



Recommendations on equality bodies

European Disability Forum - Position Paper
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**Recommendations on EU binding standards on equality
bodies**



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Introduction

The European Disability Forum

The European Disability Forum (EDF) is an umbrella organisation of persons with disabilities that promotes the rights of over 100 million persons with disabilities in the European Union. We are a unique platform which brings together representative organisations of persons with disabilities from across Europe. We are run by persons with disabilities and their families, and as such represent a strong, united voice of persons with disabilities in Europe.

Purpose of the position paper

This document was prepared to contribute to the [consultation of the European Commission on binding standards on equality bodies](#). It provides recommendations to the European Union on the development of minimum standards on how equality bodies operate and how they can ensure they adequately and effectively protect the rights of persons with disabilities.

Acknowledgements

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The role of equality bodies

Equality bodies are public independent organisations assisting victims of discrimination, monitoring and reporting on discrimination issues, and contributing to an awareness of rights and a societal valuing of equality. They are legally required to do so in relation to one, some, or all of the grounds of discrimination covered by EU law, namely gender, race and ethnicity, age, sexual orientation, religion or belief, and disability.¹ They were first introduced by the EU law in 2000 under the [Race Equality Directive](#) (article 13) and further mentioned in the [Gender Recast Directive](#) (article 20), [Directive 2010/41/EU](#) (article 11) as well as the [Gender goods and services Directive](#) (article 12).

While they are established in all EU Member States and other European countries, there is no detailed binding guidance or standards for the setting up and the mandate of equality bodies.² This means that the role of equality bodies may vary from one country to another. For example, in some countries, equality bodies may formally decide on complaints through a decision or recommendation addressed to the parties, while in others it is not possible.

Equality bodies and disability

Under EU law disability-based discrimination is prohibited under the [Employment Equality Directive](#). This Directive, however, does not include the requirement for Member States to designate an equality body to work on the areas protected by the Directive. This means that national authorities do not have an obligation to designate an equality body to protect victims of discrimination based on disability at all.

In reality, the scope of most equality bodies very often goes beyond, especially in EU Member States whose equality laws cover the grounds of disability in any and all areas such as employment, education, health and access to goods and services.

Three EU Member States (Austria, Malta and Croatia) have established an equality body exclusively dealing with disability-based discrimination. Furthermore, several equality bodies have been designated by the State as the independent monitoring mechanism under article 33.2 of the CRPD.³ Therefore, in addition to their role of equality body, they are often

¹ Equinet website: <https://equineteurope.org/what-are-equality-bodies/>

² Non-binding standards were adopted by the European Commission and the Council of Europe's ECRI (European Commission against Racism and Intolerance) in 2018.

³ For example, in Belgium, Croatia, Czechia, France, Ireland, Latvia, and Malta.

also in charge of promoting, protecting and monitoring the implementation of the CRPD.

The importance of binding standards for equality bodies

Equality bodies play an important role to support victims of discrimination, but also to raise awareness and undertake research on discrimination. This is particularly true for discrimination based on disability. Disability has been recognised as an important ground of discrimination in many EU Member States. For example, it has been the main grounds for referral to the French equality body for many years.⁴

However, not all equality bodies are adequately equipped to combat discrimination and to support victims. Some persons with disabilities who are victims of discrimination may face more difficulties in receiving support from equality bodies depending on the scope of their mandate and their funding.

Binding standards on equality bodies are necessary to ensure that the role of equality bodies is harmonised in the EU and that all victims of discrimination receive adequate support. Such harmonisation should strengthen the anti-discrimination legal system and focus on outcomes, while taking into account the diversity of equality bodies.

Legal and policy framework on equality and non-discrimination

The EU and all its Member States committed to protect and promote the rights of persons with disabilities by ratifying the United Nations Convention on the Rights of Persons with Disabilities ([CRPD](#)).

Article 5 of the CRPD obliges the EU and its Member States to ensure equality before the law of all persons with disabilities. According to the Convention, they must “prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.”

Equality and non-discrimination of persons with disabilities is also protected under **articles 21 and 26 of the Charter of Fundamental Rights of the European Union**.

⁴ In 2020 disability-based complaints constitute 21.2%, or 1,102 complaints. See: [Décision du Défenseur des droits n°2021-078](#)

In 2015 the UN Committee on the Rights of Persons with Disabilities adopted specific recommendations to be followed by the EU in its [Concluding observations on the initial report of the EU](#). The Committee recommended that the EU “ensures that discrimination in all aspects on the grounds of disability is prohibited, including multiple and intersectional discrimination.” It also recommended to “take appropriate action to combat discrimination faced by persons with disabilities in accessing justice.”

The [EU Strategy on the Rights of Persons with Disabilities 2021-2030](#) recognises that a gap exists in EU law to ensure equal treatment of persons with disabilities outside the field of employment, such as social protection, healthcare, education and access to goods and services, including housing. In addition to the need of an EU legislation prohibiting discrimination in all areas of life, the European Commission announced that it would make, if appropriate, a legal proposal to strengthen the role of equality bodies.

Recommendations

EDF welcomes the European Commission’s intention to propose a legislation creating binding standards on equality bodies. We join Equinet in calling for an ambitious legislation:

1. Ensuring equality bodies have a comprehensive mandate and adequate powers
2. Ensuring full, legal independence of equality bodies
3. Equipping equality bodies with adequate resources

In addition, EDF calls on the EU to include the following proposals in the upcoming legislation:

- The mandate of equality bodies should **cover all areas of life and all forms of discrimination**, including direct discrimination, indirect discrimination, denial of reasonable accommodation to persons with disabilities, discrimination by association, intersectional forms of discrimination, harassment, sexual harassment, and instruction to discriminate, as well as victimisation and hate speech. They should also cover discrimination as a result of non-compliance with accessibility legislation.
- Equality bodies should have the **power to monitor discrimination in both the public and private sectors**.

- The legislation should create a **positive obligation for national authorities to raise-awareness on equality bodies**, including towards persons with disabilities and their representative organisations.
- **Information and communication, including discrimination reporting and complaint mechanisms, of equality bodies should be accessible to persons with disabilities.** Equality bodies should use accessible formats, including national sign language, Easy to Read and Braille.
- Equality bodies should have the **capacity to impose sanctions** when their recommendations are not followed by private or public organisations. Persons with disabilities victims of discrimination often report the impunity of perpetrators. Sanctions, redress and further obligation to comply with the equality legislation are needed in all EU Member States.
- Equality bodies should be capacitated to **collect disaggregated data on cases of discrimination**, such as the grounds of discrimination, intersectionality, and the area in which the discrimination took place (e.g., employment, education, access to good and services, health). They should also collect data on the perpetrators, and on how different groups are included in their activities and outreach.

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This document was prepared by Marine Uldry, EDF Human Rights Officer.

Contact: marine.uldry@edf-feph.org



The European Disability Forum
Mundo Madou
Avenue des Arts 7-8
1210 Brussels, Belgium.

www.edf-feph.org

info@edf-feph.org

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