



2022/0400(COD)

12.10.2023

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality

on the proposal for a directive of the European Parliament and of the Council 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)0688 – C9-0409/2022 – 2022/0400(COD))

Rapporteur for opinion: Alice Kuhnke

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AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality, as the committees responsible, to take the following into account:

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The Treaties and the Charter of Fundamental Rights of the European Union recognise the right to equality and the right to non-discrimination as essential values of the Union⁵⁷, **and** the Union has already adopted several Directives on the prohibition of discrimination.

⁵⁷ Articles 2 and 3 of the Treaty on European Union ('TEU'), Articles 8 and 10 of the Treaty on the Functioning of the European Union ('TFEU'), and Articles 21, 23 and 26 of the Charter.

Amendment

(1) The Treaties and the Charter of Fundamental Rights of the European Union recognise the right to equality and the right to non-discrimination as essential values of the Union⁵⁷, **The Union has already adopted several Directives on the prohibition of discrimination, *but has yet to adopt a horizontal Equal Treatment Directive outside the field of employment and occupation, covering all protected grounds.***

⁵⁷ Articles 2 and 3 of the Treaty on European Union ('TEU'), Articles 8 and 10 of the Treaty on the Functioning of the European Union ('TFEU'), and Articles 21, 23 and 26 of the Charter.

Amendment 2

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1 a) The Court of Justice has held that the scope of the principle of equal treatment for men and women cannot be confined to the prohibition of discrimination based on the fact that a person is of one or other sex. In view of its

purpose and the nature of the rights which it seeks to safeguard, it also applies to discrimination arising from the gender identity, gender expression, or sex characteristic of a person.

Amendment 3

Proposal for a directive Recital 6

Text proposed by the Commission

(6) Directives 2006/54/EC and 2010/41/EU require Member States to designate one or more bodies for the promotion of equal treatment, including the analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds covered by the respective Directives (hereinafter ‘equality bodies’). They require Member States to ensure that the competences of these bodies include providing independent assistance to victims, conducting independent surveys concerning discrimination, publishing independent reports and making recommendations on any issue relating to such discrimination. They also require Member States to ensure that the tasks of these bodies include the exchange of information with corresponding European bodies, such as the European Institute for Gender Equality.

Amendment

(6) Directives 2006/54/EC and 2010/41/EU require Member States to designate one or more bodies for the promotion of equal treatment, including the analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds covered by the respective Directives (hereinafter ‘equality bodies’). They require Member States to ensure that the competences of these bodies include providing independent assistance to victims, conducting independent surveys concerning discrimination, publishing independent reports and making recommendations on any issue relating to such discrimination. They also require Member States to ensure that the tasks of these bodies include the exchange of information with corresponding European bodies, such as the European Institute for Gender Equality *and the European Union Agency for fundamental rights (FRA)*.

Amendment 4

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Directives 2006/54/EC and 2010/41/EU leave a wide margin of

Amendment

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discretion to Member States as regards the structure and functioning of equality bodies. This results in significant differences between the equality bodies established in the Member States, in terms of the bodies' mandates, competences, structures, resources and operational functioning. This, in turn, means that protection against discrimination differs from one Member State to another.

discretion to Member States as regards the structure and functioning of equality bodies. This results in significant differences between the equality bodies established in the Member States, in terms of the bodies' mandates, competences, structures, resources and operational functioning. This, in turn, means that protection against discrimination differs from one Member State to another, ***resulting in unequal protection of victims of discrimination across the Union and an inadequate implementation of the Union's equal treatment legislation. With a view to ensuring a holistic, effective and comprehensive protection against discrimination, Member States should promote and fund equality bodies to cover all grounds of discrimination in accordance with the non-exhaustive nature of Article 21 of the Charter.***

Amendment 5

Proposal for a directive Recital 12

Text proposed by the Commission

(12) This Directive should apply to equality bodies' action as regards the matters covered by Directives 2006/54/EC and 2010/41/EU. The standards should only concern the functioning of equality bodies and should not extend the material or personal scope of those Directives.

Amendment

(12) This Directive should apply to equality bodies' action as regards the matters covered by Directives 2006/54/EC and 2010/41/EU. The standards should only concern the functioning of equality bodies and should not extend the material or personal scope of those Directives. ***In a number of Member States, as a good practice and following a broad interpretation by the CJEU of the ground of 'sex', equality bodies also have competence for promoting equality and tackling discrimination on the grounds of gender identity and expression and sex characteristics^{13a}. However, that is not the case in all Member States, which leads to differing levels of protection against discrimination as regards the matters covered by those Directives across the***

Union.

^{13a} Judgment of the Court of Justice of 30 April 1994, P v S, C-13/94, ECLI:EU:C:1996:170; Judgment of the Court of Justice of 7 January 2004, K.B., C-117/01, ECLI:EU:C:2004:7; Judgment of the Court of Justice of 27 April 2006, Richards, C-423/04, ECLI:EU:C:2006:256; Judgment of the Court of Justice of 26 June 2018, M.B., C-451/16, ECLI:EU:C:2018:492.

Amendment 6

Proposal for a directive Recital 14

Text proposed by the Commission

(14) *The proposed Directive 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 mechanisms⁶⁹ should be considered lex specialis to the enforcement provisions of Directive 2006/54/EC that will be replaced by this Directive. Any higher minimum standards established by the **future** Directive on Pay Transparency for equality bodies in matters relating to equal pay for the same work or work of equal value, including in pay transparency, as compared to those set out in this Directive, should prevail over those set out in this Directive.*

Amendment

(14) Directive (EU) 2023/970 ^{14a} should be considered lex specialis to the enforcement provisions of Directive 2006/54/EC that will be replaced by this Directive. Any higher minimum standards established by the Directive on Pay Transparency for equality bodies in matters relating to equal pay for the same work or work of equal value, including in pay transparency, as compared to those set out in this Directive, should prevail over those set out in this Directive.

^{14a} Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 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

⁶⁹ 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).

Amendment 7

Proposal for a directive Recital 15

Text proposed by the Commission

(15) In promoting equal treatment, preventing discrimination and assisting victims of discrimination, equality bodies should pay particular attention to discrimination based on several of the grounds protected by Directives 79/7/EEC, 2000/43/EC, 2000/78/EC, 2004/113/EC, 2006/54/EC and 2010/41/EU.

Amendment

(15) In promoting equal treatment, preventing discrimination and assisting victims of discrimination, equality bodies should pay particular attention to ***multiple and intersectional*** discrimination based on ***the combination of*** several of the grounds protected by Directives 79/7/EEC, 2000/43/EC, 2000/78/EC, 2004/113/EC, 2006/54/EC and 2010/41/EU, ***as well as in the Charter, acknowledging that discrimination often affects people on more than one ground, and that this creates specific disadvantage. Incorporating an intersectional approach is key to understanding social inequalities, exclusion and discrimination from a comprehensive, systemic or structural perspective, while overcoming a single-axis approach to discrimination, which downplays its institutional and historical dimensions. Equality bodies should ensure a clear and appropriate focus on each of the grounds covered and on the intersections between them. Provisions relating to intersectional discrimination in Directive (EU) 2023/970 should be taken into account in the implementation of this Directive.***

Amendment 8

Proposal for a directive Recital 16

Text proposed by the Commission

(16) Equality bodies can only effectively play their role if they are able to act with complete independence without being subject to any external influence. For that purpose, Member States should take into account a number of criteria **that contribute** to the independence of equality bodies. Equality bodies should not be set up as part of a ministry or body taking instructions directly from the government. Any staff member or person holding a managerial position – for example **as** member of a board managing the equality **body, head** of the equality **body**, deputy or **in case of** interim – should be **independent, qualified for their position, and** selected through **a** transparent **process**. Equality bodies should be able to manage their own budget and resources, including by selecting and managing their own staff, and be able to set their own priorities.

Amendment

(16) Equality bodies can only effectively play their role if they are able to **make decisions and to** act with complete independence without being subject to any external, **especially political** influence. For that purpose, Member States should take into account a number of criteria to **ensure** the independence of equality bodies. Equality bodies should not be set up as part of a ministry or body taking instructions directly from the government. Any staff member or person holding a managerial position – for example member of a board managing the equality **bodies, heads** of the equality **bodies**, deputy **heads** or interim **heads of equality bodies** – should be selected through **merit-based and** transparent **procedures of open competition**. Equality bodies should be able **able to decide their internal structure and how** to manage their own budget and resources, including by selecting and managing their own staff, and be able to set their own priorities **taking into account the Union's priorities on gender equality**

Amendment 9

Proposal for a directive Recital 17

Text proposed by the Commission

(17) To ensure that equality bodies can exercise all their competences and fulfil all their tasks, **Member States** should **ensure that the** internal structure **of equality bodies** allows the independent exercise of their various competences. Particular attention should be paid to situations where bodies are required both to be impartial and

Amendment

(17) To ensure that equality bodies can exercise all their competences and fulfil all their tasks, **they** should **be able to determine their** internal structure **in a way that** allows the independent exercise of their various competences **including decision-making competences, encompassing the full enjoyment of**

to offer support to victims. This is particularly relevant where the equality body holds binding decision-making powers requiring impartiality or is part of a multi-mandate body where another mandate requires impartiality. An internal structure ensuring a strict separation between the relevant competences and tasks should guarantee that the equality body can effectively exercise them.

promotion, prevention, support and litigation competences in their broader scope. Particular attention should be paid to situations where bodies are required both to be impartial and to offer support to victims. This is particularly relevant where the equality body holds binding decision-making powers requiring impartiality or is part of a multi-mandate body where another mandate requires impartiality. An internal structure ensuring a strict separation between the relevant competences and tasks should guarantee that the equality body can effectively exercise them.

Amendment 10

Proposal for a directive Recital 18

Text proposed by the Commission

(18) The lack of appropriate resources is a key issue hampering the ability of equality bodies to adequately fulfil their tasks. Therefore, Member States should ensure that equality bodies receive sufficient funding, can hire qualified staff and have appropriate premises and infrastructure to carry out each of their tasks effectively, within reasonable time and within the deadlines established by national law. Their budgetary allocation should be stable, except in case of increase in competences, planned on a multi-annual basis, and allow them to cover costs that may be difficult to anticipate such as costs linked to litigation. To ensure that equality bodies are provided with sufficient resources, their budget should ***for instance*** not suffer cuts ***that are significantly higher than the average cuts to other public entities; similarly,*** their annual growth should at least be pegged to the average growth in funding to other entities. Resources should increase proportionally if equality bodies' tasks and mandate are

Amendment

(18) The lack of appropriate ***financial and human*** resources is a key issue hampering the ability of equality bodies to adequately fulfil their tasks. Therefore, Member States should ensure that equality bodies receive sufficient funding ***to fulfill their tasks,*** can hire qualified staff and have appropriate premises and infrastructure to carry out each of their tasks effectively, within reasonable time and within the deadlines established by national law. Their budgetary allocation should be stable, except in case of increase in competences ***or of the staff,*** planned on a multi-annual basis, and allow them to cover costs that may be difficult to anticipate such as costs linked to litigation. ***In cases where the competences of equality bodies have been increased, Member States must ensure that their budgets are adjusted accordingly.*** To ensure that equality bodies are provided with sufficient resources, their budget should not suffer cuts ***and*** their annual growth should at least be pegged to the

expanded.

average growth in funding to other entities. Resources should increase proportionally if equality bodies' tasks and mandate are expanded.

Amendment 11

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Automated systems, including artificial intelligence, represent a **useful** tool to identify discrimination patterns, **but** algorithmic discrimination **is also a risk**. Equality bodies should therefore **have access to** qualified staff or services, able to **use** automated systems **for their work on the one hand** and **to** assess them as regards their compliance with non-discrimination rules **on the other hand**. Particular attention should be devoted to equipping equality bodies with appropriate digital resources, be it directly or by way of subcontracting.

Amendment

(19) Automated systems, including artificial intelligence, **can and do lead to algorithmic discrimination, but they may also** represent a tool to identify discrimination patterns. Algorithmic discrimination **risks perpetuating and exacerbating existing inequalities, discrimination, exclusion and poverty**. Equality bodies should therefore **be equipped with expert**, qualified staff or services, able to **understand how** automated systems **work** and **how they can lead to algorithmic discrimination**, assess them as regards their compliance with non-discrimination rules **prevent its potential consequences on individuals and provide support to victims of this form of discrimination**. Particular attention should be devoted to equipping equality bodies with appropriate digital resources, **and training on the use of automated systems**, be it directly or by way of subcontracting. **Equality bodies should also ensure that automated systems comply with accessibility requirements for persons with disabilities in accordance with Annex I of Directive (EU) 2019/882.**

Amendment 12

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Equality bodies, alongside other actors, have a key role to play in the prevention of discrimination and the promotion of equality. To address the structural aspects of discrimination and to contribute to social change, they should promote equality duties, good practices, positive action and equality mainstreaming among public and private entities, and provide them with relevant training, information, advice, guidance and support. They should communicate with public and private entities and groups at risks of discrimination and engage in public debate in order to combat stereotypes and raise awareness about diversity and its benefits, a key pillar of the Union's equality strategies.

Amendment

(20) Equality bodies, alongside other actors, ***such as social partners and civil society organizations***, have a key role to play in the prevention of discrimination and the promotion of equality. To address the structural aspects of discrimination and to contribute to social change, they should promote equality duties, good practices, positive action and equality mainstreaming among public and private entities, and provide them with relevant training, information, advice, guidance and support. They should communicate with public and private entities and groups at risks of discrimination and engage in public debate in order to combat stereotypes and raise awareness about diversity and its benefits, a key pillar of the Union's equality strategies. ***Equality bodies should also raise awareness about intersectional discrimination and the importance to apply an intersectional approach when designing policies, programmes, funds and activities.***

Amendment 13

**Proposal for a directive
Recital 21**

Text proposed by the Commission

(21) Beyond prevention, a central task of equality bodies is to provide assistance to victims of discrimination. This assistance should ***always*** include the provision of key information to complainants ***and a preliminary assessment of their complaint, based on the initial information gathered from the parties on a voluntary basis. Member States should be in charge of defining the modalities under which the equality body would issue this assessment, such as the timeframe of the process or*** procedural

Amendment

(21) Beyond prevention, a central task of equality bodies is to provide ***comprehensive support and*** assistance to victims of discrimination. This ***support and*** assistance should ***be free of charge and, as a minimum,*** include the provision of key information to complainants, ***including legal advice, advice targeted to the specific needs of the victims, and*** information ***concerning*** procedural aspects, ***including how to bring a case to court and other available remedies.***

safeguards against repetitive or abusive complaints.

Amendment 14

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) To ensure that all victims are able to complain, it should be possible to submit complaints in various ways. Member States should also pay due regard to Commission Recommendation 2018/951 ***under which*** submission of complaints should be possible in a language ***of the complainant's choosing which*** is common ***in the Member State*** where the equality body is located. To address one of the causes of underreporting, namely, fear of reprisals, and without prejudice to Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law⁷⁰, confidentiality should be offered to witnesses ***and*** whistle-blowers, and ***as far as possible***, to complainants.

⁷⁰ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

Amendment 15

Proposal for a directive

Recital 22 a (new)

Text proposed by the Commission

Amendment

(22) To ensure that all victims are able to complain, it should be possible to submit complaints in various ways, ***including through regional or local offices or digital tools and platforms***. Member States should also pay due regard to Commission Recommendation 2018/951 ***and make sure that*** submission of complaints should be possible in a language ***that the complainant can understand, including a language that*** is common where the equality body is located ***or a language indicated by the equality body***. To address one of the causes of underreporting, namely, fear of reprisals, and without prejudice to Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law⁷⁰, confidentiality should be offered to witnesses, whistle-blowers, and to complainants.

⁷⁰ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

(22 a) The obligations placed on Member

States and the tasks of equality bodies under this Directive in relation to assistance to victims should be considered in conjunction with the Member States' obligations and the victims' rights set out in Directive 2012/29/EU

Amendment 16

Proposal for a directive Recital 23

Text proposed by the Commission

(23) To offer a possibility for a quick, affordable, out of court resolution of disputes, Member States should provide for the possibility for parties to seek an amicable resolution to their disputes, by the equality body or another existing dedicated entity. They should define the modalities of the amicable settlement process according to national law.

Amendment

(23) To offer a possibility for a quick, affordable, out of court resolution of disputes, Member States should provide for the possibility for parties to seek an amicable resolution to their disputes, by the equality body or another existing dedicated entity. They should define the modalities of the amicable settlement process according to national law. ***Engaging in a conciliation and mediation process should be subject to the agreement of the parties and should not prevent a party from exercising the right of access to court where that party does not accept the decision of the conciliation and mediation board.***

Amendment 17

Proposal for a directive Recital 25

Text proposed by the Commission

(25) Evidence is key in determining whether discrimination has taken place and it is often in the hands of the alleged perpetrator. Equality bodies should therefore be able to access the necessary information to ***establish*** discrimination and cooperate with the relevant public services – such as labour inspectorates or education inspectorates. Member States should

Amendment

(25) Evidence is key in determining whether discrimination has taken place and it is often in the hands of the alleged perpetrator. Equality bodies should therefore be able to access the necessary information to ***determine the existence of*** discrimination and cooperate with the relevant public services – such as labour inspectorates or education inspectorates.

establish an appropriate framework for the exercise of this competence, in accordance with national rules and procedures.

Member States should establish an appropriate framework for the exercise of this competence, in accordance with national rules and procedures.

Amendment 18

Proposal for a directive Recital 26

Text proposed by the Commission

(26) On the basis of the evidence gathered, ***either voluntarily or through an investigation***, equality bodies should provide their assessment to the complainant and the alleged perpetrator. ***Member States*** should determine the legal value of this assessment that can be a non-binding opinion or a binding enforceable decision. Both should state the reasons for the assessment and include, where necessary, measures to remedy any breach found and to prevent further occurrences. To ensure the effectiveness of equality bodies' work, Member States should adopt appropriate measures for the follow-up of opinions and the enforcement of decisions.

Amendment

(26) On the basis of the evidence gathered, equality bodies should ***be empowered to*** provide their assessment to the complainant and the alleged perpetrator. ***Equality bodies*** should determine the legal value of this assessment that can be a non-binding opinion or a binding enforceable decision. Both ***opinions and decisions*** should state the reasons for the assessment and include, where necessary, measures to remedy any breach found and to prevent further occurrences. ***Binding enforceable decisions can include sanctions***. To ensure the effectiveness of equality bodies' work, Member States should adopt appropriate measures for the follow-up of opinions and the enforcement of decisions.

Amendment 19

Proposal for a directive Recital 27

Text proposed by the Commission

(27) To promote their work and equality law, equality bodies should be able to publish ***a summary of*** their opinions and decisions without disclosing personal data.

Amendment

(27) To promote their work and equality law, equality bodies should be able to publish their opinions and decisions, ***including a summary thereof***, without disclosing personal data.

Amendment 20

Proposal for a directive
Recital 28

Text proposed by the Commission

(28) Equality bodies should have the right to act in court proceedings in civil or administrative law matters in order to contribute to ensuring the respect of the principle of equal treatment laid down in Directives 2006/54/EC and 2010/41/EU. While those court proceedings should be subject to national procedural law, including national rules on admissibility of actions, such rules, and in particular any condition of legitimate interest, cannot be applied in a way so as to undermine the effectiveness of the equality bodies' right to act. The powers of investigation and decision-making and the right to act in court proceedings given to equality bodies by this Directive will facilitate the practical implementation of the current provisions of Directives 2000/43/EC, 2000/78/EC and 2004/113/EC on the burden of proof and defence of rights. Under the conditions provided for in this Directive, equality bodies will be able to establish facts "from which it may be presumed that there has been direct or indirect discrimination", thereby fulfilling the conditions provided for in Article 8 of Directive 2000/43/EC, Article 10 of Directive 2000/78/EC and Article 9 of Directive 2004/113/EC. Their support will therefore facilitate access to justice for victims.

Amendment 21

Proposal for a directive
Recital 29

Amendment

(28) Equality bodies should have the right to act ***before institutions, adjudicatory bodies and*** in court proceedings in civil or administrative law matters in order to contribute to ensuring the respect of the principle of equal treatment laid down in Directives 2006/54/EC and 2010/41/EU. While those court proceedings should be subject to national procedural law, including national rules on admissibility of actions, such rules, and in particular any condition of legitimate interest, cannot be applied in a way so as to undermine the effectiveness of the equality bodies' right to act. The powers of investigation and decision-making and the right to act ***before institutions, adjudicatory bodies and*** in court proceedings given to equality bodies by this Directive will facilitate the practical implementation of the current provisions of Directives 2000/43/EC, 2000/78/EC and 2004/113/EC on the burden of proof and defence of rights. Under the conditions provided for in this Directive, equality bodies will be able to establish facts "from which it may be presumed that there has been direct or indirect discrimination", thereby fulfilling the conditions provided for in Article 8 of Directive 2000/43/EC, Article 10 of Directive 2000/78/EC and Article 9 of Directive 2004/113/EC. Their support will therefore facilitate access to justice for victims.

Text proposed by the Commission

(29) Legal standing allows equality bodies to act on behalf or in support of victims, allowing them to access justice where procedural and financial barriers or a fear of victimisation often deters them. Legal standing also allows equality bodies to strategically select the cases they decide to pursue in front of national courts, and to contribute to the proper interpretation and application of equal treatment legislation.

Amendment

(29) Legal standing allows equality bodies to act on behalf or in support of victims, allowing them to access justice where procedural and financial barriers or a fear of victimisation often deters them. Legal standing also allows equality bodies to strategically select the cases they decide to pursue in front of national courts, and to contribute to the proper interpretation and application of equal treatment legislation, ***as well as to make proposals to improve and update existing legislation.***

Amendment 22

Proposal for a directive Recital 30

Text proposed by the Commission

(30) Some instances of discrimination are difficult to fight because there is no complainant pursuing the case themselves. In its judgment in Case C-54/07 (Feryn)⁷¹, which was brought by an equality body in its own name, the Court of Justice confirmed that discrimination can ***be established*** even in the absence of an identified victim. It is therefore important that equality bodies can act in their own name, to defend the public interest.

Amendment

(30) Some instances of discrimination are difficult to fight because there is no complainant pursuing the case themselves. In its judgment in Case C-54/07 (Feryn)⁷¹, which was brought by an equality body in its own name, the Court of Justice confirmed that discrimination can ***occur*** even in the absence of an identified victim, ***for instance in cases of structural or systemic discrimination.*** It is therefore important that equality bodies can act ***and initiate court proceedings*** in their own name, to defend the public interest ***where discrimination has been detected, without the presence of an individual that has been identified as a victim. It is also important that they can act in cases where collective redress is used.***

⁷¹ Judgment of 10 July 2008 in Feryn (C-54/07, ECLI:EU:C:2008:397).

⁷¹ Judgment of 10 July 2008 in Feryn (C-54/07, ECLI:EU:C:2008:397).

Amendment 23

Proposal for a directive Recital 30 a (new)

Text proposed by the Commission

Amendment

(30 a) This Directive also aims at addressing instances of discrimination involving the procedures, routines and organisational culture of any private or public organisation, including law enforcement authorities, that contribute to less favourable outcomes for some particular groups of the population. Equality bodies should be able to step up measures to prevent institutional discrimination, and develop systemic remedies that enable a coherent response to structural or systemic discrimination across all sectors.

Amendment 24

Proposal for a directive Recital 31

Text proposed by the Commission

Amendment

(31) Equality bodies should also be able to submit oral or written statements to the courts - e.g. *amicus curiae* – as a lighter way to support cases with their expert opinion.

(31) Equality bodies should also be able to submit oral or written statements to the courts ***institutions and adjudicatory bodies*** - e.g. ***as amicus curiae, third party or expert*** as a lighter way to support cases with their expert opinion.

Amendment 25

Proposal for a directive Recital 32

Text proposed by the Commission

Amendment

(32) Equality bodies' rights to act in court must respect the principles of fair trial and equality of arms. Therefore,

(32) Equality bodies' rights to act ***before institutions, adjudicatory bodies and*** in court must respect the principles of fair

except 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*, the equality body should not be allowed to submit in court proceedings evidence obtained through previous investigations of the same case which the alleged perpetrator or any third party was legally bound to provide.

trial and equality of arms. Therefore, except 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*, the equality body should not be allowed to submit in court proceedings evidence obtained through previous investigations of the same case which the alleged perpetrator or any third party was legally bound to provide.

Amendment 26

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The provisions on the equality bodies' right to act in court proceedings do not alter the rights of victims and of associations, organisations or other legal entities that enforce the rights of victims which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that Directives 2006/54/EC and 2010/41/EU are complied with, as laid down in those Directives.

Amendment

(34) The provisions on the equality bodies' right to act ***before institutions, adjudicatory bodies and*** in court proceedings do not alter the rights of victims and of associations, organisations or other legal entities that enforce the rights of victims which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that Directives 2006/54/EC and 2010/41/EU are complied with, as laid down in those Directives.

Amendment 27

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) Access to equality bodies' services and publications on an equal basis for all should be guaranteed. For that purpose, potential barriers to access to equality bodies' services should be identified and addressed. Services should be free of charge for complainants. Member States should also make sure that the services of

Amendment

(36) Access to equality bodies' services and publications on an equal basis for all should be guaranteed, ***including online***. For that purpose, potential barriers to access to equality bodies' services should be identified and addressed. Services should be free of charge for complainants. Member States should also, ***in line with***

equality bodies are available to all potential victims throughout their territory, for example through the establishment of local offices, including mobile ones, the organisation of local campaigns or cooperation with local delegates or civil society organisations.

the competences allocated to regional and local authorities, make sure that the services of equality bodies are available to all potential victims throughout their territory, for example through the establishment, ***where necessary***, of local ***and regional*** offices, including mobile ones, the organisation of local campaigns or cooperation with local delegates or civil society organisations. ***Special attention should be paid to ensure access for disadvantaged groups.***

Amendment 28

Proposal for a directive Recital 37

Text proposed by the Commission

(37) The Union and all Member States are parties to the UN Convention on the Rights of Persons with Disabilities⁷³ (UNCRPD), which includes the obligation to prohibit discrimination on the basis of disability and to guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds. This Directive should be interpreted in a manner consistent with the UNCRPD. To guarantee equal and effective legal protection and access for persons with disabilities to all services and activities of equality bodies, it is necessary to ensure accessibility, in accordance with requirements set out in Directive (EU) 2019/882, and reasonable accommodation. Equality bodies should ensure physical and digital⁷⁴ accessibility by preventing and removing the barriers that persons with disabilities may face in accessing their services and information, and provide reasonable accommodation, taking necessary and appropriate modification and adjustments where needed in a particular case.

Amendment

(37) The Union and all Member States are parties to the UN Convention on the Rights of Persons with Disabilities⁷³ (UNCRPD), which includes the obligation to prohibit discrimination on the basis of disability and to guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds. This Directive should be interpreted in a manner consistent with the UNCRPD. To guarantee equal and effective legal protection and access for persons with disabilities to all services and activities of equality bodies, it is necessary to ensure accessibility, in accordance with requirements set out in Directive (EU) 2019/882, and reasonable accommodation. Equality bodies should ensure physical and digital⁷⁴ accessibility by preventing and removing the barriers that persons with disabilities may face in accessing their services and information, and provide reasonable accommodation, taking necessary and appropriate modification and adjustments where needed in a particular case. ***Under their mandate, equality bodies should cover all forms of discrimination faced by persons with disabilities in line***

with the UNCRPD, including direct and indirect discrimination, denial of reasonable accommodation, discrimination by association, harassment, instruction to discriminate, as well as victimization and hate speech.

⁷³ OJ L 23, 27.1.2010, p. 37.

⁷⁴ See 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.1-15) and related Implementing Decision.

⁷³ OJ L 23, 27.1.2010, p. 37.

⁷⁴ See 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.1-15) and related Implementing Decision.

Amendment 29

Proposal for a directive Recital 38

Text proposed by the Commission

(38) Enabling equality bodies to regularly coordinate and cooperate at different levels, on a long-term basis, is key for mutual learning, coherence and consistency, and it may broaden the outreach and impact of their work. Equality bodies should cooperate, ***in particular***, with other equality bodies in the same Member State and in other Member States – including in the framework of the European Network of Equality Bodies (Equinet) – and with public and private entities at local, regional, national, Union and international level, such as civil society organisations, data protection authorities, trade unions, labour and education inspectorates, law enforcement bodies, agencies with responsibility at national level for the defence of human rights, authorities managing Union funds, National Roma Contact Points, consumer bodies, and national independent mechanisms for the promotion, protection and monitoring of the UNCRPD. Such

Amendment

(38) Enabling equality bodies to regularly coordinate and cooperate at different levels, on a long-term basis, is key for mutual learning, coherence and consistency, and it may broaden the outreach and impact of their work. ***Where different equality bodies exist, their competences and powers should be reinforced and coordination should be ensured to address overlaps, enable joint action and optimize the use of resources.*** Equality bodies should cooperate with other equality bodies in the same Member State and in other Member States – including in the framework of the European Network of Equality Bodies (Equinet) – and with public and private entities at local, regional, national, Union and international level, such as ***social partners***, civil society organisations, data protection authorities, trade unions, labour and education inspectorates, law enforcement bodies, agencies with responsibility at national level for the

cooperation should not involve the exchange of personal data (i.e. equality data in the form that individuals can be identified).

defence of human rights, authorities managing Union funds, National Roma Contact Points, consumer bodies, and national independent mechanisms for the promotion, protection and monitoring of the UNCRPD. Such cooperation should not involve the exchange of personal data (i.e. equality data in the form that individuals can be identified). **Furthermore, any involvement of equality bodies in workplace-related matters should respect the autonomy, competences and prerogatives of social partners and the recognised competences of all relevant government agencies, including labour inspectorates, national courts and statutory tribunals, in accordance with national law and practice. Their existence should not however prevent equality bodies from performing their tasks in line with their competences.**

Amendment 30

Proposal for a directive Recital 39

Text proposed by the Commission

(39) Equality bodies cannot fully play their role as experts in equal treatment if they are not consulted sufficiently early during the policymaking process on matters related to rights and obligations derived from Directives 2006/54/EC and 2010/41/EU. Therefore, Member States should establish transparent procedures to ensure that consultation in a timely manner. They should also allow equality bodies to make recommendations and **publish them**.

Amendment

(39) Equality bodies cannot fully play their role as experts in equal treatment if they are not consulted sufficiently early during the policymaking process on matters related to rights and obligations derived from Directives 2006/54/EC and 2010/41/EU. Therefore, Member States should establish transparent procedures to ensure that consultation in a timely manner. They should also allow equality bodies to make **and publish** recommendations and **should be able to demand that authorities and officials respond within a reasonable time**.

Amendment 31

Proposal for a directive
Recital 40

Text proposed by the Commission

(40) Equality data are crucial for raising awareness, sensitising people, quantifying discrimination, showing trends over time, proving the existence of discrimination, evaluating the implementation of equality legislation, demonstrating the need for positive action, and contributing to evidence-based policymaking⁷⁵. Equality bodies have a role to play in contributing to the development of relevant equality data for those purposes, for example by organising regular roundtables gathering all relevant entities. They should also collect and analyse data on their own activities or conduct surveys and should be able to access and make use of statistical information collected by other public or private entities – such as the national statistical offices, national courts, labour and education inspectorates, trade unions or civil society organisations - concerning the matters they are entrusted with under Directives 2006/54/EC and 2010/41/EU. That statistical information should not contain any personal data.

⁷⁵ Report from the Commission to the European Parliament and the 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

Amendment

(40) Equality data are crucial for raising awareness, sensitising people, quantifying discrimination, showing trends over time, proving the existence of discrimination, evaluating the implementation of equality legislation, demonstrating the need for positive action, and contributing to evidence-based policymaking⁷⁵. Equality bodies have a role to play in contributing to the development of relevant equality data for those purposes, for example by organising regular roundtables gathering all relevant entities. They should also collect and analyse data on their own activities or conduct surveys and should be able to access and make use of statistical information collected by other public or private entities – such as the national statistical offices, national courts, labour and education inspectorates, trade unions or civil society organisations - concerning the matters they are entrusted with under Directives 2006/54/EC and 2010/41/EU. That statistical information should not contain any personal data ***and it should be made available in an accessible format so that it can be readily used by equality bodies. The work of equality bodies on equality data should take into account existing guidance and resources on equality data, including those developed in the framework of the Subgroup on Equality Data of the EU High Level Group on Non-discrimination, Equality and Diversity.***

⁷⁵ Report from the Commission to the European Parliament and the 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.

Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('the Employment Equality Directive') SWD(2021) 63 final.

Amendment 32

Proposal for a directive Recital 41

Text proposed by the Commission

(41) In addition to publishing an annual report on their activities, equality bodies should **regularly** publish a report featuring an overall assessment of the situation regarding discrimination falling under their mandate in the Member States. That report should provide information for public and private entities and serve as a guide to determine the equality bodies' priorities for the future. Reports should not contain any personal data.

Amendment

(41) In addition to publishing an annual report on their activities, equality bodies should publish a report **every two years** featuring an overall assessment of the situation regarding discrimination falling under their mandate in the Member States. That report should provide information, **recommendations and follow-up thereof** for public and private entities and serve as a guide to determine the equality bodies' priorities for the future. Reports should not contain any personal data. **Equality bodies should be provided with sufficient resources in order to fulfil the reporting tasks that they are entrusted with.**

Amendment 33

Proposal for a directive Recital 42

Text proposed by the Commission

(42) To determine their vision for the future and identify their organisation's goals and objectives, equality bodies should adopt a multi-annual programme. This should allow them to ensure the coherence of their different strands of work over time and address systemic issues of discrimination falling under their mandate as part of a long-term action plan.

Amendment

(42) To determine their vision for the future and identify their organisation's goals and objectives, equality bodies should adopt a multi-annual programme. This should allow them to ensure the coherence of their different strands of work over time and address **structural or including online**, systemic issues of discrimination, falling under their mandate as part of a long-term action plan.

The competence and powers attached to all mandates in such institution should be harmonised and reinforced so that each mandate should as far as possible enjoy the broadest competences and powers available to any of the other mandates.

Amendment 34

Proposal for a directive Recital 43

Text proposed by the Commission

(43) In order to assess the effectiveness of this Directive it is necessary to establish a mechanism to monitor its application and, in addition to monitoring compliance, assess its practical effects. The Commission should be in charge of that monitoring and regularly draw up an application report. In order to ensure uniform conditions for the implementation of Member States' reporting obligations pursuant to Article 16(2) as regards the practical effects of this Directive, **implementing** powers should be conferred on the Commission to establish a list of relevant indicators, on the basis of which data should be collected. **This** monitoring should not involve the processing of personal data.

Amendment

(43) In order to assess the effectiveness of this Directive it is necessary to establish a mechanism to monitor its application and, in addition to monitoring compliance, assess its practical effects. The Commission should be in charge of that monitoring and regularly draw up an application report ***every three years based on information received from Member States and additional relevant data collected at national and Union level, from equality bodies, other stakeholders, by the European Union Agency for Fundamental Rights and the European Institute for Gender Equality.*** In order to ensure uniform conditions for the implementation of Member States' reporting obligations pursuant to Article 16(2) as regards the practical effects of this Directive, ***delegated*** powers should be conferred on the Commission to establish a list of relevant indicators, on the basis of which data should be collected. ***The report could contain a specific assessment to evaluate the independent functioning of equality bodies. This*** monitoring should not involve the processing of personal data. ***It should be possible to submit complaints on alleged unjustified interference with the independence of equality bodies to the Commission.***

Amendment 35

Proposal for a directive Recital 44

Text proposed by the Commission

(44) This Directive lays down minimum requirements, **thus giving the** Member States **the option of introducing or maintaining** more favourable provisions. The implementation of this Directive should **not** serve to justify any regression in relation to the situation which already prevails in each Member State.

Amendment

(44) This Directive lays down minimum requirements **and therefore** Member States **are encouraged to introduce or maintain** more favourable provisions. The implementation of this Directive should **in no circumstance** serve to justify any regression in relation to the situation which already prevails in each Member State.

Amendment 36

Proposal for a directive Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive lays down minimum requirements for the functioning of equality bodies to improve their effectiveness and guarantee their independence in order to strengthen the application of the principle of equal treatment as derived from Directives 2006/54/EC and 2010/41/EU.

Amendment

1. This Directive lays down minimum requirements for the functioning of equality bodies to improve their **both de jure and de facto** effectiveness and guarantee their independence in order to strengthen the application of the principle of equal treatment as derived from Directives 2006/54/EC and 2010/41/EU

Amendment 37

Proposal for a directive Article 1 – paragraph 2

Text proposed by the Commission

2. The obligations placed on Member States and the tasks of equality bodies under this Directive shall cover the rights and obligations derived from Directives 2006/54/EC and 2010/41/EU.

Amendment

2. The obligations placed on Member States and the tasks of equality bodies under this Directive shall cover the rights and obligations derived from Directives 2006/54/EC and 2010/41/EU, **as well as cases of structural or systemic discrimination in private and public**

sectors, including in education, training, housing, health, social protection and law enforcement.

Amendment 38

Proposal for a directive Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Definitions

1. For the purposes of this Directive, the following definitions shall apply:

(a) 'structural or systemic discrimination' means rules, norms, routines, patterns of attitudes and behaviour in institutions and other societal structures that, consciously or unconsciously, present obstacles to groups or individuals in accessing the same rights and opportunities as others and that contribute to less favourable outcomes for them than for the majority of the population;

(b) 'intersectional discrimination' means the situation where discrimination takes place on the basis of two or more grounds protected by Directives 79/7/EEC, 2000/43/EC, 2000/78/EC, 2004/113/EC, 2006/54/EC and 2010/41/EU, which operate and interact with each other at the same time in such a way as to be inseparable, producing distinct and specific forms of discrimination.

Amendment 39

Proposal for a directive Article 2 – title

Text proposed by the Commission

Amendment

Designation of equality bodies

Designation *and structure* of equality

bodies

Amendment 40

Proposal for a directive Article 2 – paragraph 1

Text proposed by the Commission

Member States shall designate one or more bodies (hereinafter referred to as ‘equality bodies’) to exercise the competences laid down in this Directive.

Amendment

Member States shall designate ***and provide the necessary resources for*** one or more bodies (hereinafter referred to as ‘equality bodies’) to exercise the competences laid down in this Directive.

Amendment 41

Proposal for a directive Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Equality bodies may cover single or multiple grounds. In the case of a multi-ground equality body, member States shall ensure a clear and appropriate focus on each of the grounds. The competence and powers attached to all mandates in such institution shall be harmonised and reinforced so that each mandate shall as far as possible enjoy the broadest competences and powers available to any of the other mandates.

Amendment 42

Proposal for a directive Article 2 – paragraph 2

Text proposed by the Commission

Equality bodies may form part of agencies with responsibility at national level for the ***defence*** of human rights or the ***safeguarding of individuals' rights***.

Amendment

2. Equality bodies may form part of agencies with responsibility at national level for the ***protection and promotion*** of human rights ***insofar as this does not***

undermine the capacity of either the equality body or the relevant agency to carry out its work. Such structure shall ensure the visibility and involvement of the equality body at all stages and shall allow for full transparency and accountability in the process.

Amendment 43

Proposal for a directive Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Equality bodies shall ensure gender balance in leadership and senior management positions and shall be encouraged to reflect the diversity of society at large.

Amendment 44

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall take measures to ensure that equality bodies are independent and free from external influence in performing their tasks and exercising their competences, *in particular as regards* their legal structure, accountability, budget, staffing, *and organisational matters*.

1. Member States shall take measures to ensure that equality bodies are *fully* independent, *autonomous* and free from external influence, in performing their tasks, *deciding on their work programme, actions* and exercising their competences, *particularly in terms of* their legal structure, accountability, budget, staffing *and decision making functions. Equality bodies shall not be set up as part of a ministry or body taking instructions directly from the government.*

Amendment 45

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

2. Member States shall provide for transparent rules and safeguards concerning the selection, appointment, revocation and potential conflict of interest of the staff of equality bodies, in particular persons holding *a* managerial *position*, in order to guarantee *their* competence and independence.

Amendment

2. Member States shall provide for transparent *and clear* rules and safeguards concerning the selection, appointment, *promotion*, revocation and potential conflict of interest of the staff *and board members* of equality bodies. *Those rules and safeguards shall concern*, in particular, persons holding managerial *positions*, *and ensure transparent, merit-based and participatory procedures* in order to guarantee *the equality bodies'* competence, *autonomy* and independence, *in particular with regard to avoiding any interference from the government*.

Amendment 46

**Proposal for a directive
Article 3 – paragraph 3**

Text proposed by the Commission

3. Member States shall ensure that *appropriate* safeguards are in place, in particular in the internal structure of equality bodies, to guarantee the independent exercise of their competences, notably where some require impartiality and others focus on support to victims.

Amendment

3. Member States shall ensure that *adequate and sufficient* safeguards are in place, in particular in the internal structure of equality bodies, to guarantee the independent exercise of *all* their competences, *whilst still encouraging coherence*, notably where some require impartiality and others focus on support to victims, *while allowing for cooperation and coordination among mandates and shared staff in view of promoting coherence and efficiency*.

Amendment 47

**Proposal for a directive
Article 3 – paragraph 4**

Text proposed by the Commission

4. Member States shall ensure that

Amendment

4. Member States shall ensure that

appropriate safeguards are in place in the internal structure of multi-mandate bodies to guarantee the autonomous exercise of the equality mandate.

adequate and sufficient safeguards are in place in the internal structure of multi-mandate bodies to guarantee the autonomous exercise of the equality mandate.

Amendment 48

Proposal for a directive Article 3 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. *Equality bodies that are multi-mandate bodies may take steps to create an internal structure that guarantees the autonomous exercise of their various mandates, if appropriate.*

Amendment 49

Proposal for a directive Article 3 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4 b. *Equality bodies shall have the right to make public statements and produce and publish research, recommendations and reports without prior permission from, approval or notification to government or any institution or external party.*

Amendment 50

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that each equality body is provided with the human, technical *and* financial resources necessary to perform all its tasks and to

1. Member States shall, *in accordance with their national budgetary processes*, ensure that each equality body is provided with the human, technical, financial *and*

exercise all its competences effectively, on all the grounds and in all fields covered by Directives 2006/54/EC and 2010/41/EU ***including in the event of increases in competences, increases in complaints, litigation costs and the use of automated systems.***

expert resources necessary to perform all its tasks and to exercise all its competences effectively ***and with real impact***, on all the grounds and in all fields covered by Directives 2006/54/EC and 2010/41/EU .

Amendment 51

Proposal for a directive Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Member States shall ensure that the budgetary allocation for equality bodies is stable, planned on a multi-year basis and with sufficient contingency inbuilt to allow for unpredictable costs. The making available of such resources to equality bodies does not in any way create any obligation, whether implicit or direct, on the equality body towards the Member State, its government or ministerial entity providing such resources.

Amendment 52

Proposal for a directive Article 4 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1 b. Member States shall ensure that in the event of increases in competences, complaints or litigation costs, or in other related costs, equality bodies are equipped with qualified staff, services and digital resources needed for the performance of their tasks, including research, monitoring, reporting and the use of automated systems. For this purpose, equality bodies shall be equipped with the necessary increase in their budget. There shall not be any reduction in the budget of

the equality bodies.

Amendment 53

Proposal for a directive

Article 4 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1 c. Member States shall ensure that equality bodies are able to provide feedback to Equinet to allow its consultation pursuant to Article 13 of this Directive on legislation, policy, procedures and programmes at Union level.

Amendment 54

Proposal for a directive

Article 4 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1 d. Member States shall ensure a dedicated and independent budgetary allocation to cover the costs of litigation, to be adjusted yearly on the basis of the actual volume of litigation pursued by the equality body, and which shall be significantly co-financed by EU funding programmes.

Amendment 55

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) adopt a strategy **to** raise awareness of the general population, throughout their territory, with particular attention to individuals and groups at risk of discrimination, on the rights under

(a) adopt a **national** strategy **in consultation with representatives of civil society, and social partners to regularly inform and** raise awareness of the general population, throughout their territory, with

Directives 2006/54/EC and 2010/41/EU and on the existence *of* equality bodies and their services;

particular attention to individuals and groups at risk of discrimination, on the rights under Directives 2006/54/EC and 2010/41/EU and *the capacity to exercise them and* on the existence, *competences, the role and the accessibility of the different* equality bodies and their services; *this national strategy shall include information campaigns using different communication tools, including social media; it shall also include, but is not limited to, a plan of dissemination of information, advice, training, support and guidance, to individuals of all ages, and institutions, both private and public;*

Amendment 56

Proposal for a directive Article 5 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) ensure that the staff of each equality body have received specific training on all grounds of discrimination referred to in Directives 2006/54/EC and 2010/41/EU and on all forms of gender-based violence;

Amendment 57

Proposal for a directive Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) ensure that equality *bodies* engage in the prevention of discrimination and in the promotion of equal treatment, *and* adopt a strategy *defining how they will* engage in public dialogue, communicate with individuals and groups at risk of discrimination, provide training and guidance, *and* promote equality duties, equality mainstreaming and positive action

(b) ensure that equality *are at least able to:*

among public and private entities.

- i) engage in the prevention of **discrimination, including intersectional** discrimination and in the promotion of equal treatment,*
- ii) adopt a strategy **outlining the steps that will be taken to** engage in public dialogue,*
- iii) **cooperate and** communicate with individuals and groups at risk of discrimination **and with civil society organisations working on gender equality and non discrimination,***
- iv) provide **information, advice,** training, **support** and guidance **to individuals and institutions in the public and private sector on promoting and achieving equality and preventing discrimination,***
- v) promote **and support the implementation of** equality duties, equality mainstreaming and positive action among public and private entities,*
- vi) **carry out research on discrimination, including structural or systemic discrimination and intersectional as well as online discrimination, including algorithmic discrimination,***
- vii) **collaborate with the provision of training on non-discrimination and fundamental rights addressed to personnel of supervisory authorities to ensure the correct application of Union anti-discrimination and fundamental rights law, including within the area of algorithmic discrimination.***

Amendment 58

Proposal for a directive Article 5 – paragraph 2

Text proposed by the Commission

In doing so, Member States and equality bodies shall take into consideration the

Amendment

In doing so, Member States and equality bodies shall take into consideration the

most appropriate communication tools and formats for each target group. They shall focus in particular on disadvantaged groups whose access to information can be hindered, for example by their economic status, age, disability, literacy, nationality, residence status or their lack of access to online tools.

most appropriate communication tools and formats for each target group. They shall focus in particular on disadvantaged groups whose access to information can be hindered, for example by their economic status, age, disability, **health condition**, literacy, nationality, **ethnicity**, residence status or their lack of access to online tools, **taking into account the specific needs of such groups in a given Member State.**

Amendment 59

Proposal for a directive Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2 a) The Commission shall issue guidelines for both strategies 6 months after the adoption of this Directive, give an opinion on the quality and effectiveness of the strategies, and monitor their implementation, including the issuance of biannual reports on their implementation progress.

Amendment 60

Proposal for a directive Article 6 – title

Text proposed by the Commission

Amendment

Assistance to victims

Support and assistance to victims of discrimination

Amendment 61

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that equality bodies are able to provide assistance to victims **as set out in paragraphs 2 to 4.**

1. Member States shall ensure that equality bodies are able to provide **support and assistance free of charge** to victims **in accordance with this Directive.**

Amendment 62

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. Equality bodies shall be able to receive complaints of discrimination, orally, in writing and online.

Amendment

2. Equality bodies shall be able to receive complaints of discrimination ***in any possible means, including*** orally, in writing and online.

Amendment 63

Proposal for a directive Article 6 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Equality bodies shall provide assistance to victims, ***initially by informing them on*** the legal framework, ***including*** advice targeted to ***their*** specific situation, on the services offered by the equality body and related procedural aspects, as well as ***on available remedies, including*** the possibility to pursue a case in court.

Amendment

Equality bodies shall provide ***support and*** assistance to victims ***who have issued a complain, including legal support. The staff of equality bodies shall be able to provide first-hand information to victims and be equipped with skills to recognize psychological needs. Equality bodies shall also be able to offer advice on how to issue a complaint, including on information about*** the legal framework ***and their rights therein,*** advice targeted to ***the*** specific situation ***and needs of the victims,*** on the services offered by the equality body and related procedural aspects, as well as the possibility to pursue a case in court ***and other available remedies.***

Amendment 64

Proposal for a directive Article 6 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Equality bodies shall ***issue a preliminary assessment of a*** complaint based on

Amendment

deleted

information voluntarily submitted by the parties involved. Member States shall define the precise modalities under which the equality body will issue such preliminary assessment.

Amendment 65

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

Equality bodies shall be able to offer the parties the possibility to seek an amicable resolution to their dispute. That process shall be subject to the agreement of the parties and may be led by the equality body itself or by another existing dedicated entity, in which case the equality body may formulate observations to that entity. Engaging in such a process shall not prevent the parties from exercising their right of access to court.

Amendment

Equality bodies shall be able to offer the parties the possibility to seek an amicable resolution to their dispute, ***inside or outside of court***. That process shall be subject to the agreement of the parties and may be led by the equality body itself or by another existing dedicated entity, in which case the equality body may formulate observations to that entity. Engaging in such a process shall not prevent the parties from exercising their right of access to court.

Amendment 66

Proposal for a directive Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7 a

Investigations

1. Member States shall ensure that equality bodies are empowered to effectively investigate, following a complaint or on their own initiative, whether a breach of the principle of equal treatment laid down in Directives 2006/54/EC and 2010/41/EU has occurred and seek to address both individual, structural or systemic discrimination.

2. Member States shall provide for a framework which enables equality bodies to carry out fact-finding investigations, whether upon a complaint or of their own initiative upon reasonable suspicion, in order to ensure that all facts of the case are taken into account for the purposes of their final decision. In particular, that framework shall guarantee that equality bodies have an effective right to access information which is necessary to establish whether discrimination has occurred.

3. Member States shall ensure that public and private entities, and any other concerned third parties, as well as the alleged perpetrator have a duty to cooperate with equality bodies in their investigations and fact finding by providing the requested information, without prejudice to the data rights of every individual. Equality bodies shall be entitled to impose sanctions in the event that the evidence and/or relevant information they have required is not provided to them. Sanctions shall only be imposed in accordance with national law and practice, if there is no duly justified reason for not providing the requested evidence and/or information and it does not entail personal data.

Amendment 67

Proposal for a directive Article 7 b (new)

Text proposed by the Commission

Amendment

Article 7 b

Opinions and decision-making functions

1. Member States shall ensure that equality bodies have adequate mandates to effectively address discrimination.

2. The functions that equality bodies may

have shall include:

(a) receive, examine, hear and conciliate individual and collective complaints of discrimination and take decisions on these complaints based on the relevant legislation including the provisions on the shared burden of proof;

(b) decide whether there has been a breach of anti-discrimination legislation;

(c) record in writing the assessment of a case or an investigation, including establishing the facts and a reasoned conclusion on the existence of discrimination;

(d) issue legally binding decisions, where applicable, that require action to put an end to discrimination, achieve full equality, and avert future discrimination;

(e) apply measures to remedy any breach found and to prevent further occurrences. Member States shall ensure that equality bodies are able to establish appropriate follow-up mechanisms, such as feedback obligations, and for enforcement of decisions;

(f) impose effective, proportionate and dissuasive sanctions, in accordance with national law and practice, such as payment of compensation for both pecuniary and nonpecuniary damage and fines, when they find there has been a breach of non-discrimination legislation;

(g) issue non-binding opinions and recommendations that require action to put an end to discrimination, achieve full equality, and avert future discrimination;

(h) ensure the implementation of their decisions, opinions and recommendations;

(i) publish their decisions, opinions and recommendations without disclosing personal data, including, where applicable, the sanctions imposed.

3. Member States shall ensure that

national law provides for a right to appeal before the courts against legally binding final decisions issued by the equality body.

Amendment 68

Proposal for a directive Article 8

Text proposed by the Commission

Amendment

Article 8

deleted

Opinions and decisions

1. Member States shall ensure that where, following a complaint or on their own initiative, equality bodies consider that the principle of equal treatment laid down in Directives 2006/54/EC and 2010/41/EU may have been breached, those bodies are empowered to further investigate the case.

2.

Member States shall provide for a framework which enables equality bodies to carry out fact-finding.

In particular, that framework shall provide equality bodies with effective rights to access information which is necessary to establish whether discrimination has occurred. It shall also provide for appropriate mechanisms for equality bodies to cooperate with relevant public bodies for that purpose.

3. Member States may also provide that the alleged perpetrator and any third party is legally bound to provide any information and documents requested by equality bodies.

4.

Member States shall ensure that equality bodies record in writing their assessment of the case, including establishing the facts and a reasoned conclusion on the existence of discrimination. Member

States shall determine whether this is to be done by means of non-binding opinions or by means of binding enforceable decisions.

Where appropriate, opinions and decisions shall include specific measures to remedy any breach found and to prevent further occurrences. Member States shall establish appropriate mechanisms for follow-up to opinions, such as feedback obligations, and for enforcement of decisions.

Equality bodies shall publish summaries of their opinions and decisions, without disclosing personal data.

Amendment 69

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that equality bodies have the right to act in court proceedings in ***administrative and civil law matters relating*** to the implementation of the principle of equal treatment laid down in Directives 2006/54/EC and 2010/41/EU in accordance with ***paragraphs 2 to 5***, without prejudice to national rules on the admissibility of actions.

Amendment

1. Member States shall ensure that equality bodies have the right to act ***before institutions, adjudicatory bodies, including administrative tribunals, and*** in court proceedings in ***relation*** to the implementation of the principle of equal treatment laid down in Directives 2006/54/EC and 2010/41/EU in accordance with ***this Article***, without prejudice to national rules on the admissibility of actions.

Amendment 70

Proposal for a directive Article 9 – paragraph 2 – introductory part

Text proposed by the Commission

2. The right to act in court proceedings shall include:

Amendment

2. The right to act in court proceedings shall include ***all of the following, but it is not limited to:***

Amendment 71

Proposal for a directive Article 9 – paragraph 2 – point a

Text proposed by the Commission

(a) the right of the equality body to act as a party in proceedings on the enforcement or judicial review of a decision taken pursuant to Article 8(4);

Amendment

(a) the right of the equality body to act as a party in proceedings on the enforcement or judicial review of a decision taken pursuant to Article 8(2);

Amendment 72

Proposal for a directive Article 9 – paragraph 2 – point b

Text proposed by the Commission

(b) the right of the equality body to submit observations to the court as amicus curiae;

Amendment

(b) the right of the equality body to submit observations to the court, ***institutions and adjudicatory bodies, including administrative tribunals, as amicus curiae, a third party or expert,***

Amendment 73

Proposal for a directive Article 9 – paragraph 2 – point c

Text proposed by the Commission

(c) the right of the equality body to initiate or participate in proceedings on behalf or in support of one or several victims; in this case, the ***approval*** of the victims shall be necessary.

Amendment

(c) the right of the equality body to initiate or participate in proceedings ***in its own name, or*** on behalf or in support of one or several victims, ***in particular in order to address structural or systemic discrimination, including online.*** In this case, the ***informed consent*** of the victims shall be necessary.

Amendment 74

Proposal for a directive
Article 9 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) the right to recourse to alternative dispute resolution processes, including amicable settings, when appropriate;

Amendment 75

Proposal for a directive
Article 9 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(c b) the right of the equality body to initiate court proceedings in its own name, in particular in order to address structural or systemic discrimination, including online, in cases selected by the equality body because of their abundance, their seriousness or the need for legal clarification, according to published criteria established by the equality body.

Amendment 76

Proposal for a directive
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Member States shall ensure that equality bodies have the right to monitor the execution of decisions of institutions, adjudicatory bodies and the courts dealing with equality, discrimination and intolerance.

Amendment 77

Proposal for a directive
Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. *Member States shall ensure that equality bodies are able to put in place a system by which victims do not have to bear court and administrative fees or representation fees, in particular in cases of structural or systemic discrimination, including online, and where their cases are taken up for strategic litigation.*

Amendment 78

Proposal for a directive Article 9 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2 c. *Member States shall ensure that equality bodies have the right to initiate court proceedings directly following the use of investigation powers pursuant to Article 7a, without the need to issue an opinion or a decision prior to initiating proceedings.*

Amendment 79

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. *Member States shall ensure that the equality body can initiate court proceedings in its own name, in particular in order to address structural and systematic discrimination in cases selected by the equality body because of their abundance, their seriousness or their need for legal clarification.*

deleted

Amendment 80

**Proposal for a directive
Article 9 – paragraph 4**

Text proposed by the Commission

Amendment

4. *Member States shall ensure that, except in cases referred to in paragraphs 2(a) and (b), the equality body does not submit in court proceedings evidence that it has obtained through the exercise of powers pursuant to Article 8(3).*

deleted

Amendment 81

**Proposal for a directive
Article 9 – paragraph 5**

Text proposed by the Commission

Amendment

5. Member States *shall ensure* that no investigations pursuant to Article 8(2) to (4) are initiated or continued while court proceedings on the same case are pending.

5. Member States *may provide* that no investigations pursuant to Article 8(2) to (4) are initiated or continued while court proceedings on the same case are pending.

Amendment 82

**Proposal for a directive
Article 9 – paragraph 5 a (new)**

Text proposed by the Commission

Amendment

5 a. Member States shall ensure that equality bodies may engage in court proceedings using the evidence gathered under Article 7a(2) and (3) without the prior need to issue an opinion or binding decision.

Amendment 83

**Proposal for a directive
Article 10 – paragraph 1**

Text proposed by the Commission

Member States shall ensure that, in the procedures referred to in Articles 6, 7, 8 and 9, the rights of defence of natural and legal persons involved are duly protected. Member States shall ensure that equality bodies guarantee confidentiality of witnesses and whistle-blowers, and as far as possible, of complainants.

Amendment

Member States shall ensure that, in the procedures referred to in Articles 6, 7, **7a**, **7b**, 8 and 9, the rights of defence of natural and legal persons involved are duly protected. Member States shall ensure that equality bodies guarantee confidentiality of witnesses and whistle-blowers, and as far as possible, of complainants, **and that they put in place internal whistle-blower protections.**

Amendment 84

**Proposal for a directive
Article 10 – paragraph 2**

Text proposed by the Commission

Decisions referred to in Article **8(4)** shall be subject to judicial review, in accordance with national law.

Amendment

Decisions referred to in Article **7b(1)**, **points (c) to (g)** shall be subject to judicial review, in accordance with national law.

Amendment 85

**Proposal for a directive
Article 11 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure that equality bodies provide all their services at no cost to complainants, throughout their territory, including in rural and remote areas.

Amendment

2. Member States shall ensure that equality bodies provide all their services at no cost to complainants, throughout their territory, **with the establishment of local and regional offices, where necessary**, including in rural and remote areas.

Amendment 86

**Proposal for a directive
Article 11 – paragraph 3**

Text proposed by the Commission

3. Member States shall ensure **accessibility and provide reasonable accommodation for** persons with disabilities to guarantee **their** equal access to all services **and** activities of equality bodies, including assistance to victims, complaint handling, amicable settlement mechanisms, information and publications, and prevention, promotion and awareness-raising **activities**.

Amendment

3. Member States shall ensure **that equality bodies have at their disposal the qualified staff necessary to collaborate with** persons with disabilities **and those belonging to other groups at risk of discrimination, in order** to guarantee equal access to all services, activities **and information** of equality bodies **in formats accessible for people with disabilities**, including assistance to victims, complaint handling, amicable settlement mechanisms, information and publications, and prevention, promotion and awareness-raising **activities, in accordance with Directive (EU) 2016/2102**.

Amendment 87

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

Member States shall ensure that equality bodies have appropriate mechanisms in place to cooperate, within their respective fields of competence, with other equality bodies **within the same Member State, and with** relevant public and private entities, including civil society organisations, **at national, regional, local level as well as in other Member States and at Union and international level**.

Amendment

Member States shall ensure that equality bodies have appropriate mechanisms in place to cooperate, within their respective fields of competence, with other equality bodies, relevant public and private entities, **social partners and civil society organisations within the same Member State** including **at regional and local level**. **Member States shall ensure that equality bodies have appropriate mechanisms in place to cooperate with other equality bodies in their respective fields of competences at Union and international level, as well as with the European Institute for Gender Equality, the European Union Agency for Fundamental Rights and the European Network of Equality Bodies (Equinet),** civil society organisations **and social partners**.

Amendment 88

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

They shall ensure that equality bodies have the right to make recommendations on those matters, *to publish them* and to require feedback from the authorities concerned.

Amendment

Equality bodies *shall* have the right to make recommendations on those matters and to require feedback from the authorities concerned, *as well as to make proposals to improve and update existing legislation on the promotion of equality.*

Members States shall ensure that the recommendations and the feedback required in the framework of the consultation procedure are made publicly available.

Amendment 89

Proposal for a directive Article 14 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that equality bodies can access statistics related to the rights and obligations derived from Directives 2006/54/EC and 2010/41/EU collected by public and private entities including public authorities, trade unions, companies, and civil society organisations where they deem such statistics necessary to make an overall assessment of the situation regarding discrimination in the Member State, and for drawing up the report referred to in Article 15, point (c).

Amendment

3. Member States shall ensure that equality bodies can access *and are provided with* statistics related to the rights and obligations derived from Directives 2006/54/EC and 2010/41/EU collected by public and private entities including public authorities, trade unions, companies, and civil society organisations where they deem such statistics necessary to make an overall assessment of the situation regarding discrimination in the Member State, and for drawing up the report referred to in Article 15, point (c). *Member States shall ensure that this data is provided in an accessible format to equality bodies, so that it can be readily used by them.*

Amendment 90

Proposal for a directive
Article 14 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that equality bodies may conduct independent surveys concerning discrimination.

Amendment

5. Member States shall ensure that equality bodies may conduct ***and have the human and financial resources necessary to carry out*** independent surveys, ***reports and research*** concerning ***all forms of*** discrimination, ***including intersectional, structural or systemic, online*** discrimination, ***as well as commissioning them externally, also by using expert support provided by the competent Member States and EU bodies dealing with discrimination such as the European Union Agency for Fundamental Rights or the European Institute for Gender Equality.***

Amendment 91

Proposal for a directive
Article 15 – paragraph 1 – point c

Text proposed by the Commission

(c) publish a report, with recommendations, at least every ***four*** years, on the state of equal treatment and discrimination, including potential structural issues, in their Member State.

Amendment

(c) publish a report, with recommendations, at least every ***two*** years, on the state of ***gender equality***, equal treatment and discrimination, including potential structural ***or systemic*** discrimination, ***as well as online*** issues, ***and any action or attempt of backsliding in these areas and an analysis of the funding*** in their Member State. ***The report shall also include a follow-up of the past recommendations and the action taken in this respect. This report shall be presented in the respective national parliament and be sent to the Parliament.***

Amendment 92

Proposal for a directive
Article 15 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) engage in a sustainable dialogue with the government and other authorities who shall take the equality bodies recommendations on legislation, policies, procedures, programs and practice into account and take action within a certain timescale.

Amendment 93

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission shall, by means of ***an implementing*** act, establish a list of common indicators to measure the practical effects of this Directive. When preparing the indicators, the Commission ***may*** seek advice from the European Union Agency for Fundamental Rights ***and*** the European Institute for Gender Equality. Those indicators shall cover the resources, independent functioning, activities, and effectiveness of equality bodies, as well as evolutions in their mandate, powers or structure, ensuring the comparability, objectivity and reliability of the data collected at national level.

1. The Commission shall, by means of ***a delegated*** act, establish a list of common indicators ***at European level*** to measure the practical effects of this Directive. When preparing the indicators, the Commission ***shall*** seek advice from the European Union Agency for Fundamental Rights, the European Institute for Gender Equality ***and the European Network of Equality Bodies (Equinet)***. Those indicators shall cover the ***adequacy of*** resources, ***including financial and human resources, key elements of the*** independent functioning, activities, and effectiveness of equality bodies, as well as evolutions in their mandate, powers or structure, ensuring the comparability, objectivity and reliability of the data collected at national level.

Amendment 94

Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission

2. By [5 years after the date of transposition], and every 5 years thereafter, Member States shall provide the Commission with all relevant information regarding the application of this Directive, including data on its practical effects collected on the basis of the indicators referred to in paragraph 1 of this Article, and in particular taking into account the reports drawn up by the equality bodies under Article 14, points (b) and (c).

Amendment

2. By [2 years after the date of transposition], and every 2 years thereafter, Member States shall provide the Commission with all relevant information regarding the application of this Directive, including data on its practical effects collected on the basis of the indicators referred to in paragraph 1 of this Article, and in particular taking into account the reports drawn up by the equality bodies under Article 14, points (b) and (c).

Amendment 95

**Proposal for a directive
Article 16 – paragraph 3**

Text proposed by the Commission

3. The Commission shall draw up a report on the application and practical effects of this Directive, based on the information referred to in paragraph 2 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.

Amendment

3. The Commission shall draw up a report on the application and practical effects of this Directive, based on the information referred to in paragraph 2 and additional relevant data collected at national and Union level, in particular from ***equality bodies, the European Network of Equality Bodies (Equinet), civil society organizations***, stakeholders, by the European Union Agency for Fundamental Rights and the European Institute for Gender Equality. ***The report may contain a specific assessment to evaluate the independent functioning of equality bodies. Complaints on any interference may be submitted to the Commission who shall further investigate the allegations and assess them in its annual Rule of Law Report, as part of the institutional issues related to checks and balances.***

Amendment 96

Proposal for a directive
Article 16 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The Commission may issue follow-up recommendations where it notes, as part of its monitoring of anti-discrimination actions in the Member States, concerning developments in a Member State.

Amendment 97

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that equality bodies may collect personal data only where necessary for the fulfilment of **a task** under this Directive.

1. Member States shall ensure that equality bodies may collect **and process** personal data only where necessary for the fulfilment of **the tasks** under this Directive **and where the data collection and processing is in full compliance with Regulation (EU) 2016/679.**

Amendment 98

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that when equality bodies process special categories of personal data, namely data on racial or ethnic origin, religion or belief, disability or sexual orientation, suitable and specific measures are provided to safeguard the fundamental rights and the interests of the data subject.

2. Member States shall ensure that when equality bodies process special categories of personal data **within the meaning of Regulation (EU) 2016/679**, namely data on racial or ethnic origin, religion or belief, disability or **a person's sex life or** sexual orientation, **health, biometric or genetic data, it shall be carried out in full compliance with Article 9 of Regulation (EU) 2016/679, and that** suitable and specific measures are provided to safeguard the fundamental rights and the

interests of the data subject *in accordance with Article 9(2)(g) of Regulation (EU) 2016/679*.

Amendment 99

Proposal for a directive

Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**18** months] at the latest. They shall immediately inform the Commission thereof.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**12** months] at the latest. They shall immediately inform the Commission thereof.

EXPLANATORY STATEMENT

All victims of discrimination deserve equal protection, support and access to justice. The right to non-discrimination is enshrined in the Charter and in the Treaties and must be fully respected. However, the backlash against gender equality and other fundamental rights is evident globally and is rapidly increasing, with Europe being no exception. It is more important now than ever for the EU to fulfill its mandate to actively and forcefully combat discrimination. In this regard, strengthening the role and independence of national equality bodies is a major step towards a Union free from discrimination.

One in five people in the EU experience discrimination or harassment on different grounds or on a combination of grounds. Unfortunately, the EU anti-discrimination framework is fragmented, creating an artificial 'hierarchy' of protected grounds and leading to victims being unequally protected. This urgently needs to be resolved. It is therefore particularly unfortunate that, despite reiterated calls from the European Parliament, the horizontal anti-discrimination Directive remains blocked by the Council, obstructing progress in achieving a coherent anti-discrimination framework at the EU level. In this context, the current Directives are an opportunity to raise the ambitions and ensure a strong protection against discrimination and support for victims in all Member States.

Equality bodies play a fundamental role in advancing equality and combating discrimination. In particular, they are crucial in providing support and assisting victims, awareness-raising, conducting independent surveys, reports and research, collecting data, monitoring trends, making recommendations and ensuring the implementation of EU anti-discrimination law on the national level. The lack of binding standards regarding their mandate has contributed to the unequal protection against discrimination in different Member States. Minimum binding standards for equality bodies would ensure that their full potential is achieved.

With the new Directives, the minimum competences of equality bodies must be significantly strengthened. They must be guaranteed full independence and autonomy and ensured protection against budget cuts and state influence. Additionally, equality bodies must be granted decision-making competences, including the right to receive complaints, investigation and litigation powers, and the power to impose proportionate and dissuasive sanctions. Equality bodies should also be able to make legally binding decisions and provide non-binding opinions, as well as to come up with recommendations and conduct follow-up monitoring.

Equality bodies should have the right to take up, on their own initiative, all matters falling under their mandate. This includes addressing structural discrimination. The lack of national provisions relating to structural discrimination, combined with limited litigation powers, obstructs equality bodies' ability to act and for new case law to develop. As people exposed to discrimination are often put in a vulnerable situation and are unable to address structural discrimination on their own, it is important that equality bodies have the right to conduct investigations, collect evidence and initiate court proceedings on their own initiative and in their own name in order to expose and address the, sometimes invisible, norms and processes

within institutions that end up exacerbating existing inequalities.

It is also important to monitor the fast development of digital technologies, including AI. There is widespread evidence of the risks of such systems for individuals from vulnerable groups, as technologies driven by big data and artificial intelligence are entrenching inequality, discrimination, exclusion and poverty. For this reason, it is essential that equality bodies are equipped with qualified staff to shed light on and address online discrimination, including algorithmic discrimination.

The Directive must entail a capacity for equality bodies to address intersectional discrimination. Equality bodies should apply an intersectional perspective in all their tasks. Addressing discrimination from an intersectional perspective is crucial to properly capture the distinct and specific forms of discrimination that victims face on the basis of two or more grounds. In this regard, and in compliance with the CJEU case law, the scope of the Directive should be as broad as possible. Member States should promote and fund equality bodies to cover all grounds of discrimination, in accordance with the open-ended clause of Article 21 of the Charter. Gender equality cannot be achieved if all multiple and intersectional types of discrimination, intentional and unintentional, in their individual, structural, institutional and historical forms, have not been understood and eradicated.

Equality bodies carry out their work in an increasingly challenging environment, with discriminatory treatment, policies and actions becoming unacceptably normalized in our societies. Despite their difficult context, they have already proven their immense potential. We must now provide them with the tools needed to forcefully combat all forms of discrimination. There is no time to waste.