

ENNHRI Submission to Commission Consultation: EU Binding Standards on National Equality Bodies

ENNHRI commends the European Commission on the legislative initiative to strengthen equality bodies by setting robust minimum standards, including concerning their mandate, powers, status, independence, resources and effectiveness, building on the [2018 Commission Recommendation on standards for equality bodies](#) and also on other sources such as the [General Policy Recommendation N°2](#) of the European Commission against Racism and Intolerance (ECRI) and the [Paris Principles](#) applied to National Human Rights Institutions (NHRIs).

Robust and binding EU standards on equality bodies will contribute to an enabling environment for all equality and human rights defenders across the EU, including NHRIs. About half of the NHRIs in the EU are multi-mandated institutions with an equality body mandate.¹ Moreover, with their broad mandate to promote and protect the full range of human rights, all NHRIs contribute to equality and non-discrimination, and cooperate with equality bodies when they are located in separate institutions.

In this respect, ENNHRI welcomes its inclusion as stakeholder in the Commission's roadmap on 'Binding standards for equality bodies' and stands ready to provide the Commission with further information in the context of its consultation, including through dedicated meetings.

In particular, ENNHRI calls on EU law-makers to ensure the following is included within the binding EU legislation on equality bodies:

1. Robust EU standards on equality bodies' powers, independence, resources and effectiveness:

Robust EU binding legislation on equality bodies should build upon existing international and European standards applicable to these institutions to ensure the EU legislation facilitates the objective to strengthen these institutions, and to facilitate harmonized and coherent application

¹ In 12 out of 27 EU Member States the equality body is part of an institution that also is the NHRI, namely in: Belgium, Croatia, Cyprus, Czech Republic, Denmark, Hungary, Ireland, Latvia, Netherlands, Poland, Slovakia and Sweden.

of the standards applying to equality bodies, including in those EU Member States' where the equality bodies are multi-mandated institutions.

Building on the EC reports and findings on binding standards for equality bodies,² taking account of Equinet's recommendations,³ and based on ENNHRI's' experience in the application of the Paris Principles, and existing standards and practices in place across the EU Member States and wider Europe,⁴ ENNHRI recommends that, at a minimum, robust binding EU standards on equality bodies should include:

- a) adequate powers to effectively promote and protect equality on all grounds, including:
 - ensuring equality bodies' timely and transparent consultation on policy and legislative proposals related to their mandate;
 - ensuring unfettered access to all relevant premises, individuals and information to carry out effective examination of all issues covered by their mandate;
 - obliging all addressees of equality body recommendations and decisions to provide a reasoned reply within an appropriate timeframe, to develop processes to facilitate effective follow-up of equality body recommendations and decisions in a timely fashion, and to include information thereon in relevant public documents and reports

- b) adequate funding to effectively promote and protect equality on all grounds, including:
 - the allocation of funds for premises and communication-systems which are accessible to the wider community, including particular attention for ensuring accessibility to the most vulnerable groups and the possibility of setting up of local offices when needed;
 - salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent institutions of the state;
 - provision of additional adequate resources when the equality body is mandated with an additional responsibility by the state;
 - the prohibition to cut the equality body budget in a disproportionate or discriminatory way compared with other public bodies;

² In particular: [Commission 2021 Staff Working Document on equality bodies and the implementation of the Commission Recommendation on standards for equality bodies](#).

³ In particular: Equinet, '[Legislating for Stronger, More Effective Equality Bodies, Key Elements for and Expectations from Future EU Legislation on Equality Bodies](#)'.

⁴ See also: Council of Europe Committee of Ministers Recommendation [CM/Rec\(2021\)1 on the development and strengthening of effective, pluralist and independent national human rights institutions](#) (31 March 2021); FRA report '[Strong and effective national human rights institutions- challenges, promising practices and opportunities](#)' (2020).

- c) formal and functional independence guarantees for equality bodies, including:
- a legal or, preferably, constitutional basis of the mandate, powers and independence guarantees of equality bodies;
 - formalisation of a clear, transparent, merit-based and participatory selection and appointment process of equality bodies' decision-making body;
 - an objective dismissal process of the equality bodies' decision-making body, with clearly defined terms in a constitutional or legislative text, confined to those actions which impact adversely on the capacity of the leaders of equality bodies to fulfil their mandate;
 - protection from criminal and civil liability for official actions undertaken in good faith;
 - legislative empowerment to determine staffing structure and skills required to fulfill the equality bodies' mandate, and to select staff in accordance with national law
 - allocation of funding through a separate budget line and the ability for the equality body to freely allocate funding according to its priorities within its mandate;
 - accountability to parliament and not government, including a legislative requirement for the tabling of an equality bodies' annual report to parliament for wide dissemination, discussion and consideration

2. Recognise and level-up powers of multi-mandated equality bodies

The EU legislation should recognise that the majority of EU equality bodies are multi-mandate institutions, with additional mandates that contribute to the implementation of equality, fundamental rights and the EU Charter of Fundamental Rights.⁵ This is the case also in particular when equality bodies are accorded the mandate of NHRIs, to promote and protect the full range of fundamental rights.⁶

When equality bodies are multi-mandated institutions, the competences and powers attached to all mandates in such institutions should be harmonized and levelled up so that each mandate should, as far as possible, enjoy the broadest competences and powers available to any of the

⁵ In addition to the 12 EU Member States where the equality bodies have the NHRI mandate, multi-mandated equality bodies are also in place in other EU countries such as in Luxembourg and Malta where they have also the mandate of monitoring body under UN CRPD.

⁶ See: [Council Conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union](#) (8 March 2021); European Commission, [Strategy to strengthen the application of the Charter of Fundamental Rights in the EU](#), COM/2020/711 final (2 December 2020).

other mandates.⁷ Moreover, multi-mandated equality bodies should receive sufficient resources to effectively carrying out each of the mandates and ensuring visibility towards stakeholders and the wider public of each of the mandates,⁸ as well as ensuring close cooperation between the different mandates to effectively address equality and fundamental rights.

As called upon by the EU Council and the Commission, EU Member States should establish and strengthen independent and effective NHRIs in compliance with the Paris Principles, with the mandate to promote and protect the full range of fundamental rights.⁹ Accordingly, when EU equality bodies also have the NHRI mandate, the EU legislation should require Member States to take into account the Paris Principles when establishing and strengthening these institutions, including the minimum standards applicable on the mandate, functions, independence, pluralism and effectiveness of NHRIs. Consequentially, when monitoring the application of the EU binding standards on multi-mandated equality bodies that are NHRIs, account should be taken of the Paris Principles and their application in the General Observations and reports of the GANHRI Sub-Committee on Accreditation.¹⁰

3. Encourage cooperation of equality bodies with other equality and human rights defenders, including NHRIs and their network, ENNHRI

In view of the interrelated nature of equality and fundamental rights, and to enable complementarities and efficiencies for the realisation of EU equality and fundamental rights at national level, the EU legislation should encourage equality bodies to cooperate regularly and effectively with other equality and human rights defenders, including NHRIs and their European network, ENNHRI.¹¹

⁷ As included in Council of Europe, [ECRI General Policy Recommendation No 2: Equality Bodies to Combat racism and Intolerance at National Level](#)' (adopted on 7 December 2017), para. 8. See also: Equinet [indicators on NEB mandate](#) at 2.1; [Commission 2021 Staff Working Document on equality bodies and the implementation of the Commission Recommendation on standards for equality bodies](#), at p. 5-6.

⁸ ECRI General Policy Recommendation No2, para 7, b; Equinet indicators on NEB mandate at 2.2; Commission 2021 Staff Working Document on equality bodies and the implementation of the Commission Recommendation on standards for equality bodies, at p 6.

⁹ Council Conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union (2021), para. 27-28; Strategy to strengthen the application of the Charter of Fundamental Rights in the EU (2020), page 11.

¹⁰ See also: Council of Europe Committee of Ministers Recommendation [CM/Rec\(2021\)1 on the development and strengthening of effective, pluralist and independent national human rights institutions](#) (31 March 2021) para 4.

¹¹ See also: [Commission 2021 Staff Working Document on equality bodies](#) and the implementation of the Commission Recommendation on standards for equality bodies, at p. 26-29.

The EU legislation should require that equality bodies will be provided with the necessary financial means, staff and institutional capacity to develop such cooperation.¹²

¹² See also: Commission 2021 Staff Working Document on equality bodies and the implementation of the Commission Recommendation on standards for equality bodies, at p. 29.