



# Equality Bodies

*Current Challenges*

 **Equinet**  
European network  
of equality bodies

**An Equinet Perspective**  
2012

# Equality Bodies Current Challenges

An Equinet Perspective

October 2012

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**Equinet** brings together 37 organizations from 30 European countries which are empowered to counteract discrimination as national equality bodies across the range of grounds including age, disability, gender, race or ethnic origin, religion or belief, and sexual orientation. Equinet works to enable national equality bodies to achieve and exercise their full potential by sustaining and developing a network and a platform at European level.

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# 1. Introduction

Equality bodies are established in all Member States in compliance with the EU equal treatment Directives. Directive 2000/43/EC which prohibits discrimination on the ground of racial or ethnic origin within and outside working life and Directives 2004/113/EC and 2006/54/EC which prohibit discrimination on the ground of gender within and outside working life require Member States to designate or establish one or more such organisations to:

- Provide independent assistance to victims of discrimination in pursuing their complaints of discrimination.
- Conduct independent surveys concerning discrimination.
- Publish independent reports and make recommendations on any issue related to discrimination.

Equality bodies were already established in some Member States prior to these Directives. In many Member States the mandate of the equality bodies established prior to or following the implementation of these Directives have exceeded the scope required. In some Member States equality bodies are only recently established and are at an exciting but vulnerable moment in their development as they seek to build their operations and grow their potential.

The European Commission commissioned research on these equality bodies, which was published on its website<sup>1</sup> in October 2010. The 'Study on Equality Bodies set up under Directives 2000/43/EC, 2004/113/EC and 2006/54/EC' identified the potential of these equality bodies in terms of:

- Improving the situation of individuals who experience discrimination.
- Enabling change in the policies, procedures and practices of organisations such as workplaces, service providers and policy making organisations.
- Improving the quality of policy and legislation.
- Improving stakeholder action on discrimination and equality.
- Improving public attitudes to equality, diversity and non-discrimination through realising a culture of compliance and a culture of rights.

In March 2011 the Council of Europe published the 'Opinion of the Commissioner for Human Rights on National Structures for Promoting Equality'. This identified that:

*'Independence and effectiveness are the two core indicators against which to assess national structures for promoting equality.'*

Equinet, the European network of equality bodies, works to support equality bodies to realise their full potential. For equality bodies the current context of economic and financial crisis presents extraordinary challenges as well as offering a valuable opportunity to realise their potential at a moment of change in our societies. Equinet has prepared this perspective in order to monitor developments for equality bodies at Member State level in this context of challenge and opportunity and the impact of these developments on their ability to realise this potential.

This perspective is part of an ongoing body of work being done by Equinet to stimulate and support the development of standards for the establishment and operation of equality bodies.

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<sup>1</sup> <http://ec.europa.eu/social/BlobServlet?docId=6454&langId=en>

Such standards could address the full range of issues that have been identified from the experience and work of equality bodies to date, support the development and operation of effective and independent equality bodies across the EU, and provide the basis from which they can achieve their full potential.

Equinet invited its members to complete a survey in June 2012 in order to gather the information and data required for this perspective. The survey questionnaire examined:

- Change in the demand on, and provision of, equality bodies' services.
- Change in the conditions created for equality bodies at Member State level.
- Change in the operation of equality bodies.
- The perspective of equality bodies on current challenges to realising their potential.

Independence and effectiveness were the two overarching indicators used by Equinet in constructing this survey questionnaire.

Twenty seven equality bodies completed the questionnaire in twenty three countries (encompassing Member States as well as Serbia and Croatia)<sup>2</sup>. Sixteen predominantly promotional type equality bodies<sup>3</sup> and eleven predominantly tribunal type equality bodies<sup>4</sup> completed the survey questionnaire.

This perspective is based on a small scale survey and is rooted in the views of individual equality bodies, their own interpretations of the survey questions and their willingness to disclose information of a potentially controversial nature. As such its findings can only be seen as indicative and pointing the way for further inquiry rather than being in any way conclusive.

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<sup>2</sup> From France, Denmark, Belgium (2), Ireland, Portugal (2), Austria, Finland, Germany, Luxembourg, Malta, Spain, Sweden, Northern Ireland, Great Britain, Bulgaria, Greece, Romania, Croatia, Hungary (2), Latvia, Netherlands, Poland, Serbia and Slovenia.

<sup>3</sup> Predominantly promotional type equality bodies spend the bulk of their time and resources on supporting good practice, raising awareness of rights, developing a knowledge base on equality and providing legal advice and assistance to victims of discrimination.

<sup>4</sup> Predominantly tribunal type equality bodies spend the bulk of their time and resources on hearing, investigating and deciding on individual instances of discrimination brought before them, while in some cases also performing a number of tasks identified for promotional type bodies.

## 2. Context

Previous research work, in particular the study carried out by the European Commission in 2010, has highlighted that equality bodies faced barriers to achieving their full potential prior to the crisis.

Limitations to the **independence** of equality bodies had been identified in terms of:

- Their legal structure.
- Their structures for accountability.
- The manner in which their Board/Commission or staff are appointed.
- Their leadership.

Limitations to the **effectiveness** of equality bodies had been identified in terms of:

- The low level of resources made available.
- Gaps in the functions and powers accorded.
- The geographical inaccessibility of equality bodies confined to the capital city.
- Such lack of stakeholder engagement that a wider infrastructure for equality and non-discrimination, beyond the individual equality body, fails to emerge.
- The absence of a strategic approach in the work of the equality body.

The situation of economic and financial crisis has changed the context for equality bodies. A number of factors have particular relevance:

### **1. Governmental responses to the crisis have led to significant reductions in public expenditure across the Member States.**

Addressing budgetary deficits by cutting public expenditure could have an impact on equality bodies along with other public services. Reduced human and financial resources or obstacles to further employment of staff (such as recruitment bans or inability to recruit due to lack of funding) could diminish the effectiveness of equality bodies. Uncertainty over future resources could also limit the ambition and willingness of equality bodies to take risks.

### **2. The crisis has diminished political and public attention to issues of equality and non-discrimination.**

A political and public discourse that is negative to equality could affect equality bodies. A hostility to, or diminishing interest in, equality could lead to an undermining of the independence of equality bodies, a disproportionate reduction in resources available to equality bodies or a reduced effectiveness in a more complex cultural environment.

### **3. Conditions of hardship and disadvantage have emerged in the wider society that can be fertile breeding grounds for discrimination and division.**

Increasing hardship and disadvantage in society could have implications for equality bodies. Increased demand due to higher levels of discrimination could over-extend equality bodies. At the same time or in different national contexts under-reporting of discrimination could grow and thus reduce the effectiveness of equality bodies.

**4. The crisis has stimulated an interest in political and economic reform that holds potential to advance issues of equality and non-discrimination.**

Debate and initiative on political and economic reform in response to the crisis and to the causes of crisis could also have positive implications for equality bodies. Recession establishes a focus on change where the contribution of equality bodies could be valued, provided these reforms can be understood as involving greater equality. Crisis prompts a re-examination of old certainties in a search for causal factors. In this context equality bodies have the potential to promote an understanding of inequality as one causal factor of the crisis and equality as one key factor for growth.

The crisis has not inevitably been accompanied by a diminished situation for equality bodies. The picture that emerges from the survey is mixed with some equality bodies enjoying improved circumstances, other equality bodies experiencing no significant impact and a number of equality bodies being significantly diminished in this context.

It is noteworthy that eight different equality bodies in seven different Member States reported an improvement of their circumstances, as they had recently benefitted from one or more of the following:

- Enhanced and broadened equality mandates (four equality bodies);
- Additional resources (three equality bodies);
- Additional powers (one equality body); or
- Enhanced independence (two equality bodies).

It must be noted that some equality bodies, while reporting improvements in terms of their mandate and powers, have also highlighted that any benefit has been limited by the lack of additional funding to implement such improvements.

However, it is clear that the economic and financial crisis does not inevitably result in limitations on the capacity of equality bodies to realise their potential. The political context is an important factor in determining whether equality bodies are seen as a target for fiscal consolidation or as a valued element in any strategy to tackle the crisis. Political will and political decision making can prioritise equality and the need to promote it and combat discrimination as a key part of the response to the current crisis.

The survey for this perspective attempted to explore change in the demand on the services of equality bodies. However, the quality and comparability of data collected by them and the range of internal and external factors influencing the level of demand on their services means that it is not possible to come to any definitive conclusions.

Eight equality bodies reported some increases in the number of information queries or number of cases dealt with over recent years. This is principally attributed to improved recognition of the equality body, enhanced systems within the organisation, new investment in awareness initiatives or being given a broad mandate. This increase, therefore, more likely reflects some success in reducing under-reporting of discrimination.

Nine equality bodies reported some decrease in the number of information queries or number of cases dealt with over recent years. In some instances no explanation was available for these changes. In other instances they were explained in terms of change in the situation of the organisation due to a merger with another body, reduced resources or diminished powers. This decrease, therefore, most likely reflects reduced capacity of equality bodies due to the economic and financial crisis.

The survey also attempted to explore change in the political and societal discourse at Member State level. A varied range of situations emerged both between and within the different countries.

Improvements in discourse were noted by twelve equality bodies in eleven Member States. This is an encouraging signal during the crisis. These improvements are principally attributed to improvements in the political leadership on equality issues. They are also attributed to increased visibility for the work of the equality body.

Significant disimprovements in discourse are noted, however, by seven equality bodies in seven Member States. The issues involved in this negative discourse tended to relate to the particular grounds of race, religion, sexual orientation and gender. They also included negative perceptions of equality as 'red tape' that impedes business performance and of human rights as conferring unfair advantage on particular groups. These disimprovements in the discourse tended to be attributed to the harsh context created by the crisis.

### 3. Potential

The potential of equality bodies, as identified above, is wide ranging as they can achieve change at three different levels:

1. **Social change** where equality bodies can have an impact on the culture of a society and stimulate a prizing of equality, diversity and non-discrimination as values in society.
2. **Organisational change** where equality bodies can impact on policy making and on the internal policies, procedures and practices within organisations such that equality is promoted, diversity is accommodated and discrimination is eliminated for employees and service users.
3. **Individual change** where equality bodies can impact on the situation and experience of individual members of groups subject to discrimination and inequality at work or in accessing goods and services.

The survey asked equality bodies to identify the key impacts they achieved over the past five years. The answers offer some insight into how equality bodies see their own potential, the extent to which they feel they are realising it, and their actual ability to do so.

Despite a context of economic and financial crisis, all equality bodies were able to point to significant achievements over the past five years in terms of achieving an impact on issues of equality and non-discrimination.

Thirteen different equality bodies identified key impacts that can be allocated across the three levels of change identified above. Seven of them identified key impacts at more than one level. These can be grouped as follows:

- Building awareness among the general public and within civil society of equality and non-discrimination (five equality bodies). This can be seen as an element in achieving cultural change and a limited engagement with social change.
- Supporting new approaches and good practice by organisations and by policy makers (ten equality bodies). Impacts in terms of mainstreaming equal treatment in employment and service provision, supporting new workplace practices and influencing policy development were identified.
- Enabling change in the situation of individuals and empowering individuals to achieve their rights (six equality bodies). This impact is indicated in terms of increased numbers of individual complaints being addressed to the equality body – either generally or on specific grounds.

Another key impact identified by seven equality bodies was **building a knowledge base on equality and non-discrimination**. This impact was usefully described in one instance as developing an evidence base for action on equality and non-discrimination. This type of impact can be seen as supporting both social change and organisational change.

The confidence and ease with which the equality bodies put forward these important impacts is a marker of good health for these institutions. Many equality bodies are realising their potential. This is important in the current context of economic and financial crisis and it will be vital to sustain this capacity to achieve impact.

Few equality bodies identified **key impacts in terms of social change**. Change at this level does require an ambition on the part of equality bodies both in terms of their understanding of

their remit and the range of actions they are able to engage in. The low number of equality bodies reporting key impacts in this area could reflect low levels of this ambition and/or the greater difficulty of making such an impact in a context of economic and financial crisis.

It is of concern that only six equality bodies identified **key impacts in terms of individual change**. This is worthy of further investigation as to the reasons for this low number. Change at the level of the individual is central to the purpose of these institutions.

One potential explanation for this low number could relate to resource issues, as impacts at this level of change are resource intensive. While it is not possible to draw specific conclusions from the survey, the low number of reports of such impacts could possibly be an indicator of a retrenchment within equality bodies and a concentration on achieving less resource intensive impacts in other areas.

Eleven equality bodies identified **key impacts in terms of more internal developments**. These impacts included greater recognition of the body, more strategic approach to their mandate, effective management of decreased resources, new legal strategy, and collaboration with other stakeholders. In some instances this focus on internal developments appears to reflect a particular stage in the evolution of the equality body – either being recently established or subject to significant recent change in structure, mandate or resources. These impacts offer important hope for the future effectiveness of equality bodies.

There is however also a significant number of equality bodies that appear to be facing difficulties in achieving impact and realising potential in the current context: three of them were unable to identify any key impacts, six managed to do so in the most vague terms, and five only focused on internal developments.

It is telling that many of those reporting limited key impacts were also the ones having to face difficult issues such as reduced resources or significant restructuring. This illustrates how the economic and financial crisis can diminish the potential and impact of equality bodies.

## 4. Independence

Independence is a key characteristic of equality bodies. The EU equal treatment Directives require that equality bodies carry out their functions independently. Other international standards, including the Paris Principles (1993) of the United Nations and the ‘Opinion of the Commissioner for Human Rights on National Structures for Promoting Equality’ (2011) and the ECRI<sup>5</sup> General Policy Recommendation No. 2 (1997) of the Council of Europe, identify the importance of the independence of the institution itself.

Independence means that, without interference from any quarter, equality bodies can, within their legal mandate:

- Identify their own priorities and implement their powers as they deem most appropriate.
- Select the issues they deal with and take positions on these issues as they see fit.
- Choose how they wish to manage and deploy their human and financial resources.

A number of elements can be identified that serve to indicate the level of independence being made available to the equality body. These include:

1. The **legal structure** of the equality body. This establishes the nature of the body in a legal sense. It could be a stand-alone body or part of another rights focused organisation or part of a Ministry. The extent to which a body is legally structured to stand apart from other stakeholders is one marker of independence.
2. The **forms of accountability** required of the equality body. Equality bodies are required to account for their expenditure of public money and for the manner in which they meet the demands of their mandate as a public body. The manner in which this accountability is structured and to whom this accountability is required influences the level of independence that can be enjoyed by the equality body.
3. The **procedures for appointing Board Members/Commissioners and senior staff**. These procedures establish the key players in the governance of the equality body. The manner of their appointment is an indicator of independence given that these key players should not be beholden to any stakeholders or perceived to be so beholden.

These three sub-indicators for independence were explored in the survey.

### **Legal Structure**

Legal structure varies across the equality bodies. Three different situations were reported:

- Twelve equality bodies reported being *stand-alone entities*. In some instances these equality bodies identify linkages with Government Ministries in relation to staff and/or budgets.
- Nine equality bodies reported *forming part of other similar entities* (usually Ombudsman Offices or National Human Rights Institutions). It is clear from the survey that this number will increase in the near future.

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<sup>5</sup> European Commission against Racism and Intolerance (ECRI)

- Six equality bodies reported being part of a Government Ministry. This type of structure has been identified in previous Equinet publications as hindering independence.

Legal structure is an indicator where some change is currently happening in the situation of equality bodies. Five equality bodies reported recent or current moves to change this structure. These changes are too recent for any conclusions to be drawn as to their impact on independence.

However in one case an equality body has been merged into a Government Ministry, having previously been an expert body of the Government. Inevitably this must be seen as a loss of independence. Another equality body has been structured from the merger of four previous equality bodies responsible for a number of different grounds. This is unlikely to have any impact on independence.

Three equality bodies are being/have recently been merged with National Human Rights Institutions or bodies responsible for human rights issues. In another instance the mandate of the equality body is to be expanded to include the broader field of human rights. Such changes can raise issues of independence where the equality body has not played a central role in decision making in relation to the merger. Such changes can also enhance independence by bringing equality bodies under the remit of international standards governing human rights institutions.

Equinet has previously published an opinion in relation to the issues that can arise for equality bodies in merger situations with National Human Rights Institutions. One issue of particular relevance to this report is the balance of focus achieved between equality and human rights issues and any tensions in arriving at an appropriate balance. Another issue for equality bodies that have their mandate expanded is to also have their budget proportionately increased. The outcomes in regards to these points, for the three equality bodies, will only be evident over time.

### **Accountability**

The forms of accountability reported, which vary for different equality bodies, were:

- Two equality bodies reported accountability only to the statutory financial control institution. This is indicative of best practice for structural independence. It enables equality bodies to stand free from any of the hidden controls that can be exercised through accountability mechanisms.
- Five equality bodies reported accountability only to Parliament. Six equality bodies reported accountability both to Parliament and to a statutory financial control institution. Three equality bodies reported accountability to Parliament, a Government Ministry and a statutory auditor's office. Thus a total of fourteen equality bodies identify accountability to Parliament as their main form of accountability, making this the dominant form of accountability reported for equality bodies. This has also been identified internationally<sup>6</sup> as a good practice arrangement given that it offers equality bodies some distance between their operations and any control that might be exercised through a direct accountability to the state administration.

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<sup>6</sup> Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments adopted at an international seminar in February 2012 of the Office of the United Nations High Commissioner for Human Rights, the International Coordinating Committee of National Institutions for the promotion and protection of human rights, and the National Assembly and the Protector of Citizens of the Republic of Serbia

- Seven equality bodies reported accountability only to a Government Minister or Department. Four equality bodies reported accountability both to a Government Ministry and to a statutory financial control institution. Eleven equality bodies identify accountability therefore to a Government Ministry as their main form of accountability.

This is not an area where any significant level of change over the recent past is reported. In one instance an equality body reported a new requirement to report to the statutory financial control institution. In another instance the legislation governing the equality body was changed to require accountability to Parliament rather than to a Government Ministry.

### **Appointments**

The manner by which appointments are made to the **Boards** of equality bodies, or by which Commissioners are appointed, varies.

One equality body has its Board elected partly from among a council of human rights civil society organisations and partly through nomination from universities. The Board then elects its chair. This is exemplary of best practice given the complete independence of the appointments process, and therefore the appointees, from the State.

Other than this, the different arrangements reported cover:

- Seven equality bodies reported that their Board/Commissioners are appointed by Parliament. This too has been identified internationally as good practice as the process is in principle independent of the state administration or any specific political entity and appointees can be seen to be in no way beholden to the state administration or any specific political entity.
- Two equality bodies reported that their Board/Commissioners are part appointed by Parliament and part by Head of State or Minister.
- Seventeen equality bodies reported that their Board/Commissioners are appointed by Head of State, or by Minister or Government. Four of these equality bodies reported some civil society involvement in these appointments by way of nomination – in particular involvement by social partners. Two of these equality bodies reported a process of recruitment based on public advertisement and this can be seen as good practice for independence.

The manner in which **staff** appointments are made to equality bodies also varies. Best practice from the point of view of independence is seen as own recruitment of staff by the equality body itself. This is seen as securing the capacity of the equality body to manage and deploy its own staff and to enjoy an undivided loyalty from them.

The different arrangements reported cover:

- Fourteen equality bodies reported that they appoint their own staff members.
- Thirteen equality bodies reported that their staff members are appointed principally through the state. One of these equality bodies reported being able to appoint their own specialist staff in a context where the bulk of their staff is seconded from the civil service.

This is not an area where any significant level of change over the recent past is reported. Enhanced parliamentary scrutiny of the appointment of the Chair is reported by two equality bodies. Imminent change in the process of Board/Commissioner appointment is reported by one equality body. Another equality body reports imminent change to the manner in which staff members are appointed.

## 5. Effectiveness

Effectiveness is a second key characteristic of equality bodies. The EU equal treatment Directives make no mention of effectiveness. They have an exclusive focus on the establishment of equality bodies.

The Council of Europe's 'Opinion of the Commissioner for Human Rights on National Structures for Promoting Equality' (2011) sets effectiveness as one of the core indicators against which to assess equality bodies and identifies factors external and internal to equality bodies that impact on effectiveness. The Paris Principles (1993) of the United Nations make reference to funding and to the operations of a National Human Rights Institution that reflects a concern for effectiveness. The Council of Europe's ECRI General Policy Recommendation No. 2 (1997) makes reference to issues of funding and of the need for local offices that reflect a similar concern.

Effectiveness means that equality bodies can, within their legal mandate, deploy all of their functions and powers to a scale and in a manner that can achieve an impact and realise the potential of the institution.

A number of elements, both external and internal, can be identified that serve to indicate the level of effectiveness possible for the equality body. They include:

1. The **resources** made available to the equality body. The level of human and financial resources that a body can deploy has an immediate and obvious impact on its effectiveness.
2. The **functions and powers** accorded to the equality body. The manner in which an equality body is enabled to operate and the scope it is afforded for these operations impacts on its effectiveness.
3. The **strategic approach** adopted by the equality body. This is an element fully within the control of the equality body. The more planned and systematic an equality body is in exercising its functions and powers and deploying its resources the more effective it will be in achieving its goals.
4. The **accessibility** of the equality body. This is an element mainly within the control of the equality body. Equality bodies provide a range of different services and offer an opportunity to secure justice to people who are members of a diversity of groups experiencing exclusion within the broader society. There are a range of issues that must be dealt with to design services and provide opportunities to secure justice that are accessible in terms of their location, their outreach from central locations and their ability to take account of the practical implications of diversity. This accessibility is key to the effectiveness of the equality body in responding to the situation and experience of individuals and groups experiencing discrimination.
5. **Stakeholder engagement and networking** by the equality body. Stakeholder engagement and networking allow equality bodies to mobilise a wider range of resources than those they have in their own control. This mobilisation enables effectiveness beyond what could be predicted for the resources allocated to the equality body.

These five sub-indicators for effectiveness were explored in the survey questionnaire.

## **Resources**

Studies on equality bodies have identified the limited resource base of many of these bodies as an impediment to effectiveness even prior to the economic and financial crisis. This '*perspective*', however, only seeks to assess change in this situation due to the crisis rather than to assess adequacy of the resource base of the equality bodies. Resources emerge as the key issue for equality body effectiveness in the current context of economic and financial crisis.

Again a mixed picture is evident. Three equality bodies reported an increase in their budget in recent times. Choices have been made in these instances to protect and enhance equality bodies even through difficult times. This increase in resources was a direct result of an expansion of their mandate. However concern was expressed in one instance that the increase in budget did not match the extra work required.

Ten equality bodies reported no significant change in their budgets. This too reflects a positive perspective from Government on the potential of equality bodies in a time of economic and financial crisis when other public services are experiencing budget cuts.

On the other hand:

- Seven equality bodies reported significant cuts to their budget. These cuts range 8% to 25% of their top budget in the past five years.
- Five equality bodies reported disproportionate cuts to their budget compared to other public services. These cuts range from 37% to 64% of their top budget in the past five years and have left these equality bodies in a particularly vulnerable situation.

EU funds are reported to play a valuable role in protecting equality bodies from the full impact of economic and financial crisis. Three equality bodies reported accessing EU funding as a means of enabling them to reach for or expand their potential even in a time of budget cutbacks.

Two bodies did not report on their funding situation. In one of these instances this was due to the impossibility of separating the budget for equality/non-discrimination work from the wider brief of the body.

It is of note that four equality bodies reported significant increases in their budgets prior to the economic and financial crisis followed by budget cuts greater than this increase on foot of the crisis. This undermines their financial stability and their capacity to plan activities. It results in a severe downscaling of activities and a potential loss of credibility for the equality body.

## **Functions and Powers**

The functions and powers of equality bodies vary with the type of equality body, whether it is a predominantly promotional type of equality body or a predominantly tribunal type of equality body. The functions and powers of equality bodies are a second core foundation for their effectiveness alongside resources. Previous studies have identified issues with the functions and powers accorded to equality bodies. However this '*perspective*' is looking at the issue of change in the functions and powers of equality bodies in a context of economic and financial crisis.

There are few reports of changes in functions and powers of equality bodies in recent years. Nineteen of them reported no change in their functions and powers. Some have been given additional responsibilities under the UN Convention on the Rights of Persons with Disabilities.

Beyond this no-change situation a mixed picture emerges. Six bodies reported a recent enhancement of their functions and powers. Four of these reported an expanded mandate that includes new grounds. Two of these equality bodies reported new (small-scale) powers being accorded to them to promote equality and combat discrimination.

However, in some instances, the equality bodies reported that enhanced functions and powers have not been accompanied by increased resources and in some instances have been accompanied by budget cuts. This nullifies the potential in these improvements.

Two equality bodies report reduced functions and powers. One reported a reduction of functions and powers related to its jurisdiction in relation to some forms of discrimination in the public sector being removed. Another reported on a review of its functions and powers. This is predicted to lead to a diminution of its powers and functions.

### ***Strategic Approach***

The focus on a strategic approach turns the debate on effectiveness to the operations of the equality body itself. Indicators of a strategic approach that contributes to greater effectiveness are:

- A strategic plan that sets out the objectives of, activities of, and the manner in which resources are deployed by an organisation over a period of years;

The survey found that fifteen equality bodies reported having a strategic plan, and twelve that they did not.

- A communications strategy that sets out the objectives of, activities of, and resources deployed by an organisation in building an awareness of rights and a broader culture of rights;

The survey found that ten equality bodies reported that they have a communications strategy, and seventeen that they did not.

- A strategic approach to litigation that ensures predominantly promotional type equality bodies support cases in a manner that maximizes the impact of the equal treatment legislation;

The survey found that six equality bodies reported having a strategic approach to litigation. It should be noted that a strategic approach to litigation is more difficult to define for predominantly tribunal type bodies that have to deal with all cases that come before them. Twenty one equality bodies reported that they do not have a strategic approach to litigation.

This is an area of action that is within the control of equality bodies and does not require or use up financial resources. There is some room for improvement in terms of equality bodies developing more strategic approaches. Five organisations reported recent or imminent change in terms of enhancing their strategic approach despite the context of economic and financial crisis.

### ***Accessibility***

Accessibility focuses on the operations of the equality bodies themselves. Accessibility was first examined in terms of three indicators:

- A geographical accessibility<sup>7</sup> through establishing and operating local/regional offices from which the equality body offers its services;

The survey found that nine equality bodies reported having local offices in place.

- A local presence for the equality body where it works in partnership with local organisations to deliver some of its services through these organisations and where these organisations can be the first point of contact with complainants;

The survey found that nine equality bodies reported having a strategy for local presence.

- An ability to travel to enable accessibility so that key players within the equality body can visit the areas where incidents of discrimination are occurring and take relevant actions when there;

The survey found that seventeen equality bodies reported travelling to local areas to enable access.

It is noted that some equality bodies identified that the small scale of a country can limit the need for such steps.

Accessibility was secondly examined in terms of the diversity of individuals and groups that the equality body deals with. The key indicator here was the existence of processes and practices within the equality body operations to take account of the practical implications of this diversity.

The survey found:

- It is of some concern that no equality bodies reported having specific procedures to identify and respond to the practical implications of the diversity of the people they deal with from across all the different grounds that their mandate covers.
- Seventeen equality bodies reported practices to support access by particular groups. These practices encompassed translation and interpretation, adaptations for people with physical disability or childcare arrangements.

Accessibility can have financial implications for equality bodies which can limit progress if their resources are reduced. Accessibility is, however, an area where some equality bodies could improve their operations.

Few equality bodies report any change in this area in the recent past. However one equality body reported the forthcoming closure of its local and regional offices and a diminution of its support for their local presence strategy due to budget cuts. Two equality bodies reported a decrease in their capacity to make site visits due to budget cuts.

### ***Stakeholder Engagement/Networking***

Stakeholder engagement and networking focus on the operations of the equality bodies themselves.

The stakeholder engagement reported takes various forms including:

- Stakeholder engagement strategies developed by the equality body.
- Formal structures that involve civil society organisations in the work of the equality body.

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<sup>7</sup> Equinet has done work on this issue in its report 'Providing Independent Assistance to Victims of Discrimination', published December 2011.

- Systematic involvement of civil society organisations in specific activities of the equality body.
- Representation of stakeholders within the equality body.

This engagement assists effectiveness by mobilising a wider range of resources behind the goals and objectives of the equality body. The four key stakeholder groups reported are NGOs, social partners, other statutory institutions with a mandate in the field of human rights and equality bodies in other jurisdictions.

Networking assists effectiveness by linking bodies of a similar nature, usually across different jurisdictions. This linking can enable valuable peer learning and can allow sharing resources to maximise impact on common issues.

The survey found:

- Thirteen equality bodies reported a formal engagement with NGOs. Some other equality bodies do work with NGOs but do not have any process for a formal engagement.
- Seven equality bodies reported a formal engagement with the social partners. These relationships were more likely to be with the trade unions than business organisations. Some other equality bodies do work with social partner organisations but do not have any process for a formal engagement.
- Eleven equality bodies reported a formal engagement with other statutory institutions with a human rights type mandate.
- Ten equality bodies reported networking with equality bodies in other jurisdictions. These were formal arrangements on a regional basis or international networking around a Europe wide institution. All the equality bodies are, of course, members of Equinet which involves them in a networking with equality bodies from other jurisdictions.

Three equality bodies reported some limited change in this area in the recent past. In two instances this involved a growing engagement with NGOs. In one instance this involved a diminishing engagement with NGOs. In one instance this involved a diminishing engagement with the social partners.

This emerges as an indicator where equality bodies are challenged to improve their operations. In particular there appears to be a lack of formal engagement with the social partners. The value of developing a formal engagement with NGOs, particularly those representing groups experiencing discrimination, has been taken up by less than half of the equality bodies that responded to the survey questionnaire.

## 6. International Standards

The EU equal treatment Directives have an immediate and important relevance for all equality bodies. They set a standard for the establishment of these bodies. They have been used to good effect at the point of establishment to secure improvements for equality bodies. However they set a minimum standard and have not been able to serve to protect equality bodies from disimprovements in their situation after the point of establishment. Likewise they have not been able to draw from the experience of equality bodies to serve as a standard for effectiveness of equality bodies in delivering on their mandate.

Twenty four equality bodies reported that the Paris Principles of the United Nations, the ECRI General Policy Recommendation No. 2 and the Council of Europe 'Opinion of the Commissioner for Human Rights on National Structures for Promoting Equality' were relevant for their work.

Eleven of these equality bodies reported actually making use of these standards in relation to their situation.

Five equality bodies reported making use of the Paris Principles of the United Nations as part of the accreditation process for National Human Rights Institutions. These equality bodies are also National Human Rights Institutions. Independence was a particular focus for attention in their use of the Paris Principles.

Six equality bodies reported making use of the Paris Principles, ECRI General Policy Recommendation No. 2 and the Council of Europe 'Opinion of the Commissioner for Human Rights on National Structures for Promoting Equality' to support their arguments for greater independence. However they point to the problem that there are no sanctions associated with failure to comply with these standards. Sanctions would enhance the impact of the standards in times of difficulty for equality bodies.

## 7. Conclusion

Economic and financial crisis does not inevitably have to mean a disimprovement in the situation of equality bodies. A mixed picture emerges from this survey. Many equality bodies remain unaffected, some have experienced improvements and others have been diminished over the period of economic and financial crisis.

It is encouraging to note at the start that all equality bodies surveyed were able to point to significant achievements over the past five years. Despite a context of economic and financial crisis equality bodies are making their contribution and achieving an impact on issues of equality and non-discrimination.

Equality bodies can and should be seen as occupying a special position with a particular contribution to make to securing an exit from economic and financial crisis and to ensuring future well-being for the citizens of the European Union. The improvements found in this survey in the situation of eight equality bodies in seven Member States suggest that this perspective is understood and has been acted on in some Member States. It is clear that what happens to equality bodies over this period of crisis is a matter of political choice rather than any imperative of the crisis.

Independence and effectiveness are the key indicators for assessing the extent to which equality bodies are enabled, or are operating, in a manner to reach their full potential. Previous studies have demonstrated that there were limitations in the conditions created for equality bodies and in the operations of equality bodies prior to this economic and financial crisis. This survey has further highlighted this challenge as well as pointing to instances where this challenge has been taken on in a positive manner.

The independence of equality bodies is currently under the spotlight in a number of jurisdictions. This principally relates to changes in the legal structure of these equality bodies in the context of economic and financial crisis. The core changes relate to mergers with other human rights mandated bodies. It will take time for new arrangements to work out and therefore to assess if such mergers have led to an enhancement or otherwise in the work of promoting equality and combating discrimination.

The core issue to emerge from this survey is that of resources and ultimately the effectiveness of the equality bodies. Twelve of them reported a significant reduction in their resources. Five of these identified the reductions they experienced as being disproportionate when compared to the wider public sector.

It will be important to continue to monitor and ensure a protection of the functions and powers of equality bodies. While a number of them reported improvements in this area, two reported a diminution of their functions and powers.

The survey has indicated a need for further action by many equality bodies themselves to enhance their effectiveness, even in a context of economic and financial crisis. In particular a challenge is posed to be more strategic in their work, to be more systematic in taking account of diversity and to engage with a wider range of stakeholders.

Nineteen equality bodies highlighted the need for further international and European Union standards in the field of equality. These suggestions related to enhancing both the protection afforded to those who experience discrimination and the safeguards established for the work and potential of the equality bodies themselves.

The need for enhancing the protection afforded to those who experience discrimination was posed in terms of legal provisions with the effect of preventing discrimination, dissuasive sanctions, better protection against victimization, and protection of Third Country Nationals.

The need for standards to safeguard equality bodies is expressed in terms of protecting both their independence and their effectiveness. However particular gaps are identified in terms of standards that apply specifically to equality bodies and standards that deal thoroughly with the issues of effectiveness. The need for mechanisms of accreditation, monitoring and enforcement of the provisions of these standards was also highlighted.

It will be important to sustain this process of monitoring the impact of the economic and financial crisis on equality bodies, especially since its impact takes time to work through to such institutions. It is clear from the survey that some equality bodies look to the future with trepidation.

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## Equinet member organisations

### AUSTRIA

Ombud for Equal Treatment  
[www.gleichbehandlungsanwaltschaft.at](http://www.gleichbehandlungsanwaltschaft.at)

### BELGIUM

Centre for Equal Opportunities & Opposition to Racism  
[www.diversite.be](http://www.diversite.be) and [www.diversiteit.be](http://www.diversiteit.be)

### BELGIUM

Institute for the Equality of Women and Men  
<http://igvm-iefh.belgium.be>

### BULGARIA

Commission for Protection against Discrimination  
[www.kzd-nondiscrimination.com](http://www.kzd-nondiscrimination.com)

### CROATIA

Office of the Ombudsman  
[www.ombudsman.hr](http://www.ombudsman.hr)

### CYPRUS

Office of the Commissioner for Administration  
(Ombudsman)  
[www.ombudsman.gov.cy](http://www.ombudsman.gov.cy)

### CZECH REPUBLIC

Office of the Public Defender of Rights  
[www.ochrance.cz](http://www.ochrance.cz)

### DENMARK

Board of Equal Treatment  
[www.ast.dk](http://www.ast.dk)

### DENMARK

Danish Institute for Human Rights  
[www.humanrights.dk](http://www.humanrights.dk)

### ESTONIA

Gender Equality and Equal Treatment Commissioner  
[www.svv.ee](http://www.svv.ee)

### FINLAND

Ombudsman for Equality  
[www.tasa-arvo.fi](http://www.tasa-arvo.fi)

### FINLAND

Ombudsman for Minorities  
[www.ofm.fi](http://www.ofm.fi)

### FRANCE

Defender of Rights  
[www.defenseurdesdroits.fr](http://www.defenseurdesdroits.fr)

### GERMANY

Federal Anti-Discrimination Agency  
[www.antidiskriminierungsstelle.de](http://www.antidiskriminierungsstelle.de)

### GREECE

Greek Ombudsman  
[www.synigoros.gr](http://www.synigoros.gr)

### HUNGARY

Equal Treatment Authority  
[www.egyenlobanasmod.hu](http://www.egyenlobanasmod.hu)

### HUNGARY

Office of the Commissioner for Fundamental Rights  
[www.ajbh.hu](http://www.ajbh.hu)

### IRELAND

Equality Authority  
[www.equality.ie](http://www.equality.ie)

### ITALY

National Office against Racial Discrimination - UNAR  
[www.unar.it](http://www.unar.it)

### LATVIA

Office of the Ombudsman  
[www.tiesibsargs.lv](http://www.tiesibsargs.lv)

### LITHUANIA

Office of the Equal Opportunities Ombudsperson  
[www.lygybe.lt](http://www.lygybe.lt)

### LUXEMBURG

Centre for Equal Treatment  
[www.cet.lu](http://www.cet.lu)

### MALTA

National Commission for the Promotion of Equality  
[www.equality.gov.mt](http://www.equality.gov.mt)

### NETHERLANDS

Dutch Equal Treatment Commission  
[www.cgb.nl](http://www.cgb.nl)

### NORWAY

Equality and Anti-Discrimination Ombud  
[www.ldo.no](http://www.ldo.no)

### POLAND

Human Rights Defender  
[www.rpo.gov.pl](http://www.rpo.gov.pl)

### PORTUGAL

Commission for Citizenship and Gender Equality  
[www.cig.gov.pt](http://www.cig.gov.pt)

### PORTUGAL

Commission for Equality in Labour and Employment  
[www.cite.gov.pt](http://www.cite.gov.pt)

### PORTUGAL

High Commission for Immigration and Intercultural Dialogue  
[www.acidi.gov.pt](http://www.acidi.gov.pt)

### ROMANIA

National Council for Combating Discrimination  
[www.cncd.org.ro](http://www.cncd.org.ro)

### SERBIA

Commission for the Protection of Equality  
[www.ravnopravnost.gov.rs](http://www.ravnopravnost.gov.rs)

### SLOVAKIA

National Centre for Human Rights  
[www.snspl.sk](http://www.snspl.sk)

### SLOVENIA

Advocate of the Principle of Equal Treatment  
[www.zagovornik.net](http://www.zagovornik.net)

### SPAIN

Spanish Race and Ethnic Equality Council  
[www.igualdadynodiscriminacion.org](http://www.igualdadynodiscriminacion.org)

### SWEDEN

Equality Ombudsman  
[www.do.se](http://www.do.se)

### UNITED KINGDOM - GREAT BRITAIN

Equality and Human Rights Commission  
[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

### UNITED KINGDOM - NORTHERN IRELAND

Equality Commission for Northern Ireland  
[www.equalityni.org](http://www.equalityni.org)

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