

NATIONAL EQUALITY BODIES in the EU

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Belgium

The Centre for Equal Opportunities and Opposition to Racism (CEOOR) at federal level (originally since 1993), the Regions and Communities are negotiating cooperation agreements in order for the CEOOR to fulfil its tasks also as regards the legislation adopted at regional/Community level. The CEOOR is competent as regards all grounds of prohibited discrimination, although separate departments deal with discrimination on grounds of race and ethnicity.

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The CEOOR receives complaints from victims of discrimination, and may provide counselling; investigate situations of (alleged) discrimination; act as a go between or even mediate between the defendants and plaintiffs of discrimination; or, with the consent of the victim, take cases to both civil or criminal courts. In addition the CEOOR is to publish reports and recommendations on discrimination. It also became competent for issues related to migration, human trafficking, poverty and non-racial discrimination

The Belgian Institute for Equality between Men and Women has, as main objective, to guarantee and foster equality between genders with regard to all aspects of life. This objective has to be achieved through the implementation of a legal framework, structures, strategies, actions and instruments which serve the cause of equality.

Bulgaria

The Комисията за защита от дискриминация (КЗА) [Protection Against Discrimination Commission (PADC)] covers all grounds.

The PADC's powers include: receiving and investigating complaints by victims, as well as third parties and, on that basis, issuing binding rulings declaring discrimination and imposing financial sanctions or issuing binding instructions to prevent, stop or require abstention from discrimination; carrying out surveys and publishing independent reports; bringing court action and joining court proceedings in an amicus curiae capacity; making recommendations to other authorities to reform legislation or practice; giving opinions on draft legislation; and providing independent assistance to victims of discrimination.

Czech Republic

There is no single equality body, although the Office of the Ombudsman (Public Defender of Rights) of the Czech Republic, a general ombudsman, was established in January 2001, to deal with issues of maladministration, and could conceivably be confronted with issues related to discrimination by the public administration.

Denmark

The new Equality of Treatment Board [Ligebehandlingsnævnet] was established in January 2009. The board is an equality body with general competence.

The new Equality of Treatment Board handles complaints about cases of differential treatment (in and outside the labour market) on the basis of gender, race, skin colour, religion, faith, political view, sexual orientation (in the labour market), age, disability or national, social or ethnic origin. The Equality of Treatment Board is able to handle cases of differential treatment - both in and outside the labour market on race, ethnicity and gender.

Germany

Article 25 para. 1 of the General Law on Equal Treatment [Allgemeines Gleichbehandlungsgesetz - AGG] establishes the Federal Antidiscrimination Office (Antidiskriminierungsstelle) as an independent body in the Federal Ministry of Family, Senior Citizens, Women and Youth.

The Federal Anti-discrimination Office assists victims of discrimination, inter alia on grounds of sexual orientation. It can provide information on claims and possibilities of legal action, as well as seek an amicable settlement between those involved. It also produces studies and reports.

Estonia

The Chancellor of Justice (Ombudsman) may receive complaints about discrimination. Chapter 4 of the Equal Treatment Act renamed the Gender Equality Commissioner as Võrdõiguslikkuse volinik [Equality Commissioner] and extended its competence to include discrimination based on sexual orientation.

Greece

Chap. 5 of Law 3304/05 discrimination by public bodies may be submitted to the Greek Ombudsman (Συνήγορος του Πολίτη). In the field of employment, the Employment Inspection Body (Σώμα Επιθεώρησης Εργασίας) fulfils the tasks of an equality body. In the other cases, the 'Equal Treatment Committee' (Επιτροπή Ίσης Μεταχείρισης), a body created within the Ministry of Justice, shall be competent – although this body seems to be understaffed and practically dormant. All three bodies are competent for all grounds of alleged discrimination.

For discrimination committed by public bodies, the Ombudsman has the power to investigate cases of discrimination and to undertake mediation, concluded by the adoption of non-binding 'opinions'. The Employment Inspection Body may participate in any conciliation effort between the parties, emit a summary report on the reasons due to which such a conciliatory effort failed, give its opinion, on the interpretation of the Law, and draw reports on the application and promotion of equal treatment. The Equal Treatment Committee has the same powers and functions as the Employment Inspection Body.

Spain

There exists no equality body per se, however since the mission of the Defensor del Pueblo [Ombudsman] and of the Defensores del Pueblo Autonómicos [Ombudsmen of the Autonomous Communities] is to protect the rights and liberties of Title I of the Constitution (including Article 14 of the Constitution that prohibits any form of discrimination), they may offer a certain protection for victims of discrimination by public bodies. As of 2008 the government decree on the Council for the Promotion of Equal Treatment of All Persons without Discrimination on the Grounds of Racial or Ethnic Origins was signed. It has as yet no separate office.

France

The High Authority for Equality and the Elimination of Discrimination (HALDE) was created by law n°2004-1486 of 30 December 2004 as an equality body competent to deal with all grounds of discrimination.

The HALDE may receive complaints and launch investigations, and on that basis propose mediation between the alleged victim and the offender or request that a prosecution be launched. It may also file suit on its own initiative, particularly following 'situation tests' it is authorised to perform under the equal opportunity law of 2 April 2006. It also publishes reports and makes recommendations to authorities.

Ireland

The Equality Authority, an independent statutory body, was established on under the Employment Equality Act 1998. Its powers were expanded under the Equal Status Act 2000 and the Intoxicating Liquor Act 2003. In addition there exists a body of quasi-judicial specialist tribunals know collectively as the Equality Tribunal, which deal with complaints of discrimination (except in relation to licensed premises such as bars, clubs and hotels) on all of the nine grounds mentioned in the Equality Act 2004, including sexual orientation.

The Equality Authority has activities of a promotional nature geared towards the fulfilment of equality.

Italy

A decree of 11.12.2003 set up the Ufficio Nazionale Antidiscriminazioni Razziali (UNAR) [Office against Racial Discrimination] within the Department for Rights and Equal Opportunities. An extension of the competences of UNAR to discrimination on grounds other than race and ethnic origin is currently envisaged.

UNAR currently provides legal assistance for civil and administrative proceedings undertaken by victims of discrimination, through a specific Contact Center; and it has promotional and monitoring activities, including by research and surveys.

Cyprus

The Equality Commissioner was set up by the Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law, covering all grounds of discrimination.

The Commissioner may receive complaints alleging discrimination and, following an investigation, adopt a report on the case, address recommendations or orders, or impose fines.

Latvia

The 2005 amendments to the Law on the Latvian National Human Rights Office transformed the Valsts Cilvēktiesību birojs (VCB) [National Human Rights Office (NHRO)] into an equality body for all grounds of prohibited discrimination. On 01.01.2007, the Tiesībsarga birojs [Ombudsman's Office] was established on the basis of NHRO and took over the duty of the NHRO to work as a specialised body for the implementation of the principle of equal treatment. In addition, the Valsts Darba inspekcija [State Labour Inspectorate (SLI)] monitors compliance with the law in employment relations, and may adopt binding rulings, issue orders and express warnings within the scope of its competence.

The NHRO could, with the consent of the victim, file claims on the victim's behalf. It also had promotional activities. The Ombudsman's Office inherited both functions, but in addition may seek to mediate between the victim and offender (conciliation proceedings) or deliver nonbinding opinions about the alleged discrimination.

Lithuania

The Office of the Equal Opportunities Ombudsperson was created in 2005 by the Law on Equal Treatment, which expanded the mandate of the previous institution (the Ombudsman of Equal Opportunities for Men and Women) to all grounds of discrimination. In addition, the Valstybinė darbo inspekcija [State Labour Inspectorate], which in principle could impose administrative sanctions for violation of the anti-discrimination provisions of the Employment Code (although this in practice is quite infrequent).

The Equal Opportunities Ombudsperson may act on the basis of complaints, including anonymous complaints, or ex officio, and impose sanctions (fines) or injunctions which are of a binding nature. It may also provide information to investigatory bodies. It provides advice to victims. And it supervises the implementation of the Law on Equal Treatment, by reports, recommendations, or surveys.

Luxembourg

The Law of 28 November 2006 on equal treatment establishes a Centre for Equal Treatment (CET), which is operational since late 2007. The Labour and Mine Inspection Authority (Inspection du Travail et des Mines) supervises compliance with the Labour Code, including its Title V ('Equal Treatment in Employment and Occupation').

The CET is empowered to publish reports, opinions, recommendations, and carry out studies regarding discrimination issues, and assist victims of discrimination, although it cannot file legal proceedings. It covers age, gender, sexual orientation, religion/beliefs, origin, race.

Hungary

Article 13 of the ETA established the Egyenlő Bánásmód Hatóság (EBH) [Equal Treatment Authority] under the remit of the Minister of Social and Labour Affairs as an independent body, for all grounds of discrimination. It is assisted by the Equal Treatment Advisory Board, a group of independent experts. In addition, the Ombudsman for Civil Rights is competent where the alleged discrimination is committed by State bodies. Finally, Under the Act on Labour Supervision munkaügyi felügyelőségek [labour inspectorates] it examines compliance with non-discrimination provisions.

The EBH is vested with the power to assist and advise victims, to investigate complaints against alleged discriminations and to impose binding decisions, to file actions before courts on their own initiative. It also makes recommendations and publishes reports on discrimination. The Ombudsman may act on the basis of complaints or ex officio, request explanations from the public authorities, petition the Constitutional Court, seize the public prosecutor, or make recommendations. Finally, the labour inspectorates may impose injunctions or sanctions, in the form of fines, on the employer, where it appears that it has violated anti-discrimination provisions.

Malta

The National Commission for the Promotion of Equality (NCPE), set up in 2004, monitors the implementation of the Cap 456 Act to Promote Equality for Men and Women and of LN 85 of 2007 Equal Treatment of Persons Order. It deals with gender equality sex/gender and family responsibilities in employment, and racial/ethnic origin and gender in the provision of goods and services and their supply.

The Netherlands

The Equal Treatment Commission (ETC) is a semi-judicial independent body, to provide protection against discrimination in order to promote equal participation in life and/or society (Preamble ETA).

The opinions of the ETC, following (1) complaints from victims, (2) requests for guidance from courts or persons or organisations, or (3) ex officio inquiries, are nonbinding but nevertheless authoritative. If the ETC finds discrimination to have occurred, the aggrieved victim may go before a court to ask for this opinion to be ‘enforced’ in order to obtain damages. Grounds covered: sex, race, nationality, religion, sexual orientation, civil status, political conviction, belief (all since 1994), duration of employment relation (fulltime or part-time; since 1996), employment relation (permanent or temporary; since 2002), disability or chronic illness (since December 2003) and age (since May 2004).

Austria

At federal level are the Gleichbehandlungskommission (GBK) [Equal Treatment Commission (ETC)] – consisting of three Senates – and the Gleichbehandlungsanwaltschaft (GAW) [Ombud for Equal Treatment (OET)] – consisting of three ombudspersons with equivalent areas of responsibility.

Similarly, in the provinces, Equal Treatment Commissions adopt Gutachten (opinions) on individual discrimination cases, while Equal Treatment/Anti-discrimination Contact Points or Equal Treatment/Antidiscrimination Commissioners operate in order to support individuals.

Senate II of the ETC may receive complaints and following separate hearings of each party adopt non enforceable recommendations rather than effective sanctions, while the Anwältin für Gleichbehandlung in der Arbeitswelt (GAW II) [Ombud for Equal Treatment in employment irrespective of ethnic belonging, religion or belief, age or sexual orientation (OET II)] may represent victims.

Poland

New Plenipotentiary for Equal Treatment appointed in April 2008, covering gender, race, ethnic origin, nationality, religion or beliefs, political convictions, age, sexual orientation, civil (marital) and family status.

Its functions include: analyses and research, monitoring, collaboration with other bodies, local government and NGOs, preparation of draft laws, pronouncement of opinions about laws drafted by other bodies and taking actions aimed at eliminating or limiting the results of violations of the principle of equal treatment. It does not take individual complaints.

Portugal

The Statute Law [Decreto-Lei n.º 164/2007 (03.05.2007)] has expanded the competences of the Commission for Citizenship and Gender Equality (CIG) to citizenship, beyond its original focus on gender equality to all other grounds.

The CIG may assist victims of discrimination, but not represent them in court or bring legal proceedings on their own initiative. The CCGE may issue opinions and recommendations.

Romania

The National Council on Combating Discrimination (RNCD) was established in 2001 and covers all forms of discrimination. Its independence was strengthened in 2006, when it became an autonomous public authority under the control of the Parliament. For victims of discrimination by acts of public bodies, another avenue would seem to be the Avocatul Poporului [the Romanian Ombudsman].

In addition to promotional activities, the powers of the RNCD include mediating between the parties, providing support for the victims of discrimination, investigating complaints or acting ex officio, and adopting administrative sanctions (which may be appealed before the courts), as well as making recommendations about harmonisation of legal provisions with the equality principle.

Slovenia

The Zakon o delovnih razmerjih [Employment Relationships Act] establishes the Svet vlade za uresničevanje načela enakega obravnavanja [Council of the Government for the Implementation of the Principle of Equal Treatment]; and it provides that complaints may be filed with the Zagovornik načela enakosti [Equality Advocate]. In addition, since the Ombudsman is to protect human rights and basic freedoms in matters involving state bodies, local government bodies and statutory authorities, it too may provide an avenue for instances of discrimination.

While the Council of the Government for the Implementation of the Principle of Equal Treatment has promotional duties, the Equality Advocate may act on the basis of complaints leading to opinions and recommendations addressed to the author of the discrimination, and may also adopt advisory opinions.

Slovakia

The Anti-discrimination Act provides that the national human rights institution for Slovakia, the Slovenské národné stredisko pre ľudské práva (SNSLP) [Slovak National Centre for Human Rights (SNCHR)], shall assume the powers of an equality body, for all discrimination grounds.

SNCHR provides legal assistance to victims of discrimination, which may include representation in legal proceedings, and preparation of expert opinions on compliance with the principle of equal treatment. It may prepare reports and recommendations on the implementation of the principle of equal treatment.

Finland

The Ombudsman for Minorities deals only with discrimination on the grounds of ethnic origin and the Ombudsman for Equality deals with gender equality, including discrimination on the grounds of transsexuality but not sexual orientation. However, where discrimination is committed by State bodies a complaint may be filed before the Parliamentary Ombudsman or the Chancellor of Justice of the Government. And as regards employment, compliance by employers with anti-discrimination law is supervised by the Occupational Health and Safety Authority which may receive communications from employees, and carry out on-site inspections in the private sector.

Sweden

The Ombudsman supervises compliance with the Discrimination Act, works to ensure that discrimination associated with sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age does not occur in any areas of the life of Swedish Society, and also works in other respects to promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

Grounds of Discrimination covered: sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation and age.

United Kingdom

In Great Britain the Equality and Human Rights Commission (EHRC) was established under the Equality Act 2006 to replace specialised bodies concerning race, sex and disability discrimination with one generic equality body covering all heads of unlawful discrimination. In Northern Ireland responsibilities similar to those of the CEHR fall within the remit of the Equality Commission for Northern Ireland (ECNI).

In addition to promotional activities, the CEHR has powers to assist an individual who is, or may become, a party to legal proceedings. It may also conduct inquiries where discrimination may be occurring and issue an 'unlawful act' notice to an organisation where it considers an act of discrimination has occurred and can apply to a court or tribunal to enforce that notice.

Source: Olivier De Schutter, *Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States Part I – Legal Analysis* (European Union Agency for Fundamental Rights, 2008), pp. 41-52 (with some updates/modifications).