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# PROMOTING **EQUALITY** **MAINSTREAMING** IN POLICYMAKING

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## CONFERENCE SYNTHESIS REPORT

# Synthesis report

## Online Conference: Equality Mainstreaming in Policymaking

19 November 2021, 09.30-12.45 CET

Event webpage: [here](#)

Event booklet: [here](#)

Find out more about Equinet and equality bodies: [here](#)

### Introduction

Equality is a founding value of the European Union and part of the shared constitutional traditions of Member States. Moreover, the Union's duty to ensure equality mainstreaming and combat discrimination is reflected in Articles 8 and 10 of the Treaty of the Functioning of the EU, as amended by the Treaty of Lisbon. Therefore, equality considerations should inform and guide all actions by the European Union, its Member States and public authorities.

In the current context of health, economic and environmental crisis, it is especially important that equality is taken into consideration for tackling the challenges the EU is facing. For building fairer societies, equality is a necessity, not a luxury. An essential development in this regard is the European Commission's recent decision to set up a Task Force on Equality, specifically tasked to mainstream equality in all EU policies. A further step, beyond mainstreaming equality in the public sector, could be to ensure that equality considerations are also taken into account by private actors such as employers and service providers.

Equality bodies have built up considerable experience and expertise in promoting equality mainstreaming and this experience can be used to inform policymaking, both at European and national level. Therefore, in 2021 Equinet set up a multi-annual cluster that brings together equality bodies, focusing on equality mainstreaming. Equality bodies across Europe, as public institutions concerned with promoting equality as a fundamental value and combating discrimination, play an important role in promoting and supporting both public and private actors in implementing equality mainstreaming.

In its first year, the cluster has been discussing the use of equality duties and equality impact assessments for mainstreaming equality as these are tools holding significant potential (also identified in Equinet's recent "[Recommendation for a fair and equal Europe: Rebuilding our societies after COVID-19](#)") and this is an area where Equinet and its members already have considerable experience and expertise. The Cluster has collected good practices from Equality Bodies across Europe on equality duties and equality impact assessments for mainstreaming equality and created a Compendium which informed this conference. The Compendium will be published in January 2022.

Throughout the different conference sessions, we aimed to create an opportunity for equality bodies to discuss with relevant actors on how they can cooperate and better promote equality mainstreaming. Discussions focused on the experiences and good practices of equality bodies on the use of the tools of equality duties and equality impact assessments to tackle discrimination across the various protected fields and grounds.

## Keynote speech: Equality mainstreaming in policymaking

Equinet was very honoured to welcome Helena Dalli, the EU Commissioner for Equality, to deliver the keynote speech for the conference. Ms. Dalli is the first ever EU Commissioner for Equality and has been in post since December 2019. Under her mandate, the Union of Equality is becoming a reality, by delivering on the promise to adopt equality strategies on different topics and presenting key legislative proposals to reinforce the principle of equality and equality bodies in the EU.

Commissioner Dalli opened the conference by raising 2 questions: *What value would public health policies have if they did not consider the need of people suffering from inequalities in access to health care? What value would green policies have if they failed to consider the plight of people suffering from climate change?*

She highlighted that decisions taken in many more areas affect people in all their diversity differently, depending on the kind of intervention, so every policy must have a strong equality dimension. One of the major priorities of the European Commission (EC) has been the adoption of ambitious equality strategies covering Gender Equality, Antiracism, LGBTIQ+, Roma Equality and the Rights of Persons with Disabilities. Equality mainstreaming is an important tool to achieve the EC's objectives.

Ms. Dalli underlined that European, national, regional and local stakeholders, public or private, should address inequality and discrimination in all forms so that we can build fairer and more equal societies. The obligation to mainstream equality throughout EU policies and activities is included in article 8 and 10 of the treaty of the functioning of the EU. She referred to the **internal EC Taskforce on equality** which supports her in her daily work as the Commissioner for Equality. The key role of this Taskforce is to ensure that equality considerations are integrated in all EC activities and in all the Commission's departments. The key drivers of the Taskforce are equality coordinators appointed in all Commission departments.

The EC is reinforcing important pre-conditions for effective mainstreaming. For example, in the [Better Regulation Communication](#) adopted in April, they committed to pay greater attention to the gender equality dimension as well as equality for all, to give it consistent consideration in all stages of policymaking. Commissioner Dalli stated her firm belief that when properly implemented, equality mainstreaming can be transformative with great potential for furthering equality for all.

She noted the important role played by equality bodies in the implementation of equality mainstreaming at national level, as well as their potential for working to prevent discrimination happening rather than following the more reactive approach of the EU Equality Directives. However, this work is difficult since many equality bodies lack proper resources, proper independence, or are not engaged early enough in the policymaking or legislative processes in their countries, so their contribution must be more strongly supported at the national level. Ms. Dalli emphasised the timeliness of this conference given that the EC is currently preparing new binding **standards for equality bodies**. The EC has planned several consultative activities and equality bodies' contributions to these consultations is crucial.

## Equality mainstreaming & equality bodies

During this panel session, panellists reflected on their experience to share what equality mainstreaming is and the reason it is important. They discussed how and where should mainstreaming be implemented, gave an overview of available tools and outlined the role of equality bodies in supporting equality mainstreaming by public and private actors. The following is a very succinct collection of the main ideas shared.

The main message shared was that equality mainstreaming in policymaking is important to achieve full equality in practice. Such mainstreaming is crucial since it places equality concerns at the heart of decision-making, diminishes the potential for institutional systems to discriminate, and enables a planned and systematic approach to equality. **Positive duties** in equal treatment legislation were identified as key to ensuring effective equality mainstreaming. These positive duties should include conducting **equality impact assessments** (where policies are tested at the final draft stage for potential impact), developing, implementing and assessing specific **equality plans**, and public bodies coordinating action behind agreed and shared equality outcomes. Incorporating a focus on addressing equality issues in **institutional processes** is also key, including in all plans, policies, and programmes.

Several issues were identified as barriers to positive mainstreaming duties, including the **inadequate institutional set-up**, the lack of enforcement or stimulus mechanisms, and the complexity of the process, especially compared with tradition and current processes. The importance of a comprehensive, multi-ground approach was highlighted, as was the need for cultural change to ensure equality mainstreaming is understood by all actors, becoming naturally integral to all decision-making. In order to effectively address these barriers, an **initiative at Member State level** is needed to address the uneven development of duties. Furthermore, it is crucial to invest in creating the conditions necessary for successful implementation of these duties, namely adequate data systems, capacity building, expert support, networking and peer support.

The important role of **equality bodies** in supporting equality mainstreaming by public and private sectors was discussed. They act as **champions** for equality mainstreaming, advocating for political commitment, institutional awareness and strategic planning. Much of their role is **supportive**, providing capacity building, resources, guidance, and mentoring to relevant duty bearers, such as public authorities and employers. Equality bodies help to set standards and encourage duty bearers to implement equality mainstreaming duties in their organisations and policies. Where appropriate, equality bodies also play an **enforcement** role, monitoring against the relevant standards and taking legal action if applicable. However, it was suggested that equality bodies' primary role is not to punish, but rather to support and encourage duty bearers to mainstream equality.

## Presentations on good practices by equality bodies

During this panel session, panellists shared key features and lessons learned by equality bodies in the use of equality duties and equality impact assessments, based on examples shared in the Equinet Compendium of Good Practices. The following is a short summary of those presentations.

The session opened with a presentation on the new **Cluster on Equality Mainstreaming**. The Cluster brings together equality bodies from across the region and focused on equality impact assessments<sup>1</sup> and equality duties<sup>2</sup> in 2021. In June, the Cluster collected good practices from equality bodies across

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<sup>1</sup> We define an **equality impact assessment** as a systematic way of finding out whether a function, such as a policy or practice, is equality-compliant or if it has a disparate impact on particular communities, or groups within communities.

<sup>2</sup> We define **equality duties** as positive legal obligations to promote equality and prevent discrimination, going beyond the general obligation to refrain from discrimination. Equinet's earlier study '[Making Europe More Equal: A Legal Duty?](#)', concluded that there are three main categories of statutory duties in place in Europe:

- **Preventive duties** are statutory duties on organisations (public and private) to take measures to prevent discrimination, harassment or sexual harassment in employment or in the provision of goods and services.

Europe on the use of equality duties and equality impact assessments for mainstreaming equality and created a **Compendium**<sup>3</sup>. In 2022, the planned focus of the Cluster will be equality bodies' role in supporting equality planning.

Some interesting trends were observed in these practices. First, not all equality bodies have the specific legal mandate to work or be involved in equality duties and equality impact assessments, so in the absence of an explicit legal provision, many equality bodies interpret their mandate broadly (as an inherent part of their mandate linked to the promotion of equality) to still be able to cover these areas on certain grounds and fields of life.

Given that many more examples of equality duties were received than of equality impact assessments, it seems that **equality impact assessments** are an emerging issue. They are an interesting tool for equality bodies, but we found that preparing an equality impact assessment requires adequate resources, and in particular **staff expertise**, which is likely to be a factor in why there are not more equality bodies performing them.

Most equality bodies lack legal competence for working on **equality duties**. Instead, they address them through using their policy advice powers, as well as by bringing in public authorities to support their actions. While this often seems to work, the impact of these equality duties would greatly benefit from gaining a **legally binding** character. Moreover, in the submitted good practices, we often see **equality duties** that are not statutory, but rather they are a practice developed by the equality body itself, perhaps due to a lack of sufficient statutory equality duties. **Robust data collection** and strong **cooperation** and **communication** between equality bodies & relevant partners are key to ensuring the success of equality duties.

Apart from lack of legal competence, the biggest challenge to realising **equality duties** reported by equality bodies is inadequate human and financial resources. However, we found that ongoing work by equality bodies with partners demonstrates that **equality duties** work, and they don't result in undue burden, so EU and Member State legislators should consider using this tool more often and making them legally binding. There also needs to be enhanced standards for the independence, powers and resources of equality bodies to allow them to effectively contribute to the use of these mainstreaming tools.

Two equality body practices were then presented, one on an **equality impact assessment** (Northern Ireland) and the other on **equality duties** (Finland). Some of the challenges raised regarding equality duties included the issue of public authorities not understanding the law and taking too technical an approach which equated equality planning to just filling out a document. The quality of the plans varied, some were even copied, and the content was often too vague. Moreover, the equality body did not have the capacity to effectively supervise such a vast number of obliged actors. For the Northern Ireland practice, a review of an initial equality impact assessment was required as not all groups' needs had been considered in a public authority decision. This led to a disparate impact on visually impaired and blind people, showing the danger of considering disability as a homogenous group instead of carefully examining individual needs. To overcome these challenges, equality bodies noted the need for **leadership, ownership, evidence, and transparency** in the process from duty

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- **Institutional duties** are statutory duties on organisations (public and private) to promote equality for employees or for people accessing their services.
  - **Mainstreaming duties** require public authorities to have due regard to the need to promote equality in carrying out their functions, including legislating, budgeting, regulating, and policy making.

<sup>3</sup> The Compendium will be finalised and published by January 2022.



bearers, as well as good communication and cooperation between the different partners. **Adequate resources** for equality bodies were also stressed as a crucial factor for success.

## Challenges & opportunities of equality mainstreaming tools

Equality duties and equality impact assessments can be effective tools to ensure equal treatment for all and combat discrimination in a variety of fields if they are properly understood and implemented. As reflected in the Compendium of Good Practices, equality bodies have an important role to play in promoting and supporting the use of these tools by public authorities and private actors.

However, there are clearly still gaps in knowledge and implementation that need to be addressed, and many equality bodies report facing challenges in fulfilling their role to its full potential. Many equality bodies lack a focus on equality mainstreaming and suffer issues of a lack of capacity, as well as a **lack of adequate human and financial resources**. Furthermore, many equality bodies lack an official mandate to work on equality mainstreaming since such a role was not established in the provision made in EU equal treatment legislation. Moreover, an **absence of legally binding sanctions** further undermines equality bodies' enforcement role. This situation is further complicated by the wide variation in the powers and mandates assigned to equality bodies across Europe, resulting in some having legal mandate to work on equality duties and/or equality impact assessments, whilst others do not and instead interpret their mandate widely to include work on those areas.

To tackle these issues, equality bodies need **adequate resources, capacity, and powers**, and should make supporting positive duties a priority.

Participants in this session discussed some of the challenges presented in the effective use of equality mainstreaming tools and the ways that relevant actors found to overcome them. They also listed what is needed for effective equality mainstreaming:

- **Leadership from governments** which can be turned into legislative codes and guidance (tied into toolkits for effective good practices and better understanding).
- Better **communication** and effective dissemination of codes and guidance.
- **Cooperation** and good partnership between the various relevant actors and authorities. There needs to be **political will** for equality mainstreaming and commitment at the administrative level, including among specialists across the different areas.
- Equality bodies need a **clear mandate** to work on equality mainstreaming plus adequate resources and data so that they are prepared to take on their role. These resources should include **adequate financial and human resources**, as well as time.
- **Mainstreaming literacy** needs to be increased among duty bearers. Equality bodies can help with this, but they need sufficient resources to provide training and development.

## Cooperation for increasing effective equality mainstreaming

All panellists in this final session identified the importance of having **strong political commitment** and a proper **legal framework** to support and encourage the use of equality impact assessments and equality duties. For example, it was noted that in the Basque country, there is a long legal tradition requiring public authorities of all levels to mainstream gender equality considerations across the board, obliging organisations to carry out gender impact assessments, which has contributed to providing the equality body with more competencies and resources to oversee this. There has also been an investment in training people as multipliers in order to enable all actors to self-regulate. On disability, the EU has ratified the Convention on the Rights of Persons with Disabilities (CRPD), which contains a mainstreaming obligation, and it has tried to encourage an increased disability

mainstreaming in EU and Social Pillar work, demonstrating the importance of using existing mechanisms to further work on the topic.

Panellists spoke of the need for better tools, additional resources and more **disaggregated data**. They also highlighted the important role played by equality bodies and grassroots organisations in raising awareness, producing **guidance**, and delivering **training** on equality mainstreaming for duty bearers.

To improve cooperation among the relevant actors in equality mainstreaming, there needs to be **strong involvement obligations** at all levels. Cooperation should be enforced through systematic policy or joint goals and approaches that can be exchanged and it needs to involve different types of institutions. Creating **formal structures for coordination and cooperation** that are supported financially and by legal and policy frameworks (so that they are legally binding) are crucial to making successful equality mainstreaming implementation a reality. Having proper expertise, such as disability and gender specialists, is also important, which also requires adequate financial backing.

It is useful to include equality duties in legislation and it should also include creating structures for equality in all duty bearers, such as gender specialists, equality departments or officers. It is also useful to include equality bodies' mandate in such legislation as that in itself can be a driver for change and helps with monitoring. The Basque country seems to be a good example for both of these. This is the case for Emakunde (the equality body) in the Basque country and it has been the main driver for equality.

## Main takeaways

During the closing session, Tamás Kádár, Deputy Director, (Head of Legal and Policy) at Equinet summarised his main learnings & takeaways from the conference, including why it is so important to include equality mainstreaming in all local, national and regional policymaking.

**Without taking into account equality, no policy can be right.** From transport to education, health and digital policies equality concerns have to be placed at the heart of decision-making. It also diminishes the potential for institutional systems to discriminate.

If properly implemented, equality duties and equality impact assessments can be transformative tools. There's currently an **uneven development of duties**, and a need to stimulate greater knowledge and use of them. At EU level, steps have been taken, including through equality policies in 2020 and 2021, plus the European Commission Task Force on Equality to ensure mainstreaming equality in all departments, with the help of coordinators. Now, both at European and national level, we need **leadership, political will and commitment** and to have them expressed also in legislation by introducing the right tools, including equality duties and equality impact assessments.

Equality mainstreaming tools and processes must be participatory, involving affected persons and communities. Moreover, just like with any other tools and processes, monitoring and evaluating how they work is crucial. We had interesting discussions around how far these tools can be introduced for the private sector and we heard that at least preventive and institutional duties could also usefully apply for the private sector.

Importantly, **equality mainstreaming cannot be an *ad hoc* exercise**. There needs to be a planned, systematic approach that is ambitious, not a just tick-box exercise. To avoid being tokenistic, stimuli

and encouragement seem to be the right way. Reaching cultural change is more useful and effective than sanctions as that typically leads to tokenistic responses. Nonetheless, where the carrot or encouragement fails, legislation and sanctions are still required.

National equality bodies should not bear all responsibility for effective equality mainstreaming and there is a need for good, open cooperation with duty bearers and using the help of supervisory authorities and structures. However, equality bodies can play a crucial role in the design, implementation and monitoring of equality duties and equality impact assessments. They can be champions, provide support, set standards and enforce equality mainstreaming measures.

Equality bodies need to realise their important role in this and have a focus on equality duties and equality impact assessments. This is a question for their own institutional strategy and a question of prioritisation. They also need the right conditions in terms of capacity, expertise and powers and they must be strengthened to live up to their full potential. Therefore, the Commission's work on proposing legislation to strengthen equality bodies is very welcome and necessary.