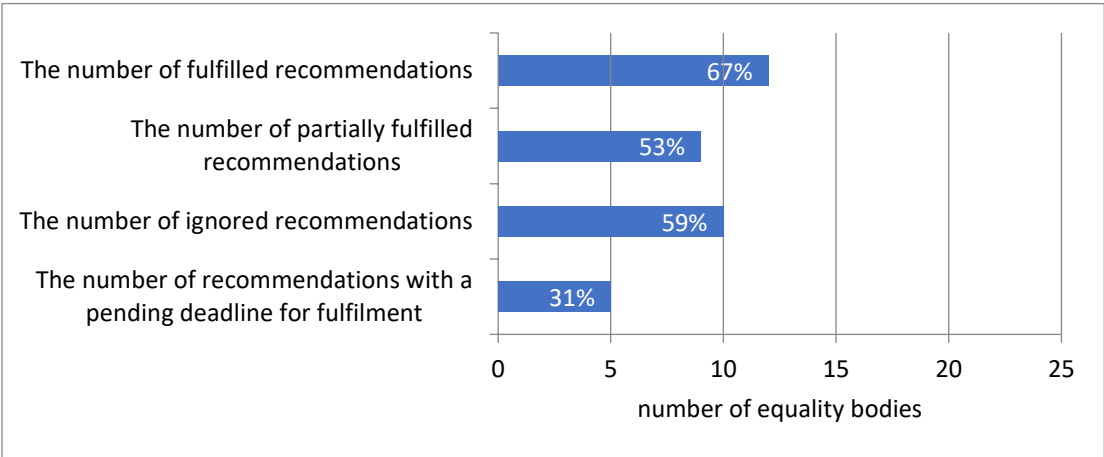
Graph III.3: Information on total number of complaints in a given year (n=23)



Q: For the purposes of the annual statistics, do you report the number of complaints received, the number of complaints processed, or the number of complaints closed in a given year? Multiple answers possible.

The final question related to the outcome of the discrimination complaint needed a respond concerns whether in cases where discrimination has been established, they collect **data on the number of recommendations** issued by the equality body that were fulfilled by the perpetrator. Overall, the results indicate that nearly half of the responding equality bodies do not collect follow up information on the different degrees of compliance with the recommendations that were issued as outcomes of the complaints (Graph III.4). More precisely, 57% of the respondents collect data on fulfilled recommendations, while the percentage decreases when it comes to partially fulfilled (45%) and ignored recommendations (50%). Finally, only 26% of responding equality bodies report that data on recommendations with a pending deadline for fulfilment is collected.

Graph III.4: Information on the number of recommendations (or other interventions) collected by equality bodies (n=20)



Q: Regarding the outcome of discrimination complaints in which discrimination was established, do you collect the data on the number of recommendations (or other interventions) issued by the equality body that were fulfilled by the perpetrator? Multiple answers possible.

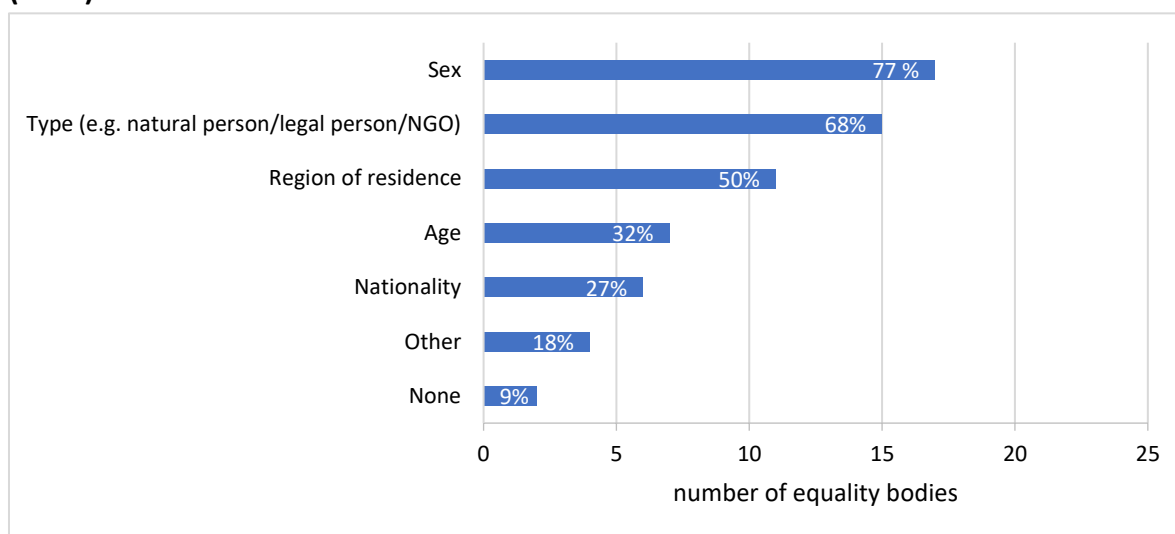
In conclusion, the report indicates that for the majority of the surveyed equality bodies, the outcome of a complaint includes a conclusion on the applicability of the national antidiscrimination legislation to the complaint, followed by the issuing of a legally non-binding recommendation. Due to the great variety of mandates among the Equinet membership, some of the surveyed equality bodies found the questions in the section on the outcomes of a complaint to be inapplicable to their institutional context and national legal and policy framework. For example, some of them noted that they do not handle complaints directly (the UK Equality and Human Rights Commission) or do not issue recommendations (the Slovak National Centre for Human Rights and The Danish Board of Equal Treatment). The greatest level of uniformity among the surveyed equality bodies has been observed with respect to collecting data on the number of received complaints, while the widest extent of variation exists with regard to the collection of follow-up information on issued recommendations. Thus, the relative paucity of information on the outcomes of recommendations issued by equality bodies appears to be a particularly salient shortcoming in the complaints data collection system of equality bodies and that therefore merits additional attention and effort.

IV: Information about complainants and perpetrators

Besides information about complaints and their outcome, almost all equality bodies (91%) also systematically collect **information about complainants**¹⁸ (Graph IV.1). Mostly, they gather information on sex (77%) and type (68%) of complainants. Within the latter category, most of the equality bodies distinguish between natural and legal persons, some also add a third type (e.g., non-governmental organisations, institutions, or administrative units), and two equality bodies use a detailed typology which includes multiple categories.¹⁹

One-half of the equality bodies also collects data on complainant's region of residence (50%), and roughly one-third gathers information on their age and nationality. However, it is questionable how systematic this data collection is: the Office of the Public Defender of Rights of the Czech Republic noted that “[*formally speaking, we collect all of the above (we have these categories in our database), but the data are not collected systematically (if the lawyers come to know this information, they collect it, but they do not make a specific inquiry about them).*”

Graph IV.1: Data regarding the complainants systematically collected by equality bodies (n=22)



Q: What data regarding the complainants do you systematically collect and are able to report in statistical analysis?
Multiple answers possible.

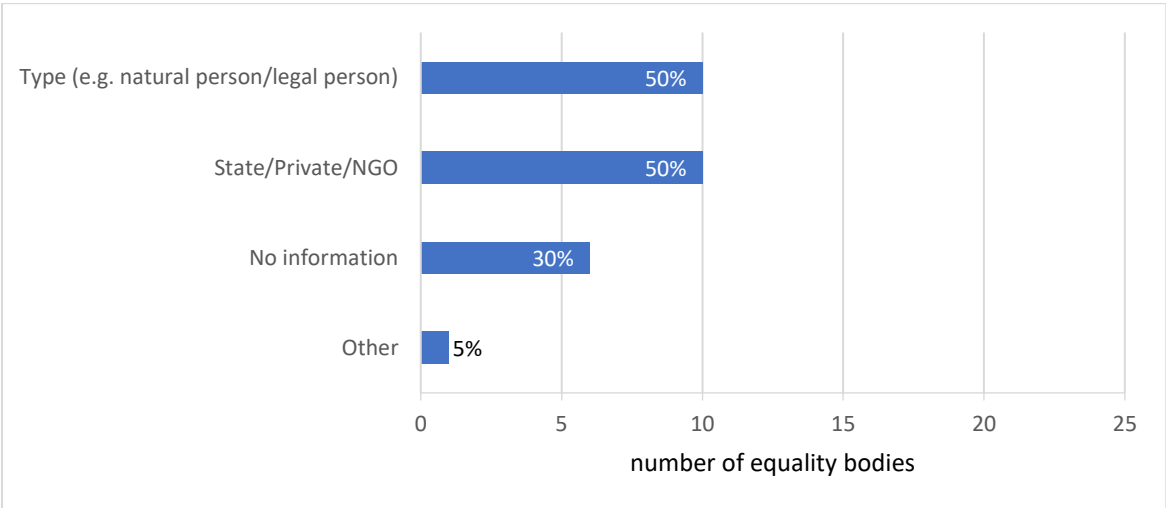
¹⁸ During a dedicated discussion of the Working Group Research and Data Collection on a draft version of the present Report, the need to distinguish between the concepts of “complainant” and “victim” was emphasized. The current Report only focuses on the category “complainant” in order to capture all possible sources of legal antidiscrimination complaints, submitted to an equality body, and not only those emanating directly from the victim of an antidiscrimination act.

¹⁹ The Croatian Office of the Ombudswoman distinguishes nine categories of complainants: administrative body, (natural) person, legal person, legal person with public authority, civil society organisation, court and judiciary, local and regional government body, criminal prosecution body, other. The Hungarian Office of the Commissioner for Fundamental Rights distinguishes ten categories of complainants: private person, family, other collective complainant, NGO, other public institution, legislator, MP, private legal person, unknown, ex officio.

Moreover, three equality bodies also keep track of other attributes of complainants. The Advocate of the Principle of Equality of the Republic of Slovenia monitors the channel of reception (e-mail, phone, mail), whether the complainant is anonymous or their identity is known, and whether the complainant is an individual or a group (e.g. NGOs or an institution). The Maltese National Commission for the Promotion of Equality ascertains whether the complaint was lodged by an individual or an ex officio investigation, and the Austrian Ombud for Equal Treatment gathers information on the role/position and the employer of the complainant.

The majority of the surveyed equality bodies (70%) also collect **data regarding the alleged perpetrators** (Graph IV.2). One-half of them gather information on the type of person (e.g., natural/legal person²⁰), one-half monitor whether the alleged perpetrator is a state or private body or an NGO, and one equality body, namely the Croatian Office of the Ombudswoman, uses a more detailed typology including several categories.²¹

Graph IV.2: Data regarding the alleged perpetrators systematically collected by equality bodies (n=20)



Q: What data regarding the alleged perpetrators do you systematically collect and are able to report? Multiple answers possible.

To summarize, when it comes to data collected by equality bodies on the complainants, the least common denominator applicable to the majority equality bodies seems to be the collection of information about the complainant’s sex and type of personality (natural/legal or NGO). With regard to complaints data on alleged perpetrators, no type of information is collected systematically by the majority of equality bodies.

²⁰ Regarding the type of legal personality of the perpetrator, members of the Equinet Working Group on Research and Data Collection have pointed out that the collection of information regarding this aspect of the complaint is limited by the fact in some legislations, the perpetrator is always a legal entity.

²¹ Administrative body, (natural) person, legal person, legal person with public authority, civil society organisation, court and judiciary, local and regional government body, criminal prosecution body, other.

V: Using data on complaints

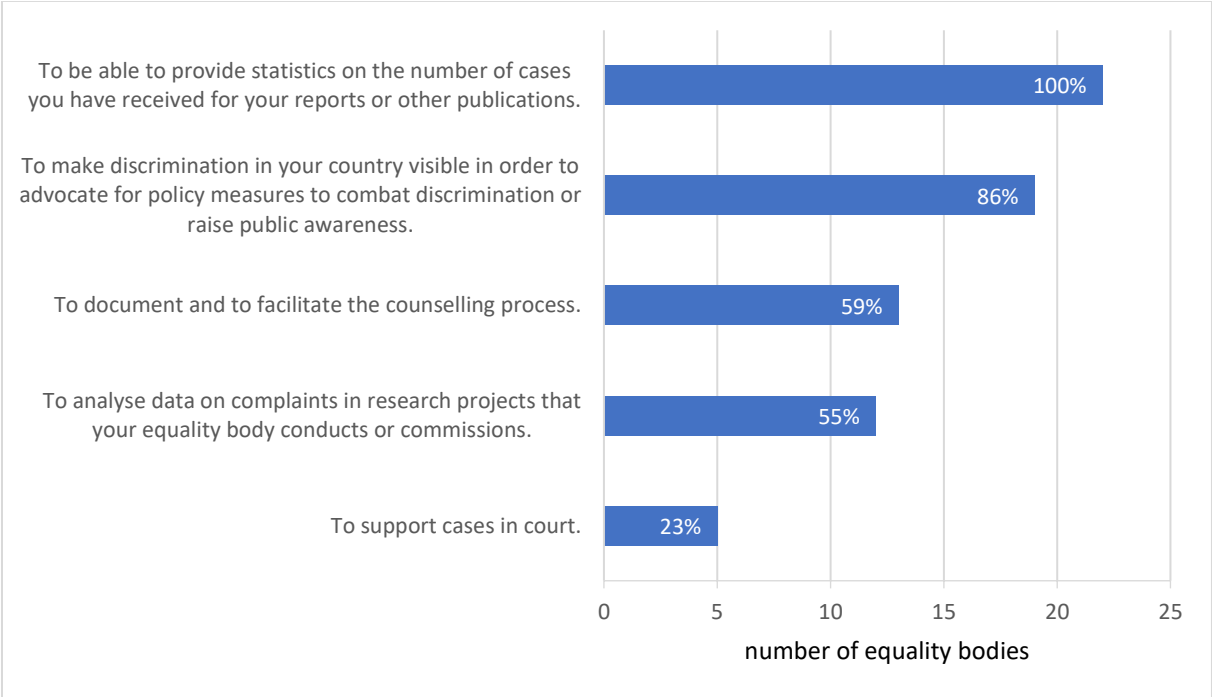
The last section of the survey focuses on how equality bodies use complaints data (only the equality bodies which engage in data collection answered these questions). First, regarding the **purposes for collecting data on complaints** (Graph V.1), all of the surveyed equality bodies do so *to be able to provide statistics on the number of cases they received for their reports or other publication*. A great majority of the participating equality bodies (86%) collect complaints data also *to make discrimination in their countries visible in order to advocate for policy measures to combat discrimination or raise public awareness*. For instance, the Public Defender of Rights of the Czech Republic uses the data on complaints not only in the annual reports, but also in workshops, lectures, and press releases in order to show that discrimination still persists and that it is a problem experienced by large groups of people. This helps to refute occasional claims that discrimination is infrequent or even does not occur anymore in the Czech Republic. The Austrian Ombud for Equal Treatment used the data on complaints regarding sexual harassment when the media requested these figures in the context of the #MeToo campaign. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina mentioned that it disseminates complaints data among public authorities, NGOs, researchers and academic staff, journalists, etc.

More than a half of the surveyed equality bodies collect data on complaints *to document and facilitate the counselling process* and to subject this data to further analysis (*to analyse data on complaints in research projects that the equality body conducts or commissions*). By contrast, only around one-fifth of equality bodies use this data *to support cases in court* (23%). Two equality bodies also offered other examples when data on complaints contributed to meeting their broader goals, e.g. advocacy purposes and awareness raising among vulnerable groups that are likely to be discriminated but file low number of complaints. The Lithuanian Office of the Equal Opportunities Ombudsperson stated that “[i]n addition to providing comprehensive statistical information in the annual reports, the collected data is routinely used by other stakeholders with the aim of implementing their advocacy objectives. For example, LGBTI advocacy groups use the quantifiable data on low numbers of reports on discrimination on the grounds of sexual orientation as a basis of their awareness-raising and advocacy activities to challenge the phenomenon of underreporting.” Also the Public Defender of Rights of the Czech Republic uses the data on complaints as an indicator of underreporting (i.e. the practice when perceived discrimination is reported less than actually is the case, due to various barriers and obstacles faced by the potential victim): *“a low number of complaints by a specific group (e.g. by Roma people) signals that we need to focus more on awareness raising among this group and promote our activities more widely.”*

Beyond the scope of the survey, the members of the Equinet working group on research and data collection pointed out at least three further purposes for collecting data on complaints. In the discussion, they mentioned that data can be utilized as an argument for the amendment of legislation or policies and procedures (e.g. if they indicate that underreporting might be a

problem, changes can be made in order to remove obstacles for the victims of discrimination in access to justice). Moreover, the data can also be used for the purposes of comparison across time and space, and also as an indicator of the existence of specific problems that should be addressed by further activities of equality bodies (e.g. high number of complaints regarding discrimination against Roma people in the area of employment can give impetus for conducting research or an awareness-raising campaign).

Graph V.1: Purposes for collecting data on complaints (n=22)



Q: For what purposes do you collect data on complaints? Multiple answers possible.

Equality bodies encounter a number of **issues when using data on complaints** (Graph V.2). The main challenge faced by more than half of the participating equality bodies (60%) lies in *the data interpretation, especially due to underreporting or the so-called “iceberg effect”*. As with an iceberg, only the tip – the number of complaints – is visible, while the bulk of discrimination experiences is below the surface, i.e., unreported and therefore invisible. Thus, the number and the structure of discrimination complaints received by equality bodies do not necessarily reflect the reality of discriminatory practices, but we do not know in what ways and to what extent the picture they paint differs from the true state of affairs.

Several equality bodies commented on the difficulties with interpreting data on complaints that stem from the phenomenon of underreporting. For instance, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina noted that *“we must keep in mind that the data presented do not show the real state of affairs [...] Because of fear of condemnation of the environment, insufficient knowledge of their rights and other reasons, victims of discrimination decide not to address the Ombudsmen of BiH, and numerous cases remain undocumented.”* The Lithuanian Office of the Equal Opportunities Ombudsperson reminded

that “[t]he low numbers of complaints from the particular social groups are often interpreted as a false indicator of positive situation on non-discrimination and equal opportunities, affecting that particular community. These tendencies are especially relevant for LGBT groups, ethnic, national and religious minorities.”

The National Commission for the Promotion of Equality in Malta added that data interpretation is problematic not only due to underreporting but also due to unreasonable or vexatious complaints: “[t]he number of complaints received does not necessarily reflect the reality of discrimination with regards to any particular area or ground of discrimination, due to underreporting and frivolous/vexatious complaints.” Also, as raised by the equality body of Bosnia and Herzegovina, there are also other bodies where one can file a discrimination complaint, so the number of reported cases cannot be traceable to equality bodies only and/or to a single equality body in countries where several equality bodies with complaints-handling competencies exist. These challenges related to the use of complaints data notwithstanding, as Unia, one of the Belgian equality bodies, reminds us, data on complaints can still serve as a good indicator of the societal problems related to discrimination: “We receive around 6 000 complaints per year. So, in a country of 11.35 million of people, it's clear that we face problems of underreporting. Our database is not representative, but it's a good indicator of the main problems in the society.”

Another challenge with regard to the use of complaints data acknowledged by one-half of the surveyed equality bodies is the lack of systematic data collection: *information about specific aspects of a complaint is often not collected systematically but only if it is relevant for a specific case*. The Spanish Council for the Elimination of Racial or Ethnic Discrimination noted that the comprehensiveness of the database is also hindered by the fact that “[s]ome cases do not have a proper follow up (or the victim decide not to go on).”

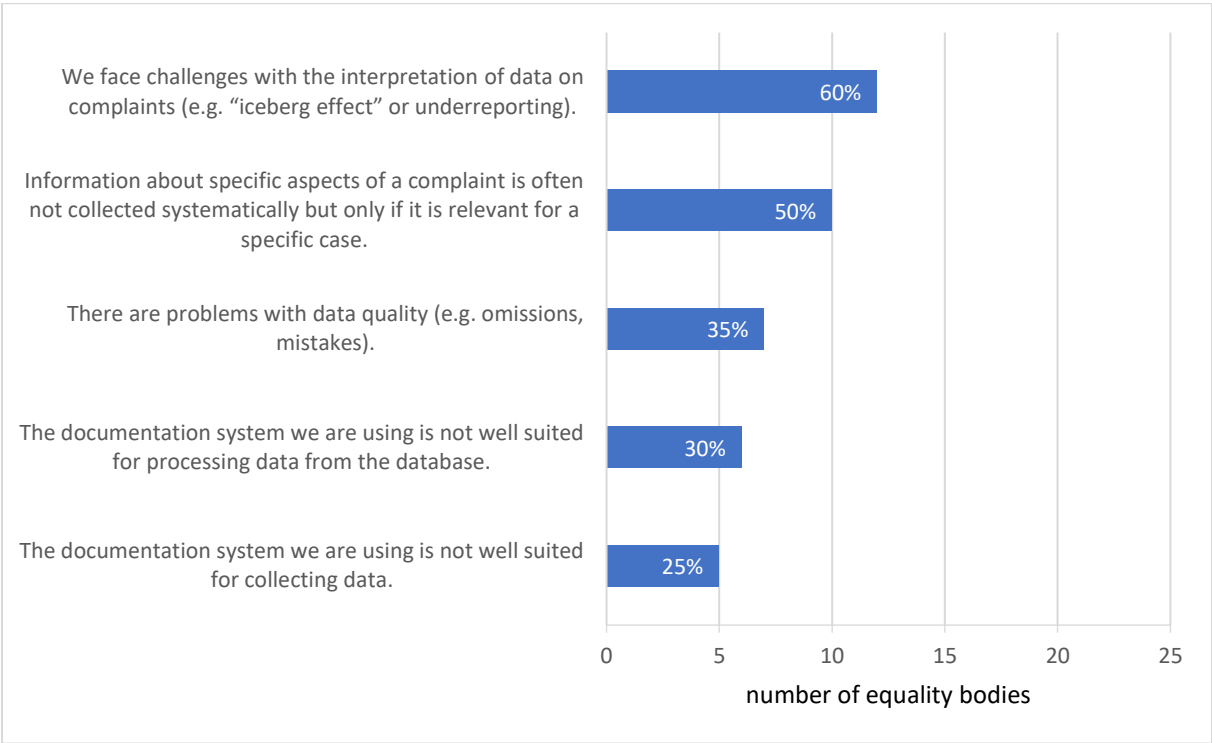
More than one-third of the surveyed equality bodies also mention *problems with data quality (e.g. due to omissions and mistakes)*. Several of them point out that categories are not sufficiently clear and are interpreted differently. In response to these difficulties, the Greek Ombudsman, for example, is currently trying to “establish some guidelines for our staff”, whereas the Ombud for Equal Treatment in Austria noted that “training for staff entering data is necessary.” Specific issue was raised by the Institution of Human Rights Ombudsman of Bosnia and Herzegovina where the law on the prohibition of discrimination has an open list of grounds for discrimination which complicates the creation of comprehensive categories in the database. Problems with data quality are also caused by omissions and neglect on the side of the employees, as raised by the Polish Office of the Commissioner for Human Rights. The Office of the Public Defender of Rights of the Czech Republic added that the employees may sometimes consider the process of data collection to be a mere administrative burden and not an important part of their job, so it is necessary to convince them of its usefulness.

Finally, almost a third of the surveyed equality bodies mentioned *unsuitable documentation system for processing data from the database and for collecting data* as challenges faced when

collecting and analysing data on complaints. However, the improvement of the database can be hindered by the lack of financial resources, as noted by the Institution of Human Rights Ombudsman of Bosnia and Herzegovina.

Besides practical challenges regarding the collection and use of data on complaints, the Swedish Equality Ombudsman raised an important issue of sensitivity of personal data: *“The Swedish Equality Ombudsman fully agrees that there is a need for increased knowledge of discrimination within various parts of society. However, experience shows that registering this kind of information in certain situations may also result in discrimination in contacts between authorities and the general public. Collecting, registering and handling sensitive personal data raises a number of questions from an integrity aspect. Therefore there are reasons to especially consider in what way and with what methods such knowledge could be developed most appropriately.”*

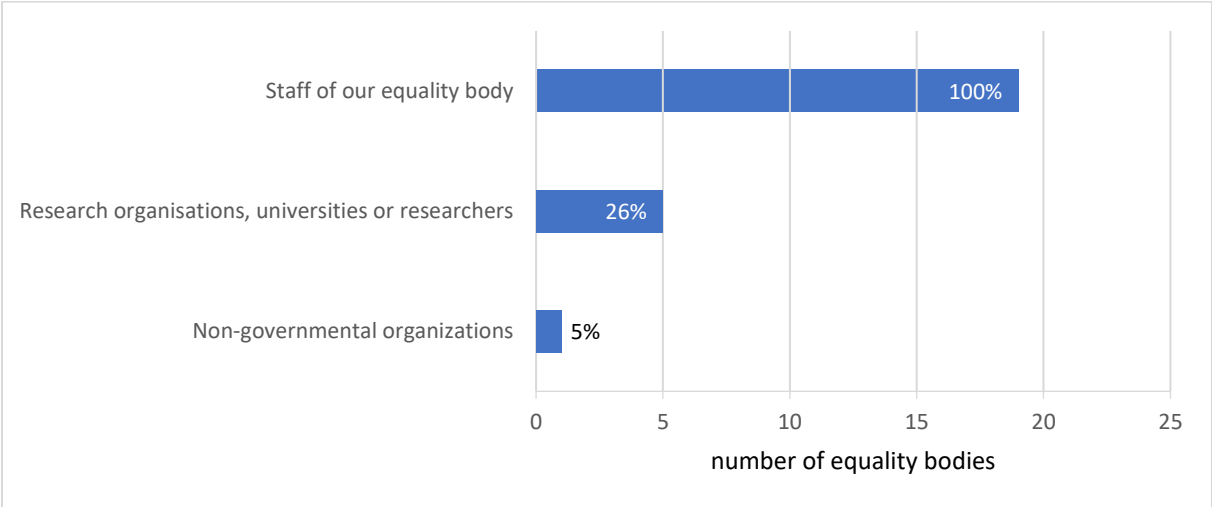
Graph V.2: Main challenges faced by equality bodies when using data on complaints (n=20)



Q: And what are the main challenges that you face when using data on complaints for the above-mentioned purposes, especially when it comes to analysing the data for statistical or research purposes? Multiple answers possible.

When it comes to the **analysis of complaints data** (Graph V.3), all the equality bodies which answered this question stated that they *analyse the data on complaints for statistical or research purposes on their own*. Only one-quarter of them mentioned that their data on complaints are also used and analysed by *research organizations, universities or researchers* (26 %), and in one case also by *non-governmental organizations* (5%).

Graph V.3: The body which performs the data analysis of complaints for statistical or research purposes (n=15)



Q: If your equality body analyses data on complaints for statistical or research purposes, who performs or accompanies the analyses? Multiple answers possible.

Equality bodies also shared their **good practices and ideas on how to overcome specific challenges** that are related to the use of data on complaints, especially when it comes to analysing data on complaints for statistical or research purposes. Regarding the data collection, the Austrian equality body recommended to organise a training for the employees who enter the data and to consistently monitor the database. The Croatian Office of the Ombudswoman suggested that the precise and consistent filling in of information in the database could be ensured by *“introducing mandatory fields of data entry in the database of the institution”* and by *“providing a set of very precise and clear instructions for filling in all relevant data on complaints in the database, as well as having a small group of competent employees in charge of data entry in the institutions’ database”*. Regarding the data analysis, the Lithuanian Office of the Equal Opportunities Ombudsperson noted that *“[t]he easy access and effective communication (e.g. attractive visualization) of the available data often increases the dissemination of the relevant information.”* Also, having a staff member with a background in social sciences can help in both the data collection and data analysis, as mentioned by the Greek Ombudsman.

Recommendations

The survey among equality bodies clearly showed the importance of collecting and using complaints data for the work of equality bodies and pointed to some common challenges that they share in doing so. The following recommendations are based on the findings of the survey. They are intended to provide guidance to equality bodies that want to improve the ways in which they collect and use such data.

Recommendations on improving the collection of complaints data

The recommendations on data collection can be divided into two groups, namely (1) **operational recommendations** that make suggestions on how to improve the quality of the data collected as part of the internal working processes of equality bodies and (2) **capacity-building recommendations** that aim to build the overall institutional capacity of equality bodies to collect comprehensive and robust complaints data, including through better coordination with and improving the broader national institutional architecture of equality data collection, of which complaints data is an integral part.

1. *Operational recommendations*

- Equality bodies should prioritize the development of an integrated (with other data collection and analysis applications used by the staff of equality bodies) and user-friendly **complaints database**, which will make it easier for their staff to enter data consistently throughout the whole lifecycle of a complaint (from registration to results on compliance with sanctions) and will include a sufficient number of mandatory fields to minimize omissions.
- Equality bodies should develop the above complaints database in such a way as to make it compulsory that **key information on complaints** (but also on the complainants, see below) is systematically collected for each and every complaint that is filed (and not only if a particular piece of information is relevant for the specific case), as this would enhance the reliability of the collected data (see, for example, Guideline No. 9 of the Guidelines on improving the collection and use of equality data of the European Commission's High Level Group on Non-discrimination, Equality and Diversity).
- Equality bodies should develop the complaints database with **due regard to national and European data protection rules**, safeguarding the privacy of the complainant, while at the same ensuring sufficient breadth and level of detail of the categories used for the collection of complaints data.
- Equality bodies should design the complaints database in such a way as to allow them to **collect key information also on complaints that are not covered by the national legislation** (in terms of areas of life, grounds and forms), including also specific categories to capture new forms of discrimination generated by the rapidly growing uses of Artificial Intelligence (AI) systems. This enables equality bodies to point to protection gaps in the national antidiscrimination legislation.

- Equality bodies should seek to **involve or consult with persons, groups or communities at risk of discrimination** when establishing definitions and categories for complaints data entry (especially the mandatory ones), in order to ensure that there is a correspondence between the information contained by the complaints database and the actual alleged discrimination experience of the complainant. Self-identification by the complainant should be the preferred method of defining and categorizing data on the grounds of a complaint, especially in relation to less clear and more sensitive aspects such as race and ethnicity, gender identity and expression.
- Equality bodies should apply as **disaggregated and detailed categories** as possible for collecting data on complaints (e.g. discrimination based on pregnancy/maternity, on a specific religious domination), paying special attention to multiple and intersectional forms of discrimination, in order to be able to provide more precise analysis of the data and thus to make visible the discrimination experiences of specific groups.
- Equality bodies should **collect data on the source of the complaint** in a more differentiated manner, indicating through separate categories for data entry whether the complaint has been submitted by an individual, legal entity or ex officio.
- They should also **keep record of the different aspects and stages of handling the outcomes** of complaints as well as follow-up information on the fulfilment of recommendations issued as a result of a complaint for the purpose of assessing the effectiveness of and compliance with their decisions.
- In order to enhance the comparability of the complaints data collected by equality bodies and thus, to increase the feasibility of an Equinet report on the contributions and experiences of equality bodies based on complaints data from different European countries, equality bodies should **clarify what types of requests are included in their definition of a complaint** and collect the number of complaints in separated categories, clearly distinguishing between different types of complaints.
- For the purpose of ensuring comparability of complaints data collected by equality bodies when it comes to the different areas of life covered, equality bodies should **seek guidance from the relevant European legislation and case-law of the CJEU** as to the definitions of these areas, e.g. the definition of “goods and services” under the Gender Goods and Services Directive (Directive 2004/113/EC).
- To increase validity and reliability of their complaints data, equality bodies should consistently **monitor the database**, regularly check the quality of the data, and offer feedback to the staff entering the data.

2. *Capacity-building recommendations*

- Equality bodies should increase the internal institutional awareness of their staff on the crucial importance and usefulness of complaints data for their different activities related to promoting and protecting equality. This will help ensure that the staff responsible for data collection is sufficiently motivated and engaged with the task of

data collection to minimize omissions and technical errors during data entry and processing.

- Equality bodies should create **internal structures** for spearheading and coordinating the database. Consider engaging one or several dedicated staff members with background in social sciences to help with data collection, analysis, and interpretation.
- Equality bodies should be **adequately resourced** to ensure that their staff has the required statistical literary and other relevant skills and expertise through periodically organizing tailored trainings, developed in cooperation with different stakeholders such as national statistical institutes and research centres involved in the production of national equality data and spanning the whole life cycle of complaints data collection, i.e. design, collection, processing, analysis, use and dissemination.
- Equality bodies should decide on selection criteria for the diverse stakeholders to engage in the development of the trainings so as to ensure that the staff of equality bodies is introduced to **best practice standards, including both technical guidelines and legal and ethical safeguards** set out in the relevant legislation and UN principles of human rights-based approaches to data collection and analysis.
- Equality bodies should **train the staff entering complaints data and prepare detailed guidelines** with a clear description of individual categories and comprehensive and precise instructions on how to enter this data; alternatively, equality bodies should consider designating an employee (or a small group of employees) in charge of data entry in order to increase the comprehensiveness and uniformity of the complaints data.
- Equality bodies should **advocate among relevant national and European stakeholders for the allocation of financial resources** for creating a proper documentation system suitable for collecting and processing complaints data.
- In countries with more than one equality body, all national equality bodies should seek to harmonize and **jointly coordinate their collection of complaints data** to ensure that complaints data is comparable across their organizations and thus contribute to more comprehensive and coherent evidence on the state of equality in the country based on equality complaints data.

Recommendations on improving the use of complaints data

As section V of this report shows, equality bodies use their complaints data for a variety of purposes: All of the participating institutions use them to provide statistics for their (annual) reports and many of them use complaints data as a source for qualitative research. Hence, such data are used to complement other sources of equality data (e.g. census data, victimisation surveys, field experiments etc.) in order to give a fuller picture of discrimination experienced by different groups in society. The following recommendations make some suggestions how the use of complaints data might be further expanded and professionalized:

- Equality bodies should **use statistics on the number and structure of discrimination complaints** not only in their annual reports, but also in workshops, lectures,

infographics, press releases, and other outputs of the equality body, including in cases they bring to the courts, in order to increase the visibility of discrimination in society.

- Equality bodies should keep in mind that the number and the structure of discrimination complaints are probably influenced by **underreporting** and frivolous/vexatious complaints, and point to these factors as posing limitations to the interpretation of complaints data.
- Equality bodies should analyse the statistics on the number of complaints **to identify the groups at risk of underreporting and use the data for advocacy purposes** and awareness raising among the groups filing a low number of complaints.
- Equality bodies should increase the dissemination, appeal and ultimately, use of statistical data on complaints by using **attractive visualization and other means of effective communication**.
- Equality bodies should **promote the broader use and dissemination of complaints data** in society by sharing it with other stakeholders such as NGOs, universities, journalists, independent researchers, and public administration bodies.

EQUINET MEMBER EQUALITY BODIES

ALBANIA

Commissioner for the Protection from Discrimination
www.kmd.al

AUSTRIA

Austrian Disability Ombudsman
www.behindertenanwalt.gv.at

AUSTRIA

Ombud for Equal Treatment
www.gleichbehandlungsanwaltschaft.gv.at

BELGIUM

Institute for the Equality of Women and Men
www.igvm-iefh.belgium.be

BELGIUM

Unia (Interfederal Centre for Equal Opportunities)
www.unia.be

BOSNIA AND HERZEGOVINA

Institution of Human Rights Ombudsman of Bosnia and Herzegovina
www.ombudsmen.gov.ba

BULGARIA

Commission for Protection against Discrimination
www.kzd-nondiscrimination.com

CROATIA

Office of the Ombudsman
www.ombudsman.hr

CROATIA

Ombudsperson for Gender Equality
www.prs.hr

CROATIA

Ombudswoman for Persons with Disabilities
www.posi.hr

CYPRUS

Commissioner for Administration and Human Rights (Ombudsman)
www.ombudsman.gov.cy

CZECH REPUBLIC

Public Defender of Rights
www.ochrance.cz

DENMARK

Danish Institute for Human Rights
www.humanrights.dk

ESTONIA

Gender Equality and Equal Treatment Commissioner
www.volinik.ee

FINLAND

Non-Discrimination Ombudsman
www.syrjinta.fi

FINLAND

Ombudsman for Equality
www.tasa-arvo.fi

FRANCE

Defender of Rights
www.defenseurdesdroits.fr

GEORGIA

Public Defender of Georgia (Ombudsman)
www.ombudsman.ge

GERMANY

Federal Anti-Discrimination Agency
www.antidiskriminierungsstelle.de

GREECE

Greek Ombudsman
www.synigoros.gr

HUNGARY

Office of the Commissioner for Fundamental Rights
www.ajbh.hu

IRELAND

Irish Human Rights and Equality Commission
www.ihrec.ie

ITALY

National Office against Racial Discrimination - UNAR
www.unar.it

KOSOVO*

Ombudsperson Institution
www.oik-rks.org

LATVIA

Office of the Ombudsman
www.tiesibsargs.lv

LITHUANIA

Office of the Equal Opportunities Ombudsperson
www.lygybe.lt

LUXEMBURG

Centre for Equal Treatment
www.cet.lu

MALTA

Commission for the Rights of Persons with Disability
www.crpdp.org.mt

MALTA

National Commission for the Promotion of Equality
www.equality.gov.mt

MOLDOVA

Council on Preventing and Eliminating Discrimination and Ensuring Equality
www.egalitate.md

MONTENEGRO

Protector of Human Rights and Freedoms (Ombudsman)
www.ombudsman.co.me

NETHERLANDS

Netherlands Institute for Human Rights
www.mensenrechten.nl

NORTH MACEDONIA

Commission for the Protection against Discrimination
www.kzd.mk

NORWAY

Equality and Anti-Discrimination Ombud
www.ldo.no

POLAND

Commissioner for Human Rights
www.rpo.gov.pl

PORTUGAL

Commission for Citizenship and Gender Equality
www.cig.gov.pt

PORTUGAL

Commission for Equality in Labour and Employment
www.cite.gov.pt

PORTUGAL

High Commission for Migration
www.acm.gov.pt

ROMANIA

National Council for Combating Discrimination
www.cncd.org.ro

SERBIA

Commissioner for Protection of Equality
www.ravnopravnost.gov.rs

SLOVAKIA

Slovak National Centre for Human Rights
www.snslp.sk

SLOVENIA

Advocate of the Principle of Equality
www.zagovornik.si

SPAIN

Council for the Elimination of Ethnic or Racial Discrimination
www.igualdadynodiscriminacion.mssi.es

SPAIN

Institute of Women
www.inmujer.es

SWEDEN

Equality Ombudsman
www.do.se

UNITED KINGDOM - GREAT BRITAIN

Equality and Human Rights Commission
www.equalityhumanrights.com

UNITED KINGDOM - NORTHERN IRELAND

Equality Commission for Northern Ireland
www.equalityni.org

** This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.*

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