



AN EQUINET
**POLICY
PAPER**

Informing the Policy Agenda: Equality Bodies Making Recommendations.

by Niall Crowley

Equinet brings together 48 organisations from across Europe which are empowered to counteract discrimination as National Equality Bodies across a 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** | Ombudswoman of the Republic of Croatia, **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** | Equality Council, **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, **Spain** | Equality Ombudsman, **Sweden** | Ukrainian Parliament Commissioner for Human Rights, **Ukraine** | 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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Executive Summary

This perspective addresses the policy advice function of Equality Bodies, focused on Equality Bodies making recommendations on legislation, policy, and policy-making systems. It responds to the significant investment of time and expertise by Equality Bodies in making such recommendations, and seeks to inform peer learning among Equality Bodies on effective strategies and practices in this. It seeks to inform consideration by the European institutions of Directives on Standards for Equality Bodies proposed by the European Commission, in terms of their focus on this policy advice function.

The perspective addresses: the powers afforded to Equality Bodies in relation to making recommendations, and the provisions made to create positive conditions for exercising this function; the conditions created by the relevant authorities for the Equality Body to implement its competence to make recommendations on legislation, policy and policy-making systems; the scale of and focus for such recommendations being made by Equality Bodies; and the conditions created by Equality Bodies themselves for the effectiveness of their competence to make recommendations.

In relation to powers afforded to Equality Bodies for this function, the need is noted for more specific and explicit provision for this function where current provision is vague, in order to lend weight to their recommendations. Overall, there is frustration at poor consideration of and low levels of implementation of recommendations made. Equality Bodies point to the need for additional powers to ensure this function can be exercised with effect. This would include powers to ensure an invitation is issued to provide recommendations when legislation or policy is being developed, and to require feedback in relation to how recommendations made have been considered and addressed.

In relation to conditions created by the relevant authorities for this function, largely informal processes are reported. Processes for engagement with parliamentary committees are seen as effective, particularly if related to matters of current concern. Invitations from a public body for the Equality Body to provide an opinion, and dialogue with the public body are both noted as useful. The frequency of issuing such invitations varies, however, and their focus can be limited to problem-solving rather than addressing broader issues. Dialogue is seen as more effective if undertaken during the drafting process, and where initiated by the public body. The inclusion of Equality Bodies on policy working groups or advisory committees is generally seen as effective, but this can vary across jurisdictions and more broadly, there can be concerns for the independence of the Equality Body in such settings.

In relation to the scale of and focus of their recommendations, Equality Bodies are found to afford a high priority to their policy advice function. There is a significant scale of endeavour reported in this area of work, and a wide breadth to the policy fields addressed by Equality Bodies.

In relation to the strategies and practices deployed by Equality Bodies, a range of practices of interest are evident across the Equality Bodies. However, there remains a challenge for most Equality Bodies to build a strategy specifically for this function to have impact. The inadequacy of

resources made available to most Equality Bodies is noted as a significant barrier in this regard, with limited powers afforded to Equality Bodies in relation to this policy advice function acting as a further barrier.

In looking forward:

The European institutions could usefully take steps to:

Ensure that the Directives on Standards for Equality Bodies are adopted and efficiently transposed into Member State legislation, including provisions to strengthen the:

- policy advice function with obligations on the relevant authorities to engage with the Equality Body in a timely manner in the development and review of legislation and policy, and to provide adequate and timely feedback on the recommendations made by the Equality Body.
- resource base of Equality Bodies such that they have adequate and appropriate resources to implement all their functions effectively, including this policy advice function.

Include a focus on the policy advice function in the common indicators developed after adoption of the Directives, with a focus on explicitly according the function to Equality Bodies, along with powers that ensure a potential to make an impact on legislation and policy-making, taking account of this perspective and the work done by Equinet in developing indicators for the mandate of an Equality Body.

The Member States could usefully take steps to:

Ensure that Equality Bodies have an explicit competence to make recommendations on legislation, policy, and policy-making systems, in matters that relate to their mandate, with specific and adequate powers to effectively implement this function in a manner that realises the full potential of the Equality Bodies.

Define and designate a formal engagement procedure for the Equality Bodies with public bodies that are developing legislative and/or policy initiatives, that involves: a timely invitation to the Equality Bodies to contribute an opinion and/or make recommendations; and, where an opinion and/or recommendations have been provided by the Equality Bodies, a process of dialogue to examine these jointly with the Equality Body.

Define and designate a formal and timely feedback mechanism by public bodies to whom Equality Body recommendations in relation to legislation, policy and policy systems are addressed, that sets out their understanding of and the level and nature of their implementation of these recommendations.

Enable Equality Bodies' participation on and full contribution to legislative and policy working groups and advisory committees without any diminution of their independence and capacity to critique the outcomes of such processes.

Ensure Equality Bodies have adequate resources to fully and effectively implement their policy advice function alongside the full breadth of their functions.

Equality Bodies could usefully take steps to:

Sustain a priority for the policy advice function, along with the persistence needed to achieve impact, and develop a strategic approach to building influence behind and securing impact from recommendations made.



1. Policy Context

This perspective is focused on the powers accorded to and the work of Equality Bodies to make recommendations to policy makers/legislators, from an equality and non-discrimination viewpoint, in relation to legislation, policy, and policy-making systems. As such, it addresses the policy advice function of Equality Bodies.

This is a timely focus, given the provisions made in relation to this function in the proposed Directives of the European Commission on standards for Equality Bodies¹. Article 13 of these Directives requires Member States to establish 'transparent procedures' to ensure Equality Bodies are consulted on 'legislation, policy, procedures, programmes, and practices'; and to ensure that Equality Bodies can make recommendations, publish them, and 'require feedback from the authorities' on them.

Article 16 of the Directives addresses the monitoring of the implementation of the standards by way of common indicators, including, among others, on the activities and effectiveness of Equality Bodies and evolutions in their mandate and powers. These common indicators are to be defined in a process led by the European Commission.

The Council of the European Union has published its agreed approach to the negotiation of these Directives². In this, they have retained Article 13 and the focus on the policy advice function and the need for procedures in this regard, but they have reduced the onus on the Member States from a requirement to provide feedback to one where Equality Bodies can 'request follow-up regarding their recommendations'. The provisions in relation to common indicators in Article 16 are largely retained.

68.7% of respondents in the open public consultation on the proposed Directives deemed the work of Equality Bodies in making recommendations on discrimination to be 'Fair/Good/Excellent' against 23.8 % 'Poor/Very poor' or 'Service not provided'. More than 79% of respondents consider that

¹ Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU, [COM\(2022\)688 final 7.12.2022](#) & Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC, [COM\(2022\)689 final 7.12.2022](#).

² Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU - [General approach](#), from Permanent Representatives Committee to Council, 10038/23, Brussels, June 2023 & Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC - [General approach](#), from Permanent Representatives Committee to Council, 10027/23, Brussels, June 2023.

additional rules are necessary to secure coordination and collaboration for Equality Bodies with national public authorities, national stakeholders, and international/EU bodies³.

³ Binding standards for Equality Bodies, Factual summary report, Open Public Consultation, Unit D.1: Non-discrimination and Roma Coordination, Directorate D: Equality, DG Justice and Consumers, European Commission, Ares(2022)4231110 - 08/06/2022.



2. Developing a Perspective

This perspective has been developed in this policy context with a view to informing models of good practice for the implementation of Article 13 of the Directives on standards for Equality Bodies. In this, it would shape the provisions made and serve as a basis for developing common indicators for the making of recommendations to policy makers and legislators.

This perspective further responds to the interest among Equality Bodies to further explore their work in this field of providing policy advice, serving as a focus for peer learning and strategizing among Equality Bodies in relation to their approach to making recommendations to policy makers and legislators.

Work on this perspective was initiated with a round table discussion on the work of Equality Bodies in making recommendations, at a meeting of the Equinet Policy Formation Working Group. This was resourced with a presentation on the work of Unia in Belgium and the Federal Anti-Discrimination Agency (FADA) in Germany.

A survey of the 47 Equinet members in 37 European jurisdictions was then undertaken. 20 Equality Bodies in 18 countries responded⁴. The survey explored the powers accorded to Equality Bodies to make recommendations, the procedures available to them in this work, their focus in making recommendations and the strategies they pursue for their policy advice function. The survey questionnaire is provided in an Appendix. 4 Equality Bodies also provided case studies⁵.

Drafts of this perspective were then considered, commented on and agreed by members of the Policy Formation Working Group and the Board of Equinet before publication.

⁴ Albania (Commission for Protection from Discrimination), Bulgaria (Commission for Protection against Discrimination), Croatia (Office of the Ombudswoman, Ombudsperson for Gender Equality, Disability Ombudsman), Cyprus (Commissioner for Administration and the Protection of Human Rights (Cyprus Ombudsman)), Czechia (Public Defender of Rights), Germany (Federal Anti-Discrimination Agency), Kosovo (The Ombudsperson Institution of Kosovo), Lithuania (Office of the Equal Opportunities Ombudsperson), Malta (National Commission for the Promotion of Equality), Northern Ireland (Equality Commission for Northern Ireland), Poland (Commissioner for Human Rights of the Republic of Poland), Portugal (Commission for Citizenship and Gender Equality), Romania (National Council for Combating Discrimination), Serbia (Commissioner for the Protection of Equality), Slovakia (Slovak National Centre for Human Rights), Slovenia (Advocate of the Principle of Equality), Spain (Council for Racial and Ethnic Discrimination), and Sweden (Equality Ombudsman).

⁵ Belgium (Unia), Croatia (Office of the Ombudswoman), Germany (Federal Anti-Discrimination Agency), and Moldova (Equality Council).



3. Starting Points

This perspective builds on previous work by Equinet in developing good practice guidance for Equality Bodies on making recommendations in 2014, draws from the 2016 study by the European Commission on Racism and Intolerance (ECRI) of the Council of Europe on the policy advice function of Equality Bodies, and is informed by the work of Equinet in developing mandate-related indicators for the conditions created for Equality Bodies and the conditions created by Equality Bodies for their work, in 2020.

3.1 Equinet Guide

The Equinet good practice guide for Equality Bodies on making recommendations to policy makers/legislators to bring about legislative and policy changes⁶, identified that effective recommendations involved:

- ≡ background research and studies;
- ≡ detailed arguments;
- ≡ detailed facts and concrete experiences;
- ≡ evidence of benefits and value of implementing the recommendation;
- ≡ monitoring mechanisms;
- ≡ fruitful cooperation with policy makers/legislators;
- ≡ on-going engagement with these actors; and
- ≡ public debate and interest in the issue.

Equinet identified barriers to effective recommendations, including: lack of engagement and political will among policy makers/legislators; lack of interest and knowledge among these actors; lack of public interest in the issue; lack of capacity in state administration; lack of Equality Body resources; lack of feedback on the recommendations; difficulty in accessing legislative and policy fora and developing working relationships; difficulties in monitoring implementation; lack of consultation; lack of legal powers; and lack of recognition for Equality Bodies.

A typology of tools involved in making recommendations is identified by Equinet:

- ≡ publications and research;
- ≡ comments on legislative acts;
- ≡ recommendations based on case work outcomes;
- ≡ articles in the media;
- ≡ formal written communication to the government;
- ≡ engaging in a consultation process with policy makers/legislators;
- ≡ bilateral meetings with policy makers;
- ≡ participation in committees of inquiry;
- ≡ Equality Body annual report; and
- ≡ Equality Body memorandum for elections.

⁶ [Advancing Equality by Making Recommendations: An Equinet Good Practice Guide](#), Equinet, Brussels, 2014.

3.2 ECRI Study

The ECRI study of the implementation by Equality Bodies of their advisory function⁷, defined the purpose and focus of this function as being to:

- ≡ influence the content of legislation and policy;
- ≡ shape the procedures and practices of institutions in making policy and in employment and service provision; and
- ≡ build a wider institutional infrastructure for progressing equality and non-discrimination involving a range of stakeholder organisations.

ECRI identified barriers for this function, in particular of: lack of interest in, knowledge of, and engagement with equality and non-discrimination from politicians, administrators, employers and service providers; decision-makers that are unconvinced of the standing, authority and expertise of Equality Bodies; and lack of resources of Equality Bodies

ECRI identified strategies for Equality Bodies to address these barriers, including:

- ≡ developing leverage behind their advice and recommendations by applying pressure based on enforcement, alliance building and networking, public debate, and the power of good examples;
- ≡ provision of support to build competence in the relevant institutions to give effect to recommendations;
- ≡ being persistent in implementing their advisory function; and
- ≡ building partnerships for change based on ongoing dialogue with likely champions or points of influence in relevant policy fields, and on creating structures for cooperation, joint initiatives, and peer learning among relevant stakeholders.

ECRI identified specific tools for influencing the content of policy and legislation, such as: knowledge development, relationship building, public debate, and policy submissions. Further tools were identified for influencing the procedures and practices of institutions, such as: legal action, information and awareness raising, research, training, advice and guidance, engagement and provision of practical support, cooperation with regulatory bodies, and dialogue.

3.3 Equinet Indicators

In 2020, Equinet, as part of its work on standards for Equality Bodies, developed a set of indicators for the mandate of an Equality Body, with specific indicators for its advisory function⁸. These indicators could usefully serve the development of common indicators by the European Commission after adoption of the Directives on standards for Equality Bodies. The indicators identified by Equinet for the advisory function address:

⁷ Crowley N., [National Specialised Bodies: Effective Implementation of their Advisory Function](#), ECRI, Council of Europe, 2016.

⁸ [Mandate – Indicators](#), Equinet Project on Standards for Equality Bodies, Equinet, 2020.

- the conditions created for Equality Bodies in relation to this function:
 - ≡ the Equality Body is consulted systematically through timely and transparent procedures on all policy and legislative proposals and developments that impact on equality and non- discrimination for any of the grounds covered by its mandate;
 - ≡ the Equality Body regularly issues recommendations to public authorities on legislation, policy, procedure, programmes and practice and the proportion of these where it is informed by public authorities about the follow-up given to its recommendations; and
 - ≡ possibility to submit reports to parliament about equality issues and effective process for follow-up and response to recommendations made in this report.
- the conditions created by Equality Bodies in relation to this function:
 - ≡ the Equality Body has an established practice of consultation with those affected to inform recommendations made in relation to legislation, policy, procedure, programmes and practice.

This perspective builds on previous work by Equinet in developing good practice guidance for Equality Bodies on making recommendations in 2014, draws from the 2016 study by the European Commission on Racism and Intolerance (ECRI) of the Council of Europe on the policy advice function of Equality Bodies, and is informed by the work of Equinet in developing mandate-related indicators for the conditions created for Equality Bodies and the conditions created by Equality Bodies for their work, in 2020.



4. Equality Body Powers to Make Recommendations

This section addresses the powers afforded to the Equality Body to make recommendations and in relation to the making of such recommendations.

4.1 Legal Frameworks

The legal framework provided for this competence of the Equality Body to make recommendations in relation to legislation, policy, and policy-making systems is varied across the different jurisdictions. This legal provision encompasses:

- ≡ an absence of explicit provision, leaving such a function to be interpreted from the broad mandate of the Equality Body;
- ≡ explicit provision that specifically empowers Equality Bodies to make recommendations as they see fit, in line with their mandate; and
- ≡ explicit provision, in a small number of instances, to create favourable conditions for the exercise of this function by the Equality Body.

Where explicit legal provision is not made for the Equality Body to make recommendations or where such provision is vaguely stated, the Equality Bodies have interpreted the broad mandate they are afforded to allow for their engagement in providing policy advice⁹. In these cases, this function is implemented through initiatives such as:

- ≡ articulation of points of view, opinions, assessments and recommendations either independently or in response to requests;
- ≡ recommendations made in annual reports;
- ≡ participation in consultations; and participation on advisory committees and working groups addressing legislative or policy development.

Equality Bodies in such a situation, note the need for more specific and explicit provision for this function in order to lend weight to their recommendations.

More generally, the legislative underpinning for the Equality Body does provide for a general and proactive competence for Equality Bodies to make recommendations as they see fit, related to their mandate¹⁰. Such provision can be linked to specified powers to publish reports, monitor policy implementation, and/or to undertake surveys. Equality Bodies note being both reactive in response to a request from a Ministry or public body for an opinion; and proactive in identifying the legislative and policy developments they might wish to make recommendations on.

⁹ For example: Commission for Protection against Discrimination in Bulgaria; the Ombudsperson for Gender Equality in Croatia; the Equality Commission for Northern Ireland; the Commissioner for Human Rights of the Republic of Poland; the National Council for Combating Discrimination in Romania; the Slovak National Centre for Human Rights in Slovakia; the Advocate of the Principle of Equality in Slovenia; and the Council for Racial and Ethnic Discrimination in Spain.

¹⁰ For example: the Commissioner for the Protection from Discrimination in Albania; the Disability Ombudsman in Croatia; the Public Defender of Rights in Czechia; the Ombudsperson Institution of Kosovo; the office of the Equal Opportunities Ombudsperson in Lithuania; the National Commission for the Promotion of Equality in Malta; the Commissioner for the Protection of Equality in Serbia; and the Swedish Equality Ombudsman.

In a number of instances, specific additional provision is made in the legislation for the Equality Body to keep equal treatment legislation under review and make recommendations for its further development as required.

In a small number of jurisdictions, legal provision is made to create the conditions within which Equality Bodies can more effectively make recommendations and provide policy advice. These include:

- ☰ In Germany, the legislation makes it mandatory for the Equality Body (Federal Anti-Discrimination Agency) to be invited to provide its opinion on legislative and policy developments being undertaken.
- ☰ In Croatia, there is a requirement on bodies to whom such recommendations have been made to notify the Equality Body (Office of the Ombudswoman, Disability Ombudsman and Ombudsperson for Gender Equality), within the time limit set by the Equality Body, of the measures undertaken as a result of the proposal or recommendation made. Where there is a failure by the body to notify the Equality Body, the Equality Body can seek action from the institution that has a supervisory function in relation to that body. Where the supervisory institution fails to act the Equality Body can notify the government. Similar powers are afforded to the Disability Ombudsman.
- ☰ In Czechia, public institutions are obliged to respond to recommendations of the Equality Body. Where there is a failure to do so, the Equality Body can turn to a superior authority or to the government to seek action. Formal rules of procedure are seen as important for efficiency in this respect. The government too must respond to recommendations of the Equality Body and adopt a resolution in this regard.
- ☰ In Lithuania, the Law on Public Administration provides that the institutions, to whom policy recommendations have been made by the Equality Body, have to come back to the Equality Body within a period of 20 days, where recommendations are provided in writing.
- ☰ In Serbia, bodies to whom the Equality Body sends a recommendation are obliged to provide evidence of acting on the given recommendation.

In a different approach to creating such conditions, regulation of governmental procedures in Kosovo provides that the Ombudsperson Institution is consulted on the compliance of draft laws, sub-legal acts, policies and programs with internationally recognized standards of human rights, and, more generally, that the government shall cooperate with the Ombudsperson Institution¹¹. The Office for Good Governance of the Prime Minister's Office is informed of recommendations made by the Ombudsperson Institution, and coordinates with other Government bodies to make sure they received and respond to the recommendations.

There are further powers afforded to Equality Bodies that are seen to relate to and enable their competence to make recommendations. These include powers that focus on the practice of public bodies, including:

- ☰ The Equality Body in Ireland (Irish Human Rights and Equality Commission) has powers to invite organisations, in the public and private sectors, to undertake equality reviews of their organisations and to prepare equality action plans, and powers to prepare Codes of Practice that govern both public and private sector organisations. These Codes of Practice can

¹¹ Regulation no. 09/2011 of Rules and Procedure of the Government of the Republic of Kosovo.

address the promotion of equality of opportunity and the elimination of discrimination, providing practical guidance, and are admissible as evidence in casework under equal treatment legislation.

- ☰ The Equality Body in Czechia (the Public Defender of Rights) used its powers to make recommendations as a means of providing guidance on the interpretation of legislative provisions on equal treatment, an approach that was found to have particular importance in the period after the establishment of the equality mandate of the body.

The particular nature and role of one Portuguese Equality Body (Commission for Citizenship and Gender Equality), sitting within the public administration though with administrative autonomy, affords it a more central role in relation to this policy advice function. The role of this Equality Body encompasses:

- ☰ supporting the development of comprehensive and sectoral policies to promote citizenship and equality between men and women and participate in the implementation of specific policies;
- ☰ contributing to the modification of the regulatory framework or its implementation with regard to citizenship and equality between men and women by drawing up regulatory proposals; and
- ☰ monitoring the implementation of national legislation on specific issues relevant to its mandate and publishing annual reports on these.

In addition, all public services, which must or can provide information relevant to the performance of the tasks of the Commission for Citizenship and Gender Equality, have the duty to cooperate with the Equality Body whenever requested.

4.2 Issues

In general, across the Member States there is a lack of requirements on public authorities in relation to seeking, giving consideration to, providing feedback on, or pursuing implementation of the recommendations of an Equality Body. Many Equality Bodies note the difficulties in making an impact through their policy advice function, in the absence of such conditions being created to enable an effective input into the legislative or policy making process.

Overall, there is a level of frustration evident across Equality Bodies in relation to securing adequate consideration of and implementation of their recommendations. This frustration was captured powerfully in the 2022 Annual Report of the Disability Ombudsman in Croatia, which noted that ‘in the absence of other mechanisms for direct implementation of recommendations and with a negative attitude to the recommendations’ of the Equality Body, the primary role of the Equality Body had become one of ‘recording and reporting on recorded violations of rights on the basis of disability’, a role which ‘most often means maintaining the status quo’.

A concern noted by Equality Bodies relates to over-provision in the legislation in relation to this function such that the autonomy and independence of the Equality Body is stifled in relation to choosing what legislation and policy it might respond to and how it might make its response. Over-provision puts an onus on Equality Bodies to provide feedback and recommendations on a breadth of legislative and policy initiatives and sets out how the Equality Body must go about this work.

In contexts of high workloads and limited resources, such over-provision would impact negatively on the wider work of the Equality Body, with priority having to be afforded to responding to legislative and policy initiatives, over other areas of work. Over-provision could render Equality Bodies subject to unfair criticism where they are unable to fulfil all demands for such feedback and recommendations, or can open Equality Bodies to unnecessary contradictions with other stakeholders for failing to address issues of importance to these stakeholders.

Case Study, Federal Anti-Discrimination Agency (FADA), Germany:

The General Equal Treatment Act, which defines FADA's mandate was revised in 2022, to set out the competences of the newly created Independent Federal Commissioner for Anti-Discrimination and head of FADA. These include, under Section 28, that the Independent Federal Commissioner for Anti-Discrimination:

‘is to be involved in all matters that affect his or her duties. His or her involvement should take place as early as possible. She or he can make proposals to the Federal Government and forward statements’; and ‘informs the federal ministries – subject to other statutory provisions – in a timely fashion on matters of fundamental political importance, insofar as tasks of the federal ministries are affected’.

These provisions, combined with the previous competence under the Act for FADA to carry out "measures to prevent discrimination on any of the grounds' covered by the General Equal Treatment Act, are understood as according an additional role to FADA to make recommendations to the Federal Government and others. This role is defined to include for FADA's involvement in all governmental processes appropriate to the mandate of the Equality Body. FADA can also seek to be involved in relevant advisory bodies.

Prior to this FADA only held a general mandate in relation to making recommendations, posed in terms of taking measures to reduce discrimination, with the making of recommendations only identified in relation to a report to be made every four years to parliament jointly with the Federal Government Commissioners and Parliamentary Commissioners of the German Bundestag who have linked mandates but are not independently structured.

Potential and influence in this previous situation is noted where there was a shared perspective and agreement on a particular recommendation. One such success is noted in the implementation of an agreed recommendation for increased funding for civil society organisations supporting litigation under equal treatment legislation.

The change in the legislation means that FADA is now more directly involved in the process of legislative or policy development and is asked for its opinions on such developments early in this process. While the new legislation makes it mandatory for FADA to be invited to present its opinion, there have already been instances where FADA has had to actively insist on its right to be so invited.

In cases where FADA's input is taken but not implemented, FADA can invite the relevant authorities to have a dialogue about the reasons, but has no other

enforcement tools. The lack of provision for any particular feedback mechanism is challenging and FADA often has to proactively ask for feedback.

This new situation has increased FADA's workload and the work takes up significant time and resources. There are risks that it could be overwhelming, and could result in a loss of visibility for the work of the Equality Body with such an insider status, in particular with civil society. In order to address this, FADA has adopted a new internal workflow that ensures that FADA's position on any legislative project is made public (on FADA's website and via press release) after it has been adopted by the Cabinet, but before the German Bundestag debates and votes on it. FADA will communicate its independent opinion to the relevant Bundestag committees and, where appropriate, other political decision makers.

Standards for Equality Bodies, reform of the national equality legislation, algorithmic discrimination, age discrimination, gender self-ID, racial profiling, housing discrimination, and caregiver discrimination have all been a focus for recent recommendations. In this FADA seeks to establish and pursue those issues where the Equality Body can make a difference. Research, support of partner organisations, and public interest are also mobilised to further enable impact.



5. Procedures for Equality Bodies to Make Recommendations

This section addresses the conditions created by the relevant authorities for the Equality Body to implement its competence to make recommendations.

A range of procedures are evident in each jurisdiction, encompassing:

- ≡ presentations to parliamentary committees;
- ≡ invitation to provide opinions issued by a Ministry or agency;
- ≡ dialogue with a Ministry or agency on recommendations made;
- ≡ engagement in formal policy working groups or committees;
- ≡ public consultations;
- ≡ feedback systems in relation to recommendations made; and
- ≡ formal consideration of the Equality Body's annual report and the recommendations it contains.

Presentations to parliamentary committees are reported by most Equality Bodies that responded to the survey. This is seen as an effective process in most cases, in particular when related to legislation or policy matters that are before parliament as a matter of current concern. Such an engagement is viewed as a key moment to bring forward the particular expertise held by the Equality Body.

Invitations from a Ministry or agency for the Equality Body to provide an opinion, are reported by all Equality Bodies that responded to the survey, and dialogue with a Ministry or agency is reported by most.

Such invitations are noted as useful in engaging the Equality Body as an expert advocate, though the frequency of issuing such invitations varies. In Germany, as noted above, there is a legal requirement to issue such an invitation, though this is not always respected. In Croatia, the Disability Ombudsman notes, however, that while there is a greater likelihood that a recommendation will be accepted where such an invitation has issued, in such instances the Equality Body is often asked to problem-solve and propose very specific solutions rather than address wider more transformational issues.

Dialogue with a Ministry or agency responsible for a legislative or policy initiative is noted as particularly effective when engaged in during the drafting process. Such dialogue is seen as more effective where initiated by the Ministry or agency.

Equality Bodies are included on ***policy working groups or advisory committees***, as expert advocates or negotiators, in most jurisdictions. Such participation is generally seen to be effective in advancing Equality Body recommendations but this can vary across different jurisdictions. Effectiveness can further depend on the topic that is a focus for attention and the political will behind the topic.

It is also noted that the involvement of Equality Bodies on policy working groups or advisory committees can be centred on soliciting commentary on government proposals, which is less effective than those with a focus on actually shaping government proposals. A concern is noted that genuine co-design, where final outputs reflect an agreed direction of all members is relatively rare.

- ≡ There is a potential tension noted by some Equality Bodies for the independence of the Equality Body in its engagement in such policy working groups or advisory committees. This tension is addressed in different ways, including:
- ≡ The Equality Body in Slovenia (the Advocate of the Principle of Equality) manages such tensions through its representatives playing a consultative role on working groups or advisory bodies, and not participating in the decision-making process.

- ☞ In Serbia, the representatives of the Equality Body (Commissioner for the Protection of Equality) on such working groups retain an observer status.
- ☞ In Lithuania, the Equality Body (Office of the Equal Opportunities Ombudsperson) rarely participates on such bodies, deciding on an individual basis whether to take part or not, because of the importance of remaining independent.
- ☞ In Croatia, the Equality Body (Disability Ombudsman) decided to avoid such participation as in contexts where its recommendations were not accepted, it was assumed that, as participants in the working group the Equality Body agreed with the adopted text and it was difficult to criticize the text and deal with any complaints that might arise from it.

Many Equality Bodies do engage in **public consultations** in relation to legislative or policy developments. This is a minimalist engagement and is not seen as particularly effective. However, in some instances, it creates opportunities to give valuable visibility to the recommendations in public discourse through media initiatives. The time periods for such consultations are noted as an issue for, at times, being too short.

Formal **feedback systems** with requirements on those to whom recommendations are made are rare. Approaches of this nature are noted in Croatia, Czechia, and Serbia (see section 4.1 above). Such feedback systems enable follow-up to recommendations and are noted as important for securing action on their implementation. In the absence of such feedback systems, follow-up is left up to the initiative and persistence of the Equality Body, often using informal channels and positive relationships with key officials.

In Albania, a procedure of interest is noted in the absence of a formal feedback system on the recommendations of the Equality Body. The Parliament has a monitoring mechanism for recommendations of independent institutions, which provokes an accountability from the responsible institutions.

The **annual reports** of some Equality Bodies emerge as another means of bringing forward recommendations. In Croatia and Slovenia, these annual reports are considered by Parliament. In Croatia, however, the Ombudsperson for Gender Equality, Disability Ombudsman are, by law, to be relieved of their duties, if the annual report is not accepted by Parliament, which has direct, negative and unacceptable impact on independence of these two Equality Bodies.

In Germany, a report is prepared every four years on the situation of discrimination, and submitted to parliament for consideration, jointly with other entities, as noted above.

Equality Bodies that form part of a Government ministry can have access to a broad range of procedures to bring forward their recommendations and with particular influence. However, this comes with risks to independence that such a legal status can involve for the Equality Body, and with risks that the Equality Body moves from a position of making recommendations to holding responsibilities for developing and even implementing the strategies that might result from such recommendations. This situation has enabled participation in the definition of particular policy strategies and legislation by the Equality Body in Portugal (Commission for Citizenship and Gender Equality).

Case Study, Office of the Ombudswoman, Croatia:

The Equality Body (Office of the Ombudswoman) is obliged under the law to submit an annual report to the Croatian Parliament, with recommendations made to remedy systemic deficiencies and irregularities that lead to violations of constitutional and legal rights of citizens. It is further required to report in its annual report on the implementation of recommendations from the previous annual report.

The Government issues an opinion on the Ombudswoman's Annual Report, but the opinion does not include standpoints in relation to all the recommendations made. The Government Office for Human and National Minorities' Rights was responsible for reporting on implementation of these recommendations, but the last such report was created for the 2013 Annual Report. As a result, recommendations were made to the Republic of Croatia in the European Commission's Rule of Law Reports, to set up a system of reporting on the implementation of Ombudswoman's reports.

At the end of 2021 the Government established the Human Rights Council, an inter-departmental advisory body, to address this issue, though not exclusively for this purpose. The Ombudswoman provided an overview of the state of human rights and equality in Croatia at the first session of the Council in March 2022, and presented the recommendations from the 2021 Annual Report at its April 2022 session.

In July 2022, the European Commission published its third annual Rule of Law Report, which for the first time contained specific recommendations for Croatia to "[e]nsure a more systematic follow-up to recommendations and information requests of the Ombudsperson", indicating that the Commission has recognized the role of the Ombudswoman in the preservation of the rule of law.

Following a constructive discussion on the Ombudswoman's Annual Report, in particular on the recommendations made, the Human Rights Council adopted a conclusion calling on the public authorities to take appropriate measures and activities to implement the Ombudswoman's recommendations or to provide her with the appropriate justification of their inability to implement them.

In September 2022, the Council met again and discussed recommendations the Ombudswoman issued in relation to the rights of older persons.



6. Focus for Equality Bodies in Making Recommendations

This section addresses the scale of and focus for the recommendations being made by Equality Bodies.

Equality Bodies tend to give high priority to this policy advice function. This reflects an understanding of the impact, beyond the individual, to be achieved through ensuring an effective non-discrimination and equality focus in legislation and policy. This mainstreaming effect, and the wider societal impact it enables, stimulates significant levels of work by Equality Bodies in making recommendations. An institutional impact is also noted as influencing a prioritisation for this policy advice function by Equality Bodies, where making recommendations is seen to play a role in preventing discrimination.

Where Equality Bodies give a medium priority to this policy advice function, the issue at play tends to be the limited resources available to the Equality Body and the level of human resources required to make an impact through making recommendations. A further impediment noted to a higher prioritisation of this work is uncertainty as to the level of impact that can be achieved in a context of limited political will behind, or interest of public bodies in, the perspective and issues brought forward by the Equality Body. In some instances, a lack of explicit competences for the Equality Body for this function, has led to a low level of prioritisation of this policy advice function.

Some Equality Bodies note that the level of priority afforded to this function can vary over time, and this is evident in the varying scale of this work over time that is reported by most Equality Bodies. This appears to relate to the particular priorities being pursued by the Equality Bodies and the level of relevant legislative or policy development opportunities that are open for influence at any particular time.

The predominant focus for this Equality Body function is on legislation and making recommendations, from an equality and non-discrimination perspective, on draft legislation. This includes a particular focus on equal treatment legislation and the transposition of equality-related EU Directives. The key audience named here by Equality Bodies is government and, often to a lesser extent, parliament.

There is, at the same time, a significant focus by Equality Bodies on policy and making recommendations, from an equality and non-discrimination perspective, on draft policy. This includes a particular focus on targeted policy strategies or plans addressing specific discrimination grounds or particular issues of inequality and discrimination. The key audience named here by Equality Bodies is government.

There is a focus evident among Equality Bodies in making recommendations on policy making systems and on institutional practice, though this is more limited. This focus is often linked to the implementation of statutory equality duties promoting equality and preventing discrimination and to equality mainstreaming processes, including gender mainstreaming. It has also included a more specific focus on policing practice and procedure in some instances. There are also instances of recommendations being made by Equality Bodies to employers and service providers on issues of a systemic nature.

There is a further dimension to this work, where Equality Bodies make recommendations to UN and other international bodies monitoring implementation of human rights instruments, as in Ireland and Lithuania for example. Equality Bodies have used recommendations from these bodies to their

national authorities as a lever to focus and advance Equality Body recommendations in that jurisdiction, as in Northern Ireland and Poland for example.

The policy areas that are a focus for Equality Bodies in making recommendations, are broad. There is a particular emphasis on making an input into ground-specific legislative and policy initiatives. In terms of specific policy areas that are a focus for Equality Body recommendations, the areas of social protection, housing, employment, education, family and social policy, policing and health emerge as significant across the Equality Bodies that responded to the survey. A further emerging focus on AI/algorithmic discrimination is noted by some Equality Bodies.

Case Study, Equality Council, Moldova

The Equality Council's policy advice function is established under the anti-discrimination legislation, Law no. 121/2012 Law on Ensuring Equality and Law no. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality. This function includes a focus on current legislation, draft legislation, and, specifically, anti-discrimination legislation. The Equality Body can make proposals and adopt advisory opinions on such legislation, having regard to the standards prevalent on anti-discrimination.

The Equality Council developed a three-year Monitoring Strategy in 2021, to support a more strategic approach to this function. This strategy was a response to a concern at the low level of implementation of its recommendations in relation to current and draft legislation and policies. The strategy addressed the monitoring of 'legislation (regulatory acts in force, draft laws) and public policies' as one of the key directions for its monitoring function. In doing so, it set an objective of 'increasing the alignment of legislation and public policies with international and European standards on equality and non-discrimination'.

The Monitoring Strategy establishes: the types of activity to be undertaken; a prioritisation framework for this activity; and indicators, for reviewing and making recommendations on legislation and policy.

The types of activity identified for this function include 'core actions' and 'actions to propel'. The core actions are the preparation and submission of opinions based on its internal policies for reviewing and making recommendations in relation to legislation. These internal policies are: 'Review methodology of draft laws and policy documents, as well as legislation in force in regards to equality and non-discrimination', and 'Instruction on the monitoring procedure of the implementation process of equality and non-discrimination legislation'.

Actions to propel implementation of these recommendation include: discussion on the recommendation with key decision-makers involved in drafting the legislation or policy; commissioning a study or research project on the legislation or policy in focus, where this is current legislation or policy; good practice guidance developed and made available to those drafting the legislation or policy; training provided to those responsible for implementing the recommendation; communication of the

recommendation to civil society organisations working in the relevant field; and raising the issues identified in the Annual Report of the Equality Body.

The prioritisation framework establishes that a response is always made where draft legislation or policy is provided to the Equality Body for review. After that, a response is made to draft or current legislation or policy, where these relate to themes set annually by the Equality Council for its broader work. Annual action plans of the Equality Council establish the actions to be taken under this function, based on this prioritisation framework. Prioritisation is seen as important in a context of limited resources.

The indicators identified for this function include: number of recommendations drafted; number of actions taken to propel recommendations; number and rate of recommendations implemented/not implemented. A register of recommendations made is completed and kept up-to-date as a means of tracking progress.

In 2023, the Equality Council undertook a review of the progress made under this strategy. The review noted an increase in the number of recommendations made on draft laws and policies over the period, and in the rate of their implementation. While the number of recommendations on existing laws and policies did not increase due to a lack of resources, the rate of implementation of these recommendations also increased. It was noted that it is more difficult to get recommendations implemented that relate to mainstream policies and that have budgetary implications. Lack of resources was a constraint on the range of 'actions to propel' that could be implemented.

A successor strategy is now being prepared.



7. Equality Body Strategy in Making Recommendations

This section addresses the conditions created by Equality Bodies themselves for the effectiveness of their competence to make recommendations.

As a bedrock for this work, some Equality Bodies engage in horizon scanning to ensure an adequate and effective reaction to opportunities that arise for making recommendations as legislation, policies or policy systems are considered for development or review, and to track political focus and momentum as it emerges and builds around a particular issue.

Practice of Interest, National Centre for Human Rights, Slovakia:

The Equality Body has provided training for all staff, working as researchers, lawyers, policy experts, trainers or communication specialists, on how to formulate SMART recommendations. The training material, in the form of a short manual, is shared with new colleagues. SMART recommendations involve using language that makes clear to the addressee what it is being recommended to do, change, or refrain from.

Equality Bodies take steps to underpin their recommendations with substance, through:

- ☰ deploying casework outcomes and caselaw developed, and taking own initiative cases, to inform recommendations they are making or to drive implementation of recommendation they have made;
- ☰ undertaking research and gathering evidence on the situation that pertains in relation to the issue on which the recommendation is to be made;
- ☰ taking participative approaches to preparing recommendations, involving relevant and affected organisations and individuals, to gather inputs to shape the recommendation and the analysis that underpins it;
- ☰ convening expert advisory committees or using standing advisory boards, to inform and give status to the recommendation made by the Equality Body;
- ☰ ensuring recommendations are taken up and promoted by other entities, such as international bodies, civil society organisations and other institutions of influence;
- ☰ bringing forward recommendations jointly with other entities or developing mutual support for recommendations with other entities; and
- ☰ making use of recommendations made by UN and other international bodies to the country, aligning the Equality Body recommendation with these and drawing from these in the argument made.

Practice of Interest, Equality Ombudsman, Sweden:

The Equality Body has raised with the government over several years the issue of discrimination against people in their contact with the police. In part this is because they receive many complaints in this area that are not covered by current legal protection.

The government eventually established a public inquiry with this issue included in its mandate. An Equality Body representative was included as an expert in the inquiry,

enabling influence on the design of the legislative proposal that emanated. The Equality Body was able to present various of its relevant reports to the inquiry.

The Equality Body took a number of initiatives on foot of the conclusion of the public inquiry: highlighting its perspective on the proposals made; initiating a joint debate article on the issue with some twenty local anti-discrimination agencies; raising the issue in a letter to government when the Equality Body published its first annual report on the state of discrimination; and engaging with the media in public debate on the issue.

The issue is currently being addressed by the Ministry.

Equality Bodies take steps to empower their recommendations by engaging with the public bodies to whom recommendations are made, including:

- ≡ engagement with supportive personnel in Government ministries to ensure a focus on and an understanding of recommendations made;
- ≡ engagement with dedicated parliamentary committees to present, explain and discuss recommendations made;
- ≡ creation of and availing of opportunities for dialogue with the public body to whom the recommendation is made;
- ≡ participation in meetings convened by personnel from the public body to whom the recommendation is made;
- ≡ participation in structures, committees and working groups established by public bodies to progress legislation and policy initiatives; and
- ≡ use of Equality Body annual reports, in particular where these have to be reviewed and debated by parliament, as well as dedicated periodic reports required of some Equality Bodies on the situation of discrimination that pertains in their country.

Practice of Interest, Advocate of the Principle of Equality, Slovenia:

Twice yearly, the Equality Body sends an official follow-up inquiry to recipients of its recommendations. It then determines the status of compliance with the recommendations based on a review of their implementation. This status is made public, including through the annual report and website of the Equality Body. Recommendations that have not been implemented are highlighted to the relevant ministries at least once a year at meetings with ministers. The Equality Body informs the public through the media of the outcomes of these meetings.

Equality Bodies take steps to sustain a focus on recommendations made by those to whom the recommendation has been made and by a wider public, including:

- ≡ repetition of recommendations previously made and/or mapping the implementation status of recommendations made in annual reports;
- ≡ a focus on recommendations made in specific reports of the Equality Body;

- 📊 building of public interest behind the recommendations, including through engagement with the media and use of social media; and
- 📊 organisation of or participation in conferences or events to generate wider understanding of and debate on the issue in question, and to sustain interest in recommendations made.

Many Equality Bodies point to the importance of tracking their recommendations and the nature and level of their implementation as part of a follow-up process for this work. This serves to inform and drive an ongoing persistent advancing of recommendations that have not been implemented.

Follow-up is noted as a challenge by the Disability Ombudsman in Croatia, due to the number of recommendations that it is involved in making each year. Equality Bodies, it is suggested, could limit the number of recommendations and work on the quality of recommendations and how they can be implemented.

Practice of Interest: Equality Commission for Northern Ireland (ECNI)

The ECNI engaged with affected groups and relevant stakeholders to develop recommendations for reform of 'race' equality law in 2014. The ECNI highlighted these recommendations with a range of local organisations and international committees to secure their support, including a submission to ECRI's fifth monitoring cycle on the UK. ECRI subsequently recommended equality law reform in Northern Ireland in 2016, reflecting the ECNI's recommendations.

The ECNI engaged with government Departments, officials and elected representatives on the recommendations, and secured a commitment to review the legislation in the 2015-2025 Racial Equality Strategy. The ECNI was represented on the Strategy's implementation sub-group, which it used to highlight the recommendations. It used the mid-term review of the strategy to get a commitment that review of 'race' equality legislation would be prioritised

A legislative team to advance this review was then established by Government. In this context, the ECNI commissioned a further expert paper to inform an updated policy position for the review, and published a more detailed set of recommendations in 2022. In March 2023 the Government published consultation proposals for 'race' equality law reform, which reflected many of the ECNI recommendations. A wide range of initiatives followed with representative and community organisations and with government officials to build further support for the ECNI recommendations. The ECNI's recommendations were supported by a wide range of stakeholders in their submissions to the consultation proposals.

Work on progressing these recommendations is ongoing.

There are issues noted by many Equality Bodies of inadequate resources being made available to Equality Bodies. This impacts negatively on this policy advice function, as this work is noted as involving a high intensity and level of workflow with staff levels being important to enable this work.

Case Study, Unia, Belgium:

Unia has a broadly framed competence to make recommendations based on its mandate. This making of recommendations can be on request or on own initiative. There is some limited reference within this competence to a response being provided from the relevant authorities. The breadth of this mandate and the lack of specifics in relation to how it is to be exercised, while holding some limitations, is noted as offering a freedom for Unia in implementing this function.

This competence of making recommendations is accorded priority in the strategic plan and organisational structure of Unia. Unia takes a strategic approach to making recommendations that starts from a mapping of the political and societal context for its work, in order to enable early and timely policy advice interventions and recommendations. The approach is to further include follow-up and monitoring systems for its recommendations, which are currently under development.

The foundations for the recommendations made include:

- cases undertaken and caselaw in the field;
- research projects;
- publications on a specific topic usually include recommendations;
- contacts made in the relevant institutions, to enable a knowledge of what is going on in both the political and the societal fields; and
- formation of advisory committees to support this work, including committees: on the issue of racism; and on the issues facing people with disabilities.

While there is no legal obligation, key recommendations or recommendations that entail a change in position of Unia are discussed at the Board, which enhances the legitimacy of the recommendation.

Timing is important when it comes to making recommendations, and Unia seeks to make an early intervention at the point where key decisions are being made. This intervention can often be within government and government ministries rather than in parliament. This reflects that the Belgian political system depends on coalition governments, and key decisions are often a balanced agreement between coalition parties, leaving limited room for parliamentary interventions. Elections are seen as a key moment for making recommendations and a memorandum with key recommendations is elaborated for each election.

A databank and share-point on recommendations made is in place. This holds 335 Unia recommendations, since 2014, that are of both an overarching and general nature and of a more detailed and specific nature. The more overarching recommendations tend to be more principle based and can reflect areas where more detailed progress is seen as not being immediately possible.

Advocacy strategies are developed by Unia to progress these overarching recommendations. These strategies establish objectives, opportunities identified,

stakeholder analysis, and multi-level and short and long-term initiative for the recommendation. This approach reflects a long-term agenda for securing progress alongside a focus on seizing short-term opportunities of relevance that present themselves.

Allies taking up recommendations are seen to have a key contribution to make. The identification and mobilisation of key stakeholders as allies for these recommendations is incorporated as an important element of the advocacy strategies.

Unia has a specific team dedicated to this policy advice competence. This currently involves 14 staff (FTE), out of Unia's some 100 staff. This team encompasses different backgrounds: sociologists, political scientists and legal professionals.



8. Conclusions and Looking Forward

The policy advice function of Equality Bodies is deemed of significant value by these bodies, for its capacity to enable mainstreaming of equality and non-discrimination in legislation and policy, and through this to strengthen the societal and institutional impact that can be achieved by Equality Bodies. It is a function that Equality Bodies exercise across a broad range of policy areas.

However, there is a concern among Equality Bodies with the effectiveness of these competences and the subsequent lack of impact found by Equality Bodies to be possible in this area. This situation reflects lack of political will, limited interest within public bodies, and inadequate formal procedures through which to engage on recommendations made.

The powers afforded to Equality Bodies in relation to this function varies across the different jurisdictions. This ranges from a function that is largely left implicit in their mandate, to a more explicit setting out of the necessary competence. Only in a few instances are Equality Bodies afforded specific powers to underpin implementation of this competence and ensure its effectiveness. Where afforded, these powers usefully relate to obligations on the relevant institutions to seek the opinion of the Equality Body in relation to legislative and/or policy developments, and to give feedback to the Equality Body on recommendations made.

Equality Bodies engage with the relevant authorities on recommendations made through a range of processes, though these are rarely formalised. These include: presentations to parliamentary committees; invitation to provide opinions issued by a Ministry or agency; dialogue with a Ministry or agency on recommendations made; engagement in formal policy working groups or committees; public consultations; feedback systems in relation to recommendations made; and formal consideration of the Equality Body's annual report and its recommendations. Not all of these processes are found to offer effective access for Equality Bodies.

Equality Bodies have developed a wide range of useful practices that are applied in implementing their policy advice function and to underpin this function with some influence. However, it is only in a small number of cases that such practices form part of a wider strategic approach to implementing this function. In a context of limited impact, Equality Bodies are challenged to be strategic in their approach to implementing their policy advice function. The inadequate resources afforded to most Equality Body serves as a significant barrier to developing such a strategic approach, as does the limited powers afforded to Equality Bodies in relation to this policy advice function.

In looking forward:

The European institutions could usefully take steps to:

Ensure that the Directives on standards for Equality Bodies are adopted and efficiently transposed into Member State legislation, including provisions to strengthen the:

- policy advice function, with obligations on the relevant authorities to engage with the Equality Body in a timely manner in the development and review of legislation and policy, and to provide adequate and timely feedback on the recommendations made by the Equality Body.

- resource base of Equality Bodies such that they have adequate and appropriate resources to implement all their functions effectively, including this policy advice function.

Include a focus on the policy advice function in the common indicators developed after adoption of the Directives, with a focus on explicitly according the function to Equality Bodies, along with powers that ensure a potential to make an impact on legislation and policy-making, taking account of this perspective and the work done by Equinet in developing indicators for the mandate of an Equality Body.

The Member States could usefully take steps to:

Ensure that Equality Bodies have an explicit competence to make recommendations on legislation, policy, and policy-making systems, in matters that relate to their mandate, with specific and adequate powers to effectively implement this function in a manner that realises the full potential of the Equality Body.

Define and designate a formal engagement procedure for the Equality Body with public bodies that are developing legislative and/or policy initiatives, that involves: a timely invitation to the Equality Body to contribute an opinion and/or make recommendations; and, where an opinion and/or recommendations have been provided by the Equality Body, a process of dialogue to examine these jointly with the Equality Body.

Define and designate a formal and timely feedback mechanism by public bodies to whom Equality Body recommendations in relation to legislation, policy and policy systems are addressed, that sets out their understanding of and the level and nature of their implementation of these recommendations.

Enable Equality Body participation on and full contribution to legislative and policy working groups and advisory committees without any diminution of their independence and capacity to critique the outcomes of such processes.

Ensure Equality Bodies have the independence and have adequate resources to fully and effectively implement their policy advice function, alongside the full breadth of their functions.

Equality Bodies could usefully take steps to:

Sustain a priority for the policy advice function, along with the persistence needed to achieve impact, and develop a strategic approach to building influence behind and securing impact from recommendations made.



9. Appendix: Survey Questionnaire

1. Respondent Details

1.1 Name of respondent:

1.2 Contact details for respondent:

1.3 Name and location of Equality Body:

2. Powers of your Equality Body in relation to making recommendations

2.1 What provisions are made in legislation for, and what specific powers are accorded to, your Equality Body to make recommendations on policy, legislation, and policy systems?

3. Procedures put in place to enable Equality Body to effectively make recommendations

3.1 What are the type of procedures that are put in place by the authorities to facilitate your Equality Body to make recommendations on policy, legislation and/or policy systems, and what is your experience of these procedures?

Has your Equality Body availed of this? Yes or No?:

- Public consultation process
- Invitation from a Ministry or agency for comment or recommendationa
- Dialogue with relevant Ministry of agency officials
- Presentation to relevant Parliamentary Committee
- Participation on a formal policy committee or working group or advisory committee
- Feedback systems to respond to your recommendations
- Other (Please give details)

What is your view on the effectiveness and quality of this procedure? (Please give a reason for your view):

- Public consultation process
- Invitation from a Ministry or agency for comment or recommendations
- Dialogue with relevant Ministry of agency officials
- Presentation to relevant Parliamentary Committee
- Participation on a formal policy committee or working group or advisory committee
- Feedback systems to respond to your recommendations
- Other (Please give details)

4. Focus for Equality Body recommendations and priority afforded to this work

4.1 What priority do you give to this work of making recommendations: High/Medium/Low? What is the reason for this?

4.2 What is the scale of your work in making recommendations – number of policy and legislative related recommendations that you made over the past year – reactively and proactively?

4.3 What have been the main policy areas that have been a focus for your recommendations over the past year?

5. Equality Body strategies for making recommendations

5.1 What steps does your Equality Body take to give substance and leverage to the recommendations that you make?

5.2 What steps does your Equality Body take to build wider support from others for the recommendations that you make?

5.3 What steps does your Equality Body take to explain, discuss, and negotiate about your recommendations with the relevant authorities?

5.4 What steps does your Equality Body take to sustain an ongoing focus on your recommendations?

5.5 What steps does your Equality Body take to track, get feedback on, and follow-up implementation of your recommendations?

5.6 What other steps does your Equality Body take in relation to making recommendations?

6. Looking forward

6.1 What proposals would you make to the national or European authorities to improve the potential for and impact of your recommendations?

7. Practice Example

7.1 Would you like to include a practice example in the Perspective, from the work of your Equality Body in making recommendations – if so, could you provide some details on this practice?

8. Final Comment

Equinet Member Equality Bodies

ALBANIA

Commissioner for the Protection from Discrimination
www.kmd.al

AUSTRIA

Austrian Disability Ombudsman
www.behindertenanwalt.gov.at

AUSTRIA

Ombud for Equal Treatment
www.gleichbehandlungsanwaltschaft.gov.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
ncpe.gov.mt

MOLDOVA

Equality Council
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 Prevention and Protection against Discrimination
www.kszd.mk

NORWAY

Equality and Anti-Discrimination Ombud
www.ldo.no

POLAND

Commissioner for Human Rights
bip.brpo.gov.pl

PORTUGAL

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

PORTUGAL

Commission for Equality in Labour and Employment
cite.gov.pt/web/pt

PORTUGAL

High Commission for Migration
www.acm.gov.pt

ROMANIA

National Council for Combating Discrimination
www.cncd.ro

SERBIA

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

SLOVAKIA

Slovak National Centre for Human Rights
www.snspl.sk

SLOVENIA

Advocate of the Principle of Equality
www.zagovornik.si

SPAIN

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

SPAIN

Institute of Women
www.inmujeres.gob.es

SWEDEN

Equality Ombudsman
www.do.se

UKRAINE

Ukrainian Parliament Commissioner for Human Rights
www.ombudsman.gov.ua

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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