

ENNHRI General Assembly Meeting
27 October 2016 – 17:00-17:30

Standards for Equality Bodies: Interaction with Paris Principles

Thank you very much for inviting me, as Chair of Equinet, to participate in your General Assembly, very pleased to do so, as we were pleased that Lora participated in Equinet's AGM at the end of September.

Continuing the good co-operation we have with ENNHRI is of key importance, not only because we share similar ambitions, for inclusive and equal societies, where human rights are enhanced, promoted and protected.

But also because our member organisations face similar challenges – the rise of hate speech and extremism, austerity measures and budget cuts, political pressures, negative public discourse on equality and human rights

And of course because we have member bodies in both Networks, those who have competences for both human rights and equality – and, like ENNHRI, some of our members are also Ombudpersons institutions.

Equinet is the European Network of Equality Bodies, with membership of 46 national equality bodies from 34 European states¹.

Equality bodies are public institutions set up to promote equality and tackle discrimination on grounds of gender, race, age, sexual orientation, religion and belief or other grounds of discrimination.

¹ 28 EU Member States + 5 candidate countries: Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia

According to the EU equal treatment Directives², each EU Member State has to set up an equality body on grounds of race and ethnicity and gender. In practice, many Member States have gone beyond these requirements and also deal with the grounds I just mentioned and of course in many MS there were already equality bodies in place prior to the Directives.

Equinet's mission is to promote equality in Europe by supporting and enabling the work of national equality bodies to be independent and effective catalysts for more equal societies, working to build capacity and peer support for equality bodies; contributing to the European equality agenda; serving as a knowledge and communication hub on equal treatment as well as consolidating the network and the position of its members.

I was invited to share with you our recent work on standards for equality bodies and welcome opportunity to do so; and I want to start with the **rationale for Standards for equality bodies**

First, we have an ambition to ensure that equality bodies realise their full potential and to establish the best means of doing so. That said, it is clear that some equality bodies have been established under limited or limiting conditions – whether in their powers, or inadequate human and financial resources which undermines their effectiveness; and there are also concerns about the legal structure put in place for some equality bodies which limits their independence

² **Directive 2000/43/EC** against discrimination on grounds of race and ethnic origin / **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) / **Directive 2004/113/EC** implementing the principle of equal treatment between men and women in the access to and supply of goods and services

Equinet also concerned with **pressures** too many equality bodies have found themselves under over the period of economic crisis – with some facing significant cuts in budgets and/or increased political pressure, interference in appointments or reduction of powers.

It is also clear to us that the **particular nature of equality bodies** and their diversity points to the needs for specific standards, that recognize and are reflective of the role of equality bodies to protect and promote non-discrimination and also promote equality and more equal societies, together with a **recognition of the passage of time and the changing place** of NEBs within wider institutional architecture for promoting and providing pathways to justice.

EU Directives which require the establishment of EBs set some minimum standards – for example that the competences of equality bodies include **independent** assistance to victims of discrimination, conducting surveys, publishing reports and making recommendations; while they require equality bodies to fulfil their mandate independently they do not guarantee complete independence, nor effectiveness, sufficient powers or adequate resources for equality bodies

The reality is that functions and powers of equality bodies and the levels of protection they provide are very diverse across Member States and, while it appears that the European Commission has launched

infringement proceedings against some Member States for failure to meet the minimum standards set by the Directives, this has not been widespread, and there remains a concern about independence and effectiveness of EBs

Equinet considers that **standards are needed to address these concerns** and to assist the European Commission in monitoring the full and effective implementation of the Directives and national governments in establishing effective equality bodies as well as enable EBs to realise their full potential

We worked last year to develop further our thinking on this – a cluster of senior representatives from 23 member bodies met twice in 2015 to do so, with a draft working paper discussed and further developed at 2015 AGM, finalised and launched in June this year around Equinet’s conference on effective implementation of equality law.

The aim of the Working Paper on developing standards for equality bodies is to establish positions that equality bodies can promote, negotiate and advance vis a vis European and national administrations in the establishment of standards for EBs at European level and their implementation at national level, we hope it will further the agenda and debate on the need for progress in the development of standards.

The paper identifies four core areas that standards would need to focus on:

- The first core area is **mandate**.
 - Standards need to secure a mandate that covers equality, diversity and non-discrimination.

- The mandate should also cover public and private sectors and the fields of employment, vocational training, goods and services, education, housing, social protection and social advantages
- It should also encompass all EU Treaty grounds covered by the article 19 of the Treaty of the EU and the article 21 of the Charter of Fundamental Rights
- The second core area is **complete independence**, including standards to ensure:
 - Securing their own legal personality and stand-alone structure
 - A governance structure that reflects diversity of society and appointed through a transparent and independent procedure
 - Systems of accountability ensuring independence
 - Absence of external pressure and undue interference
- The third core area is **effectiveness**. Standards should address and secure:
 - Adequate financial, staff and physical resources
 - General powers, such as commissioning and conducting research, making recommendations, challenging domestic legislation
 - Specific powers to underpin promotional-type functions, such as making recommendations, conducting investigations and investigating cases of discrimination
 - Specific powers to underpin tribunal-type functions, such as making findings in cases of discrimination, making legally binding decisions and employing sanctions and awarding compensations

- The fourth and last core area is **institutional architecture**. Equality bodies work within a wider institutional infrastructure to combat discrimination and promote equality at national level. They must be appropriately located within pathways for individuals to access justice in cases of discrimination. In practice:
 - among other issues, we mention specifically, that when equality bodies have their mandates combined with national human rights institutions or ombudspersons offices, they must have a coherent legal basis and powers for all parts of the mandate.

In developing our thinking on this, we were of course very mindful of international/UN and Council of Europe standards, and drew from them, particularly the **Paris Principles**³ which address the competences and responsibilities of NHRIs, their composition and guarantees of independence and pluralism and methods of operation. And these are enhanced by the important mechanism of accreditation and of course EBs who have become or merged with NHRIs have found important protections offered by the Paris Principles

Our proposals for content of standards do not contradict the PP, indeed they draw heavily on the PP and builds on them to address some of the specificities of the experiences and ambition of equality bodies.

We published the Working Paper in June, and are aiming now to

Build support from a range of national, international and European institutions for standards for EBs based on the ideas in the paper – already happening in some countries, Commissioner Jourova at launch in Brussels, said the EC is determined to help strengthen equality bodies and create conditions in which they can reach their full potential.

³ Principles relating to the Status of National Institutions (The Paris Principles) (1993)
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

Bring the debate on need for standards to actors at EU and national level that may not have examined the issues yet

Ensure that other institutions taking action in any way related to standards for EBs know about the work and ideas – such as ECRI with its review of GPR number 2 on specialised bodies – and the OHCHR in its preparation of paper on equality bodies planned for Human Rights Council in March 2017, and now the Ombudsman institutions I believe

Secure the development and implementation of European standards for EBs – if not a Directive, not naïve! - then maybe a recommendation

Much activity and debate over the course of last few years, good to have published the Working Paper and great to have opportunity to outline it here, looking forward to working together to ensure that all our institutions are independent and effective and securing much needed change for equality and human rights across Europe.

Evelyn Collins