

THE ROLE OF EQUALITY BODIES

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EU requirement to establish equality bodies

- Directive 2000/43/EC of June implementing the principle of equal treatment irrespective of racial or ethnic origin (art. 13)
- Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (art. 12)
- Directive 2006/54/EC of 5 July on the implementation of the principle of equal opportunities and equal treatment for men and women in matters of employment and occupation (recast) (art. 20)
- Proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)426 final) (art. 12)



Objective of equality bodies

- ”Protection against discrimination based on sex should itself be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims”
- Acknowledgement that laws are not sufficient to achieve equality
- Narrow: secure implementation of EU law in Member States
- Broad: secure implementation of equality norms and values



Minimum requirements to equality bodies (1)

- Member States shall designate a *body or bodies* for the *promotion, analysis, monitoring and support* of equal treatment of all persons without discrimination on grounds of sex. These bodies may form part of agencies with responsibility at national level for the defence of human rights or the safeguard of individual's rights.



Minimum requirements to equality bodies (2)

- Member States shall ensure that the competences of these bodies include:
 - [...] providing *independent* assistance to victims of discrimination in pursuing their complaints about discrimination;
 - conducting *independent* surveys concerning discrimination
 - publishing *independent* reports and making recommendations on any issue relating to such discrimination
 - at the appropriate level exchanging available information with corresponding European bodies such as any future European Institute for Gender Equality



Different models in practice

- Commissions
- Ombud institutions
- Quasi-judicial bodies
- Part of NHRI
- Mixture
- Single strand/horizontal approach.



When is the EC requirement met? - an example from Denmark

- 2000-2008: The Gender Equality Board
- 2002: DIHR appointed equality body in regard to race and ethnic origin
- 2003-2008: The Complaints Committee for Ethnic Equal Treatment
- 2008: EU Commission questions Danish implementation
- 2009 Jan.: The establishment of the Board of Equal Treatment
- 2009 Nov.: Reasoned opinion from EU Commission
- 2009 Dec.: Danish government points to DIHR as gender equality board



Assistance to victims of discrimination (1)

- Informing about rights and means of redress
 - by the equality body itself
 - in cooperation with national stakeholders
- Legal aid and other assistance
 - mediation
 - settlement negotiations
 - facilitating court proceedings
- Investigating complaints and making decisions



Assistance to victims of discrimination (2)

- The importance of participating in national court proceedings
- A right under EU and/or national law for equality bodies to participate in national court proceedings?
- Means of participation in national court proceedings
 - representing individuals
 - class actions
 - bringing legal proceedings in own name
 - interventions



Participating in legal proceedings

The majority of equality bodies have some power to participate in legal proceedings, but many of the equality bodies do not make use of this power in practice

- approx 50% of equality bodies with power to *represent individuals* in legal proceedings did not make use of this power in 2008-2009
- more than 50% of equality bodies did not make use of their power to *take legal action in their own name* in 2008-2009
- only 3 out of the 13 equality bodies with power to *intervene in legal proceedings* reported that they have made use of this power in practice in 2008-2009.



Making decisions or recommendations

The majority of the equality bodies have the power to review individual complaints

- 4 equality bodies can make legally binding decisions
- 13 equality bodies can make non-legally binding recommendations



Surveys, reports and recommendations

- Taking cases ex officio
- General inquiries
- Reports and research
- Recommendations to government



Exchanging information

- European Institute for Gender Equality
- Equinet
- Scandinavian network of equality bodies
- Other
 - EU Agency for Fundamental Rights
 - Network of legal experts on employment and gender equality issues
 - Network of legal experts in gender equality, social inclusions, health and long-term care



Thank you

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