

Between Impartiality and Responsiveness Equality Bodies and Practices of Independence

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For Diversity



Against Discrimination

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Executive summary

Introduction

Specialised equality bodies promote equality of opportunities and combat discrimination on the grounds of, amongst others, gender, age, race and ethnicity, religion and belief, disability and sexual orientation in a range of areas including employment, education, health service, social security, housing, access to goods and services. These tasks can only be carried out to best effect, if these bodies have the means to perform their tasks independent from Governmental and non-governmental intervention¹.

While the exact wording differs, official documents that refer to equality bodies all state that member states should delegate enough powers to their specialised equality bodies so that these bodies can provide independent assistance to victims of discrimination in pursuing their complaints about discrimination, conduct independent surveys concerning discrimination, and publish independent reports and make recommendations on any issue relating to discrimination. In addition, specialised equality bodies should enjoy firm legal, financial and operational independence from both Governmental as well as non-governmental organisations.

In practice, however, the independence of specialised equality bodies varies greatly. It is found that these institutions differ in the amount of financial and personnel resources they have as well as in their ability to fulfil their tasks in an independent manner.

Given that independence is one of the crucial factors of equality bodies' day-to-day activities, Equinet – the European Network of Equality Bodies – decided to commission this research to identify potential barriers to the independence of equality bodies and best practices as well as approaches that could be implemented to maximise their independence

Perspectives on independence

This report *“Between impartiality and responsiveness. Equality Bodies and practices of independence”* focuses on the manner in which specialised equality bodies define independence for themselves; an overview of the strategies, practices and procedures they implement to give expression to this independence; an overview of the strategies, practices and procedures in their relations with the State and other key sectors; and an examination of the barriers experienced by specialised equality bodies in seeking to be independent and to operate their functions and powers independently. The report focuses on different dimensions of independence, mainly on managerial, policy, structural, financial, legal and interventional aspects of independence.

Managerial independence refers to the decision making competency of a public body over its resources. Policy independence is about the power of a public body to make programme or policy decisions. Structural independence refers to the level of political oversight, and financial independence to the level of dependence on Government funding. Legal independence refers to the amount of detail in the laws administered by the public body. The

¹ To this end, the principle of independence is prominently laid down in a number of key documents: the “Paris Principles”; Council of Europe’s ECRI general policy recommendation Nr 2 ; Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial and ethnic origin (Art. 13); Directive 2002/73/EC amending Council Directive 76/207/EEC (Gender Equality Directive) on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (art. 7 inserting art. 8a.); Directive 2004/113/EC implementing the principles of equal treatment between men and women in the access to and supply of goods and services (art. 12); Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (art. 20).

last dimension of formal independence is interventional independence which refers to the level of freedom of the public body from accounting and reporting requirements.

The research shows that independence forms an important prerequisite for the effective functioning of specialised equality bodies. However it is far from clear what is actually meant by independence. In the official documents it is stated that specialised equality bodies should fulfil their tasks in an 'independent manner', but the question whether this implies that these bodies should only *function* independently or that they should have an independent *status* is left unanswered.

It is extremely important to distinguish between the formal or *de iure* independence and the real or *de facto* independence of public bodies. *De iure* independence refers to the official prescriptions concerning the relationship between politicians and public bodies. The laws or regulations that created the public body or that delegated specific tasks to public bodies state how a political principal and its administrative agent should interact in *theory*. This report is exploring factors that affect levels of *de facto* independence of specialised equality bodies – the independence that the equality bodies enjoy in reality. What are the determinants of independence? Under which conditions do public bodies enjoy more or less independence?

One goal of this research was to examine whether there is a discrepancy between formally described principles of independence and the views of specialised equality bodies, and what the academic world can offer to both drafters of official documents and to practitioners in the field of equality as regards the formal design of independence.

According to Article 12 of 2004/113/EC Directive, the EU leaves discretion to member states to "designate and make the *necessary arrangements* for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex. These bodies *may form part of agencies* charged at *national level* with the defence of human rights or the safeguard of individuals' rights, or the implementation of the principle of equal treatment." Member states are only charged with ensuring "necessary arrangements"; whether the body will be "part of agencies at the national level" is up to the member state.

Compared with the provisions stated in the EU Directives, the Paris Principles and ECRI Recommendation Nr 2 seem to be more concerned with the organisational features of independence. It is important to list the following common provisions in these official documents concerning independence of specialised equality bodies as follows: function without interference from the state; allocation of organisational resources as management sees fit; free appointment of staff; be in possession of own premises; enjoy adequate and/or sufficient funding; free definition of tasks; to have clear legal mandates and legal terms of reference; pluralist representation of commissions and/or board; ability to communicate freely with the larger public; transparency.

This report contains some important insights on independence of respondents from the equality bodies. According to their views independence should be set forth in a constitutional text; equality bodies should be independent from both Government institutions as well as from private economic actors and equality bodies should enjoy the right to independently interpret national and EU legislation. They also underlined that equality bodies should not be affected by other Governmental bodies in terms of financial, structural and personnel matters; have sufficient means to conduct investigations independently and, if needed, conduct investigations against other public institutions, including the ministry that has an organisational supervisory role over the equality body.

Internal-administrative perspective

The research also focuses on an internal-administrative perspective of the issue of independence of equality bodies. It looks into what levels of financial, personnel and policy independence specialized equality bodies that participated in our survey report.

The internal-administrative perspective suggests that the independence of public bodies is a function of the internal and administrative resources they possess. In taking this perspective the research touches on two very important principles of the Paris Principles and the ECRI recommendation – personnel and financial resources. The research also focuses on the level of policy independence which refers to the independence of the equality body in carrying out its functions – a key requirement of the EU Directives.

The research found that in relation to financial independence of equality bodies:

- (1) between one half and two thirds of the equality bodies report substantial independence regarding the allocation of budget between personnel and running costs;
- (2) more than half of the equality bodies report substantial independence as regards shifting their resources between budget and investments;
- (3) the overwhelming majority of equality bodies has no independence in taking loans or shifting their budget over years.

The equality bodies are fairly independent with regard to their personnel management:

- (1) one half of the equality bodies are allowed to determine staff salaries;
- (2) more than half of the equality bodies report they can shape conditions for staff promotions;
- (3) two thirds of the equality bodies report high levels of independence in evaluating and appointing staff
- (4) more than half of the equality bodies report independence in being able to downsize their organisation.

With one or two exceptions the equality bodies all report virtually full policy independence in relation to provision of assistance, hearing of cases and issuing reports.

The research finds that equality bodies that have a separate legal status report substantially higher levels of personnel independence than equality bodies that are part of the Government. Bodies governed by a collegiate board report a slightly higher level of personnel independence concerning the setting of the level of salaries. On all other dimensions, having a separate legal status or not turns out to be associated with higher levels of personnel independence.

Being governed by a collegiate board or not and having a separate legal status or not turn out not to be that important for policy independence, for what we may conceive of equality bodies' main tasks, i.e. providing assistance, hearing and investigation, and issuing reports and surveys.

External and dynamic perspectives

The research also focused on the external control and dynamic theories of independence. The external control perspective suggests that the degree of independence of a public body is a function of the level of pressure exerted by its stakeholders. The research explores how equality bodies see their relationships with Governmental, political and societal stakeholders. The dynamic perspective suggests that the independence of a public body is a function of the kinds of interaction that occur between a public body and its stakeholders. The research explores which are the key events that can affect the independent working of equality bodies and how these bodies cope with these events.

The level of structural independence of specialised equality bodies is influenced by the levels of influence external stakeholders can exert on the functioning of specialised equality bodies. Independent equality bodies (i.e. those that have their own legal status and/or are governed by a collegiate board) experience higher levels of influence by stakeholders that are outside the state apparatus. Equality bodies that are part of the Government experience higher levels of influence from core Governmental stakeholders: Government and parent department.

Through these core Government stakeholders, they experience higher levels of influence of the EU – through the process of transposition of EU rules, we suppose – and consultants – that are usually hired by the departmental leadership. The more independent an equality body is, the more it is subject to (attempted) instances of influence from non-governmental rather than political actors.

The nature of the relationship between external stakeholders and equality bodies closely relates to the independence of equality bodies as some relationships may be supportive of practices of independence and others more inhibitive. The relationships with NGOs and political actors (parliament, political parties and Government) seem to be most important.

The relationship with NGOs is one of strategic partnership. It is strategic as equality bodies must maintain their neutrality and cannot always act in line with the NGOs, even when the same cause is served. It is a partnership because NGOs are an important source of information for equality bodies. At the same time, NGOs are not as restricted as those equality bodies which are not allowed to bring cases to the court. For equality bodies it is important to balance between neutrality and partnership.

The research finds that the relationship with the political realm is one that is full of uncertainty. Governments alter composition and direction and even when the composition and direction of Governments, and/or the political parties that form them, are clear from the outset, their stance towards equality bodies or equality policies is often a function of party or coalitional politics. In times where equality issues gain saliency, equality bodies gain the attention of these stakeholders.

Conclusions

The research finds that the views of equality bodies' of the concept of independence are closer to the definitions of the ECRI recommendation and the Paris Principles than to the independence provisions within the various EU Directives. The wording of the concept of independence that is laid down in these EU Directives has an open character and refers more to the *functioning* of equality bodies than their *status*. While we understand that most EU legislation requires open norms that need to be worked out by the member states, our findings, especially the self-reported perceptions of equality bodies in this research, suggest that equality bodies are in need of more concrete guidelines or norms that can help them to define their independence, both for themselves as well as in their dealings with their stakeholders. The definitions in several of the provisions of the ECRI Recommendation Nr 2 and the Paris Principles offer a 'handbook' type of use to equality bodies in developing working principles and practices of independence, but these official documents are not binding for member states.

The research emphasises the importance of structural independence for equality bodies. It has been found that bodies with higher levels of structural independence have systematically reported higher levels of personnel and financial independence than bodies that are part of the Government and/or governed by a single head. Equality bodies that do not have a separate legal status and/or bodies that are governed by a single head reported to be influenced by their parent ministry and Government more than by stakeholders outside the realms of central Government.

The research also shows that leadership has a tremendous importance for the (practices of) independence of equality bodies. Leadership needs to be without fear and adamant in advocating the cause of equality. Political management is important in steering their equality bodies through the dynamic and unpredictable political environment for the equality body. The leadership must be capable of managing the variety of relationships with NGOs across the full range of grounds covered by the legislation.

Equality bodies are often targets of framing by critics of equality issues. This is potentially harmful to the functioning of equality bodies as this framing over associates the equality body with one or two of the grounds. When framed by critics, the consequence for equality bodies

may be that political and societal support for their work declines. Leadership in counterframing is perhaps the most viable strategy that is available to equality bodies. With counterframing it is meant that equality bodies actively develop initiatives to draw a public image of themselves that prevents them being put in corners where they do not want to be.

This report does not identify specificities of individual national equality bodies but rather identifies trends in the definition of independence used, the strategies, procedures and practices deployed for independence and the barriers to independence identified. It is hoped that this report will contribute to the debate at the national and European level to support the independence of the specialised equality bodies through legislation, policy and guidelines, networking and mutual support and that it will inform and support the strategies, procedures and practices deployed by specialised equality bodies for independence.

Introduction

Specialised equality bodies promote equality of opportunity and combat discrimination. These bodies see to it that individual citizens are protected against discrimination on the grounds of, amongst others, age, gender, ethnicity, religion, disability, and sexual orientation in areas varying from employment, education, goods and services to housing and social security. These tasks can only be carried out to the best effect, if these bodies have the means to perform their tasks independent from Governmental and non-governmental intervention. To this end, the principle of independence is prominently laid down in a number of key documents: the Paris Principles², Council of Europe's European Commission against Racism and Intolerance (ECRI) general policy recommendation Nr 2³; and several Directives.⁴ Although the exact wording differs, these documents all state that member states should delegate enough powers to their specialised equality bodies so that these can provide independent assistance to victims of discrimination in pursuing their complaints about discrimination, conduct independent surveys concerning discrimination, and publish independent reports and make recommendations on any issue relating to discrimination. In addition, specialised equality bodies should enjoy firm legal, financial and operational independence from both Governmental as well as non-governmental organisations.

In practice, however, the independence of specialised equality bodies varies greatly. Although a recent evaluation of equality bodies established under the Racial Equality Directive⁵ found that the requirements for independence could not be adequately tested due to lack of information, it still found that specialised equality bodies across the EU differed in the amount of financial and personnel resources as well as the kind of competencies to fulfil their tasks in an independent manner. Our report in a way answers the call of the Holtmaat report to continue "research and monitoring (...) in order to make clear (...) whether the equality bodies that were officially designated to carry out the functions that were mentioned in that Article [13 Racial Equality Directive] are doing this in an independent and effective way" (European Commission 2007: 7). However, this report differs in scope as it does not confine itself to the Racial Equality Directive, but focuses on the requirement of independence that is laid down in all EU equal treatment legislation, the Paris Principles and ECRI Recommendation Nr 2.

Commissioned by Equinet, the European network of equality bodies, the starting point for this research project was to provide a description and overview of the approaches of academic scholars and international organisations on the issue of independence; a description of the manner in which specialised equality bodies define independence for themselves; an overview of the strategies, practices and procedures they implement to give expression to this independence as regards (a) assistance to victims, (b) conduct of surveys and (c) reports and recommendations; an overview of the strategies, practices and procedures through which they give expression to their independence in the manner in which they structure their relationships with the State and other key sectors; an examination of the barriers experienced by specialised equality bodies in seeking to be independent and to operate their functions and

² UN Commission on Human Rights Resolution 1992/54; See for Paris Principles <http://www.unhchr.ch/html/menu6/2/fs19.htm#annex> (consulted on April 4, 2008)

³ Council of Europe (1997). *ECRI general policy recommendation Nr 2. Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at the national level*. European Commission against Racism and Intolerance. Strasbourg.

⁴ [Directive 2000/43/EC](#) of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial and ethnic origin (Art. 13); [Directive 2002/73/WE](#) of 23 September 2002 amending Council Directive 76/207/EEC (Gender Equality Directive) on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (art. 7 inserting art. 8a.); [Directive 2004/113/EC](#) of 13 December 2004 implementing the principles of equal treatment between men and women in the access to and supply of goods and services (art. 12); [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 (recast) (art. 20); and the [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).

⁵ The 2007 report commissioned by the European Commission and drafted on behalf of the European Network of Legal Experts *Catalysts for Change? Equality Bodies according to the Directive 2000/43/EC* (the Holtmaat report)

powers independently; and an overview of good practices in relation to strategies, practices and procedures to give expression to their independence.

Starting from these research goals we developed and applied a framework for the study of independence of specialised equality bodies. We employed insights that were generated in earlier research on independence of public organisations within the fields of public administration and political science. These research domains have produced a wealth of insights on the conditions under which public organisations (may or may not) acquire independence from their environment. With the help of this conceptual framework, which is presented in Chapter 1 of this report, we are able to systematically distinguish between and examine a number of dimensions of independence of specialised equality bodies. In Chapter 2 we apply this framework on the self-reported definitions of independence of specialised equality bodies. In this context we compare the extent to which the views of specialised equality bodies differ from or correspond to the requirement of independence as stated in the key documents, on the one hand, and findings in public administration scholarship, on the other hand. At the same time, we use the insights from public administration scholarship as a yardstick to assess to what extent the principles of independence as stated in these key documents offer the necessary preconditions for the independence of equality bodies. In Chapter 3 then, we will present findings as regards the effects of the organisational form of equality bodies on levels of various dimensions of independence. The assessment of this causal link follows from the conclusion in Chapter 2 that in contrast to the insights generated from public administration research the organisational form of equality bodies is neglected in key official publications as an important determinant of independence. Moving from the organisational characteristics of specialised equality bodies to the environment of specialised equality bodies, Chapter 4 questions the relationship between specialised equality bodies and their stakeholders. Finally, the last part of this publication presents the main conclusions of this research report as well as a listing of recommendations for specialised equality bodies in order to enhance their independent functioning.

Chapter 1

Perspectives on Independence

Independence forms an important prerequisite for the effective functioning of specialised equality bodies, but as the Holtmaat-report correctly asserts, it is far from clear what is actually meant by independence (European Commission 2007: 16-17). In the official documents it is stated that specialised equality bodies should fulfil their tasks in an 'independent manner', but the question whether this implies that these bodies should only *function* independently or that they should have an independent *status* is left unanswered.

This question can be explored by consulting academic studies of independence. Independence is a well-researched area within the field of public administration.⁶ By drawing on insights from this field, we present in this section a framework that allows us to systematically study the various practices and determinants of independence of specialised equality bodies.

This chapter starts with the concept of independence (§ 2.1). We then present the various dimensions of independence as defined by public administration scholarship (§ 2.2). The following subsection discusses the distinction between *de iure* and *de facto* independence (§ 2.3). Finally, subsection § 2.4 shows that a given level of independence of public bodies is not a static quality of those bodies but a dynamic quality that may vary under certain conditions and events.

1. The concept of independence

Within any democratic system, a large number of tasks are carried out by public bodies (e.g. education, health and safety, regulation of financial markets, and equal treatment). These bodies perform these functions because delegation is imperative: elected politicians lack the time, expertise, and resources both to enact and implement laws, and delegate some of these tasks to (newly created or existing) public bodies. To perform their tasks, these bodies need a certain level of independence (or independence) from democratic oversight (Huber & Shipan 2002). If their independence from representative institutions is too weak, they run the danger of being micro-managed or ideologically misused by politicians and their parties. If their independence is too broad, as the theory goes, politicians and ultimately citizens-voters run the risk of having created public organisations who turn out to be non-responsive to democratic preferences (i.e. the problem of so-called 'runaway bureaucrats' in the literature).

Independence is thus a central concept in the study of the organisation and functioning of public bodies. At the same time, however, independence is a concept that is difficult to grasp. There does not exist an objective measure for how much independence a public body has or needs. This often depends on a variety of conditions, such as the constellation of preferences of multiple stakeholders in society as regards how to approach and implement a certain policy (Hammond & Knott 1986). Moreover, independence is a multi-dimensional entity: a body may decide by itself how to allocate its budget, but that budget may be entirely allocated or determined by parliament or the ministry (Verhoest et al 2004). There is also an important distinction between formal independence and *de facto* or real independence: the independence of a public body as it is stated within laws and statutes may not be equated with independence a body enjoys when it performs its tasks in reality (Yesilkagit 2004). Finally, independence is not a static quality of public sector bodies. The amount of independence a body enjoys may change from time to time, depending on changes in

⁶ A major ongoing research project within which the independence of public sector organisations is studied from a comparative perspective is the ESF COST Action (IS0601) project on the "Comparative Research into Current trends in Public sector Organization" (CRIPO). Yesilkagit is the Dutch member of the Management Committee of this COST Action (see for more information <http://www.cost.esf.org/index.php?id=1092>)

stakeholder constellations or the occurrence of (sudden) events in the environment of public bodies (Krause 1996).

2. The dimensions of independence

Christensen (2001) and Verhoest *et al.* (2004) offer an extensive classification of the various dimensions of public organisation independence. Christensen distinguishes between *structural*, *financial* and *legal* independence. Verhoest *et al* expand Christensen's list by adding *policy*, *managerial*, and *interventional* independence to it. The full list of dimensions of independence that is distinguished in this research project is as follows.

1. *Managerial independence:*

The decision-making competencies of public agencies concerning the choice and use of their resources (or organisational input) are an indication of managerial independence. A high level of managerial independence means that the equality body is exempted from formal rules concerning input management.

2. *Policy independence*

The level of discretionary authority of an equality body to decide how to make substantial programme or policy decisions is an indication of policy independence. Dependent on the level of detail of the policy decision of its superiors, the equality body has more or less policy independence. Independence is low or absent when decisions concerning policy instruments and programmatic decisions are taken by the Government without prior consultation with the equality body. The level of independence is high when the equality body is authorized to take these decisions itself.

3. *Structural independence*

The level of structural independence is measured as the extent in which agencies are shielded from direct political oversight. The level of structural independence can often be identified from the organisational form of a body and/or the legal basis on which a body is found. In terms of governance form, the structural independence of a body is high when a body is governed by a board or commission instead of a single head. In terms of legal status, a body's level of independence may be higher when a body has a separate legal status or personality, instead of being part of another Governmental body.

4. *Financial independence*

The financial independence of public bodies is the extent to which the body depends on Governmental funding or on its own revenues for its financial resources. In the former case, i.e. when a body is part of the departmental budget, the body is entirely dependent for its funding on the outcome of the ministerial allocation of funds among the various parts of the ministry. It has less independence than in the case where the body can generate its own funding through, for example, charging citizens for the services the body delivers.

5. *Legal independence*

Legal independence refers to the amount of detail in the rules and laws that a body administers. Some laws contain detailed provisions about how the body should interpret and apply the law in its field, whereas other laws and rules have a framework character and leave substantial discretion to the interpretation of the norms set out – which brings a high level of independence.

6. *Interventional independence*

The last dimension of formal independence is interventional independence. It refers to the extent to which the equality body is free from accounting and reporting requirements with respect to their decisions and the outcomes of these decisions (Verhoest *et al*, 2004). When an equality body faces possible sanctions as a result of control systems, it will hesitate to take decisions that might not be congruent with the Government's view.

3. Formal versus de facto (real) independence

When examining practices of independence of public bodies, it is extremely important to distinguish between the formal or *de iure* independence and the real or *de facto* independence of public bodies. *De iure* independence refers to the official prescriptions concerning the relationship between politicians and public bodies. The laws that created the body (or the laws and regulations that delegate specific tasks to public bodies) state how a political principal and its administrative agent should interact in *theory*. As such these laws spell out the rules of the game that should be obeyed when these actors interact with each other.

However, the conditions of independence as they are written down in the (founding) statutes of specialised equality bodies may turn out to be poor descriptions of the independence the body enjoys in reality. The Holtmaat-report already hinted at this caveat when it distinguished between independent status and functioning. Several empirical studies underscore this view. In an earlier study, Yesilkagit concluded that before a new body is created the “[R]ules, procedures, and competences may seem clear on paper as they inform all actors about the formal intentions of the designers. However, [after the body is created] the agency leadership can interpret the rules in a different way than politicians had in mind when they designed the rules” (Yesilkagit 2004: 535; see also Maggetti 2007).

The factors causing the discrepancy between *de facto* and *de iure* independence are manifold.

4. Determinants of de facto independence

Having distinguished between various dimensions of independence and between *de iure* and *de facto* independence, the question to which we now turn to concerns the factors that affect levels of *de facto* independence.⁷ What are the determinants of independence? Under which conditions do public bodies enjoy more or less independence? We can distinguish between three perspectives on *de facto* independence: an internal-administrative perspective, an external control perspective and a dynamic-adaptive perspective.

Internal-administrative theories of independence put public bodies at the centre of analysis. According to internal-administrative theories the independence of public bodies is a function of the organisation’s leadership, personnel and financial resources, competencies, identity and mission statement. If bodies are strong on all these indicators they can forge their independence from its direct environment. According to this perspective, public bodies are not passive takers of the discretion that their environment grants, but they are themselves active seekers or forgers of independence (Selznick 1957; Wilson 1989; Carpenter 2001).

In contrast to internal-administrative theories of independence, external control theories of independence conceive the degree of independence enjoyed by a public body as a function of the level of pressures exerted by stakeholders who are in the environment of the body. Hence, the more resources or powers an external stakeholder (e.g. interest groups, political parties, or ministries) possesses, the stronger the pressures these stakeholders can exert on a public body and the lesser the *de facto* independence of that body becomes (Weingast & Moran 1983; Kiewiet & McCubbins 1991; Furlong 1998).

Finally, dynamic-adaptive theories of independence see the level of independence as a function of the kinds of interactions that occur between a public body and its stakeholders. Whereas external control theories treat public bodies as discrete entities and internal administrative theories have an overt focus on bodies alone, dynamic-adaptive theories of independence claim that independence is a function of a complex pattern of interaction between public bodies and their (political) environment. The interactions consist of a mix of

⁷ As we are primarily interested in *practices* of independence, we will confine ourselves here primarily to *de facto* independence.

stimuli or signals that traverse from various venues in the environment to a body as well as from public bodies to stakeholders in the environment (Moe 1985; Wood & Waterman 1993; Krause 1996).

5. Framework of study

In the remainder of this report, we will assess the *de iure* and the *de facto* independence of specialised equality bodies along the dimensions of independence that are discussed in this chapter. We will also try to map out the most important determinants of *de facto* independence, using the three perspectives in § 2.4. If we understand the determinants that affect degrees of independence, we will better be able to point at and prescribe (best) practices of independence.

The next chapter (chapter 2) is devoted to the *de iure* independence of specialised equality bodies. There, we will (a) describe approaches of international organisations to the issue of independence; (b) describe the manner in which specialised equality bodies define independence for themselves; (c) compare these views with each other; and (d) compare these views with dimensions of *de iure* independence as these are found within academic research. The main goal of this section is to examine what the academic world (here confined to public administration) can possibly offer to both drafters of official documents, international organisations and practitioners in the field of equality as regards the formal design of independence.

The main focus in chapter 3 is on *de facto* independence from an internal-administrative perspective. In this section we will firstly present our findings concerning the independence that specialised equality bodies enjoy with regard to financial, personnel and policy independence. Building upon the conclusion of chapter 2 we will, secondly, test whether the degree of structural independence (i.e. the structure and legal status of a body) is indeed a determinant of *de facto* independence of specialised equality bodies. Finally, we will report on what the respondents that participated in our individual and focus group interviews had to say about the role of the leadership of specialised equality bodies.

In Chapter 4, then, our focus rests on external control and dynamic theories of independence. First, we will present findings concerning our respondents' perceptions about the relative importance of Governmental, political and societal stakeholders. We measure how important specialised equality bodies estimate the influence that, amongst others, ministries, NGOs, the courts, and political parties, exert on their independence. Second, specialised equality bodies operate in a dynamic environment that is shaped by (sudden) events, changes in Government, the enactment of new laws, and changes in the leadership of their body. Which are the most important events that affect their independent working and how do they try to cope with them? These and related questions form the main topic of this chapter.

6. Conclusion

The main conclusions from academic studies concerning the concept of independence can be summarized as follows:

- Independence is a multidimensional concept that is related to various aspects of organisations. We distinguish between managerial, policy, financial, structural, legal, and interventional independence.
- *De facto* (or real) independence must be distinguished from *de iure* (or formal) independence, as there may exist discrepancies between having a certain level of formal authority and the actual exercise of that authority.

- Independence is not a static asset of an organisation; rather it is dynamic as the level of independence may change over time, either as a result of legal changes (*de iure*) or the occurrence of certain events (*de facto*).

These insights that are mainly generated from public administration scholarship are used to set up a systematic framework with which the practices of independence of equality bodies can be studied.

Chapter 2

Official documents and equality bodies' perceptions of independence

This section is devoted to the *de iure* independence of specialised equality bodies. First, we will describe approaches of international organisations on the issue of independence (§2.1). Second, the manner in which specialised equality bodies define independence for themselves is described (§2.2). We then compare these views with each other in order to see whether the principles of independence as they are outlined in the official documents match the perceptions of the bodies concerning their desired level of independence (§2.3). We will also compare these views with dimensions of *de iure* independence as these are found within academic research.

The main goal of this section is to examine whether there exists a discrepancy between formally described principles of independence and the views of specialised equality bodies, and what the academic world (here confined to the study of public administration) can possibly offer to both drafters of official documents, international organisations and practitioners in the field of equality as regards the formal design of independence.

1. Principles of independence within official documents

Independence of specialised equality bodies is an established view within a number of Directives and a number of key official documents.

The Directives are:

- Article 13 of the Racial Equality Directive (2000/43/EC);
- Article 7 (inserting art. 8a) of Directive 2002/73/WE of 23 September 2002 amending Council Directive 76/207/EEC (Gender Equality Directive)
- Article 12 of Directive 2004/113/EC;
- Article 20 of Directive 2006/54/EC (recast);
- Article 20 of the Proposal for a Council Directive (COM(2008) 426 final).

Although the wording slightly differs per Directive (i.e. depending on the grounds for which the Directive was enacted), the independence is referred to in terms of the functioning of specialised equality bodies.

Specialised equality bodies should be able to:

- provide independent assistance to victims of discrimination in pursuing their complaints about discrimination;
- conduct independent surveys concerning discrimination; and
- publish independent reports and making recommendations on any issue relating to such discrimination

The European Union leaves the issue of status of the body to the member states. To cite art. 12 of 2004/113/EC, the EU leaves discretion to member states to “designate and make the *necessary arrangements* for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex. These bodies *may form part of agencies charged at national level* with the defence of human rights or the safeguard of individuals' rights, or the implementation of the principle of equal treatment [*italics ours*].” Member states are only charged with ensuring “necessary arrangements”; whether the body will be “part of agencies at the national level” is up to the member state.

Additional principles and conditions for the independence of specialised equality bodies are found in the following two official documents:

- Paris Principles (UN Commission on Human Rights Resolution 1992/54)
- Council of Europe's European Commission against Racism and Intolerance's (ECRI) Recommendation Nr 2

Compared with the provisions stated in the Directives, the Paris Principles and the ECRI Recommendation seem to be more concerned with the organisational features of independence. We can list the following common provisions concerning independence of specialised equality bodies as follows, in a non-hierarchical order:

- function without interference from the state
- allocation of organisational resources as management sees fit
- free appointment of staff
- be in possession of own premises
- enjoy adequate and/or sufficient funding
- free definition of tasks
- to have clear legal mandates and legal terms of reference
- pluralist representation of commissions and/or board
- ability to communicate freely with the larger public
- transparency

We may conclude that the principles outlined within the Directives and the official documents are complementary to each other. One can say that the principles in the latter documents are further specifications of the "necessary arrangements" that member states are required to take by the EU.

2. Principles of independence as reported by specialised equality bodies

The respondents from the bodies were asked in our survey to describe what, according to them, are the most important principles of independence that need fulfilling in order to function independently in practice. Respondents answered an open question within the survey. We here present some of the most representative statements. The statements are anonymous and cannot be traced to the specific respondents.

According to one of the respondents:

- independence should be set forth in a constitutional text;
- equality bodies should be independent from both Government institutions as well as from the private economic actors;
- there should be the possibility to make independent decisions with regard to the content of work as well as budget and personnel;
- equality bodies should enjoy the right to independently interpret national and EU legislation; and
- they should have the right to inform the public about discrimination issues.

Another respondent stated that equality bodies should not be subject to the hierarchical authority of the minister; that ministries are obliged to abide by their decisions and comply with its requests for information. It was also thought to be important that the conditions of nomination of the members of its council and of its president should be in such a way that the independence of the body was ensured. Internally, a body should have full power on setting its priorities and in choosing the means of action from among the powers that are conferred upon it by law.

Yet another respondent considered independence to mean that bodies could not be affected by other Governmental bodies in terms of financial, structural and personnel matters. In addition it should have the proper means to conduct investigations independently and, if

needed, conduct investigations into other public institutions, including the ministry that has an organisational supervisory role over the bodies. This means, according to this respondent, that there should be:

- full independence in investigation of cases
- independence in the organisation of the authority
- independence in the allocation of resources according to the size of the duties; and
- legally guaranteed independence in using the resources, without the possibility of changing the plans during the budgetary year

Finally, one of our respondents felt that independence went beyond each of the individual core competencies; that it concerns the culture and practice of the organisation itself. To be more specific, this respondent believes that independence is about:

- Controlling and deploying the resources as the body sees as most appropriate
- Building working relationships with stakeholders from all sectors behind shared objectives
- Integrity and having a public voice that is true to the statutory remit of the organisation and that does not bend to vested interests
- Taking position of solidarity with those experiencing inequality and discrimination
- Taking cases without fear or favour against respondents from all sectors
- Producing evidence based positions on and understandings of inequality and discrimination.

In addition to these answers some bodies sent us their legal charters. The national legal instruments (Acts, statutory instruments, decrees) we have seen during this research project contain provisions with regard to the independence of the body.

3. Comparison of formal-official and self-reported principles of independence

Table 2.1 below compares the principles of independence found in the EU Directives, (non-EU) international organisations' official documents, and the principles that are self-reported by our respondents from the specialised equality bodies. We use the various dimensions of independence that we discussed in chapter 1 as a benchmark.

One should remember, in this respect, that according to public administration research, these dimensions only stipulate the preconditions for the independent functioning of public bodies. In reality, it is hardly the case that all conditions are met, but most research shows that if public bodies meet a substantial number of these conditions, then the likelihood of independent functioning will increase.

The table shows that the principles outlined in the official documents and reported by the specialised equality bodies themselves have more in common than between these two categories and the principles outlined within the Directives. Of course, there is a marked difference in the nature of how these principles have been stated. The Paris Principles and the ECRI Recommendation are, in contrast to the Directives, non-binding documents. The fact that the principles of independence that are described within the Directives have an open nature is in line with the regulatory style of the EU. In general; the specification of norms is less stringent so that member states enjoy substantial discretion for making national-specific arrangements.

We further detected one difference between the principles of independence within the international organisations' official documents and the self-reported principles, namely the principle of structural independence. Although the provision of "need of own premises" as stated within the official documents seems to hint at the need of structural independence, it is not as clearly stated as is done by a majority of our respondents. Some respondents phrased this as "equality bodies should be independent from both Government institutions as well as

from the private economic actors"; others claimed that "independence in the organisation of the authority" would be an important condition for full independence of the body. Also many references were made with regard to the appointment of the director(s), board members, and commission(ers): this should respect procedures and rules that would guarantee the independence of the body.

This is an important observation in the light of the findings that academic research on independence has produced. For public bodies to be independent, structural independence forms a very important condition to be fulfilled. Compared to the other conditions it has somewhat more weight than other dimensions (Moe 1995; Horn 1995; Christensen 2001). Given the fact that this dimension is explicitly mentioned by a majority of the bodies that took part in this research and the fact that it is not explicitly mentioned within the official documents, we will pay specific attention to the possible effects structural independence has on other dimensions of independence, on the one hand (see chapter 3), and to what extent varying levels of structural independence have on the relationships specialised equality bodies have with stakeholders in their environment (see chapter 4).

Table 2.1 Principles of independence compared

| Dimensions of independence | Directives | International organisations' documents | Self-reported |
|----------------------------|------------|--|---------------|
| Managerial | X | X | X |
| Policy | X | X | X |
| Financial | | X | X |
| Structural | | | X |
| Legal | | X | X |
| Interventional | X | X | X |

There are several principles of independence that are mentioned within the official documents of international organisations as well as by equality bodies, but that are not entirely captured by the dimensions of independence that are found within the academic literature. Of these we consider the principle of "pluralist representation", as a precondition for independence, the most important one. The reason for this is that it is frequently and prominently mentioned.

If we look more closely at how independence is conceived by the drafters of the ECRI Recommendation and the Paris Principles (the Directives are silent on this issue) we see that independence is conceived of as the balancing of all interests prevalent in society. Both documents suggest a "pluralist representation" within the composition of the commissions and, inter alia, the staff of the equality bodies. It is implicitly assumed that independent functioning will be the resultant of a deliberative process that takes place between representatives of various religious and philosophical ideas, various Governmental departments, Members of Parliament from different political parties, women's associations and members of minority groups. It seems to us that the drafters of these documents have not taken into account the asymmetric power relationships between representatives from, on the one hand, Governmental departments, parliament and large interest groups (e.g. business interests) and the less powerful organisations of minority groups, women and other vulnerable groups.

We sincerely doubt whether the principle of 'pluralist representation' is actually an adequate condition of independence. For this principle to succeed, it is required that the political culture in a country or sector is consociational and that parties therein are intrinsically consensus-seeking (see Lijphart 1984). If not the principle of pluralist representation bears the danger that divergences of interests and inequalities in power bases that exist in society at large, are reproduced within decision-making realms of the specialised equality bodies.

4. Conclusion

This section compared the principles of independence as laid down in the official documents and EU Directives with the self-reported principles of independence by respondents of a number of specialised equality bodies. We can draw the following conclusions:

In empirical analyses of independence, studies found that structural independence is an important determinant of *de facto* independence. As Holtmaat correctly pointed out in her report, the official documents and EU Directives only point at independent *functioning*. The need for structural independence is expressed by a majority of specialised equality bodies, however. Although in general the views of these bodies concur to a very high degree with the views on independence laid down within the official documents of the United Nations and the Council of Europe, specialised equality bodies seem to be somewhat more adamant in desiring structural independence than those bodies. The extent in which specialised equality bodies' views on this are substantiated, will be examined the next section (chapter 3).

The provisions regarding independence within the EU Directives are much more implicit than in the international organisations' official documents. The EU Directives refer to independent performance rather than independent status. In theory and practice, the implications for independence may be the same; i.e. if bodies are capable of providing independent assistance to victims or conduct surveys independently, the formal status of equality bodies need not be problematic. However, EU Directives are binding on member states and these leave ample room for divergence in the implementation of the Directive. In terms of the harmonization of the practice of equality bodies, this may be problematic. Moreover, if we investigate the principles of independence as identified by the equality bodies, their definitions of independence lie closer to the definitions of the ECRI Recommendation and the Paris Principles.

In addition to this, we note the finding of the Holtmaat-report that the concepts like "assistance" and "hearing of cases" are difficult to distinguish from each other in practice (European Commission 2007: 5). This makes it difficult to compare *de facto* independence of equality bodies on the basis of the EU Directives.

The drafters of the ECRI Recommendation and the Paris Principles (the Directives are silent on this issue) conceive of independence as the balancing of all interests prevalent in society. Both documents suggest a "pluralist representation" within the composition of the commissions and, inter alia, the staff of the equality bodies. We point out, in the absence of a consensus-seeking political culture, the risks of asymmetric power relationships between representatives from Governmental and non-governmental organisations and between representatives of grounds that are better organised and representatives of grounds that are less well organised. This may lead to situations where 'all grounds are equal, but some are somewhat more equal than others'.

Chapter 3

An internal-administrative perspective

In this section we will examine the independence of specialised equality bodies from an internal-administrative perspective. The core of this perspective is the view that the independence of public bodies is a function of the internal and administrative resources that organisations possess; i.e. the more and/or better equipped and organised public bodies are, the more independency will they enjoy (see §4). Of the determinants of independence mentioned, we will here primarily focus on specialised equality bodies' personnel and financial resources.⁸ In doing so we measure the extent to which two of the most prominent principles of the Paris Principles and ECRI recommendation are met in practice.

We will also report on the levels of policy independence as reported by specialised equality bodies. The level of policy independence refers directly to the levels of independence with which specialised equality bodies provide independent assistance to victims of discrimination in pursuing their complaints about discrimination; conduct independent surveys concerning discrimination; and publish independent reports and making recommendations on any issue relating to such discrimination. In doing this we examine the extent in which specialised equality bodies perceive themselves to be independent to perform their core tasks as embodied in the European Directives.

Further, we will assess relationships between personnel, financial and policy independence on the one hand, and structural independence, on the other hand. As we already argued in the previous sections, structural independence is, within the academic field of public administration, perceived as one of the most important variables of *de facto* (real) independence. We also found that, although this principle is not made explicit within official documents or EU Directives, a majority of specialised equality bodies is quite insistent on seeing structural independence as a major condition of overall independence. These two observations warrant a test of the importance of structural independence on other dimensions of independence.

The central questions in this section are as follows:

- what is the level of personnel, financial, and policy independence of specialised equality bodies?
- is there a relationship between the level of structural independence of specialised equality bodies and levels of personnel, financial, and policy independence?

1. Financial, personnel and policy independence of specialised equality bodies

1.1 Financial independence

“Even if [they] don't interfere [...], [they] can just cut the money.” (adapted quote from a respondent)

Financial resources are what blood is to the body. Without sufficient financial resources, organisations suffer. However, having sufficient financial resources is not the same as

⁸ We do not discuss the role of leadership here. Leadership is Janus-faced determinant. On the one hand, the quality of leadership is an important determinant for the internal management of an organisation: the leader of the organisation must define their mission, inculcate and encourage the core values of the organisation among the staff, and manage the organisation as efficiently as possible. On the other hand, the organisation's leadership must manage the external relationships of the organisation: they must create supportive networks and coalitions, negotiate with stakeholders, and deal with critical events. In this research we have too little data for drawing inferences about the role of specialised equality bodies' leadership on internal-managerial roles. Most data on leadership concern the outward role of leaders, and this will be discussed in the next chapter (chapter 4).

financial independence. What are organisations allowed to do (or prevented from doing) with their financial resources is an equally important indicator of financial independence.⁹

We asked our respondents to rate the level of financial independence on four central indicators of financial management systems within public organisations. Measuring a body's degree of financial independence gives us insight into how much discretion the management of a body enjoys when it comes to the allocation of financial resources to its various tasks and programmes. These indicators are the possibility (for the management) (1) to shift resources between personnel and running costs, (2) to shift resources between budget and investments, (3) to take loans for investments, and (4) the possibility to shift the budget from one year to the next. The results are reported in table 3.1.

The table firstly shows that one-half to two-thirds of all the bodies (between 7 and 14) report substantial independence regarding the allocation of their budget between personnel and running costs. Secondly, slightly more than half of all bodies (11) report substantial independence as regards shifting their resources between budget and investments. Thirdly, the table shows that, by contrast, an overwhelming majority of bodies has no independence at all as regards taking loans for investments or shifting their (surplus) budget over (budgetary) years. In conclusion, about one-half to two-thirds of the specialized equality bodies enjoy a substantial level of financial independence *within the confines of a budget year*.

Table 3.1 Financial independence of equality bodies (absolute numbers)

| | Level of financial independence | | | Total (N) |
|--|---------------------------------|---|--|-----------|
| | No, not at all | Yes, but with prior approval or conditions set by (parent) ministry or Government | Yes, fully without prior approval or conditions set by (parent) ministry or Government | |
| Shift between personnel and running costs? | 7 | 7 | 7 | 21 |
| Shift between budget and investments? | 9 | 5 | 6 | 20 |
| Take loans for investments? | 18 | 1 | 1 | 20 |
| Shift budget over years? | 17 | 3 | 1 | 21 |

1.2. Personnel (HRM) independence

"We should be able to choose our own personnel [...] it would be interesting for us to have [more] sociologists, and we're not able to do that now." (adapted quote from a respondent)

Decisions concerning personnel policy are closely tied to those concerning financial management, as the bulk of the costs of organisations like specialised equality bodies concern personnel costs. Still, the degree of independence specialised equality bodies enjoy in terms of personnel management may be indicative of the extent to which the management is able to shape the organisation's expertise, culture and eventually performance. Table 3.2 sets out our findings for personnel independence. Specifically, we asked our respondents to what extent their bodies enjoyed independence in terms of (1) deciding the level of salaries,

⁹ We will not report on the size of budget. The variations are considerable and for a large number of bodies it is not clear how the budget of the body is distributed across its various tasks. Besides, the situation for each country can profoundly differ, such that comparing budget sizes is useless. See also the Holtmaat-report.

(2) shaping the conditions of promotion, (3) evaluating their personnel, (4) appointing their own personnel and (5) taking decisions to downsize their organisations.

Table 3.2. Personnel (HRM) independence of equality bodies (absolute numbers)

| | Level of personnel independence | | | Total (N) |
|----------------------------|---------------------------------|--|-----|-----------|
| | No | Only after approval of (parent) ministry or Government | Yes | |
| Salaries | 7 | 3 | 10 | 20 |
| Conditions for promotions | 6 | 1 | 12 | 19 |
| Evaluation of personnel | 4 | 0 | 15 | 19 |
| Appointment of personnel | 4 | 0 | 15 | 19 |
| Downsizing of organisation | 4 | 3 | 12 | 19 |

Table 3.2 shows that specialised equality bodies are fairly independent with regard to their personnel management. One-half is allowed to determine the salaries of its staff, while more than one-half of the bodies indicate that they enjoy discretionary room for shaping the conditions for promotions within their organisation. Two-thirds of the bodies report high levels of independence regarding the way they evaluate and appoint their personnel. Finally, more than one-half of the bodies report that they enjoy independence in their decisions about the downsizing of their organisation.

1.3 Policy independence

Our final measure of independence concerns the degree of independence to make decisions concerning the policy tasks of an organisation. Within the confines of this research, the policy independence of specialised equality bodies concerns the degree of freedom with which the management of a body can take decisions concerning:

- the provision of individual assistance to victims of discrimination
- the hearing and investigation of cases, and
- the issuing of surveys and reports.

The original response categories within the survey questionnaire were defined in terms of a seven-point scale, but due to the uneven scores, especially for the in-between response categories, we decided to collapse this scale for presentation purposes and let it range from:

- “The organisation itself takes the decision, the (parent) minister or Government is not involved/slightly involved/must be consulted/under explicit conditions set by minister”
- “The (parent) minister or Government takes the decision, after consultation of the body/without consultation of the body”,
- “Neither the minister nor the body takes the decision, since the involved legislation leaves no room for interpretation.

Given the highly uneven distribution of the answers, we will suffice with giving the response scores verbally:

With regard to the *independent provision of individual assistance*, 19 out of 21 bodies reported that they virtually enjoyed full independence (i.e. “The organisation itself takes the

decision, the minister/ministry is not involved...”); 1 body reported that “The organisation takes the decisions itself, after having explicitly consulted the minister/ministry”; and 1 body reported that “Neither the minister/ministry, nor the organisation decides on this matter, since the involved legislation leaves no room”.

With regard to *independent hearing and investigation of cases* 18 (of 19) bodies answered by stating that “The organisation takes the decisions itself, the minister/ministry is not involved”; only 1 body reported that “Neither the minister/ministry, nor the organisation decides on this matter, since the involved legislation leaves no room”

With regard to the independent issuing of surveys and reports 20 (of 21) bodies said that “The organisation takes the decisions itself, the minister/ministry is not involved...”; and 1 body reported that “The organisation takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process”.

In conclusion, with one or two exceptions all bodies report virtually full policy independence.

2 The effects of structural independence

2.1 Structural independence: governance structure and legal personality (legal status)

We now arrive at the second question in this chapter. Does the level of structural independence have any influence on the level of financial, personnel and policy independence? Is structural independence indeed an important determinant of independence as hypothesized in the previous chapter?

We use two often used indicators of structural independence: governance structure (i.e. is the body single-headed or headed by a collegiate board?) and legal personality or status (i.e. has the body its own charter or is it part of another Government entity?). Combining these two dimensions produces a typology of four bodies.

In our survey we find examples of each type of body (see Table 3.3). The first and largest group of bodies has a collegiate governing board and a separate legal status (i.e. they are not part of a ministry but have a legal basis that grants them a different position than a central Governmental ministry). This group is followed by bodies without a collegiate governing board but that have a separate legal status. Bodies without a separate legal status are in the minority (only 5 out of 22). Four of these bodies are headed by a director, commissioner or ombudsman. Only one body has its own legal basis.

Table 3.3 Structural independence of specialised equality bodies (absolute numbers)

| | | Organisation governed by council, board or commission? | | |
|------------------------|-------|--|----|-------|
| | | Yes | No | Total |
| Own legal personality? | Yes | 10 | 7 | 17 |
| | No | 1 | 4 | 5 |
| | Total | 11 | 11 | 22 |

The difference between bodies with and without a collegiate governing board and/or legal personality is important since the two dimensions may be an indicator for the amount of *de facto* independence the equality body enjoys in its day-to-day functioning.

Collegiate boards function as a shield for the organisation: it is to the board that the managing director and staff are answerable, not to the minister or ministry. Bodies with a governing board are out of reach for direct political interventions. *De facto* independence may be

substantial, as studies in the field of public administration have shown, when these bodies possess decision-making discretionary authority – it allows them to take decisions with relatively less influence from political principals.

By the same token, a legal personality sets a body even further away from the political orbit. Bodies that are part of a ministry fall under the regime of ministerial accountability. Although the commissioners responsible for the implementation of anti-discrimination laws may be given an independent position by law, the staff that prepares investigations, surveys, and reports will be, as civil servants, part of the ministerial hierarchy, and therewith amenable to political instructions. A separate legal personality also, *de iure* at least, restrains ministers or the Government from intervening in internal organisational affairs of the body; whereas in many countries the (re-)organisation of a ministerial department is the prerogative of the minister, bodies with a separate legal status usually fall under a different regime concerning its internal organisation than ordinary ministerial departments.

The question reformulated is hence: do any of these dimensions of structural independence exert any effect on the level of financial, personnel and policy independence of specialised equality bodies?

2.2 Structural and financial independence

Tables 3.4 and 3.5 display the differences between types of specialised equality bodies. Table 3.4 shows that bodies with a separate legal personality enjoy overall higher levels of financial independence than bodies without a separate legal status.

Table 3.4 Level of financial independence: equality bodies with and without a separate legal status

| | Separate legal status? | | Total (N) |
|--|------------------------|----------------|-----------|
| | Yes | No | |
| Shift between personnel and running costs? | 2.13 (0.81) | 1.60 (0.89) | 21 |
| Shift between budget and investments? | 1.93 (0.88) | 1.60 (0.89) | 20 |
| Take loans for investments?* | 1.20 (0.56) | 1.00 (0.00) | 20 |
| Shift budget over years? | 1.25 (0.58) | 1.20 (0.45) | 21 |

Significance levels of F-statistics: * $p < 0.10$. Standard deviations are in brackets

Table 3.5 produces similar results for specialised equality bodies that are governed by a collegiate body in comparison to those that are governed by a single head. The findings show a similar pattern as the one in table 3.5. Both tables indicate that equality bodies on the basis of their formal legal status and on the basis of their governance structure may be expected to be more independent than their respective counterparts, and are indeed more independent across these four financial management indicators than their counterparts.

Table 3.5 Level of financial independence: equality bodies with and without a collegiate board

| | Organisation governed by council, board or commission? | | Total (N) |
|---|--|----------------|-----------|
| | Yes | No | |
| Possibility to shift between the budget for personnel and running costs | 2.18 (0.75) | 1.80 (0.92) | 21 |
| Possibility to shift between the budget and investments | 1.90 (0.88) | 1.80 (0.92) | 20 |
| Possibility to take loans for investments** | 1.30 (0.68) | 1.00 (0.00) | 20 |
| Possibility to shift budget over years | 1.27 (0.65) | 1.20 (0.42) | 21 |

Significance levels of F-statistics: ** p < 0.01. Standard deviations are in brackets

2.3 Structural and personnel independence

Tables 3.6 and 3.7 yield mixed results: the results found for specialised equality bodies with and without a governing board (4.6) do not corroborate the findings for specialised equality bodies with and without a separate legal status (3.7).

Table 3.6 Level of personnel independence: equality bodies with and without a separate legal status

| | Separate legal status? | | Total (N) |
|-----------------------------|------------------------|----------------|-----------|
| | Yes | No | |
| Salaries* | 2.38 (0.89) | 1.25 (0.50) | 20 |
| Conditions for promotions | 2.47 (0.92) | 1.75 (0.96) | 19 |
| Evaluation of personnel* | 2.73 (0.70) | 2.00 (1.16) | 19 |
| Appointment of personnel | 2.60 (0.83) | 2.50 (1.00) | 19 |
| Downsizing the organisation | 2.47 (0.83) | 2.25 (0.96) | 19 |

Significance levels of F-statistics: * p < 0.1. Standard deviations are in brackets

Specialised equality bodies with a separate legal personality enjoy higher degrees of personnel independence than bodies without a separate legal status. The differences are significant for the decisions concerning the level of salaries and for decisions concerning the way personnel are evaluated. Although not significant, the difference is substantial for the possibility to take decisions concerning the promotion of personnel.

The situation is quite different when we compare bodies governed by either a collegiate body or a single head. Except for decisions concerning the level of salaries, respondents from bodies that are governed by a single head all reported higher levels of personnel independence than respondents from bodies governed by a collegiate body. There is no clear explanation for this at the moment of writing.

Table 3.7. Level of personnel independence: equality bodies with and without a collegiate governing board

| | Organisation governed by council, board or commission? | | Total (N) |
|-----------------------------|--|----------------|-----------|
| | Yes | No | |
| Salaries* | 2.18 (0.98) | 2.11 (0.93) | 20 |
| Conditions for promotions | 2.27 (1.01) | 2.38 (0.92) | 19 |
| Evaluation of personnel* | 2.45 (0.93) | 2.75 (0.71) | 19 |
| Appointment of personnel | 2.27 (1.01) | 3.00 (0.00) | 19 |
| Downsizing the organisation | 2.27 (0.91) | 2.63 (0.74) | 19 |

Significance levels of F-statistics: *** p < 0.001. Standard deviations are in brackets

2.4 Structural and policy independence

Almost all bodies responded that it was the organisation itself that took the decisions without interference from the minister. However, the comparison of the means of equality bodies with and without a separate legal personality shows that, except for decisions concerning the provision of individual assistance to victims of discrimination, the former type of bodies enjoy significantly more levels of independence than the latter group of bodies (see table 3.8).

Table 3.8 Level of policy independence: equality bodies with and without separate legal status

| | Separate legal status? | | Total (N) |
|--|------------------------|----------------|-----------|
| | Yes | No | |
| Decisions concerning provision of independent assistance | 6.62 (1.50) | 6.60 (0.89) | 21 |
| Decisions concerning independent hearing and investigation of cases*** | 7.00 (0.00) | 5.80 (2.68) | 19 |
| Decisions concerning independent issuing of surveys, reports*** | 7.00 (0.00) | 6.80 (0.45) | 21 |

Significance levels of F-statistics: *** p < 0.001. Standard deviations are in brackets

In other words, whereas the status of the legal personality of the bodies does not seem to explain the (high) level of independence they enjoy for making decisions concerning individual assistance and the independent issuing of reports and surveys, there is a difference between these types of bodies when it concerns the hearing and investigation of cases: bodies with a separate legal status enjoy a somewhat higher level of independence in these matters than bodies without a separate legal status.

Very interesting results are found when we compare equality bodies with and without a governing collegiate board (table 3.9). Here we find a reverse pattern. Instead of seeing, as we would expect, equality bodies with a collegiate governing board enjoying higher levels of policy independence, we find equality bodies with single head report a higher level of policy independence. All differences are statistically indicative. However, the differences are really small.

Besides, having already found that virtually all equality bodies have reported very high levels of policy independence, we should be cautious in drawing far-reaching conclusions regarding the relationship between structural and policy independence.

Table 3.9 Level of policy independence: equality bodies with and without a collegiate governing board

| | Organisation governed by council, board or commission? | | |
|--|--|----------------|-----------|
| | Yes | No | Total (N) |
| Decisions concerning provision of independent assistance* | 6.27 (1.85) | 7.00 (0.00) | 21 |
| Decisions concerning independent hearing and investigation of cases* | 6.33 (2.00) | 7.00 (0.00) | 19 |
| Decisions concerning independent issuing of surveys, reports* | 6.91 (0.30) | 7.00 (0.00) | 21 |

Significance levels of F-statistics: * $p < 0.05$. Standard deviations are in brackets

3. Conclusion

This section applied an internal-administrative perspective on the issue of independence of equality bodies. We examined what levels of financial, personnel and policy independence specialized equality bodies that participated in our survey reported. We then examined whether – and to what extent – the level of structural independence, measured in terms of governance structure and legal status (in line with how this variable is measured in public administration research), had an effect on the levels of financial, personnel and policy independence. Are bodies with a governing collegiate board and/or a separate legal status more independent than bodies that are governed by a single head and/or that are part of central Government?

Our conclusions can be summarized as follows:

As regards the level of financial independence, our findings show that about one-half to two-thirds of the specialized equality bodies report a substantial level of financial independence *within the confines of a budget year*. This means that most bodies do not have an accrual accounting regime or any other equivalent system. This does not preclude that a substantial number of equality bodies enjoy a highly flexible financial management regime as regards shifting resources from personnel to running costs and from budget to investments

As regards the level of personnel (HRM) independence, about one-half of the specialized equality bodies report certain degrees of freedom with regards to setting salaries, regulating promotions and decisions concerning the size of personnel (downsizing). More bodies report a high level of personnel independence regarding the appointment of staff and regulating and setting the standards of evaluation of its personnel.

As regards the level of policy independence: with one or two exceptions all equality bodies report virtually full policy independence concerning their tasks with regard to decisions concerning provision of independent assistance; decisions concerning independent hearing and investigation of cases; and decisions concerning independent issuing of surveys and reports.

The level of structural independence, a key variable according to public administration research (see chapter 1) and according to our respondents (see chapter 2), has an effect on the level of financial independence. Irrespective of whether structural independence was measured in terms of governance form or in terms of legal status, we found that bodies that are governed by a collegiate board and bodies with separate legal status (from Government) reported higher levels of financial independence (for all aspects of financial management) than bodies that were governed by a single head or bodies without a separate legal status.

The findings between levels of structural independence and levels of personnel independence are mixed. We found that equality bodies that have a separate legal status enjoyed substantially higher levels of personnel independence than equality bodies that are part of the Government. By contrast, bodies governed by a collegiate board enjoy a slightly (difference 0.07) higher level of personnel independence concerning the setting of the level of salaries. On all other dimensions, having a separate legal status is associated with higher levels of personnel independence.

The same pattern emerges when we assess the relationship between levels of structural independence and levels of policy independence. Legal status matters more than governance form; albeit that with one or two exceptions all bodies have reported virtually full policy independence.

In general, being governed by a collegiate board or not, or having a separate legal status or not, is not that important for what we may conceive of equality bodies' main tasks, i.e. providing assistance, hearing and investigation, and issuing reports and surveys. This is 'good news'. However, if we look at the variation in answers provided for the financial and personnel independence questions, we can see that, in general, equality bodies that enjoy higher levels of structural independence (preferably have a separate legal status) will have more leeway when addressing changing circumstances (e.g. re-allocating the organisational budget when new policy priorities emerge or when new staff must be recruited) than equality bodies that are part of the Government. So, all equality bodies report high levels of independence in terms of making decisions with respect to their core tasks, but some equality bodies are better equipped and facilitated to fulfil their goals than some other bodies.

Chapter 4

External and dynamic perspectives

In this section we will present the findings on the relationship between specialised equality bodies and stakeholders in their direct environment. More precisely, our focus and subsequent findings are founded upon external control and dynamic theories of independence. This section is structured as follows.

The following two sections (§1 and §2) adopt the external control perspective on independence. First, we will present our findings concerning specialised equality bodies perceptions of the relative importance of Governmental, political and societal stakeholders for their independence. We have measured how equality bodies estimate the influence that, amongst others, ministries, NGOs, the courts, and political parties, exert on their independence. Second, we have also measured the nature of the relationship between specialised equality bodies and their main stakeholders in their direct environment. It is not sufficient to know the relative influence of stakeholders on a body's independence, as it is equally important to know whether that influence is exerted within the context of "competitive", "strategic" or "partnership" type of relationship.

Finally, we turn our attention to a dynamic perspective on independence (§4.3). Potential constraints on (or opportunities for, for that matter) the functioning of specialised equality bodies do not only emanate from the attempts of stakeholders to influence the workings of a specialised equality body, but they may also emanate from events. Specialised equality bodies operate in a dynamic environment that is shaped by (sudden) events, changes in Government, the enactment of new laws, and changes in the leadership of their body. What are the most important events that affect their independent working and how do they try to cope with them?

As we already argued in the previous sections, structural independence is within the academic field of public administration perceived as one of the most important variables of *de facto* (overall) independence. For each dimension of the environment of specialised equality bodies, we will examine whether the level of structural independence of specialised equality bodies has an effect on the nature of the relationship with – and the level of influence of – stakeholders vis-à-vis equality bodies. We will also examine whether the level of structural independence has any influence on how equality bodies are affected by the dynamics of their environment.

1. Perceptions of stakeholder influence

Table 4.1 presents the ratings of the level of influence of various stakeholders as perceived by the respondents.¹⁰ A look at the ratings reveals that our respondents give more weight to non-governmental stakeholders than Governmental stakeholders. If we assess the results for this latter category we find that about half of the respondents do not give much weight to a number of prominent political institutions: political parties, ministries of finance, the parent ministry, and parliament. The relatively high scores for parent ministry and finance ministry, which are for most bodies the 'closest' stakeholders, in the "not at all" category is especially surprising. Of course, some of the bodies are created by their parliament and do not form part of the Government. The weight attached to the EU and the courts, by contrast, is striking. From the non-governmental stakeholder, the highest scores are for clients of equality bodies and civil society organisations, i.e. the NGOs. 47% and 40% of our respondents, respectively, rated these stakeholders as having "to a large extent" influence on their functioning. In sum,

¹⁰ We also asked our respondent to report levels of influence of stakeholders they deemed important but were not in this list. The bodies reported the following stakeholders: trade unions, scientists, the ombudsman, social partners, local government and business interests.

the EU, the courts, clients and civil society organisations are overall considered to have the highest level of influence on specialized equality bodies.

Table 4.1 Levels of perceived influence of stakeholders of specialised equality bodies (absolute numbers)

| | Level of perceived influence | | | Total (N) |
|-------------------------------------|------------------------------|----------------|------------|-----------|
| | To a large extent | To some extent | Not at all | |
| Parliament | 2 | 10 | 7 | 19 |
| Government | 2 | 13 | 4 | 19 |
| Minist(e)r(y) of parent department* | 1 | 9 | 6 | 16 |
| Minist(e)r(y) of finance | 0 | 11 | 8 | 19 |
| Other minister(ie)s | 1 | 13 | 5 | 19 |
| European Union | 6 | 10 | 3 | 19 |
| Courts | 7 | 10 | 3 | 20 |
| Political parties | 2 | 6 | 9 | 17 |
| Clients | 8 | 6 | 3 | 17 |
| Civil society organisations | 8 | 12 | 0 | 20 |
| Media | 1 | 13 | 4 | 18 |
| Consultants | 0 | 12 | 6 | 18 |
| Public opinion | 1 | 14 | 4 | 19 |

*if present. If a body did not fall under a ministry, it left this question blank

Does this finding also stand for all specialized equality bodies, regardless of their level of structural independence? Table 4.2 compares the perceived levels of influence of stakeholders for equality bodies with different governance forms and legal status. The overall picture is mixed. We will go through these findings by first comparing bodies with and without a separate legal status, then by comparing the ratings of bodies with and without a governing board, and finally, by assessing commonalities and differences between both categories of bodies.

Table 4.2 Levels of perceived influence of stakeholders by independent and non-independent equality bodies

| | Legal personality from the parent ministry?^ | | Governed by collegiate board?^^ | | N |
|-----------------------------|--|----------------|---------------------------------|------------------|----|
| | Yes | No | Yes | No | |
| Parliament | 1.80 (0.68) | 1.50 (0.58) | 1.67 (0.71) | 1.80 (0.63) | 19 |
| Government | 1.80 (0.56) | 2.25 (0.50) | 1.78 (0.67) | 2.00 (0.47) | 19 |
| Minister of parent ministry | 1.66 (0.65) | 1.75 (0.50) | 1.60** (0.70) | 1.83** (0.41) | 16 |
| Minister of finance | 1.60 (0.51) | 1.50 (0.58) | 1.44 (0.53) | 1.70 (0.48) | 19 |
| Other ministries | 1.80 (0.56) | 1.75 (0.50) | 1.89 (0.60) | 1.70 (0.48) | 19 |
| European Union | 2.13 (0.64) | 2.25 (0.96) | 2.11 (0.60) | 2.20 (0.79) | 19 |
| Courts | 2.25 (0.68) | 2.00 (0.82) | 2.30 (0.68) | 2.10 (0.74) | 20 |
| Political parties | 1.64 (0.75) | 1.33 (0.58) | 1.78 (0.83) | 1.37 (0.52) | 17 |

| | | | | | |
|-----------------------------|----------------|----------------|-----------------|-----------------|----|
| Clients | 2.31 (0.75) | 2.25 (0.96) | 2.62 (0.52) | 2.00 (0.87) | 17 |
| Civil society organisations | 2.33 (0.49) | 2.60 (0.55) | 2.40 (0.52) | 2.40 (0.52) | 20 |
| Media | 1.87 (0.52) | 1.67 (0.58) | 1.89 (0.60) | 1.78 (0.44) | 18 |
| Consultants | 1.64 (0.50) | 1.75 (0.50) | 1.56* (0.53) | 1.78* (0.44) | 18 |
| Public opinion | 1.93 (0.46) | 1.50 (0.58) | 1.89 (0.60) | 1.80 (0.42) | 19 |

^ T-test: no significant F-statistics 'separate legal personality'; ^^ * p > 0.10, ** p > 0.05

First, respondents from specialized equality bodies that have their *own legal status*, and hence form no part of the Government, have reported higher levels of influence than respondents from bodies without a separate legal status for the following eight stakeholders: parliament, the minister of finance, other ministries, the courts, political parties, clients, the media, and public opinion. It turns out that bodies *without a separate legal status* have reported to be more influenced by the following five stakeholders: the Government, parent ministry, the EU, civil society organisations, and consultants. From this we can see that bodies that have their own separate legal status are, as expected, to be more *stand alone* than bodies that are part of central Government.

Specialised equality bodies form part of a chain of authority that runs from the EU, central Government and parent department. Bodies without a separate legal status are in this way shielded from outside pressures that could affect them directly, such as the media, and public opinion. In this case, the influence of political parties, parliament, the finance minister, other ministers and the courts is mediated by the principle of ministerial accountability. Consultants' influence runs often through the top of the ministry: in cases of evaluations or reorganisations, consultants are hired by the ministerial leadership, and hence are perceived as instruments of ministerial authority. In sum, whereas bodies without a legal status find shelter under the principle of ministerial responsibility, bodies with a separate legal status find themselves in an open field where they have direct relationships with finance ministers (regularly), other ministers, political parties, media and public opinion (under specific circumstances), and the courts (when handling cases).

Second, does the governance form of a specialized equality body make a difference? Bodies that are governed by a collegiate board or commission have reported to experience higher levels of influence from the following six stakeholders: other ministries, the courts, political parties, clients, the media, and public opinion. By contrast, bodies governed by a single head (i.e. ombudsman, commissioner) reported higher levels of influence than their counterparts governed by collegiate boards for the following six stakeholders: parliament, Government, parent ministry, finance ministry, the EU, and consultants. The influence of civil society organisations was perceived as equally important by both types of bodies. We see that the same pattern re-emerges here, except for parliament, finance ministry and civil society organisations. Bodies governed by collegiate boards, i.e. bodies with higher levels of structural independence are, just like bodies with their own legal status, more exposed to stakeholders that *do not* stand in a direct hierarchical relationship with them (the EU, Government, parent ministry and related stakeholders such as consultants). Parliaments are perceived as more influential by single-headed bodies because perhaps the former have appointing powers for the heads of the latter.

Finally, when we combine both dimensions of structural independence we can find the following pattern emerges. Bodies with *no separate legal status that are governed by single headed executives* are more influenced by the EU, Government, parent department, and consultants. By contrast, bodies that have *their own legal status that are governed by a collegiate board* are influenced more by other ministers, the courts, political parties, clients, the media, and public opinion. Although the findings are mixed, this means that specialized equality bodies that are more independent in terms of their formal structure are more exposed

to stakeholders that are farther away from the Governmental core than bodies that are less independent; the latter perceive stakeholders from the Governmental core to be more influential than those outside the core.

2. The nature of stakeholder relationships

The level of perceived influence is an interesting finding, but on its own it does not say much about the nature of that influence. The (attempts to) influence by some stakeholder will be more adversarial than by some other stakeholders. In table 4.3, we listed the nature of relationship with stakeholders as perceived by our respondents. What is interesting in this table is not so much the lack of purely competitive relationships or pure partnerships, but that the majority of relationships are strategic. This means that relationships between specialized equality bodies and their stakeholders is subject to changing circumstances and conditions; sometimes these relationships assume the nature of partnership, other times they are competitive. This hints at a relatively high dynamic relationship.

This is very much the case, as our findings show, with political parties: all respondents have rated this relationship as strategic. The very reason for this is, we believe, the somewhat unpredictable nature of the political business cycle and the nature of party politics. In some countries, parliament is inhabited by a multitude of smaller parties. Herewith, the nature of the relationship with specialized equality bodies becomes “more subject to a political market” as “every party has an army of persons who they like to give a good post somewhere”. Although most laws state that members and staff of the equality bodies may not be explicitly members of any political party, it does not preclude political parties from having a person in their confidence in place in the equality body who is linked to their political party. “That is our biggest concern” (reference taken from an interview with one of our respondents). Even in political systems that are normally governed by majority coalitions or parties, due the political electoral cycles the nomination of board members, ombudsmen, commissioners and even sometimes the staff of bodies, becomes subject to party political calculation. Sometimes the political equilibrium is in favour of equality policies, sometimes it is not.

Another key finding is the competitive relationship with the minister of finance: almost half of the respondents (8 out of 19) considered this relationship to be competitive. Money is the primary cause for this. As one respondent told us “You’re always limited in this sense. Limited money, limited staff. We are not the ones to set our own budget.”

A notable result is that some bodies have indicated that pure partnerships exist between themselves and some civil society organisations. The relationship between equality bodies and NGO’s is one of the most debated ones during our research period.

Table 4.3 Perceptions of nature of relationship between specialised equality bodies and stakeholders (absolute numbers)

| | Nature of relationship | | | Total (N) |
|-----------------------------|------------------------|-----------|-------------|-----------|
| | Competition | Strategic | Partnership | |
| Parliament | 0 | 17 | 2 | 19 |
| Government | 2 | 15 | 3 | 19 |
| Minister of parent ministry | 1 | 9 | 4 | 15 |
| Minister of finance | 8 | 11 | 0 | 19 |
| Other ministries | 0 | 19 | 0 | 19 |
| European Union | 0 | 15 | 4 | 19 |
| Courts | 1 | 17 | 1 | 19 |
| Political parties | 0 | 18 | 0 | 18 |

| | | | | |
|-----------------------------|---|----|---|----|
| Clients | 0 | 10 | 7 | 17 |
| Civil society organisations | 1 | 14 | 6 | 21 |
| Media | 2 | 16 | 1 | 19 |
| Consultants | 0 | 13 | 3 | 16 |
| Public opinion | 1 | 17 | 2 | 20 |
| Advisory board | 0 | 2 | 6 | 8 |
| Governing board | 1 | 1 | 7 | 9 |

One of our respondents was quite clear that the relationship between NGO's and equality bodies was one of pure partnership:

I believe that we could give a bigger role to the NGO's. Some of the tasks that we carry out can also be performed by NGOs. Especially those who are really connected with people. Because they are there: they are working with and for people.

Some of the tasks that NGO's can do well is "going to court", for example, as some equality bodies "cannot go to court. We have to rely on NGOs to bring the cases forward".

The role of NGO's is equally important in matters of public affairs and public campaigns to raise the public's attention to equality issues. As a respondent told us

Of course, we can take care of the media part, because we can deal with the media [if we want] to have a big campaign. But having this kind of campaigns without the support of the field, that's not good.

However, the relationship with NGOs is also one of *strategic* partnership. The main difference between equality bodies and NGOs is that "As an equality body we can't be as radical as NGOs, we have to be strategic. It is kind of a negotiating game" (statement by a respondent).

The nature of the relationship between NGOs and equality bodies in most of the cases is perhaps best expressed in the following statement:

[Those working] with a specific ground within the body, rely and work together with the NGO's very much. They get useful feedback and they experience the role of NGO's as very positive. It does not hinder their [i.e. the body's] independence, because they take it as a feedback. They know and feel that they act independently. [Working with NGOs] is just a way of getting another point of view. But the decision is made within our body (statement by a respondent).

Then there is also the issue of competition between grounds and NGOs supporting specific grounds that some of our respondents experience in their countries.

[We have to cope with] the differences of power between different grounds of discrimination. Having different groups of persons on different directions, [sometimes even] working in the same building. [There we see clearly] competition between the grounds and movements. You can also see this in the civil society movement, in the NGO's. And if you have the civil society organisation [defending a specific ground] behind you, it is good related to facing another [sic] [representative of another ground]. (statement from one of our respondents)

Overall, then, our respondents have reported in interviews and focus group meetings that the relationship between their equality bodies and these groups is one characterized by partnership. However, equality bodies at the same time feel that it would be wrong to become strictly identified with the cause(s) of a particular interest group. These NGOs are an

important source of information for equality bodies. The main challenge for equality bodies is to remain impartial and responsive at the same time. As a respondent told us, equality bodies must learn at times to 'politely turn down' the offered cooperation or involvement of NGOs with specific cases or issues.

3. Influence of events: Dynamics of independence

Influence is not exerted statically by institutions, but events may affect equality bodies' functioning as well. We listed a number of likely events and asked our respondents to rate the level of influence these events may (have) exert(ed) on equality bodies' functioning. The results are presented in table 4.4.

The top three events are reflected in bold. The highest impact comes from the enactment of new or amendments to national legislation, directly followed by new or amended EU legislation. Third in line are court rulings, based on national or European legislation. The top three events all have to do with changes in the legal regime governing equality and/or the application or interpretation of these rules by the courts. Next are the occurrence of reorganisation (2.27), a new director (2.18), an exceptional case (2.14) and a mediated scandal (2.09). The first two are events that concern changes of or within the organisation of the body; the latter two are sudden occurrences of unusual instances. Least important are changes in Government and the utterances of opinion leaders (1.64 and 1.68, respectively). It also appears that equality bodies are less influenced by conflicts with stakeholders or with changes in the board attached to the body.

From our interviews and focus group meetings, the importance of a change of director or a change of chairperson or ombudsman is stressed several times. The leadership of a body, the personality of the top manager was considered by some of our respondents the most important determinant of independence. To several equality bodies the capacities and personality of the person or persons who form the apex of the body are crucial for the level of overall independence the body may acquire. Uncertainty arises whenever the leadership is about to leave the body and to be replaced by a successor because "then things might change. It really depends on that one person" (a statement from a respondent). The top manager should ideally be someone with a certain will to fight for the issue of equality and to fight for his or her organisation whenever it is threatened by external actors. He or she must also be capable of "building bridges. We don't want to be seen as a one-party equality body. [...] Very recently, we met with [the opposition]. We're doing what we can [not to get equated with the parties in power]" (statement by one of our respondents).

Top managers are Janus-faced. On the one hand, they must be capable of building the right organisational resources and hiring the best people; on the other hand, they must be capable of managing the political and often politicized environment of their bodies. And this latter situation occurs quite often. As it turned out during our interviews and focus group sessions, 'media scandals' or 'exceptional cases' in practice often mean to our respondents the "framing" of equality issues in the media. "Framing" is a process through which groups or persons (who are critical towards equality bodies or equal treatment on specific grounds) proactively associate equality bodies with specific issues (to the detriment of the reputation and the public perception of equality bodies). In some countries, for example, equality bodies are associated with gays, Muslim minorities, gender or racial issues; i.e. whereas in one country a specialized equality body is represented in or by the media as "friends of the gays", in others bodies are associated with "the (radical) Muslim cause" or they 'become' "the spokesmen for the immigrants". This framing posits these bodies in a specific label, which, depending on the saliency of each of these issues, may hamper their functioning as equality bodies for all (other) grounds of discrimination. It is here, then, that the role of the leadership becomes crucial, i.e. as "bridge builder" between many parties.

The importance of the top manager is grasped by the appointing authorities, as well, as in some cases the appointment of a chair or head was considered as a highly political procedure. One of our respondents noticed a shift within the recruitment procedures during

the last years. There is a clear tendency, according to this respondent, that the “Government really tries to influence that procedure.” Several respondents have therefore stressed the importance of a fixed term that would stretch beyond the electoral cycle in a given country – so that a chairman or head could sit out the Government that appointed him or her and not be dismissed immediately as soon as an incoming Government takes power.

The courts are often mentioned as important stakeholders. The relationship with the courts is mixed however. It is felt that judges in general are not always equipped with necessary insights with regard to equality laws and that consciousness-raising among judges should constitute an issue for equality bodies. Some of our respondents have noted that some courts can be quite conservative in their thinking (e.g. as regards gender relationships, homosexuality).

Table 4.4 Influence of events on equality bodies functioning

| | Events | | | Total (N) | Means (SD) |
|-------------------------------------|----------------|----------------|--------------|-----------|-------------|
| | High influence | Some influence | No influence | | |
| Change of Government | 1 | 9 | 12 | 22 | 1.64 (0.58) |
| Change of director | 10 | 6 | 6 | 22 | 2.18 (0.85) |
| Change of board members | 5 | 6 | 9 | 20 | 1.80 (0.83) |
| Change of board chairperson | 8 | 2 | 10 | 20 | 1.90 (0.97) |
| New or amended EU legislation | 18 | 4 | 0 | 22 | 2.82 (0.40) |
| New or amended national legislation | 21 | 1 | 0 | 22 | 2.95 (0.21) |
| Opinion leaders | 0 | 15 | 7 | 22 | 1.68 (0.48) |
| Mediatized scandals | 6 | 12 | 4 | 22 | 2.09 (0.68) |
| Reorganisation | 10 | 8 | 4 | 22 | 2.27 (0.77) |
| Exceptional case | 6 | 13 | 3 | 22 | 2.14 (0.64) |
| Conflict with opposing stakeholder | 7 | 13 | 2 | 22 | 1.77 (0.61) |
| Court decisions | 13 | 9 | 0 | 21 | 2.59 (0.50) |

Table 4.5 examines whether there exist differences in the level of influence as perceived by equality bodies with and without separate legal personality. The results show that perceived levels of influence of the various events differ per type of body. Equality bodies without a separate legal personality are more affected than bodies with a separate legal personality when a change of Government occurs, a director changes, opinion leaders come into publicity, and media scandals occur. Some findings are difficult to interpret without further analysis, but a few seem plausible. A change of Government will obviously affect a body that is part of central Government more than a body that is not. A change of Government implies no less than a change of political leadership. The effects of opinion leaders and media scandals may well be mediated through the political hierarchy via parliamentary questions or debates. By the same token, conflicts with a stakeholder will probably land softer with bodies that are shielded by ministerial accountability than within bodies that are more independent. This could explain why these two events affect bodies without a separate legal status more than bodies with a separate legal status. It is not easy to understand why new or amended EU and national legislation would affect bodies with a separate legal personality more than

they affect bodies without such a separate legal personality. Perhaps this is caused by the fact that the former have jurisdictions over more grounds and have the authority to take up cases. This last point may be a reason why bodies with a separate legal status have rated court decisions higher than bodies without a separate legal personality.

Table 4.5 Comparison of means of specialised equality bodies with and without a separate legal personality

| | Legal personality separate from the parent ministry | | Total (N) |
|--|---|----------------|-----------|
| | Yes | No | |
| Change of Government*** | 1.53 (0.62) | 2.00 (0.00) | 22 |
| Change of director | 2.12 (0.86) | 2.40 (0.89) | 22 |
| Change of board members | 1.80 (0.78) | 1.80 (1.10) | 20 |
| Change of board chair | 1.93 (0.96) | 1.80 (1.10) | 20 |
| New or amended EU legislation** | 2.88 (0.33) | 2.60 (0.55) | 22 |
| New or amended national legislation*** | 3.00 (0.00) | 2.80 (0.45) | 22 |
| Opinion leaders | 1.65 (0.49) | 1.80 (0.45) | 22 |
| Mediatized scandals | 2.06 (0.66) | 2.20 (0.84) | 22 |
| Reorganisation | 2.35 (0.70) | 2.00 (1.00) | 22 |
| An exceptional case** | 2.18 (0.53) | 2.00 (1.00) | 22 |
| Conflict with opposing stakeholders* | 1.82 (0.53) | 1.60 (0.89) | 22 |
| Court decision | 2.65 (0.49) | 2.40 (0.55) | 22 |

Significance F-statistics: *** $p > 0.001$, ** $p > 0.05$, * $p > 0.10$.

4. Conclusion

This section adopted the external control and dynamic perspectives on influence. The most important conclusions can be summarized as follows:

The level of structural independence of specialized equality bodies has an effect on the levels of influence external stakeholder can exert on the functioning of specialized equality bodies. The relationship, however, is not that straightforward that higher levels of structural independence are automatically associated with lower levels of external influence on these bodies. Rather, our results show that specialized equality bodies with different levels of structural independence are affected by different kinds of external stakeholders. Independent equality bodies, i.e. those that have their own legal status and/or are governed by a collegiate board, experience higher levels of influence by stakeholders that are outside the state apparatus. Equality bodies that are part of the Government experience higher levels of influence from core Governmental stakeholders: Government and parent department. Through these stakeholders, they experience higher levels of influence of the EU – through the process of transposition of EU rules, we suppose – and consultants – that are usually hired by the departmental leadership. One conclusion that we can draw is that the more independent an equality body is, the more it is subject to (attempted) instances of influence of non-governmental but political actors.

We also see that the level of structural independence can also affect the perceived levels of influence that various events can exert on equality bodies. Similarly, the results are not straightforward. Equality bodies without a separate legal personality are affected more than bodies with a separate legal personality when a change of Government occurs, a director changes, opinion leaders come into publicity, and media scandals occur. Some findings are difficult to interpret without further analysis, but a few seem probable. A change of Government will obviously affect a body that is part of central Government more than a body that is not. A change of Government implies no less than a change of political leadership. The effects of opinion leaders and media scandals may well be mediated through the political hierarchy via parliamentary questions or debates. By the same token, conflicts with a stakeholder will probably land softer with bodies that are shielded by ministerial accountability than within bodies that are more independent.

The nature of the relationships between external stakeholders and equality bodies is a second issue that closely relates to the independence of equality bodies, as some relationships may be supportive of practices of independence and others more inhibitive. Although the survey asked the respondents to value their relationships with a number of stakeholders, a few relationships came up for particular attention during the interviews and focus group meetings. The relationship with NGOs and political actors (parliament, political parties, and Government) seemed to be most important. The relationship with NGOs is one of strategic partnership: it is strategic as equality bodies must maintain their neutrality and cannot always act in line with the NGOs, even when the same cause is served; they are partnerships because NGOs are an important source of information for equality bodies. At the same time, NGOs are not restricted in the same way as some equality bodies that are not allowed to bring cases before courts. For equality bodies it is important to balance between neutrality and partnership. Under given circumstances, equality bodies must not shy away from "politely turning down" NGOs.

The relationship with the political realm is one that is besieged with uncertainty. Governments periodically alter their colours and even when the colours of Governments and/or the political parties that form them are clear from the outset, their stance towards equality bodies or to equality policies is often perceived to be a function of party or coalitional politics. In times where equality issues gain saliency, equality bodies gain the attention of these stakeholders. Depending on the political conjuncture towards equality issues, equality bodies may experience instances of political micro-management.

The role of agency leadership emerges as one of the most important concerns of equality bodies. The leadership of equality bodies has often been mentioned as one of the most important determinants of overall independence of equality bodies. Strong leadership increases the likelihood of more room for independent functioning. From the leadership is required that it not only manages the internal organisation in a proper way (e.g. sound financial and personnel management), but also that it is capable of political management of its environment. He/she/they must be (a) bridge builder(s) between different political parties, NGOs, Governmental ministries and other actors, on the one hand, and his/her/their body on the other hand.

Conclusions, considerations and recommendations

In this section we will recapitulate the most important conclusions of this report. We list our most important conclusions, which cluster around two observations: (1) the importance of structural independence and (2) the importance of leadership.

1. The importance of structural independence

As regards the equality bodies' own views and definitions of the concept of independence, we found that these views were closer to the definitions of the ECRI recommendation and the Paris Principles than to the independence provisions within the various EU Directives. The wording of the concept of independence that is laid down in these EU Directives have an open character and refer more to the *functioning* of equality bodies than to their *status*. While we understand that most EU legislation requires open norms that need to be worked out by the member states, our findings, especially the self-reported perceptions of equality bodies in this research, suggest that equality bodies are in need of more concrete guidelines or norms that can help them define their independence, both for themselves as well as in their dealings with their stakeholders. The definitions in several of the provisions of the ECRI Recommendation Nr 2 and the Paris Principles offer a 'handbook' type of use to equality bodies in developing working principles and practices of independence, but these official documents are not binding for member states.

Of course, in order to be effective administrative arrangements within the various member states are often better created within the existing administrative legacies and practices – we do not suggest a generic model for every country. The prevailing variety currently is substantial, however, and this has certain visible effects on the functioning of equality bodies. Throughout this report we have shown that bodies with higher levels of structural independence have systematically reported higher levels of personnel and financial independence than bodies that are part of the Government and/or governed by a single head. We also saw that bodies with a different legal status and/or governance form maintain different relationships with stakeholders in their environment. To be more precise, equality bodies that do not have a separate legal status and/or bodies that are governed by a single head reported to be influenced more by their parent ministry and Government than stakeholders outside the realms of central Government. Finally, the level of structural independence also turns out as an influential variable that affects the way equality bodies react to or cope with (sudden) events. Bodies with low levels of structural independence react more strongly to changes in their direct political environment than bodies with higher levels of structural independence.

Realizing that the structure of a body is a determinant which is difficult to influence – because it is Governments that design and create equality bodies - we underscore (instead of recommending) the importance of a separate legal status and collegiate top management structures for the independence of equality bodies. We may add, when one has to choose between these two dimensions of structural independence, that having a separate legal status seems to be somewhat more important for independent functioning than having a collegiate top management.

Equality bodies that lack a separate legal status and/or a governing board are more tuned to the Directives of their parent ministry and the Government. This may not only have negative aspects, however. Independent equality bodies that work in the structure of a ministry are less directly affected by pressure in relation to the way they fulfil their tasks. The principle of ministerial responsibility assures that their minister will dampen the effects of these external attempts to influence the functioning of equality bodies. This may have the positive impact of providing a tranquil environment to the staff of 'embedded' equality bodies in which they can specialize and focus on delivering their core services.

On the negative side, embedded equality bodies may be more vulnerable to changes in political leadership and to party and/or coalition politics. They run more risks of being

politicized by their own political masters. Equally problematic may be the fact that embedded equality bodies may stand at a further distance from NGOs and other societal sources of information than structurally independent equality bodies. NGOs can be very valuable partners and the ministerial or Governmental shield may obstruct NGOs and equality bodies from engaging with each other. More independent equality bodies reported higher levels of influence of NGOs than less independent bodies did.

Because the structure of equality bodies cannot be altered by other than political rulemaking, it is not practical to recommend to un-embed embedded bodies. What can be recommended is that, within the discretionary room available, the staff and leadership of embedded bodies keep developing relationships with the world outside the ministerial and Governmental orbits. They must seek the establishment and maintenance of channels through which NGOs can signal them and they can signal NGOs back. At the same time, embedded equality bodies may use their embeddedness as a strategic asset in their dealings with stakeholders with whom they maintain or engage in competitive relationships. The same goes for situations where sudden events may have a disturbing effect on the functioning of the equality body. Depending on the nature of the events, the umbrella of a (strong) minister can offer a safe haven when the environment of equality bodies (suddenly) becomes more dynamic.

2. The importance of leadership

Next to the importance of structural independence, we found that leadership does have a tremendous importance for the (practices of) independence of equality bodies. We must bear one caveat in mind, however. Leadership is a tricky concept: when things go wrong in organisations (or in society as a whole, for that matter) people call for more, better or just another kind of leadership. Nevertheless, leadership matters, just as structural independence does, and here we will describe the situations and conditions under which leadership does matter and how equality bodies can learn from these situations. We distinguish between three situations: (a) the management of the political environment, (b) the management of multiple grounds and NGOs, and (c) the politics of counterframing.

Political management

Good leaders need not be afraid and should be adamant in advocating the cause of equality. They must be capable of steering their equality bodies through varying political conjunctures as the political environment of equality bodies is highly dynamic and unpredictable. The unpredictability of the political realm finds its sources in electoral cycles, party politics, patronage and political appointments, changing public opinions and party preferences. Equality bodies must anticipate these changes. The leadership plays a crucial role as a political manager, therefore. The highly dynamic nature of the political environment forms a constant challenge to the legitimacy of equality bodies.

The leadership of *independent* equality bodies has slightly different challenges than their colleagues of bodies that are *embedded*, however. The former must face the challenge of 'input legitimacy': as these bodies do not reside under direct ministerial responsibility they must 'prove' their responsiveness towards multiple political stakeholders, due to changes of Government or changes in the Government's stance on equality issues. Whereas the leadership of independent equality bodies must see how to engage with multiple political stakeholders, the leadership of embedded bodies has only one political principal to face. This is no less difficult than the situation with which leaders of independent bodies are faced. Embedded bodies must offer 'independent assistance to victims of discrimination' and so on within a hierarchical setting. The minister in power must therefore respect the independent functioning of his/her equality body and together with the leadership of the body he or she must develop rules of the game that ensure the proper and independent functioning of the body.

The management of multiple grounds and NGOs

The leadership of equality bodies must be capable of managing the relationships with NGOs. NGOs form an important potential source of support for equality bodies. However, the

relationship with them is not under all circumstances one of pure partnership. First of all, NGOs may be in competition with one another. Movements and interest groups that support various grounds differ from each other in terms of their background, history, membership, and (financial) resources. In addition, grounds are perceived differently in different countries. Public opinion in some countries may be more conservative on certain grounds than on other grounds. Finally, the resources of equality bodies are, as if by definition, scarce and priorities have to be identified and balances struck across the different grounds. This can be even more problematic in countries that have separate bodies for the different grounds of discrimination. Building bridges and preventing to be seen as a body that treats some grounds “more equal” than others are the most important challenges for the leadership of equality bodies. This will be more of a challenge for the leadership of independent equality bodies than for the leadership of embedded bodies: the former stand alone whereas the act of balancing the needs and wants of NGOs in the latter case occurs under the aegis of the minister and Government. Here the ministerial structure can serve as a shield for the equality body in a positive sense.

The politics of counterframing

Framing is a political strategy that political proponents or opponents can use to mobilize support or, respectively, resistance for a specific issue. Equality bodies are often targets of framing by critics of equality issues. This can occur with all the grounds and in particular those of religion, ethnicity and race. Depending on the political conjuncture, equality bodies are framed as being the supporters of specific groups or trends in society. This is potentially harmful to the functioning of equality bodies. Equality bodies aim to retain their independence from any party or social group. When framed by critics, the consequence for equality bodies may be that political and societal support for their work declines.

Essentially, framing means that of all the grounds for which equality bodies have a competence, only one or two become highlighted. So, equality bodies that have competences for multiple grounds, become presented in the media as bodies that systematically decide in favour of specific target groups in society, while (1) this may not be the case at all, and (2) the total number of decisions and activities of a body for this ground may be few compared to the overall output of the body. Single-ground bodies do not experience this in this way, of course. Equality bodies with competences for just one of the politically salient grounds are immediately framed within the terms described above.

Counterframing is perhaps the most viable strategy that is available to equality bodies. With counterframing we mean that equality bodies actively develop initiatives to draw a public image of themselves that prevents them being put in corners where they do not want to be in. This does not necessarily have to mean that equality bodies must be mainly reactive to the framing attempts of critics; i.e. by tempering the image that is depicted or to counter the image in any direct sense. With counterframing we mean that the leadership should play a crucial role in building up a reputation and an image of the body as being crucial to issues across a range of core policy areas. For example, equality is an important precondition for flexible labour markets and economic growth (in the light of the Lisbon Agenda). Equality is a crucial precondition for sound human resource management policies within firms. The growing numbers of older people in advanced European industrial nations and the decline of the work force require a combat against the discrimination of the older people, women, disabled persons and minority ethnic groups on the labour market, for example.

For successful strategies of counterframing, the leadership of equality bodies should actively forge networks within broad areas of society and economy. When solidly anchored in policy areas that are generally considered to belong to the core areas of the national economy, equality bodies may gain leverage in their work within areas that are politically sensitive. In other words, equality bodies may become framed as partisan by their opponents for one ground. However, if the number and weight of support from other areas is strong, framing will not be potentially harmful to the interests of equality bodies.

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Annex 1

Overview of Methods of data collection

In order to execute a thorough analysis, the researchers have used a variety of methods to analyze the issue of independence. These methods were:

- document analysis
- survey
- focus groups
- interviews

Ad. 1 Document analysis

Relevant official publications, legal texts, other publications by (non-)governmental (international) organisations and reports were examined for reconstructing the descriptions-in-use and overview of approaches of academic scholars and international organisations.

Ad. 2 Survey analysis

A questionnaire has been send to key officials (e.g. directors, chairperson, secretaries of boards, financial or personnel directors) of all thirty equality bodies that are member(/observer) of Equinet. With the use of this survey, various elements of independence have been revealed (e.g. formal independence, the relationship with stakeholders), and the causal relation between some of the elements has been described.

Ad. 3 Focus groups

After the survey was carried out, a list of topics was drawn where the equality bodies had given dissimilar answers. With the use of this list, focus groups were conducted to elucidate these differences. Two sessions were held to clarify the findings from documents and the survey analysis (see Appendix 3 - focus groups).

Ad. 4 Interviews

With the use of several interviews, the researchers were able to get, 1) valuable data about the functioning of equality bodies that was relevant to include in the survey. And to obtain, 2) in-depth information about specific aspects that could not be analyzed by a survey solely, for example the national context within which certain equality bodies operate, or a certain event that had a considerable impact on the agency's functioning (see Appendix 3: interviews).

Annex 2

Survey Questionnaire

The practice of specialised equality bodies in implementing the principle of independence

Survey questionnaire

In commission of
EQUINET Secretariat - European Network of Equality Bodies



Universiteit Utrecht

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Background of the respondent(s)

A. What is your, main respondent, position within your organisation?

| |
|---|
| My formal position within the organisation is |
|---|

B. How many staff members have assisted in completing this questionnaire?

| |
|--|
| Number of respondents next to main respondent..... |
|--|

C. If other staff members have filled (parts of) the questionnaire, could you please indicate their formal positions within the organisation and which questions they have filled in between the brackets?

| Position other respondent(s) | Questions answered by respondent |
|------------------------------|----------------------------------|
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |

D. In which country is your organisation based?

| |
|--|
| |
|--|

Section 1. General questions

1. In what year was your organisation established in its current legal form as a specialised equal treatment body?

Year:

2 a. How many staff members did your organisation have by the end of 2007?

Numbers in FTE:

2 b. How many of the total number of staff members substantially (> 0,5 fte) worked on equal treatment?

3 a. What was the *total* budget of your organisation in (if applicable) 2004, 2005, 2006, 2007?

| | |
|-----------|---------------|
| Size 2004 | (x 1000 euro) |
| Size 2005 | (x 1000 euro) |
| Size 2006 | (x 1000 euro) |
| Size 2007 | (x 1000 euro) |

3 b. What was the size of the total budget *allocated to tasks concerning equal treatment* in (if applicable) 2004, 2005, 2006, 2007?

| | |
|-----------|---------------|
| Size 2004 | (x 1000 euro) |
| Size 2005 | (x 1000 euro) |
| Size 2006 | (x 1000 euro) |
| Size 2007 | (x 1000 euro) |

4. What is the main source of income of your organisation? (only one answer possible)

| |
|---|
| <input type="radio"/> Solely transfer/budget allocation/subsidies from Governmental bodies (both parent ministry and other bodies on the same and other Governmental levels) |
| <input type="radio"/> Mixed, but mainly transfer/budget allocation/subsidies from governmental bodies (both parent ministry and other bodies on the same and other governmental levels) |
| <input type="radio"/> Mixed, but mainly some kind of other sources of income (including self-generated income) |
| <input type="radio"/> Solely some kind of other sources of income (including self-generated income) |

5. Has your organisation a legal personality separate from that of the parent ministry?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

6. If your organisation has an own legal personality/corporate status, is it vested in:

| |
|--|
| <input type="radio"/> Civil law |
| <input type="radio"/> Administrative law |
| <input type="radio"/> Criminal law |
| <input type="radio"/> Other, namely..... |

7. If your organisation does not have legal personality separate from that of the state, then, is your organisation:

| |
|---|
| <input type="radio"/> Component of a ministerial ministry |
| <input type="radio"/> Independent (has some kind of independent status) within a ministerial ministry |
| <input type="radio"/> Other affiliation |

8. Given the administrative organisation in your country; which ministry is the *parent ministry* of your organisation, given the ties your organisation has with the ministry/ministry for the execution of your task?

| |
|--|
| The ministry responsible for: |
| <input type="radio"/> General public services |
| <input type="radio"/> Defence |
| <input type="radio"/> Public order and safety |
| <input type="radio"/> Justice and integration |
| <input type="radio"/> Economic affairs |
| <input type="radio"/> Environmental protection |
| <input type="radio"/> Housing and community amenities |
| <input type="radio"/> Health |
| <input type="radio"/> Recreation, culture and religion |
| <input type="radio"/> Education |
| <input type="radio"/> Social protection |
| <input type="radio"/> Foreign Affairs |
| <input type="radio"/> Other, namely... |

9 a. What is the *primary task* of your organisation?

| |
|---------------|
| Primary task: |
|---------------|

9 b. What is the *secondary task* of your organisation?

| |
|-----------------|
| Secondary task: |
|-----------------|

9 c. What is the *tertiary task* of your organisation?

| |
|----------------|
| Tertiary task: |
|----------------|

Section 2. Personnel policies

10. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the level of salaries?*

| |
|--|
| <input type="radio"/> Yes |
| <input type="radio"/> No |
| <input type="radio"/> Only after the approval of the mother ministry |

11. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the conditions for promotions?*

| |
|--|
| <input type="radio"/> Yes |
| <input type="radio"/> No |
| <input type="radio"/> Only after the approval of the mother ministry |

12. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the way of evaluating personnel?*

| |
|--|
| <input type="radio"/> Yes |
| <input type="radio"/> No |
| <input type="radio"/> Only after the approval of the mother ministry |

13. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning the way of appointing personnel?*

| |
|--|
| <input type="radio"/> Yes |
| <input type="radio"/> No |
| <input type="radio"/> Only after the approval of the mother ministry |

14. Provided that your organisation has its own staff, can the organisation without interference from the ministry *take decisions concerning general criteria of downsizing in the organisation?*

| |
|--|
| <input type="radio"/> Yes |
| <input type="radio"/> No |
| <input type="radio"/> Only after the approval of the mother ministry |

15. What is the most prevalent professional background of the staff at the following levels of your organisation?

| | Higher level | Meso level | Lower level |
|--|-----------------------|-----------------------|-----------------------|
| Technical training | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Medical training | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Economics | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Business administration | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Legal training | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Behavioral sciences (e.g. psychology, pedagogy, etc) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Political science and/or public administration | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| History | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Languages | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Administrative-financial training | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Section 3. Financial management

16. Can your organisation itself *shift between the budgets for personnel and running costs?*

Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry

Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry

No

17. Can your organisation itself *shift between the budgets for personnel or running costs on the one hand and investments on the other hand?*

Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry

Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry

No

18. Can your organisation itself *take loans for investments?*

Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry

Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry

No

19. Can your organisation itself *shift its budget over the course of a couple of years?*

Yes fully without conditions set by the minister/ministry and without prior approval from the minister/ministry

Yes within conditions set by the minister/ministry or with prior approval from the minister/ministry

No

Section 4. Execution of main tasks

20. With respect to giving assistance to victims, what is it that your organisation actually does predominantly when gives assistance to victims?

| |
|---|
| <input type="radio"/> My organisation predominantly/solely hears and investigates cases |
| <input type="radio"/> My organisation predominantly/solely provides independent assistance to victims |
| <input type="radio"/> A combination of both |
| <input type="radio"/> Other, ... |

21. For which ground(s) of discrimination does your organisation have formal legal authority?

| |
|--|
| <input type="radio"/> Sex |
| <input type="radio"/> Age |
| <input type="radio"/> Disability |
| <input type="radio"/> Race and ethnic origin |
| <input type="radio"/> Political opinion |
| <input type="radio"/> Nationality |
| <input type="radio"/> Religion |
| <input type="radio"/> Belief |
| <input type="radio"/> Sexual orientation |
| <input type="radio"/> Civil status |
| <input type="radio"/> Other, namely.... |

22. What is the scope that your organisation covers for these grounds?

| |
|---|
| <input type="radio"/> Employment |
| <input type="radio"/> Goods and services |
| <input type="radio"/> Education |
| <input type="radio"/> Other, namely |

23. With respect to the ground(s) your organisation covers, which of the following statements is most valid, for decisions concerning *the provision of independent assistance to victims*? (only one answer is possible)

| |
|--|
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry |
| <input type="radio"/> The <i>minister/ministry</i> takes the decisions, after having consulted the organisation |
| <input type="radio"/> The <i>minister/ministry</i> takes the decisions, independently of the organisation |
| <input type="radio"/> Neither the <i>minister/ministry</i> , nor the <i>organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter |

24. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, for decisions concerning *the hearing and investigation of cases and giving an judgment or opinion in individual cases*? (only one answer is possible)

| |
|---|
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation |
| <input type="radio"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter |

25. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, for decisions concerning *the issuing of surveys, reports and recommendations with the purpose of giving an advice in general to governments and non-governmental parties*? (only one answer is possible)

| |
|---|
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation |
| <input type="radio"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter |

26. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, with respect to decisions regarding *the allocation of personnel and financial resources between the grounds you cover?* (only one answer is possible)

| |
|---|
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation |
| <input type="radio"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter |

27. With respect to the discrimination ground(s) your organisation covers, which of the following statements is most valid, with respect to decisions regarding *the allocation of your organisation's budget between, on the one hand, the tasks aimed at assisting or hearing and investigating individual cases and, on the other hand, the issuing of general reports, surveys and recommendations aimed at other organisations?* (only one answer is possible)

| |
|---|
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is not involved in the decision-making process and sets no restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, the minister/ministry is only slightly involved in the decision-making process and sets only minor restrictions |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself, after having explicitly consulted the minister/ministry |
| <input type="radio"/> The <i>organisation</i> takes the decisions itself under explicit conditions or restrictions set by the minister/ministry |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, after having consulted the organisation |
| <input type="radio"/> <i>The minister/ministry</i> takes the decisions, independently of the organisation |
| <input type="radio"/> <i>Neither the minister/ministry, nor the organisation</i> decides on this matter, since the involved legislation leaves no room for discretion on this matter |

Section 5. Goals, audit and performance of the organisation

28. Are the goals of the organisation specified in *form of (quasi-)contract with parent minister* (e.g., covenant, performance agreements)?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

29. Are the goals of the organisation specified in *form of establishment statute or act*?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

30. Are the goals of the organisation specified in *subsidy documents*?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

31. Are the goals of the organisation specified in *budget allocation document/letter of allocation*?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

32. Are the goals of the organisation specified in *letter of regulation*?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

33. Are the goals of the organisation specified in *document focusing on individual objectives for the director of the organisation*?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

34. Are the goals of the organisation specified in *documents with only internal purpose within organisation*?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

35. Are the goals of the organisation specified in *other documents*?

| |
|--|
| <input type="radio"/> Yes, containing measurable targets |
| <input type="radio"/> Yes, without measurable targets |
| <input type="radio"/> No |

36. Is the organisation involved in the setting of (non-financial) organisational goals?

| |
|--|
| <input type="radio"/> We set the goals ourselves |
| <input type="radio"/> We set the goals after having consulted an elected authority (e.g. minister) or an administrative unit (e.g. parent ministry) |
| <input type="radio"/> We set the goals together with an elected authority (e.g. minister) or an administrative unit (e.g. parent ministry) as equal partners in a process of negotiation |
| <input type="radio"/> An elected authority (e.g. minister) or an administrative unit (e.g. parent ministry) sets the goals after having consulted our organisation |

37. How frequently does your organisation report about *results and achieved goals* (other than purely financial goals) to an elected authority (e.g. minister) or an administrative unit (e.g. parent ministry)?

| |
|---|
| <input type="radio"/> By monthly reports or more frequently |
| <input type="radio"/> By reports every 2 to 4 months |
| <input type="radio"/> By reports every half-year |
| <input type="radio"/> By yearly reports |
| <input type="radio"/> By reports with a frequency of less than one year |
| <input type="radio"/> No reporting/not applicable |

38. Who evaluates the achievement of goals by your organisation?

| |
|---|
| <input type="radio"/> The organisation itself |
| <input type="radio"/> The parent ministry and/or minister |
| <input type="radio"/> Third parties by order of the ministry and/or minister |
| <input type="radio"/> Third parties by order of the organisation itself (i.e. consultants, accountants) |

39 a. Are there rewards in case of good results or the achievement of goals/targets for the organisation?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

39 b. If 'yes' what are these rewards? (multiple answers are possible)

| |
|------------------|
| The rewards are: |
|------------------|

40. Are there sanctions in case of bad results or failure to achieve goals or targets?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

41. If 'yes' what are these sanctions? (multiple answers are possible)

| |
|--|
| |
|--|

Section 6. Governing structure of the organisation: Council, Board, Commission

42. Is your organisation governed by a council, board or a commission?

- | |
|---|
| <input type="radio"/> Yes (please fill in questions 43 to 51, and then continue with question 63) |
| <input type="radio"/> No (please go directly to questions 52 to 62, and then continue with question 63) |

43. What competences does this council, board or commission have?

- | |
|---|
| <input type="radio"/> Only decision-making competence |
| <input type="radio"/> Only advisory competence |
| <input type="radio"/> Both decision-making and advisory competences |
| <input type="radio"/> Other, namely |

44 a. By whom are the members of the council, board or commission appointed?

- | |
|--|
| <input type="radio"/> By the government or minister |
| <input type="radio"/> By the government or minister after nomination by or consultation of the organisation (e.g., management or staff members) |
| <input type="radio"/> By the organisation itself |
| <input type="radio"/> By the government or minister after nomination by or consultation of interest groups and/or stakeholders of the organisation |
| <input type="radio"/> By the parliament after nomination by minister or government |
| <input type="radio"/> By another actor, namely |

44 b. By whom is the chairperson or president of the council, board or commission appointed?

- | |
|--|
| <input type="radio"/> By the government or minister |
| <input type="radio"/> By the government or minister after nomination by or consultation of the organisation (e.g., management or staff members) |
| <input type="radio"/> By the council, board or commission of the organisation |
| <input type="radio"/> By the government or minister after nomination by or consultation of interest groups and/or stakeholders of the organisation |
| <input type="radio"/> By the parliament after nomination by minister or government |
| <input type="radio"/> By another actor, namely |

45 a. Are there central governmental representatives *with voting rights* in the council, board or commission?

- | |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

45 b. If yes, how many council, board or commission members are central governmental representatives *with voting rights*?

{number} out of {number} total members

46 a. Are there other (e.g. non-central) governmental representatives with voting rights in the council, board or commission?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

46 b. If yes, how many council, board or commission members are other (e.g. non-central) governmental representatives *with voting rights*?

{number} out of {number} total members

47 a. Are there members from organisations representing societal groups that are concerned with your core tasks (e.g. labour unions, women's organisations, ethnic minorities etc.) *with voting rights* in the council, board or commission?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

47 b. If yes, how many members from organisations representing societal groups that are concerned with your core tasks (e.g. labour unions, women's organisations, ethnic minorities etc.) are *with voting rights* in the council, board or commission?

{number} out of {number} total members

48 a. Are there members from other stakeholders *with voting rights* in the council, board or commission?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

48 b. If yes, how many members from other stakeholders have *voting rights* in the council, board or commission?

{number} out of {number} total members

49 a. Are there independent experts *with voting rights* in the council, board or commission?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

49 b. If yes, how many members with an expert background have *voting rights* in the council, board or commission?

{number} out of {number} total members

50. What is the professional background of members with an expert background?

| |
|---|
| <input type="checkbox"/> economics and/or business administration |
| <input type="checkbox"/> technical training |
| <input type="checkbox"/> medical training |
| <input type="checkbox"/> legal training |
| <input type="checkbox"/> behavioural sciences |
| <input type="checkbox"/> political science and/or public administration |
| <input type="checkbox"/> history |
| <input type="checkbox"/> linguistics |
| <input type="checkbox"/> other, namely... |

51 a. Are there members from the top management of the organisation *with voting rights* in the council, board or commission?

| |
|------------------------------|
| <input type="checkbox"/> Yes |
| <input type="checkbox"/> No |

51 b. If yes, how many members from the top management of the organisation *with voting rights* are in the council, board or commission?

{number} out of {number} total members

Section 7. Governing structure of the organisation: Director, Ombudsman, Commissioner

(i) Note: questions 52 to 62 should only be answered if your answer to question 42 was no.

52. By whom or what actor is the director, ombudsman, commissioner appointed?

| |
|---|
| <input type="radio"/> by a council, board or commission |
| <input type="radio"/> by government or minister |
| <input type="radio"/> by government or minister after nomination by or consultation of the board or of the organisation itself (i.e. management or staff members) |
| <input type="radio"/> by general council of the organisation (in case of company meeting of shareholders, general assembly) |
| <input type="radio"/> by parliament after nomination by minister or government |
| <input type="radio"/> by another actor, namely |

53. On what type of contract is the director, ombudsman, commissioner appointed?

| |
|--|
| <input type="radio"/> permanent/regular contract |
| <input type="radio"/> fixed term |

54. Is the director, ombudsman, commissioner evaluated by the government or minister?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

55. Is the director, ombudsman, commissioner evaluated by a (governing) board?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

56. Is the director, ombudsman, commissioner evaluated by the parliament?

| |
|---------------------------|
| <input type="radio"/> Yes |
| <input type="radio"/> No |

57. Is the director, ombudsman, commissioner evaluated by others?

| |
|--|
| <input type="radio"/> Yes, namely by.... |
| <input type="radio"/> No |

58. Is the director, ombudsman, commissioner accountable to the oversight authority on the basis of results and goal achievement?

| |
|--|
| <input type="radio"/> Yes, to a large extent |
|--|

| |
|---|
| <input type="radio"/> Yes, to some extent |
| <input type="radio"/> No |

59. Is the director, ombudsman, commissioner accountable on the basis of the general functioning of the organisation?

| |
|--|
| <input type="radio"/> Yes, to a large extent |
| <input type="radio"/> Yes, to some extent |
| <input type="radio"/> No |

60. Is the director, ombudsman, commissioner accountable on the basis of administration of financing, budgeting, and accounting?

| |
|--|
| <input type="radio"/> Yes, to a large extent |
| <input type="radio"/> Yes, to some extent |
| <input type="radio"/> No |

61. Is the director, ombudsman, commissioner accountable on the basis of legality or compliance to rules, regulations, and precepts?

| |
|--|
| <input type="radio"/> Yes, to a large extent |
| <input type="radio"/> Yes, to some extent |
| <input type="radio"/> No |

62. Is the director, ombudsman, commissioner accountable on the basis of other aspects?

| |
|---|
| <input type="radio"/> Yes, to a large extent. These aspects are |
| <input type="radio"/> Yes, to some extent |
| <input type="radio"/> No |

Section 8. Contact with stakeholders

63. How many times (approximately) does your organisation have formal contact (in formal steering meetings with written proceedings) with an elected authority (e.g. minister) or an administrative unit that can be considered the superior of your organisation (e.g. parent ministry)?

| |
|--|
| <input type="radio"/> Once or more times a week |
| <input type="radio"/> Once or more times a month |
| <input type="radio"/> Trimestrial |
| <input type="radio"/> Twice a year |
| <input type="radio"/> Once a year |
| <input type="radio"/> Never |
| <input type="radio"/> not relevant |

64. To what extent do the following stakeholders are taken into account by you, in one way or the other, whenever your organisation takes decisions with regard to policies regarding assistance to victims of discrimination, the conduct of surveys and the issuing of recommendations and opinions?

| | To a large extent | To some extent | Not at all |
|-------------------------------------|-----------------------|-----------------------|-----------------------|
| Parliament | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Government | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Minister of parent ministry | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Minister of finance and/or treasury | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other ministries | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| European Union | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Courts | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Political parties | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Clients | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Civil society organisations | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Media | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Consultants | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Public opinion | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Advisory board of organisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Governing board of organisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Others | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

65. If you have mentioned 'Others' in the table above, what is the identity of these stakeholders and how influential do you rate them

| Name stakeholder | To a large extent | To some extent | Not at all |
|------------------|-----------------------|-----------------------|-----------------------|
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

66. How would you describe your relationship with your stakeholders? ('1 = competitive, we almost always have different views', '2 = strategic, in certain situations we share the same views', '3 = partnership, we almost always share the same views')

| | 1 | 2 | 3 |
|-------------------------------------|-----------------------|-----------------------|-----------------------|
| Parliament | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Government | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Minister of parent ministry | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Minister of finance and/or treasury | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other ministries | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| European Union | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Courts | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Political parties | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Clients | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Civil society organisations | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Media | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Consultants | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Public opinion | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Advisory board of organisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Governing board of organisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Others: | | | |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

67. To what extent do the following events or situations with which your organisation may be confronted in practice, have an influence on the decision-making processes with regard to your core tasks?

| | Not relevant | No influence at all | Some influence | High influence | Very high influence |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Change of government | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Change of director | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Change of board members | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Change of board chairperson | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| New or amended <i>European</i> legislation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| New or amended <i>national</i> legislation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Public presentations by opinion leaders (i.e. political speeches) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Mediatised scandal related to equal treatment | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Reorganisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| An exceptional case | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Conflict with opposing stakeholders | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Entering of endurable partnership with stakeholders | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Court decision | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other | | | | | |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Section 9. Culture of the organisation

68. How would you characterise your organisation in terms of the following list of terms? ('1= not characteristic at all', '2 = not characteristic', '3 = most often not characteristic', '4 = neutral', '5 = somewhat characteristic', '6 = very characteristic' '7 = very much characteristic')

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Oriented at task fulfilment | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Innovative | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Attention for personnel development | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Trust in our organisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Respect for the individual rights of staff members | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| High attention for details | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Emphasis on quality of service delivery | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Promotion opportunities within the organisation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Financial rewards | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Conciseness | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Risk taking | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Give clients what they desire | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Hard working | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Empathy with staff members | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Integrity | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Equal payment for same functions | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Honesty | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Attention and care for staff members | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cooperation with colleagues | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Respect for clients | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Pay for performance | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Target oriented | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Prepared for | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| experimentation | | | | | | | |
| Precision | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Opportunities for moving ahead (in careers) | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Care for staff members | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Accuracy | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Team spirit | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Delivering promises made | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Results orientation | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Performance-driven pay | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Teamwork | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Tailor-made career development | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Cooperation within the organisation | ○ | ○ | ○ | ○ | ○ | ○ | ○ |

69. On a scale of 1 (=extremely poor) to 10 (= excellent) would you assess your organisation on the following items?

| | Score (from 1 to 10) |
|--|----------------------|
| Efficiency | |
| Effectiveness | |
| Quality of hearing and evaluating individual cases | |
| Quality of independent assistance to victims | |
| Quality of conducting surveys | |
| Quality of the conduct of recommendations | |
| Motivation of the staff members | |
| Satisfaction among the staff members | |
| Quality of the management | |
| Internal cohesion of the organisation | |
| Stability of the organisation within its environment | |
| Flexibility of the organisation | |
| Responsiveness of the organisation to the society | |
| Accountability of the organisations to society | |
| Democratic standards of service delivery | |

Section 10. Open questions

In this final section, we like to offer you the opportunity to comment in the form of answers to a number of open questions.

70. Definition of independence. How would you define for your organisation what the meaning of 'independence' would be with regard to your organisation's core competences?

71. Given your definition of independence above, how independent do you believe your organisation is in practice? Please also indicate whether, according to you, the level of independence of your organisation is stable or not over a substantial period of time.

72. What are, according to you, the most important factors that affect the level of independence of your organisation?

End of survey

This is the end of the survey. We sincerely thank you for your time and patience. Should you have additional comments or remarks, please feel free to state them below.

Should you have any other request for information or questions, please do not hesitate to contact the Equinet secretariat or the research team dr. Kutsal Yesilkagit. The addresses are given on the title page of this document

Annex 3

Topic list of focus groups & individual interviews

Focus group

In the focus group meetings, participants were asked to discuss issues concerning independence of equality bodies with each other. The discussion got structured into four main topics. For every topic, participants were first asked to write down their thoughts on that issue. Participants then shared these thoughts with each other and discussed them with the group. The topics discussed were the following:

1. *What is independence for your body? What does it mean?*
2. *Is there a difference between formal (de iure) independence and the actual, perceived, (de facto) independence?*
3. *What are obstacles for independent functioning in practice?*
4. *Are you able to 'manage independence'? Can you strategically cope with different challenges and obstacles?*

Interview

Parallel to the focus group meetings, interviews were held with several agency officials of equality bodies. In these interviews, interviewees were asked to talk about specific instances and/or cases during which practices of independence were prevalent. These practices of independence were split into two categories:

1. *The strategies, practices and procedures your equality body implements to give expression to this independence as regards (a) assistance to victims (b) conduct or surveys and (c) reports and recommendations.*
2. *The strategies, practices and procedures through which your equal treatment body gives expression to your body's independence in the manner in which your body structures its relationships with the State and other key sectors.*

Annex 4: List of Equinet members and participants to the research project

Ombud for Equal Treatment, Austria *

Centre for Equal Opportunities and Opposition to Racism, Belgium*

Institute for Equality between Women and Men, Belgium*

Commission for Protection against Discrimination, Bulgaria

Office of the Ombudsman, Croatia (Observer)

Office for the Commissioner for Administration, Cyprus*

Office of the Public Defender of Rights, Czech Republic (Observer)

Danish Institute for Human Rights, Denmark*

Gender Equality Commissioner, Estonia

Office of the Ombudsman for Minorities, Finland*

High Authority against Discrimination and for Equality, France*

Federal Anti-Discrimination Agency, Germany*

Equality and Human Right Commission, Great Britain*

Greek Ombudsman, Greece*

Equal Treatment Authority, Hungary*

Minorities Ombudsman, Hungary*

Equality Authority, Ireland*

National Office against Racial Discrimination, Italy

Office of the Ombudsman, Latvia*

Equal Opportunities Ombudsman, Lithuania*

Centre for Equal Treatment, Luxemburg

National Commission for the Promotion of Equality, Malta*

Equal Treatment Commission, Netherlands*

Equality Commission for Northern Ireland, Northern Ireland*

Equality and Anti-Discrimination Ombud, Norway*

Ministry of Labour and Social Policy, Department of Women, Family and Counteracting Discrimination, Poland (Observer)

Commission for Equality and against Racial Discrimination, Portugal*

High Commission for Immigration and Intercultural Dialogue, Portugal (Observer)

National Council for Combating Discrimination, Romania*

National Centre for Human Rights, Slovakia*

Office of Equal Opportunities, Slovenia*

Council for the Promotion of Equal Treatment and Non-Discrimination on the Grounds of Racial or Ethnic Origin, Spain*

Ombudsman against Ethnic Discrimination, Sweden*

(*): survey questionnaire respondent

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