

**José Luis Rodríguez Zapatero**  
**Prime Minister's Office**  
**Complejo de la Moncloa Avda Puerta de Hierro s/n**  
**28071 Madrid**  
**Spain**

Brussels, 23 November 2009

**Re: Proposal of the EU anti-discrimination Directive - Role and position of equality bodies**

Dear Prime Minister,

On behalf of the Equinet Executive Board, we wish to warmly welcome the upcoming EU Presidency under Spanish leadership starting as of 1 January 2010 and to encourage you to take necessary steps towards the development of legislation protecting against all grounds of discrimination in areas beyond the labour market.

Equinet will welcome your commitment to secure the adoption of 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 in areas beyond the labour market. On behalf of Equinet Executive Board, we are writing to encourage you to secure and retain provisions in the new Directive which would ensure the creation of effective and independent equality bodies.

EQUINET is the European Network of specialised Equality Bodies established across the Member States with statutory mandates to promote equality and combat discrimination. Our network aims to enhance cooperation between national equality institutions and seeks to act as a point of support for its members in the implementation of their core functions as defined in the existing anti-discrimination EU Directives 2000/43/EC, 2002/73/EC, 2004/113/EC and 2006/54/EC.

We are concerned about recent developments which took place within the Council of the European Union which could undermine the provisions of the original draft Directive in relation to the establishment of equality bodies.

The equality bodies are required to play a number of key roles in the implementation of the directive. These are as follows:

- providing independent assistance to victims of discrimination
- conducting independent surveys concerning discrimination
- publishing independent reports and making recommendations on any issue relating to discrimination.

Most of the equality bodies also perform a range of other functions including promotional and preventive roles. Research has demonstrated that the independent and effective functioning of equality bodies at national level is key to ensuring that equality legislation is effective and achieves the goals aspired to by the policy makers who developed and enacted it. However, it is important to ensure that equality bodies are established to agreed minimum standards if this contribution is to be secured.

The reference in the recital to the Draft Directive to the so called "Paris Principles" adopted by the UN General Assembly in resolution 48/134 of 20 December 1993 reflected an important advance in highlighting the importance of standards in the establishment of equality bodies if they are to make their full contribution. The Paris Principles establish standards that enjoy recognition across the world. They offer a valuable and broadly accepted yardstick for the establishment of equality bodies. It is of great importance that this recital and this reference to the Paris Principles be retained in the Directive. The Paris Principles offer the possibility of guiding Member states to the establishment of equality bodies fully able to carry out the functions accorded to them by legislation in a manner that ensures the new legislation is fully effective and meets the goals desired by policy makers.

EQUINET – European Network of Equality Bodies is also concerned about the proposed change of the wording of the Art.12 of the Directive proposal. The deletion of reference to the rights protected under the Directives 2000/43/EC and 2004/113/EC may undermine the meaning of the role of equality bodies in combating discrimination and could create misunderstanding in relation to their proper establishment.

In addition, Equinet also has concerns with changes to article 16 of the Directive proposal. This provision relates to the reporting procedure which requires the European Commission to produce a report every five years on the effectiveness of the Directive and where appropriate make proposals to revise the Directive. Equinet was pleased that article 16(1) of the Draft Directive states that national Equality Bodies shall communicate information to the European Commission to enable the Commission to draft their report. Equinet considers that national Equality Bodies have a vital role in monitoring the effectiveness of the Equality Directives and the provision entrenches that role in the report process. However the latest Council version of the Directive has removed this provision from article 16(1) and replaced it with a weaker provision in article 16(2) which states that the Commission's report shall take into account the viewpoints of national Equality Bodies.

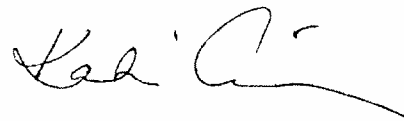
Equinet would also like to express its concerns in relation to the amendment of the definition of harassment, by means of the insertion of new text in the recital, proposed in the course of the works of the Council of the European Union. In our view, it is vital to maintain the original version of the definition which gives a clear guidance of the concept of this form of discrimination and has been already used successfully under the regime of the previous equality Directives. Introducing the new version of the definition of harassment could make the legislation very difficult to operate and could create unnecessary confusion.

Approaching the end of the current Swedish Presidency of the EU, Equinet believes that the European Union and the Spanish Presidency must not miss the opportunity to enable all Member States to create effective and independent equality bodies with necessary capacity to realise the policy ambitions held in the new equal treatment Directive. We are, therefore hopeful of a positive response to this letter. We would be happy to provide any further information or material that would assist your consideration of this matter.

Yours sincerely,



**Mandana Zarrehparvar**  
**Chair of EQUINET**  
Danish Institute for Human Rights



**Katri Linna**  
**EQUINET Board Member**  
Swedish Equality Ombudsman

CC:

- *Commissioner Vladimír Špidla, Commissioner for Employment, Social Affairs and Equal Opportunities*
- *Fredrik Reinfeldt, Prime Minister of Sweden*
- *Bibiana Aído Almagro, Spanish Minister of Equality*
- *Thomas Hammarberg, Commissioner for Human Rights, Council of Europe*
- *EU Member States Prime Ministers*
- *Heads of all Member States Permanent Representations to the EU*

*Note: This position does not necessarily reflect the position of and does not bind all individual members of EQUINET.*