



# New directives for equality bodies: A unified future

European View

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## Abstract

This article examines the impact of the EU's new standards for equality bodies (EBs), adopted on 7 May 2024, on their functionality and ability to address existing challenges. These EBs, established under the Race Directive of 2000, aim to combat discrimination and promote equality. However, despite the European Commission's non-binding 2018 recommendations, operational discrepancies among the member states persisted. The 2024 binding guidelines introduced minimum standards for the mandates, independence, effectiveness and resources of EBs, aligning with broader EU efforts to harmonise legislation. While the guidelines represent progress, the article concludes that more efforts are required. These include monitoring implementation, assessing impacts, and conducting bottom-up studies that incorporate the perspectives of citizens and discrimination victims. Such an approach is essential for developing a comprehensive understanding of EU anti-discrimination measures and fostering genuine equality across the Union.

## Keywords

Equality bodies, EU directives, Non-discrimination, EU legislation, Harmonisation, 2024 guidelines

## Introduction

The article provides a comprehensive review of the role of equality bodies (EBs) and the challenges they face, drawing on the work of Sottiaux and Vrielink (2012). EBs are government institutions dedicated to combating discrimination and promoting equal

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opportunities. They are independent bodies that focus on specific grounds for protection from discrimination. Their role includes providing support to discrimination victims, conducting investigations, publishing reports and making recommendations (European Union Agency for Fundamental Rights 2021; Sottiaux and Vrielink 2012).

In June 2018 the European Commission issued a recommendation to enhance the independence and effectiveness of EBs, setting minimum standards for their mandates and resources. A public consultation from December 2021 to March 2022 highlighted unresolved issues, prompting a 2022 initiative to introduce formal standards, approved on 7 May 2024 (Council of the EU 2024a). The newly adopted guidelines aim to strengthen the role and functioning of EBs across the member states. This is an important step in the fight against discrimination. However, further improvements could be made, as will be discussed below.

## History

Initially, the right to equal treatment played a significant role in shaping the internal market of the European Economic Community. Combating discrimination primarily facilitated market integration, with the first prohibition focused on nationality in order to support the free movement of workers, goods, services and capital. Gender-based pay discrimination in employment was also addressed (Belavusau and Henrard 2019; Farkas et al. 2020). As the EU evolved beyond economic goals to address a broader political agenda, its ambitions for equality expanded.

After the 1999 Amsterdam Treaty, new anti-discrimination laws were adopted (Belavusau and Henrard 2019). The Amsterdam Treaty increased the number of protected grounds, signalling a shift from an economic to a social ethos (Belavusau and Henrard 2019).

The Race Equality Directive (Council of the EU 2000a) addressed discrimination on the basis of race/ethnicity and its coverage was later expanded in three more directives covering goods and services (Council of the EU 2004), employment (European Parliament and Council 2006) and self-employment (European Parliament and Council 2010). The Framework Equality Directive (Council of the EU 2000b) addressed workplace discrimination based on disability, sexual orientation, religion and age (Sottiaux and Vrielink 2012; Lahuerta 2021).

The European Commission against Racism and Intolerance (ECRI), an independent monitoring body of the Council of Europe, recommended the establishment of EBs in the EU as early as 1997. The ECRI's recommendations outlined a framework focusing on independence, effectiveness and accessibility (Sottiaux and Vrielink 2012). The first EBs were established following the Race Directive of 2000 to combat discrimination and promote equality (Kádár 2018; Crowley 2024).

## Call to action

Although equality was a central focus, the enforcement and effectiveness of measures remained a challenge, as reflected in the limited outcomes of the 2018 recommendations. Despite the non-binding recommendations, significant discrepancies in the operations of the EBs remained across the member states. This situation led to the introduction of binding guidelines in May 2024, which aimed to set minimum standards for the independence, effectiveness and resources of EBs (Equinet n.d.; Crowley 2024). These guidelines responded to calls from organisations such as Equinet (The European Network of Equality Bodies) and the EBs themselves, which had long advocated for uniform standards to enhance anti-discrimination efforts (Kádár 2023; Salmon 2024). Equinet is a network organisation (Elizondo-Urrestarazu 2023) established in 2007 by the European Commission to monitor the implementation of European legislation and the effectiveness of the 46 national EBs in 34 European countries (De Witte 2012). Through its expert groups, members share experiences and knowledge; thus it plays a key role in the non-discrimination framework of the EU by mediating between national EBs and the EU institutions (Kádár 2018).

The ECRI increasingly recognised the need for minimum standards. This awareness arose from the disparate development of the EBs over time. The root causes of these disparities were fragmented legislation; delayed implementation by some member states; the significant EU expansions of 2004, 2007 and 2013; and the impact of economic crises on resources (Belavusau and Henrard 2019; Zygomalas 2020; Ammer et al. 2010). Concrete examples of such disparities can be seen in recent cases from several EU member states. Kádár and Polák (2023) describe two cases of ethnic discrimination at airports in Prague and Stockholm. In Czechia, the equality body lacked investigative powers and could not take effective action, while in Sweden, a lawsuit led to recognition of discrimination and compensation. These examples highlight the broader differences in the national enforcement mechanisms within the EU.

## Disparities among EBs in Europe

There are several causes of the described disparities in EBs, which can be seen from different levels and perspectives. First of all is the range of protected grounds they cover. Initially, EU anti-discrimination strategies focused on gender and nationality (Ammer et al. 2010). Directives 2000/43/EC and 2000/78/EC expanded this to include ethnicity, religion, sexual orientation, age and disability (Corella 2023). Many EBs, such as those in Austria and Sweden, expanded to cover a wider range of protected grounds, but those in other states retained a fragmented approach (Zygomalas 2020). Second, most EBs reported government funding as their primary resource (Ammer et al. 2010). Financial insufficiencies were common, exacerbated by the 2008 financial crisis, which impacted EBs' ability to fulfil their mandates, as seen in Norway and Lithuania (Lahuerta 2021). Third, bodies varied in their scope, being promotional, quasi-judicial or a combination of the two. While promotional bodies offered legal advice and awareness-raising campaigns, quasi-judicial bodies handled investigations and rulings on discrimination (Fobé

et al. 2024). Last but not least, independence is essential to EBs' effective functioning, which is evaluated through their financial, structural and policy autonomy (Ammer et al. 2010). While bodies such as Belgium's Unia were highly independent, others, like those in Austria, lacked financial autonomy, and were often influenced by political and economic pressures.

## **Need for standards**

The implementation of the directives on standards for EBs (Council of the EU 2024b; European Parliament and Council 2024) aims to enhance their mandates and resources to enable them to effectively promote equality and combat discrimination. These standards emphasise the need for strengthened independence, adequate funding and comprehensive powers, thereby giving the EBs the ability to better assist victims and address all forms of discrimination (Elizondo-Urrestarazu 2023). Member states are urged to ensure that EBs are adequately staffed and funded to support tasks such as data collection and public awareness raising. Furthermore, EBs should be empowered to issue opinions, conduct investigations and assist victims in legal proceedings. This reinforcement represents a milestone in the EU's commitment to equality and human dignity. The standards advocate for increased collaboration among EBs across the EU to create a coordinated approach to equality issues. Thus, the new rules aim to bolster EBs' role, with support from the European Parliament, Council and Commission (Council of the EU 2024).

The EU's Task Force on Equality, established in 2019, aims to mainstream equality across policies (European Commission 2022; European Commission n.d.(c)). It addresses structural inequalities through coordinated action, reinforcing the EU's commitment to equality mainstreaming in line with articles 8 and 10 of the Treaty on the Functioning of the European Union. Furthermore, Equinet has been instrumental in advocating for uniform standards and fostering cooperation among EBs (Equinet 2016).

## **Critical questions raised by the directives**

While the 2024 guidelines are a step in the right direction, further efforts are needed. Below we discuss some critical issues with regard to them. While the 2024 EU directives mark a significant step forward in standardising and empowering EBs, they raise important questions about their (long-term) impact.

### *Implementation in member states*

EU directives are part of secondary law, adopted according to the EU treaties. They set out goals that member states must achieve, while allowing flexibility in how they are implemented. The European Commission monitors implementation to ensure compliance and the attainment of objectives (see art. 288 of the Treaty on the Functioning of the European Union). The directives aim to achieve common outcomes, not uniform rules, and establish minimum standards for equality (Sanaullah 2022). This article questions the implementation process for the new guidelines, especially with regard to how

effectively they will be enforced. While the guidelines set minimum standards for the independence and resources of EBs, the ability of individual EU member states to meet these standards varies significantly. Financial limitations, political resistance or insufficient local legal frameworks may hinder the full implementation of the measures, as noted in previous assessments of the EBs in various member states (Ammer et al. 2010; Kádár 2023). Without robust enforcement mechanisms, such as those offered by the European Social Charter's Collective Complaints Procedure, the guidelines may fail to achieve their intended outcomes (Council of Europe n.d.(a)).

### *True independence?*

Another critical question raised is whether the new guidelines will succeed in ensuring true independence for EBs. Although financial and structural independence is emphasised in the guidelines, past experiences have shown that political pressures and insufficient funding often undermine the autonomy of these bodies, limiting their effectiveness (Ammer et al. 2010). There is an argument that the guidelines should go further to ensure that EBs can operate without political or economic interference, drawing lessons from international models such as the Paris Principles for national human rights institutions (Sottiaux and Vrielink 2012; European Union Agency for Fundamental Rights 2024).

### *Intersectionality, multiple discrimination and expanding the list of protected grounds*

While the guidelines represent progress, the list of protected grounds—such as sex, race and ethnicity—remains relatively narrow. The limited list naturally excludes certain grounds, creating gaps in protection for vulnerable groups. Expanding the list or using an open list of grounds aligns with the EU Charter of Fundamental Rights, which suggests an illustrative, non-exhaustive list, using the phrase ‘such as’ (Elizondo-Urrestarazu 2023; EU 2007, art. 21). This approach would reinforce certainty and legal recognition for underrepresented groups. The possibility of expanding the list of protected grounds to cover areas such as gender identity, health status and socio-economic background, as proposed by Equinet in their recent reports, should be examined. By including these new grounds, the EU could ensure more comprehensive protection for vulnerable populations (Ganty and Sanchez 2021).

EU legislation should also address intersectionality and multiple discrimination explicitly as these concepts focus on how overlapping characteristics (e.g. race, gender, disability) contribute to complex and compounded forms of discrimination. The failure to adequately incorporate multiple discrimination and intersectionality into legal frameworks means that certain forms of discrimination remain unaddressed, leaving individuals facing multiple disadvantages without sufficient legal protection (Elizondo-Urrestarazu 2023; Atrey 2019). This omission could result in the continued marginalisation of vulnerable groups not explicitly covered by the EU's anti-discrimination framework (Ganty and Sanchez 2021).

### *Enforcement and compliance*

The Paris Principles, adopted by the UN, set standards for national human rights institutions, classifying them as A-, B- or C-level organisations based on their compliance (European Network of National Human Rights Institutions 2024). The European Social Charter allows non-governmental organisations and unions to file complaints about violations, supporting the systematic enforcement of social rights (Council of Europe n.d.(a)). These mechanisms could inspire similar compliance measures for EBs (European Network of National Human Rights Institutions 2024). Drawing on international models such as the Paris Principles, it should be acknowledged that stronger mechanisms for enforcement and compliance are necessary to guarantee the independence and effectiveness of EBs (European Network of National Human Rights Institutions 2024). Mechanisms such as the European Social Charter's Collective Complaints Procedure could also be adapted to strengthen legal protection for social and economic rights (Council of Europe n.d.(c)).

### *Collaboration and coordination*

Collaboration between EBs and human rights institutions enhances their effectiveness through the sharing of knowledge and resources. It fosters integrated approaches to rights issues and strengthens EBs' voices on the international stage (Equinet 2011; Spencer and Harvey 2014). An overarching body could monitor performance, enabling consistently high standards and coordinated responses (Corella 2023). For example, Equinet supports cooperation without compromising independence (Equinet 2022) through its role as a coordinating entity for EBs across Europe. It plays a crucial part in fostering cooperation between bodies, helping to bridge the gap in resources and knowledge between more and less developed EBs.

### *Accreditation*

Accreditation (official recognition that an institution or individual meets an established standard) is vital to ensure EBs meet standards for independence and effectiveness (Europass n.d.; European Commission, n.d.(a)). While beneficial, it must be carefully managed to avoid reputational harm if poorly implemented (Farkas 2022). The 2024 directives seek to bolster this process, aiming to strengthen EBs across the EU (Equinet n.d.). This article also highlights the potential role of accreditation in ensuring that EBs meet certain standards of independence and transparency. Proper accreditation could serve as a valuable tool for improving the quality and performance of these bodies, provided it is carried out effectively (Europass n.d.; European Commission n.d.(a)).

### *Clear vision and indicators*

Finally, the need for continuous evaluation of the new guidelines leads to the recommendation that clear indicators should be used to measure their impact on EBs over time. There is a call for a more bottom-up approach to future assessments, including taking

into account the perspectives of citizens and the victims of discrimination, which could provide valuable insights into how effectively the new measures are working in practice (Crowley 2024).

## Conclusion

While the 2024 guidelines are a step in the right direction, further efforts are needed. These include ensuring that EBs have the necessary resources to function effectively and addressing a broader range of protected characteristics. Further efforts are needed to expand the list of protected grounds.

Furthermore, the research underscores the importance of collaboration and coordination between EBs and human rights institutions, which could amplify their impact. Lessons should be drawn from international models such as the Paris Principles for national human rights institutions. Through the support of organisations such as Equinet, these bodies could share resources and expertise, enhancing their overall effectiveness.

While these guidelines set minimum standards for the independence and resources of EBs, the ability of individual EU member states to meet these standards may vary significantly. Without robust enforcement mechanisms, the guidelines may fail to achieve their intended outcomes. Although financial and structural independence are emphasised in the guidelines, past experiences show that political pressures and insufficient funding have often undermined the autonomy of these bodies, limiting their effectiveness. Moving forward, this article recommends further research, particularly bottom-up studies that include the perspectives of citizens and the victims of discrimination, to assess the real-world impact of these new measures.

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