



2022/0400(COD)

6.7.2023

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU
(COM(2022)0688 – C9-0409/2022 – 2022/0400(COD))

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

Co-Rapporteurs: Marc Angel, Sirpa Pietikäinen

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT.....	48

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU (COM(2022)0688 – C9-0409/2022 – 2022/0400(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0688),
 - having regard to Article 294(2) and Article 157(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0409/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate and the Czech Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Civil Liberties, Justice and Home Affairs,
 - having regard to the report of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

**(2a) The Court of Justice of the
European Union (the ‘Court of Justice’)**

has held that the scope of the principle of equal treatment of men and women cannot be confined to 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, that principle also applies to discrimination arising from gender reassignment of a person.

Or. en

Amendment 2

Proposal for a directive Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) In some Member States, it is currently possible for persons to legally register as having a third, often a neutral, gender. This Directive does not affect relevant national rules giving effect to such recognition.

Or. en

Amendment 3

Proposal for a directive Recital 2 c (new)

Text proposed by the Commission

Amendment

(2c) Article 21 of the Charter of Fundamental Rights of the European Union (the 'Charter') prohibits any discrimination, inter alia, on the grounds of sex. Article 23 of the Charter provides that equality between women and men must be ensured in all areas.

Or. en

Amendment 4

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The purpose of this Directive is to lay 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/EC⁵⁸ and 2010/41/EU⁵⁹.

⁵⁸ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).

⁵⁹ Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC (OJ L 180, 15.7.2010, p. 1).

Amendment

(3) The purpose of this Directive is to lay down minimum requirements for the functioning of equality bodies to improve their effectiveness and guarantee their **competences, independence and autonomy** in order to strengthen the application of the principle of equal treatment as derived from Directives 2006/54/EC⁵⁸ and 2010/41/EU⁵⁹.

⁵⁸ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).

⁵⁹ Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC (OJ L 180, 15.7.2010, p. 1).

Or. en

Amendment 5

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

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.

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 *free of charge*, 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. ***The equality bodies designated under Directives 2006/54/EC and 2010/41/EU should be replaced by equality bodies designated under this Directive and should exercise the competences laid down in this Directive. This Directive is without prejudice to the competences of labour inspectorates, other enforcement bodies or the social partners.***

Or. en

Amendment 6

Proposal for a directive Recital 10

Text proposed by the Commission

(10) To ensure that equality bodies can effectively contribute to the enforcement of Directives 2006/54/EC and 2010/41/EU by promoting equal treatment, preventing discrimination and offering assistance to all individuals and groups that are discriminated against to access justice across the Union, it is necessary to adopt binding minimum standards for the functioning of those bodies. The new standards should draw on the lessons learnt through the application of Commission Recommendation 2018/951⁶³ building on

Amendment

(10) To ensure that equality bodies can effectively contribute to the enforcement of Directives 2006/54/EC and 2010/41/EU by promoting equal treatment, preventing discrimination and offering assistance to all individuals, ***families in all their diversity***, and groups that are discriminated against to access justice across the Union, it is necessary to adopt binding minimum standards for the functioning of those bodies. The new standards should draw on the lessons learnt through the application of Commission Recommendation

some of its provisions and laying down new rules where necessary. They should also draw from other relevant instruments, such as the General Policy Recommendation N°2⁶⁴ on equality bodies adopted by the European Commission against Racism and Intolerance (ECRI) and the Paris Principles⁶⁵ adopted by the United Nations and applicable to national human rights institutions.

2018/951⁶³ building on some of its provisions and laying down new rules where necessary. They should also draw from other relevant instruments, such as the General Policy Recommendation N°2⁶⁴ on equality bodies adopted by the European Commission against Racism and Intolerance (ECRI) and the Paris Principles⁶⁵ adopted by the United Nations and applicable to national human rights institutions.

⁶³ Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies (OJ L 167, 4.7.2018, p. 28).

⁶³ Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies (OJ L 167, 4.7.2018, p. 28).

⁶⁴ ECRI General Policy Recommendation N°2 revised on Equality Bodies to combat racism and intolerance at national level - adopted on 13 June 1997 and revised on 7 December 2017.

⁶⁴ ECRI General Policy Recommendation N°2 revised on Equality Bodies to combat racism and intolerance at national level - adopted on 13 June 1997 and revised on 7 December 2017.

⁶⁵ Principles relating to the Status of National Institutions adopted by General Assembly resolution 48/134 of 20 December 1993.

⁶⁵ Principles relating to the Status of National Institutions adopted by General Assembly resolution 48/134 of 20 December 1993.

Or. en

Amendment 7

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

Amendment

(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.

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. ***Member States are expected to implement the Directive on Pay Transparency without any delay, including by establishing good practices and codes of conduct in matters relating to equal pay for the same work or work of equal value based on that Directive.***

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).

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).

Or. en

Amendment 8

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 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 ***or based on the intersection between those grounds, acknowledging that discrimination often affects persons on more than one ground and creates a specific disadvantage. In implementing this Directive, Member States should take into account provisions relating to intersectional discrimination contained in the Directive on Pay***

Transparency 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.

Or. en

Amendment 9

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 act with complete independence without being subject to any external ***influence, such as religious, political or financial*** 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 ***and implement them accordingly.***

Or. en

Amendment 10

Proposal for a directive Recital 18

(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 expanded.

(18) The lack of appropriate **and stable human, technical and financial** 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 **the necessary amount of** 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 **and planned on a multi-annual basis. Where the competences of equality bodies are increased, Member States should ensure that their resources and budget are adjusted accordingly. Member States should ensure that equality bodies' budgets** 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 **and stable** resources, their **budgets** should not suffer cuts **as a result of increasing competences and tasks being assigned to them**; similarly, their annual growth should at least be pegged to the average growth in funding to other entities **and should take into account national inflation rates**. Resources should increase proportionally if equality bodies' tasks and mandate are expanded **and they should be sufficient to enable equality bodies to collect data and conduct research**.

Or. en

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, 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 **and training**, be it directly or by way of subcontracting. ***Automated systems should comply with the accessibility requirements for persons with disabilities set out in Annex I to Directive (EU) 2019/882 of the European Parliament and of the Council^{1a}.***

^{1a} Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).

Or. en

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

Amendment

(20) Equality bodies, alongside other actors, ***and in particular social partners***, 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

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.

public and private entities, and provide them with relevant training, information, advice, guidance and support. They should communicate with, ***and communicate information to***, public and private entities, ***in particular labour inspectorates, social partners and civil society organisations***, 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. ***Member States should ensure that equality bodies receive sufficient funding for their tasks relating to promotion and awareness raising.***

Or. en

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 safeguards against repetitive or abusive complaints.***

Amendment

(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.

Or. en

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

(22) To ensure that all victims are able to complain, it should be possible to submit complaints in various ways, ***including by digital means***. 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).

Or. en

Amendment 15

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 ***resolve*** their disputes ***by means of alternative dispute resolution through a conciliation and mediation board. Such a process should be lead*** by the equality body or another existing, ***independent***, dedicated entity ***which is not related to the government***.

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. The conciliation and mediation board should consist of experts in human rights law from both parties. Decisions of the conciliation and mediation board should be legally binding provided that both parties to the dispute agree. Member States should ensure a sufficient limitation period to guarantee that the parties to a dispute have access to court where they do not reach an agreement at the end of the conciliation and mediation process.*

Or. en

Amendment 16

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, either voluntarily or through an investigation, equality bodies should **be able to** 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 17**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 a summary of their opinions and decisions without disclosing personal data. ***Equality bodies should be able to disclose personal data where such disclosure is provided for by law, for example as a penalty in discrimination cases, and provided that the person to whom the personal data relates has been found guilty of discrimination.***

Amendment 18**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

Amendment

(28) Equality bodies should have the right to act ***and to be present and heard*** 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

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.

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.

Or. en

Amendment 19

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.

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

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 be established even in the absence of an identified victim. 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, identified 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).

Amendment 20**Proposal for a directive****Recital 32***Text proposed by the Commission*

(32) Equality bodies' rights to act in court must respect the principles of fair 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**deleted***Amendment 21****Proposal for a directive****Recital 35***Text proposed by the Commission*

(35) The effectiveness of equality bodies' work also depends on giving groups at risk of discrimination full access to their services. In a survey conducted by the European Union Fundamental Rights Agency⁷², 71% of members of ethnic or immigrant minority groups reported to be unaware of any organisation offering support or advice to victims of discrimination. A key step to support this access is for Member **States** to ensure that people know their rights and are aware of the existence of and services offered by equality bodies. This is particularly important for disadvantaged groups and

Amendment

(35) The effectiveness of equality bodies' work also depends on giving groups at risk of discrimination full access to their services. In a survey conducted by the European Union Fundamental Rights Agency⁷², 71% of members of ethnic or immigrant minority groups reported to be unaware of any organisation offering support or advice to victims of discrimination. A key step to support this access is for **each Member State to provide information in all of its official languages and to provide key information in English in order to** ensure that people know their rights and are aware of the existence of and

groups whose access to that information can be hindered, for example by their economic status, their disability, their literacy or their lack of access to online tools.

⁷² FRA EU-MIDIS II Survey.

services offered by equality bodies. This is particularly important for disadvantaged groups and groups whose access to that information can be hindered, for example by their economic status, their disability, their literacy or their lack of access to online tools.

⁷² FRA EU-MIDIS II Survey.

Or. en

Amendment 22

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 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.

Amendment

(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 equality bodies are available to all potential victims throughout their territory, for example through the establishment of local offices, including mobile ones, ***the establishment of accessible and user-friendly digital tools and platforms for contacting equality bodies***, the organisation of local campaigns or cooperation with local delegates, ***local governments, social partners, including trade unions***, or civil society organisations ***that are adapted to local needs. Special attention should be paid to the most vulnerable groups. Educational campaigns on human rights and anti-discrimination should be planned and addressed to children and young people at school, starting from an early age. Social partners and civil society organisations should be included in the preparation,***

Amendment 23

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, victimisation 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.

Or. en

Amendment 24

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

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. 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 **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 defence of human rights, authorities managing Union funds, National Roma Contact Points, **Sami Parliaments**, consumer bodies, and national independent mechanisms for the promotion, protection and monitoring of the UNCRRPD. 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.

Or. en

Amendment 25

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 recommendations and publish *and update them as often as they deem necessary*.

Or. en

Amendment 26

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

Amendment

(40) Equality data are crucial for raising awareness, sensitising people, quantifying discrimination, showing trends *and shifts in social attitudes* over time, proving the existence of discrimination, evaluating the

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.

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, *media* 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 should be available in an accessible format so that it can be readily used by equality bodies. Member States should ensure that equality bodies receive sufficient funding for their data collection and analysis tasks. 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 Union’s 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.

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.

Or. en

Amendment 27

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 ***based on information received from Member States and additional relevant data collected at national and Union level and from equality bodies and 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, implementing powers should be conferred on the Commission to establish a list of relevant indicators, on the basis of which data should be collected, ***in cooperation with the European Institute for Gender Equality and the European Network of Equality Bodies (Equinet).*** This monitoring should not involve the processing of personal data.

Or. en

Amendment 28

Proposal for a directive

Recital 44

Text proposed by the Commission

(44) This Directive lays down minimum

Amendment

(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.

requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. ***Member States are therefore encouraged to introduce or maintain 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.

Or. en

Amendment 29

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 effectiveness and guarantee their ***competences and*** independence in order to strengthen the application of the principle of equal treatment as derived from Directives 2006/54/EC and 2010/41/EU.

Or. en

Amendment 30

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

Text proposed by the Commission

Amendment

2a. The obligations placed on Member States and the tasks of equality bodies under this Directive shall apply to all persons in all their diversity, irrespective of their sex, gender, gender identity, gender expression or sex characteristics for the purpose of complying with the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC and

Amendment 31

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 make the necessary arrangements for*** one or more bodies (hereinafter referred to as ‘equality bodies’) to exercise the competences laid down in this Directive. ***Member States shall not unduly fragment the institutional architecture of equality bodies in such a way that would hamper their ability to exercise their mandate.***

Amendment 32

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

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.

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, ***communication*** and organisational matters.

Amendment 33

Proposal for a directive Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Member States shall ensure that equality bodies are not set up within a ministry, a government body or a body taking instructions from the government in order to preserve their nature as independent bodies.*

Or. en

Amendment 34

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

Amendment

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.

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, ***for example by consulting experts during the process for selecting staff. Those rules and safeguards shall concern,*** in particular, persons holding managerial ***positions, for example members of boards managing equality bodies, heads of equality bodies, deputy heads of equality bodies or interim heads of equality bodies, where applicable,*** in order to guarantee ***the equality bodies'*** competence and independence ***from any kind of external or internal interference.***

Or. en

Amendment 35

Proposal for a directive Article 3 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. Member States shall ensure that appropriate safeguards are in place in the internal structure of multi-mandate bodies to guarantee the autonomous **and effective** exercise of the equality mandate **without external influence**.

Or. en

Amendment 36

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

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 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.

Amendment

1. Member States shall ensure that each equality body is provided with the **stable** human, technical and financial resources necessary to perform all its tasks and to 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. **Member States shall ensure that equality bodies' budgetary allocation is stable and planned on a multi-annual basis. Member States shall ensure that equality bodies' budgets cover costs that might be difficult to anticipate, such as costs linked to litigation. Where the competences of equality bodies are increased, Member States shall ensure that their resources and budget are adjusted upwards accordingly.**

Or. en

Amendment 37

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) adopt a strategy to raise awareness of the general population, throughout their territory, with particular attention to individuals, ***families in all their diversity***, and groups at risk of discrimination, ***in a manner and in formats that are accessible for all***, on the rights under Directives 2006/54/EC and 2010/41/EU and on the existence of equality bodies and their services;

Or. en

Amendment 38

Proposal for a directive

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(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 among public and private entities.

Amendment

(b) ensure ***the conditions for*** equality bodies ***to*** 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, ***social partners*** and groups at risk of discrimination, provide training and guidance, and promote equality duties, equality mainstreaming and positive action among public and private entities.

Or. en

Amendment 39

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 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.

Amendment

In doing so, Member States and equality bodies shall take into consideration the most appropriate communication tools and formats for each target group ***and include digital tools and means of communication***. 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 ***public or private*** access to online tools.

Or. en

Amendment 40

**Proposal for a directive
Article 6 – title**

Text proposed by the Commission

Assistance to victims

Amendment

Assistance to victims ***and persons who have experienced discrimination***

Or. en

Amendment 41

**Proposal for a directive
Article 6 – paragraph 1**

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that equality bodies are able to provide assistance to victims ***and persons who have experienced discrimination free of charge*** as set out in paragraphs 2 to 4.

Or. en

Amendment 42

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 assistance to victims ***and persons who have experienced discrimination and their trade union representatives***, 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.

Or. en

Amendment 43

Proposal for a directive

Article 6 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Equality bodies shall also inform victims about the confidentiality rules applicable, on the protection of personal data and on the possibilities to obtain psychological or other types of relevant support from other bodies or organisations.

Amendment

Equality bodies shall also inform victims ***and persons who have experienced discrimination*** about the confidentiality rules applicable, on the protection of personal data and on the possibilities to obtain psychological or other types of relevant support from other bodies or organisations.

Or. en

Amendment 44

Proposal for a directive

Article 7 – title

Amicable settlements

Alternative dispute resolution

Or. en

Amendment 45

**Proposal for a directive
Article 7 – paragraph 1**

Text proposed by the Commission

Amendment

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.

Equality bodies ***or other existing dedicated entities*** shall be able to offer the parties the possibility to ***resolve their dispute by means of alternative dispute resolution through a conciliation and mediation board. The conciliation and mediation board shall*** be led by the equality body itself or by another existing ***independent*** dedicated entity, in which case the equality body may formulate observations to that entity. ***Parties shall have a possibility to be assisted or represented by social partners. The conciliation and mediation board shall further consist of experts in human rights law from both parties. Impartial lawyers shall prepare cases before the conciliation and mediation board. Decisions of the conciliation and mediation board shall be legally binding provided that both parties to the dispute agree.***

Engaging in such a ***conciliation and mediation*** process ***shall be subject to the agreement of the parties to the dispute and*** shall not prevent the parties from exercising ***their*** right of access to court ***where one of them does not accept the decision of the conciliation and mediation board. Such a process shall not replace or undermine existing national conciliatory procedures where such procedures are able to provide better anti-discrimination protection.***

Member States shall ensure a sufficient limitation period to guarantee that the parties to the dispute have access to court where they do not reach an agreement at the end of the conciliation and mediation process. The limitation period shall be suspended during the conciliation and mediation process.

Or. en

Amendment 46

Proposal for a directive Article 8 – title

Text proposed by the Commission

Amendment

Opinions and decisions

Investigation

Or. en

Amendment 47

Proposal for a directive Article 8 – paragraph 1

Text proposed by the Commission

Amendment

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.***

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.***

Or. en

Amendment 48

Proposal for a directive Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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.

Amendment

In particular, that framework shall provide equality bodies with effective rights **and obligations** to access information which is necessary to establish whether discrimination has occurred, **including by obliging the alleged perpetrator and any third parties to provide information and documents when requested.** It shall also provide for appropriate mechanisms for equality bodies to cooperate with relevant public bodies, **such as labour inspectorates or other enforcement bodies, and oblige those public bodies to cooperate with equality bodies** for that purpose.

Or. en

Amendment 49

**Proposal for a directive
Article 8 – paragraph 3**

Text proposed by the Commission

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.

Amendment

deleted

Or. en

Amendment 50

**Proposal for a directive
Article 8 – paragraph 4 – subparagraph 1**

Text proposed by the Commission

Member States shall ensure that equality bodies record in writing their assessment of the case, including establishing the

Amendment

deleted

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.

Or. en

Amendment 51

Proposal for a directive Article 8 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 52

Proposal for a directive Article 8 – paragraph 4 – subparagraph 3

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 53

Proposal for a directive Article 8 a (new)

Article 8a

Opinions and decisions

- 1. Member States shall ensure that equality bodies are empowered to record in writing their assessment of a case. As part of their written assessment, equality bodies shall establish the facts of the case and provide a reasoned conclusion as to whether discrimination has occurred. Member States shall determine, in consultation with other entities, such as the social partners, whether the equality bodies are to assess cases by means of non-binding opinions or binding enforceable decisions. Member States shall ensure that such decisions can be appealed to a judicial or administrative authority in accordance with national law and practice.**
- 2. 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 to follow up on opinions, such as feedback obligations, and to enforce decisions.**
- 3. Equality bodies shall publish summaries of their opinions and decisions, without disclosing personal data. Equality Bodies may disclose personal data in opinions or decisions, or the summaries thereof, where such disclosure is provided for by law, for example as a penalty in discrimination cases, and provided that the person to whom the personal data relate has been found guilty of discrimination.**

Or. en

Amendment 54

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;

Or. en

Amendment 55

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 on behalf or in support of one or several victims;

Or. en

Amendment 56

Proposal for a directive

Article 9 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the right of the equality body to initiate court proceedings where it has detected discrimination but no individual complainant pursues the case;

Or. en

Amendment 57

Proposal for a directive

Article 9 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(cb) the right of the equality body to act in court proceedings where collective redress is used.

Or. en

Amendment 58

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

Or. en

Amendment 59

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.

deleted

Or. en

Amendment 60

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, 8, **9 and 14**, the rights of defence of natural and legal persons involved are duly protected. Member States shall ensure that equality bodies ***put in place internal whistle-blower contact points and protection***, guarantee confidentiality of witnesses and whistle-blowers, and as far as possible, of complainants ***and alleged perpetrators, where they are natural persons***.

Or. en

Amendment 61

Proposal for a directive Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Directive is without prejudice to the competences of labour inspectorates or other enforcement bodies.

Or. en

Amendment 62

Proposal for a directive Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

In order to provide more effective legal protection, this Directive is without prejudice to national law, rules, procedures and practice concerning representation and defence by social

partners before the courts, to collective redress mechanisms and to other rights, prerogatives and competences of social partners and workers' and employers' representatives, such as those relating to the enforcement of collective agreements.

Or. en

Amendment 63

Proposal for a directive Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall guarantee access to equality bodies' services and publications on an equal basis for all and ensure that there are no barriers to submission of complaints.

Amendment

1. Member States shall guarantee access to equality bodies' services and publications on an equal basis for all and ensure that there are no barriers to submission of complaints, ***either through the establishment of local offices, including mobile offices, or the establishment of accessible and user-friendly digital tools and platforms.***

Or. en

Amendment 64

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, ***including court representation,*** at no cost to complainants, throughout their territory, including in rural and remote areas.

Or. en

Amendment 65

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 accessibility, ***including in accordance with Directive (EU) 2019/882***, and provide reasonable accommodation for persons with disabilities ***and persons belonging to other groups at risk of discrimination, such as LGBTI persons***, 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.

Or. en

Amendment 66

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 within the same Member State, and with relevant public and private entities, including ***social partners and*** civil society organisations, at national, regional, local level, ***and local governments***, as well as in other Member States and at Union and international level. ***Member States shall ensure that equality bodies equally cooperate with the European Institute for Gender Equality, the European Union Agency for Fundamental Rights and the European Network of Equality Bodies (Equinet).***

Amendment 67**Proposal for a directive
Article 14 – paragraph 2***Text proposed by the Commission*

2. The data collected shall be disaggregated by grounds and fields covered by Directives 2006/54/EC and 2010/41/EU, and in accordance with the indicators referred to in Article 16. The personal data collected shall be anonymised and, where not possible, pseudonymised.

Amendment

2. The data collected shall be disaggregated by grounds and fields covered by Directives 2006/54/EC and 2010/41/EU, ***taking into account multiple and intersectional discrimination***, and in accordance with the indicators referred to in Article 16. The personal data collected shall be anonymised and, where not possible, pseudonymised.

Or. en

Amendment 68**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 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). ***The statistical data collected by public and private entities shall be made available in an accessible format so that it can be readily used by equality bodies.***

Or. en

Amendment 69

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 commission** independent surveys **and reports** concerning discrimination.

Or. en

Amendment 70

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 **an independent** report, with recommendations, at least every four years, on the state of equal treatment and discrimination, including potential structural issues, in their Member State.

Or. en

Amendment 71

Proposal for a directive Article 16 – paragraph 1

Text proposed by the Commission

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,

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, **in cooperation with Equinet and making use of Equinet's indicators**. When preparing the indicators, the Commission **shall, where relevant, also** seek advice from the European Union Agency for Fundamental Rights and 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.

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.

Or. en

Amendment 72

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 [3 years after the date of transposition], and every 3 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).

Or. en

Amendment 73

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

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 stakeholders, by the European Union

Agency for Fundamental Rights and the European Institute for Gender Equality.

Agency for Fundamental Rights and the European Institute for Gender Equality.
The Commission shall evaluate, based on the information it has received, the situation of discrimination in each Member State and draw up a balance sheet for each Member State describing and ranking the situation regarding discrimination and their performance as regards anti-discrimination measures.

Or. en

Amendment 74

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

Text proposed by the Commission

Amendment

3a. The Commission shall 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.

Or. en

Amendment 75

Proposal for a directive Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

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.

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.

Or. en

EXPLANATORY STATEMENT

National equality bodies are public organisations that promote equal treatment in each European Union Member State by providing independent assistance to victims of discrimination, acting and/or representing victims in court, conducting independent surveys and enquiries, publishing independent reports, collecting data, raising awareness and making recommendations on matters relating to discrimination. They are legally required to do so in case of a discrimination based on ground of the ones defined under article 19 TFEU, including sex, race and ethnicity, age, sexual orientation, religion or belief, and disability. Equality bodies shall also require doing so in case of multiple and intersectional discrimination. To reflect the evolvement of the society and to be in line with the ECJ case, the scope of equal treatment of men and women cannot be limited to discrimination based on the fact that a person is of one or other sex. Thus, intersectional and multiple discrimination should be taken into account.

Equality bodies are core actors in the anti-discriminatory work in the EU, and their abilities to assist victims of discrimination and promote anti-discrimination in the EU need to be both strengthened and supported. European Union values, amongst them equality, can only become reality if they are properly put in practice. This is why this directive is important - it contributes to implementing the objectives of the Treaties not only in theory, but also in practice-.

Due to their specific roles, equality bodies are also involved in workplace related matters. In that particular situation, equality bodies should always respect the autonomy, competences and prerogatives of social partners as well as the recognised competences of all relevant government agencies, including labour inspectorates, national courts and/or statutory tribunals, in line with national law and practices.

Equality bodies were first established by the Racial Equality Directive (2000/43/EC). Three subsequent equality directives entrusted equality bodies with the same missions in their respective field: the Gender Equality Directive in the field of goods and services (2004/113/EC), the Gender Equality Directive in the field of employment (2006/54/EC) and the Gender Equality Directive in the field of self-employment (2010/41/EU).

In 2018, the Commission issued a positive Recommendation on binding standards for equality bodies that recommended a set of measures for Member States to improve their respective equality bodies' independence and effectiveness, in particular in terms of their capacity to ensure that any individuals and groups that are discriminated against can fully enjoy their rights.

However, despite these efforts, the existing legislation and the 2018 recommendation have not ensured sufficient resources and tools, nor have they achieved an ideal operational environment for equality bodies. Most issues that the 2018 recommendation addressed are still not resolved. In addition, the conditions for effective functioning of equality bodies differ significantly between different Member States. As a result, the level of protection against discrimination is different, asymmetrical and inconsistent for citizens around Europe. Not everyone is protected to the same standards. This needs to be corrected swiftly, and differences in levels of in protection between groups of people in different Member States need to be made transparent.

To achieve this goal, strong minimum standards for equality bodies are needed. The basis of well-functioning equality bodies in democratic states is the independence of these organisations. Equality bodies and their staff need to be free from all external interference and this must be ensured by using all possible safeguards. Equality bodies must never be part of a ministry, other governmental body or a body taking instructions from the government, but genuinely be able to be independent in their actions. For this, adequate funding that corresponds accordingly to the amount and nature of tasks of the equality body, as well as stable working contracts for their staff to ensure coherent and long-term anti-discriminatory work, should be guaranteed, which is too often not the case. Equality bodies should never have to face the same regrettable situation with which for example the European Institute for Gender Equality (EIGE) and a number of other agencies are confronted, namely being understaffed and under-resourced with an ever-increasing workload and research demands.

An effective equality body has litigation powers. At present, equality bodies in some EU Member States do not enjoy the right to act in court. In addition to equality bodies' rights to act as a party in proceedings, to submit observations to the court or to initiate or participate in proceedings on behalf or in support of one or several victims, they should also be able to initiate court proceedings in their own name when there is no individual complainant pursuing the case themselves, or to act in court proceedings when collective redress is used.

However, not all cases ever go to court nor should they need to. To offer a quick, affordable, out of court resolution of disputes, Member States should also provide for the possibility for parties to seek an alternative dispute resolution to their disputes, through a conciliation and mediation process that can be led by the equality body or another existing independent dedicated entity which is not government related.

Monitoring is key to ensuring that equality bodies truly enjoy the rights they are assigned in this legislation. The Commission must, by means of an implementing act, establish a list of common indicators for monitoring. In this work, the Commission should work closely with European Institute for Gender Equality (EIGE), European Network of Equality Bodies (Equinet) and European Union Agency for Fundamental Rights (FRA). It is important to recognise that these external agencies already have a lot of work on their agendas and that any cooperation with equality bodies should constitute as further grounds for budget increases. The Commission must also evaluate the situation of discrimination in each Member State and issue follow-up recommendations in cases where it notes concerning developments in any of the Member States.

As is the case in all policy areas, cooperation is key. Member States need to ensure that equality bodies have appropriate mechanisms in place to cooperate with other equality bodies within the same Member State, and with relevant public and private entities, including civil society organisations, at national, regional and local level, as well as in other Member States and at Union and international level. Local governments should be afforded the opportunity to approach equality bodies when they see examples of discrimination at a national level, irrespective of whether the alleged case of discrimination has taken place within that particular local area. Equality bodies should equally have the right to cooperate with EIGE, FRA and Equinet, as well as social partners and labour inspectorates.

Far too often, citizens across our continent see their basic human rights both disregarded and disrespected. With the help of this legislative proposal and the minimum standards it lays

down, people in all Member States will be able to enjoy strengthened level of protection against discrimination. At the same time, Member States are allowed to apply or introduce laws, regulations or administrative provisions that are more favourable than the minimum standards laid down in this Directive. There is no time to wait - the success of this legislation is key to preserving our core EU values.