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## **Moldovan Equality Council: A Monitoring Framework, Strategy & Process Report**

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## 1. Introduction

This report provides a review of the monitoring mechanisms and instruments of the Moldovan Equality Council. The review included the development of recommendations to further support the Equality Council in this area of its work.

This report has been prepared on the basis of a literature review and two meetings with key personnel in the Equality Council.

The report first establishes a perspective on the monitoring function of an equality body from the international standards available. It then draws from these standards, and from the current approaches being implemented by the Equality Council, to set out: a framework for monitoring; a strategy for monitoring; and a further evolution of internal monitoring processes. It concludes with conclusions and recommendations for consideration by the Equality Council. The current monitoring processes are set out in tabular format in an appendix.

## 2. International Standards

ECRI has published a revised standard for equality bodies that provide significant detail on: the conditions that need to be created for equality bodies to be independent and effective; and the operation of equality bodies in an independent and effective manner<sup>1</sup>. The ECRI standard for equality bodies has a strong focus on their monitoring function, understood in terms of:

- taking part in the consultation procedures for new policy, legislation and executive acts;
- monitoring existing policy, legislation and executive acts, and making recommendations for the modification or introduction of policy, legislation or executive acts;
- monitoring implementation of their own recommendations from casework;
- monitoring execution of decisions of institutions, adjudicatory bodies, and the courts dealing with equality, discrimination and intolerance;
- monitoring the implementation of statutory duties under equal treatment legislation; and
- monitoring implementation of the recommendations of relevant intergovernmental organisation.

The ECRI standard points to a range of tools that equality bodies need to be able to deploy in this monitoring work. These include:

- conducting a dialogue with those to whom their casework recommendations are addressed to explain these recommendations, show how they could be implemented, and motivate the persons responsible to take action;
- engaging in regular discussion of key issues and the implementation of legislative and policy recommendations, with highest level decision-makers in the legislature and the executive;

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<sup>1</sup> ECRI [General Policy Recommendation No. 2](#): Equality Bodies to Combat Racism and Intolerance at the National Level, Council of Europe, Strasbourg 2018.

- engaging in regular in-depth dialogue with groups exposed to discrimination and intolerance and their representative organisations;
- conducting research, surveys, studies and data collection to develop knowledge and understanding, and to identify the means for achieving equality and motivating decision-makers to take remedial action;
- using thematic and annual reports as a basis for highlighting and discussing their recommendations with the legislature and the executive; and
- providing guidance and support to bring an equality perspective into policy-making and the legislative process and to implement internal equality and diversity systems and safeguards within organisations.

The ECRI standard identifies that equality bodies “should be provided with sufficient staff and funds to implement all their functions and competences with a real impact”. The monitoring function of an equality body is complex and extensive and requires adequate resources to be effectively implemented.

The European Union standard for equality bodies comes in the form of a Recommendation from the European Commission<sup>2</sup>. This includes a focus on the monitoring function. It identifies the importance of equality bodies ensuring a focus on each part of their mandate and on each ground covered. It points to the importance of a number of monitoring tools in its emphasis on enabling equality bodies to: carry out independent surveys; conduct research; have a regular dialogue with the public authorities; communicate with discriminated groups and stakeholders; and engage in public debate. This standard too recommends that equality bodies should be “provided with the human, technical and financial resources, premises and infrastructure necessary to perform its tasks and exercise its powers effectively”.

The European Commission Recommendation is concerned to ensure that:

- public authorities take into account, to the extent possible, recommendations from equality bodies on legislation, policy, procedure, programmes, and practice; and
- equality bodies are enabled to contribute to preventing discrimination by providing training, advice, guidance and support to duty bearers.

## **2. Monitoring Framework**

The aim of monitoring activity by the Equality Council is to further the implementation of its mandate under equal treatment legislation to:

- protect against discrimination;
- ensure equality; and
- restore the rights of all discriminated persons (Point 2, Law No. 298).

As such, monitoring action is concerned with preventing discrimination, achieving substantive equality, and addressing any form of discrimination that has occurred.

The Equality Council is empowered under the anti-discrimination legislation to, in effect, monitor legislation, policy, and organisations. There are six strands established for what the Equality Council monitors:

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<sup>2</sup> [Commission Recommendation of 22.6.2020 on standards for equality bodies](#), C2018 (3850) Final, European Commission, Brussels.

1. Implementation of decisions and recommendations from its casework (Article 15 Law No. 121 and Point 32, Law No. 298).
2. Draft laws in preparation, and recommendations made in relation to these (Article 12, Law No. 121 and Point 21, Law No. 298).
3. Implementation of current laws, and recommendations made in relation to these (Article 12, Law No. 121 and Point 21, Law No. 298).
4. Anti-discrimination law and its enforcement, and recommendations made in relation to these (Article 12, Law No. 121 and Point 21, Law No. 298).
5. Public policy and plans, and recommendations made in relation to these (Article 12, Law No. 121 and Point 21, Law No. 298).
6. Discrimination trends in society (Article 12, Law No. 121 and Point 25, Law No. 298).

The monitoring tools made available to the Equality Council, under the anti-discrimination legislation, include:

- obligatory reports from, correspondence with, and on-site visits to respondents in relation to individual recommendations in casework, and referral to higher authorities where there is a failure to comply (Article 15, Law No. 121);
- advisory opinions and consultative endorsements in relation to draft laws (Article 12, Law No. 121 and Point 21, Law No. 298);
- general recommendations in relation to third parties in casework and more broadly (Article 12, Law No. 121 and Point 32, Law No. 298));
- annual, thematic, and research reports (Point 25, Law No. 298);
- submissions to UN human rights committees (Point 31, Law No. 298);
- engagement with civil society organisations on matters of shared concern (Point 31, Law No. 298); and
- engagement in public debate (Point 25, Law No. 298).

Monitoring activities involves initiative by the Equality Council that is reactive, proactive, or integral to its work processes. It is:

- reactive in monitoring elements, such as draft laws, that are furnished to the Equality Council;
- proactive in monitoring elements, such as implementation of laws or discrimination trends, identified as a priority concern by the Equality Council; and
- integral in monitoring elements, such as casework decisions, that are core to the Equality Council functions.

### 3. Monitoring Strategy

A **monitoring strategy** involves a coordinated mix of:

1. A **standard** that serves as a coherent benchmark for all monitoring actions.
2. **Triggers** that serve to establish what the Equality Council should monitor and when it needs to or might choose to take such action.
3. **Enablers** that support those being monitored to meet the standard established by the Equality Council prior to any monitoring action, thus simplifying the monitoring process by giving it a specific focus.
4. Annual **planning** that establishes priorities and sets realistic targets for monitoring, in particular where this is proactive.

### 3.1 Monitoring Standard

Monitoring involves the application of a **standard** to that which is being monitored. This standard is applied coherently and consistently in all monitoring activities. It is important that this standard is known and communicated to those responsible for legislation, policy, and organisations. This will simplify and assist monitoring processes.

The standard would be rooted in the anti-discrimination legislation: as per Article 12, Law No. 121 which refers to the “standards on anti-discrimination”; and Point 21, Law No. 298 which refers to the “standards regarding non-discrimination”. As such, the standard would need to include for the:

- elimination of discrimination, which encompasses direct and indirect discrimination (Article 3, Law No. 121), and is, therefore, focused on discrimination against a person at the individual level, in terms of less favourable treatment, and on discrimination against a group at the systemic level, in terms of outcomes that disadvantage that group.
- prevention of discrimination, which is understood to include positive measures for equality and social inclusion (Article 5, Law No. 121), and is, therefore, focused on equality for groups covered by the legislation.

The place of international instruments in informing this standard, and any contradiction between international instruments and national legislation, would need consideration in finalising this standard.

The standard is not a matter for legal argument as might pertain in a legal case where the anti-discrimination legislation is being applied to a set of facts in dispute. In such a context, the standard does not influence or determine the decision-making process of the Equality Council. In relation to casework, it might merely serve as a framework for the ambition of its recommendations on foot of a finding of discrimination.

This standard, while based on the legislation, needs to be a short document set out in simple, and accessible terms, rather than in legal terms, if it is to be useful for the monitoring purpose and relevant for those being monitored.

The standard is established, and then disseminated as part of the ongoing communication processes of the Equality Council, to ensure that the basis for monitoring legislation, policy, and organisations is clear to legislators, policy-makers, and organisational managers.

The standard would:

- set out its purpose as being to inform:
  - the ambition expected of legislators, policy-makers, and organisational leaders; and
  - the monitoring processes of the Equality Council;
- establish that the basis for the standard lies in national legislation and, if appropriate, international instruments;
- identify a goal for legislators, policy-makers, and organisational managers, in terms of: to achieve new opportunities and outcomes for the groups that experience inequality, that are covered by the anti-discrimination legislation.
- set out core principles, in terms of:

- achieving non-discrimination: the absence of less favourable treatment of individuals because of their particular characteristics - legislators, policy-makers, and organisational managers review procedures and practices to ensure no direct or indirect discrimination against groups covered by the anti-discrimination legislation;
- preventing discrimination: the elimination of processes, routines, organisational cultures, and practical barriers that result in disadvantageous outcomes for groups - legislators, policy-makers, and organisational managers take steps to be planned and systematic in their response to groups covered by the anti-discrimination legislation; and
- ensuring equality: the inclusion of measures required for equality and social inclusion - legislators, policy-makers, and organisational managers include steps to rectify the disadvantage in the situation of groups covered by the anti-discrimination legislation.

### 3.2 Triggers for Monitoring

The key **trigger** for monitoring action is currently based on the casework of the Equality Council:

- casework decisions are monitored for their implementation by respondents as an integral part of this decision-making function of the Equality Council.
- patterns of complaints and casework statistics serve a proactive approach to monitoring in pointing up areas of legislation, policy, or organisations that need to be monitored.

A further key trigger, for monitoring of draft legislation, is the submission of draft laws directly to the Equality Council or placing these draft laws on the relevant online platform.

There is a caveat, that needs consideration in the use of casework as the key trigger, in the high levels of under-reporting of discrimination by those who experience it. In such a context, further triggers are needed and have been used to support a proactive approach to monitoring by the Equality Council. These include:

- research studies and surveys;
- consultation systems with relevant civil society organisations;
- themes and issues that emerge as a focus for public debate;
- external developments, such as international reports or the dedication of specific years or dates to particular issues of equality, that focus attention on discrimination in the country; and
- failure to implement positive duties provided for in anti-discrimination law (on public authorities (Article 16, Law No. 121), on employers (Article 7, Law No. 121), and on educational institutions (Article 9, Law No. 121)).

### 3.3 Enablers for Monitoring

**Enablers** assist monitoring by the Equality Council in giving clarity and support to those responsible for legislation, policy, or organisations that are subject to this monitoring. Enablers make monitoring predictable, support those in responsibility to reach the Equality Council standard, and reduce the scale of the monitoring action required. Enablers come in the form of guidance, and at times, in the form of support to implement that guidance. This

guidance needs to be a short document, that is simple and accessible in its format and language.

The Equality Council has developed a body of work that could usefully be drawn on to develop such enablers. This includes:

- guidance and internal procedures developed in relation to the equality impact assessment of legislation and policies. Guidance on the assessment of legislation from an equality perspective was developed for the Equality Council as an internal methodology for its monitoring work, under a UNDP funded project, with some training initially provided in its implementation.
- specific practice guidance to assist duty bearers in particular areas of their practice as employers and service providers has been developed by the Equality Council. These cover: prevention of discrimination on job interviews, drafting of recruitment announcements, making information accessible, and the legal right to education without discrimination.

Equality Council enablers, therefore, could usefully include:

1. **Guidance for those developing legislation and policies.** This would support legislators and policy-makers to undertake an equality impact assessment of draft legislation or policy, based on the monitoring standard of the Equality Council. It would draw from and build on the valuable work done in developing its internal methodology for an equality impact assessment by the Equality Council. It would:
  - provide a simpler tool that is accessible to policy-makers and legislators;
  - establish the monitoring standard of the Equality Council as framing the goals for an impact assessment.

It would briefly set out four steps that policy-makers and legislators would take when a policy or legislative act is at final draft stage to:

- A. Gather the relevant data and information on the groups covered by the anti-discrimination legislation, that would be used to inform the assessment (drawing from sub-section 4 in Step 2 of the internal methodology: 'mapping the evidence');
  - B. Consult with the relevant groups covered by the anti-discrimination legislation in implementing the assessment (drawing from sub-section 5 in Step 2 of the internal methodology: 'involve stakeholders and rights holders');
  - C. Assess the draft legislation or policy for its potential impact on the groups covered by the anti-discrimination legislation (drawing from Step 3 of the internal methodology: 'Analysis of Impact'); and
  - D. Make final provisions to address the findings of the equality impact assessment and achieve the Equality Council monitoring standard (drawing from Step 4 of the internal methodology: 'Addressing the Impact').
2. **Guidance for employers, service providers, and educational institutions.** This would support organisations to put in place policies and systems necessary for a planned and systematic approach to combat and prevent discrimination and ensure equality, in a manner that reflects the monitoring standard of the Equality Council. This would involve:

- A. **Guidance for employers** to be planned and systematic in implementing the Equality Council monitoring standard, that would inform them, in a brief and summary format, on how to:
- prepare and implement an employment equality policy for their organisation – content of such a policy and process to secure its implementation (this could link to but not repeat the guidance developed by the Equality Council);
  - train relevant human resources and management staff to implement the employment equality policy – content of training and process for its delivery (this could build on the experience of the Equality Council in providing training);
  - allocate responsibility for anti-discrimination matters to a senior manager and establishing an equality committee;
  - conduct a review of internal policies, procedures and practices applied in the recruitment and management of employees, against the monitoring standard of the Equality Council, and develop an action plan to address any issues identified; and
  - engage in dialogue with staff members from groups covered by the anti-discrimination legislation and with civil society organisations representative of these groups.
- B. **Guidance for educational institutions** to be planned and systematic in implementing the Equality Council monitoring standard, that would inform them, in a brief and summary format, on how to:
- prepare and implement an equality in education policy for the provision of education to the diversity of their students – content of such a policy and process to secure its implementation (this could link to but not repeat the guidance developed by the Equality Council);
  - train teachers and administrative staff to implement the equality in education policy – content of training and process for its delivery (this could build on the experience of the Equality Council in providing training);
  - allocate responsibility for anti-discrimination matters at a senior level and establishing an equality committee;
  - conduct a review of internal policies, procedures and practices applied in the provision of education, against the monitoring standard of the Equality Council, and develop an action plan to address any issues identified; and
  - engage in dialogue with teachers and pupils from groups covered by the anti-discrimination legislation and with civil society organisations representative of these groups.
- C. **Guidance for providers of goods and services** to be planned and systematic in implementing the Equality Council standard, that would inform them, in a brief and summary format, on how to:
- prepare and implement a service provision equality policy for their organisation – content of such a policy and process to secure its implementation;



- train relevant management staff to implement the service provision equality policy – content of training and process for its delivery (this could build on the experience of the Equality Council in providing training);
  - allocate responsibility for anti-discrimination matters to a senior manager and establishing an equality committee;
  - conduct a review of internal policies, procedures and practices applied in the provision of goods and services, against the monitoring standard of the Equality Council, and develop an action plan to address any issues identified; and
  - engage in dialogue with service users from groups covered by the anti-discrimination legislation and with civil society organisations representative of these groups.
3. **Guidance on the implementation of positive duties established in anti-discrimination legislation.** This would reflect the monitoring standard of the Equality Council. This could be incorporated in the guidance for organisations described above. It would support:
- A. **Employers** (Article 7(4), Law No. 121), by setting out the positive duty and how this is expected to be implemented by employers in all sectors;
  - B. **Educational institutions** (Article 9(1), Law No. 121), by setting out the positive duties and how these are expected to be implemented by educational institutions; and
  - C. **Public authorities** (Article 16, Law No. 121), by setting out the positive duties and how these are expected to be implemented by public bodies.

These enablers, once developed, could be a focus and a basis for:

- communication and dissemination by the Equality Council;
- training provided by the Equality Council;
- the recommendations of the Equality Council, in requiring their implementation;
- providing support to legislators, policy-makers, organisational managers and respondents in casework on implementation of recommendations and achieving the Equality Council monitoring standard.

### 3.4 Monitoring Plan

The current strategic plan of the Equality Council includes a significant focus on its monitoring function, including the six strands identified above. This focus is spread across the four goals established for the period 2017-2019<sup>3</sup>:

- Goal No. 1 on ‘Equal protection’ includes for action to: monitor and implement measures to ensure equality with reference to the labour market, public goods and services, and education.
- Goal No. 2 is a mainstreaming goal concerned with ‘Integration of equality and non-discrimination principles’. This encompasses action to: analyse legislation and public policy for compliance with non-discrimination principles; support public institutions to implement equality principles; and monitor implementation of general recommendations for non-discrimination.

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<sup>3</sup> [Strategic Development Plan](#) 2017-2019, Equality Council, Moldova, 2017.

- Goal No. 3 on ‘Protection of victims from discrimination’ includes for action to: monitor the Council’s casework recommendations.
- Goal No. 4 on ‘Strengthening the institutional sustainability’ includes for action to: improve the legal framework on the Council’s functionality.

The draft internal procedures, of the Equality Council for monitoring the implementation of current laws, make reference to creating a list of legislative acts to be monitored, which usefully underpins a planned approach.

The Equality Council is due to prepare a strategic plan for the next period. It could usefully include one specific goal dedicated to its monitoring work. This monitoring goal could usefully be framed in terms of: ‘Enabling an Ambition for Equality’.

Actions, aligned with the framework, strategy and process proposed in this report, could be identified. These could be grouped as:

- policy advice: monitoring activities concerned with: draft legislation and policy; implementing current legislation and policy; and anti-discrimination legislation.
- culture of compliance: monitoring activities concerned with: casework recommendations; implementation of positive duties; and discrimination trends in society.
- organisational support: monitoring activities concerned with: development, dissemination, and support for implementation of guidance by legislators, policy-makers, organisational managers, and respondents in casework.

Indicators and annual targets for monitoring could be developed, based on the work of Equinet in this regard<sup>4</sup>. Indicators that could usefully be taken from the Equinet indicator menu for equality bodies include the:

- number of survey or research initiatives implemented to inform policy making and the level of investment in these.
- number of policy recommendations made by the equality body that are taken up by policy makers.
- number of changes made in equal treatment legislation on foot of equality body interventions.
- number of casework outcomes that meet complainant expectations, where discrimination is found.
- number of organisations (employers or service providers) supported or required to put in place equality policies, procedures, or practices.

It would need to be clarified that any indicators or targets established are subject to securing the necessary resources.

This monitoring goal, with associated actions and indicators, would allow for a coherent, integrated and strategic **Monitoring Plan** to be prepared and implemented each year. It would ensure a proactive approach by the Equality Council to this function in a manner that reflects its own priorities, and would assist in attracting the resources required for the effective implementation of this key function.

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<sup>4</sup> Equinet have published a useful resource for equality bodies to establish indicators for their work: Crowley N., [Processes and Indicators for Measuring the Impact of Equality Bodies](#), Equinet, Brussels, 2013.

## **4. Monitoring Process**

### **4.1 Equality Council decisions in casework:**

Internal procedures on the management of complaints have been developed and agreed, and are being implemented by the Equality Council. These procedures include a focus on monitoring recommendations by means of preparing a monitoring plan and a monitoring report on implementation of this monitoring plan. There is a specific focus on monitoring of:

1. Individual recommendations, through correspondence with the respondent and on-site visits if needed, with reference to further legal action if required.
2. General recommendations, through unspecified interventions and making use of the Annual Report to highlight progress made or awaited.

These internal procedures could be further developed to:

- divide the decisions of the Equality Council into three elements, rather than the current two elements. These three elements would be:
  - individual – this element is addressed to the specific respondent in the case. It seeks to ensure restitution to the complainant and an end to the particular practice of the respondent found to be discriminatory;
  - institutional – this element is addressed to the specific respondent in the case. It seeks to ensure that the organisation where the discrimination happened would take action, based on the enabler guidance of the Equality Council, to prevent future discrimination by that organisation; and
  - general – this element would be addressed to a third party which is influencing the situation of discrimination found in the case, usually through legislation or regulation. It seeks to have this external influence corrected;
- reference the preparation and use of guidance from the Equality Council on the key steps required in the prevention of discrimination by employers, service providers or educational institutions. This guidance would:
  - inform the drafting and monitoring of the institutional element of the recommendation; and
  - form the basis of any support provided to the respondent to implement this element of the recommendation, in cases deemed of strategic importance by the Equality Council.
- allow for engagement by the Equality Council with the complainant, as needed, in relation to monitoring implementation of the individual element of the recommendation; and
- include further steps in the monitoring of general recommendations such as:
  - dialogue with relevant decision-makers to support implementation of the general recommendation;
  - dialogue with civil society to enable their engagement in stimulating implementation of the general recommendation; and
  - engagement in public debate on the general recommendation to highlight and explain the issues involved.

### **4.2 Draft laws in preparation:**

Advisory opinions are the core Equality Council tool in monitoring draft laws. The key trigger is the submission of draft laws to the Equality Council or placement of draft laws on the relevant online platform, which is tracked by the Equality Council.

In this monitoring work, the Equality Council:

- has some engagement with civil society to stimulate an alignment of response by all parties;
- in some instances, engages with parliament and the relevant committees on its advisory opinion; and
- pursues some prioritisation in terms of the scale of follow-up pursued for different pieces of draft legislation.

There is a focus on coherence in this monitoring work with national policy commitments already made in relation to equality and human rights.

This approach to monitoring draft legislation could be further developed by:

- setting out the key criteria for prioritising the level and nature of engagement in this monitoring, which is largely reactive in nature. Criteria could usefully include the:
  - potential of the draft law to improve the situation and experience of groups covered by the anti-discrimination legislation; and
  - relevance of the draft law to the priority issues identified by the Equality Council in its plans for its work and in its casework.
- preparing guidance on undertaking an equality impact assessment that could be applied in the drafting of legislation and that would then be considered in the monitoring process; and
- including as tools in this process:
  - engagement in dialogue with relevant decision-makers on the draft legislation, at an early stage and in preparing the advisory opinion;
  - pursuit of a systematic engagement with parliament in relation to legislation identified as a priority by the Equality Council; and
  - engagement in public debate.

#### **4.3 Implementation of current laws:**

Internal procedures have been drafted by the Equality Council for this monitoring and are still subject to internal discussion. Studies have also been implemented in support of this monitoring activity.

The draft internal procedures valuably reflect the internal methodology guidance on assessing the impact of legislation from an equality perspective, developed for the Equality Council. The draft internal procedures include for the Equality Council to prepare a list of legislative acts to be monitored, and to be prioritised on the basis of: their importance with regard to governing programmes and European standards; requests from public authorities and institutions, the private sector, non-trading organisations and others; and media debates.

The draft internal procedures involve the Equality Council in a process that includes:

- collecting data and information on implementation of the legislative act;
- consultation with and receiving opinions from civil society and interested parties;
- analysis, based on the material gathered and received, as to whether the principle of equality and non-discrimination is adequately applied in implementing the legislation

act, and as to whether the purpose of the act was achieved, including whether there was any impact on the means of people to achieve their rights; and

- preparation of a monitoring report that includes an analysis of:
  - the effects of the legislative act on the affected groups;
  - whether the purpose of the legislation was achieved;
  - changes made in the legislative act and their impact;
  - degree of implementation of secondary legal framework;
  - proportionality of the legislative act and its level of regulation;
  - coherence of the act with other legislative provisions and judicial practice including in relation to discrimination;
  - stability and predictability of the legislative act; and
  - cost-efficiency of the legislative act.

The approach for this monitoring activity could evolve in a manner that reflects that there can be two separate strands to this monitoring:

- the legislative act and the regulations for its implementation: the outcomes from their provisions for the groups covered by the anti-discrimination legislation – was equality advanced? did disadvantage accrue and barriers emerge? did discrimination result?
- the key institutions responsible for implementing the legislative act and the regulations for its implementation: the procedures, routines, and organisational culture of these institutions and their impact on the groups covered by anti-discrimination legislation – what influence did key institutions have on the equality potential of the legislative act and its associated regulations?

The draft internal procedures allow for a prioritisation of legislative acts to be monitored. This is important in an area that allows for proactive monitoring by the Equality Council. The Equality Council does need to be responsive to requests from public authorities and others, and to be concerned with governing programmes and European standards in this prioritising. However, this proposed prioritisation might include the:

- potential in the legislation and the implementing institutions to improve the situation and experience of groups covered by the anti-discrimination legislation; and
- relevance of the legislation and the implementing institutions to the priority issues identified by the Equality Council in its plans for its work and in its casework.

The draft internal procedures could usefully be simplified to better clarify what is key for consideration by those responsible for the legislation and its implementation and to better reflect the resources available to the Equality Council. The application of the proposed Equality Council monitoring standard might assist in this. The range of areas proposed to be covered in the monitoring report could be reduced. These appear to go beyond the core focus on the impact of the legislation or institution on the groups covered by the anti-discrimination legislation. This core focus would be concerned to assess and report on the use of positive measures for equality and social inclusion, the prevention of systemic discrimination, and the absence of direct and indirect discrimination.

The range of approaches in the draft internal procedures could be broadened to include the use of research, studies, and surveys, alongside the more formal and participative impact assessment process outlined.

Steps could be included in the draft internal procedures for the Equality Council to promote and secure implementation of the findings of the monitoring report. These could include dialogue with responsible officials, cooperation with civil society, and engagement in public debate.

#### **4.4 Anti-discrimination law and its enforcement:**

The annual report and its recommendations serve as a key tool for this monitoring. International reports on the country, such as the ECRI Country Reports, are another valuable tool and source of leverage in this regard.

The Equality Council has made significant progress in this monitoring, with draft legislation currently under debate on amendments to the anti-discrimination legislation informed by this work. The primary focus for this monitoring has been on issues in relation to enforcement and the procedures available to the Equality Council. This is a useful starting point that reflects the imperatives in this first period for the Equality Council in implementing the legislation.

In its forthcoming plan, it might be useful for the Equality Council to develop a new theme for its monitoring of anti-discrimination legislation. This could focus on the impact of the legislation, starting with the impact on duty bearers. This could track the culture of compliance among employers, service providers, and educational institutions, and the further developments in anti-discrimination legislation that might assist the scale and nature of such impact.

Culture of compliance reflects a perspective among duty bearers that the anti-discrimination legislation is relevant to their operations, that if they breach the legislation there are likely to be consequences, and that there are steps they could usefully take to eliminate discrimination and ensure equality that would also enhance the quality of their operations. A culture of compliance reflects the quality of anti-discrimination legislation provisions and their effective implementation.

The range of approaches to monitoring the scale and nature of this culture of compliance could usefully include:

- dialogue with duty-bearers;
- research, surveys, or studies;
- engagement in public debate;
- tracking Equality Council casework; and
- preparing and monitoring guidance on the implementation of positive duties established under anti-discrimination legislation.

#### **4.5 Policy and policy recommendations made:**

The primary focus of the Equality Council in monitoring policy and policy plans in preparation has been on those plans directly targeted at human rights, equality, or non-discrimination issues. The Equality Council periodically examines policy documents in other areas, such as labour policy. This is an area for proactive monitoring. However, in some instances, public authorities have referred to the Equality Council for advice in preparing policies directly relating to equality issues.

The focus for policy monitoring and the breadth of policies covered could reflect priorities established by the Equality Council of:

- potential in the legislation and the implementing institutions to improve the situation and experience of groups covered by the anti-discrimination legislation; and
- relevance of the legislation and the implementing institutions to the priority issues identified by the Equality Council in its plans for its work and in its casework.

The guidance on equality impact assessment developed as an enabler could be promoted by the Equality Council for application by policy-makers in preparing new policy and policy plans in areas of priority concern for the Equality Council.

#### **4.6 Discrimination trends in society:**

The monitoring of discrimination trends in effect serves the development of triggers and enablers. It establishes issues of priority concern with the knowledge gathered, and points to where the Equality Council could direct its monitoring actions. It opens up areas of good practice that would serve those with responsibility for legislation, policy, and organisations and that would inform the preparation of enablers.

Key tools in this field of monitoring are:

- research, surveys and studies;
- dialogue with civil society; and
- tracking of casework of and complaints to the Equality Council.

## **5. Conclusions and Recommendations**

### **5.1 Conclusions**

The Equality Council has developed its monitoring function strategically and to good effect. This review, therefore, focused on a further evolution of this function on the basis of a solid platform already in place. It is clear that the Equality Council is constrained by resources in seeking to evolve its current monitoring work.

The core emphasis in this review is to evolve this monitoring function as a core strategy of the Equality Council. This reflects the centrality of this function to the implementation of the mandate of an equality body. However, it is clear that any such strategy needs to take account of the barriers that face the Equality Council in this work. It must, therefore, be pursued in a manner that secures additional resources and is not resource intensive, and that navigates any limitations in commitment among legislators, policy-makers, and organisational managers.

### **5.2 Recommendations**

The Equality Council could usefully:

- include a specific goal for its monitoring function with associated actions and indicators as part of its next strategic plan.
- develop and disseminate a short, simple, and accessible standard for use in its monitoring activities.
- develop and disseminate a suite of enablers in the form of guidance for legislators, policy-makers, and organisational managers, that are short, simple, and accessible.
- review and further develop internal procedures for monitoring, in each of the six strands identified for this activity, in order to incorporate the elements in this review found to be useful by the Equality Council.

- seek and have provided the additional resources required to implement a fully effective monitoring strategy.



## Appendix: Moldovan Equality Council: Current Monitoring Processes

	Trigger for Action	Monitoring Steps	Enablers for Monitoring	Monitoring Issues
<b>Equality Council Decisions</b>	Individual recommendations and general recommendations. Ex-officio case.	Obligation on respondent to report. Engage with respondent. Site visits. Refer case to superior body for sanction. Annual Report.	Legally binding decision to restore, cease, and prevent. Sanction for non-implementation. Internal procedures on drafting recommendations including monitoring.	No legal basis for site visits. Complexity in making general recommendations to third party. Contact with complainant. Monitoring amicable solutions (few). No good practice guidance for prevention. Lack of resources.
<b>Draft Laws</b>	Law submitted. View on Platform for new Laws.	Advisory opinion on draft law submitted. View final legislation and pursue if to be further amended. Annual Report.		Capture systemic discrimination. Not all draft laws submitted or available. Monitoring the outcomes from the opinion. No good practice guidance for equality impact assessment.
<b>Implementing Current Laws</b>	Complaints. General recommendations. Casework statistics. Public and political focus on an issue.	Ex-officio case. Research study. Gather data, analysis of implementation, consultation, and monitoring report. Annual report.	Internal procedures on monitoring implementation of legislation (draft).	Reliance on cases in context of under-reporting. Resources for research studies. Data gaps. Monitoring the outcomes from report. Capture systemic discrimination.

## Appendix: Moldovan Equality Council: Current Monitoring Processes

	Trigger for Action	Monitoring Steps	Enablers for Monitoring	Monitoring Issues
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<b>Anti-Discrimination Law</b>	Casework.	Annual Report. Research study.		Reliance on cases in context of under-reporting. Resources for research study.
<b>Public Policy</b>	New strategy being prepared on human rights or related issues. UN Committee hearings convened. Positive duties on institutions in anti-discrimination law.	Provide legal opinion or feedback. Submission on UN Human Rights Conventions. Develop policy document. Research study. Annual Report.		Wider policy focus to be developed. Focus on positive duties in anti-discrimination legislation. Capture systemic discrimination. No good practice guidance for equality impact assessment or for positive duties. Monitoring outcomes from the opinion. Lack of resources.
<b>Discrimination Trends</b>	Casework. Casework statistics.	Annual Report. Thematic Report. Ex-officio case. Research study.		Reliance on casework in context of under-reporting. Ex-officio cases lead to challenges as to impartiality of Equality Council. Monitoring the outcomes from report. Data gaps. Lack of resources.