Council of the European Union

Brussels, 13 December 2022
(OR. en)

15952/22

Interinstitutional Files:
2022/0401(APP)
2022/0400(COD)

SOC 687
ANTIDISCRIM 121
GENDER 201
JAI 1668
FREMP 266

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2022) 386 final
Subject:	COMMISSION STAFF WORKING DOCUMENT Analytical document Accompanying the documents 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 and 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

Delegations will find attached document SWD(2022) 386 final.

EUROPEAN
COMMISSION

Brussels, 7.12.2022
SWD(2022) 386 final

COMMISSION STAFF WORKING DOCUMENT

Analytical document

Accompanying the documents

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

and

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) 689 final} - {SWD(2022) 387 final}

CONTENTS

1. 1. INTRODUCTION

1.1. 1.1. Political and legal context

This analytical document accompanies two proposals of directives on standards for equality bodies. It includes a retrospective analysis of the EU framework applicable to equality bodies, identifying current challenges, as well as an assessment of the policy options considered in preparation of these proposals to address them. This initiative was exempted from the obligation to conduct a fully-fledged impact assessment.

Equality is a fundamental value of the European Union, laid down in Article 2 of the Treaty on European Union (TEU). In accordance with Article 19(1) of the Treaty on the Functioning of the European Union (TFEU), the Council can take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. In addition, Article 157 TFEU provides for the principle of equal pay for male and female workers for equal work or work of equal value. Equality bodies established under EU equality legislation have a key role to play in ensuring implementation of these principles. This has also been acknowledged by the European Parliament, which adopted several resolutions in this regard[1]. The current list of equality bodies in EU Member States is annexed (see Annex 1).

In 2016, the Council adopted conclusions[2] calling on the European Commission and Member States to reinforce and continue to support the activities of national equality bodies and of the European Network of Equality Bodies (Equinet). In its Recommendation of 12 March 2021 on Roma equality, inclusion and participation[3], the Council also stressed the importance of supporting equality bodies so that they can, within the scope of their mandates, function effectively and independently and cooperate with all relevant actors. In 2022, the Council also adopted conclusions on combating racism and antisemitism[4] inviting Member States to support robust equality bodies and

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1 For example, European Parliament resolution of 15 September 2016 on the application of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ('Employment Equality Directive') (2015/2116(INI)), in which the Parliament noted the important role of the national equality bodies in the implementation of the Employment Equality Directive; or European Parliament resolution of 14 March 2017 on the application of Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services (2016/2012(INI)), in which the Parliament acknowledged that equality bodies played a crucial role in monitoring and ensuring the implementation of Council directive 2004/113/EC. In this resolution, Parliament also called on Member States to guarantee sufficient competence and independence in accordance with the provisions of the Directive and national law as well as sufficient resources for national equality bodies so they can fulfil their principal tasks in an effective way.

2 Council conclusions of 16 June 2016 on LGBTI equality. Council conclusions on LGBTI equality - Consilium (europa.eu)

3 Council Recommendation of 12 March 2021 on Roma equality, inclusion and participation (2021/C93/01).

4 Council Conclusions of 2 March 2022 on combating racism and antisemitism, 6406/1/22 REV 1.

adopt a legislative framework enabling them to carry out their role independently, and provide them with the necessary resources to carry out their tasks effectively.

In 2021, the European Parliament called on the Commission to propose legislation on equality bodies, with the aim of 'providing them with a stronger mandate and adequate resources to safeguard the equal treatment of persons with disabilities, and to ensure accessible information dissemination for all[5]'.

In the EU anti-racism action plan[6], the EU Roma strategic framework for equality, inclusion and participation[7], the LGBTIQ Equality Strategy[8], the Strategy for the Rights of Persons with Disabilities[9] and the EU Strategy on Combating Antisemitism and Fostering Jewish Life[10] as well as in its application report on the 'Racial Equality Directive' and on the 'Employment Equality Directive'[11], the Commission announced that it intended to propose measures to strengthen the role and independence of equality bodies. This commitment was confirmed in the Commission work programme 2022[12].

Equality bodies were first established by Directive 2000/43/EC ('Racial[13] Equality Directive')[14]. They were entrusted with the promotion of equal treatment through the following tasks: assisting victims of discrimination; conducting independent surveys; publishing independent reports and making recommendations on discrimination matters.

As regards the prohibition of discrimination based on sex, equality bodies were first introduced through a 2002 amendment of Council Directive 76/207/EEC on the

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5 European Parliament resolution of 10 March 2021 on the implementation of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation in light of the UNCRPD (2020/2086(INI)).

6 *A Union of equality: EU anti-racism action plan 2020-2025*, COM(2020) 565 final, 18.9.2020.

7 *EU Roma strategic framework for equality, inclusion and participation for 2020-2030*, COM(2020) 620 final, 7.10.2020.

8 *Union of equality: LGBTIQ Equality Strategy 2020-2025*, COM(2020) 698 final, 12.11.2020.

9 *Union of equality: Strategy for the Rights of Persons with Disabilities 2021-2030*, COM(2021) 101 final, 3.3.2021.

10 *EU Strategy on Combating Antisemitism and Fostering Jewish Life (2021-2030),* COM(2021) 615 final, 5.10.2021.

11 *Commission Report on the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('the Racial Equality Directive') and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('the Employment Equality Directive')* COM(2021)139 of 19 March 2021.

12 *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Commission work programme 2022, Making Europe stronger together,* COM(2021) 645 final, 19.10.2021.

13 The use of the term 'racial origin' in the Treaty on the Functioning of the European Union and Council Directive 2000/43/EC does not imply any acceptance by the EU of theories that attempt to determine the existence of separate human races.

14 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, available at EUR-Lex - 32000L0043 - EN - EUR-Lex (europa.eu).

implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions[15]. Directive 76/207/EEC was later repealed and replaced by Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) ('Gender Equality Directive in the field of employment')[16]. Two additional equality directives entrusted equality bodies with the same responsibilities in their respective field: Directive 2004/113/EC ('Gender Equality Directive in the field of goods and services')[17], and Directive 2010/41/EU ('Gender Equality Directive in the field of self-employment')[18]. Directives 2006/54/EC and 2010/41/EU have added the additional responsibility for equality bodies to exchange information with corresponding European bodies, such as the European Institute for Gender Equality ('EIGE'). Finally, Article 15 of Directive (EU) 2019/1158 on work-life balance for parents and carers provides that Equality bodies under Directive 2006/54/EC have competence for issues relating to discrimination falling under its scope.

The rationale behind the establishment of equality bodies and the tasks assigned to them was to (i) ensure that (potential) victims are aware of their rights and the existence of equality bodies; (ii) ensure assistance and redress for victims; (iii) improve factual knowledge about the state of discrimination; (iv) better inform policymaking; and (v) improve the behaviour and awareness of companies and the general public about matters of discrimination.

There are also two more Equality Directives that do not contain provisions on equality bodies: Directive 79/7/EEC ('Gender Equality Directive in the field of social security')[19] and Directive 2000/78/EC ('Employment Equality Directive')[20].

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15 Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (Text with EEA relevance), OJ L 269, 5.10.2002, p. 15–20.

16 Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0054.

17 Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0113.

18 Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0041.

19 Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31979L0007.

20 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, available at EUR-Lex - 32000L0078 - EN - EUR-Lex (europa.eu)

Two further proposals put forward by the Commission recently contain references to equality bodies, namely the proposal for a Pay Transparency Directive[21] and the proposal for a Directive on combatting violence against women and domestic violence[22].

The proposed Equal Treatment Directive[23], being negotiated since 2008, also includes provisions on equality bodies. The proposal intends to cover discrimination based on religion or belief, disability, age or sexual orientation in the fields of social protection, including social security and healthcare, social advantages, education and access to and supply of goods and other services that are available to the public, including housing.

In 2018, the Commission issued a Recommendation on standards for equality bodies ('2018 Recommendation')[24]. This non-binding instrument contains suggestions regarding the mandate and independence of equality bodies and cooperation and coordination between them and with other relevant authorities.

In 2021, the Commission examined the implementation of the 2018 Recommendation in its report on the application of the Racial Equality Directive and the Employment Equality Directive ('2021 application report')[25] and the accompanying dedicated staff working document ('2021 Staff Working Document')[26].

The 2021 application report indicated that, in most cases, equality bodies have proved to be key to promoting and enforcing equal treatment legislation. Equality bodies are essential for ensuring that individuals and groups facing discrimination can enjoy their right in full. They have emerged as necessary and valuable institutions for change at the level of individuals, institutions and society at large. They should therefore be able to effectively perform the tasks assigned to them under EU law. However, challenges remain. Divergences in terms of their mandate, powers, structure, leadership,

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[21] Proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principal of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, COM(2021) 93 final.

[22] Proposal for a Directive of the European Parliament and of the Council on combatting violence against women and domestic violence, COM(2022) 105 final.

[23] Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM(2008) 426 final.

[24] Commission Recommendation 2018/951 of 22 June 2018 on standards for equality bodies, available at https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32018H0951.

[25] Report from the European Commission to the European Parliament and Council on the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('the Racial Equality Directive') and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('the Employment Equality Directive'), COM(2021) 139 final, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52014DC0002.

[26] Staff Working Document 'Equality bodies and the implementation of the Commission Recommendation on standards for equality bodies', accompanying the Report from the European Commission to the European Parliament and Council on the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('the Racial Equality Directive') and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('the Employment Equality Directive'), SWD(2021) 63 final, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021SC0063.

independence, resources and effectiveness have led to an unequal enforcement of the Directive across Member States, as regards the level and nature of protection and the promotion of equality and awareness-raising among the general public and national institutions. While many Member States pointed to the important work of equality bodies at national and local level to tackle discrimination and address underreporting, few people would, according to surveys, report an incident of discrimination to such bodies. Reasons for not reporting cases of discrimination may include doubt about chances of success, unawareness of rights and/or of the existence of equality bodies, difficulties to provide evidence; and/or fear of retaliation. Other concrete problems that may hamper access to justice (which particularly affect the most vulnerable or marginalised groups) include the costs, complexity and length of proceedings, and uncertainty as to the outcome of the case.

The 2021 Staff Working Document concluded that a limited and unequal level of implementation of the 2018 Recommendation continues to hinder some equality bodies in effectively exercising their role, leading to different levels of protection against discrimination across the EU. A key cross-cutting issue negatively affecting the execution of the responsibilities and activities of equality bodies is the inadequacy of their resources in terms of funding and staff. Other major challenges include a limited awareness of the equality bodies' existence, limited independence (or insufficient legal safeguards to independence) and limited legal standing. In addition, not all equality bodies are competent for all the fields and grounds put forward by the Recommendation.

1.2. 1.2. Analysis in preparation of this initiative

To further substantiate the findings of the 2021 Staff Working Document and get a complete picture of the current state of play as regards equality bodies, a retrospective analysis has been conducted to inform this analytical document. The retrospective analysis focuses on all 27 Member States and covers the period from 29 June 2000, the adoption date of the first Directive that introduced equality bodies, namely the Racial Equality Directive. However, it is worth noting that some Member States joined the EU after this date; for these Member States, the period examined by the retrospective analysis starts from the date of their accession (1 May 2004[27], 1 January 2007[28] and 1 July 2013[29]). For the retrospective study and this analytical document, the term 'EU framework' is used to refer to the provisions concerning equality bodies in the equality directives as well as the 2018 Recommendation on standards for equality bodies.

The analysis is built on findings and conclusions of research conducted by an external contractor ('VVA'). Its results, and the retrospective analysis it contains, are summarised below. A full analysis is included in Annex 5. The research was conducted before Spain

[27] CZ, EE, CY, LV, LT, HU, MT, PL, SI, SK.

[28] BG, RO.

[29] HR.

reformed its anti-discrimination legislation in July 2022[30]. The information presented in this analytical document presents the situation in Spain before the reform[31].

Evaluation criterion	Overall assessment	Detailed assessment
EFFECTIVENESS	Limited regarding fight against and prevention of discrimination	Progress in countries where equality bodies did not yet exist.
		Some Member States have established well-functioning equality bodies
		Ongoing high levels of discrimination[32]
		Victims remain mostly unaware about their rights.
		Underreporting remains a considerable problem.
		Current EU framework is too general and narrow in scope to establish effective equality bodies.
		The overall capacity of the EU framework to contribute to the set up equality bodies that are fully enabled to fight and prevent discrimination has been assessed as limited: -public awareness about and knowledge of discrimination remains limited. -many equality bodies are not properly equipped to assist victims effectively.
EFFICIENCY	Limited/Inconclusive	Many equality bodies are not properly resourced.
		Inconclusive on costs and benefits due to lack of available data.
COHERENCE	Overall positive at all levels[33]	Coherence with the EU Treaties and the Charter of Fundamental Rights of the EU ('the Charter') is high.

[30] Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación: BOE.es - BOE-A-2022-11589 Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación.

[31] In its title III, the law creates a new equality body, "la Autoridad Independiente para la Igualdad de Trato y la No Discriminación". While the decree for this creation has not yet been adopted, the caracteristics of this new equality body appear to be aligned with the 2018 Recommendation and the Commission's proposals.

[32] The root causes of discrimination are many and complex, including persisting stereotypes. Political and socio-economic factors may also come into play. The limited effectiveness of equality bodies is only one contributing factor, among others, to the ongoing high level of discrimination.

[33] The survey conducted by VVA to assess coherence with national law was however not fully conclusive in all cases.

		EU Directives and international instruments[34] are consistent with each other, the latter only being more detailed due to their different nature.
EU ADDED VALUE	Positive with limitations	EU framework led to the set-up of equality bodies in about half of the then EU-15 Member States which did not yet have such bodies in place.
		EU intervention provides added value, but would need to be more detailed and concrete.
RELEVANCE	Positive with limitations	EU framework`s original objectives still meet current needs.
		Original legal framework for equality bodies was too narrow and vague.

Assessment categories: very positive positive limited negative inconclusive

The EU framework's effectiveness has been assessed as limited regarding progress on the fight against, and prevention of, discrimination. Some progress has been made, especially in countries where equality bodies did not exist before the EU intervention; however, the desired effects were not fully achieved. The retrospective analysis has shown that levels of discrimination remained high[35], while victims' awareness about their rights remained low[36]. Underreporting is still a considerable problem and public awareness about and knowledge of discrimination remains limited[37]. Even if some Member States have established well-functioning equality bodies, the EU framework is too general and narrow in scope to establish effective equality bodies generally. Many equality bodies are not properly equipped to assist victims effectively.

Efficiency has been assessed as inconclusive on costs and benefits, mainly due to limited data availability. This situation has not been mitigated by the more detailed 2018

[34] Such as the General Policy Recommendation No2 on equality bodies adopted by the European Commission against Racism and Intolerance (ECRI) (https://rm.coe.int/ecri-general-policy-/16808b5a23) and the Paris Principles adopted by the United Nations and applicable to national human rights institution (https://ganhri.org/paris-principles/)

[35] For example, a Eurobarometer survey conducted in 2019 showed that 59% of Europeans believed that discrimination based on ethnic origin was widespread in their country (compared with 64% in 2015). For other grounds, such as sexual orientation, religion, disability and age, the rates were 53%, 47%, 44% and 40% respectively.

[36] The EU-MIDIS II survey conducted by the European Union Agency for Fundamental Rights (FRA) in 2015-2016 found that 71% of respondents could not think of a single organisation that could offer support to victims of discrimination, be it government-based, an independent institution or authority, such as an equality body, or an NGO. When given the name of an equality body, 62% of respondents indicated that they had never heard of them.

[37] The EU-MIDIS I and II surveys conducted by FRA in 2009 and 2015-2016 found that the number of people who complained after having been subject to racial or ethnic discrimination was 18% in EU-MIDIS I and 12% in EU-MIDIS II. Only 13.6% of respondents to the open public consultation conducted to inform this analysis reported incidents of discrimination they have experienced to an equality body. Among those who did not report an instance of discrimination, 18.8% were not aware of the existence of the equality body, 18.8% replied that reporting would not make a difference and 15.6% were not sure of the competence of the equality body.

Recommendation given its non-binding nature. The retrospective analysis has shown that equality bodies' resources are a considerable problem in this context, as they vary greatly between Member States and, for a majority of equality bodies, are insufficient to fulfil all their tasks.

Coherence has been assessed as generally positive at EU level and overall positive[38] at other levels. The retrospective analysis has shown that coherence with the EU Treaties and the Charter of Fundamental Rights of the EU are high, as the EU framework intends to enhance equality and non-discrimination, which are among the founding values of the EU. Non-discrimination is also a fundamental right protected by the Charter. While international instruments, such as the Paris Principles and Recommendation No 2, of the European Commission against Racism and Intolerance, are more detailed due to their different legal nature, there is no inconsistency on substance between them and the EU Directives in force. They are also consistent with the 2018 Recommendation.

EU added value has been assessed as positive. The retrospective analysis has shown that before the EU framework was put in place, only about half of the (EU-15) Member States had an equality body, and with a limited mandate. Stakeholders also confirmed that equality bodies would not have been set up in all Member States without the EU taking action. The consistently high levels of discrimination throughout the Member States show that there is still added value from having EU action on equality bodies, but also that it would benefit from being more detailed and concrete.

Relevance of the EU framework's original objectives in view of the initial and current needs has been assessed as positive. However, the original approach (the legal framework for equality bodies) has been considered as too narrow and vague. This view is generally shared by all stakeholders. The retrospective analysis has shown that there is broad support for taking further action to tackle the issues identified above[39] and to make sure that equality bodies have the resources to address new issues, such as those related to automated systems.

Overall, the retrospective analysis concluded that the framework's ambition of ensuring implementation and enforcement of EU law on combating unequal treatment and discrimination and increasing prevention had not been fully achieved.

2. 2. PROBLEM DEFINITION

2.1. 2.1. What are the problems?

Despite the EU rules in force to fight discrimination and increase prevention, discrimination persists and remains a considerable problem still today. Equality bodies

[38] The survey conducted by VVA to assess coherence with national law was however not fully conclusive in all cases.

[39] The overwhelming majority (97.2%) of respondents to the open public consultation consider that establishing strong and effective equality bodies is important. 81.3% consider that adopting new binding minimum standards for equality bodies would have a positive impact for them.

were set up to help ensure implementation and enforcement of EU law on combating discrimination and to increase prevention. However, as the retrospective analysis demonstrated, they were only partially successful in doing so.

The retrospective analysis has shown that there are a range of underlying problems that led to this situation. In the equality directives in force, the provisions referring to equality bodies are very vague and broad, the directives do not include provisions on the functioning of equality bodies, and they fail to address more specific issues. Notably, while the EU provisions on equality bodies mandate them to assist victims of discrimination, they do not specify what this entails. As a result, the scope of services that equality bodies provide to victims of discrimination may not match their needs and not be equivalent in all Member States. For example, some equality bodies do not provide legal advice[40] and others do not provide it for free[41]. Some do not engage in mediation and/or conciliation activities[42]. Equality bodies from less than half of Member States can represent victims[43], intervene in support of them[44] in court or engage in strategic litigation[45]. In a third of Member States, they can launch collective complaints[46] or bring proceedings to a court without an identifiable victim[47]. Half of the Member States[48] allow equality bodies to act as *amicus curiae*[49]. The retrospective analysis has shown that the grounds and fields covered by the Employment Equality Directive and the Gender Equality Directive in the field of social security are highly relevant since many of the cases of discrimination that occur fall under the scope of those Directives[50].

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40 CZ, NL and one out of two equality bodies in MT.

41 One out of two equality bodies in MT.

42 CZ, EE, LT, NL and PL. One out of two in ES and one out of three in HR and PT. This reflects the situation before Spain amended its legislation in July 2022.

43 BE, DK, IE, IT, LV, SI, SK, FI and SE. MT and AT have two equality bodies and only one of them has this power.

44 BE, DK, IT, HU, PL and SK. MT, AT and FI have two equality bodies and only one of them has this power. HR has three equality bodes; two of them have this power.

45 BE, DK, IE, FR, LV, PL, SI, SK and SE. AT and FI have two equality bodies and only one of them has this power. HR has three equality bodes; one of them have this power.

46 BE, LV, SI, SK and SE. ES and AT have two equality bodies and only one of them has this power. HR has three equality bodes; one of them have this power. N.B. It is to be noted that this reflects the situation before Spain amended its legislation in July 2022.

47 BE, DK, IE, IT, LV, LT and SI. MT and AT have two equality bodies and only one of them has this power.

48 BE, BG, IE, FR, IT, LV, LT, HU, NL, PT, RO and SK. PL and FI have two equality bodies and only one of them has this power.

49 i.e. they can submit observations to the courts without being a party to the proceedings

50 This is corroborated by the 2019 Eurobarometer survey, where many respondents felt that discrimination persisted in recruitment – as a result of being considered too young or too old (47%), disability (41%), being Roma (38%), ethnic origin in general (32%), expressing a religious belief (28%) or their sexual orientation (22%). About one in five respondents (21%) who had felt discriminated against on one or more grounds in the previous 12 months said that this had happened at work and 13% when looking for work.

However, in the absence of an obligation in these directives, the mandate of some equality bodies does not cover those grounds and fields[51].

The retrospective analysis has also shown that many victims still do not know to whom they can turn if they have been discriminated against[52]. Some do not come forward because they fear negative consequences for themselves. The same may be true not only for victims, but also for witnesses and whistle-blowers. Others do not seek assistance or redress because they are unaware of the existence of equality bodies and laws that protect them against discrimination in the first place. Lack of accessibility may also be a problem for some victims, due to factors such as remoteness (e.g. if the victim lives in a rural area and the equality body has only one office in the capital)[53]. The same may be true for victims who are computer-illiterate or those who have a disability. Fees charged by the equality body for providing assistance may pose an obstacle as well.

When providing assistance to victims, some equality bodies do not take aspects of prevention into account, which would add a more macro-level dimension beyond the individual case at hand. The use of strategic litigation would serve similar ends. This is in line with some of the objectives of the original intervention, namely (i) improved factual knowledge about the state of discrimination, (ii) better informed policymaking and (iii) improved behaviour and awareness of companies and the general public. However, the retrospective analysis has shown that fostering such public knowledge and awareness was not fully successful. Many equality bodies do not (or do not have the competencies to) engage in equality mainstreaming and/or the promotion of equality and non-discrimination. Their level of activity in conducting surveys, pursuing research and publishing reports also varies[54]; this would however be key in order to address the still continuing lack of knowledge on the state of equality and discrimination. To that end, equality bodies also need to collect and/or have access to primary and secondary data[55]. Taking into account equality bodies' knowledge and insights is also important to increase

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51 For example, in Portugal, the grounds of disability and age are not covered in any fields (including employment). In Spain, only Race and Gender are covered; however this will change once the recent law, adopted in July 2022, is implemented. In other Member States, the territorial sharing of competences lead to the absence of coverage of these grounds and fields in some parts of the territory.

52 The EU-MIDIS II survey found that 71% of respondents could not think of a single organisation that could offer support to victims of discrimination, be it government-based, an independent institution or authority, such as an equality body, or an NGO. When given the name of an equality body, 62% of respondents indicated that they had never heard of them. Among the respondents to the open public consultation who did not report an incident of discrimination they experienced, 18.8% were not aware of the existence of the equality body, 18.8% replied that reporting would not make a difference, 15.6% were not sure of the competence of the equality body, 15.6% stated that the administrative process was too complex, 9.4% reported it to another instance and 3.1% considered the fees too high.

53 The retrospective analysis has shown that equality bodies from 15 Member States do not have local or regional presences. (This includes some Member States that have two or three equality bodies were this is only true for some of them.)

54 Currently, the EU Equality Directives empower equality bodies to conduct surveys and publish reports; the frequency of these activities however varies greatly from monthly, through quarterly, bi-annually, annually, and biennially to never.

55 Equality bodies collect primary and secondary data in three quarters of Member States.

the quality of policymaking in the area of equality and non-discrimination and compliance by duty bearers.

The current provisions on cooperation between stakeholders in the relevant EU equality directives are very narrow[56]. To better foster public knowledge and awareness about equality and non-discrimination, efficient cooperation and knowledge exchange between relevant stakeholders, such as other equality bodies and civil society, would be important. The same is true for exchanges at national, European and international level. Currently, this is not always the case[57].

Equality bodies currently often lack a long-term perspective in the planning of their activities. Another issue concerns the follow-up of recommendations issued and decisions taken by equality bodies, which are at the moment not always implemented. Generally, the rules provided for by the existing EU framework are not always properly enforced. This is due either to their broad and vague nature (those in the directives) or to the fact that they are non-binding and therefore not enforceable (those provided in the 2018 Recommendation).

2.2. 2.2. What are the problem drivers?

Even though most problems have specific underlying drivers that will be discussed below, the retrospective analysis[58] has shown that there are also some drivers that are common to the majority of problems addressed above. These are the lack of independence, lack of resources and inability to focus sufficiently on the equality mandate that some equality bodies face.

Overall, it can be said that many of the drivers are the lack or ambiguity of existing rules on various aspects of equality bodies' tasks. More specifically, the fact that not all existing EU equality directives[59] contain provisions on equality bodies means that in some Member States, equality bodies do not cover all the grounds and fields addressed by those directives and consequently do not offer assistance to victims on the grounds and in the fields concerned. The vagueness of existing provisions and the fact that they do not cover the full scope of assistance to victims results in the divergences and wide diversity of powers attributed to equality bodies in different Member States, as addressed above. While some level of divergence between Member States can be explained by different legal systems and traditions, the retrospective analysis has shown that differences in levels of protection go beyond that and result in differing levels of

[56] Only the Gender Equality Directives in employment and self-employment contain provisions on cooperation and coordination and those are very limited.

[57] Equality bodies in all but one Member States are enabled to cooperate with European and international organisations and bodies. All equality bodies cooperate with national authorities, although the frequency varies, but three quarters are in monthly contact with them. Most equality bodies also engage in regular exchanges with civil society. In those eight Member States with two or three equality bodies, some form of cooperation exists between them, although the concrete framework varies.

[58] Please refer to Annex 5 for more details

[59] For example the Employment Equality Directive and Gender Equality Directive in the field of social security.

protection of the fundamental right to non-discrimination. The lack of awareness of equality bodies and equality law among certain groups in some Member States is also due to the fact that Member States do not fully ensure that people are informed about the existence and tasks of equality bodies.

The reason why some equality bodies do not engage in equality mainstreaming and/or the promotion of equality and non-discrimination is also because the role attributed to them in this field is not explicit. In many Member States, there is a lack of data on the activities of equality bodies and a lack of access by equality bodies to equality data. Since the rules on surveys and reports are very unclear, they are interpreted very differently. The existing rules on cooperation are either non-existent or very narrow. In addition, there is also no official consultation requirement of equality bodies in the policy-making process.

Finally, the absence of a requirement for strategic planning often results in the lack of a long-term perspective of equality bodies activities. Recommendations and decisions of equality bodies are not always implemented, in part because there is no obligation for decisions to be enforceable and for recipients of recommendations to provide feedback to the equality body. Also, the ambiguity of the current provisions on equality bodies significantly limits their enforceability. The basic monitoring system in the current directives consists of general reporting by Member States on the implementation of the equality directives as a whole every five years. This does not offer sufficient insight into how equality bodies perform their tasks.

3. 3. WHY SHOULD THE EU ACT?

3.1. 3.1. Legal basis

The initiative covers six equality directives, four of which currently contain provisions on equality bodies (the Racial Equality Directive (2000/43/EC), the Gender Equality Directive in the field of goods and services (2004/113/EC), the Gender Equality Directive in the field of employment (2006/54/EC) and the Gender Equality Directive in the field of self-employment (2010/41/EU)), and two of which do not currently include provisions on equality bodies to cover their grounds/fields (the Employment Equality Directive (2000/78/EC) and the Gender Equality Directive in the field of social security (79/7/EEC)).

The initiative consists of two proposals identical in substance, one based on Article 19(1) TFEU and one based on Article 157(3) TFEU to match the legal bases for the above acts.

Article 19(1) TFEU provides the legal basis for secondary legislation, such as directives, to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 157(3) TFEU provides the legal basis for measures to ensure the application of the principle of equal opportunities and equal

treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

The proposal based on Article 19(1) TFEU will cover the following four directives: the Racial Equality Directive (2000/43/EC), the Gender Equality Directive in the field of goods and services (2004/113/EC), the Employment Equality Directive (2000/78/EC) and the Gender Equality Directive in the field of social security (79/7/EEC).

The second proposal, based on Article 157(3) TFEU, will cover the following two directives: the Gender Equality Directive in the field of employment (2006/54/EC) and the Gender Equality Directive in the field of self-employment (2010/41/EU).

3.2. 3.2. Subsidiarity: necessity of EU action

The present initiative does not introduce legislation in a new area, but only revises or complements already existing legislation in order to increase its effectiveness. The aim of this intervention is to set common minimum standards for equality bodies across the EU, taking into account the diversity of legal traditions in the Member States and fully respecting their institutional autonomy. Since the co-legislators already passed EU legislation on equality bodies, the assumption is that the principle of subsidiarity is respected if the EU takes action in this area.

In the explanatory memorandum to the Racial Equality Directive, the Commission underlined the importance of providing access to redress in order to reinforce the fundamental values on which the EU is founded, such as equality, non-discrimination, fundamental rights and tolerance, and to contribute to the development of the EU as an area of freedom, security and justice. It also stressed the goal to help strengthen economic and social cohesion by ensuring that people in all Member States enjoy a basic level of protection against discrimination, with comparable rights to redress, while taking account of the cultural diversity of Member States. The same reasoning is also valid for the grounds and fields covered by the other directives. The same is also true in cross-border situations if citizens who reside in one Member State experience discrimination in another Member State.

Under Article 3 TEU, the fight against social exclusion and discrimination, and the promotion of social justice and protection, and of equality between women and men are amongst the EU's objectives. Non-discrimination is also a fundamental right laid down by Article 21(1) of the Charter of Fundamental Rights of the European Union ('the Charter'). Article 23 of the Charter stipulates that equality between women and men must be ensured in all areas, including employment, work and pay. In order to safeguard citizens' and workers' rights to freedom of movement, access to both protection from discrimination and redress mechanisms has to be ensured throughout the EU. The strengthening of equality bodies serves as a means to this end. This is in line with strengthening economic and social cohesion, as outlined above.

In this regard, the present initiative pursues the same goals as the original provisions on equality bodies in the equality directives. As the retrospective analysis annexed to this analytical document shows, existing provisions on equality bodies have, due to their vagueness, proven not to be successful enough in reaching their objectives[60] or in contributing towards the EU's common goals of the listed in the Treaties, as outlined above. While all Member States struggle with continuing discrimination, the specific levels vary from Member State to Member State[61]. Currently, great discrepancies exist in the structure, tasks, powers and mandate of equality bodies in the Member States[62]. This also hinders the effective implementation and enforcement of existing EU equality law. The conclusion, therefore, is that EU action is warranted to remedy the situation.

In preparing this initiative, the Commission conducted extensive consultations. A great majority (more than 80%) of stakeholders at national, regional and local level supported the introduction of minimum binding standards for equality bodies[63]. Member States have particularly stressed the importance of respecting diverse legal traditions.

3.3. 3.3. Subsidiarity: Added value of the EU intervention

The analysis of the situation before the establishment of equality bodies clearly demonstrated the added value of the EU intervention. Prior to it, equality bodies existed in only a few Member States and their setup varied – and continues to vary - greatly. Indeed the framework left considerable leeway to Member States, which prevented reaching the objectives to a satisfactory extent. This is why further EU action is warranted and expected to bring a clear added value[64].

Strengthened standards for equality bodies will ensure that all Member States provide sufficient powers and resources to their equality bodies for effectively fighting and preventing discrimination, and for ensuring assistance and access to redress for victims of discrimination. The rules will be enforceable at EU level. They are expected to lead to a reduction in the prevalence of discrimination. In turn, this will lead to a reduction of the costs associated with discrimination.

EU-level action in this context is also relevant to the functioning of the single market. The single market is built on fundamental freedoms, such as the freedom of movement

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60 Please consult the evaluation annexed to this analytical document for a detailed description of the objectives of the initial intervention and an analysis of the extent to which they have been reached.

61 For example, a Eurobarometer survey from 2019 found wide diversity in attitudes towards minorities across Member States. For example, on average, 79% of respondents said they would feel comfortable having daily contact with a colleague who is a person of colour. However, the rate varies greatly by Member State, from 96% of respondents in the Netherlands and 95% in Sweden to 46% in Hungary, 48% in Bulgaria and 57% in Austria. Similarly, two thirds of respondents in the EU said that they would feel comfortable if one of their children was in a love relationship with a person of colour. However, by Member State, this varies from 89% in the Netherlands, 88% in Sweden, 86% in the United Kingdom (UK was still a Member State at the time) and 80% in France to 33% in Slovakia, 26% in Hungary and 15% in Bulgaria.

62 For further details, please consult the evaluation annexed to this analytical document.

63 Please consult Annex 3 for further details.

64 Please consult Annex 5 for further details.

for workers. To safeguard this principle, it is important to guarantee the fundamental right of non-discrimination as laid down by the Charter and to ensure access to protection from discrimination and to redress mechanisms in all Member States and for all grounds and fields covered by the equality directives. As outlined above, equality bodies are a means to contribute to this goal.

4. 4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

Taking into account all of the above, the Commission identified the following objectives for this initiative on equality bodies.

4.1. 4.1. Objectives

This initiative has 21 objectives to tackle the problems and drivers identified above. Those can be grouped under three main thematic areas.

Minimum standards to deal with cases of discrimination/provide assistance to victims – mandate, powers, accessibility

- O1: Assist those victims who are currently outside the scope of protection on the grounds and fields that are covered by the Employment Equality Directive and Gender Equality Directive in social security.
- O2: Ensure victims have access to information and advice targeted to their situation.
- O3: Ensure that victims have access to amicable settlement mechanisms.
- O4: Ensure that victims can make their case in court proceedings and receive appropriate assistance to have a fair chance of winning.
- O5: Offer assistance to more victims, also to those who may be unaware that they are discriminated against[65]. Address cases of discrimination that would otherwise not be tackled.
- O6: Improve the knowledge of the general population, with particular attention to individuals and groups at risk of discrimination, on the rights under the Equality Directives and where they can get assistance in cases of discrimination.
- O7: Ensure confidentiality for witnesses, whistle-blowers and complainants.
- O8: Ensure that victims, including those in particularly vulnerable situations and those with disabilities, can submit claims and receive proper support.
- O9: Ensure that victims of discrimination can access assistance regardless of their financial means.
- O10: Support victims in remote areas and those who are not IT literate.

[65] This refers to cases where equality bodies act in their own name, in the absence of an identified victim and/or in the framework of an *actio popularis*.

- O11: Ensure that all equality bodies may suggest measures to prevent the same situation from arising again in the future when assisting victims.

- O12: Elicit social, legal and policy changes via strategic litigation.

Minimum standards to foster public knowledge and awareness about equality and non-discrimination

- O13: Improve the knowledge base about equality and discrimination as well as mutual learning between equality bodies and with other stakeholders.

- O14: Promote equality and non-discrimination.

- O15: Improve the knowledge on the concrete activities of equality bodies and on the state of discrimination in general.

- O16: Improve statistical evidence on equality and proper analysis of relevant data.

- O17: Ensure that equality bodies can provide their insights on equality and non-discrimination policies and practices to policymakers and public and private entities.

Minimum standards on monitoring and enforcement

- O18: Ensure coherent actions of equality bodies on a long-term perspective.

- O19: Ensure that, if equality bodies issue opinions there is an incentive for recipients to give appropriate feedback.

- O20: Ensure that, if equality bodies have binding decision-making powers, their decisions are enforced and subject to judicial review.

- O21: Ensure that the provisions on equality bodies are clear enough to be enforceable and that there are clear monitoring and reporting obligations regarding their implementation.

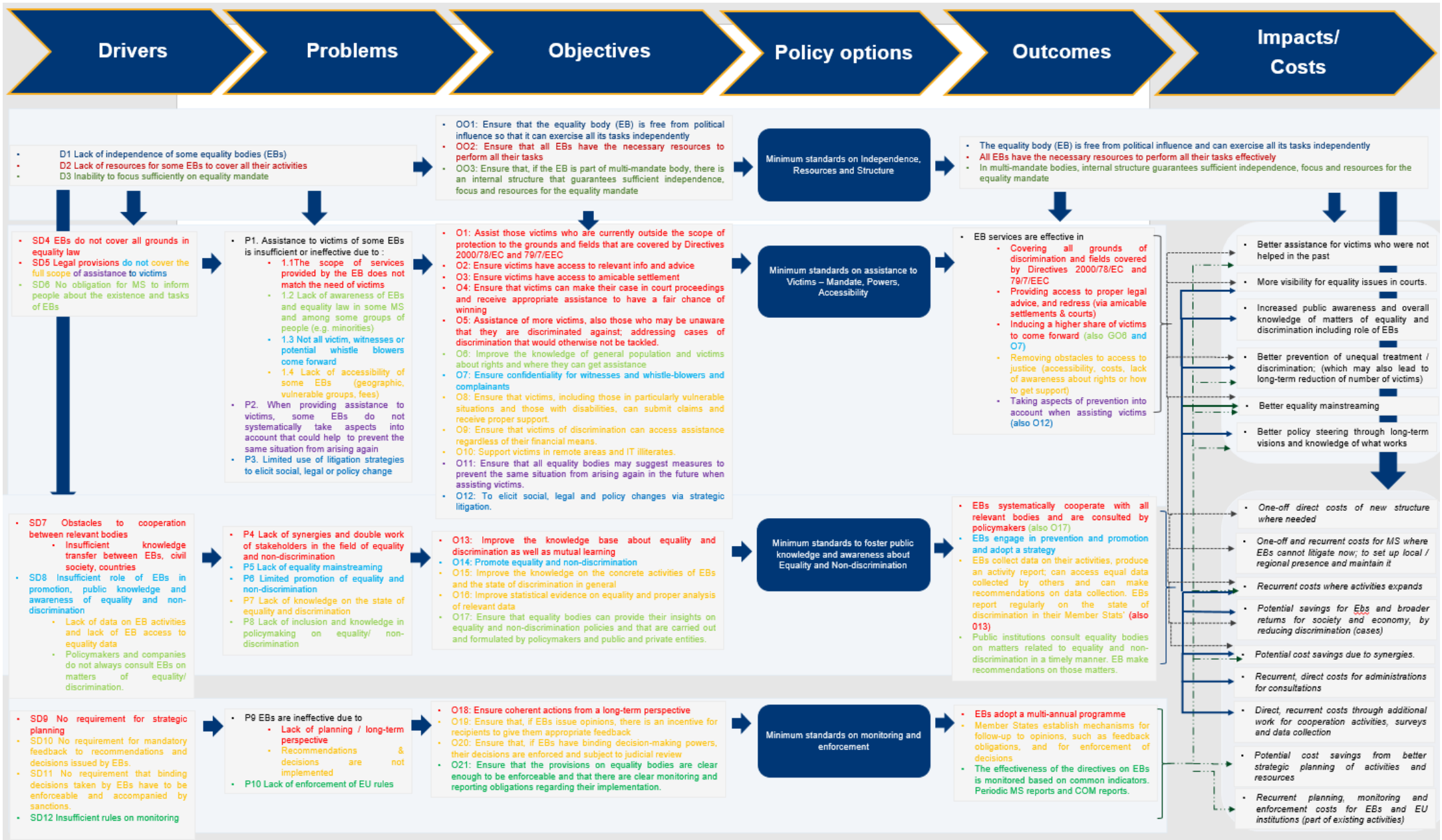
4.2. 4.2. Operational objectives

As shown by the retrospective analysis and already discussed above, three underlying drivers seem to cause most problems, which is why addressing them would contribute greatly to reaching the objectives set out above.

- OO1: Ensure that equality bodies are free from external influence so that they can exercise all their tasks independently.

- OO2: Ensure that all equality bodies have the necessary resources to perform all their tasks.

- OO3: Ensure that, if an equality body is part of multi-mandate body, there is an internal structure that guarantees sufficient independence, focus and resources for the equality mandate.



Intervention logic (colour codes are to be used horizontally. They show links between drivers/problems/objectives/outputs)

5. 5. WHAT ARE THE POLICY OPTIONS?

The initiative was exempted from the obligation to conduct an impact assessment, building on the 2018 Commission Recommendation on standards for equality bodies. This is explained by the absence of simplification potential and the fact that the impacts of the provisions envisaged are expected to be only partially identifiable and very difficult to measure.

Non-legislative options have already been tested without producing the desired result to address all the issues identified. These options were (i) the set-up of an active network of equality bodies financed by the Commission (Equinet); (ii) the non-binding 2018 Recommendation; (iii) exchanges of best practices; and (iv) direct funding through the Commission's Rights, Equality and Citizenship Programme ('REC').

Those measures would also remain in place if no specific further action in the area of equality bodies were to be taken (i.e. status quo). Furthermore, negotiations on three proposals[66] that also contain provisions on equality bodies are currently ongoing and may be finalised, which would extend the mandate of equality bodies.

For the reasons outlined above and addressed in the evaluation[67], new binding legislation remains the only option. The question that remains therefore is which measures should be implemented through such legislation; this is what is examined in this section.

Description of possible measures

Of the various identified measures that could be included in a legislative act to help reach the 21 objectives presented above, 48[68] were selected for further analysis, falling under 11 thematic areas: mandate, powers, access, cooperation, surveys, data collection, monitoring, enforcement, independence, resources and structure.

Dealing with cases of discrimination and providing assistance to victims of discrimination

As regards the **mandate**, there are two possible measures that could be taken. These would be to extend the scope to the two directives that currently do not contain provisions on equality bodies. These are the Employment Equality Directive and the Gender Equality Directive in the field of social security.

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66 Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM(2008) 426 final; Proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principal of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, COM(2021) 93 final; Proposal for a Directive of the European Parliament and of the Council on combatting violence against women and domestic violence, COM(2022) 105 final.

67 e.g. the rules provided for by the existing EU framework are often not properly enforced; either due to their broad and vague nature (those in the Directives) or due to the fact that they are non-binding and therefore not enforceable (those provided in the 2018 Recommendation).

68 Including two identical measures.

	A. Possible measures addressing mandate
1	Entrust equality bodies with the grounds covered by the Employment Equality Directive: religion or belief, sexual orientation, age and disability in the field of employment and occupation.
2	Entrust equality bodies with the ground and field covered by the Gender Equality Directive in the field of social security.

Both measures A.1 and A.2 address objective 1, which is to assist those victims who are currently outside the scope of protection in the grounds and fields that are addressed by the Employment Equality Directive and the Gender Equality Directive in the field of social security. The retrospective analysis has shown that levels of discrimination in the fields and on the grounds concerned remain high throughout the EU. Therefore, it would be important to ensure that all equality bodies in all Member States cover them.

For **powers,** the picture is more diversified; also, a broader variety of measures could be implemented.

	B. Possible measures addressing powers
1	Ensure that equality bodies can receive individual and collective complaints and provide relevant information and advice as part of their assistance to victims.
2	Ensure that equality bodies have the possibility to provide or recommend amicable settlement mechanisms.
3	Ensure that equality bodies can submit oral or written statements *(i.e. amicus curiae)* to the courts in individual and collective discrimination cases.
4	Allow equality bodies to litigate (in their own name, on behalf or in support of one or several victim(s), with their approval, even in the absence of identified victim(s)).
5	Ensure that equality bodies have effective rights to access information which is necessary to establish whether discrimination has occurred (investigation powers).
6	Require that Member States adopt a strategy to raise awareness of the general population, with particular attention to individuals and groups at risk of discrimination, on the rights under the Equality Directives and the existence of equality bodies.
7	Ensure that, when equality bodies issue decisions or opinions on a case, they include measures to prevent (re)occurrences of discrimination as part of the outcome, where relevant.
8	Ensure that equality bodies publish a summary of their opinions/decisions without disclosing personal data.

The retrospective analysis has shown that, while all equality bodies can receive individual complaints, not all of them currently provide legal advice[69] to victims of discrimination. **Measure B.1** aims to address this issue in order to fulfil **objective 2**, which is to ensure that victims have access to information and advice targeted to their situation. The same is true for providing or recommending amicable settlement

[69] CZ, NL and one out of two equality bodies in MT do not provide legal advice.

mechanisms[70], which is to be addressed by **measure B.2.** The aim is to implement **objective 3**, which is to ensure that victims of discrimination have access to amicable settlement mechanisms.

There are several possible measures that could be implemented in order to achieve **objective 4**, which is to ensure that victims can make their case in court and receive appropriate assistance to have a fair chance of winning. One aspect is covered by **measure B.3,** which is to ensure that equality bodies can submit oral or written statements *(i.e. amicus curiae)* to the courts on individual and collective discrimination cases. As the retrospective analysis has shown, half of the Member States[71] currently allow equality bodies to act as *amicus curiae*. Another possible aspect in this context is covered by **measure B.4** and involves allowing equality bodies to litigate (in their own name, on behalf or in support of one or several victim(s), with their approval, even in the absence of identified victim(s)). Currently, equality bodies in around half of the Member States can represent victims[72], intervene in support of them[73] in court or engage in strategic litigation[74]. In a third of Member States, equality bodies can launch collective complaints[75] or bring proceedings in front of a court without an identifiable victim[76]. This measure would also serve to achieve further objectives, namely **objective 5**, which is to assist more victims, also those who may be unaware that they are discriminated against and **objective 12**, which is to elicit social, legal and policy change through strategic litigation. **Measure B.5**, ensuring that equality bodies have effective rights to access information that is necessary to establish whether discrimination has occurred, would also serve to fulfil **objective 4** to ensure that victims can make their case in court and receive appropriate assistance to have a fair chance of winning.

Measure B.6 aims to address the continuing lack of awareness of equality bodies and equality law in some Member States and among some groups(especially minorities). Adopting a strategy to raise awareness of the general population, with particular attention to individuals and groups at risk of discrimination, on the rights under the equality directives and the existence of equality bodies should help improve the knowledge of the

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70 CZ, EE, LT, NL, PL, one out of two equality bodies in ES and one out of three in HR and PT are not involved in such activities. This reflects the situation before Spain amended its legislation in July 2022.

71 BE, BG, IE, FR, HR, IT, LV, LT, HU, NL, PT and SK. PL and FI have two equality bodies and only one of them has this power.

72 BE, DK, IE, IT, LV, SI, SK, FI and SE. MT and AT have two equality bodies and only one of them has this power.

73 BE, DK, IT, HU, PL and SK. MT, AT and FI have two equality bodies and only one of them has this power. HR has three equality bodes; two of them have this power.

74 BE, DK, IE, FR, LV, PL, SI, SK and SE. AT and FI have two equality bodies and only one of them has this power. HR has three equality bodes; one of them has this power.

75 BE, LV, SI, SK and SE. ES and AT have two equality bodies and only one of them has this power. HR has three equality bodes; one of them has this power. This reflects the situation before Spain amended its legislation in July 2022.

76 BE, DK, IE, IT, LV, LT and SI. MT and AT have two equality bodies and only one of them has this power.

general population, and in particular of potential victims, about where they can get assistance in cases of discrimination, which is **objective 6**.

The focus of the current directives that contain provisions on equality bodies is mainly on damage control, once discrimination has occurred, but they do not sufficiently address the prevention of discrimination. **Measures B.7 and B.8** are possible options in order to tackle this issue. This is in line with **objective 11**, which is to ensure that all equality bodies take aspects into account that could prevent the same situation from arising again in the future when assisting victims.

The decision whether to entrust equality bodies with binding decision-making powers is left to the discretion of Member States. Implementing this measure at EU level has not been considered as an option because it would not be in line with the principle of procedural autonomy. Besides, the majority of stakeholders were against this measure, which would imply significant changes in most Member States, some of which have a well-functioning equality body.

For **access and accessibility**, several possible measures were considered.

	C. Possible measures addressing access and accessibility
1	Ensure that there are no barriers to complaint submission to an equality body (providing different means of submission), that there is access to equality bodies outputs, procedures, and services on equal basis for all and accessibility for persons with disabilities.
2	Ensure that equality bodies provide their services to complainants free of charge.
3	Ensure that equality bodies create a solidarity fund for access to justice by victims of discrimination in case it is not envisaged in another national mechanism. Fines and sanctions collected in cases of discrimination could feed this fund.
4	Guarantee that equality bodies ensure, where needed, confidentiality of witnesses and whistle-blowers, and as far as possible, of complainants.
5	Ensure that equality bodies are physically represented throughout the territory.
6	Ensure that equality bodies' services are available to all potential victims throughout the territory of their Member States

The retrospective analysis has shown that not all equality bodies currently take all aspects of accessibility into account that could be relevant for all groups of victims. **Measures C.1 and C.2 aim to tackle** this issue by ensuring that there are no barriers, physical or digital, to complaint submission to an equality body (providing different means of submission), that there is access to equality bodies outputs, procedures, and services on an equal basis for all, including for persons with disabilities, and that the services of equality bodies are free of charge. This corresponds to **objective 8**, which is to ensure that victims, including those in particularly vulnerable situations and those with disabilities, can submit claims and receive proper support; and **objective 9** that is to ensure that victims of discrimination can access assistance regardless of financial means. **Measure C.3** also addresses **objectives 8 and 9**; however, it would go one step further and aim to provide financial assistance to victims of discrimination to litigate.

Another aspect of the problem regarding access and accessibility might be the fear of negative consequences if one comes forward to report discrimination, be it as victim, whistle-blower or witness. **Measure C.4 aims to address this matter to fulfil objective 7,** which is to ensure confidentiality for witnesses, whistle-blowers and complainants.

Finally**, measures C.5 and C.6** aim to ensure that also victims in remote areas have access to the services offered by equality bodies, which **would contribute to the implementation of objective 10**.

Fostering public knowledge and awareness about equality and non-discrimination

As regards **cooperation and coordination**, the following measures could be implemented.

	D. Possible measures addressing cooperation and coordination
1	Ensure that equality bodies cooperate and coordinate their actions with other equality bodies within the same Member State.
2	Ensure that equality bodies engage in dialogue exchange and cooperate with relevant public and private entities (including NGOs and trade unions).
3	Ensure that equality bodies engage with international and supranational institutions and equality bodies from other countries.
4	Ensure that equality bodies promote equality duties and mainstreaming among public and private entities/sectors.
5	Ensure that equality bodies are consulted by the government, through timely and transparent procedures, on draft legislation related to equality and non-discrimination.
6	In addition to legislation as referred to above, ensure that equality bodies are consulted by the government and other institutions, through timely and transparent procedures, on policy, procedure, programmes, and practices related to equality and non-discrimination. Ensure that equality bodies have the right to make recommendations on those matters, to publish them and to require feedback.
7	Establish a mandatory frequency of consultations between equality bodies and the government and other institutions.

Provisions on cooperation in the directives currently in force are either non-existent[77] or very narrow[78]. Several measures could be implemented to improve cooperation between equality bodies and other stakeholders. **Measure D.1** aims to ensure that equality bodies cooperate and coordinate their actions with other equality bodies within the same Member State. The goal of **measure D.2** is to ensure that equality bodies engage in dialogue exchange and cooperate with relevant public and private entities (including NGOs and trade unions). **Measure D.3** has a similar aim, which is to ensure that equality bodies engage with international and supranational institutions and equality bodies from

[77] Racial Equality Directive and Gender Equality Directive in the field of access to and supply of goods and services.

[78] Gender Equality Directives in the field of employment and self-employment.

other countries. All three measures would contribute to **objective 13** to improve the knowledge base about equality and discrimination, as well as mutual learning.

The lack of focus on prevention in the current legislative framework is also relevant to this point. It means that equality bodies currently have no duty to engage with relevant stakeholders to foster public knowledge and awareness of equality and non-discrimination. Likewise, stakeholders have no obligation to consult equality bodies when drafting and/or implementing policies or legislation. **Measures D.4, D.5 and D.6** are possibilities to tackle these issues in order to implement objective **14** to promote equality and non-discrimination. There is also a strong link between these measures and **measures B.7 and B.8** that address the prevention of discrimination**. Measures D.5, D.6 and D.7** also aim to implement **objective 17** to ensure that equality bodies can provide their insights on equality and non-discrimination policies and practices to policymakers and public and private entities. The area of **surveys and reports** is related. Even though it is addressed by provisions in the current EU legislation, those are so broad that they have been interpreted very differently in Member States in practice. Concretising them may therefore help to better achieve **objective 15** to improve the knowledge on the concrete activities of equality bodies and on the state of discrimination in general. **Measure E.1** would contribute to implementing the first aspect of objective 15, while **measure E.2** is focused on the second.

	E. Possible measures addressing surveys and reports
1	Ensure that equality bodies produce and make available to the public their annual activity reports.
2	Require equality bodies to publish a report, with recommendations, at least every four years, on the state of discrimination in their Member State, including on structural discrimination. This report shall be communicated to the Commission.

Another aspect of high relevance for fostering public knowledge and awareness about equality and non-discrimination is **data collection.** The approaches taken by Member States in this regard currently vary greatly. The measures listed in the box below would aim to address this matter.

	F. Possible measures addressing data collection
1	Ensure equality bodies collect data on their activities, disaggregated by grounds and fields covered by the directives, and in accordance with the indicators developed to monitor the implementation of the Directive.
2	Ensure equality bodies can access statistics necessary to fulfil their mandate and tasks, from and/or collected by, public authorities, trade unions, companies, and civil society organisations.

	F. Possible measures addressing data collection
3	Provide for an obligation for equality bodies to publish a report, with recommendations, at least every four years, on the state of discrimination in their Member State in all the fields and grounds, including potential structural issues. This report shall be communicated to the Commission.
4	Ensure that equality bodies can make recommendations, in accordance with their mandate, to public authorities, trade unions, companies and civil society organisations on their data collection activities.

Measure F.1 intends to ensure that equality bodies collect data on their activities, disaggregated by grounds and fields covered by the directives, and in accordance with the indicators developed to monitor the implementation of the directive. The goal of **measure F.2** is to ensure that equality bodies can access data necessary to fulfil their mandate and tasks, from and/or collected by, public authorities, trade unions, companies, and civil society organisations. **Measure F.4** is to ensure that equality bodies can make recommendations, in accordance with their mandate, to public authorities, trade unions, companies and civil society organisations on their data collection activities. All three measures aim to fulfil the first aspect addressed by **objective 16**, which is to improve statistical evidence on equality. **Measure F.3,** which is identical to **measure E.2** above, provides for an obligation for equality bodies to publish a report, with recommendations, at least every four years, on the state of discrimination in their Member State, including on structural discrimination. This addresses the second aspect mentioned in **objective 16**, which is to improve the proper analysis of relevant data.

Expanding the scope of primary data collection for equality bodies beyond collecting data on their own activities was considered at an early stage, but discarded, as the main responsibility in this regard should remain with the relevant statistical offices. This view was widely supported by stakeholders[79].

Monitoring and enforcement

In the area of **monitoring**, the following measures could be envisaged.

	G. Possible measures addressing monitoring
1	Ensure that equality bodies adopt a multiannual programme setting out their priorities and prospective activities.
2	Establish a list of common indicators to assess the practical effects and implementation of the equality bodies Directives and draw up a Commission monitoring report every 5 years, on the basis of the information provided by the Member States in accordance with the indicators and additional relevant data collected at national and Union level, in particular from stakeholders, by the European Union Agency for Fundamental Rights and the European Institute for Gender Equality.

[79] Stakeholders primarily expressed this view during a workshop on data collection.

	G. Possible measures addressing monitoring
3	Put in place a system of accreditation through peer review, according to procedures and criteria agreed upon by the Member States, within 5 years of the adoption of the Directive.

To ensure consistent actions on a long-term perspective, which is **objective 18**, **measure G.1** would ensure that equality bodies adopt a programme setting out their priorities and prospective activities.

There are two options for the monitoring of the new Directives and implementation of the framework for equality bodies. In the first option, **measure G.2,** the Commission would monitor the implementation of the equality bodies directives by establishing a list of common indicators to assess their practical effects and implementation and drawing up a monitoring report every 5 years. The report would be based on the information provided by Member States in accordance with the indicators and additional relevant data collected at national and EU level, in particular from stakeholders, by the European Union Agency for Fundamental Rights and the European Institute for Gender Equality. The list of indicators would cover the resources, independent functioning, activities and effectiveness of equality bodies, as well as evolutions in their mandate, powers or structure. The second option, **measure G.3**, would be to put in place a system of accreditation through peer review, based on procedures and criteria agreed upon by the Member States, within 5 years of the adoption of the directive. Both would aim to fulfil **objective 21** to ensure that the provisions in the future directives are clear enough to be enforceable (which is also a general overarching objective applicable to all provisions) and to ensure that there are clear monitoring and reporting obligations regarding their implementation.

For the area of **enforcement**, the measures considered mainly concern the enforcement of actions taken by equality bodies; the enforcement of the directives in general is a matter closely linked to monitoring which is covered by objective 21.

	H. Possible measures addressing enforcement
1	Ensure that when equality bodies issue opinions, they can request a mandatory feedback from the recipients.
2	Member States shall introduce effective measures applicable in case a natural or legal person does not comply with the mandatory feedback obligation.
3	Ensure, when equality bodies are entrusted with binding decision-making powers, that their decisions are enforced and subject to judicial review.
4	Ensure that the rights of defence of natural and legal persons involved in any procedure in front of an equality body are duly protected.

	H. Possible measures addressing enforcement
5	If equality bodies have various powers that could interfere with each other (e.g. support to victims and quasi-judicial powers), ensure that they adopt an internal structure that guarantees the independent exercise of their powers.

To ensure that if equality bodies issue recommendations, there is an incentive for recipients to give them appropriate feedback (**objective 19**), **measure H.1** would ensure that when equality bodies issue opinions, they can request mandatory feedback from the recipients. **Measure H.2** would go a step further and ensure that measures are put in place in case of non-compliance with the mandatory feedback requirement.

Measure H.3 addresses **objective 20** to ensure that when equality bodies are entrusted with binding decision-making powers, their decisions are enforced, subject to judicial review[80], and that the right of appeal must be guaranteed. Measure **H.4** ensures that the rights of defence of natural and legal persons involved in any procedure in front of an equality body are duly protected. Another aspect that could be related to situations in which equality bodies have binding decision-making powers is to put in place a 'firewall' to ensure that the conditions to exercise that power do not conflict with other powers equality bodies have, such as assistance to victims. This aspect is addressed by **measure H.5**, where if equality bodies have various powers that could interfere with each other (e.g. support to victims and quasi-judicial powers), one has to ensure that they adopt an internal structure that guarantees the independent exercise of their powers.

Independence, resources and structure

As the retrospective analysis has shown, issues with independence, resources and structure are underlying challenges that in many cases lead to problems addressed by the objectives. Therefore, improvements in this area would contribute to the fulfilment of the objectives.

Several aspects could be taken into account to ensure equality bodies' independence, which is **operational objective 1**.

	I. Possible measures addressing independence
1	Ensure budgetary independence from the government.
2	Establish transparent rules and safeguards on the selection, appointment and dismissal of the staff of equality bodies to guarantee their competence and independence.
3	Ensure that equality bodies can manage their resources, including their staff, independently.
4	Ensure that equality bodies are a legal entity separate from the government.

[80] However, as outlined above, it will be left to Member States to decide whether equality bodies are to be assigned with binding decision-making powers.

	I. Possible measures addressing independence
5	Ensure that rules are in place that limit the ability of the leadership to engage in other professional and/or political activities.
6	Ensure that rules are in place that limit the possibility to revoke the leadership of equality bodies.
7	Ensure that rules on equality bodies' accountability do not jeopardise their independence.

As regards **resources,** the following aspects are of relevance to achieve **operational objective 2** to ensure that all equality bodies have the necessary resources to perform all their tasks.

	J. Possible measures addressing resources
1	Ensure that each equality body is provided with the human, technical and financial resources, necessary to perform all its tasks and exercise its powers effectively in all the grounds and fields they are entrusted with.
2	Ensure that equality bodies are provided with the resources to enable them to use automated systems to detect discrimination cases and enforce non-discrimination rules.

In the area of **structure, operational objective 3** is to ensure that, if equality bodies are part of multi-mandate bodies, there is an internal structure that guarantees sufficient independence, focus and resources for the equality mandate.

	K. Possible measures addressing structure
1	Ensure that, when equality bodies are part of a multi-mandate body, the latter adopts an internal structure that guarantees sufficient independence, focus and resources on the equality mandate.
2	Ensure that equality bodies adopt an internal structure that guarantees the independent exercise of their various powers (e.g., support to victims and quasi-judicial powers should be exercised independently).

6. 6. ASSESSMENT OF THE POSSIBLE MEASURES

This section aims to look further at the proposed measures and assess them along the five criteria of effectiveness[81], efficiency[82], coherence[83], EU added value[84] and relevance[85].

[81] The analysis of effectiveness considers the extent to which the proposed measure is expected to contribute to progress towards the objectives defined in the intervention logic.

[82] The analysis of efficiency assesses the relationship between the resources used by a proposed measure and the changes it is expected to generate.

[83] The analysis of coherence focuses on how well the proposed measure is expected to work together with other EU, international and national instruments.

While the assessment of EU added value, relevance and coherence looks more at a macro-level and is therefore done for the proposed legislative initiative as a whole, the assessment of effectiveness and efficiency will be done per thematic area, examining individual proposed measures. However, for some measures, a full assessment may not be possible due to limited availability of data or methodological constraints, above all the difficulties of quantifying equality and non-discrimination, in particular in monetary terms, as outlined above. This is especially true for assessing efficiency.

The assessment of policy options takes into account some data on the benefits of fighting discrimination. As highlighted in the retrospective analysis, a 2018 report issued by the European Parliamentary Research Service (EPRS) on the cost of non-Europe showed that reducing levels of discrimination by 5% through EU action could lead to an increase in GDP of between EUR 247 million and EUR 703 million[86]. The report also illustrates the considerable impacts that racial and ethnic discrimination have on individuals, societies and economies. In financial terms, these translate into lost earnings ranging from EUR 1.8 billion to EUR 8 billion annually for individuals, and losses ranging from EUR 2.4 billion to EUR 10.7 billion annually for society[87].

Also, there has been strong support from stakeholders for further action in relation to equality bodies. An overwhelming majority of respondents (97.2%) to the open public consultation considered that setting up strong and effective equality bodies is important. 81.3% replied that adopting new binding minimum standards for equality bodies would have a positive impact for the respondents. Stakeholders also expressed strong support for taking ambitious action, during other consultation activities, such as workshops and a conference[88].

Global assessment of possible measures – EU added value, relevance and coherence

As the retrospective analysis has shown[89], Member States' action alone is not sufficient to achieve a satisfactorily high level of protection against discrimination throughout the EU. This is however essential to guarantee citizens' and residents' rights in line with the founding values and objectives of the Treaties. The initial intervention clearly provided EU added value, leading to the set-up of equality bodies in about half of the EU-15 Member States that did not have such bodies in place when it was adopted. However, the retrospective analysis has demonstrated that it left too much leeway to Member States, which resulted in not fulfilling the objectives to a satisfactory level.

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84 The analysis of EU added value looks at changes to be triggered by the proposed measure over and above what could reasonably been expected from stakeholders alone or from no action at all.

85 The analysis of relevance looks at whether the proposed measure is an appropriate response to the needs.

86 Van Ballegooij, W. and Moxom, J., 'Equality and the Fight against Racism and Xenophobia: Cost of Non-Europe Report', 2018, Brussels: European Parliamentary Research Service, p. 41.

87 Van Ballegooij, W. and Moxom, J., 'Equality and the Fight against Racism and Xenophobia: Cost of Non-Europe Report', 2018, Brussels: European Parliamentary Research Service, p. 27-28.

88 Please consult Annex 3 for more detailed information on the outcome of the consultation activities.

89 Please consult Annex 5.

The retrospective analysis also demonstrated that the 2018 Recommendation could not mitigate this situation due to its non-binding nature. Since the proposed directives will be binding and will be more detailed, they are expected to tackle the problems that the existing instruments could not address and to close the gaps in the EU added value identified by the retrospective analysis. Similarly, the retrospective analysis has also shown that the proposed intervention remains highly relevant, since levels of discrimination are consistently high throughout Member States and the objectives of the initial intervention have not been achieved satisfactorily due to the vagueness of the existing provisions.

Several levels have to be examined when assessing coherence. The coherence with the Treaties and the Charter of all the measures being examined is high, as the proposal intends to increase equality and non-discrimination, which are among the founding values of the EU. Article 2 of the Treaty on European Union states that the EU is founded, on the respect for human dignity and equality, and that the values common to all Member States include non-discrimination, tolerance and equality between women and men. One of the reasons for setting up the EU is to promote its values. The creation of the single market has as one of its objectives combating discrimination and promoting equality between women and men (Article 3(3) TEU).

Article 8 TFEU states that the EU must aim to eliminate inequalities and promote equality, including between women and men, in all its activities. Article 10 TFEU requires the EU to combat discrimination based on sex, racial or ethnic origin, religion or belief, age or sexual orientation, in defining and implementing its policies and activities.

The EU Charter of Fundamental Rights, which applies when Member States implement EU law, contains provisions on equality under Title III (Articles 20-26). Of particular relevance is Article 21 of the Charter, which prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion, or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation. This is a wide-reaching prohibition (‘any discrimination’ based on ‘any ground’) that goes beyond the grounds covered by the existing directives and this initiative. However, since this difference is due to the scope provided for by the Treaties[90] for adopting secondary legislation in the area of equality, this cannot be regarded as inconsistent with the proposal.

Article 19(1) TFEU provides for the possibility of adopting secondary legislation to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. However, currently, the full scope of Article 19(1) is not covered by secondary legislation. As outlined above, the proposal for an Equal Treatment

[90] As previously outlined above, Article 19(1) TFEU provides for the possibility of adopting secondary legislation to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 157 (3) provides for the possibility of adopting legal measures to ensure equal pay for men and women.

Directive[91] is still being negotiated. As a consequence, pending its adoption by the legislator, this initiative will not cover the scope addressed by the proposal for an Equal Treatment Directive.

As regards existing EU secondary legislation, not all EU Equality Directives currently contain provisions on equality bodies. The fact that the Gender Equality Directive in Social Security and the Employment Equality Directive do not contain provisions on equality bodies, although they pursue very similar objectives, has been identified as an incoherence in the retrospective analysis. This could be mitigated by implementing the proposed measures addressing the equality bodies' mandate (measures A.1 and A.2, see below.)

There are two important international instruments which are relevant for equality bodies, the Paris Principles and the General Observations (addressed to National Human Rights Institutions), and the European Commission against Racism and Intolerance ('ECRI') Recommendation No 2. The proposed measures are in line with those instruments, despite variations in the level of detail that can be explained through the different legal nature of the instruments.

Detailed assessment of possible measures – Effectiveness and efficiency ([92])

Providing assistance to victims of discrimination

The common goal of all possible measures in this area is to improve different aspects of assistance to (potential) victims of discrimination.

As regards the **mandate of equality bodies**, there are two possible measures that could be taken; those are extending the scope of equality bodies' actions to the Employment Equality Directive Directives, and extending the scope of equality bodies' actions to the Gender Equality Directive in the field of social security, both directives that currently do not contain provisions on equality bodies. As the table below illustrates, most Member States have already done this. Therefore, the overall impact in terms of costs for Member States and national equality bodies is expected to be low. In addition, discrimination has a cost, which will be mitigated if the mandate of equality bodies is extended. However, since the retrospective analysis has shown that levels of discrimination in the fields and on the grounds concerned remain high throughout the EU, the effectiveness of this measure is still expected to be considerable.

[91] If adopted, the Equal Treatment Directive would cover discrimination based on religion or belief, disability, age or sexual orientation in the fields of social protection, including social security and healthcare, social advantages, education and access to and supply of goods and other services which are available to the public, including housing.

([92]) N.B. the tables below present the situation before Spain amended its legislation in July 2022. The fact that the information below was gathered through online surveys explains possible differences between those tables and the tables in Annex 4

	Measures	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
	Mandate			
A.1	Entrust equality bodies with the grounds covered by the Employment Equality Directive: religion or belief, sexual orientation, age and disability in the field of employment and occupation.	BE*, BG, CZ, DK, DE, EE, IE, EL, FR, HR*, IT*, CY, LV, LT, LU, HU*, MT, NL, AT*, PL, RO, SI, SK, FI*, SE.	PT.	ES.[93]
A.2	Entrust equality bodies with the ground and field covered by the Gender Equality Directive in the field of social security.	BE*, BG, CZ, DK, DE, EE, IE, EL, ES*, FR, HR*, IT*, CY, LV, LT, LU, HU, MT*, NL, AT*, PL, PT*, RO, SI, SK, FI*, SE.		

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[94] equality bodies. Source: online survey conducted by VVA.

For **powers,** the picture is more varied; some measures have however already been implemented by some Member States, as illustrated in the table below.

	Measures[95]	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
	Powers			
B.1	Ensure that equality bodies can receive individual and collective complaints and provide relevant information and advice as part of their assistance to victims.	BE, BG, DE, EE, EL, ES*, FR, HR*, IT, CY, LT, LU, HU, MT*, PT, RO, SI, SK, FI.	CZ, DK, IE, ES*, HR* LV, MT*, NL, AT, PL, SE.	
B.2	Ensure that equality bodies have the possibility to provide or recommend amicable settlement mechanisms.	BE, BG, DK, DE, EL, ES*, FR, HR*, IT, CY, LV, LU, HU, MT, AT,		CZ, EE, IE, LT, NL, PL.

93 Once the new law is implemented, the proposed measures will also be fully in place in Spain.

94 Only HR and PT have three equality bodies; all others marked with a star have two.

95 There is no data available for measures B.8, as the survey only enquired equality bodies equality bodies would be competent for promotion of equality and prevention of discrimination in general, but not about this very specific measures.

	Measures[95]	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
		PT*, RO, SI, SK, FI, SE.		
B.3	Ensure that equality bodies can submit oral or written statements (i.e. amicus curiae) to the courts in individual and collective discrimination cases.[96]	BE, LV.	BG, DK, ES*, FR, HR*, IT, HU, MT*, NL, AT*, PL, PT*, RO, SI, SK, FI*, SE.	CZ, DE, EE, EL, CY, LU
B.4	Allow equality bodies to litigate (in their own name, on behalf or in support of one or several victim(s), with their approval, even in the absence of identified victim(s)).[97]		BE, BG, DK, IE, FR, HR*, IT*, LV, LU, HU, MT*, AT*, PL, SI, SK, FI*, SE.	CZ, EE, EL, ES, CY, LT, PL, RO, SE.
B.5	Ensure that equality bodies have effective rights to access information which is necessary to establish whether discrimination has occurred (investigation powers).	FR*, LT, FI, SE.	BG, DK, EL, IT, CY, LV, LU, HU, MT, NL, AT*, PL, PT, RO, SI, FI*.	BE, CZ, DE, EE, IE, ES, SK.
B.6	Adopt a strategy to raise awareness of the general population, with particular attention to individuals and groups at risk of discrimination, on the rights under the Equality Directives and on the existence of equality bodies.[98]	BE, EE, ES*, FR, HR*, IT, CY, LV, LT, HU, MT, NL, AT*, PT, RO, SI, FI.		BG, CZ, DE, EL, LU, AT*, SK, SE.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[99] equality bodies. Source: online survey conducted by VVA.

Expanding equality bodies' powers is expected to increase costs due to increased activity and workload for equality bodies. However, it is also expected to be very effective in protecting victims of discrimination, which will support the implementation of the

[96] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'The equality body has legal standing to: act as amicus curiae or expert; bring proceedings before courts (individual complaint & class actions/collective complaints).'

[97] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'Which functions are accorded to the equality body? Litigation?'

[98] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'Does the equality body have a communication strategy in place for this role?'

[99] HR and PT have three equality bodies; all others marked with a star have two.

objectives of this intervention, of the equality directives and the founding principles of the EU Treaties. Among the proposed measures, litigation may be especially costly, though the exact costs will vary significantly between Member States. Litigation may be a particular powerful tool, also expected to be effective at macro-level, beyond the resolution of individual cases, especially if used strategically, to elicit social, legal or policy change. 59% of respondents to the open public consultation considered litigation powers for equality bodies very necessary and 22% stated they are necessary.

Strategic litigation is also expected to help increase public awareness, which is a goal of the initiative also addressed under the objective of developing public knowledge and awareness about equality and non-discrimination. A related matter with strong links to prevention and awareness-raising is the systemic inclusion of aspects addressing prevention when assisting victims. 54% of respondents to the open public consultation replied that additional measures to promote equality and prevent discrimination are very necessary; 28% considered them necessary. Though some additional resources will be needed (which will generate additional costs), such measures are, on the long run, expected to help reduce the number of instances of discrimination. As a result, the equality body would need to assist fewer victims, which would save costs in the long run.

Litigation costs may however pose significant obstacles for individual victims of discrimination who come disproportionally often from lower income backgrounds[100]. That is why providing amicable settlements mechanisms is also expected to be effective in encouraging a higher proportion of victims to take action against the discrimination they have experienced.

Stepping up possibilities for victims to access legal redress after experiencing discrimination may also mean that potential perpetrators are more likely to be caught, convicted and/or sanctioned. This could result in a deterrent effect that may, in the long run, contribute to social, legal and policy changes and reduced levels of discrimination.

Allowing equality bodies to litigate in support of several victims would be new for those Member States that have no tradition of collective redress mechanisms. Collective action is currently only possible, in discrimination cases, in seven Member States[101]. This measure is also included in the Commission's proposal for a Pay Transparency Directive[102]. Such a measure would be essential to assist groups of victims, and in particular all victims who would not go to court on their own, due to the cost, length and/or complexity of the procedure.

Letting equality bodies act in their own name where there is no identified victim would also be in line with the jurisprudence of the Court of Justice of the European Union

[100] Equinet, Addressing poverty and discrimination: two sides of the one coin, 2010, p. 5.

[101] DK, ES, FR, IT, LV, NL, SI. This reflects the situation before Spain amended its legislation in July 2022.

[102] Article 13 of the proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement, COM(2021) 93 final.

which recognises that EU law prohibits discrimination even where there is no identifiable individual victim[103].

Similarly, some Member States do not have a strong tradition of amicable settlement mechanisms. However, Member States are obliged by the Directive on alternative dispute resolution for consumer disputes[104] to provide such mechanisms to consumers, meaning that they now exist in some form in all Member States. As outlined above, two thirds of Member States already have such measures in place for discrimination cases.

Awareness of the equality bodies' existence is also an important factor in encouraging a higher proportion of victims to come forward and in deterring potential perpetrators. 54% of respondents to the open public consultation stated that such awareness by the general population was very necessary, 31% said it was necessary, while 69% and 21% respectively said such awareness was very necessary or necessary for groups at risk of discrimination.

For **access and accessibility ([105])**, many measures have already been at least partially implemented in some Member States, as outlined in the table below.

	Measures	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
	Access and accessibility			
C.1	Ensure that there are no barriers to complaint submission to an equality body (providing different means of submission), that there is access to equality bodies outputs, procedures, and services on equal basis for all, and accessibility for persons with disabilities[106].	BE*, CZ, DE, EE, ES*, IT*, LU, MT*, AT, RO, SI, FI*.	BE*, BG, DK, IE, EL, ES*, FR, HR, IT*, CY, LV, LT, HU, MT*, NL, PL, PT, SK, FI*, SE.	

[103] For example in the case of an employer's public statement of an intent to discriminate (see judgment of 10 July 2008 in Feryn (C-54/07, ECLI:EU:C:2008:397), paragraph 15).

[104] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0011&from=EN.

[105] Other pieces of EU legislation already apply in this field such as the Commission Implementing Decision (EU) 2021/1339 of 11 August 2021 for the Web Accessibility Directive (Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies, OJ L 327, 2.12.2016, p. 1).

[106] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document were 'What are the means of submission of complaints?' and 'In what languages can complaints be submitted?'.

	Measures	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
C.2	Ensure that equality bodies provide their services to complainants free of charge[107].	BE, BG, DK, DE, EE, IE, EL, ES, FR, HR, IT, CY, LV, LT, LU, HU, MT*, NL, AT, PL, PT, RO, SI, SK, FI, SE.		MT*.
C.4	Guarantee that equality bodies ensure, where needed, confidentiality of witnesses and whistle-blowers, and as far as possible, of complainants[108].	BE, CZ, DE, EE, EL, ES*, HR, IT, CY, LV, LT, LU, HU, MT, NL, AT, PT, SK, FI*, SE.		BG, RO, SI, FI*.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[109] equality bodies. Source: online survey conducted by VVA.

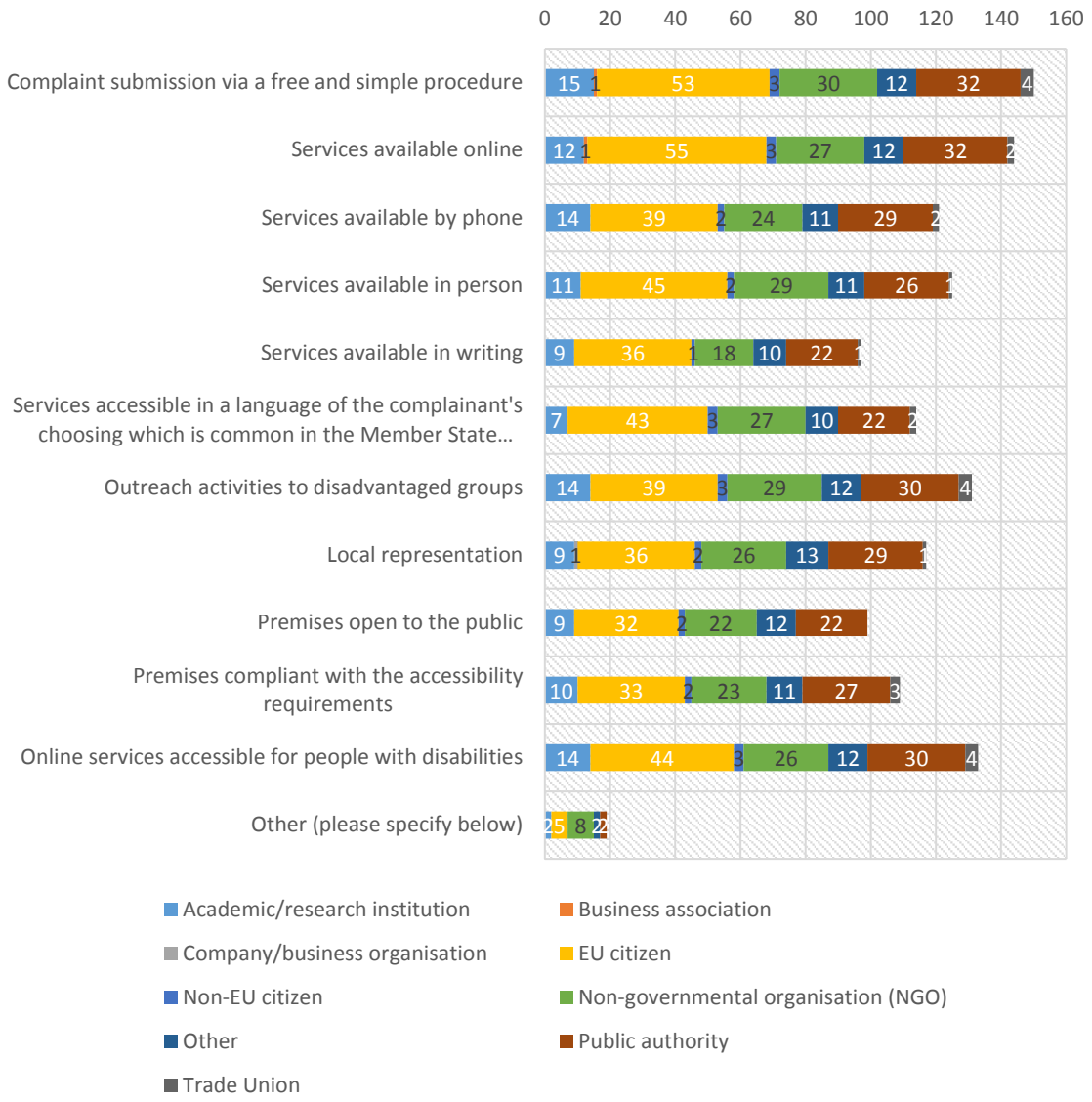
Putting appropriate measures in place to ensure all victims have access to assistance provided by equality bodies is essential in order to fulfil the objectives of this intervention and also to guarantee the universal fundamental rights to which all victims are entitled to. In this respect, the measures listed are expected to address specific aspects of accessibility effectively. 69% of respondents to the open public consultation considered it very necessary to be able to submit easily; 22% considered this necessary. Compliance with accessibility requirements was considered very necessary by 62% of respondents; 25% rated it necessary. When asked about concrete measures to improve accessibility, respondents mentioned the following.

In your opinion, what would make the services of an equality body accessible to all (including persons with disabilities)?

[107] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'What is the cost of submission of and dealing with complaints?'.

[108] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'Is confidentiality afforded to witnesses and whistle-blowers of complaints?'.

[109] Only HR and PT have three equality bodies; all others marked with a star have two.



Source: Open Public Consultation, N=178 (multiple replies allowed)

Although not possible to quantify in exact terms, the expected costs for this area of possible measures vary significantly. While ensuring that equality bodies guarantee, where needed, confidentiality of witnesses and whistle-blowers, and as far as possible, of complainants, does not imply significant costs, mandatory physical representation throughout the territory may, depending on the structure and size of the Member State, be very costly. Under some circumstances, alternative measures to reach out to certain groups in certain areas may be more cost efficient, such as using already existing structures, for example local NGOs or mobile offices in buses. This view has been shared by stakeholders during consultation activities[110].

Fostering public knowledge and awareness about equality and non-discrimination

[110] Primarily, stakeholders expressed this view during a workshop on the powers of equality bodies.

The possible measures listed in this section entail cooperation between relevant stakeholders, conducting analyses of the current state of play in terms of levels of discrimination in Member States based on reliable statistical data and providing advice based on this information.

As regards **cooperation and coordination**, the current state of implementation of possible measures in the Member States is as follows.

	Measures	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
	Cooperation and coordination			
D.1	Ensure that equality bodies cooperate and coordinate their actions with other equality bodies within the same Member State.	All MS with several EBs (BE, ES, HR, IT, MT, AT, PT, FI) have some mechanisms in place, but the framework varies greatly.		
D.2	Ensure that equality bodies engage in dialogue exchange and cooperate with relevant public and private entities (including NGOs and trade unions).[111]	BE, BG, DK, DE, IE, EL, ES, FR, HR, IT, CY, LV, LT, MT*, NL, AT*, PL, PT, RO, SI, SK, FI*, SE.		CZ, EE, LU, MT*, AT*, FI*.
D.3	Ensure that equality bodies engage with international and supranational institutions and equality bodies from other countries.[112]	BE, BG, CZ, DK, DE, EE, IE, EL, ES, FR, HR, IT, CY, LV, LT, HU, MT, NL, AT, PL, PT, RO, SI, SK, FI, SE.		LU.
D.5	Ensure that equality bodies are consulted by the government, through timely and transparent procedures, on draft legislation related to equality/discrimination.[113]	BE, CZ, DK, DE, EL, ES*, FR, HR, IT, CY, LV, LT, HU, MT*, NL, PL, PT,		BG, EE, IE, LU, AT, SK.

[111] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'Are there structures to engage in dialogue and exchange with civil society organisations representative of the grounds covered in the mandate of the equality body?'

[112] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'Is there a mandate that allows cooperation with supranational institutions or foreign equality bodies?'

[113] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'The government consults with the equality body on legislation.'

	Measures	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
		RO, SI. FI*, SE.		
D.6	Ensure that equality bodies are consulted by the government and other institutions, through timely and transparent procedures, on legislation, policy, procedure, programmes, and practices related to equality/discrimination. Recommendations of equality bodies may be published[114]	BE, DK, HR*, IT, CY, LT, MT*, NL, PL, SE.	BG, CZ, DE, EL, ES*, FR, LV, HU, PT, RO, FI*, SE.	EE, IE, LU, MT*, AT, SK.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[115] equality bodies. Source: online survey conducted by VVA.

Ensuring cooperation and knowledge exchanges between equality bodies and other relevant stakeholders at national, EU and international level is expected to improve current practices in equality bodies and draw their attention to matters that may otherwise go unnoticed. It is also expected to increase the level of awareness about the existence of equality bodies due to engagement with a wider audience. As a result, more people will be reached, including both (potential) victims, duty bearers and (potential) perpetrators of discrimination. 43%, 55% and 42% of respondents to the open public consultation considered cooperation with national public authorities, national stakeholders and EU/international stakeholders very necessary; 38%, 29% and 38% respectively stated that it was necessary.

Ensuring that equality bodies are consulted by governments and other institutions on a variety of matters related to discrimination would improve relevant public policy and legislation. This would help to create targeted, appropriate instruments that decrease levels of discrimination and increase public awareness of the problem. Due to their experience and insights, equality bodies are likely to have very valuable input in that regard.

Increased cooperation may lead to increased costs through additional work; however, new synergies are also expected to lead to cost savings. Similarly, increased consultations of equality bodies create additional work, thus additional costs, but should

[114] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document was 'The government consults with the equality body on legislation, policy, procedure, programmes, practices.'

[115] HR and PT have three equality bodies; all others marked with a star have two.

lead to better law and policy making, which is expected to reduce levels of discrimination in the long run.

The majority of equality bodies already publish an annual activity **report**, as outlined in the table below.

	Measures[116]	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
	Surveys and reports			
E.1	Ensure that equality bodies produce and make available to the public their annual activity reports.	BE, BG, CZ, DK, DE, EE, IE, EL, ES*, FR, HR*, IT*, CY, LV, LT, LU, HU, MT, NL, AT, PL, PT, RO, SI, SK, FI, SE.		ES*.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[117] equality bodies. Source: online survey conducted by VVA.

Conducting surveys and publishing reports on a regular basis is expected to help prevent discrimination by increasing public knowledge. Even though this increases costs in the short term, it is expected to lead to fewer cases of discrimination in the future, which means savings for equality bodies in the long term, and benefits for society more broadly.

Some of the measures proposed for the area of **data collection** are quite specific and are therefore not yet in place in any Member State; however, many Member States already ensure that equality bodies collect data on their activities, as illustrated in the table below.

	Measures[118]	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
	Data collection			
F.1	Ensure equality bodies collect data on their activities, disaggregated by grounds and fields covered by the directives, and in accordance with the indicators developed to monitor the implementation of the Directive.	BE*, DE, EL, ES, HR, IT, CY, LV, LU, MT, NL, AT*, PT, RO, SI, SK, FI.	BG, FR, LT, HU.	EE, IE.

[116] There is no data available for measure E.2 because it is too specific to already be implemented.

[117] Only HR and PT have three equality bodies; all others marked with a star have two.

[118] There is no data available for measures F.2-F.4, also because they are too specific to already be implemented.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[119] equality bodies. Source: online survey conducted by VVA.

Common rules on data collection and access to statistical data for equality bodies for analytical purposes are key to improving statistical evidence on equality and non-discrimination and ensuring a proper analysis of relevant data. This is crucial in enabling policymakers to take well-founded, informed decisions; furthermore, it is essential for the public discourse and awareness to have reliable information on current levels of discrimination in Member States. Since equality bodies are experts in the field of equality and non-discrimination, they are expected to be able to conduct sound in-depth analyses if provided with the necessary data. Respondents to the open public consultation largely shared this view, 54% rated it very necessary and 27% considered it necessary.

Increased data collection activities will require more resources and will therefore increase costs; however, they will also significantly contribute to increased knowledge about equality and non-discrimination, which is crucial in order to fulfil the objectives of the intervention.

Monitoring and enforcement

Since the possible measures for **monitoring** the implementation of the future directives are specifically connected to these directives, they cannot yet be in place in any Member State. However, equality bodies in many Member States have already implemented a related measure, namely strategic planning, as outlined in the table below. Strategic planning requires some resources, which means it will create costs; however, it should also lead to savings through better planning of activities. Furthermore, it is expected to result in more coherent action and enable a better policy steering through developing a long-term vision.

	Measures[120]	The measures are already fully in place	The measures are already partly in place	The measures are not yet in place
	Monitoring			
G.1	Ensure that equality bodies adopt a programme setting out their priorities and prospective activities[121].	BE*, BG, CZ, DE, EE, IE, EL, ES, FR, HR, IT*, CY, LV, LT, HU, MT, NL, AT*, PT, SI, SK, FI, SE.	LU.	AT*, RO.

[119] Only HR and PT have three equality bodies; all others marked with a star have two.

[120] There is no data available for measures G.2 and G.3 because they are too specific to already be implemented.

[121] The question corresponding to this measure in the survey conducted by VVA to inform this analytical document were 'Is there a programme setting out priorities? Is there a programme setting out prospective activities?'

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[122] equality bodies. Source: online survey conducted by VVA.

The retrospective analysis has shown that the basic monitoring system in the current Directives (e.g. an application report by the Commission based on the information provided by Member States) is not sufficient to ensure a thorough knowledge of the implementation of the provisions related to equality bodies. This is also an impediment to enforcing these provisions. Proper enforcement is, however, crucial in order for the proposed directives to achieve the desired results. A better monitoring system is expected to mitigate this situation. A large proportion of respondents to the open public consultation agree: 52% consider monitoring of the functioning of equality bodies across the EU very necessary; 27% stated it was necessary.

There are several options for what such a monitoring system could look like. The first option would be that the Commission will monitor the implementation of the directives by publishing a report every five years, based on data from Member States (including equality bodies) collected in accordance with harmonised indicators drawn up after consulting all relevant stakeholders.

The second option would be to put in place a system of accreditation through peer review, based on procedures and criteria agreed upon by Member States, within 5 years of the adoption of the Directive.

The first option would create costs for equality bodies and Member States in collecting data according to a predefined list of indicators. It is however expected to also create synergies with other data collection activities and improve knowledge of the implementation of the Directives.

For the second option, operational costs would depend on who carries out the accreditation procedure. For peer accreditation, significant additional costs for equality bodies can be expected.

The measures envisaged in the area of **enforcement -** beyond the enforcement of the future Directives themselves (which is addressed under monitoring) - aim to ensure that actions taken by equality bodies within the limits of the powers attributed to them are enforceable and may be followed up on. One example is that, while this initiative does not intend to prescribe binding decision-making powers for equality bodies, in order to respect the principle of procedural autonomy, if Member States decide to attribute such powers to equality bodies[123], these should be enforceable. Similarly, equality bodies should be able to request feedback from the recipients on their opinions. Measures should be put in place to tackle non-compliance with the mandatory feedback requirement. While there are no direct costs associated to these measures, ensuring proper enforcement

[122] Only HR and PT have three equality bodies; all others marked with a star have two.

[123] This is currently the case in BG, CY, HU, RO.

is generally regarded as a highly effective tool in ensuring that rules are complied with. Respondents to the open public consultation agreed with this view: 59% considered the enforcement of appropriate sanction very necessary, 22% stated it was necessary. However, this is a procedural area, where the autonomy of Member States has to be taken into account: the provisions should therefore leave Member States in charge of taking appropriate measures to that effect.

Equality bodies should adopt an internal structure that guarantees the independent exercise of their powers, if they have various powers that could interfere with each other (e.g. powers to support victims and quasi-judicial powers). While this may lead to additional one-off and recurrent costs to put in place and keep an appropriate structure, it is needed to ensure equality bodies' impartiality when taking binding-decisions and safeguard the procedural rights of those that are subject to such decisions.

Independence, resources and structure

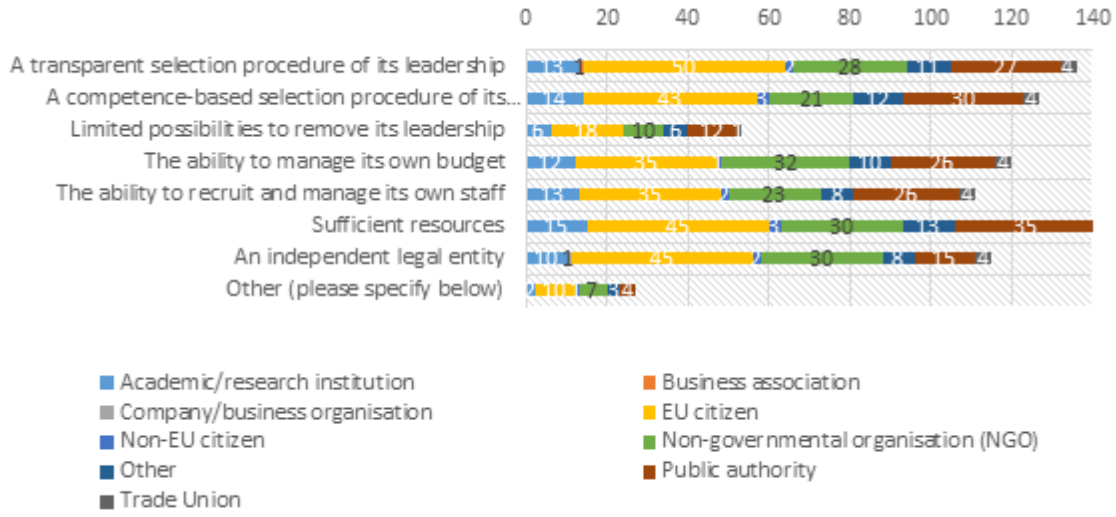
This thematic area corresponds to the needs identified in **operational objectives 1-3**.

The potential impacts generated by the possible measures under **independence** vary depending on the measure and on the structure(s) in place in each Member State. As outlined above, ensuring that equality bodies can carry out their tasks independently is a crucial prerequisite for their effectiveness. This has also been confirmed by stakeholders in consultation activities such as the open public consultation, the stakeholder survey and the participatory workshop[124]. 73% of respondents to the open public consultation rated general independence of equality as very necessary, 16% considered it necessary. Measures to ensure equality bodies' independence, notably as regards their legal structure, accountability, budget, staffing and organisational matters, may lead to one-off costs for Member States depending on the current situation.

There are several possible approaches to ensuring that equality bodies can act independently. The suitability and the impact of such measures may vary greatly between Member States, depending on their respective situation and system. Respondents to the open public consultation shared this view and expressed support for a variety of measures, as shown in the box below. Future provisions should nevertheless not be too prescriptive in order to respect the principle of procedural autonomy.

In your opinion, what are essential criteria to guarantee the independence of an equality body? Source: Open public Consultation, N=176

[124] Please consult Annex 2 for an overview of the results of all consultation activities.



This is in principle also true for measures relating to **resources.** Ensuring that each equality body is provided with the human, technical and financial resources necessary to carry out all its tasks and exercise its powers effectively, in all the grounds and fields they cover is a crucial prerequisite for the effectiveness of equality bodies. At the same time, this entails increased costs, varying between Member States. These findings have been confirmed by stakeholders during consultation activities. 71% rated sufficient resources as very necessary, 19% considered it necessary.

Similar points can be made about **structure.** If the equality body is part of a multi-mandate body, an internal structure to guarantee sufficient focus, independence and resources for the equality mandate is crucial so that it can exercise its tasks effectively. This may lead to one-off costs for putting a new structure in place in countries where this is currently not the case. Increased costs may also occur if increased resources are needed. As outlined above, this is however a crucial prerequisite for the effectiveness of equality bodies. The expansion of the equality mandate in multi-mandate bodies should not be done at the expense of the other mandates.

7. 7. PREFERRED COMBINATION OF MEASURES

This section presents the possible measures taken on board in the final Commission's proposal and discuss the rationale behind this choice. The proportionality of the envisaged measures is described as well.

The majority of measures presented in the previous section have been taken up in the final proposal. Stakeholders have expressed very strong and consensual support for an ambitious package of measures that will be fit to properly tackle all the objectives identified for this intervention.

Overview of the preferred combination of measures

	A. Measures addressing mandate
1	Entrust equality bodies with the grounds covered by the Employment Equality Directive: religion or belief, sexual orientation, age and disability in the field of employment and occupation.
2	Entrust equality bodies with the field covered by the Gender Equality Directive in the field of social security.
	B. Measures addressing powers
1	Ensure that equality bodies can receive individual and collective complaints and provide relevant information and advice as part of their assistance to victims.
2	Ensure that equality bodies have the possibility to provide or recommend amicable settlement mechanisms.
3	Ensure that equality bodies can submit oral or written statements *(i.e. amicus curiae)* to the courts in individual and collective discrimination cases.
4	Allow equality bodies to litigate, in their own name, on behalf or in support of one or several victim(s), with their approval, even in the absence of identified victim(s).
5	Ensure that equality bodies have effective rights to access information which is necessary to establish whether discrimination has occurred (investigation powers).
6	Require that Member States adopt a strategy to raise awareness of the general population, with particular attention to individuals and groups at risk of discrimination, on the rights under the Equality Directives and the existence of equality bodies.
7	Ensure that, when equality bodies issue decisions or opinions on a case, they include measures to prevent (re)occurrences of discrimination as part of the outcome, where relevant.
8	Ensure that equality bodies publish a summary of their opinions/decisions without disclosing personal data.
	C. Measures addressing access and accessibility
1	Ensure that there are no barriers to complaint submission to an equality body (providing different means of submission), that there is access to equality bodies outputs, procedures, and services on equal basis for all, including for persons with disabilities.
2	Ensure that equality bodies provide their services to complainants free of charge.
4	Guarantee that equality bodies ensure, where needed, confidentiality of witnesses and whistle-blowers, and as far as possible, of complainants.
6	Ensure that equality bodies' services are available to all potential victims throughout the territory of their Member States.
	D. Measures addressing cooperation and coordination
1	Ensure that equality bodies cooperate and coordinate their actions with other equality bodies within the same Member State.
2	Ensure that equality bodies engage in dialogue exchange and cooperate with relevant public and private entities (including NGOs and trade unions).

3	Ensure that equality bodies engage with international and supranational institutions and equality bodies from other countries.
4	Ensure that equality bodies to promote equality duties and mainstreaming among public and private entities/sectors.
5	Ensure that equality bodies are consulted by the government, through timely and transparent procedures, on draft legislation related to equality and non-discrimination.
6	In addition to legislation as referred to above, ensure that equality bodies are consulted by the government and other institutions, through timely and transparent procedures, on policy, procedure, programmes, and practices related to equality and non-discrimination. Recommendations of equality bodies may be published. Ensure that equality bodies have the right to make recommendations on those matters, to publish them and to require feedback.
	E. Measures addressing surveys and reports
1	Ensure that equality bodies produce and make available to the public their annual activity reports.
2	Require equality bodies to publish a report, with recommendations, at least every four years, on the state of discrimination in their Member State, including on structural discrimination. This report shall be communicated to the Commission [N.B. measure identical to measure F3].
	F. Measures addressing data collection
1	Ensure equality bodies collect data on their activities, disaggregated by grounds and fields covered by the directives, and in accordance with the indicators developed to monitor the implementation of the Directive.
2	Ensure equality bodies can access statistics necessary to fulfil their mandate and tasks, from and/or collected by, public authorities, trade unions, companies, and civil society organisations.
3	Provide for an obligation for equality bodies to publish a report, with recommendations, at least every four years, on the state of discrimination in their Member State in all the fields and grounds, including on potential structural issues. This report shall be communicated to the Commission. [N.B. measure identical to measure E2]
4	Ensure that equality bodies can make recommendations, in accordance with their mandate, to public authorities, trade unions, companies and civil society organisations on their data collection activities.
	G. Measures addressing monitoring
1	Ensure that equality bodies adopt a multiannual programme setting out their priorities and prospective activities.
2	Establish a list of common indicators to assess the practical effects and implementation of the equality bodies Directives and draw up a Commission monitoring report every 5 years, on the basis of the information provided by the Member States in accordance with the indicators and additional relevant data collected at national and Union level, in particular from stakeholders, by the European Union Agency for Fundamental Rights and the European Institute for Gender Equality

	H. Measures addressing enforcement
1	Ensure that when equality bodies issue opinions, they can request mandatory feedback from the recipients.
2	Member States shall introduce effective measures applicable in case a natural or legal person does not comply with the mandatory feedback obligation.
3	Ensure, when equality bodies are entrusted with binding decision-making powers, that their decisions are enforced and subject to judicial review.
4	Ensure that the rights of defense of natural and legal persons involved in any procedure in front of an equality body are duly protected.
5	If equality bodies have various powers that could interfere with each other (e.g. support to victims and quasi-judicial powers), ensure that they adopt an internal structure that guarantees the independent exercise of their powers.
	I. Measures addressing independence
1	Ensure budgetary independence
2	Establish transparent rules and safeguards on the selection, appointment and dismissal of the staff of equality bodies to guarantee their competence and independence.
3	Ensure that equality bodies can manage their resources, including their staff, independently.
4	Ensure that equality bodies are a legal entity separate from the government.
5	Ensure that rules are in place that limit the ability of the leadership to engage in other professional and/or political activities.
6	Ensure that rules are in place that limit the possibility to revoke the leadership of equality bodies.
7	Ensure that rules on equality bodies' accountability do not jeopardize their independence
	J. Measures addressing resources
1	Ensure that each equality body is provided with the human, technical and financial resources necessary to perform all its tasks and exercise its powers effectively in all the grounds and fields they are entrusted with.
2	Ensure that equality bodies are provided with the resources to enable them to use automated systems to detect discrimination cases and enforce non-discrimination rules.
	K. Measures addressing structure
1	Ensure that, when equality bodies are part of a multi-mandate body, the latter adopts an internal structure that guarantees sufficient independence, focus and resources on the equality mandate.
2	Ensure that equality bodies adopt an internal structure that guarantees the independent exercise of their various powers (e.g., support to victims and quasi-judicial powers should be exercised independently).

Description of preferred combination of measures per thematic area

Out of the 48 identified measures that could be included in legislation, 44 were retained in substance[125].

Dealing with cases of discrimination/providing assistance to victims

In the area of **mandate**, **both measures A.1 and A.2 are included** in the final proposal, as these are necessary to achieve objective 1 and extend the scope of protection to cover all grounds and fields covered by the existing EU Equality Directives.

In the area of **powers**, **measures B.1-B.5** are included in the proposal, in order to take a holistic approach to providing access to legal advice and redress, both via amicable settlement mechanisms and recourse to the courts, and to encourage a higher share of victims to come forward. These are all needed to achieve the proposal's general objectives and ensure its effectiveness. For the same reasons, **measures B.6-B.8** are also retained, to ensure that equality bodies take aspects of prevention into account when assisting victims.

A safeguard is introduced in relation to **measure B.4** to ensure that equality bodies' rights to act in court respect the principles of fair trial and equality of arms. The equality body will not be allowed to submit in proceedings evidence which the alleged perpetrator or any third party was legally bound to provide in previous investigations on the same case. This will not apply where the equality body acts as a party in proceedings on the enforcement or judicial review of an own decision or acts as amicus curiae.

On **access and accessibility, measures C.1, C.2 and C.4** are retained, since they all cover aspects that are relevant for removing obstacles to access to justice for victims. **Measure C.3[126]** was discarded because it would be difficult to implement in practice; and there are other national mechanisms to ensure access to litigation regardless of financial situation. In particular, legal aid is available in all EU Member States for people who do not have sufficient financial resources to bring a case to court[127]. **Measure C.5** was discarded as well, as mandating a physical presence throughout the territory of the Member States has not been assessed as the most efficient measure; instead, more flexibility will be given to Member States who nevertheless need to ensure that equality bodies' services are available to all potential victims throughout their territory, as set out in **measure C.6,** which is included in the proposal.

Fostering public knowledge and awareness about equality and non-discrimination

[125] Measures C.3, C.5, D.7 and G.3 were not retained for the reasons explained below. Measures E2 and F3 are identical.

[126] Ensure that equality bodies create a solidarity fund for access to justice by victims of discrimination in case it is not foreseen in another national mechanism. Fines and sanctions collected in cases of discrimination could feed this fund.

[127] https://e-justice.europa.eu/37129/EN/legal_aid

In the area of **cooperation and coordination**, **measures D.1-D.3** are taken up in the final proposal, to ensure that knowledge exchange, mutual learning and cooperation take place between all relevant entities at all levels. In order to promote equality and non-discrimination, **measures D.5-D.6** are included in the final proposal to tackle the issue from different angles and focus on different groups of stakeholders, including businesses, policymakers and public and private entities in general. Taking a broad approach is important to ensure that promotion activities reach a wide audience, which is crucial to ensuring their effectiveness. **Measure D.7** has not been taken up because setting a mandatory frequency for consultation does not seem to be the most effective way to ensure good cooperation. Individual situations in Member States may require more flexibility than a strict, uniform timeframe for such consultations.

The related area of **surveys and reports** is equally important to improve knowledge regarding concrete activities by equality bodies and regarding the state of discrimination in general, which is why **measures E.1** and **E.2** are taken up. The same is true for **data collection,** therefore, **measures F.1, F.2** and **F.4** are included in the proposal. The same applies to **measure F.3**, which is identical to **measure E.2.**

Monitoring and enforcement

In the area of **monitoring**, **measure G.1** is included in the proposal, since long-term planning is important to ensure coherent and effective action. **Measure G.2** is also taken up, which means that the initiative proposes a system where the Commission monitors the situation, rather than an accreditation system (**measure G.3).** There are several reasons for this decision. Firstly, accreditation would require significant resources from equality bodies, especially in case of a peer accreditation system as for National Human Rights Institutions[128]. Secondly, putting in place such an accreditation system may prove a very long and complicated process, in addition to the need to agree on common indicators. Thirdly, stakeholders were against setting-up an accreditation system. Equality bodies particularly emphasised that they would not like to assess each other as would be mandated under a system of peer accreditation. The proposed monitoring system is a simpler and less costly way to assess whether the standards set by EU legislation are applied in the Member States and whether equality bodies have the means to appropriately carry out their tasks.

Enforcement is crucial to ensuring the effectiveness of the directives and the duties carried out by equality bodies, which is why **measures H.1-H.3** are taken up. However, measures **H.1 and H.2 have been redrafted in a more general way,** binding Member States to these obligation while respecting their procedural autonomy. It is also important to ensure that, if equality bodies have various powers that could potentially interfere with each other (e.g. providing support to victims and quasi-judicial powers), an appropriate structure must be put in place to prevent such interferences, which is why **measure H.4** is also taken up in the final proposal.

[128] https://ennhri.org/our-work/nhri-accreditation/

Independence, resources and structure

The proposed initiatives include **a list of requirements that are essential** to ensure equality bodies' independence. They encompass the possible measures initially presented (**measures I.1 to I.7**) , namely independence as regards (i) their budget **(measure I.1)**, (ii) the selection, appointment, revocation and potential conflict of interest of the staff of equality bodies, in particular persons holding a managerial position **(measures I.2, I.5 and I.6)**, (iii) their staffing and organisational matters (**measure I.3**), (iv) their legal structure **(measure I.4)**,(v) and their accountability **(measure I.7)**. However, the text of this provision is drafted in more general terms than the initial measures envisaged, so as to respect the institutional autonomy of Member States.

Resources are key to enabling equality bodies to function properly, which is why **measures J.1 and J.2** are included in the proposal. In addition to the use of automated systems, three other situations have been highlighted where sufficient resources are crucial: increases of competences, increases in complaints, and litigation costs. Since appropriate focus, attention and resources for the equality mandate are essential in multi-mandate bodies, **measure K.1** is included in the final proposal, as it is important to ensure an appropriate **structure** to achieve this. **Measure K.2** is also taken up and is identical to **measure H.4.**

Proportionality

The initiative to adopt binding legislation is a proportionate response to the needs, as demonstrated by the persistently high prevalence of discrimination throughout Member States. Softer measures to mitigate the situation, above all the 2018 Recommendation, have previously been put in place, but these have not achieved the desired result. The retrospective analysis has demonstrated that soft measures have not been effective enough in safeguarding people's fundamental right to non-discrimination, and so binding legislation is necessary to achieve this goal. The proposed initiative sets minimum standards that are expected to improve the level of protection against discrimination significantly, which will have a considerable positive impact on the social situation of (potential) victims of discrimination.

It has been demonstrated above and in the retrospective analysis that Member States acting on their own was not sufficient to achieve the objectives of the initial intervention and to protect citizens' and residents' fundamental right to non-discrimination, for which equality bodies are a tool. For this reason, EU action is required. The legal bases chosen for this initiative allow for the adoption of secondary legislation. The choice of instrument – Directives – and the approach taken – common minimum standards – are proportional to the needs described in the intervention logic and leave flexibility to Member States to implement the measures in accordance with their legal systems and traditions.

The scope of the proposal does not go beyond those aspects that Member States cannot achieve satisfactorily on their own. The minimum standards are designed in such a way that they fill the gaps identified by the retrospective analysis, while respecting Member

States' procedural autonomy and leaving them flexibility regarding their implementation within a common EU framework.

The initiative does not create substantial additional costs for the European Commission and its Agencies. To support the monitoring of the implementation of this Directive, the Commission plans to task the European Union Fundamental Rights Agency (FRA) and the European Institute for Gender Equality (EIGE) to collect and analyse the relevant data every 5 years. This type of task is already covered in the existing mandates of FRA[129] and EIGE[130] and will be carried out without additional resources.

8. 8. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

The proposal includes a monitoring system by the Commission (see measure G.2 above). The Commission will establish a list of common indicators to measure the practical effects of these Directives, by means of an implementing act. The proposal specifies that the list of indicators will cover the resources, independent functioning, activities and effectiveness of equality bodies, as well as evolutions in their mandate, powers or structure. For the establishment of the list of indicators, the Commission will set up an expert group and various stakeholders, including Member States, the FRA and the EIGE, will be consulted. Equinet has already developed and piloted some indicators on equality bodies' mandate and independence[131]; those will be taken into consideration as well.

On the basis of information collected in accordance with these indicators, and provided by the Member States every five years, the Commission will draw up a monitoring report. This report will also include additional data and statistics collected by the FRA and the EIGE among various relevant stakeholders (e.g. social partners and civil society).

[129] Article 4 of Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ L 53, p. 1.

[130] Article 3 of Regulation (EC) No 1922/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a European Institute for Gender Equality, OJ L 403 p. 9.

[131] Available at https://equineteurope.org/what-are-equality-bodies/standards-for-equality-bodies/.

ANNEX 1: LIST OF EQUALITY BODIES IN THE EU MEMBER STATES

Country	Name
BE	1. Unia - Interfederal Centre for Equal Opportunities 2. Institute for Equality between Women and Men
BG	Commission for Protection against Discrimination
CZ	Public Defender of Rights
DK	Danish Institute for Human Rights
DE	Federal Antidiscrimination Agency FADA
EE	Gender Equality and Equal Treatment Commissioner
IE	Irish Human Rights and Equality Commission
EL	Office of the Greek Ombudsman
ES	1. Institute for Women and Equal Opportunities 2. Council for the Elimination of Ethnic or Racial Discrimination
FR	Defender of Rights
HR	1. Office of the Ombudsman 2. Gender Equality Ombudsperson 3. Ombudswoman for Persons with Disabilities
IT	1. National Office Against Racial Discrimination 2. Equal Opportunities National Committee
CY	Office of the Commissioner for Administration and Human Rights
LV	Ombudsman's Office of the Republic of Latvia
LT	Office of the Equal Opportunities Ombudsperson of the Republic of Lithuania
LU	Centre for Equal Treatment
HU	Office of the Commissioner for Fundamental Rights
MT	1. National Commission for the Promotion of Equality 2. Commission for the Rights of Persons with Disabilities
NL	Netherlands Institute for Human Rights
AT	1. Ombud for Equal Treatment 2. Austrian Disability Ombudsman
PL	Office of the Commissioner for Human Rights of the Republic of Poland
PT	1. High Commission for Migration 2. Commission for Equality in Labour and Employment 3. Commission for Citizenship and Gender Equality
RO	National Council for Combating Discrimination
SI	Advocate of the Principle of Equality
SK	Slovak National Centre for Human Rights

FI	1. Non-Discrimination Ombudsman 2. Ombudsman for Equality
SE	The Equality Ombudsman

Source: Equinet, European directory of equality bodies (European Directory of Equality Bodies – Equinet (equineteurope.org))

ANNEX 2: PROCEDURAL INFORMATION

- Lead DG: DG JUST in cooperation with DG EMPL
- Decide reference: PLAN/2021/11134
- Roadmap Feedback period 23 July 2021 - 20 August 2021 Equality bodies – binding standards (europa.eu)
- Open Public Consultation 10 December 2021 - 18 March 2022 Equality bodies – binding standards (europa.eu)
- Work Programme reference: Point 32 under "A New Push for European Democracy" of Annex I "New initiatives" to the Communication on the Commission work programme 2022 Making Europe stronger together, COM(2021)645 of 19 October 2021 announced for Q3 2022 resource.html (europa.eu)
- The main reasons to derogate from Better Regulation rules were the following:

  1. Proportionality - the limited set of EU intervention

  The proposals are solely focused on equality bodies that are covered by one Article in four Equality Directives (and "missing" from 2 other Equality directives). The said Article is almost identical in the 4 Directives. The proposals do not amend the wider intervention (the other provisions of the existing Directives). The proposals are also based on the existing 2018 Commission Recommendation on standards for equality bodies. Therefore, a fully-fledged evaluation of the relevant Directives in their entirety was neither proportionate nor necessary.

  2. The absence of simplification potential

  One of the issues revealed by the retrospective analysis was the fact that the provisions on equality bodies in the Equality Directives are too narrow and vague. There is therefore no simplification potential in these provisions that a fully-fledged evaluation could have revealed. The feedback on the 2018 Recommendation never pointed at any need for simplification or any administrative burden.

  3. The difficulty to assess impacts

  A detailed assessment of economic, social and environment impacts could not be carried out because the impacts of the proposed measures are not clearly identifiable. For example the social impact of the activities of equality bodies, such as assisting victims of discrimination and preventing or promoting equal treatment in general, cannot be measured in the absence of comprehensive equality data.
- External expertise was used under a contract with VVA, for a study to support the preparation of a retrospective and prospective analytical document, in view of a legislative proposal on binding standards for equality bodies. Extensive stakeholders' consultations provided valuable input.

ANNEX 3: STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)

Information in this Annex is largely based on the research by VVA. Since the situation of equality bodies across the Member States is very diverse, and no common indicators have been defined and used yet, the accuracy and comparability of data is not always perfect. The present legislative initiative aims to address this issue in the future.

Introduction and consultation strategy

Objective of the consultation

The aim of the consultation was to obtain qualitative and quantitative information from a wide range of stakeholders, including representatives of equality bodies (EBs), NHRIs, NGOs, public authorities, academics and EU citizens.

For the retrospective analysis, the stakeholder consultation collected information and feedback from various key stakeholders to assess EBs and their functioning, and to evaluate the EU legal framework on EBs. This part of the stakeholder consultation included semi-structured interviews, an online survey, the analysis of the responses to the Commission Public Consultation, and three participatory workshops covering the following three topics: (i) accreditation monitoring process for EBs; (ii) data collection requirements; and (iii) powers.

For the analytical document, the stakeholder consultation aimed at assessing the problems identified by the retrospective analysis, setting objectives of the new initiative, and comparing possible measures for a potential new legislative proposal on binding standards for EBs. This part of the stakeholder consultation included semi-structured interviews, an online survey and a validation conference.

Consultation activities and tools

The consultation strategy was underpinned by a number of key activities using multiple tools to target a wide range of stakeholders through different channels and gather insights from as many relevant stakeholders as possible.

Three types of interviews took place in the context of this project. **Scoping interviews** were conducted in order to gather initial insights into the topic of equality bodies. In total, six scoping interviews were conducted with various EU-level and international stakeholders. In addition, **stakeholder interviews** aimed at gathering views from various key stakeholders (representatives of EBs, relevant public bodies, NHRIs, NGOs and academics) in the 27 EU Member States (MS). Overall, 101 interviews were performed as part of the national data collection. To gather additional information relating to costs, five interviews with selected equality bodies took place focusing on costs and resources.

An **online survey** focusing on gathering additional data directly from national EBs was also conducted as part of Phase 1. Through this questionnaire, the national EBs were asked to assess their functioning. Overall, 32 equality bodies have completed the survey. Furthermore, **four written contributions** were collected from EU stakeholders.

An **Open Public Consultation ('OPC)** was launched by DG JUST to which 182 stakeholders replied. Overall, 16 academic research institutions, three business associations, 66 EU citizens, three non-EU citizens, 38 NGOs, 38 public authorities[132] and four trade unions contributed to the consultation, with 14 other types of stakeholders contributing as well.

Three workshops were organised to inform the retrospective analysis and assessment of possible measures with national and EU level stakeholders. One workshop (44 participants) focused on gathering feedback on collecting and/or obtaining equality data. The second one (39 participants) focused on possibilities to ensure proper monitoring of the activities of EBs and ensure their effective functioning, namely different monitoring or accreditation systems. The third workshop focused on discussing the powers that EBs should have in order to adequately perform their role (60 participants).

In addition, as part of the prospective analysis, an **online survey** was carried out with EBs, to assess the possible measures (53 respondents). To complement this survey, **interviews** were carried out with selected EBs to collect the cost information needed for the analysis of the adequacy of resources and to understand further the cost impacts of the different policy options. Two costs interviews were carried out while three **written responses** to the interview questionnaire were received.

A **final conference** took place on 4 April 2022 to present the preliminary results of the study and the main measures considered for future EU legislation on the topic of binding minimum standards for EBs, and to gather participants' feedback in relation to these. In total, 88 representatives from national administrations, EBs, EU and international institutions and bodies, academia, and civil society participated in the conference.

Finally, a Youth Policy Dialogue entitled "Equality bodies that work for all of us" was organised by Commissioner Dalli on 24 May 2022 with young activists in the field of equality[133].

The table below provides an overview of the different stakeholder consultations.

Overview of stakeholder consultation

[132] This figure includes replies from 4 equality bodies. All equality bodies were interviewed and consulted by targeted surveys in parallel to the public consultation.

[133] EUROPEAN YEAR FOR YOUTH: EQUALITY BODIES THAT WORK FOR ALL OF US - Streaming Service of the European Commission (europa.eu)

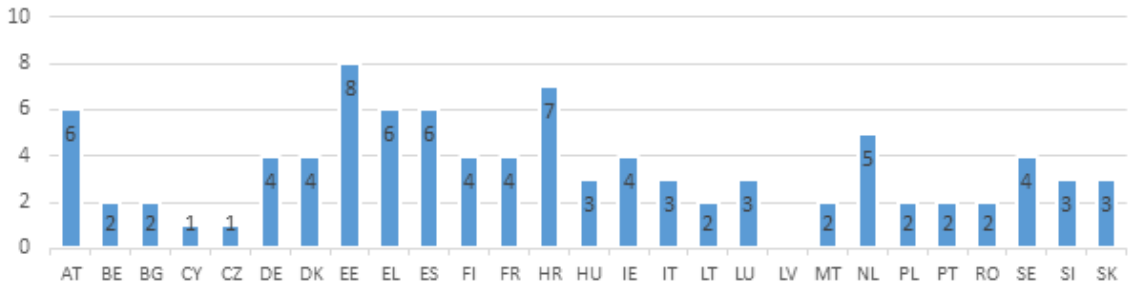
Consultation activity	Replies received/participants
Scoping interviews	6
Interviews conducted as part of national data collection	93
Written responses by EU and international stakeholders	4
Online survey	31
Open Public Consultation	182
Workshop participants	44 (workshop 1) 39 (workshop 2) 60 (workshop 3)
Final conference	88
Youth policy Dialogue	*n.a. Webstream, link on Europa*

Main stakeholder feedback per consultation activity

Interviews

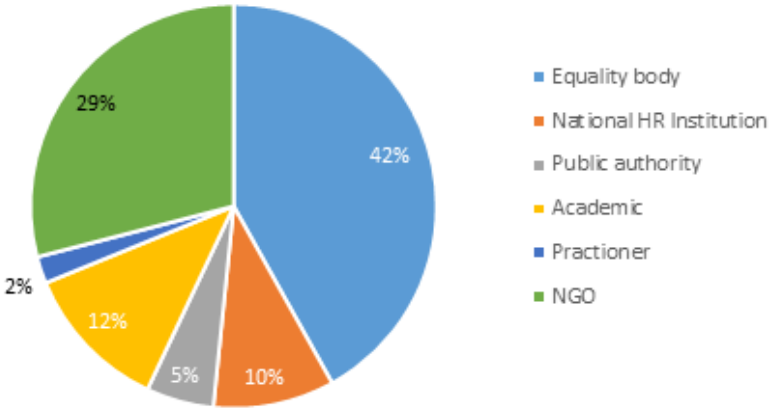
Stakeholders from 26 MS have participated in the interviews. No stakeholder from LV was available for an interview, therefore, additional desk research was conducted. Stakeholders from AT, EE, EL, ES and HR were particularly well represented with at least six stakeholders consulted in each of these countries.

Stakeholders interviewed and Member States representation



Interviews were mostly conducted with equality bodies (39), NGOs (27) and academics (11), and to a smaller extent with NHRIs, public authorities and practitioners.

Type of stakeholders interviewed



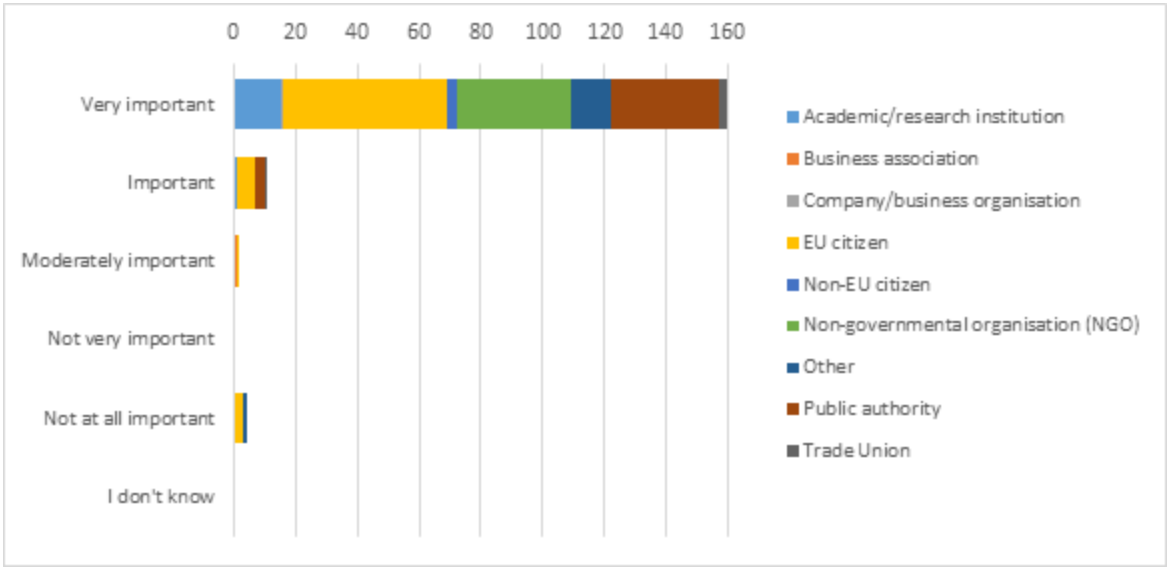
Although the online survey conducted for the retrospective analysis was the main basis used to analyse the current state of play, interviewees were asked complementary questions on the EBs' mandate, powers, independence, resources, stakeholder engagement, data collection and accreditation. These responses were analysed along with the result of the online survey and the desk research to draw a comprehensive state of play regarding the functioning of EBs.

Open public consultation

See the overall summary results published on Have your Say at Equality bodies – binding standards (europa.eu)

Potential future changes for equality bodies

The overwhelming majority of respondents (97.2%) consider that establishing strong and effective equality bodies is (very) important. 81.3% consider that adopting new binding minimum standards for equality bodies would have a positive impact for them.



Stakeholders' assessment of importance of establishing strong and effective EBs (total 177 responses)

Stakeholders rated as follows the current functioning of equality bodies. Only 34.7 % of respondents consider the current resources of their national equality bodies as sufficient.

Criteria	Fair/Good/Excellent	Poor/Very poor
Sufficient Resources	34.7%	50%
General independence	58.8%	32.4%
Transparent and competence-based selection of leadership	47.9%	39%
Budgetary independence	43.2%	39%
Awareness of the existence of the equality body by the general population	51.4%	42.6%
Awareness of the existence of the equality body by the groups at risks of discrimination	59.2%	33.3%
Easy complaint submission	68.5%	17.1%
Accessibility to all services for persons with disabilities	51.7%	21.7%
Availability of the equality body's service on the whole national territory	62.2%	24.3%

More than 79% of respondents consider that each of the following additional rules are (very) necessary:

- **Coverage of all grounds and fields of discrimination foreseen in EU law: gender, racial or ethnic origin, religion or belief, disability, age, sexual orientation and**

employment, education, social protection, goods and services
➢ **Additional missions to ensure the promotion of equality and prevention of discrimination**
➢ **Litigation powers for equality bodies on behalf or in support of victims of discrimination in court**
➢ **Powers to issue adequate sanctions and enforce them**
➢ **General independence**
➢ **Sufficient resources**
➢ **Awareness of the existence of the equality body in the general population and awareness of the existence of the equality body by the groups at risks of discrimination**
➢ **Easy complaint submission**
➢ **Cooperation and coordination with national public authorities national stakeholders, international/EU bodies**
➢ **Monitoring of the functioning of equality bodies across the EU**

Online surveys

Respondents' profiles

Altogether **32 equality bodies from 26 Member States** provided their answers in the first survey (retrospective analysis). No response was received from the Equality body in Denmark. In the Member States where there is more than one equality body not all equality bodies submitted their responses, and some equality bodies did not provide responses to all questions (e.g. EL, HU, IE, RO, SE).

Altogether **53 equality bodies from 25 Member States** provided their answers to the second survey (prospective analysis). Not all equality bodies submitted their responses, and some equality bodies did not provide responses to all questions.

Mandate

The retrospective online survey looked at three aspects related to the mandate of EBs: grounds of discrimination and fields covered by EBs, and functions of EBs. With the exception of ES and PT, the EBs of all 27 MS cover all **grounds of discrimination**. Additionally, EBs in 10 MS[134] do not cover nationality as a ground of discrimination. Equality bodies in all MS cover all **fields** with the exception of Ireland, where the equality

[134] DK, DE, ES, HR, LT, LU, MT, AT, SK, SE. This reflects the situation before Spain amended its legislation in July 2022.

body does not cover social advantages for any grounds of discrimination. EBs from 13 MS have a single equality mandate, while the rest are multi-mandate bodies[135].

Powers

The retrospective online survey looked at six aspects related to the powers of EBs:

- **Independent assistance:** EBs in all Member States, except for Ireland[136], receive individual complaints, while in the large majority of MS (20+), they also receive collective complaints, provide legal advice and legal assistance to victims of discrimination, and are involved in mediation or conciliation activities.
- **Decision-making function:** EBs rarely have legally-binding decision-making functions (only in 6 MS[137]: BG, CY, LT, HU, PT and SI).
- **Policy advisory role:** In almost all MS (24), EBs are consulted by the government on legislation, while in approximately half of the MS, EBs are consulted on other elements such as policy (17), procedures (13), programmes (18), practices (13). EBs from 25 MS can issue recommendations to governments.
- **Independent surveys and reports:** EBs from all MS have the power to conduct surveys and pursue research activities. The frequency of the surveys and research activities depend on the Member State. In around half of the MS (14), EBs can request follow-ups on their recommendations, while the other half does not have such power.
- **Support and good practice:** EBs from all MS can provide training, while in the large majority of MS, EBs can also provide guidance and support to stakeholders (25) and set standards for good equality practice to relevant stakeholders (21).
- **Communication role**: EBs from all MS have capacity to provide information on rights under equal treatment legislation and how to exercise these rights. Except in Hungary, EBs from almost all MS also have capacity to engage in public and political debate to promote equality and non-discrimination.

Independence

The online survey looked into four aspects related to the independence of EBs:

- **Legal status and place in the administrative structure**: In a large majority of MS (20)[138], EBs are situated separately from governmental structures, and in all MS, EBs have

[135] Multi-mandate bodies have several mandates, in addition to the 'equality mandate', they can for instance be a National Human Rights Institution ('NHRI') or an Ombudsperson.

[136] Two other bodies, not currently identified as equality bodies, hold complaint-handling competences in IE.

[137] Other Member States, such as DK for example, have another dedicated structure (board, commission, tribunal), not currently identified as an equality body, that have legally-binding decision-making functions in matters of discrimination.

[138] BE, BG, CZ, DK, IE, EL, FR, HR, CY, LV, LT, LU, HU, NL, PL, RO, SI, SK, FI and SE. In MT, one equality body is not part of the governmental structure, the other is.

a mandate provided by law. In addition, EBs from 24 MS are able to reject direct or indirect external influences and undue interference, while EBs from three MS (EE, MT, and SI) stated that they are unable to do so.

- **Budgetary independence**: EBs from 25 MS have specific budgets (although in majority these are not multiannual budgets). Mechanism to prevent disproportionate budget cuts to EBs' budgets are rare in the EU.

- **Appointment process for leadership:** EBs from 22 MS have an individual as a leader, while in eight MS EBs have a leadership in the form of a board. In 19 MS national law ensures that there is a public/open call for leadership position, with public and transparent position requirements and transparent procedures to select and appoint their leadership.
- **Accountability requirements:** In all MS, EBs are subject to public service laws, and to the financial accountability and expenditure rules that apply to public authorities. In some of the MS, EBs are scrutinised by the government or a governmental department or ministry (9) and/or scrutinised by the parliament (12). EBs from all MS produce and make annual activity reports available to the public, although one of the two ES EBs does not.

Management of Resources

The online survey looked into three criteria related to the management of resources of EBs:

- **Appropriateness of human resources:** EBs from six MS have taken a balanced approach regarding their personnel's expertise between legal, communication, and research while EBs from 11 MS did not. In addition, EBs in eight MS have a gender balance among their employees, whereas EBs from 14 MS do not. Regarding the representation of other groups experiencing discrimination in the personnel of EBs, EBs in nine Member have employed people from such groups, while EBs from five Member do not collect such information.

- **Adequacy of financial resources:** Stakeholders from most MS (20) stated that their corresponding EBs do not have the necessary resources to operate and conduct the activities provided by EU and national legislation, while few (5 MS) reported that the resources are adequate.

- **The scope, detail, and cost of the activities of EBs is consistent with their objectives:** EBs from 18 MS devote proportional budget to all grounds of discrimination, while EBs from eight MS do not. In terms of programming of the activities and functions of EBs, EBs from 24 MS indicated that they do adopt a programme on their priorities.

Accessibility for victims of discrimination

The online survey looked into three aspects related to the accessibility for victims of discrimination:

- **Complaint submission:** The means of submission of complaints are diverse: online option (in 24 MS), paper submission of complaints (in 26 MS), complaints submitted in person (in 23 MS), submission procedures accessible for persons with disabilities (in 20 MS). All equality bodies in almost all or all MS allow for the submission of complaints in both the official languages of the state and in languages beyond the official ones (26) and provide the complaint submission without cost (27). EBs in 21 MS provide confidentiality to witnesses and whistle-blowers of complaints, while EBs in four MS do not.

- **Physical presence across the territory:** In all MS, EBs' facilities are visible and open to the public, except for one equality body. EBs in 19 MS have local and regional levels through cooperating with civil society organisations or other type of organisations.

- **Accommodation and reflection of diversity:** EBs in 24 MS ensure accessibility for persons with disabilities, while EBs from two MS do not. With regard to processes for the accommodation of other circumstances such as literacy issues, scheduling issues, transportation issues, translation needs, EBs in 13 MS provide such accommodations, while EBs in ten MS do not.

Stakeholder engagement

The online survey also looked at the aspect 'Engagement and cooperation with relevant stakeholders'. In terms of the existence of mechanisms for engagement of EBs with national authorities, EBs from 21 MS stated that there is such a mechanism, while EBs from four MS stated there is not such mechanism available (CY, EE, PT, and NL).

Data collection

The online survey looked at five aspects related to the data collection frameworks of EBs:

- **Regulation of equality data:** In 16 MS, national law requires EBs to collect data, while in 3 MS there is only a non-binding guideline regarding this issue. The data collected can include data on the EBs' own activities (in all MS), on current situation regarding equality (in 11 MS) and on narrow subjects regarding specific grounds of discrimination in specific circumstances (in 8 MS). EBs in 16 MS collect both primary and secondary data, in AT and EL EBs collect only primary data, while in five MS EBs collect secondary data.

- **Validity of equality data:** EBs from 14 MS conduct consultations with the groups concerned to agree on definitions used for a study, while EBs from six MS do not. In addition, EBs from 16 MS provide self-definition as an option in the collection of data, while EBs from two MS do not.

- **Reliability of equality data:** Regarding the issue of common definitions in equality data collection, the picture is mixed. EBs in ten MS stated that they collect data nationwide

following common definitions, while in eight MS they do not. The regularity of general data collection and data collection on activities varies among EBs.

- **Comprehensiveness of equality data:** The data collected can be in fields covered by the EU Equality Directives (in between 18 and 21 MS, EBs collect data in each relevant fields), fields beyond the ones entailed in the directive (in 12 MS), data on the EBs' activities (in more than 20 MS data is collected on discrimination complaints, discrimination cases decided by EBs and outcomes of these discrimination cases). Lastly, EBs from 20 MS collect data on all grounds of discrimination of Articles 18 and 19 TFEU.

- **Publication and dissemination of equality data gathered:** The dissemination of data by the EBs is conducted through various ways: through the equality bodies websites (in 21 MS), through networks of relevant stakeholders (in 15 MS), through ministerial websites (in 4 MS) and through other means such as annual reports, social media accounts, websites of the department of statistics, press conferences, press releases, TV interviews, seminars, and other types of educational events.

Workshops

The three workshops organised aimed at gathering the views of stakeholders with regards to **data collection**, **monitoring/accreditation** and **powers of equality bodies**. All workshops included breakout room sessions during which the stakeholders brainstormed in small groups the topics of the workshops. A wide range of stakeholders, including European and national public body representatives, EBs, NGOs, academics and national human rights institutions, participated in these workshops.

Regarding **data collection**, the majority of stakeholders highlighted the need to introduce provisions in the new legislation on that topic. They took the view that EBs should collect data on their own activities and be able to access equality data collected by others. They should also provide some advice to public and private entities on their data collection activities.

Regarding the **monitoring/accreditation mechanism**, all the stakeholders agreed that the preliminary list of possible indicators presented in the workshop was comprehensive and useful. They however argued that some indicators could be refined. Equality bodies stressed that they should not be made responsible for Member States' failure to provide them with the necessary independence and resources to accomplish their tasks.

When it comes to the setting-up of an accreditation system, overall, opinions among stakeholders were negative with significant questions about the value added of such a system, the burden it would impose on EBs and the way it would work in practice (e.g. what would happen if an EB fails?). They were also against a system that would generate competition between EBs while they currently cooperate well with one another. Such a

system would also need to work alongside other accreditation systems e.g. for EBs that are multi-mandated (e.g., the ones that are also NHRIs).

The majority of stakeholders took the view that a monitoring system under the responsibility of the Commission would be the best option. All stakeholders agreed that the monitoring results should be made public.

Regarding the **powers of EBs**, on the minimum combination of powers needed to effectively support victims of discrimination, conditions/challenges and possible national legal barriers, litigation powers and legal standing for EBs were prominently mentioned by participants as necessary powers. Aspects like collective action, being able to represent victims of discrimination in court and being able to litigate even if there is no identifiable victim of discrimination were mentioned frequently. Investigative powers, such as access to information, documents and the right to launch ex-officio investigations, appeared very prominently as well. Most participants were also in favour of amicable settlements mechanisms, even if one stressed that they worked better for unintentional discrimination. There was some ambivalence regarding the power to issue binding decisions; many arguing it would go against the structure of their judicial and administrative systems and that no single-model approach should be imposed. The follow-up of decisions and recommendations, and the power to give opinions, including to courts, were considered an important issue. Participants stressed the need for independence and appropriate resources and mentioned some current limitations in national law. Examples of other possible obstacles were the current organisational structure in some MS that may pose an impediment to legal standing. In addition, participants stressed that overlap of powers between State bodies should be avoided (e.g. between EBs and labour inspectorates). On the powers needed to prevent discrimination, stakeholders argued that EBs should engage in awareness raising and training activities and should play a promoting and supervisory role in equality mainstreaming and equality duties, including equality planning. The need for complete and accurate equality data was also stressed as well as being able to access data from public authorities. Other important points in this context were conducting studies and cooperation with academia and other EBs. Participants also stressed that EBs should be involved and consulted in the law- and policy-making process. Strategic litigation was also mentioned in this context.

Conference

The participants were asked to discuss the possible measures for a legislative initiative on binding standards for equality bodies. The policy options were divided into four areas – powers, independence, promotion and prevention, and resources. The overwhelming majority of participants expressed preference for more ambitious combination of measures in all areas. In fact, participants stressed that raising the minimum standards should be the objective of any future legislation. Nevertheless, throughout the discussion it was pointed

out that the different types of equality bodies need to be recognised and the diversity among them needs to be taken into account when drafting future legislation.

With regard to the **powers**, participants preferred the more ambitious combination of measures presented[139] (52 participants) rather than the less ambitious option[140] (17 participants). One of the biggest challenges repeated throughout the conference regarding powers is a lack of resources, both human and financial, as well as the way the proposed combination of measures would fit into existing legislation and the legal system in the different Member States.

In the **independence** area, 50 participants chose the more ambitious combination of measures[141], and seven participants opted for the alternative[142]. While stakeholders welcomed the proposed options, they were also sceptical about its realisation, citing a lack of political will and a lack of resources as challenges. In particular, regarding budgetary independence, a participant mentioned that budgetary independence is difficult to define. Participants also expressed that it might be problematic to have non-renewable, one-term

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139 Ensure that equality bodies (i) can receive individual and collective complaints and provide legal advice as part of their assistance to victims; (ii) can submit oral or written statements (e.g. *amicus curiae*) to the courts on individual and collective discrimination cases; (iii) if they are entrusted with binding decision-making powers, that their decisions are enforceable and accompanied by sanctions; the right of defence and appeal must be guaranteed; (iv) adopt an internal structure that guarantees the independent exercise of various powers (firewall); (v) if they issue opinions or take decisions, they can request a mandatory feedback from the recipients and its publication; in case of non-compliance, measures shall be put in place; (vi) have the possibility to conduct mediation and/or conciliation activities; (vii) are allowed to litigate (in their own name, on behalf or in support of one or several victim(s), with their approval, even in absence of identified victim(s); (viii) have investigative powers.

140 Ensure that equality bodies (i) can receive individual and collective complaints and provide legal advice as part of their assistance to victims; (ii) can submit oral or written statements (e.g. amicus curiae) to the courts on individual and collective discrimination cases; (iii) if they are entrusted with binding decision-making powers, that their decisions are enforceable and accompanied by sanctions; the right of defence and appeal must be guaranteed; (iv) adopt an internal structure that guarantees the independent exercise of various powers (firewall); (v) if they issue opinions or take decisions, they can request a mandatory feedback from the recipients and its publication.

141 Member States are required to ensure that equality bodies are independent. In particular, they are required to (i) ensure that each equality body is or forms part of a legal entity separate and independent from the government; (ii) ensure budgetary independence from the government and stability (proportionally to the evolution of their tasks) of their budgetary allocation; (iii) establish objective and transparent rules on competence-based selection appointment and dismissal procedure of the leadership of equality bodies to guarantee their competence and political independence; (iv) ensure that equality bodies can manage their resources, including their staff, independently.

142 Member States are required to ensure that equality bodies are independent, in doing so, they shall take into account the following elements: (i) a legal entity separate from the government, (ii) budgetary independence from the government and stability (proportionally to the evolution of their tasks) of their budgetary allocation; (iii) objective and transparent rules on competence-based selection, appointment and dismissal procedure of the leadership of equality bodies to guarantee their competence and political independence; (iv) independent management of their resources (including their staff) by equality bodies; (v) rules limiting the ability of the leadership to engage in other professional and/or political activities; (vi) rules limiting the possibility to revoke the leadership of equality bodies.

leadership, especially in small countries where there may not be enough candidates, as it might disrupt continuity.

Regarding **promotion and prevention**, the participants were divided as regards their preference: 15 stakeholders chose the less[143] and 27 chose the more[144] ambitious combination of measures. In general, the stakeholders welcomed the possible measures in the area of promotion and prevention; in fact a participant even noted that the reason the more ambitious package of measures was better was because it deepens preventive measures. However, they also mentioned that a lack of resources could hinder promotion and prevention activities.

In the **resources** area, participants were also more divided regarding the two options proposed - out of 35 respondents, 10 participants opted for the less[145], and 25 for the more ambitious[146] combination of measures. Although the stakeholders agreed on the importance of ensuring adequate resources, they also shared some concerns. Regarding the point about using artificial intelligence to detect discrimination cases and enforce non-discrimination, many participants stressed the need for sufficient expertise on the AI tools, while others also pointed out that using artificial intelligence does not seem feasible in general. Additionally, participants expressed their doubts over AI being used to fight discrimination, when it has been known to sustain discriminatory behaviour (e.g., with face recognition). Participants noted that the ensuring territorial representation – as listed in Option 2 – could include online presence as opposed to on-the-ground presence, which would require more resources that could be better used elsewhere. Stakeholders suggested

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143 Member States are required to (i) adopt a strategy to raise awareness about the existence of equality bodies and their activities; (ii) entrust equality bodies with the promotion of equal treatment and non-discrimination in all fields and grounds covered by the Directives; (iii) ensure that EBs adopt a strategy to promote equality duties and mainstreaming, among public and private entities/sectors and deliver advice to prevent (re)occurrences of discrimination.

144 Member States are required to (i) adopt a strategy to raise awareness about the existence of equality bodies and their activities; (ii) entrust equality bodies with the promotion of equal treatment and non-discrimination in all fields and grounds covered by the Directives; (iii) ensure that EBs adopt a strategy to promote equality duties and mainstreaming, among public and private entities/sectors and deliver advice to prevent (re)occurrences of discrimination; (iv) ensure, when EBs engage in decision-making, they include preventive measures as part of the outcome, where relevant.

145 Member States are required to ensure that each equality body is provided with the human, technical and financial resources necessary to perform all its tasks and exercise its powers effectively, in all the grounds and fields they are entrusted with. In doing so, they shall ensure that equality bodies are provided with the resources to enable them to use artificial intelligence systems to detect discrimination cases and enforce non-discrimination rules.

146 Member States are required to ensure that each equality body is provided with the human, technical and financial resources necessary to perform all its tasks and exercise its powers effectively, in all the grounds and fields they are entrusted with. In doing so, they shall ensure that equality bodies are provided with the resources to enable them to use artificial intelligence systems to detect discrimination cases and enforce non-discrimination rules. Member States also have to ensure that the resources allocated to the equality bodies are sufficient to ensure a representation throughout the whole territory of the Member States.

that territorial representation could also be ensured via regular contact with local authorities.

ANNEX 4: OVERVIEW OF THE STRUCTURE AND FUNCTIONING OF EQUALITY BODIES IN MEMBER STATES

Information in this Annex is largely based on the study by VVA. Since the situations of equality bodies across the Member States are very diverse, and no common indicators have been defined and used yet, the accuracy and comparability of data is not always perfect. The present legislative initiative aims to address this issue in the future.

This overview was put together before Spain adapted its legislation in July 2022. The changes brought about by the new legislation are not reflected in the tables below.

When interpreting the results of the tables below, it is important to note that the information displayed in the tables in this Annex has been obtained through a stakeholder survey among equality bodies.

Resources

Adequacy of financial resources

			AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is there provision of additional adequate resources when the equality body is mandated with an additional responsibility by the state?		Yes		X	X	X						X*		X	X*		X	X*		X		X*	X		X*		X		
		No	X*				X	X		X	X		X		X*	X			X		X	X*		X		X		X	X
Is the budget adequate for implementation of all its functions (litigation, decision-making, promotion good practice,	Litigation	Yes	X*													X				X		X*	X		X*	X		X	X
		No		X*	X					X	X	X*	X		X*				X*	X		X							
	Decision-making	Yes		X*		X						X*	X*		X*	X		X*	X	X		X*	X		X*	X		X	
		No			X					X					X*			X*			X								
	Promotion of good practices	Yes		X*		X	X	X				X*			X*	X		X*	X	X			X		X*			X	
		No	X*		X					X	X		X		X*			X*			X	X*		X		X			X
	Communication	Yes				X		X				X			X*	X		X*	X	X			X	X	X*	X		X	
		No	X*	X*	X					X	X		X		X*			X*			X	X*							X

communication, and policy advice)?	Policy advice	Yes		X*		X		X				X	X*		X*			X*	X	X		X*	X		X*	X		X	X
		No			X					X	X		X*		X*			X*			X			X					

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Scope, detail, and cost of the activities of equality bodies are consistent with their objectives

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Does the budget devote proportionate attention to all grounds of discrimination?	Yes	X*		X	X	X	X			X		X*	X	X*			X*	X	X	X		X		X*	X	X	X	
	No		X*						X		X*	X*		X*							X							X
Does the budget devote proportionate attention to all fields of the scope of the	Yes	X*	X*		X	X	X			X		X*	X	X*			X*	X	X	X	X*	X		X*	X	X	X	
	No			X					X		X*	X*		X*							X*							X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
equality body?																												
Is there a programme setting out priorities?	Yes, yearly		X*	X	X	X	X			X	X*	X*	X	X*	X		X*			X	X	X		X*		X		X
	Yes, multi-annually	X*							X		X*	X*		X*		X			X					X*			X	
	No	X*																X					X		X			
Is there a programme setting out the prospective activities?	Yes, quarterly	X*			X																X*	X		X*				
	Yes, bi-annually										X*	X*																
	Yes, annually		X*	X		X	X		X	X	X*	X*	X	X*	X	X	X*	X	X	X	X*			X*		X	X	X
	No	X*																					X		X			

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Independence

Legal status and place in the administrative structure

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
What is the position of the legal structure of the equality body?	Part of governmental structure	X					X		X		X						X*				X*			X				
	Separate from governmental structure	x	X	X	X	X		X		X		X	X	X	X	X	X*	X	X	X		X	X		X	X	X	X
Are the mandates of the equality body provided by law (or Constitution, administrative act, or guidelines)?	by constitution and national legislation	X*		X						X	X*		X	X*	X					X	X*	X	X					
	by national legislation	X*	X	X	X	X	X	X	X	X	X*	X		X*		X	X	X	X		X*	X		X	X	X	X	X
	by Administrative Act								X																			

Does the equality body have the ability to reject, any direct or indirect external pressure and undue interference (qualitative)?	Yes	X	X	X	X	X	X	X		X	X	X	X	X *	X	X	X *	X	X	X	X *	X	X	X	X	X		X
	No								X												X *						X	

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Budgetary independence

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is there an equality body-specific budget?	Yes	X *	X	X	X	X	X	X	X		X *	X	X	X *		X	X	X	X	X	X	X	X	X	X	X	X	X
	No	X *								X	X *			X *	X													
Is there a multiannual equality body	Yes		X *				X				X *						X *	X				X					X	
	No	X		X	X	X			X	X		X	X	X	X	X			X	X	X		X	X	X	X		X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
budget?		*												*														
Is the budget defined and approved by governmental institution, or by parliament?	Yes		X	X	X	X	X	X	X	X	X*	X	X	X	X	X		X	X	X	X		X	X	X	X	X	
	No	X*															X					X						X
Is there a mechanism to forbid disproportionate budget cuts to the budget of equality bodies?	Yes		X*														X*			X								
	No	X*	X*	X	X	X	X	X	X	X	X*	X	X	X	X			X	X		X	X	X	X	X	X	X	X
The leadership has provided the power to…	hire/fire personnel.		X	X	X	X		X	X			X	X	X	X	X		X	X	X	X	X	X	X*		X	X	X
	assign tasks within the framework.	X*	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X		X	X	X
	and assign the available resources.		X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X*	X	X	X	X	X	X	X*	X	X	X	X
Does the equality body have capacity to diversify sources of budgetary	Yes		X	X	X		X	X	X	X		X	X	X	X		X*	X	X	X	X		X	X*	X		X	X
	No	X*				X					X*					X						X				X		

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
resources from national or international sources?																												

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Appointment process for leadership

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
What is the type of leadership structure?	Board		X	X							X*					X		X			X*	X		X*	X			
	Individual	X			X	X	X	X	X	X	X*	X	X	X	X		X		X	X	X*		X	X*		X	X	X
Are there public/open call for leadership position, with public and transparent position requirements and transparent procedures to select and appoint leadership?	Yes	X	X*	X	X				X		X*	X		X*	X	X	X*	X	X			X	X	X*	X	X	X	X
	No		X*			X	X			X	X*		X							X	X*							
Is the procedure of hiring the leadership of the equality body competence based?	Yes	X	X	X	X	X		X			X*	X		X*	X	X	X	X	X	X	X	X	X	X*	X	X	X	X
	No						X		X	X			X															

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is the equality body leadership appointed by government, or by parliament or by an independent entity?	Parliament		X			X		X						X*					X	X			X		X			
	Government	X*					X				X	X					X				X	X		X		X		
	Other entity or mechanism, please specify	X*		X	X			X	X	X			X		X	X		X									X	X
Are there rules limiting the possibility to revoke the leadership (particular due to change of parties in power)?	Yes	X				X	X			X	X*	X*	X	X*	X	X	X*				X*	X	X	X*	X	X	X	X
	No		X	X	X				X			X*						X	X	X	X*							
Is the equality body by law from criminal and civil liability for official actions undertaken in good faith?	Yes	X*		X						X		X*	X	X*	X	X			X			X						
	No		X		X	X	X		X		X*	X*					X			X	X*			X	X	X	X	X
Are there any rules to avoid extended vacancies between two leadership mandates?	Yes	X*	X		X	X		X				X*		X*	X	X				X		X		X	X			X
	No	X*		X			X		X	X	X*	X*	X				X	X	X		X		X			X	X	

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Are there any provisions ensuring the regular functioning, independence, and effectiveness of the equality body between two leadership mandates?	Yes	X *	X	X		X		X	X					X *	X	X	X		X	X		X	X	X		X		
	No	X *			X		X			X	X *	X	X	X *				X			X				X		X	X

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Accountability requirements

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is there scrutiny by the government or a government department/ministry?	Yes	X					X					X*					X		X		X			X		X		
	No		X	X	X	X		X	X	X	X*	X*	X	X*				X		X		X	X		X		X	X
Is there scrutiny by Parliament or parliamentary committee?	Yes	X*	X	X			X	X	X	X	X*	X*		X*	X		X			X	X*		X	X*	X		X	
	No				X	X					X*	X*	X					X	X		X*	X		X*		X		X
Is the equality body subject to public service laws, and to the financial accountability and expenditure rules that apply to public authorities?	Yes	X	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	No																											

Is the equality body producing and making annual activity reports available to the public?	Yes	X	X	X	X	X	X	X	X	X	X*	X	X	X*	X	X	X*	X	X	X	X	X	X	X	X	X	X	X
	No										X*																	

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Assistance to victims

Structure of the mandate of the equality body

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Are there one or several equality bodies?	One body			X		X	X	X	X	X			X		X	X	X	X	X	X		X	X		X	X	X	X
	Several bodies	X	X		X						X	X		X							X			X				
Is the equality body a multi-mandate body or a single mandate body	Single-mandate body	X	X*				X				X	X*		X*			X	X			X			X	X	X	X	
	Multi-mandate body		X*	X	X	X		X	X	X		X*	X	X*	X	X			X	X		X	X					X

(equality-specific body)?																												
Is the equality body a multi-ground or a single ground body?	Single-ground body	X*	X*		X						X	X*		X*			X*				X*	X		X*				
	Multi-ground body	X*	X*	X		X	X	X	X	X		X*	X	X*	X	X	X*	X	X	X	X*		X	X*	X	X	X	X

Grounds and fields covered by the equality bodies

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
What grounds of discrimination, included in Articles 18 and 19 of the Treaty on the Functioning of the EU, are covered by the equality body?	Sex	X*	X*	X	X	X	X	X	X	X	X*	X*	X	X*	X	X	X*	X	X	X	X*	X	X	X*	X	X	X	X
	Racial or ethnic origin	X*	X*	X	X	X	X	X	X	X	X*	X*	X	X*	X	X	X*	X	X	X	X*	X	X	X*	X	X	X	X
	Religion or belief	X*	X*	X	X	X	X	X	X	X		X*	X	X*	X	X	X*	X	X	X	X*	X	X	X*	X	X	X	X
	Disability	X*	X*	X	X	X	X	X	X	X		X*	X	X*	X	X	X*	X	X	X	X*	X	X		X	X	X	X
	Age	X*	X*	X	X	X	X	X	X	X		X*	X	X*	X	X	X*	X	X	X	X*	X	X		X	X	X	X
	Sexual orientation	X*	X*	X	X	X	X	X	X	X		X*	X	X*	X	X	X*	X	X	X	X*	X	X	X*	X	X	X	X
	Nationality		X*	X	X	X			X	X		X*	X		X	X	X*		X			X	X	X*	X		X	
What other grounds of discrimination are covered by the equality	Health status		X*	X	X			X	X	X		X*	X	X*	X				X			X	X		X		X	
	Gender identity	X*	X*	X	X	X	X	X		X		X*	X	X*	X		X*				X*	X	X	X*	X	X	X	X
	Socio-economic status		X*	X	X			X	X	X		X*	X	X*	X				X	X			X		X		X	X
	Other			X			X		X	X	X	X	X			X		X			X	X	X	X	X		X	

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
body?	grounds											*																
Which of the following areas within the scope of EU Directives are covered by the equality body?	Employment and occupation	X	X*	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X
	(Vocational) training	X	X*	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X
	Access to and supply of goods and services available to the public (including housing)	X	X*	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X*	X	X	X	X
	Education	X	X*	X	X	X	X	X	X	X	X*	X	X	X	X	X	X*	X	X	X	X	X	X	X*	X	X	X	X
	Social protection (includi	X*	X*	X	X	X	X	X	X	X	X*	X	X	X	X	X	X*	X	X	X	X	X	X	X*	X	X	X	X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	ng healthcare)																											
	Social advantages	X*	X*	X	X	X	X	X	X	X	X*	X	X	X	X	X	X*	X	X	X	X	X	X	X*	X	X	X	X
What sectors does the mandate cover?	Both the public and private sectors	X*	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X		X	X	X	X	X
	Only the public sector																						X					
Does the territorial scope of the national equality body cover the Member State's territory in part or in full?	Member State territory covered in part																											
	Member State territory covered in full	X*	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Do	Yes	X			X						X						X					X						

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
regional equality bodies exist in all the regions of the Member State?		*									*						*											
	No	X *					X	X			X *	X	X											X	X			
	There are no regional equality bodies in the Member State		X	X		X			X	X				X	X	X		X	X	X	X		X			X	X	X

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Powers

Independent assistance

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
The equality body has the power to…	receive individual complaints		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	receive collective complaints		X	X	X		X		X	X	X*	X	X	X*	X		X	X		X	X		X	X	X		X	X
	provide (legal) advice	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X*		X	X	X	X	X	X
	provide assistance to victims of discrimination	X	X	X	X		X	X	X	X	X	X	X	X		X	X	X	X		X		X	X	X	X	X	X
	be involved in mediation and/or conciliation activities	X	X	X	X		X	X		X	X*	X	X	X*	X		X	X	X		X			X*	X	X	X	X
Does national legislati	Yes	X*	X					X			X			X*		X		X	X	X			X	X*			X	

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
on allow for national authorities to bring cases to court without representing a specific victim?	No	X*		X	X	X	X		X	X		X	X	X*	X		X				X	X		X*	X	X		X
The equality body has legal standing by:	representing complainants	X*	X					X				X				X	X		X		X*					X	X	X
	acting as amicus curiae or expert		X	X								X*	X		X	X	X		X	X		X	X	X*	X			X
	bring proceedings before courts (individual complaints		X					X				X*		X*		X	X		X		X*		X			X	X	X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	)																											
	bring proceedings before court (class actions/collective complaints)	X*	X								X*			X*					X				X			X	X	X
	bring proceedings before court without identifiable victim	X*	X					X								X	X		X	X	X*		X				X	
	intervene in support of a party	X*	X					X				X*		X*	X		X				X*		X					X
	engage or assist in strategic litigation (decide themselves	X*	X					X				X*	X	X*		X			X				X			X	X	X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	the criteria for such litigation)																											
The equality body has the power to secure evidence for these procedures	require the production of files, documents and other material for inspection, examination and making copies thereof	X*		X				X		X		X	X	X*	X		X	X	X	X	X*	X	X	X*	X	X	X	
	conduct on-site inspections	X*		X	X			X		X		X	X	X*	X		X		X	X	X*	X	X	X*	X	X	X	
	question persons	X*		X	X					X		X*	X		X		X		X	X	X		X		X	X	X	
	apply for an enforceable court order or impose administrat											X	X							X						X		

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	ive fines if an individual or institution does not comply with the above																											
Does the equality body provide legal advice and support at no cost?	Yes	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X *	X	X	X	X	X	X	X
	No					X															X *							
Does the equality body provide legal advice and support	Yes																											
	No	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
for a fee?																												

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Decision-making function

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Does the law provide the right to appeal against equality body decisions?	Yes			X	X										X					X				X*	X		X	
	No		X			X	X	X	X	X	X	X	X	X		X	X	X	X		X*	X	X	X*		X		X
The equality body is empowered to…	issue legally binding decisions			X	X										X					X				X*	X		X	
	impose sanctions in the context of decisions on complaints			X	X										X					X					X			
	issue non-legally binding decisions/recommendations		X	X	X	X		X	X	X	X*	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X
	suspend the	X		X	X				X			X									X							

	time limits of their own proceedings in case of initiation of court proceedings for the same complaint	*																			*						
Are equality body decisions monitored?	Yes			X	X						X	X		X *						X	X *			X *			X	
	No	X *	X			X	X	X	X	X			X	X *	X	X	X	X	X		X *	X	X	X *	X	X		X

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Policy advisory role

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
The government consults with the equality body on...	Legislation		X		X	X	X	X		X	X*	X	X	X	X		X		X	X	X*	X	X	X	X	X	X	
	Policy		X		X	X	X	X			X*	X*	X	X			X		X	X	X*	X	X	X		X	X	
	Procedures		X	X	X			X					X	X*	X		X		X	X	X*	X				X		
	Programmes		X	X	X		X	X		X	X	X		X*			X		X	X	X*	X		X		X	X	
	Practices		X		X			X		X	X*		X	X*	X		X			X	X*	X				X		
How often does the government consult with Equality Bodies?	Biennially (or less often)																											
	Annually									X	X*			X*			X*											
	Bi-annually																							X*	X		X	
	Quarterly						X						X						X	X	X*							
	Monthly		X*	X	X							X*		X*								X		X*		X		
Does the equality body issue recommendations to public	Yes	X*	X	X	X	X	X		X	X	X*	X	X	X	X	X	X*	X	X	X	X	X	X	X*	X	X	X	X
	No							X			X*													X*				

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
authorities on legislation, policy, procedure, programmes, and practices?																												
How often does the equality body issue recommendations?	Biennially (or less often)																											
	Annually					X						X*					X*						X					X
	Bi-annually	X*					X																	X*	X			
	Quarterly		X*						X	X	X*			X*					X	X	X*							
	Monthly			X	X								X	X*				X			X*	X					X	
The equality body has capacity to:	request updates from public bodies on recommendations provided		X		X	X				X		X*	X	X*	X		X	X	X	X	X*	X	X	X*	X	X	X	

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	name and shame public and private bodies if they violate equality law		X	X	X	X						X *	X		X	X	X	X		X	X *	X	X	X *	X	X	X	X

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Support and good practice role

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
The equality body has the capacity to...	provide training	X *	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	provide support	X *	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X		X	X	X
	set standards for good equality practice [147] to relevant stakeholders	X *	X	X	X	X		X	X	X	X *	X *	X	X *	X	X	X	X		X	X	X		X				
How often does the equality body provide trainings?	Biennially (or less often)											X *						X										
	Annually			X							X *						X *							X *				
	Bi-annually													X *												X		
	Quarterly						X			X				X											X		X	

[147] Good practices are those complying with the 2018 Recommendation on standards for equality bodies. Examples of good equality practices can be found in the Staff Working Document, for example for multi-mandate bodies they include: a dedicated leadership for the equality mandate, balanced resources allocated to each mandate, a separate and specialised department dedicated to the equality mandate and/or a specific annual report focusing only on the equality mandate.

	y													*													
	Monthly	X*	X*		X				X		X*		X						X	X	X*	X		X*			X

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Communication role

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Does the equality body have capacity to provide information on rights under equal treatment legislation and how to exercise these rights?	Yes	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	No																											
How frequently does the equality body provide information on its role, on the rights under equal	Biennially (or less often)																											
	Annually			X						X							X*	X	X				X	X*				
	Bi-annually																											
	Quarterly																			X								

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
treatment legislation and on how to exercise these rights?	Monthly	X*	X*		X		X		X		X*	X*	X	X*		X					X	X		X*	X	X	X	X
Does the equality body have capacity to engage in public and political debate to promote equality and non-discrimination?	Yes	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X
	No														X													
How regularly does the equality body engage in public and political debate?	Biennially (or less often)									X																		
	Annually			X													X*	X	X									
	Bi-annual																								X			

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	ly																											
	Quarterly	X*											X							X	X*	X		X*				
	Monthly		X*		X		X		X		X*	X*		X*		X					X*			X*		X	X	X
Does the equality body have capacity to have a local/regional presence?	Yes	X*	X*	X	X						X*		X	X*	X		X*				X		X	X*	X		X	X
	No	X*	X*			X	X		X	X	X*	X					X*	X	X	X		X		X*		X		
Does the equality body have a communication strategy in place for this role?	Yes	X*	X		X				X		X*	X	X	X*	X		X*		X	X	X	X		X*	X		X	
	No	X*		X		X	X			X								X					X	X*		X		X

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Complaint submission

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
What are the means of submission of complaints?	Online	X	X	X	X	X	X		X	X	X	X	X	X	X		X*	X	X	X	X	X	X	X	X		X	X
	On paper	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X*	X	X	X	X
	Orally, in person	X	X		X	X	X	X	X	X	X	X*		X	X	X	X	X	X	X	X		X	X*	X	X	X	X
	In disability accessible format	X	X*			X	X		X		X*	X	X			X*		X		X	X*	X	X		X	X	X	
In what languages can complaints be submitted?	All of the official languages of the state	X*	X	X	X			X		X	X	X*	X	X	X		X	X	X		X	X	X	X		X	X	X
	Additional	X*	X	X	X	X	X		X		X*	X	X	X*	X		X*	X	X	X	X*		X		X		X	X

	languages beyond the official ones																											
What is the cost of submission of and dealing with complaints?	Zero	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X
	Minimum																					X*							
	Substantial																												
Is there a mechanism that provides financial support to victims of discrimination that want to submit a complaint to an equality	Yes			X																								
	No	X	X		X	X	X		X	X	X*	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

body?																												
Is confidentiality afforded to witnesses and whistle-blowers of complaints?	Yes	X	X		X	X	X		X	X	X *	X *	X	X	X		X	X	X	X	X	X	X	X		X		X
	No			X								X *													X		X	

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Physical presence across the territory

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Are the equality body facilities visible and open to the public?	Yes	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	No											X*																
Is the equality body present at local and regional levels through cooperating with civil society organisations or other type of organisations?	Yes	X	X*	X	X		X			X	X		X	X			X		X	X	X		X	X	X	X	X	X
	No					X		X	X			X			X			X				X						

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Accommodation and reflection of diversity

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Have you adopted measures to ensure disability accessibility of physical premises, information and communication including information technologies, and services and products, meetings, and events?	Yes	X	X	X	X	X	X		X	X	X	X	X	X*	X	X	X*	X	X	X	X	X	X	X*		X	X	X
	No													X*										X*	X			
Do you have processes for the accommodation of other circumstances (literacy issues, scheduling issues, transportation issues, translation needs or other across the grounds covered)?	Yes	X	X			X	X		X			X*	X	X*	X		X		X	X	X	X	X				X	
	No			X	X						X	X*		X*				X						X*	X			X

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Knowledge of discrimination

Independent surveys and reports

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Does the equality body have the power to conduct surveys and pursue research activities?	Yes	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	No																											
Does the equality body	Yes, biennially			X					X	X	X*	X*		X*				X	X		X*			X*	X	X		

regularly conduct surveys and pursue research activities?	(or less often)																										
	Yes, annually					X					X*				X						X*		X	X*				
	Yes, bi-annually		X*														X*										X	
	Yes, quarterly						X						X	X*						X								X
	Yes, monthly				X																	X						
	No	X										X*																
Does the equality body have capacity to request follow-ups on recommendations of these reports from governmen	Yes		X		X					X		X*	X	X*	X			X	X	X	X*	X	X	X*			X	
	No	X*		X		X	X		X		X	X*				X	X							X*	X	X		X

t or parliament ?																												

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Regulation of equality data

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Are there any data protection exemptions?	Yes																											
	No	X *	X	X	X	X	X		X	X	X	X	X	X	X		X	X	X		X *	X		X	X		X	X
Is data collection by equality bodies provided by national law or administrative act or national guideline?	Law		X	X	X		X	X	X		X	X		X	X		X			X	X *	X	X	X			X	X
	Administrative Act										X *						X *											
	Guidelines	X *							X		X *		X				X *								X			
What type of data collectio	Data collection on activities	X *	X					X	X	X	X *	X *	X	X			X	X	X	X	X *	X	X		X		X	X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
n is required?	Data collection on current situation regarding equality/general data collection		X	X				X			X			X*			X				X*	X	X	X	X		X	
	Data collection on narrow subjects regarding specific grounds of discrimination in specific circumstances (for example conditions of institutionalisation of persons with disabilities)		X	X				X			X*			X			X*					X						X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
In its research activities the equality body collects …	primary data (first-hand data gathered by researchers)	X *	X	X	X	X	X	X		X	X	X *	X	X			X *				X *	X	X	X	X		X	X
	secondary data (analyses data already collected by national authorities or other sources)		X	X	X	X	X	X	X		X	X	X	X			X *	X	X	X	X	X	X	X			X	X

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Validity of equality data

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is there any consultation of the group concerned in the design of the definitions used?	Yes			X	X	X	X				X*		X	X*			X*	X	X	X	X	X		X*			X	
	No		X*						X			X*		X*									X	X*				X
Is self-definition provided as an option in collection of equality data?	Yes	X*	X*	X		X	X				X*	X*	X	X*				X	X	X	X*	X					X	X
	No								X												X*		X	X*				

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Reliability of equality data

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Are common definitions collected for equality data at national level?	Yes	X*		X		X								X*						X	X	X		X*			X	X
	No		X*				X		X		X*	X*		X*				X	X				X					
What is the regularity of general data collection?	Annually	X*		X	X							X*		X*			X*		X	X	X*		X				X	
	Bi-annually																							X*				
	Quarterly											X*																
	Monthly						X				X*			X*							X*	X						
	Ad-hoc		X*			X												X										
	Irregularly												X											X*	X			X
	Only once, not repeate								X																			

	d again																											
What is the regularity of data collection on on activities?	Annually	X *			X					X		X *		X *			X *	X	X	X			X				X	X
	Bi-annually																							X *				
	Quarterly											X *									X *							
	Monthly		X *								X *		X	X *								X		X *				
	Ad-hoc					X	X														X *							
	Irregularly																								X			
	Only once, not repeated again								X																			

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Comprehensiveness of equality data

			AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is data collected in the fields covered by the EU Directives?	Employment and occupation	Yes	X*	X*	X	X		X			X	X	X*	X	X	X		X	X	X	X	X	X	X	X*	X		X	X
		No								X																				
	Vocational training	Yes	X*	X*		X		X			X	X	X*		X	X		X	X	X	X	X	X	X	X*	X		X	X
		No								X				X																
	Social security	Yes	X*	X*		X		X			X	X*	X*		X	X		X*	X	X	X	X*	X	X	X*	X		X	X
		No								X		X*		X								X*			X*				
	Healthcare	Yes	X*	X*		X		X			X	X	X		X	X		X*	X	X		X*	X	X	X*	X		X	X
		No								X				X								X*			X*				
	Social advantages	Yes	X*	X*		X		X			X	X*	X		X	X		X*	X	X	X	X*	X	X	X*	X		X	X
		No								X		X*		X								X*			X*				
	Education	Yes	X*	X*	X	X		X			X	X*	X		X			X*	X	X	X	X*	X	X	X*	X		X	X
		No								X				X											X*				
	Access to and supply	Yes	X*	X*	X	X		X			X	X*	X		X	X		X*	X	X		X*	X	X	X*	X		X	X
		N								X		X		X								X			X				

			AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	of goods and services available to the public (including housing)	o										*										*			*				
Is data collected beyond the fields covered by the EU Directives?		Yes		X*				X		X		X*	X*		X	X			X	X		X				X		X	
		No	X*		X	X	X				X	X*		X				X			X		X		X				X
Is data collected on the following?	Poverty	Yes		X*								X*								X	X	X*							
		No			X	X	X	X		X	X	X*	X*					X*	X			X*	X		X*				X
	Social exclusion	Yes		X*				X				X*			X*					X	X	X*							
		No			X	X	X			X	X	X*	X*					X*	X			X*	X		X*				X
	Crime	Yes		X*								X*			X*					X	X	X*		X					
		No			X	X	X	X		X	X	X*	X*					X*	X			X*	X		X*				X
	Victimisation	Yes	X*					X				X			X*					X		X*	X			X		X	X
		No		X	X	X	X			X	X		X*					X*	X		X	X*			X*				

			AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is data collected on the following?	Discrimination complaints	Yes	X*	X*	X	X	X	X	X	X	X	X	X	X	X			X*	X	X	X	X	X	X	X	X		X	X
		No																											
	Discrimination cases (decided by Equality bodies)	Yes	X*	X*	X	X	X		X	X	X		X	X	X			X*	X	X	X	X	X	X	X	X		X	X
		No						X				X*																	
	Outcomes of discrimination cases (decided by equality bodies)	Yes	X*	X*	X	X			X	X	X	X*	X	X	X			X*	X	X		X*	X	X	X*	X		X	X
		No					X	X																					
Is data collected on specific grounds of discrimination (provided by EU law and articles 18 and 19 TFEU)?		Yes	X	X*	X	X		X		X		X*	X	X	X			X*	X	X	X	X*	X	X	X	X		X	X
		No					X					X*										X*							

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Publication and dissemination of equality data gathered

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Is data published and disseminated in the following ways?	Equality body website	X	X		X	X	X		X	X	X	X	X	X			X	X	X	X	X	X	X	X*	X		X	X
	Network of relevant stakeholders		X		X	X	X				X*		X	X*			X	X			X	X		X*	X		X	X
	Ministerial website		X								X*									X	X*							
	Other, please briefly provide other methods of dissemination used by the equality body	X*		X	X		X				X	X		X					X	X	X						X	X

* This response was indicated by only some of the equality bodies in a country with multiple equality bodies.

Cooperation and coordination

Engagement and cooperation with national authorities

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
Are there structures to engage in dialogue and exchange with civil society organisations representative of the grounds covered in the mandate of the equality body?	Yes	X *	X	X	X		X	X		X	X	X *	X	X		X	X		X	X	X *	X	X	X	X	X	X	X
	No	X *				X			X			X *						X			X *							
How regularly does the equality body cooperate with civil society organisations '	Biennially (or less often)								X																			
	Annually									X		X *							X									
	Bi-annually																							X *				
	Quarterly		X *									X *		X *				X		X	X *					X	X	
	Monthly	X		X	X		X				X		X	X			X				X	X	X	X	X			X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
representatives?		*									*			*			*				*			*				
	Never																											
Are there mechanisms (protocols/memoranda of understanding) for engagement with national authorities: formal or informal consultation mechanism for legislation or policy development?	Yes	X	X	X		X	X	X		X	X	X	X	X			X	X	X	X	X				X	X	X	X
	No				X				X													X	X	X *				
How regularly does the equality body cooperate with national authorities?	Biennially (or less often)																											
	Annually								X																			
	Bi-annually	X *																										
	Quarterly									X								X		X				X *		X		
	Monthly		X	X	X		X				X	X	X	X			X		X		X	X		X	X		X	X

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
			*								*						*							*				
	Never																											
Is there a mandate that allows cooperation with supranational institutions or foreign equality bodies?	Yes	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X
	No																	X										
How regularly does the equality body cooperate with supranational authorities?	Biennially (or less often)																											
	Annually											X *		X *								X						
	Bi-annually																											
	Quarterly	X *					X		X											X	X *			X *			X	
	Monthly		X	X	X					X	X *	X *	X	X *			X *		X		X *			X *	X			X
	Never																	X										
Which of the following structures and processes for	The preparation of partnership			X	X												X *			X	X *	X			X			

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
equality-related aspects of EU cohesion policy is the equality body involved in?	agreements																											
	The preparation, implementation, and evaluation of programmes		X*		X				X		X*	X*					X*			X	X*	X		X*				
	The process for applying the enabling conditions and corresponding criteria to approve cohesion fund programmes and		X*		X						X*					X	X*			X	X*	X						

		AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LU	LV	LT	MT	NL	PL	PT	RO	SE	SI	SK
	projects																											
	The implementation of the horizontal equality and human rights principle		X*		X		X		X				X	X*			X*		X	X	X*	X		X*	X			
Does the equality body engage in joint ventures and cooperative agreements with relevant civil society organisations?	Yes	X	X	X	X	X	X	X	X		X*	X*	X	X*			X		X	X	X	X	X	X	X	X		X
	No										X*	X*						X									X	

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ANNEX 5: RETROSPECTIVE ANALYSIS REPORT

CONTENTS

9. 1. INTRODUCTION

Equality bodies were first introduced into the EU legal framework by Directive 2000/43/EC ('Racial[148] Equality Directive')[149], which required that each Member State designates such a body at latest by 19 July 2003. Equality bodies are expected to promote equal treatment through the following missions: assisting victims of discrimination, conducting independent surveys, publishing independent reports and making recommendations on discrimination matters.

As regards the prohibition of discrimination based on sex, equality bodies were first introduced with a 2002 amendment of Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. Directive 76/207/EEC was later repealed and replaced by Directive 2006/54/EC ('Gender Equality Directive in the field of employment'). Two additional Equality Directives entrusted equality bodies with the same missions in their respective field: Directive 2004/113/EC ('Gender Equality Directive in the field of goods and services') and Directive 2010/41/EU ('Gender Equality Directive in the field of self-employment'). Directives 2006/54/EC and 2010/41/EU have added the mission of exchanging information with corresponding European bodies, such as the European Institute for Gender Equality ('EIGE').

In 2018, the Commission issued Commission Recommendation 2018/951 on standards for equality bodies ('2018 Recommendation')[150]. This non-binding legal act contains suggestions regarding the mandate, independence of, and cooperation and coordination between equality bodies, as well as with other relevant authorities.

The aim of this retrospective analysis is to assess the relevance, effectiveness, efficiency, coherence and EU added value of the provisions on equality bodies in the abovementioned Directives. It furthermore examines the 2018 Recommendation, using the same criteria.

Where available and relevant, the retrospective analysis draws on previous analytical documents assessing those instruments, such as the Commission report on the application of Council Directives 2000/43/EC and 2000/78/EC ('2021 application report')[151] and the

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148 The use of the term 'racial origin' in the Treaty of the Functioning of the EU and Council Directive 2000/43/EC does not imply any acceptance by the European Union of theories that attempt to determine the existence of separate human races.

149 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, available at EUR-Lex - 32000L0043 - EN - EUR-Lex (europa.eu).

150 Commission Recommendation 2018/951 of 22 June 2018 on standards for equality bodies, available at https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32018H0951.

151 Report from the European Commission to the European Parliament and Council on the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('the Racial Equality Directive') and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('the

Staff Working Document on the implementation of the Commission Recommendation on standards for equality bodies ('2021 Staff Working Document')[152], accompanying the 2021 report.

The retrospective analysis focuses on all 27 EU Member States and looks at the period as of 29 June 2000, which is the date when the first Directive that introduced equality bodies, namely the Racial Equality Directive[153], was adopted. However, for those Member States that joined the EU after that date, the period examined by the retrospective analysis starts from the date of their accession (1 May 2004[154], 1 January 2007[155] and 1 July 2013[156]).

This retrospective analysis builds on findings and conclusions of a study prepared by an external consultancy (VVA). The methodological approach[157] ensured the gathering and triangulation of a substantial amount of qualitative data, in particular through a survey of equality bodies, interviews with national, EU-level and international stakeholders, country analyses, literature review and workshops.

However, some limitations exist, such as the reduced availability of data on quantifiable costs and benefits and of reliable and comparable quantitative equality data. Mitigation measures were taken and the retrospective analysis was underpinned by a large body of qualitative evidence to provide a reliable basis for drawing conclusions. The research was conducted before Spain adapted its anti-discrimination legislation in July 2022. The information below presents the situation before the reform.

10. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?

10.1. Description of the intervention and its objectives

Wider policy context at the time of adoption of the first Directive containing provisions on Equality Bodies

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Employment Equality Directive'), COM(2021) 139 final, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52014DC0002.

152 Staff Working Document 'Equality bodies and the implementation of the Commission Recommendation on standards for equality bodies', accompanying the Report from the European Commission to the European Parliament and Council on the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('the Racial Equality Directive') and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('the Employment Equality Directive'), SWD(2021) 63 final, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021SC0063.

153 Article 16 of Directive 2000/43/EC.

154 CZ, EE, CY, LV, LT, HU, MT, PL, SI, SK.

155 BG, RO.

156 HR.

157 For further information on the methodological approach followed by the external study and this retrospective analysis, please consult Annex 2.

The importance of the right to equality before the law and protection against discrimination for all persons is a universal right recognised at international level, by the Universal Declaration of Human Rights and the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and, at EU level, by the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which all Member States at the time (EU-15) were signatories in the early 2000s. The EU framework on equality was made possible by the Amsterdam Treaty (1997) that empowered the EU to take measures to combat discrimination on certain grounds.

Acknowledging the importance of the abovementioned standards on equality, the European Parliament adopted a number of Resolutions on the fight against racism[158] in the EU. Continuing its efforts to fight racism and racial or ethnic discrimination and following the Commission Communication of 13 December 1995[159], the Council and the representatives of the governments of the Member States adopted on 23 July 1996 a resolution proclaiming 1997 European Year against Racism[160]. In this context, European institutions and civil society consistently called for legislative action.

This was followed by the European Council in Tampere, on 15 and 16 October 1999, during which the Commission was invited to come forward as soon as possible with proposals implementing Article 13 of the EC Treaty[161] as regards the fight against racism and xenophobia. Subsequently, the Employment Guidelines 2000 agreed by the European Council in Helsinki, on 10 and 11 December 1999, stressed the need to foster conditions for a socially inclusive labour market by formulating a coherent set of policies aimed at combating discrimination against groups such as ethnic minorities.

The above steps, among others, led to the adoption of the first Directive containing provisions on equality bodies, the Racial Equality Directive. It prohibits discrimination on the grounds of racial or ethnic origin in a broad range of areas: employment (access to and working conditions), vocational training, membership of and involvement in an organisation of workers or employers, access to social protection and healthcare, education, social advantages, and access to and supply of goods and services that are available to the public, as well as access to housing. As mentioned in the introduction, another three Directives[162] covering various aspects of gender equality with almost identical provisions on equality bodies followed in 2002, 2004 and 2010.

Pursuant to the abovementioned Directives, Member States are required to designate one or several equality bodies which may form part of agencies charged with the defence of

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158 Resolution of the European Parliament on racism, xenophobia, and antisemitism, 27 October 1994, OJ C 323/154, 20.11.1994; Resolution of the European Parliament on racism, xenophobia and antisemitism, 26 October 1995, OJ C 308/140, 20.11.1995.

159 COM(95) 653 final of 13 December 1995.

160 OJ C 237, 15.8.1996, p. 1.

161 Article 19 of the Treaty on the Functioning of the European Union ('TFEU') as of 1 December 2009.

162 The Gender Equality Directives in the field of goods and services, employment and self-employment.

human rights or the safeguard of individuals' rights.[163] Equality bodies are supposed to perform three main tasks:[164]

- to provide independent assistance to victims of discrimination in pursuing their complaints about discrimination;
- to conduct independent surveys concerning discrimination; and
- to publish independent reports and make Recommendations on any issues related to such discrimination.

The Gender Equality Directives in the fields of employment and self-employment contain an additional task to exchange available information with corresponding European bodies.

It is worth noting that there are also two more Equality Directives that do not contain provisions on equality bodies: Directive 79/7/EEC ('Gender Equality Directive in the field of social security')[165] and Directive 2000/78/EC ('Employment Equality Directive')[166].

Intervention logic

The rationale behind the adoption of the EU Equality Directives as of 2000 was the need of secondary legislation to implement the then newly created Article 13 of the EC Treaty (currently Art.19 (1) TFEU), after the Treaty of Amsterdam extended the competences of the EU and allowed for secondary legislation to combat discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation, and enforce the newly created legislation **(objective 1)**.

The first piece of such secondary legislation (also referred to as 'second-generation Directives because they provided for more comprehensive and structured protection from discrimination than the Directives adopted before the Treaty of Amsterdam[167]) was the Racial Equality Directive; it was also the Directive that first established equality bodies

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[163] See Art. 13 (1) of the Racial Equality Directive; Art. 20 (1) of the Gender Equality Directive in the field of employment; Art. 11 (1) of the Gender Equality Directive in the field of self-employment; Art. 12 (1) of the Gender Equality Directive in the field of goods and services.

[164] See Art. 13 (2) of the Racial Equality Directive; Art. 20 (2) of the Gender Equality Directive in the field of employment; Art. 11 (2) of the Gender Equality Directive in the field of self-employment; Art. 12 (2) of the Gender Equality Directive in the field of goods and services.

[165] Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31979L0007.

[166] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0078

[167] Favilli, C., 'Article 19 [Combatting Discrimination Based on Other Grounds]', in: Blanke, HJ., Mangiameli, S. (eds), *Treaty on the Functioning of the European Union - A Commentary,* Springer, Cham, 2021, pp. 469-488.

in EU legislation. Therefore, the intervention logic addressed the Racial Equality Directive; however, it is in principle also applicable to the three subsequent Gender Equality Directives that contain provisions on equality bodies[168]. Other than combatting racial and ethnic discrimination, the Racial Equality Directives also aimed at increasing prevention **(objective 2)**. More specifically, the rationale behind the establishment of equality bodies and the roles they were assigned was to (i) ensure that (potential) victims are aware of their rights and the existence of equality bodies, (ii) ensure assistance and redress for victims, (iii) improve factual knowledge about the state of discrimination, (iv) better inform policy-making, and (v) improve the behaviour and awareness of companies and the general public about matters of discrimination (**operational objectives**).

When the Racial Equality Directive was adopted, no intervention logic had been prepared. It has therefore been developed for this retrospective analysis (see table 1 below). It highlights that the **key expected outcomes** are (i) that victims of discrimination come forward with complaints and get redress, (ii) victims are assisted, (iii) increased information and knowledge about the state of discrimination, (iv) better informed policy-making at national level on matters of equality and discrimination, and (v) improved behaviour and awareness of companies and the general public. The **expected key impacts** are (i) an effective implementation and enforcement of EU equal treatment and non-discrimination legislation, (ii) a decrease in levels of discrimination and unequal treatment and (iii) increased prevention and higher awareness.

[168] For those Directives, the relevant ground is however sex/gender rather than racial or ethnic origin.

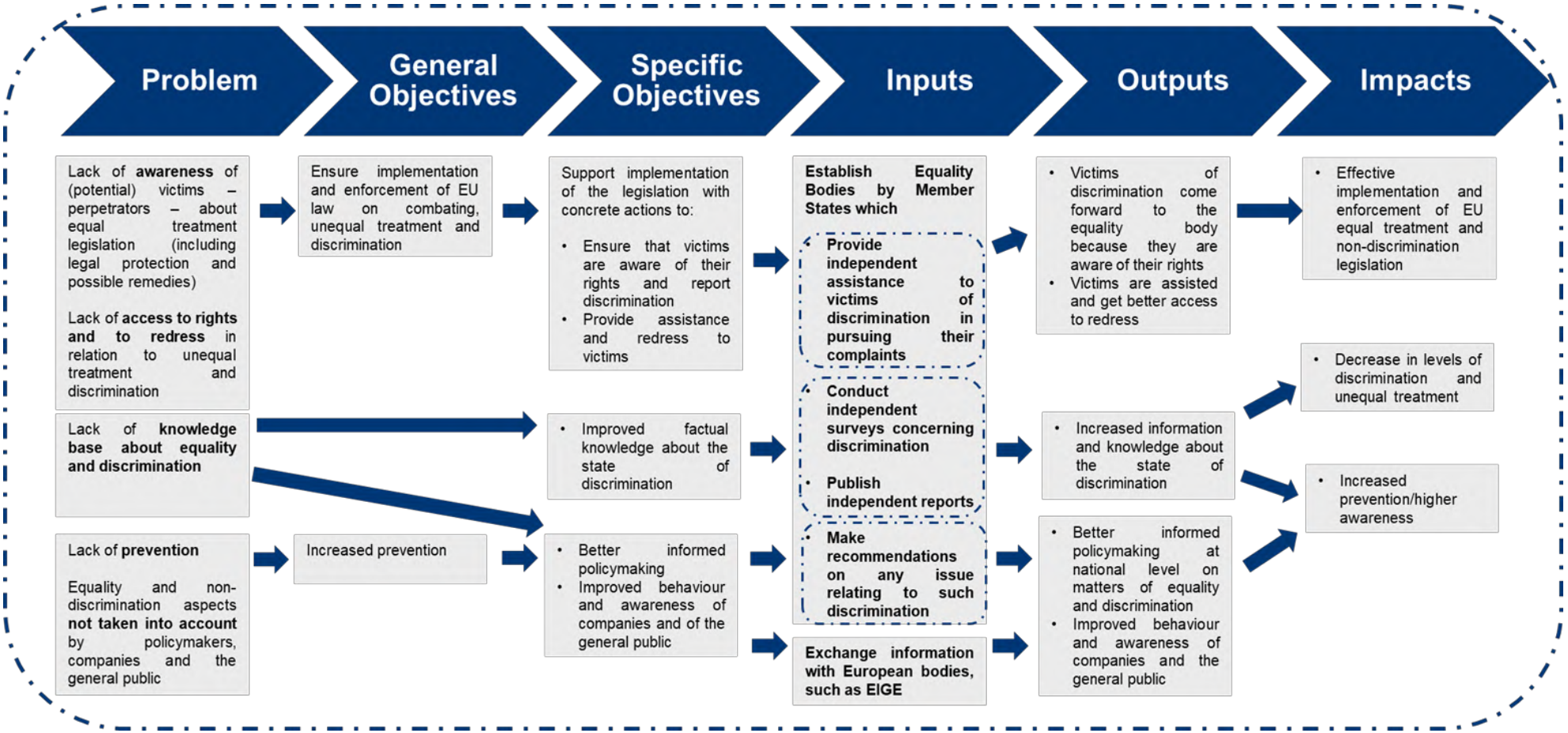

Figure 1: Intervention logic

10.2. Point(s) of comparison

Information about the baseline situation as regards racial and ethnic discrimination is scarce due to lack of data. This is still true today; but even more at the time of adoption of the Racial Equality Directive in 2000. As noted by the European Monitoring Centre on Racism and Xenophobia ('EUMC'), the predecessor of the European Union Agency for Fundamental Rights ('FRA'), in its 1999 Annual Report[169], factors such as inadequate reporting systems at national level, lack of common definitions across the Member States and lack of uniformity in data gathered and method used hindered the effective monitoring of levels of racism and racial or ethnic discrimination. The fact that no impact assessment was carried out when the first three Directives containing provisions on equality bodies[170] were adopted also affects this retrospective analysis, as it cannot refer to evidence gathered for the purpose of such an assessment.

Despite the abovementioned limitations, EUMC still identified evidence pointing to incidents of racial discrimination in all EU Member States at that time[171] in fields such as employment, access to and supply of goods and services, education, housing and the criminal justice system. The findings were underlined by the subsequent report[172] published in 2002 that found that up to 40% of migrants have experienced discrimination based on their ethnic origin in some Member States[173]. A report published by the European Commission against Racism and Intolerance ('ECRI') in 1999 came to similar conclusions, stating that there was persistent general racial and ethnic discrimination across the EU, especially in the field of employment. ECRI identified lack of effective non-discrimination legislation as one of the drivers of this problem.[174] This is in line with the first objective of the intervention, which was to implement such legislation.

In order to accomplish this and the other objectives identified in the intervention logic, Member States were required to designate one or several equality bodies with specific competences, as described above. Prior to the adoption of the Racial Equality Directive, such bodies only existed in seven Member States (EU-15)[175]. They were mostly responsible for discrimination based on gender[176]; some Member States also had established such bodies to fight against racial or ethnic discrimination[177]. There was quite

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169 European Union Monitoring Centre on Racism and Xenophobia, 'Annual Report 1999', Vienna, 2000, p. 17.

170 The Racial Equality Directive and Gender Equality Directives in the field of access to goods and services and employment.

171 European Union Monitoring Centre on Racism and Xenophobia, Annual Report 1999, Vienna, 2000, p. 17, 31 and 84.

172 European Union Monitoring Centre on Racism and Xenophobia, 'Racism and xenophobia in the EU Member States: trends, developments and good practices in 2002, Annual Report Part II', Vienna, 2002, p.39.

173 BE, IT, NL, AT, UK (about 40%), ES, SE (about 30%).

174 European Commission against Racism and Intolerance, 'Annual Report 1999', Strasbourg, 2000, p. 7.

175 BE, IE, NL, AT, PT, FI, SE.

176 IE, NL, AT, PT, FI, SE.

177 BE, IE, PT, SE.

some variety in terms of functions, structure, power and independence between these bodies.

Overview of existing equality bodies at the time of adoption of the RED

Country	Grounds covered	Establishment
Belgium	Racial or ethnic origin	UNIA established in 1993.
Ireland	Gender, racial or ethnic origin	First equality body established in 1999.
Netherlands	Gender	First equality body established in 1994.
Austria	Gender	Commission for equal treatment (mediation body for matters related to equal pay for men and women) established in 1979. First ombudsperson for equal treatment appointed in 1991.
Portugal	Gender, racial or ethnic origin	Commission for Equality in Labour and Employment (CITE) established in 1979. Commission for Citizenship and Gender Equality (CIG) 1977. Commission for Equality and Against Racial Discrimination (CEARD) established in 1999.
Finland	Gender	Equality Ombudsman established in 1987.
Sweden	Gender, racial or ethnic origin, disability, sexual orientation	Four separate ombudsman offices established from 1991 on different equality grounds (gender, ethnicity, disability, and sexual orientation).

11. HOW HAS THE SITUATION EVOLVED OVER THE PERIOD EXAMINED BY THE RETROSPECTIVE ANALYSIS?

Broadening of equality bodies' mandate to gender equality in certain fields

The first Directive containing provisions on equality bodies, the Racial Equality Directive, was adopted in 2000. The three subsequent Gender Equality Directives containing provisions on equality bodies extended the grounds of discrimination for which equality bodies are competent to gender in the fields of access to and supply of goods and services, employment and self-employment. They did not significantly change the mandate of equality bodies, with the exception of the introduction of the mission of exchanging information with corresponding European bodies, such as EIGE, in the latest two Gender Equality Directives[178]. Therefore, the intervention logic presented above also explains the rationale behind the adoption of the three Gender Equality Directives[179].

As the table above demonstrates, before the adoption of the first Equality Directive that contains provisions on equality bodies, only few Member States (EU-15)[180] had such bodies competent for the ground sex/gender in place. Before the adoption of the Gender Equality Directive in the fields of access to and supply of goods and services in 2004, discrimination based on sex/gender when accessing insurances and other related financial services was widespread[181]. According to the European Community Household Panel (ECHP), national Structure of Earnings Surveys (SES) and other national earnings surveys, the gender pay gap – difference in average gross hourly earnings as a percentage of men's average gross hourly earnings – varied between 6 and 26% in EU Member States in 2001[182]. Although the net additional jobs created over ten years till 2004 have mainly gone to women, in the EU-25, long-term unemployment was also more prevalent among females than males (respectively 4.6% and 3.5%)[183]. Women were overrepresented in part-time work[184] and underrepresented in self-employment[185]. The Gender Equality Directives in employment and self-employment adopted in 2006 and 2010 aimed to tackle those issues.

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178 The Gender Equality Directives in the fields of employment and self-employment.

179 However, the ground addressed by those Directives is sex/gender rather than ethnic or racial origin.

180 IE, NL, AT, PT, FI, SE.

181 Werner, H., Caracciolo di Torella, E., 'Gender Equal Access to Goods and Services, Directive 2004/113/EC, European Implementation Assesment', European Parliamentary Research Service, Brussels, 2017, p.7.

182 European Commission, The social situation in the European Union, 2004, p. 80.

183 European Commission, The social situation in the European Union, 2004, p. 55.

184 European Commission, The social situation in the European Union, 2004, p. 51. This report found that in the EU-25 at the time, 30% of women in employment were working part-time against only 6.5% of men.

185 European Commission, European Employment Observatory Review, Self-employment in Europe 2010, p. 7. In 2009, 69.9% of self-employed were male.

The rationale behind the extension of the competence of equality bodies to gender in the abovementioned fields was similar to the one behind the initial intervention. Equality bodies were regarded as a tool to help fighting against and preventing discrimination based on gender in the relevant fields covered by the Directives.

All EU Member States notified transposition measures of all four Directives, and there have not been any problems in the transposition of the Directives into national legislation that concerned the correct implementation of the provisions on equality bodies. There are no open infringements regarding those provisions in any of the Directives.

Evolvement of the general situation regarding discrimination based on racial or ethnic origin and gender

In 2007, the European Commission against Racism and Intolerance ('ECRI') welcomed the setting-up of equality bodies competent for racial and ethnic discrimination, stating that they have facilitated access to justice for victims of racial discrimination[186]. ECRI also reported that these bodies have helped to improve legislation and change attitudes by providing advice to public authorities and promoting equal opportunities[187].

In 2009, FRA conducted the first European Union Minorities and Discrimination Survey (EU-MIDIS I), which provided more robust data on the actual state of ethnic and racial discrimination. A second survey of such nature, EU-MIDIS II, was conducted in 2015/16[188]. The results of these surveys point to persisting levels of racial and ethnic discrimination throughout the European Union. EU-MIDIS II found that 'four out of 10 respondents (38%) felt discriminated against in the five years before the survey because of their ethnic or immigrant background in one or more areas of daily life, and one in four (24 %) experienced this in the 12 months preceding the survey[189]'.

On the awareness of rights and access to assistance and redress, a Eurobarometer survey conducted in 2003 found that 7 out of 10 respondents indicated that they would complain if they were discriminated against[190]. The European Union Minorities and Discrimination Surveys (EU-MIDIS I and II) conducted by FRA in 2009 and 2015/16 however found that the number of people that actually complained after having been subject to racial or

186 European Commission against Racism and Intolerance, 'Annual Report 2007', Strasbourg, 2008, p. 11-12.

187 European Commission against Racism and Intolerance, 'Annual Report 2007', Strasbourg, 2008, p. 12.

188 European Union Agency for Fundamental Rights, 'EU-MIDIS, European Union Minorities and Discrimination Survey, Main Results Report', Luxembourg, 2010; European Union Agency for Fundamental Rights, 'EU-MIDIS II, Second European Union Minorities and Discrimination Survey, Main Results', Luxembourg, 2017.

189 European Union Agency for Fundamental Rights, 'EU-MIDIS II, Second European Union Minorities and Discrimination Survey, Main Results', Luxembourg, 2017, p.13.

190 Eurobarometer, 'Discrimination in Europe', 2003, p. 14.

ethnic discrimination was much lower, with 18% in EU-MIDIS I and 12% in EU-MIDIS II[191].

The EU-MIDIS II survey further found that 71% of respondents could not think of a single organisation that could offer support to victims of discrimination, be it government-based, an independent institution or authority, such as an equality body, or an NGO[192]. When given the name of an equality body, 62% of respondents indicated that they had never heard of them[193].

Even though the gender pay gap reduced significantly between 2006 and 2011, women on average still earned 16.2% less per hour than men in 2011[194]. Between 2011 and 2015 this number did however not decrease further. Contrarily, it slightly increased again, resulting in an average gender pay gap of 16.3% in 2015[195]. Similar developments could be observed for the gender employment gap. In 2012, almost three quarters of men (74.6%) were employed as opposed to 62.4% of women, which results in a gap of 12.2%[196]. It slightly decreased to 11.6% in 2016[197].

In 2013, EIGE first published the Gender Equality Index that measures the progress Member States made towards gender equality. On EU level, the index was 63.1 in 2013 and 65.7 in 2017, showing that, although some progress was made, it remained very slow[198].

The 2018 Recommendation

To mitigate this unsatisfactory situation regarding the persistent discrimination despite the explicit legal protection, the Commission decided to take further steps to strengthen equality bodies by adopting the 2018 Recommendation on common standards for equality bodies.

The 2018 Recommendation was the first legal - although non-binding - act that went beyond the initial framework for equality bodies on substance. This was because the

191 European Union Agency for Fundamental Rights, 'EU-MIDIS II, Second European Union Minorities and Discrimination Survey, Main Results', Luxembourg, 2017, p. 21.

192 European Union Agency for Fundamental Rights, 'EU-MIDIS II, Second European Union Minorities and Discrimination Survey, Main Results', Luxembourg, 2017, p.50.

193 European Union Agency for Fundamental Rights, 'EU-MIDIS II, Second European Union Minorities and Discrimination Survey, Main Results', Luxembourg, 2017, p.15.

194 Eurostat, 'Sustainable development in the European Union, 2013 monitoring report of the EU sustainable development strategy', Luxembourg, 2013, p. 11.

195 Eurostat, 'Sustainable Development in the European Union, Overview of progress towards the SDGs in an EU context, 2017 edition', Luxembourg, 2017, p. 110.

196 Eurostat, 'Sustainable development in the European Union, 2013 monitoring report of the EU sustainable development strategy', Luxembourg, 2013, p. 100.

197 Eurostat, 'Sustainable Development in the European Union, Overview of progress towards the SDGs in an EU context, 2017 edition', Luxembourg, 2017, p. 111.

198 For further information on EIGE's gender equality index and the methodology used, please consult https://eige.europa.eu/gender-equality-index/about.

minimum requirements set out by the Directives have left a wide margin of discretion for Member States to decide on the functioning and structure of their equality bodies, which has led to major differences in those areas as well as the independence and resources allocated to equality bodies across the EU. While these differences may appear to be the natural expression of Member States' differences in legal culture and administrative structures, they have also resulted in very different levels of protection against discrimination among Member States.

The 2018 Recommendation lists measures to achieve an optimal enforcement of the Directives' provisions to ensure that equality bodies can effectively perform their functions. It focuses on (i) the mandate of equality bodies, (ii) their independence, effectiveness and accessibility, and (iii) the coordination and cooperation between equality bodies (and other entities) across the EU.

The 2021 Staff Working Document examined the state of implementation of the Recommendation and found that it remained limited and unequal, continuing to hinder some equality bodies in effectively exercising their role. In practice, this leads to different levels of protection against discrimination across the EU.

Current state of play as regards equality bodies

To underpin the findings of the 2021 Staff Working Document and to obtain a thorough and complete picture of the structure and functioning of equality bodies in all Member States, VVA conducted a survey among equality bodies as part of the external study prepared to inform this retrospective analysis. The main findings are summarised and outlined below. For more detailed information on the current structure and functioning of equality bodies in each Member State, please consult Annex 4.

Resources and independence

The Directives do not explicitly mention **resources**, while the 2018 Recommendation suggests Member States to ensure that each equality body is provided with the human[199], technical and financial resources, premises and infrastructure necessary to perform its tasks and exercise its powers effectively[200].

There is significant variation in the number and expertise of staff and the level of budget among equality bodies. A comparison between Member States on these issues is very precarious as the issue of resources is dependent on a variety of factors connected to the national economy, the levels and types of discrimination, the cohesion of societies, and the existence of other national authorities or systems that share the same goals as equality

[199] A sufficient number of staff members with adequate qualifications in terms of skills, knowledge and experience to fulfil adequately and effectively each of the equality bodies' functions.

[200] Within reasonable time and within the deadlines established by national law.

bodies. Nevertheless, there are stark differences in budgets and human resources among equality bodies[201].

The table below gives an overview about how equality bodies assess the adequacy of resources at their disposal for specific activities.

Function	Yes, adequate	No, not adequate
Litigation	LV, HU, MT*, NL, AT*, PT*, RO, SI, SK.	BE*, BG, HR*, IT*, LU, PL, FI.
Decision-making	BE*, ES*, HR*, IT*, CY, LV, LU, HU, MT*, NL, PT*, RO, SI, FI*.	BG, EE, HR*, LT.
Promotion of good practices	BE*, CZ, DE, ES*, HR*, IT*, CY, LV, LU, HU, NL, PT*, SI.	BG, EE, EL, HR*, IT*, LT, MT*, AT*, PL, RO, SK, FI.
Policy advice	BE*, DE, ES, HR*, IT*, CY, LV, LU, MT*, NL, PT*, RO, SI, SK, FI*.	BG, EE, EL, HR*, IT*, LT, PL, FI*.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two or three[202] equality bodies. Source: Online survey conducted by VVA.

The overview above is not entirely reflected by experiences of other stakeholders; from three quarters of Member States[203] stakeholders stated that their corresponding equality bodies did not have the necessary resources to operate and conduct the activities provided by EU and national legislation; Similarly, only 34.7% of respondents to the public consultation considered the current resources of their national equality bodies as sufficient.

On **independence**, the Directives state that equality bodies should perform independent surveys, publish independent reports and provide independent assistance to victims of discrimination, but do not include provisions on the set-up of equality bodies as such. The 2018 Recommendation invited Member States to consider such elements as the organisations of equality bodies, their place in the overall administrative structure, the allocation of their budget and their procedures for handling resources[204].

[201] Crowley N., 'Equality Bodies Making a Difference', European Network of Legal Experts in Gender Equality and Non-Discrimination and European Commission, Brussels, 2018, p. 103.

[202] Only HR and PT have three equality bodies; all others marked with a star have two.

[203] BE, BG, CZ, DE, EE, EL, ES, HR, IT, CY, LT, LU, HU, MT, AT, RO, PL, PT, SK, FI.

[204] In this context, it was recommended to put particular focus on the procedures for appointing and dismissing staff, including persons holding leadership positions. Member States should also ensure that the equality bodies' staff and leadership did not engage in any action incompatible with their duties.

Several studies conducted as of the transposition of the Directives dedicated some attention to the matter of independence of equality bodies. A study conducted in 2007 found that a significant number of equality bodies faced issues in that regards, as they: (i) were not established on the basis of constitutional or legislative provisions; (ii) officials of government were on their board or had some influence over their decisions; and/or (iii) they did not have adequate premises outside of government buildings[205].

Another study conducted in 2010 pointed out that twelve equality bodes did not have their own legal personality, fifteen equality bodies lacked financial independence, three equality bodies lacked independence in personnel management, and the majority had a leadership appointed by the government. However, this study also found that the vast majority of equality bodies enjoy full independence to exercise their powers, and in taking decisions on the allocation of resources over their various tasks[206].

A study conducted in 2018 highlighted that ten equality bodies were part of Government ministries and twenty had their leadership appointed by the government, which is a decrease in comparison to 2010. Eighteen equality bodies were accountable to the government, but an increasing trend of accountability to the parliament has been observed as well, which can be seen more favourable in terms of independence[207]. In 2022, equality bodies in seven Member States[208] are still part of the governmental structure. In two-thirds of the Member States[209], they are no longer accountable to the government, but to the parliament.

Most equality bodies have a specific budget for their work. The ones that do not are either equality bodies that are part of the governmental structure and share their Ministerial budget[210], or equality bodies that are part of multi-mandate bodies that are operating with a central budget.

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[205] Holtmaat, R., 'Catalysts for Change? Equality bodies according to Directive 2000/43/EC', European Network of Legal Experts in the Field of Non-Discrimination and European Commission, Brussels, 2007, p.5.

[206] Ammer A., Crowley N., Liegl B., Holzleithner E., Wladasch K., Yesilkagit K., 'Study on Equality Bodies set up under Directives 2000/43/EC, 2004/113/EC and 2006/54/EC: Synthesis Report', Human European Consultancy in partnership with the Ludwig Boltzmann Institute of Human Rights, 2010, p.8, 111-113.

[207] Crowley N., 'Equality Bodies Making a Difference', European Network of Legal Experts in Gender Equality and Non-Discrimination & European Commission, 2018, p. 90-93.

[208] DE, EE, ES, PT. One out of two equality bodies in IT, MT, AT.

[209] BE, BG, DK, DE, EE, EL, IT, LT, HU, PL, RO, SI. ES, MT, AT, FI have two equality bodies and only one of them is accountable to the parliament. HR and PT have three equality bodies; not all of them are accountable to the parliament.

[210] It should be noted that those equality bodies usually also have no control over the allocation of their human resources, assignment of tasks or the hiring of new colleagues.

The **leadership** of the majority of equality bodies consists of individuals, only some are led by a board[211]. The box below provides an overview of appointment procedures in different Member States.

	Yes	No
Are there public/open call for leadership position, with public and transparent position requirements and transparent procedures to select and appoint leadership?	BE*, BG, EE, ES*, HR*, IE, IT*, CY, LV, LU, HU, NL, AT, PL, PT*, RO, SI, SK , FI, SE.	BE*, CZ, DE, EL, ES*, FR, LT, MT*.
Is the procedure of hiring the leadership of the equality body competence based?	BE, BG, CZ, DK, IE, ES*, HR*, IT, CY, LV, LT, LU, HU, MT, NL, AT, PL, PT*, RO, SI, SK, FI, SE.	DE, EE, EL, FR.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two equality bodies. Source: Online survey conducted by VVA

Assistance to victims

In relation to the equality bodies' **mandate**, the 2018 Recommendation suggested to go beyond the current limited scope of the Directives[212] and to entrust equality bodies with all the **grounds** listed in Article 19 TFEU (sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation) the **fields** of (self-) employment and occupation, education, social protection and social advantages including healthcare, and access to and supply of goods and services.

In all but two Member States[213], the equality bodies are competent in relation to all the grounds covered by the Employment Equality Directive[214]. In around two thirds of Member States, equality bodies are competent in relation to all the grounds and all the fields mentioned in the Recommendation.

[211] BE, BG, IE, LU, NL, RO. One out of two equality bodies in ES, MT. Two out of three equality bodies in PT.

[212] The current scope of the Directives that contain provisions on equality bodies covers protection from racial and ethnic discrimination in employment and occupation, vocational training, education, social protection including healthcare, social advantage, and access to and supply of goods and services available to the public, including housing and discrimination based on gender in access to and supply of goods and services as well as (self-) employment.

[213] ES, PT. Spain has meanwhile profoundly reformed its legislation (see *Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación*)

[214] Religion or belief, disability, age or sexual orientation.

Almost all[215] Member States have at least one multi-ground body[216]. Many Member States have also made use of the possibility provided for in Article 13(1) of the Racial Equality Directive and created multi-mandate bodies[217]. In both cases, the Recommendation stresses the importance of appropriate resources and attention for each ground and mandate.

The Directives require the **provision of independent assistance** to victims of discrimination. In practice, Member States took very different approaches. The 2018 Recommendation invited them to consider the following aspects: (i) receiving and handling individual or collective complaints; (ii) providing legal advice to victims, including in pursuing their complaints; (iii) engaging in activities of mediation and conciliation; (iv) representing complainants in court; (v) acting as amicus curiae or expert where required; (vi) the possibility to engage in strategic litigation; (vii) issuing Recommendations or, where so authorised under national law, legally binding decisions in individual or collective cases; and (viii) gather relevant evidence and information, in accordance with national law. Where equality bodies have the legal capacity to take binding decisions, under national law, the Member State should also grant them the capacity to issue adequate, effective and proportionate sanctions.

The **attribution of the abovementioned powers** to equality bodies varies significantly between Member States[218]. While all equality bodies but one (IE[219]) can receive individual complaints, the majority provides legal advice[220] for free[221] and two-thirds are involved in mediation or conciliation activities[222], equality bodies from less than half of the Member States can represent victims[223], intervene in support of them[224] in court or engage in strategic litigation[225]. In a third of Member States, they can launch collective

[215] 24, namely: BE, BG, CZ, DK, DE, IE, EL, FR, HR, IT, LV, LT, LU, HU, MT, AT, PL, PT, RO, SI, SK, FI, SE.

[216] Multi-ground bodies cover more than one ground of discrimination.

[217] Multi-mandate bodies have several mandates, in addition to the 'equality mandate', they can for instance be a National Human Rights Institution ('NHRI') or an Ombudsperson.

[218] Please consult Annex 4 for detailed information.

[219] Complaints are received by two other bodies

[220] Except for CZ, NL and one out of two equality bodies in MT.

[221] Except for one out of two equality bodies in MT.

[222] Except for CZ, EE, IE, LT, NL and PL. ES hast two equality bodies and only one of them has this power. HR and PT have three equality bodies and not all of them have this power.

[223] BE, DK, IE, IT, LV, SI, SK, FI, SE. MT and AT have two equality bodies and only one of them has this power.

[224] BE, DK, IT, HU, PL, SK. MT, AT and FI have two equality bodies and only one of them has this power. HR has three equality bodes; two of them have this power.

[225] BE, DK, IE, FR, LV, PL, SI, SK, SE. AT and FI have two equality bodies and only one of them has this power. HR has three equality bodes; one of them have this power.

complaints[226] or bring proceedings in front of a court without an identifiable victim[227]. Half of the Member States[228] allow equality bodies to act as *amicus curiae.*

Equality bodies in seven[229] Member States have the competence to issue binding sanctions; in five[230] Member States, they may impose sanctions. In more than two-thirds of the Member States, equality bodies can require the production of files, documents and other material for inspection[231] and conduct on-site inspections[232]. Equality bodies may question persons in more than half[233] of the Member States.

The Directives are silent regarding the **submission of complaints** while the Recommendation invited Member States to ensure that this could be done orally, written and online in the language of the complainants choosing (that is common the Member State). They should furthermore ensure a simple and free procedure; also, geographical accessibility and reasonable accommodation and accessibility for persons with disabilities should be provided for.

The table below shows possible manners to submit a complaint in Member States.

Online	On paper	Orally, in person	Accessible for people with a disability
BE, BG, CZ, DE, EE, EL, ES, FR, HR, IT*, CY, LV, LT, LU, HU, MT, NL, AT, PL, PT, RO, SI, SK, FI.	BE, BG, CZ, DK, DE, EE, EL, ES, FR, HR, IT, CY, LV, LT, LU, HU, MT, NL, AT, PL, PT*, RO, SI, SK, FI, SE.	BE, CZ, DK, DE, EE, EL, ES, HR, IE, IT, CY, LV, LT, LU, HU, MT, AT, PL, PT*, RO, SI, SK, FI*, SE.	BE*, CZ, DE, EE, IE*, ES*, FR, LT, LU, MT*, NL, AT, PL, RO, SI, FI, SE.

[226] BE, LV, SI, SK, SE. ES and AT have two equality bodies and only one of them has this power. HR has three equality bodes; one of them have this power.

[227] BE, DK, IE, IT, LV, LT, SI. MT and AT have two equality bodies and only one of them has this power.

[228] BE, BG, IE, FR, IT, LV, LT, HU, NL, PT, RO, SK. PL and FI have two equality bodies and only one of them has this power.

[229] BG, CY, LT, HU, RO, SI. PT has three equality bodies and not all of them have this power.

[230] BG, CY, HU, LT, RO.

[231] BG, DK, EL, FR, IT, LV, LT, LU, HU, NL, PL, RO, SI, FI, SE. MT, AT and PL have two equality bodies and only one of them has this power. HR has three equality bodies and not all of them have this power.

[232] BG, DK, EL, FR, IT, CY, LV, LT, HU, NL, PL, RO, SI, FI, SE. MT, AT and PL have two equality bodies and only one of them has this power. HR has three equality bodies and not all of them have this power.

[233] BG, EL, FR, IT, CY, LV, LT, HU, MT, NL, PL, RO, SI, SE. AT and FI have two equality bodies and only one of them has this power.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two equality bodies. Source: Online survey conducted by VVA

In all but three Member States[234], equality bodies have taken measures to ensure that their premises are accessible for persons with disabilities. The extent to which the aspect of geographical accessibility, which may be especially important in bigger Member States, has been addressed is quite mixed, as illustrated by the table below.

The equality body has the capacity to have local and/or regional presence(s).	The equality body does not have such capacity.
BE*, BG, ES*, FR, HR*, IT*, CY, HU, MT, AT*, PL, PT*, RO, SI, SK.	BE*, CZ, DE, EE, EL, ES*, IT*, LV, LT, LU, NL, AT*, PT*, FI, SE.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two equality bodies. Source: Online survey conducted by VVA

Knowledge of discrimination

The Directives require equality bodies to conduct surveys and produce reports. The 2018 Recommendation invites Member States to enable equality bodies to **carry out regular surveys** to ensure gathering of adequate quantitative and qualitative data to draw evidence-based conclusions on challenges to equality and how to address them. They should also **publish regular independent reports** on the situation regarding discrimination in the Member State. To ensure high quality, equality bodies should also be able to conduct their own independent research.

All equality bodies have the possibility to conduct **surveys** and pursue **research activities**; the frequency however varies greatly, from monthly[235] over quarterly[236], bi-annually[237], annually[238], and biennially[239] to never[240]. In three quarters of Member States[241], equality bodies **collect primary[242] and secondary[243] data**.

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234 RO. HR and PT have three equality bodies and this does not apply to all of them.

235 CY, NL.

236 DE, FR, LV, SK. One out of three equality bodies in HR.

237 SI. One out of two equality bodies in BE and IT.

238 CZ, HU, PL. One out of two equality bodies in ES and MT. One out of three equality bodies in PT.

239 BG, EE, EL, LV, LU, RO, SE. One out of two equality bodies in ES, MT, FI. One out of three in HR, PT.

240 AT. One out of two equality bodies in FI.

241 BE, BG, CZ, DK, DE, ES, FR, HR, CY, NL, PL, PT, SI, SK. IT, MT and FI have two equality bodies and only one of them collects (primary) data.

242 Primary data is a type of data collected by researchers directly from main sources through different data collection tools, such as interviews, surveys, experiments, among others. It should be noted that

The table below gives an overview of the type of data collected.

Data collection on own activities	Data collection on current situation regarding equality/general data collection	Data collection on narrow subjects regarding specific grounds of discrimination in specific circumstances
BE, DK, EE, EL, ES*, FR, HR, IT, LV, LT, LU, MT*, NL, AT*, PL, RO, SI, SK, FI*.	BE, BG, DK, ES, HR*, IT, MT*, NL, PL, PT, RO, SI.	BE, BG, DK, ES*, HR, IT*, NL, SK.

Note: Entries marked with '*' mean that this response was provided by only one of the equality bodies in countries that have two equality bodies. Source: Online survey conducted by VVA.

Cooperation and coordination

Only the Gender Equality Directives in employment and self-employment contain provisions on cooperation and coordination, albeit very limited[244]. The 2018 Recommendation invited Member States in which several equality bodies exist to **ensure cooperation** between them. They should also be able to engage in a dialogue and cooperate effectively with national authorities and other bodies, including consultations on policy and legislative proposals. Cooperation with relevant bodies at European and international level should be ensured as well.

Equality bodies in all but one[245] Member States are enabled to cooperate with European and international organisations and bodies. All equality bodies cooperate with national authorities, although the frequency varies, but three quarters[246] are in monthly contact with them. Most equality bodies[247] also engage in regular exchanges with civil society. In those eight Member States[248] with two or three equality bodies, some form of cooperation exists between them, although the concrete framework varies.

Current state of play/perceptions as regards levels of discrimination

data on the activities of equality bodies are primary data. However, they are not considered equality data, as they are data on activities of equality bodies and not on the status of equality.

243 Secondary data is a type of data collected by researchers through already existing sources. Examples of sources of secondary data include censuses, information collected by government departments, organisational records and data that was originally collected for other research purposes.

244 The Directives require equality bodies to exchange information with relevant European bodies, like EIGE.

245 LU.

246 BG, DE, FR, HR, CY, LV, MT, NL, RO, SI, SK FI. One out of two equality bodies in BE, ES, IT, PL.

247 All but CZ, EE, LU and one out of two in MT, AT, FI.

248 BE, ES, HR, IT, MT, AT, PT, FI.

A Eurobarometer survey conducted in 2019 showed that 59% of Europeans believed that discrimination based on ethnic origin was widespread in their country (compared to 64% in 2015)[249]. For other grounds, such as sexual orientation, religion, disability and age, those number were 53%, 47%, 44% and 40% respectively[250].

In 2020, still only 34.4% of self-employed and start-up entrepreneurs in the EU were women[251]. Women are disproportionately affected by work-related harassment and under-reporting of sex-based work harassment remains a problem throughout the Union[252]. Even though the gender pay gap further decreased, the EU average still was 13% in 2020[253]. Compared to 2016, a slight increase was recorded for the gender employment gap which stood at 11.7% in 2019[254]. The fact that women are traditionally overrepresented in lower paid sectors such as hospitality, retail or personal services also made them particularly vulnerable to the impacts that the COVID-19 pandemic had on the labour market[255].

The respondents to the open public consultation ('OPC')[256] conducted to inform this retrospective analysis that have experienced discrimination in the past 24 months indicated that the most common grounds were gender (53.6%), age (30.4%) and sexual orientation (24.6%), followed by religion or belief (18.8%), racial or ethnic origin (17.4%) and disability (14.5%). The most common field was (self-)employment, occupation, (vocational) training (42.5%), followed by social protection and social advantages (13.8%), healthcare services (12.5%), access to and supply of goods and services (13.8%) and other (17.5%).

The finding that (self-)employment, occupation and (vocational) training is a very relevant field is in line with the results of the 2019 Eurobarometer survey. Respondents felt that discrimination persisted in recruitment – as a result of being considered too young or too old (47%), disability (41%), being Roma (38%), ethnic origin in general (32%), expressing a religious belief (28%) or because of their sexual orientation (22%). About one in five respondents (21%) who had felt discriminated against on one or more

[249] Special Eurobarometer 493 on Discrimination in the European Union, 2019, available at https://europa.eu/eurobarometer/surveys/detail/2251.

[250] Special Eurobarometer 493 on Discrimination in the European Union, 2019, available at https://europa.eu/eurobarometer/surveys/detail/2251.

[251] WEgate, Women entrepreneurship: facts and figures, 2020, available at https://wegate.eu/womenentrepreneurship-facts-and-figures.

[252] European Commission, '2021 report on gender equality in the EU', Luxembourg, 2021, p. 10.

[253] Eurostat, 'Gender pay gap statistics', available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics.

[254] European Commission, 'The gender pay gap situation in the EU', available at https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/equal-pay/gender-pay-gap-situation-eu_en.

[255] European Commission, '2021 report on gender equality in the EU', Luxembourg, 2021, p. 21.

[256] For a more detailed summary report, please consult https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13098-Equality-bodies-binding-standards/public-consultation_en .

grounds in the previous 12 months said that this had happened at work and 13% when looking for work[257].

When it comes to the reporting of incidents, the majority of 38 respondents to the abovementioned OPC (63.2%) stated that they reported the incident to family or friend(s), only 13.6% to an equality body. 13 respondents having reported an incident formally were not satisfied with the follow-up. Among those who did not report an instance of discrimination, 18.8% were not aware of the existence of the equality body, 18.8% replied that reporting would not make a difference, 15.6% were not sure of the competence of the equality body, 15.6% stated that the administrative process was too complex, 9.4% reported it to another instance and 3.1% considered the fees too high.

[257] Special Eurobarometer 493 on Discrimination in the European Union, 2019, available at https://europa.eu/eurobarometer/surveys/detail/2251.

12. ANALYSIS OF FINDINGS

12.1. To what extent was the intervention successful and why?

For the purpose of this retrospective analysis, success is defined as the extent to which the intervention has achieved its objectives effectively, efficiently and coherently.

12.1.1. Effectiveness

The analysis of effectiveness considers the extent to which the EU framework has made progress towards its objectives, as defined in the intervention logic (see Section 2). **Overall, the effectiveness of the EU framework has been assessed as rather limited. Levels of discrimination have remained high, underreporting is still a considerable problem and the vagueness of the framework provided by the Equality Directives as well as the non-binding nature of the Recommendation resulted in equality bodies that are not well enough equipped to make a meaningful contribution to the fight against and prevention of discrimination.**

The assessment has been informed by the four questions below.

1. To what extent have, the relevant provisions on equality bodies of the EU framework, been effective when evaluated against their objectives of ensuring the implementation and enforcement of EU law on discrimination and increasing prevention?

2. Which main factors have contributed to or stood in the way of achieving these objectives?

3. Can significant differences in effectiveness be identified between Member States? If yes, what are they due to?

4. To what extent have the tasks entrusted to equality bodies by the EU framework– assistance to victims, surveys, reports, recommendations, exchange of information – allowed these bodies to deliver on the objectives of ensuring the implementation and enforcement of EU law on discrimination and increasing prevention?

As a general remark, it should be kept in mind that attributing progress towards the decrease and prevention of discrimination directly to the Equality Directives and the 2018 Recommendation is difficult in light of numerous external factors, such as the general political discourse and views that are shaped by a variety of factors, including global economic and geopolitical developments and emerging crises. Levels of discrimination cannot be examined isolated from those general societal developments and realities, which is a factor that should be considered when reading the following analysis and conclusions drawn from it.

Evidence shows that levels of discrimination remain high in Member States, which means that the objective of increasing prevention has not been fulfilled to a satisfactory extent. As a result, the fulfilment of the operational objectives better informed policy-making and improved behaviour and awareness of companies and the general public has been limited as well.

Regarding the other general and the operational objectives, the picture is a bit more diversified. Generally, the EU framework led to **more substantial changes in those countries where equality bodies had been non-existent** until the transposition of the EU Equality Directives. As a result of the EU legislative framework, equality bodies were either set-up or their mandate was extended in all EU Member States. The concrete result of these changes is however very diverse.

As shown in Section 3, **the extent to which equality bodies provide assistance and access to redress for victims varies greatly between Member States**. This can be seen as a direct result of the large margin for manoeuvre left to the Member States by the current provisions and the non-binding nature of the 2018 Recommendation, which was only partially implemented, as demonstrated above.

Furthermore, in a study conducted in 2018, evidence was found that, even if equality bodies are attributed certain functions or powers by law, they may not use all of them to their full extent[258]. The main reason identified for this is **lack of resources**, which seems to be a significant obstacle to the provision of assistance and access to redress in a significant number of Member States. More precisely, lack of resources may result in general problems, such as not being able to offer adequate assistance to all victims of discrimination, but also more specific ones, such as equality bodies not using their litigation functions due to high and often unpredictable costs.

Countries that are facing such problems are for example Germany and Estonia, where there is lack of staff working for equality bodies in general, or Greece and Croatia, where there is not enough staff or funding available to allow for in-depth research and wider scientific output on issues of non-discrimination [259].

Equality bodies' **independence** is another decisive factor impacting their effectiveness. Equality bodies at particular of risk of interference with their independence are those that are part of governmental structures; in fact, most equality bodies that reported about such incidents were part of such structures. Political pressure may hinder equality bodies from exercising their duties effectively. Other forms of such pressure that have occurred in some Member States[260] include limiting financial resources or applying stringent conditions for existing funding.

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[258] Crowley N., 'Equality Bodies Making a Difference', European Network of Legal Experts in Gender Equality and Non-Discrimination & European Commission, 2018, p. 107.

[259] According to data collected via surveys and interviews in the framework of the study

[260] CZ, DK, LT, NL, PL, RO, SI (according to data collected via surveys and interviews in the framework of the study)

In most Member States, national provisions have given a **mandate** to equality bodies that goes beyond the strict requirements of the Directives, even before the adoption of the 2018 Recommendation. Following its adoption, two Member States[261] reformed their legal framework to align it with its provisions.

As demonstrated in Section 3, equality bodies' competences as regards litigation generally vary greatly between Member States. Especially **cases in which equality bodes have neither decision-making nor litigation functions may result in insufficient access to redress for victims** of discrimination. The table below provides an overview about the situation in Member States in this regard.

Litigation powers	Limited litigation powers[262]	Binding decision-making powers	Imposition of sanctions	Neither litigation nor decision-making powers
DK, IE, HR, IT, LV, PL, SI, SK, FI, SE.	BG, ES, FR, LT, HU, MT, NL, AT, PT, RO.	BG, CY, HU, LT, PT, RO, SI.	BG, CY, HU, LT, RO.	CZ, DE, EE, EL, LU.

Source: Online survey conducted by VVA.

The **imposition of sanctions** and an effective follow-up of recommendations and decisions is also a relevant factor in order to provide effective assistance to victims; the study conducted to inform this retrospective analysis has shown that equality bodies often do not have this power. The respondents to the OPC share this view, only 10.4% answered that their national equality body issued sanctions that are both adequate and enforced.

As already outlined in Section 3, further aspects are of relevance when it comes to providing assistance and redress to victims. **Lack of accessibility** has also been identified as an obstacle for victims of discrimination, especially for those who live in more remote areas in countries where equality bodies do not have regional or local presence[263]. A related problem is the **lack of awareness of victims about their own rights and possibilities** to get assistance. As outlined above, in EU MIDIS-II, when given the name of an equality body, 60% of respondents indicated that they had never heard of them.

But it is not just the lack of awareness of (potential) victims, but the **lack of awareness and factual knowledge about the state of discrimination in general** that still seems to be problematic. The regularity and completeness of data collected by equality bodies remains low. While they are empowered to pursue research activities, many of them do it only rarely; the same applies to independent surveys. The **lack of resources** is one of the

[261] ES, EE. The process has been finished in EE. Spain has adopted its new legislation in July 2022.

[262] For example only as amicus curiae, only in specific circumstances (e.g. actio popularis) or in front of specific courts (e.g. constitutional court)

[263] Crowley N., 'Equality Bodies Making a Difference', European Network of Legal Experts in Gender Equality and Non-Discrimination & European Commission, 2018, p. 118.

reasons for those shortcomings. Likewise, **lack of independence** or accountability may hinder equality bodies to conduct of surveys, make recommendations or issue decisions related to sensitive matters.

Lack of cooperation between equality bodies and other relevant national, European and international bodies and organisations also hampers increasing factual knowledge due to lack of synergies and information sharing. Even though all equality bodies engage in some kind of cooperation and information sharing, the concrete framework and frequency varies greatly. Especially in countries where equality bodies never engage with national authorities[264] or rarely to never (once a year or less) with European and international authorities[265], the framework would benefit from improvements. Another important source of knowledge and expertise for equality bodies is engaging in a dialogue with stakeholders to share good practices and mutual knowledge. However, at present, not all equality bodies[266] engage in this kind of activity.

To conclude, the study found that **the relevant provisions are not being too prescriptive, but rather the opposite**. They are too general and narrow in scope to provide for the set-up of equality bodies that is needed to enable them to effectively fight and prevent discrimination. They should be resourced and enabled appropriately to work towards a culture of compliance with the relevant EU Equality Directives. This is currently not the case, as the existing provisions do not regulate certain aspects (e.g. the internal functioning of equality bodies) and do not mention certain matters (e.g. independence, resources). Due to the non-binding nature of the 2018 Recommendation, those shortcomings could not be properly mitigated through its adoption. This limited scope and the vagueness of the provisions of the EU framework has a big impact on the divergence between different equality bodies in terms of areas such as their mandate, powers and structure and subsequently effectiveness.

To sum up, **the objectives of the original intervention have only been partially reached.** Although some positive changes towards the envisaged objectives could be observed, levels of discrimination remained high throughout the EU Member States, as elaborated on in Section 3.

12.1.2. Efficiency

The analysis of efficiency assesses the relationship between the resources used by an intervention and the changes generated by it. **The efficiency of the EU framework has been assessed as limited with regard to the set-up of equality bodies that are enabled to fight and prevent discrimination, mostly due to the lack of adequate resources. Due to the nature of the subject, costs and benefits could not be conclusively evaluated.**

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264 EE, CY, NL, PT.

265 LU (never); NL, one out of two (FI) or three equality bodies (HR) (annually). No data available for CZ, DK, IE, HU, PL, SE.

266 LU and SI as well as one out of two equality bodies from ES and FI do not. No data available from, EL, IE, HU.

Efficiency was analysed through the following four questions.

1. What have the costs and benefits (monetary but also non-monetary) associated with compliance with the EU framework in the Member States been - as regards setting up equality bodies and enabling them to support the implementation and enforcement of EU law on equality and discrimination and prevent discrimination?

2. How are the costs and benefits distributed among the different stakeholders at the national level? Which compliance costs (adjustment and administrative ones) are incurred by citizens/residents and businesses, including SMEs?

3. Have the Member States provided sufficient funding (including staffing) for equality bodies to deliver on their missions and objectives?

4. To what extent can the relevant provisions of the EU framework be identified as being too prescriptive or too general taking into account their operational implementation?

Resources of equality bodies

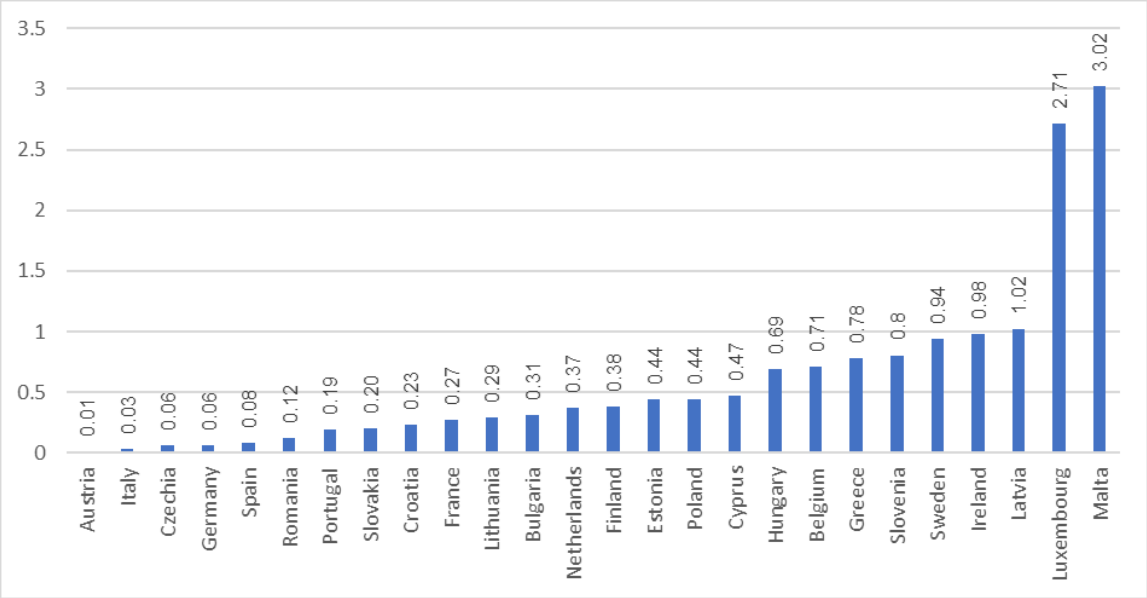
Equality bodies were set up in all EU Member States, but with very different powers and resources. As already outlined above, the lack of resources has been identified as negatively impacting the effectiveness of equality bodies; the same is true for their efficiency.

In 2015, equality bodies' annual operating budgets varied considerably, from EUR 87 000 to EUR 23.3 million[267]. This variation has remained significant until today. While the median level of budget is EUR 0.38 per capita in the Member State (adjusted per comparative price levels[268]), the average level of budget is EUR 0.60 per capita, and this highlights the significant differences between the levels of funding of national equality bodies in the EU. Funding for national equality bodies varies from EUR 0.01 per capita in Austria to a slightly more than 3 EUR per capita in Malta. It is important to note that these figures are based on self-reporting by equality bodies, complemented by different data sources and stakeholder reports which may not be directly comparable. While the figures must therefore be interpreted with caution, the difficulties in obtaining reliable budget data are illustrative of a need for better information on the activities and funding of equality bodies at national level.

[267] Van Ballegooij, W. and Moxom, J., 'Equality and the Fight against Racism and Xenophobia: Cost of Non-Europe Report', 2018, Brussels: European Parliamentary Research Service, p. 41.

[268] Comparative price levels are the ratio between Purchasing power parities (PPPs) and market exchange rate for each country. PPPs are currency conversion rates that convert economic indicators expressed in national currencies to a common currency, called Purchasing Power Standard (PPS), which equalises the purchasing power of different national currencies and thus allows meaningful comparison. Source: Eurostat.

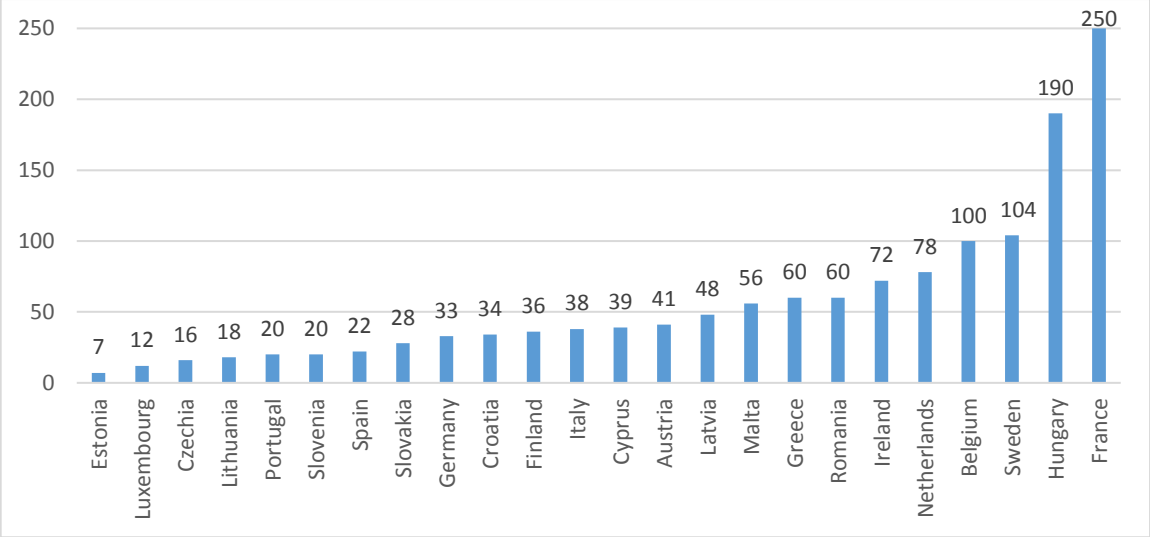
Figure 8: Estimated budget of national equality bodies per capita (adjusted to the comparative prove index)



Source: Online survey, Equinet Equality Bodies country reports, Eurostat, calculations by VVA. Notes: (a) Equinet Equality Bodies country reports were used to establish the annual budgets for Bulgaria, Croatia, France, Greece, Hungary, Latvia, and Poland. For the remaining Member States the information was extracted from the study's online survey with the exception of Denmark for which no budgetary information was obtained and, therefore, the MS is not included in the graph. (b) Eurostat data were used to obtain the number of population per Member State and the MS' comparative price index. (c) Calculation method: Amount of funding received divided by country's population, adjusted by the country's comparative price level. (d) Given different data sources and potential differences in the scope of the data reported by stakeholders, these figures must be interpreted with caution.

The number of equality bodies' employees per Member State also varies significantly, as illustrated below. Those differences can partially explained by the fact that some equality bodies are multi-mandate and, thus, not all human resources work in the equality area as is the case for e.g. France. Besides, differences in population sizes between countries should be considered; however, this is not always coherent with the number of employees (e.g. Ireland and Sweden have more than Germany or Italy).

Figure 9: Total number of people employed by equality bodies per Member State



Source: Online survey conducted by VVA. Note: No information was obtained for the number of staff of equality bodies in Bulgaria, Denmark and Poland. The differences in the number of staff may reflect the different mandates of the equality bodies in each Member State.

Costs and benefits generated by the EU framework

As mentioned above, it was not possible to conclusively evaluate costs and benefits, mostly because known or potential costs and benefits cannot exclusively be attributed to the EU framework or are not quantifiable.

The **main type of costs** associated with the set-up and functioning of equality bodies for public authorities are (i) initial set-up costs, (ii) recurring costs for staff and equipment, and (iii) operational costs associated with the activities of equality bodies, such as research, litigation, liaison with other authorities and businesses, communication activities (such as awareness-raising campaigns) etc.

The key **benefits** include (i) decreasing levels of discrimination throughout society, (ii) increased awareness and knowledge on equality and non-discrimination, (iii) improved quality of equality policies, and (iv) protection from and access to assistance and redress for (potential) victims of discrimination.

However, it is difficult to quantify those benefits (and, as outlined above, it is also difficult to attribute some of them, such as decreasing levels of discrimination, directly and exclusively to the EU legislative framework). A 2018 cost of non-Europe report issued by the European Parliamentary Research Service (EPRS) showed though that reducing levels of discrimination by 5% through EU action could lead to a GDP gain of EUR 247 million up to EUR 703 million[269]. The report also illustrates the considerable impacts that racial and ethnic discrimination are having on individuals, societies and economies. In financial terms, these translate into lost earnings ranging from EUR

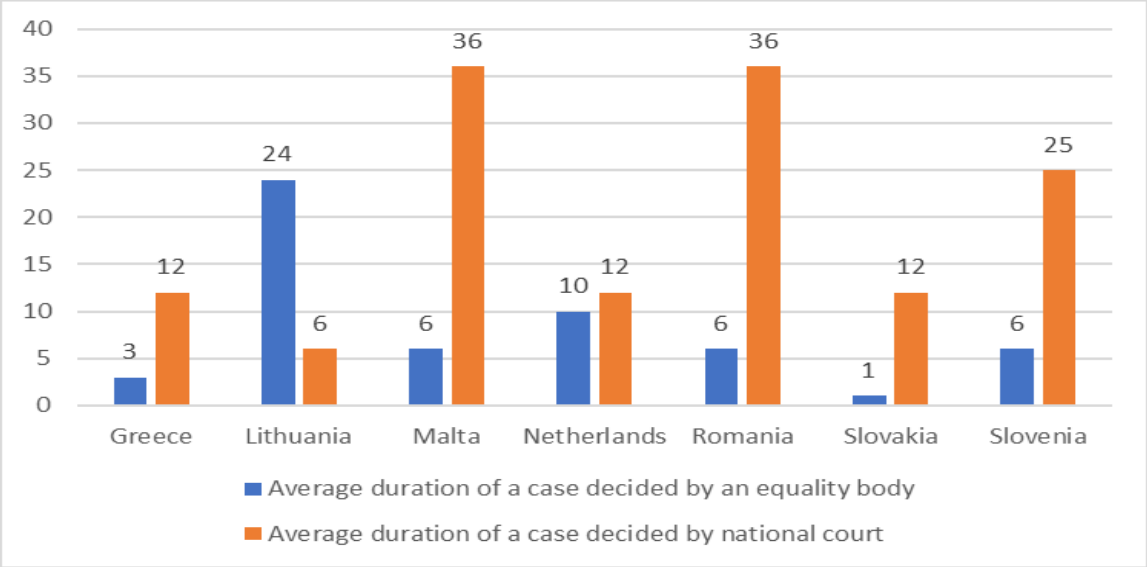
[269] Van Ballegooij, W. and Moxom, J., 'Equality and the Fight against Racism and Xenophobia: Cost of Non-Europe Report', 2018, Brussels: European Parliamentary Research Service, p. 41.

1.8billion to EUR 8 billion annually for individuals and losses ranging from EUR 2.4billion to EUR 10.7 billion annually for societies[270].

For **businesses**, compliance with non-discrimination legislation and the promotion of equality may bring benefits such as employee and customer loyalty, as well as positive attitudes towards these businesses. This in turn positively impacts factors such as financial performance, sales or customer base. However, they are also those most affected by **compliance costs**, as ensuring that the workplace is free from discrimination requires certain resources (in particular, time and money for the introduction of equality policies, training, education, etc.). In case of proceedings before court and/or national equality bodies, they have to bear the internal costs and, if found guilty, pay compensation to victims. This is however justified because the aim of this framework is the protection of the fundamental right to non-discrimination.

For **individuals**, especially those at risk of discrimination, equality bodies bring great benefits, since they protect their fundamental rights and offer assistance in cases of discrimination. In most cases, equality bodies' assistance is free of charge, which facilitates access to justice for many victims of discrimination. Furthermore, it increases the likelihood of winning a case in court and receiving financial compensation. In many cases, proceedings before equality bodies also seem to be considerably shorter than proceedings before court.

Figure 10: Average duration of proceedings (in months)



Source: National reports, online survey and calculations by VVA

National authorities bear the cost of establishment and operation, but gain from knowledge base development and policy advice provided, which leads to better informed policy making and improved knowledge of discrimination in general.

[270] Van Ballegooij, W. and Moxom, J., 'Equality and the Fight against Racism and Xenophobia: Cost of Non-Europe Report', 2018, Brussels: European Parliamentary Research Service, p. 27-28.

Further costs and benefits could not be measured as they are not directly or exclusively attributable to the EU framework.

12.1.3. Coherence

The analysis of coherence focuses on how well the EU framework works together with other EU, international and national instruments. **The coherence of the EU framework has been assessed as overall positive at all levels[271].**

The assessment has been informed by the four questions below.

1. To what extent is the EU framework coherent with the objectives of the Treaties, including the Charter of Fundamental Rights of the European Union, as regards the achievement of the overall objectives?

2. To what extent is the EU framework coherent with national law?

3. To what extent is the EU framework coherent with the Paris Principles and General Observations applied to National Human Rights Institutions?

4. To what extent is the EU framework coherent with the European Commission against Racism and Intolerance Recommendation N°2?

Equality and non-discrimination are among the foundational values as well as objectives of the EU. Art. 2 TEU states that the EU is founded, among others, on the respect for human dignity and equality, and that the values common to all Member States include non-discrimination, tolerance and equality between women and men. One of the objectives of the establishment of the Union is to promote its values. The establishment of the internal market is flanked by the objective to combat discrimination and to promote equality between women and men (Art. 3 (3) TEU).

Art. 8 TFEU states that the EU shall aim to eliminate inequalities and to promote equality, including between women and men, in all its activities. Art. 10 prescribes that, in defining and implementing its policies and activities, the EU shall combat discrimination based on sex, racial or ethnic origin, religion or belief, age or sexual orientation.

As already outlined above, Article 19(1) TFEU provides for the possibility to adopt secondary legislation to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 157 (3) TFEU provides for the possibility to adopt legal measures to ensure equal pay for men and women.

The four Directives that contain provisions on equality bodies are based on those Articles. However, those are not the only EU Equality Directives that contain provisions on equality bodies, as already outlined above. **The fact that the Gender Equality Directive in Social Security and the Employment Equality Directive do not contain**

[271] The survey conducted by VVA to assess coherence with national law was however not fully conclusive in all cases.

provisions on equality bodies, although they pursue very similar objectives results is an incoherence at EU level. The Directive on Pay Transparency[272] recently proposed in the field of EU equality law, does contain provisions on equality bodies. The same is true for the proposal for the Equal Treatment Directive[273], which is being negotiated since 2008. Finally, the proposal for a Directive on combatting violence against women and domestic violence also contain provisions envisaging a role for equality bodies ([274])

The **Charter of Fundamental Rights of the EU**, which applies when Member States implement EU law, contains provisions on equality under Title III (Articles 20-26). Of particular relevance is **Article 21 Charter that prohibits any discrimination** based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion, or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation. This is a wide-reaching prohibition (i.e., 'any discrimination' based on 'any ground') that goes beyond the grounds addressed by the existing Directives. However, since this difference is due to the scope for the adoption of secondary legislation in the area of equality provided for by the Treaties, **this cannot be regarded as an incoherence.**

In relation to **national legislation, no significant incoherence** with the objectives of the EU framework were discovered.

One instrument at international level in a related field are the **Paris Principles and General Observations**[275] of the United Nations. They address national human rights institutions ('NHRIs'). Many national equality bodies[276] have several mandates, such as an equality and a human rights mandate, which is why the Paris Principles may be of indirect relevance for some equality bodies as well. The **requirements set out by the Paris Principles for NHRIs are more detailed** than the provisions in the four Equality Directives that currently refer to equality bodies. This does **however not imply incoherence,** since this is also due to the different nature and context of those instruments. On substance, they do not contradict each other.

Another relevant instrument at international level is the **European Commission against Racism and Intolerance ('ECRI') Recommendation N°2.** This instrument is addressed to national equality bodies competent for discrimination based on racial or ethnic origin. Similarly to the Paris Principles, this instrument is more detailed due to its different nature, **which does however not imply incoherence**. On substance, the provisions in the

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[272] Proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, COM(2021) 93 final.

[273] Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM(2008) 426 final.

[274] Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence, COM/2022/105 final.

[275] The General Observations are a tool to help clarifying and interpreting the scope and content of the Paris Principles; they are regularly updated to reflect current developments and established practices.

[276] BG, CZ, IE, CY, LV, HU, NL, PL, SK, SE. One out of two in BE; one out of three in HR.

four Equality Directives that refer to equality bodies do not contradict Recommendation N°2 either.

12.2. How did the EU intervention make a difference?

The analysis of EU added value looks at changes triggered by the EU framework over and above what could reasonably been expected from stakeholders alone or from no action at all. **The retrospective analysis highlights the positive EU added value of the framework.**

The retrospective analysis looked at the following four questions.

1. What has been the EU added value of the EU framework on Equality Bodies as regards the aims of supporting the implementation and enforcement of EU law on inequalities and discrimination and increasing prevention?

2. What would the situation have been in the Member States if there had been no EU framework (compared to what could have been achieved by the Member States alone at national and/or regional levels, as well as through international agreements and cooperation)?

3. Do the aims of supporting the implementation and enforcement of EU law on equality and non-discrimination and increasing prevention continue to require action at EU level?

4. What would have been the added value of extending the mandate of the Equality Bodies to the grounds and fields of the Employment Equality Directive and the Gender Equality Directive in the field of social security?

This retrospective analysis found that **EU action is necessary and has provided added value** to national frameworks for equality bodies and non-discrimination in general.

As outlined above, **only about half of the Member States at the time (EU-15) had an equality body at the time of adoption of the first Directive** containing provisions of equality bodies. Those equality bodies were competent either for discrimination based on gender or racial or ethnic origin[277]. **Due to the EU intervention, equality bodies were set up in all Member States** and their mandate was gradually extended beyond their initial limited scope. **Interviews with stakeholders confirmed that this would not have happened without the EU taking action.** Stakeholders also highlighted the added value of a common catalogue of tasks and competences for equality bodies that was provided by the EU framework, even though they also mentioned it could have been more concrete and better elaborated. According to them, **this has nevertheless helped to increase awareness and visibility of matters related to equality and non-discrimination**.

[277] With the exception of Sweden were equality bodies already had a broader mandate also covering disability and sexual orientation.

There is also evidence that those **legislative developments at European level increased the public awareness about equality law and inspired national legislators** to further implement changes to national legislation that support reaching the objectives of the EU intervention[278][279].

The consistently high levels of discrimination throughout the EU show that the EU intervention in the field of equality and non-discrimination still provides added value also today. As it has been demonstrated above, leaving too much leeway for Member States in this field seems to result in not fulfilling the objectives of the intervention to a satisfactory level. This is however crucial in order to protect citizens' and residents' fundamental rights in line with the founding values and objectives of the Treaties.

12.3. Is the intervention still relevant?

The analysis of relevance looks at whether the EU framework's objectives set in 2000 were appropriate to the needs at the time and whether they continue to be relevant today. **Relevance of the EU framework has been assessed as positive overall.**

The analysis has been informed by the five questions below.

1. How relevant is today the EU framework with regard to the original objectives of supporting the implementation and enforcement of EU law on equality and non-discrimination and increasing prevention?

2. Is the scope of the EU framework's provisions sufficient?

3. To what extent are the original objectives still relevant today with regard to societal needs?

4. What are citizens' expectations for the role of equality bodies in their Member State?

5. What are other actors' expectations (e.g. Member State authorities, non-governmental organisations etc.) for the role of equality bodies?

The retrospective analysis finds **that the original objectives set in 2000 were appropriate in view of the needs to take action to fight against and prevent discrimination at the time**. Overall, taking into account the baseline situation described

[278] De Witte, B., 'New Institutions for Promoting Equality in Europe: Legal Transfers, National Bricolage and European Governance', The American Journal of Comparative Law, 60(1), 2012, pp. 60-61.

[279] In Finland, the EU Equality Directives gave impetus to extend the mandate of their equality body to prohibit all grounds for discrimination addressed by the national constitution. In Ireland, the EU legislation was inspirational for the thinking on equality in employment because the national constitution was weaker on this point. In Poland, the existing human rights institution experienced a partial reorientation of its priorities (and subsequent changes in the internal structure) to bring the equality issues to the limelight. Besides, stakeholders from many countries underscored that the EU equality framework strengthened the anti-discrimination and equality discourse (e.g., led to a strategy on equality) and enriched national equality law or accelerated its development.

above, the objectives of taking action to implement and enforce EU law in order to combat unequal treatment and discrimination and to increase prevention have been confirmed as relevant. The same is true for the operational objectives (i) to ensure that victims are aware of their rights and report discrimination, (ii) to provide assistance and redress to victims, (iii) improved factual knowledge about the state of discrimination, (iv) better informed policy-making, and (v) improved behaviour and awareness of companies and of the general public.

This view was shared by many stakeholders[280] during interviews conducted to inform this study. Some[281] however also underlined that the provisions in the Directives are too vague and narrow. Due to this, others[282] stated that, from today's perspective, it is outdated and not properly fit to fulfil the objectives of the intervention adequately. Some stakeholders also stressed that some aspects that were missing in particular. Equality bodies' independence was mentioned very prominently[283], some[284] also referred to litigation powers and quasi-judicial roles. More generally, many[285] stakeholders expressed support for turning the common standards introduced by the 2018 Recommendation into a binding legal instrument. This need is underlined by the levels of discrimination in society that have remained consistently high until today.

The overwhelming majority of respondents to the OPC (97.2%) consider that establishing strong and effective equality bodies is important. 81.3% consider that adopting new binding minimum standards for equality bodies would have a positive impact for them. More than 79% of respondents consider that such additional rules should cover the following areas: (i) coverage of all grounds and fields of discrimination foreseen in EU law: gender, racial or ethnic origin, religion or belief, disability, age, sexual orientation and employment, education, social protection, goods and services; (ii) additional missions to ensure the promotion of equality and prevention of discrimination; (iii) litigation powers for equality bodies on behalf or in support of victims of discrimination in court; (iv) powers to issue adequate sanctions and enforce them; (v) general independence; (vi) sufficient resources; (vii) awareness of the existence of the equality body in the general population and awareness of the existence of the equality body by the groups at risks of discrimination; (viii) easy complaint submission; (ix) coordination and cooperation with national public authorities national stakeholders, international/EU bodies; and (x) monitoring of the functioning of equality bodies across the EU.

Equality bodies shared those views. In interviews conducted by VVA, they expressed particular support for extending their mandate, detailing their competences and setting up

[280] CZ, DE, EE, IE, EL, HR, CY, LV, LT, NL.

[281] DK, FR, IE, HU, AT, SE.

[282] BG, CZ, DK, IE, LT, LU, NL, PL, RO, SI, SE.

[283] BG, CZ, DK, DE, EE, HR, IT, MT, AT, PL, SK, SE.

[284] BG, CZ, EE, FR, AT, PL.

[285] BE, DE, EE, IE, FR, HR, MT, AT, PL, RO, SI, SE.

common binding standards in general. They also particularly underlined the importance of sufficient resources and independence for the exercise of their tasks**. Civil society and Member States shared those views as well.** The latter however also underlined the importance of preserving their procedural autonomy and respecting different legal traditions.

Overall, this retrospective analysis finds that, even though the initial intervention was and remains relevant, the initial framework provided for equality bodies was not very ambitious and could have been stronger and more specific. The 2018 Recommendation did not mitigate this situation satisfactorily due to its non-binding nature.

13. CONCLUSIONS

The findings of this retrospective analysis are summarised in the table below.

Evaluation criterion	Overall assessment	Detailed assessment
EFFECTIVENESS	Limited regarding fight against and prevention of discrimination	Progress in countries where equality bodies did not yet exist.
		Some Member States have established well-functioning equality bodies
		Ongoing high levels of discrimination[286]
		Victims remain mostly unaware about their rights.
		Underreporting remains a considerable problem.
		Current EU framework is too general and narrow in scope to establish effective equality bodies.
		The overall capacity of the EU framework to contribute to setting up equality bodies that are fully enabled to fight and prevent discrimination has been assessed as limited: -public awareness about and knowledge of discrimination remains limited. -many equality bodies are not properly equipped to assist victims effectively.
EFFICIENCY	Limited/Inconclusive	Many equality bodies are not properly resourced.
		Inconclusive on costs and benefits due to lack of available data.
COHERENCE	Overall positive at all levels[287]	Coherence with the Treaties and the Charter of Fundamental Rights of the EU is high.
		EU Directives and international instruments[288] are consistent with each other, the latter only being more detailed due to their different nature.

[286] The root causes of discrimination are many and complex, including persisting stereotypes. Political and socio-economic factors may also come into play. The limited effectiveness of equality bodies is only one contributing factor to the persisting high level of discrimination, among others.

[287] The survey conducted by VVA to assess coherence with national law was however not fully conclusive in all cases.

[288] Such as the General Policy Recommendation N°2 on equality bodies adopted by the European Commission against Racism and Intolerance (ECRI) (https://rm.coe.int/ecri-general-policy-/16808b5a23) and the Paris Principles adopted by the United Nations and applicable to national human rights institution (https://ganhri.org/paris-principles/)

EU ADDED VALUE	Positive with limitations	EU framework – when adopted - led to the set-up of equality bodies in about half of the then EU-15 Member States which did not yet have such bodies in place.
		EU intervention provides added value, but would need to be more detailed and concrete.
RELEVANCE	Positive with limitations	EU framework`s original objectives still meet current needs.
		Original legal framework for equality bodies was too narrow and vague.

Assessment categories: very positive positive limited negative unsorted

Effectiveness of the EU framework has been assessed as limited regarding progress towards the fight against and prevention of discrimination. Some progress has been made, especially in countries were equality bodies did not exist before the EU intervention; however, the desired effects were not fully achieved. This retrospective analysis has shown that levels of discrimination remained high, while victims' awareness about their rights remained low. Underreporting is still a considerable problem and public awareness about and knowledge of discrimination remains limited.

This analysis has also shown that the current EU Framework provided for by the Directives is too general and narrow in scope to provide for the set-up of effective equality bodies. Many equality bodies are not properly equipped to assist victims effectively. This situation has not been mitigated by the more detailed 2018 Recommendation due to its non-binding nature.

Efficiency has been assessed as limited and inconclusive on costs and benefits, mainly due to limited data availability. This retrospective analysis has shown that equality bodies' resources are a considerable problem in this context, as they vary greatly between Member States and, for a majority of equality bodies, are insufficient to fulfil all their tasks.

Coherence has been assessed as overall positive at all levels[289]. This retrospective analysis has shown that coherence with the Treaties and the Charter is high, as the EU framework intends to enhance equality and non-discrimination, which are amongst the founding values of the EU. Non-discrimination is also a fundamental right protected by the Charter. While international instruments, such as the Paris Principles and ECRI Recommendation N°2, are more detailed due to their different legal nature, there is no inconsistence between them and the existing EU Directives on substance.

EU added value has been assessed as positive. This retrospective analysis has shown that before the EU Framework, only about half of the EU-15 Member States had an equality body with limited mandate and stakeholders confirmed that they would not have

[289] The survey conducted by VVA to assess coherence with national law was however not fully conclusive in all cases.

been set up in all Member States without the EU taking action. The consistently high levels of discrimination throughout the Member States show that the EU intervention still provides added value today, however, it would benefit from being more detailed and concrete.

Relevance of the EU framework's original objectives in view of the original and current needs has been assessed as positive. However, the original inputs (legal framework for equality bodies) have been considered as too narrow and vague. This view is generally shared by all stakeholders; this retrospective analysis has shown that there is broad support for taking further action to tackle the issues identified above[290].

Taking into account all of the above, the following lessons learned could be identified.

EU legal framework

Due to the vagueness of the current provisions, a number of problems that equality bodies may face in Member States surfaced. **Even though the 2018 Recommendation has addresses these issues, they were not sufficiently mitigated; therefore, one may consider a binding legal instrument to tackle them.**

Resources and independence

Lack of resources is a recurrent problem that may hamper the functioning of equality bodies significantly. Similarly, **independence is key** for equality bodies to exercise their tasks and missions effectively.

Assistance to victims

The assistance provided to victims and the powers granted to equality bodies to this end vary greatly between Member States. To ensure a minimum level of protection of the fundamental right of non-discrimination, **one might consider introducing some more precise common rules** in this area. Litigation and/or decision-making powers may be powers of particular interest for such considerations. In order to be able to provide assistance to all victims of discrimination, it is also important to **ensure that equality bodies are accessible** to all people without barriers.

The **Employment Equality Directive** and **Gender Equality Directive in the field of social security** currently do not contain provisions on equality bodies. Despite most Member States covering these grounds in practice, this is not the case in all Member States and l**evels of discrimination on the grounds in fields covered by those Directives remain high** in Member States.

Knowledge of discrimination

290

The **regularity by which equality bodies conduct independent research, surveys and publish reports varies greatly**. The same is true for the **collection of primary and secondary data** on equality. Given the fact that awareness about and knowledge of discrimination still seems to be insufficient, one might consider introducing clearer rules in this area as well.

Cooperation and coordination

The **extent** to which equality bodies cooperate with each other, and with national, European and international authorities or bodies as well as civil society **varies** between Member States. Such information exchanges **would however be beneficial to share knowledge and create synergies.**

ANNEX A: RETROSPECTIVE ANALYSIS MATRIX AND QUESTIONS

Reproduced from the research by VVA

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Data collection / analysis method
EFFECTIVENESS				
1. To what extent have, the relevant provisions on equality bodies of the EU Framework, been effective when evaluated against their objectives of ensuring the implementation and enforcement of EU law on discrimination and increasing prevention?	To what extent the objectives set out in the EU Legislative Framework have been achieved (support to victims of discrimination, examination of the status of discrimination in their territory, awareness of EBS, monitoring of implementation of equality legislation? What have been the changes in discrimination patterns as a result of the EU Legislative Framework on EBS? What have been the (quantitative and qualitative) effects of the EU Legislative Framework	To fulfil their objectives EBs should have the mandate and powers provided for by the EU framework, they should be independent, and have adequate resources EBs should have the power to: provide assistance to victims, collect data on discrimination in their territory, and engage with stakeholders. **Promotion of equal treatment:** Quantity of awareness raising events	Stakeholders' perceptions of how the national provisions implementing the Equality Directives have contributed to the achievement of the objectives **Promotion of equal treatment:** Number of awareness raising events Number of training events **Analysis of equal treatment issues:** Number of data collection	Desk research, literature, and data review Email/online survey questionnaire National mapping in 27 MS (including legal review and interviews with stakeholders) PC

	on EBS implemented in Member States? To what extent can these changes be credited to the EU Legislative Framework on EBS? To what extent do the effects correspond to the objectives? What other factors have influenced the achievements observed? To what extent did the EU Legislative Framework on EBS contribute to the exchange of information with corresponding European bodies (this question applies to the Gender Equality Directive	Quantity of training events conducted **Analysis of equal treatment issues:** Quantity of research output on equality **Monitoring of the implementation of equal treatment:** Majority of recommendations of EBs taken on board by the authorities or by private organisations Majority of decisions of equality bodies taken on board by national authorities or private organisations	outputs: on activities/complaints Number of surveys conducted Number of research activities conducted other than surveys Number of reports produced beyond the annual reports **Monitoring of the implementation of equal treatment:** Share of recommendations of EB taken on board by the authorities or by private organisations Share of decisions of equality bodies taken on board by national	

	in the field of employment (2006/54/EC) and the Gender Equality Directive in the field of self-employment (2010/41/EU)?	**Support for victims of discrimination** Majority of victims seeking legal support and received it Majority of complaints made to equality bodies have been investigated Majority of complaints reviewed by EBs were taken to court Majority of cases taken to court by EBs were decided for the victim	authorities or private organisations **Support for victims of discrimination** Share of victims who asked for advice that received it Share of complaints made the EB that have been investigated Share of complaints reviewed by EBs that were taken to court Share of cases taken to court by EBs that were decided for the victim	
2. Which main factors have contributed to or stood in the way of achieving these objectives?	Have specific actions by the stakeholders contributed to the achievement of the objectives?	Extent to which the implementation by Member States of the Equality Framework on EQUALITY BOD has	Adoption of legislation for the transposition of the EU Equality Directives on EBS.	Desk research, literature, and data review National mapping in 27

	Have specific actions or lack of action by the stakeholders impeded the achievement of the objectives? Have other factors (e.g., lack of resources or lack of awareness) contributed to the non-achievement of the objectives? Has the quality of implementation by the Member States contributed to the fulfilment of the objectives?	contributed to the achievement of the objectives Extent to which stakeholders' actions have contributed to the achievement of the objectives	Stakeholders' perceptions on challenges regarding the implementation of the EU Legislative Framework	MS (including legal review and interviews with stakeholders)
3. Can significant differences in effectiveness be identified between Member States? If yes, what are they due to?	What are the main trends on effectiveness across Member States? In which Member States has the EU Legislative	Extent to which the EU Legislative Framework on EBs has been effective in achieving the objectives	Similarities and discrepancies among Member States on the way they ensure an effective achievement of objectives	Desk research, literature, and data review Comparative analysis as part of the retrospective

	Framework on EBS been more effective in achieving the objectives? In which Member States has the EU Legislative Framework on EBS been less effective in achieving the objectives? What are the main reasons behind the differences in effectiveness?			analysis
4. To what extent have the tasks entrusted to equality bodies by the EU Framework– assistance to victims, surveys, reports, recommendations, exchange of information – allowed these bodies to deliver on the objectives of ensuring the implementation and enforcement of EU law on	Are the fields/grounds of these two Directives covered by national law? How are they covered? By which provisions? What would be the additional benefit of introducing provisions on EBs under the two Directives?	The extent to which coverage of the grounds/fields of these two Directives are covered by national law Types of activities performed by EB	Stakeholder's perceptions of likely benefits or costs Number of Member States covering the grounds/fields of the two Directives **Promotion of equal treatment within the scope of these two**	Desk research, literature, and data review National mapping in 27 MS (including legal review and interviews with stakeholders) Email/online survey questionnaire

discrimination and increasing prevention?	Do EB perform the following activities: assistance to victims, surveys, reports, recommendation, exchange of Information? To which degree these activities have contributed to the achievement of the objectives?	Types of provisions of national law covering the grounds/fields of these two Directives **Promotion of equal treatment:** Quantity of awareness raising events within the scope of these two instruments Quantity of training events conducted within the scope of these two instruments **Analysis of equal treatment issues:** Quantity of research output within the scope of these two instruments	**instruments:** Number of awareness raising events Number of training events Share of the budget allocated to prevention and promotion activities of EBs **Analysis of equal treatment issues within the scope of these two instruments:** Number of data collection outputs: on activities/complaints, on current situation regarding equality/general data collection/ on specific grounds of discrimination in specific circumstances, for example conditions of	

			institutionalisation of persons with disabilities Number of surveys conducted Number of research activities other than surveys Number of reports produced Stakeholders' perceptions of how each activity contributed to the achievement of objectives Examples of national practices showing how activities contributed to the achievement of objectives	
EFFICIENCY				
5. What have the costs and benefits (monetary	What are the costs (monetary and non-	Costs and benefits associated with the	Direct Costs:	Desk research, literature,

but also non-monetary) associated with compliance with this legislative EU framework in the Member States been - as regards setting up equality bodies and enabling them to support the implementation and enforcement of EU law on equality and discrimination and prevent discrimination?	monetary, including number of staff and time spent) associated with the establishment of EBS? What are the benefits associated with the compliance of the EU Legislative Framework?	compliance of the EU Legislative Framework Costs of the establishment, functioning and output of EBs compared to the benefits produced by the activities of EBs Direct costs: Costs of the establishment of EBs (adjustment costs) Costs of the functioning of the EBs (annual budget/administrative costs) Costs of the activities of EBs (enforcement costs) Costs related to regulatory charges (fee for submitting complaints)	See Table 4 general indicators under Resources In addition: Costs of establishing EBs Fees for submitting a complaint to EBs Costs borne by EBs for provision of advice to victims Costs borne by EBs for representing victims in court Indirect costs: Charges by the EB to victims for provision of advice Charges by the EB to victims for representing them in court	and data review National mapping in 27 MS (including interviews with stakeholders)

		Indirect costs: Costs borne by victims for receiving advice by EBs Costs borne by victims for their representation by EBs in court Direct benefits: Quantity of outputs of equality bodies compared to their costs Non-monetary benefits due to the subject matter of the study (equality/fundamental rights). Majority of recommendations of EBS taken on board by the authorities or by private organisations	Direct benefits: Share of victims who asked for advice that received it Share of complaints made the EB that have been investigated Share of complaints reviewed by EBs that were taken to court Share of cases taken to court by EBs that were decided for the victim Yearly Number of: • advice to victims • assistance to victims • engagements in litigation; • surveys and	

		Majority of decisions of equality bodies taken on board by national authorities or private organisations Majority victims seeking legal support received it Majority complaints made to equality bodies have been investigated Majority complaints reviewed by EBs were taken to court Majority cases taken to court by EBs were decided for the victim Indirect benefits:	research conducted; • reports published reports apart from their annual report; • recommendations issued; • prevention and promotion activities; • activities engaging in meaningful cooperation and coordination at different levels (local and regional); • activities engaging in meaningful cooperation and coordination with civil society organisations. Average cost of: • advice to victims • assistance to victims • engagements in	

		Increased access to justice through the quasi-judicial role of EBs (Court fees and litigation costs (baseline) compared to EBs fees for deciding on a complaint and associated litigation costs)	litigation; • surveys and research conducted; • reports published reports apart from their annual report; • recommendations issued; • prevention and promotion activities; • local and regional representatives; • activities engaging in meaningful cooperation and coordination at different levels (local and regional); • activities engaging in meaningful	

			cooperation and coordination with civil society organisations; Share of recommendations of EBS taken on board by the authorities or by private organisations Share of decisions of equality bodies taken on board by national authorities or private organisations Share of victims who asked for advice and received it Share of complaints made the EB that have been investigated Share of complaints	

			reviewed by EBs that were taken to court Share of cases taken to court by EBs that were decided for the victim Indirect benefits: Court fees related to discrimination cases Average litigation costs related to discrimination cases Duration of a case decided by EBs Duration of a case decided by court (first instance) on discrimination Stakeholders' perceptions of benefits associated with the compliance of the EU Legislative Framework on EBS	

			Stakeholders' perceptions of proportion between costs and benefits	
6. Can significant cost or benefit differences be identified between the Member States as regards the achievement of the above aims? If so, what causes them? **To what extent does the number of equality bodies at national level have an impact?**	Are costs and benefits associated with the compliance of the EU Legislative Framework on EBS different across Member States? What are the factors behind these differences? How many EBS exist in each Member States? Does the number of EBS affect the costs/benefits of compliance with the EU Legislative Framework on EBS?	Costs/benefits differences across Member States Differences between Member States regarding the mandate, powers, stakeholders' engagement, accessibility for victims, data collection	Level of discrepancies/ differences in the costs/benefits across the Member States Differences among Member States relating to Table 4 indicators on mandate, powers, stakeholders' engagement, accessibility for victims, data collection Differences among Member States regarding costs as analysed in question 6. Perception of stakeholders of the main cost drivers and	Desk research, literature, and data review Comparative analysis as part of the retrospective analysis Stakeholder interviews

			of the reasons for discrepancies Number of EBS per Member State Perception of stakeholders on costs/benefits vis-à-vis number of EBS	
7. How are the costs and benefits distributed among the different stakeholders at the national level? Which compliance costs (adjustment and administrative ones) are incurred by citizens/residents and businesses, including SMEs?	Are all stakeholder categories impacted in the same way by costs/benefits? Which ones are mostly affected? Which ones are less affected? What types of compliance costs arise for citizens/residents and businesses, including SMEs?	Costs/benefits distribution across Member States See cost analysis in question 6: Public administration: All costs and benefits presented are relevant to this stakeholder Citizens/residents: Costs related to regulatory charges (fee for submitting	Perceptions of stakeholders on: Likely impacts of costs/benefits across stakeholder categories Perceptions of stakeholders on the most and least likely stakeholder to be affected by costs/benefits See indicators for question	Desk research, literature, and data review Stakeholder interviews Comparative analysis as part of the retrospective analysis

		complaints) Indirect costs Indirect benefits Businesses, including SMEs Indirect costs Indirect benefits	6	
8. Have the Member States provided sufficient funding (including staffing) for equality bodies to deliver on their missions and objectives?	What is the average state funding to the EBs per year? Which activities are covered by the state funding? What is the percentage of state funding devolved to staffing?	Share of state funding received by EBs Extent to which state funding enables the EBs to achieve the objectives	State funding per year received by EBS See Table 4 under Resources Stakeholders' perception of adequacy of funding with regard to achievement of objectives	Desk research, literature, and data review Email/online survey questionnaire National mapping in 27 MS (including interviews with stakeholders) PC
9. Can any costs be	Are there specific type of	Extent to which costs are	Perception of stakeholders	Desk research, literature,

identified that are out of proportion with the benefits achieved?	costs do not proportionate to the benefits achieved?	proportional to benefits Suitability of the costs to their objectives Necessity of the extent of the costs to achieve these objectives	regarding the proportionality of costs vs benefits Type of costs identified to be the most out of proportion with the benefits achieved	and data review National mapping in 27 MS (including interviews with stakeholders)
10. Can good practices, particularly in terms of cost-effective implementation of the EU Framework in the Member States, be identified as regards setting up equality bodies and/or in delivering on their missions and objectives?	Are there good practices of cost-effective implementation of the directives in the Member States (regarding setting up equality bodies and/or in delivering on their missions and objectives)?	Good practices for a cost-effective implementation of the EU Legislative Framework on equality	Examples of good practices showing cost-effective implementation of the EU Legislative Framework on equality Examples of good practices showing cost-effective delivery of missions and objectives of the EU Legislative Framework on equality Stakeholders' perceptions of cost-effective implementation of the EU	Desk research, literature, and data review National mapping in 27 MS (including interviews with stakeholders)

			Legislative Framework on equality	
11. To what extent can the relevant provisions of the EU Framework be identified as being too prescriptive or too general taking into account their operational implementation?	What types of provisions do the Equality Directives introduced on EBS? To what extent can these provisions be considered too general or too prescriptive considering their practical implementation?	Type/scope of provisions on EBS of EU Directives	Examples of provisions that can be considered too general or too prescriptive Review of case law providing examples of provisions that have been interpreted as too general or too prescriptive Stakeholders' perceptions of the general or prescriptive nature of EBS provisions in Equality Directives	Desk research, literature, and data review National mapping in 27 MS (including legal review and interviews with stakeholders)
RELEVANCE				
12. How relevant is today the EU framework with regard to the original objectives of supporting the implementation and enforcement of EU law on	To what extent is the (original) EU Legislative Framework on EBS appropriate to the promotion, analysis, monitoring, and support of	Extent to which the current EU framework is contributing to the promotion, analysis, monitoring and	Evolution of EU Legislative Framework over time and its adaptation	Desk research, literature, and data review National mapping in 27 MS (including legal review

equality and discrimination and increasing prevention?	equal treatment of all persons without discrimination, today?	support of equal treatment of all persons without discrimination nowadays Whether any shortcoming may have prevented the current EU framework from achieving its objectives	Stakeholders' perceptions on relevance of the EU Legislative Framework	and interviews with stakeholders) PC
13. Is the scope of the EU framework's provisions sufficient?	Do the provisions of the EU Legislative Framework cover EBS sufficiently to fulfil its objectives? Do they cover the following areas: mandate, powers, independence, resources, data collection requirements, monitoring/accreditation (Is their scope broad or narrow)?	Extent to which the provisions of the EU Legislative Framework cover EBS	Stakeholders' perceptions on sufficiency of mandate, powers, independence, resources, data collection requirements, monitoring/accreditation	Desk research, literature, and data review National mapping in 27 MS (including legal review and interviews with stakeholders) PC
14. To what extent are the original objectives still	Do the original objectives correspond to the current	Extent to which the current EU framework has adapted	Evolution of EU Legislative Framework	Desk research, literature, and data review

relevant today with regard to societal needs?	EU wide needs of EBs, citizens and residents today? How have the original objectives evolved over time with regard to the needs of EBs, citizens and residents?	to the evolution in this area and the changing needs of victims, citizens, residents and EBs	over time and adaptation of its original objectives to changing needs Stakeholders' perceptions on the needs of EBs, citizens and residents Stakeholders' perceptions on the relevance of the EU Legislative Framework to the current needs	National mapping in 27 MS (including legal review and interviews with stakeholders) PC
15. What are citizens' expectations for the role of equality bodies in their Member State?	Are EU citizens/residents satisfied with the role of EBs?	Extent to which EU citizens/residents are satisfied with the role of EBs Extent to which EU citizens/residents wish for a more prominent role of EBs	Stakeholders' perceptions of the role of EBS and need for improvement Share of stakeholders who wish for a more prominent role of EBs	National mapping in 27 MS (including legal review and interviews with stakeholders) PC
16. What are other actors' expectations (e.g.	Are state authorities satisfied with the role of	Extent to which state	Stakeholders' perceptions of the role of EBs and need	National mapping in 27 MS (including legal review

Member State authorities, non-governmental organisations etc.) for the role of equality bodies?	EBs? Are other stakeholders satisfied with the role of EBS? Are EBs satisfied with their current role? Would EBs wish to have a more prominent role?	authorities are satisfied with the role of EBs Extent to which state authorities wish for a more prominent role of EBs Extent to which state other stakeholders are satisfied with the role of EBs Extent to which other stakeholders wish for a more prominent role of EBs Extent to which EBs are satisfied with their role	for improvement Share of stakeholders who wish for a more prominent role of EBs Stakeholders' perceptions of the role of EBs and need for improvement Share of stakeholders who wish for a more prominent role of EBs EBs' perceptions of their role and need for improvement Number of EBs who wish for a more prominent role	and interviews with stakeholders) PC

		Extent to which EBS wish for a more prominent role		
COHERENCE				
17. To what extent is the EU Framework coherent with the objectives of the Treaties, including the Charter of Fundamental Rights of the European Union, as regards the achievement of the overall objectives?	Are the provisions on EBS of the Equality Directives in line with the objectives of Articles 19 and 157 of TEFU? To what extent are they coherent with the Treaties? Do they pursue the same aims? Are the provisions on EBS of the Equality Directives in line with the Charter of FR? To what extent are they coherent with the Charter? Do they pursue the same aims?	Extent to which the Directives are coherent with the objectives of the Treaties and Charter	Main interactions between the Directives and the Treaties Main interactions between the Directives and the Charter Number of cases of conflicts and/or synergies Examples of positive or negative interactions Examples of cases of conflicts	Desk research, literature, and data review Legal analysis of EU Legislative Framework EU Legislative Framework
18. To what extent has the EU framework worked together with other	Are there synergies, complementarities and overlaps between the EU	Extent to which the EU Legislative Framework is coherent with other MS'	Main interactions between the EU Legislative Framework and other MS'	Desk research, literature, and data review

Member **States' interventions as regards the achievement of its objectives?**	Legislative Framework and other MS' initiatives with the same objectives? Are the inconsistencies and conflicts between the EU Legislative Framework and other MS' initiatives with the same objectives?	interventions with the same objectives	initiatives with the same objectives Number of cases of conflicts and/or synergies Examples of positive or negative interactions Examples of cases of conflicts	Legal analysis of EU Legislative Framework
19. To what extent is this legislative EU framework coherent with the Paris Principles and **General Observations applied to National Human Rights Institutions?**	Are the provisions on EBS of the EU Legislative Framework in line with the Paris Principles and the General Observations? Are there synergies/discrepancies between the EU Legislative Framework and other MS' initiatives with the same objectives?	Extent to which the EU Legislative Framework is coherent with the Paris Principles and the General Observations	Main interactions between the EU Legislative Framework and the Paris Principles and the General Observations Number of cases of conflicts and/or synergies Examples of positive or negative interactions	Desk research, literature, and data review Legal analysis of EU Legislative Framework

			Examples of cases of conflicts	
20. To what extent is this legislative EU framework coherent with the European Commission against Racism and Intolerance Recommendation N°2?	Are the provisions on EBS of the EU Legislative Framework in line with Recommendation N2? Are there synergies/discrepancies between the EU Legislative Framework and Recommendation N2?	Extent to which the EU Legislative Framework is coherent with Recommendation N2	Main interactions between the EU Legislative Framework and Recommendation N2 Number of cases of conflicts and/or synergies Examples of positive or negative interactions Examples of cases of conflicts	Desk research, literature, and data review Legal analysis of EU Legislative Framework
EU ADDED VALUE				
21. What has been the EU added value of the EU Framework on Equality Bodies as regards the aims of supporting the implementation and	To what extent has the EU Legislative Framework contributed to the objectives of promotion, analysis, monitoring, and support of equal treatment	Extent to which the EU Legislative Framework has successfully contributed to the achievement of objectives	Evidence showing the added value of the EU Legislative Framework on achieving the objectives over the years	Desk research, literature, and data review National mapping

enforcement of EU law on inequalities and discrimination and increasing prevention? **What would the situation have been in the Member States if there had been no EU Framework (compared to what could have been achieved by the Member States alone at national and/or regional levels, as well as through international agreements and cooperation)?**	of all persons without discrimination? Could have the same objectives be reached using another level of regulation, specifically the national level? What are the advantages and disadvantages of having the EBS regulated at EU level rather than at MS level? Are there certain aspects or instances where MS-level regulation would provide better results with respect to the objectives of promotion, analysis, monitoring, and support of equal treatment of all persons without discrimination? What are		Evidence of the causality between the results achieved and the EU Legislative Framework in place Stakeholders' perceptions of EU added value of EU Legislative Framework on EBS compared to what could have been achieved by MS alone	(including interviews with stakeholders) Legal analysis of EU Legislative Framework PC

	these aspects and instances? Has the EU Legislative Framework contributed to the promotion, analysis, monitoring, and support of equal treatment of all persons without discrimination?			
22. Do the aims of supporting the implementation and enforcement of EU law on inequalities and discrimination and increasing prevention continue to require action at EU level?	Is EU action required to achieve the objectives of promotion, analysis, monitoring, and support of equal treatment of all persons without discrimination?	Extent to which EU action is needed to achieve the objectives	Stakeholder perception on the need for continued EU action in this field	Desk research, literature, and data review National mapping (including interviews with stakeholders) Legal analysis of EU Legislative Framework PC

23. What would have been the added value of extending the mandate of the EBs to the grounds and fields of the Employment Equality Directive and the Gender Equality Directive in the field of social security?	Would positive impacts derive from the extension of the mandate of EBS to the grounds and fields of the Employment Equality Directive and the Gender Equality Directive in the field of social security? What types of positive impacts would likely arise?	Extent to which the extension of the mandate of EBS to the grounds and fields of the Employment Equality Directive and the Gender Equality Directive would have added value	Likely positive impacts deriving from the extension of the mandate of EBS to the grounds and fields of the Employment Equality Directive and the Gender Equality Directive Stakeholder perception on the extension of the mandate of EBS	Desk research, literature, and data review National mapping (including interviews with stakeholders) Legal analysis of EU Legislative Framework PC

ANNEX B: OVERVIEW OF BENEFITS AND COSTS

Information in this Annex is extracted from the research by VVA and it only reflects the views of the authors.

		Citizens		Businesses		Administrations	
		Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary
Enforcement costs							
Cost: Initial setting up costs	Direct: One-off cost	N/A	N/A	N/A	N/A	N/A	**Findings from the interviews and survey:** According to German national equality body, the cost of setting up their equality body was EUR 2,814,000. Other stakeholders have not provided the quantitative estimates
Cost: Administrative and	Direct: Recurring costs (annual budget of the	N/A	N/A	N/A	N/A	**Findings from the interviews and survey:**	**Findings from the interviews and survey:**

		Citizens		Businesses		Administrations	
		Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary
Enforcement costs							
operational costs	EBs)					Most equality bodies report a significant **lack of investment in human and financial resources** for the work of equality bodies concerning enforcing, promoting awareness of, supporting, and guiding, and monitoring implementation of the statutory equality duties. **Findings from the literature review:** In practice, the level of funding and staffing varies considerably from one Member State to another. The differences are quite	Annual budget of the equality body ranged from EUR 67 thousand to 12 million. Average annual budget of the equality body is EUR 2,916,919. **Findings from the literature review:** In 2015, equality bodies' annual operating budgets varied considerably, from EUR 87,000 to EUR 23.3 million.

		Citizens		Businesses		Administrations	
		Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary
Enforcement costs							
						remarkable with some equality bodies declaring that they function with a budget below half a million euros and/or less than 5 staff members while others declare more than 50 staff members and a budget of several million euros. This can be partly explained by different population sizes and the cost of living (which affects salaries and other costs) but not in all cases. In fact, some small Member States have equality bodies with high levels of funding and staff, while bigger Member States	

		Citizens		Businesses		Administrations	
		Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary
Enforcement costs							
						do not.	
Compliance costs							
Cost: Adjustment costs	Direct: One-off and recurring One-off costs include one-time activities (familiarisation with the equality regulation, introduction of equality policies at the workplace, one-off adjustments of the workplace and stores) Recurring costs include recurring activities (training and education activities conducted yearly, monitoring of internal compliance with the equality	N/A	N/A	**Findings from the interviews and survey:** Adjustment on businesses and SMEs to make the workplace a space free from discrimination (**familiarisation with equality regulation, introduction of equality policies, organising training and education activities**). In addition, in terms of violation of the principles of non-discrimination, businesses and SMEs can be enforced to **pay compensation** for the	Unknown	N/A	N/A

		Citizens		Businesses		Administrations	
		Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary
Enforcement costs							
	regulation in the workplace, maintenance of equipment and technologies ensuring equality and accessibility in the workplace and stores, annual costs related to paying fines when businesses do not comply with the equality regulation, annual legal costs related to the compliance with the equality regulation)			victims because of their misbehaviour. In addition, although the proceedings before the national Equality Bodies are free of charge, businesses have to bear their **internal costs** themselves (i.e., hiring lawyers, reimbursements for traveling, etc.).			
Benefit: Decreasing level of discrimination	Fundamental rights Recurring	**Findings from the interviews:** For individuals, especially the ones who were exposed to discrimination, efficient functioning		**Findings from the interviews:** For businesses, compliance with the anti-discrimination regulation and promotion of equality		**Findings from the interviews:** National authorities gain from **knowledge base** developed and **policy advice**	**Findings from the literature review:** Benefits of better implementation include reduced discrimination and access to justice,

		Citizens		Businesses		Administrations	
		Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary	Qualitative	Quantitative / monetary
Enforcement costs							
		of the equality bodies brings multiple benefits such as increased protection of fundamental rights, **free procedures** and increased ability to win cases and be appropriately compensated for the endured discrimination		values may bring significant benefits in terms of gaining **employee and customer loyalty** and positive attitude towards these businesses, hence, positively impacting the financial performance, sales, increased customer base and other aspects of their business.		provided.	although much depends on the Member States. It has been calculated that if EU action reduces discrimination by 5 % this could lead to a gain in GDP of up to €247-703 million.