

NATIONAL SPECIALISED BODIES: EFFECTIVE IMPLEMENTATION OF THEIR ADVISORY FUNCTION



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By Niall Crowley

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FOREWORD

The advisory function of national Specialised Bodies contributes greatly to realising the goals of combating discrimination and achieving equality. This function clearly merits the attention given to it by this study.

This paper is a follow-up to an ECRI seminar of May 2016 which explored the role of national Specialised Bodies in relation to the three different but interlinked elements of this advisory function: informing the content of legislation and public policy; shaping organisational procedures and practices; and developing a wider institutional infrastructure for equality and non-discrimination.

National Specialised Bodies often implement the advisory function in the most difficult contexts, ranging from those created by economic and social crisis to those created by the absence of a democratic culture. Particular barriers exist where national Specialised Bodies have not been afforded sufficient resources for effective interventions or in contexts where radical political forces that do not recognise equality are on the rise.

In view of these contexts, strong up-to-date and clear standards for national Specialised Bodies are needed to reinforce their status and to ensure adequate conditions to implement their work effectively, including their advisory function. Provision for positive duties and obligations in equal treatment legislation would assist in this work. International support and cooperation among the national Specialised Bodies are also particularly important in such difficult contexts.

The need for national Specialised Bodies to be persistent and innovative in implementing this function in these difficult contexts is also to be emphasised. The advisory function challenges national Specialised Bodies to be creative and to go beyond their individual case work. This includes the need for a creative combination of functions in a 'carrot-and-stick' approach. It requires a focus that goes beyond non-discrimination to include a concern for achieving full equality in practice for groups covered by the different grounds of the anti-discrimination legislation.

ECRI's General Policy Recommendation (GPR) No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, published in 1997, has already set out basic standards governing the mandate and functioning of these institutions, including their advisory function.

However, ECRI considers that in order to improve the impact of the advisory function of these Bodies, it will be important to give increasing focus to it. Therefore the findings and recommendations of this study will be very valuable in the ongoing review of GPR No. 2. Moreover, ECRI will continue to focus on the implementation of and response to this advisory function of national Specialised Body in its country reports.

The May 2016 ECRI seminar showed that there is a body of good practice and creative approaches by national Specialised Bodies available in implementing the advisory function. This can be built on and learned from. It is hoped that this publication developed on foot of the seminar will be a valuable follow-up in this regard, maintaining ECRI's ongoing engagement with and support to national Specialised Bodies.

SECTION ONE: INTRODUCTION

1.1 *The Advisory Function*

The advisory function of national specialised bodies¹ captures a broad field of intervention. It involves initiatives from these bodies, in implementing their mandate under equal treatment legislation, to:

- Influence the content of legislation and Government policy;
- Shape the procedures and practices of institutions in their functions as policy makers, employers and service-providers;
- Build a wider institutional infrastructure involving a range of organisations promoting equality and combating discrimination.

This function is key for these bodies to achieve their full potential. It is as important as their enforcement function, which, depending on the type of body, includes hearing or mediating cases, or providing legal advice and assistance to claimants.

The advisory function is the point where national specialised bodies move from reacting to events to being proactive in pursuit of change. It is where the ambition for change held by these bodies is given practical expression and where they become the “necessary and valuable institutions for social change” noted in research published by the European Commission.² It is, therefore, the point where national specialised bodies take on a leadership role and take a longer term perspective on the change they seek.

1.2 *This Paper*

This paper is a product of the ECRI seminar on “National Specialised Bodies Advising Legislative and Executive Authorities and other Stakeholders”. It seeks to further develop and disseminate the debate at this seminar.

It first examines the standards for national specialised bodies to establish the framework identified for this advisory function. It sets out the difficult contexts within which these bodies seek to implement this function. It then explores the challenges faced by national specialised bodies in implementing this function to: define the change they seek; establish the leverage they can deploy in securing an impact; and identify the strategies they can pursue in implementing this function. Finally, it examines current practice in implementing this function before setting out some future perspectives.

¹ Independent authorities expressly entrusted with the fight against racism, xenophobia, antisemitism, intolerance, and discrimination on grounds such as ethnic origin, colour, citizenship, religion, and language (racial discrimination), at the national level.

² Ammer et al. (2010), Study on Equality Bodies set up under Directives 2000/43/EC, 2004/113/EC and 2006/54/EC, European Commission, Brussels.

SECTION TWO: STANDARDS FOR THE ADVISORY FUNCTION

2.1 Introduction

Standards establishing the conditions required for the independence and effectiveness of national specialised bodies have long been a concern for them. European standards for national specialised bodies are few, limited in scope, hard to enforce, and often dated. However, the standards available are valuable and do offer some insights into the advisory function of national specialised bodies.

2.2 Scope

ECRI General Policy Recommendation No. 2 establishes a broad scope for this advisory function in identifying, among the functions for national specialised bodies, action to:³

- “Monitor the content and effect of legislation and executive acts with respect to their relevance to the aim of combating racism, xenophobia, antisemitism and intolerance and to make proposals, if necessary, for possible modifications to such legislation”;
- “Advise the legislative and executive authorities with a view to improving regulations and practice in the relevant fields”;
- “Provide information and advice to relevant bodies and institutions, including State bodies and institutions”;
- “Issue advice on standards of anti-discriminatory practice in specific areas which might either have the force of law or be voluntary in their application”;
- “Support and encourage organisations with similar objectives to those of the specialised body”;
- “Take account of and reflect as appropriate the concerns of such organisations”.

The EU equal treatment Directives set a minimum standard that includes a requirement that the functions of equality bodies would include “publishing independent reports and making recommendations on any issue relating to such discrimination”.⁴ This emphasises a broad scope for the advisory function.

2.3 Ambition

The Opinion of the Council of Europe Commissioner for Human Rights on “National Mechanisms to Promote Equality” opens up significant ambition for this advisory function in relation to each of the three strands of work identified in the ECRI standard:

- The content of legislation and policy: National specialised bodies can enhance the reach and effectiveness of public policy by assisting policy makers to include an equality dimension in all policies and programmes;

³. ECRI (1997), General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, Council of Europe, Strasbourg.

⁴ Council of the European Union, Directive 2000/43/EC, Implementing the Principle of Equal Treatment of Persons Irrespective of Racial or Ethnic Origin; Directive 2004/113/EC – Implementing the Principle of Equal Treatment between Men and Women in Access to and Supply of Goods and Services; and European Parliament and Council of the European Union, Directive 2006/54/EC – Implementing the Principle of Equal Opportunities and Equal Treatment between Men and Women in Matters of Employment and Occupation (Recast), Brussels.

- The procedures and practices of institutions: National specialised bodies can enhance the overall performance of organisations, in the public and private sectors, by supporting them to be competent in promoting equality, adjusting for diversity and eliminating discrimination;
- The wider institutional infrastructure for equality: National specialised bodies can achieve a multiplier effect from the resources they hold by supporting other organisations in promoting equality and combating discrimination.⁵

2.4 Pursuit

The EU Directives take a limited perspective on the tools to be deployed in implementing the advisory function by national specialised bodies. They focus on the publishing of reports and the making of recommendations.⁶ The ECRI General Policy Recommendation No. 2 goes further, but only slightly, in suggesting the use of monitoring, advice and information provision to implement this function.⁷

ECRI General Policy Recommendation No. 14, however, opens up a new tool that could create a changed and empowered context within which to implement the advisory function.⁸ It recommends that member states should “enact legislation requiring public authorities when carrying out their functions, including their employment functions, to promote equality and prevent and eliminate racism, racial discrimination and harassment on the enumerated grounds”. This would involve public bodies developing and implementing “equality programmes” with the assistance of the national specialised body and that would be enforced by the national specialised bodies. Similarly, it recommends that member states should “enact legislation requiring all employers to promote equality, prevent and eliminate racism, racial discrimination and racial harassment in employment”.

The Opinion of the Council of Europe Commissioner for Human Rights identifies that national specialised bodies need to go beyond providing advice to ensure this advice is implemented.⁹ In implementing their advisory function, national specialised bodies should also provide guidance and practical support for implementing any advice or recommendations made.

2.5 Summary

The standards set for this advisory function suggest it should:

- Be broad in scope in addressing the content of legislation and policy, the procedures and practices of institutions, and the capacity of the wider institutional infrastructure for equality and non-discrimination;

⁵ Commissioner for Human Rights (2011), Opinion of the Commissioner for Human Rights on national structures to promote equality, Council of Europe, Strasbourg.

⁶ Council of the European Union, Directive 2000/43/EC, Implementing the Principle of Equal Treatment of Persons Irrespective of Racial or Ethnic Origin; Directive 2004/113/EC – Implementing the Principle of Equal Treatment between Men and Women in Access to and Supply of Goods and Services; and European Parliament and Council of the European Union, Directive 2006/54/EC – Implementing the Principle of Equal Opportunities and Equal Treatment between Men and Women in Matters of Employment and Occupation (Recast).

⁷ ECRI (1997), General Policy Recommendation No. 2 on Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, Council of Europe, Strasbourg.

⁸ ECRI (2012), General Policy Recommendation No. 14 on combating racism and racial discrimination in employment, Council of Europe, Strasbourg.

⁹ Commissioner for Human Rights (2011), Opinion of the Commissioner for Human Rights on national structures to promote equality, Council of Europe, Strasbourg.

- Be ambitious in seeking to enhance the reach and effectiveness of public policy, the overall performance of organisations, and secure a multiplier effect for the work of national specialised bodies;
- Involve the provision of advice and recommendations alongside the provision of practical guidance and support to implement these;
- Be enhanced by the introduction of positive duties on the public sector and on employers to implement equality programmes or plans.

SECTION THREE: CONTEXT FOR IMPLEMENTING THE ADVISORY FUNCTION

3.1 *Difficult Circumstances*

The circumstances within which national specialised bodies implement their advisory function vary. There are instances where there is some receptivity to their advice and recommendations and some status attached to the body itself. However, there are situations where there is no such receptivity due to economic and social crisis or the absence of a democratic culture. International support to reinforce the status of this work is important in such situations.

A range of barriers emerge where negative circumstances prevail:

There can be a lack of interest and engagement from politicians, administrators, employers and service providers in equality and non-discrimination. This situation is exacerbated where public opinion evidences a similar lack of interest. National specialised bodies need to develop some leverage behind their advice and recommendations. In particular, they need to develop and influence a wider institutional infrastructure for equality to serve as a multiplier for their work and reinforce their advisory function.

**Barriers: ECRI Report on Slovakia, fifth monitoring cycle, 2014
CRI(2014)37**

The Ombudsman presented a special report to Parliament in 2013 on their concerns over the on-going existence of Roma-only classes in Slovak schools, cases of misconduct by the police and evictions of residents in eastern Slovakia. The report contained a number of recommendations addressed to the Parliament. ECRI, in its country report, noted its regret that the report was not discussed by the Parliament and welcomed the more proactive role of the Ombudsman.

There can be hostility towards national specialised bodies and their work, including attempts to curtail their powers, limit their independence or reduce their resources. It is difficult for the national specialised bodies to access legislative and policy fora or create working relationships with legislators and policy makers. Clear and up-to-date European standards, accompanied with sanctions that are enforceable where these standards are breached, are required to protect national specialised bodies in such situations.

Barriers: ECRI Report on the Czech Republic, fifth monitoring cycle, 2015 CRI(2015)35

The Public Defender of Rights has no power to monitor legislation and advise legislative and executive authorities. ECRI noted this in its country report and recommended that the authorities expand the powers of the Public Defender of Rights and ensure that all the relevant element set out in ECRI's General Policy Recommendations Nos. 2 and 7 were addressed.

A lack of knowledge about and commitment to equality and non-discrimination can be prevalent among policy-makers, employers and service providers. Such cultural barriers require national specialised bodies to promote values of equality and non-discrimination in these institutions and to support a competence to give effect to them.

Decision makers can be unconvinced of the standing, authority, and expertise of the national specialised body. The bodies are not consulted about policy or legislation in preparation. Their recommendations are not seen as relevant. National specialised bodies need to promote change in the procedures of these institutions. They must stimulate a commitment to equality and non-discrimination among decision makers and support their competence in this regard.

Barriers: ECRI Report on Romania, Fourth monitoring cycle, 2014 CRI(2014)19.

The National Council for Combating Discrimination (NCCD) has a mandate to ensure that laws do not infringe anti-discrimination legislation and can be asked by Parliament to give an opinion on the conformity of a draft law with this legislation. In 2005, ECRI recommended that the NCCD be consulted by Parliament more often and that its recommendations on existing laws and its opinions on draft laws be taken into consideration. In 2014, ECRI recommended that the NCCD be empowered to issue opinions on any draft law affecting groups of concern to ECRI, even in the absence of a specific request from Parliament, and that NCCD make more ample use of its power to ensure that laws do not infringe the principle of non-discrimination.

National specialised bodies are often not given the human and financial resources necessary for effectiveness in their advisory function. Clear, up-to-date and enforceable European standards can support change in such situations.

National specialised bodies point to the value of persistence in implementing their advisory function in such circumstances. It is important to build a tradition of providing advice and making recommendations, even where these are initially ignored. As the policy position of the national specialised body becomes predictable there is a greater chance of it being reflected in policy and legislation and in procedure and practice.

3.2 Complexity

The diversity of national specialised bodies, recent trends in merging these bodies with national human rights institutions, and preserving their independence add a layer of complexity to implementing their advisory function.

National specialised bodies are diverse in relation to their functions. The manner of implementing their advisory function has to be tailored to this diversity. Three types of national specialised bodies can be identified: predominantly promotional type equality bodies;¹⁰ predominantly tribunal type equality bodies;¹¹ and combined promotion/tribunal type equality bodies.¹²

Merged bodies have been identified as “well-placed to bring together public authorities and civil society organisations operating in different areas coming within its broad remit, and to help encourage the development of a comprehensive and coordinated approach to the promotion of equality and human rights”.¹³ However, new barriers can emerge with the potential for “fault-lines to be exposed between the equality and human rights elements of their mandates”. The focus on minimum standards in human rights and the pursuit of substantive equality might not sit easily together when formulating recommendations.

The independence of national specialised bodies needs to be carefully managed in implementing their advisory function. Long-term relationships must be built with power holders. However, this must be done without compromising independence in their enforcement function or diminishing public perceptions of their independence.

National specialised bodies should be:

- Openly critical in their engagement with power holders;
- Pursue an overt agenda of change;
- Clearly separate their advisory function from their enforcement function.

Strategies that involve the national specialised body in engaging with the full spectrum of relevant stakeholders can avoid public perceptions of capture of the national specialised body by a small set of stakeholders.

¹⁰ Predominantly promotional type equality bodies spend the bulk of their time and resources on supporting good practice, raising awareness of rights, developing a knowledge base on equality and providing legal advice and assistance to victims of discrimination. See Ammer et al. (2010), Study on Equality Bodies set up under Directives 2000/43/EC, 2004/113/EC and 2006/54/EC, European Commission, Brussels.

¹¹ Predominantly tribunal type equality bodies spend the bulk of their time and resources on hearing, investigating and deciding on individual instances of discrimination brought before them. See Ammer et al. (2010), Study on Equality Bodies set up under Directives 2000/43/EC, 2004/113/EC and 2006/54/EC, European Commission, Brussels.

¹² Combined promotion/tribunal type equality bodies that hear, investigate and decide on cases of discrimination and that engage in a range of activities to raise awareness, support good practice, and conduct research. See Equinet (2014a), The Bigger Picture: Equality Bodies as part of the National Institutional Architecture for Equality- An Equinet Perspective, Brussels.

¹³ Crowther, N. and O’Cinneide, C. (2013), Bridging the Divide: Integrating the functions of national equality bodies and national human rights institutions in the European Union, Faculty of Laws, University College, London.

SECTION FOUR: CHALLENGE ONE - DEFINE CHANGE SOUGHT

4.1 *Ambition for Change*

National specialised bodies need to establish the change they seek through implementing their advisory function. This will involve an approach to their advisory function that involves:

- Setting out and defining goals;
- Using these goals to shape the content of advice and recommendations offered.

The ambition for change will determine the quality and impact of these goals and therefore of their advisory function. A well-defined ambition for change enables national specialised bodies to be proactive and coherent in implementing their advisory function. A high level of ambition enables them to be effective and make an impact. Two levels of ambition can be identified:

- Combating and eliminating discrimination is one obvious ambition for national specialised bodies for their advisory function. It reflects a concern for fairness in the content of legislation and policy and in the procedures and practices of institutions. This ambition of formal equality, while central to the mandate of national specialised bodies, is limited. It can co-exist comfortably with persistent inequality for social groups in society. The veneer of opportunity offered by fairness is exposed when the unequal outcomes for particular social groups are examined.
- The achievement of full equality in practice is another ambition that could logically be espoused by national specialised bodies for their advisory function, given its articulation in equal treatment legislation. This ambition is concerned with achieving new economic, political, social and cultural outcomes for groups experiencing inequality. It shapes a very different content to the advice and recommendations than those informed by an ambition for formal equality.

A concern for effectiveness and impact suggests that the goals set by national specialised bodies for their advisory function should be shaped by an ambition to advance the achievement of full equality in practice. Impact then becomes visible in new outcomes for social groups in terms of their enhanced access to resources, influence, status, and respect.

4.2 *Diagnosis*

The diagnostic approach is another way for national specialised bodies to implement their advisory function. Diagnosis involves:

- Research, survey work, and analysis of available research;
- The information gathered can then be reviewed in dialogue with those experiencing inequality;
- The information gathered can be tested against the experience of the national specialised body in implementing its mandate;
- The expertise of the national specialised body is then deployed to draw learning from this knowledge base to assess legislation, policy and practice and to devise the advice and recommendations to be made.

The quality of the advice provided or recommendations made depends on the quality of this diagnosis. A good diagnosis advances effective solutions to the identified issues. A poor diagnosis throws up solutions that have limited or no impact and that diminish the authority of the national specialised body.

This diagnostic approach is problematic if pursued in isolation from wider long-term goals for change. It leads to reactive and piecemeal solutions where the advisory function becomes a set of discrete positions adopted by the national specialised body rather than a coherent strategy for change.

SECTION FIVE.

CHALLENGE TWO - ESTABLISH LEVERAGE FOR ADVICE AND RECOMMENDATIONS

5.1 *Deploy Powers*

The first source of leverage for the advisory function of national specialised bodies is to deploy relevant powers they already have. These powers often relate to provision for statutory duties in equal treatment legislation on public and private sector organisations to be proactive in promoting equality. Such duties include:

- General duties on public authorities to have due regard to equality in carrying out their functions;¹⁴
- Duties on public and private sector organisations to develop equality plans to advance equality in their work;¹⁵
- Specific duties on these organisations to take action on particular issues such as equal pay.¹⁶

These statutory duties create a favourable context for national specialised bodies to provide advice and make recommendations. Their advisory function becomes, in effect, an assistance to the public body or private sector organisation to fulfil its statutory obligations. This gives a strong leverage to the advice and recommendations made. Statutory duties establish an empowered context for national specialised bodies to implement their advisory function as they are often accorded roles under the legislation to set standards for and support implementation of the statutory duties and, despite often limited sanctions available, to take action to enforce these statutory duties.

5.2 *Channel Powers*

The second source of leverage is to channel other powers the national specialised bodies have to support the goals of their advisory function.

National specialised bodies with tribunal type functions can establish parameters for the recommendations they make in casework to ensure these contribute to the goals of their advisory function. In cases where discrimination is found, recommendations can go beyond addressing the specific situation of the individual claimant to seek change in:

- The practice of organisations to prevent future discrimination;

¹⁴ Examples include Belgium, Britain, Ireland and Northern Ireland.

¹⁵ Examples include Finland, and Sweden.

¹⁶ Examples include Austria, Denmark and France.

- The content of legislation or policy to rectify causes of discrimination.

National specialised bodies with predominantly promotion type functions can pursue a casework strategy to serve their advisory function:

- Cases of a strategic nature can be taken or supported to reveal limitations in legislation and policy and to challenge procedures and practices in institutions;
- A critical number of cases can be supported on a particular issue or in a particular sector where the national specialised body has identified the need for change. This draws attention to the issues and generates pressure for change that goes beyond the individual casework outcomes.

Both types of national specialised bodies should have access to high quality legal expertise within their staff. This expertise can be deployed to strengthen their advisory function, with the use of legal arguments to underpin advice given and recommendations made.

5.3 Mobilise Power

A third source of leverage is for national specialised bodies to mobilise new forms of power to support their advisory function. National specialised bodies need to engage in different types of activity to build an impetus and imperative behind their advice or recommendations in order to secure an impact or outcome. This can involve:

- Participation in public debate: National specialised bodies present their recommendations and the rationale for these through the mainstream media, social media and public events. This builds a popular understanding of and support for the change they seek, whether in legislation and policy or in procedure and practice. This public support generates a demand for change.
- Development of institutional relationships: National specialised bodies create formal structures or ongoing dialogue with the institutions, public or private, that they seek to advise. This builds confidence in the national specialised body and creates a better understanding of the change it seeks. It moves change forward on the basis of discussion and negotiation rather than external demand. It allows national specialised bodies to influence the perspective and values of those they engage with in order to create a more accepting context for their advice and recommendations.
- Building and communicating expertise: National specialised bodies operate in an authoritative and evidence based manner. Their public voice has a tone that communicates this authority and is perceived as authoritative rather than partisan. Staff are recruited with the specific expertise, skills and knowledge required. Research is used to develop an evidence base and provide access to new thinking.
- Developing and disseminating the arguments for change: National specialised bodies have been to the forefront in researching and demonstrating the business case for equality, which can be important to persuade commercial bodies to adopt equality and diversity systems. They have also been involved, to a lesser extent, in researching and demonstrating the economic case for equality, which can be important to persuade legislators and policy makers. At the same time national specialised bodies need to communicate an understanding that achieving equality, adjusting for diversity, and eliminating discrimination is important as it is the right thing to do.
- Engaging international support: National specialised bodies engage with international organisations to mobilise support for their advice and recommendations. International networking serves to give a visibility to this

work and to create pressure for a positive response to it from public authorities in particular.

SECTION SIX: CHALLENGE THREE - IDENTIFY STRATEGIES FOR CHANGE

6.1 Partnership for Change

Partnership understands change as emerging out of fruitful cooperation developed with legislators, policy makers, employers and service providers. Partnership is rooted in an ongoing dialogue with these actors. This is as extensive as resources allow in stretching to different levels of government and across different sectors within the private and public sectors.

Ongoing dialogue and partnership are built over time. They involve:

- An analysis of the likely champions, whether individuals or organisations, in the relevant field;
- An identification of the points of influence held by the national specialised body;
- An approach that makes it in the interests of each partner to engage in the partnership, there needs to be benefit for all involved.

Partnership that takes the form of institutional structures within which the relevant legislators, policy makers, employers and service providers can cooperate can offer particular potential for national specialised bodies to:

- Build trust in their expertise;
- Promote a shared vision for and valuing of equality, diversity, and non-discrimination;
- Identify and agree the nature and scope of change that is necessary and possible;
- Provide educational supports to address issues of competency or culture among the partners;
- Drive joint initiatives to progress full equality in practice where relevant actors lead the change agreed and the national specialised body provides support.

Good practice of the Défenseur des Droits of France¹⁷:
Management of relationships with legislators.

When it was established in 2011, the Défenseur appointed a staff member to have responsibility for relations with the Parliament. This appointment is based on the advisory role of the Défenseur, as set out in legislation, to put forward recommendations regarding legislative and regulatory amendments, to engage in consultation with the Prime Minister regarding any legislative proposal that falls within his/her jurisdiction, to respond to requests of the Prime Minister to contribute to the preparation of a French position in international negotiations in areas within her/his jurisdiction and to submit an annual report to the President of the Republic, the President of the National Assembly, and the President of the Senate. The Défenseur, in making this appointment was concerned to enhance the potential for his/her recommendations to be implemented.

¹⁷ See Défenseur des droits, République française, www.defenseurdesdroits.fr.

The core work of the staff member involves monitoring the calendar and activities of the Parliament including assemblies' order of the day, evolution of the debates, developments in the work of commissions, work groups and information missions. This allows for timely alerts in relation to attending hearings, responding to requests for opinion, or providing opportunities for amendments.

The staff member is responsible for organising and preparing for any Parliament-related event. These could include hearings before parliamentary commissions and other work meetings with parliamentarians. This is done in collaboration with the relevant services in the Defenseur. She/he responds to requests for information from parliamentarians and the services in the Assembly. She/he also organises and prepares any meetings of the Defenseur with parliamentarians and elected officials during his local visits.

The staff member collaborates with the reform unit of the Defenseur to contribute to legislative reform proposals. He/she also proposes any action that might be useful to the development of relations between the Defenseur and Parliament.

The staff member reports directly to the Defenseur and is located in his cabinet. He/she has access to lawyers and other staff in the organisation responsible for issues dealt with by the Parliament. The Parliament has given the right to an "access card" to this staff member as "representative of interest"/institutional lobbyist.

In recruiting for this position, specific skills were sought. These included: experience in the field of parliamentary relations; knowledge of the workings of the administration, particularly of the functioning of Parliament; interpersonal qualities and communication skills; understanding of current affairs and ability to work under pressure; verbal and written expression skills; and knowledge of English.

The impact of this post is evident in the increasing recognition of the Defenseur by the Parliament as an expert with the capacity to support legislative improvements on fundamental rights issues. This post will continue in future, as its existence is essential for the Defenseur to fulfil his/her advisory functions.

There are risks in partnership that need to be managed, such as:

- The national specialised body being lulled by the status of partner into a cosy relationship with the power holders, whether they are legislators, policy makers, employers or service providers;
- Making minimal progress on the change sought with the ambition for change diminishing to the lowest common denominator among the partners;
- Reluctance to deploy its powers of enforcement for fear of offending partners;
- Public perceptions of a loss of independence of the national specialised body.

Leadership within the national specialised body is key so that these relationships are pursued and managed in a manner that safeguards the independence of the national specialised body, asserts the awkward and critical voice of the national specialised body, and ensures a balance between the advisory and enforcement functions of the national specialised body is sustained.

Good practice of the Interfederal Centre for Equal Opportunities (Unia) of Belgium¹⁸: Positioning the national specialised body as a partner for local authorities.

Local authorities in the Flemish Region established thirteen equal opportunity reporting desks on foot of a 2008 Decree establishing the Flemish Equal Opportunities and Equal Treatment Framework. These reporting desks functioned at that time under the auspices of both the Flemish Government and the city administration. Their main tasks were to handle discrimination complaints on a local level.

UNIA, since its establishment in 2014, has sought to position itself as a partner to the local authorities through the Cooperation Agreement between the Federal Government, Regions and the Communities. These reporting desks are now fully integrated in its structure. They have four key tasks, one of which is focused on the advisory function, to:

- Provide assistance to victims of discrimination reporting discrimination.
- Undertake campaigns to prevent discrimination and organise educational activities;
- Perform a local networking function in building cooperation with other local actors to develop initiatives at local level. Initiatives vary, depending on the particular area, but employment and housing are key issues;
- Fulfill an advisory role at the local policy level whereby UNIA uses its knowledge garnered from casework and studies to advise and issue recommendations for local policy makers and a variety of other organizations.

An annual formal cooperation agreement, once approved by the city council, is signed with each local authority in relation to the direction of and support for the local contact point. These agreements include joint goals and mutual commitments. They offer valuable opportunities for UNIA to bring its advisory function work to a local authority level and this function is referenced in the agreement. This function is better developed in some cities than in others. There is a determination by UNIA to improve the spread of this work across all cities.

A local staff member is provided by UNIA for the local contact point along with a budget for joint projects. The Municipality may also provide a budget. UNIA informs the local contact points about the anti-discrimination legislation, good practice in equality and diversity, and policy issues. A joint annual report on equality and discrimination is prepared.

Due to its local positioning through these contact points, UNIA can now pick up signals and pass on reports more easily, respond faster to local situations and make a more rapid assessment in the event of incidents. The local contact points are channels UNIA can use to interpret broader topics or campaigns for the city or region in question.

Local policy makers and partners get access to an entire centre of expertise through the local contact points. The demand for UNIA

¹⁸ See Interfederal Centre for Equal Opportunities, www.unia.be.

services is growing. This has included a focus on issues such as the inclusion of people with disabilities, the management of public housing, and practice in relation to religious symbols in formal education. UNIA gives advice on internal operations to local authorities, with a focus on diversity management implemented by Human Resource management staff of the local authorities. It also includes advice on housing and other services.

The city of Ghent offers an interesting example. UNIA has collaborated with the City Administration and the University of Ghent in conducting field tests on the housing market in order to tackle discrimination. UNIA has been able to offer its expertise, advice and support in variety of ways to developing a response to the issues. The city of Ghent is interested in including non-discrimination clauses in its tenders and contracts with suppliers. UNIA is providing advice and expertise in this.

Real partnerships are needed, alongside the cooperation agreement, to ensure impact from this work. Significant time is required to build partnership with local authorities, create local networks, and develop local collaboration. There can be barriers due to complex political circumstances or lack of political will or lack of a local budget. It is important to build trust. It is also necessary to take local needs into account and detect local opportunities

Municipal elections will take place in 2018. This is seen by UNIA as a great opportunity to work on local policy recommendations. It is currently working on a 'tool box', a set of policy recommendations for the local level, with a view to getting these recommendations into the party platforms, and to influence local majority agreements after the elections.

In the Walloon Region the federal authorities have established reporting desks. These deal with issues of discrimination alongside all types of issues brought forward by the public. UNIA is now expanding the work in the Walloon Region along the directions already developed in Flemish Region on foot of the Cooperation Agreement between the Federal Government, Regions and Communities.

6.2 Pressure

Change is understood in this approach as emerging out of a demand that is brought into play on legislators, policy-makers, employers or service providers. There are different forms of pressure that can be deployed by national specialised bodies to support an impact from their advisory function:

- Pressure based on enforcement;
- Pressure based on alliance building and networking;
- Pressure based on public debate;
- Pressure based on the power of good example.

Pressure based on enforcement involves national specialised bodies channelling the powers they have under equal treatment legislation to support and advance their advisory function. This includes the enforcement of statutory duties, supporting strategic cases, taking a critical mass of casework, and making casework recommendations directed towards the goals established for their advisory function.

Pressure based on alliance building and networking involves the national specialised body with the wider institutional infrastructure for equality when implementing its advisory function. Relationships with NGOs can draw a wide range of organisations into making similar demands for change as the national specialised body. This can amplify and diversify the voices seeking this change.

The relationships developed by the national specialised body with other statutory bodies with mandates that have links with issues of equality and non-discrimination can be particularly valuable. These bodies include national human rights institutions and Ombudsman Offices. Powerful synergies can be developed between the advisory functions of these different bodies that enhance the impact of all of them whilst maintaining the distinct contribution of each.

Pressure based on public debate stimulates public support for the position being taken by the national specialised body through raising the issues being pursued in the mainstream media and social media. This supports a shared understanding of the issue at play and the most appropriate resolution. This increases the demand for change and renders the change more readily acceptable.

Good practice of the People’s Advocate of Albania¹⁹: Taking a proactive approach to the advisory function.

An approach to its advisory function, called ‘developing proactivity’, emerged from a decision by the People’s Advocate to investigate, on its own the initiative, the issue of Roma/Egyptian displacement. This decision was made on foot of a public statement by the Municipality of Tirana on proposed expulsions from a Roma camp in Tirana.

The approach taken involved close cooperation with civil society organisations, involving coordinated effort, definition of a joint strategy, exchange of data on the issue, and monitoring of the issue on the ground. Engagement with the media was another vital component, with constant communication with the media and a series of media statement issued jointly with civil society organisations. Interaction with international organisations was also key.

The approach deployed the core functions of the People’s Advocate. This involved: a full administrative investigation of the case, including in relation to property issues; a recommendation made by the People’s Advocate to the Municipality of Tirana, based on international principles and standards in relation to displacement and forced evictions and their application to the particular case; and a special report presented to the Albanian Parliament.

This proactive approach was deployed for a number of reasons. The situation for the Roma and Egyptian communities was urgent. It represented the culmination of significant effort over a period of time by the People’s Advocate across the country to protect these communities. The specific issues raised by the Municipality of Tirana required exhaustion of a range of legal instruments under the jurisdiction of the People’s Advocate. Finally, it was important to establish a standard in relation to dealing with issues of forced evictions by public authorities and to promote the need for a Law on forced evictions.

The forced expulsion did take place. However, the intervention of the People’s Advocate brought the issue of international standards being

¹⁹ See Avokati i Popullit (the People’s Advocate), www.avokatipopullit.gov.al.

abused in this case to the attention of the public authorities, the media, civil society, the international community, and the public at large. The Municipality of Tirana has since demonstrated a more cautious approach in respect of Roma/Egyptian displacements.

Civil society organisations are an important ally for the People's Advocate and play a key role in this approach. They were a source of information and links and coordination with the Rom/Egyptian community. The relationship with civil society has been institutionalised in the People's Advocate. 130 NGOs have signed cooperation agreements in the field of prevention, protection and promotion of human rights with the People's Advocate and an advisory board, Board for the Protection of Human Rights, made up of civil society organisations has been set up.

There have been a significant number of these proactive approaches taken by the People's Advocate since. Tangible results include an open and healthy public debate on the issues; greater public and policy attention on people in need; increased public trust in the People's Advocate; and consolidation of the independent institutional status of this body.

Pressure based on the power of a good example takes advantage of champions for equality and non-discrimination that exist in most sectors. The national specialised body can support them to apply a peer pressure within their sector. A wide range of champions is required in different sectors to enable this peer pressure to be brought into play. The power of a good example can also start with the national specialised body itself and its own internal policies and procedures.

There are risks in deploying pressure as the mechanism for change:

- Where enforcement powers are used to apply pressure, the goal for the advisory function of substantive equality can get subsumed into enforcement activity that is usually limited to non-discrimination and formal equality;
- Where the wider institutional infrastructure for equality is used to apply pressure, the national specialised body can be rendered as just another non-government organisation in the public eye. Perceptions of lack of independence can again come into play;
- Where public debate is used to apply pressure, the national specialised body often has to work through journalists as intermediaries who do not necessarily understand or support the position or goals of the national specialised body and can even be hostile to these. This can distort the message of the institution;
- Where champions are used to apply pressure, the standards held by the individuals and organisations involved might be lower than those pursued by the national specialised body.

Strong leadership and good strategy alongside monitoring can manage and avoid such risks. The key is to be aware that they can happen and to watch out for this.

6.3 Values

All people hold a very broad spectrum of values, including values of equality, diversity, and non-discrimination. The issue is that too few people actually prioritise these values of equality, diversity and non-discrimination, especially when in positions of influence. Achieving change is about triggering these values and getting people to give priority to them.

The focus on values understands change as emerging out of the motivation of individuals and the priorities of organisations. The values prioritised by legislators, policy-makers, employers, and service providers are powerful motivating factors for their decision-making and choices. The values dominant within an organisation shape the priorities pursued by that organisation and the manner it goes about its work. This is a neglected mechanism for change and requires a high level of creativity and innovation from the national specialised body.

Equinet commissioned research to open up this approach that acknowledges that national specialised bodies “can actively work to bring to the fore the sense of respect and care for others that every person already holds within them”.²⁰ This emphasises the role of the communication work of national specialised bodies:

- Communication is key to triggering values of equality, diversity, and non-discrimination;
- Participation in public debate can build a popular prioritising of these values;
- Stakeholders’ dialogue can build a leadership within organisations that prioritises these values.

The advisory function of national specialised bodies involves:

- Triggering and calling on these values of equality, diversity and non-discrimination among decision-makers;
- Devising ways of supporting an institutionalisation of these values in the various organisations that national specialised bodies seek to influence.²¹

There are risks in using values as a mechanism for change:

- This is a new, largely untested, and often intangible field of endeavour. There are some examples emerging in Ireland that have been developed by the Values Lab²² and that have been included in a training course for public authority officials by the Irish Human Rights and Equality Commission²³ to support implementation of the equality and human rights public sector statutory duty.²⁴
- While it offers innovation, it could distract national specialised bodies from more tried and tested mechanisms for change.

These, again, are risks rather than impediments to testing out values-based approaches and reaping the new potential that could be opened up by such an innovative approach.

²⁰ Public interest research centre (2014), Valuing Equality – How equality bodies can use values to create a more equal and accepting Europe, Equinet.

²¹ Equality and Rights Alliance (2015), A New Public Sector Equality and Human Rights Duty, Dublin.

²² See more at The Values Lab, www.values-lab.ie.

²³ See Irish Human Rights and Equality Commission, www.ihrec.ie.

²⁴ Crowley N. (2016), Human Rights and Equality in Public Management: The public sector duty, Module 4, Irish Human Rights and Equality Commission and Institute of Public Administration.

SECTION SEVEN: PRACTICE TOOLS

7.1 *Tools for Influencing the Content of Legislation and Policy*

Equinet identifies that influencing the content of legislation and Government policy is part of a general strategy for national specialised bodies to bring about societal change.²⁵ The good practice guide for this work published by Equinet suggests that effective recommendations are based on:

- Conducting research and studies and preparing detailed arguments;
- Providing evidence of benefit and value from the recommendation;
- Cooperation and ongoing engagement between national specialised bodies and policy makers/legislators;
- Monitoring the implementation of recommendations;
- Stimulating public debate on and support for the issues.

A range of different tools for making policy and legislative recommendations were identified by national specialised bodies in this good practice guide. These addressed:

- Knowledge development: using publications and research projects, the case work of the body, and its annual report;
- Relationships: using engagement in consultation processes, participation on committees of inquiry, and bilateral meetings with policy makers;
- Public debate: using the publication of articles in the mainstream media;
- Submissions: using commentary on legislative acts, formal written communication to the Government, and a memorandum for national elections.

Good practice of the Council for Preventing and Eliminating Discrimination and Ensuring Equality of Moldova²⁶: Working groups to advance legislative change.

The Council has developed an effective approach to developing and providing advice on legislation through the use of “working groups”. It has used this approach three times: on Hate Crimes Law, on the Official Classification of Professions in order to introduce female forms of all professions where possible, and to mainstream non-discrimination in the new Regulation on Graduation Exams of the Ministry of Education. A working group has been initiated on modifications to Equality Law and the Regulatory Law on the Activity of the Council. The Council plans to use this approach on a regular basis.

Working groups are convened where the issues under consideration is either complicated or of significant scale. The issues tend to be of public interest and of importance to the non-governmental sector. They require the contribution of different institutions and stakeholders. They have been identified as of particular relevance for the Council and its objectives.

The composition of working groups depends on the issue being considered. They usually involve the Council, relevant Ministries or

²⁵ Equinet (2014b), *Advancing Equality by Making Recommendations to Policy Makers*, Brussels.

²⁶ See Council on the Prevention and Elimination of Discrimination and Ensuring Equality, www.egalitate.md.

state agencies, Non-Governmental Organisations, and relevant experts if available. They can work for anything between a few months and more than a year. One institution takes responsibility to organise weekly or biweekly meetings. A secretary takes minutes, tracks changes to documentation and circulates documentation to all involved. The Council holds the standard for non-discrimination in the discussions and work.

The working group to mainstream the non-discrimination principle in a new Regulation on Graduation Exams of Ministry of Education provides a practical example. It was convened because children with special need who studied the regular Curricula had to get reasonable accommodation during their graduation exams, including such as suitable premises, additional time, accessible toilets.

The working group was made up of the Council (two Members of the Council and Head of Policy Department), the Ministry of Education, the Ministry of Health, the Agency for Curricula and Evaluation in Education, and representatives of the Psycho-pedagogic Assistance Service. It met for two months. Non-discrimination was embedded in the new Regulation. Children with special needs were reasonably accommodated in the graduation exams. This has allowed thousands of children with disabilities to pass final school exams in a dignified manner.

Working groups offer benefits in drawing in and engaging the full range of relevant people to examine an issue of legislation. They offer a sense of ownership of the issues for all stakeholders involved. They create the conditions for positive, constructive and creative work together. It is easier for an institution to say no in correspondence than when engaged in a constructive and face to face exchange. The involvement of Non-Governmental Organisations in the process ensures they are positively disposed to and can be champions for the outcomes. A creative space is enabled with brainstorming and new ideas put forward for debate.

There are challenges in this approach. Decision makers are usually not members of the working group. They have to be consulted at every stage and this can take time. Stakeholders can be resistant to change or can be over anxious for change and there can be difficult moments. It can be difficult to organise meetings as each stakeholder has their own agenda. The group can be submerged in endless discussion.

The Council also uses a form of working group to coordinate with NGOs and international organisations in its promotional work. This allows the use of the budgets of different actors in a single effort and avoids overlapping activities and double-spending. There is a plan to establish a permanent working group with the Ombudsman's Office so that the two institutions concerned with the protection of human rights would better coordinate their efforts.

Data and statistics are important tools for national specialised bodies in influencing legislation and policy. They provide the evidence basis for the arguments made for legislative change. Data gaps present challenges but these can be addressed by:

- Using both qualitative and quantitative data;
- Drawing from a range sources of data including national statistics, academic research, NGO research, and survey work of the national specialised body;

- Building relationships with academic and, most importantly, with national statistics offices to assist in data gathering.

7.2 Tools for Influencing the Procedure and Practice of Institutions

Equinet's work on documenting tools for shaping the procedures and practices of institutions focus on policy makers, employers and service-providers. This report suggests an approach to this task based on:

- Analysing the situation and identifying the topic and the pertinent duty bearers.
- Establishing a committee with duty bearers.
- Elaborating a strategy.
- Holding duty bearers accountable for their actions.²⁷

A wide range of tools are identified in the report that capture a valuable understanding of how advice might be delivered to achieve change in the procedures and practices of public and private sector organisations. These include:

- Legal action.
- Information and awareness raising.
- Research.
- Training.
- Advice and guidance.
- Engagement and provision of practical support.
- Cooperation with regulatory bodies.
- Dialogue.

Good practice of the Federal Anti-Discrimination Agency (FADA) of Germany²⁸: A pilot initiative on depersonalised job applications.

FADA took a particular approach to influencing the procedures and practice of institutions in using a pilot initiative. FADA were concerned with issues of discrimination in the labour market. The initiative taken was focused on employers. It was concerned with recruitment and held an ambition beyond non-discrimination. It sought to remove the potential for discrimination and realised a potential to achieve greater outcomes of diversity in employment. FADA considers it to be a cornerstone for a more accessible labour market.

The initiative was based on the use of depersonalised job applications. FADA contacted more than 100 large, medium-sized and small companies in the public and private sectors. It was not easy to find participants for the pilot project. Many companies had reservations about this approach and did not want to change their recruitment practices. However, a number of companies were receptive towards diversity issues.

Eight very diverse partners were selected. The participants included four companies operating at a global level, three public authorities, and a medium-sized enterprise. The change in practice in using depersonalised job applications forms in these public and private sector

²⁷ Equinet (2013), Joint Responsibility for Equal Treatment: How Equality Bodies Work with Duty Bearers, Brussels.

²⁸ See Federal Anti-Discrimination Agency, www.antidiskriminierungsstelle.de.

organisations resulted in people being invited to interview who might not otherwise have been. The approach is relevant across all grounds covered under equal treatment legislation. It does not fully address the age ground as indicators of age emerge in other parts of the application form. The only issue of implementation that emerged is that this practice can be time consuming.

Pilot initiatives, by their nature, are time-limited and are run on a voluntary basis. The companies try something new and assess how it works in practice. The positive impact of this pilot initiative was evident in that several participants, after the end of the project, chose to change their systems to a depersonalised job application procedure. A further gain from the pilot project is evident in that more and more German Länder are now testing the anonymous applications. FADA continues to give practical advice and information to these newcomers.

The use of pilot initiatives emerges as an effective way to provide practical advice to employers and companies who are keen to analyse and assess their human resource management procedures and practices. The pilot phase also serves as a good method to test out in a real situation the suitability of new approaches to workplace practices and procedures. This allows new tools to be assessed and improved. Companies who participate in pilot projects can then be presented as best practice examples. Their positive experience can be communicated as proof that particular approaches work and that anti-discrimination projects can benefit both employers and employees. The only weakness could be their time-limited nature and their limited reach.

FADA continues to deploy this pilot initiative approach. In cooperation with the Berlin School of Economics and Law, FADA is developing a toolbox for testing gender equality in the labor market. This is part of the initiative “gender bias check (gb-check)”, which is financially supported by the EU. One of the main objective of the initiative is to support companies in an ambition to ensure gender equality in the workplace.

The initiative will run from January 2016 to August 2017. It includes a pilot phase where the “gb-check” will be tested in ten companies from the public and private sectors. After testing and improving the tools during this pilot phase, the “gb-check” will be made available to employers through the homepage of the FADA website.

“Gb-check” involves a set of analytical tools to examine decisions in the field of job listings, staff selection (recruitment/career advancement), workplace conditions, on- the-job training, performance assessments and scheduling (especially part-time work arrangements). Employers will, by applying the “gb-check” tools, acquire increased awareness of gender discrimination risks and of any shortcomings in their human resources management operations. They will thus be able to improve practices and procedures as necessary to promote equality in the workplace.

Codes of conduct are also valuable tools for national specialised bodies in influencing procedures and practices of institutions. These can set a standard in this regard. In some member states they can be used as evidence in the hearing of cases of discrimination against which to judge the practice of the respondent.²⁹ These codes of practice, while rooted in equal treatment legislation, are a subject of negotiation and agreement with the relevant stakeholders and can go beyond equal treatment legislation in advancing a greater ambition of achieving full equality in practice.

Outreach to employers and service providers is also important. Face to face contact can be more productive than brochures or public relations initiatives in influencing employers and service providers and convincing them to take action.

7.3 Tools for Influencing the Wider Institutional Infrastructure for Equality

Equinet found that national specialised bodies are key in securing the effectiveness of the wider institutional infrastructure for equality.³⁰ It identifies that national specialised bodies:

- Act as a hub where organisations can build relationships and cooperate;
- Serve to influence the commitment and practice of these organisations;
- Support a shared vision and understanding among them.

It suggested that national specialised bodies influence this wider institutional infrastructure by:

- Giving leadership;
- Supporting formal structures for cooperation among these organisations;
- Offering expertise.

Non-Governmental-Organisations are identified as key partners in this work, both in enabling national specialised bodies to implement their mandate and in creating opportunities for mutual learning. There is a mutual benefit in this. NGOs can gain legitimisation and recognition for their expertise and learn from the work of the national specialised body. National specialised bodies can multiply their impact through support from the NGOs, learn and secure information from the work of the NGOs, and secure trusted channels of communication with social groups experiencing discrimination.

Good practice of the Office of the Greek Ombudsman³¹:
Establishing a cooperation network to engage state agencies, local authorities and civil society organisations on Roma issues.

The analysis of the Ombudsman in relation to the situation and experience of the Roma in Greece was that, while deciding and solving individual Roma cases was important, it was not adequate to deal with problems that were structural and institutional. This analysis encouraged the Ombudsman to innovate in forming a cooperation network in 2007 that involved state agencies, local government and civil society in a partnership to focus on Roma issues.

²⁹ Examples include Ireland.

³⁰ Equinet (2014a), The Bigger Picture: Equality Bodies as part of the National Institutional Architecture for Equality- An Equinet Perspective, Brussels.

³¹ See The Greek Ombudsman, www.synigoros.gr.

A cooperation network offered the potential to establish regular contact with the Roma and to address a communication gap between the Ombudsman and the Roma community in various regions of Greece. The network model went further in facilitating direct contact and exchange of information between the Ombudsman, public bodies and the Roma. It was felt that better contact would lead to improved understanding of the needs of the Roma at central and local level and to cooperation in pursuit of more adequate solutions to these problems.

The main objective for the cooperation network has been to realise a coordination of action by the participating bodies in responding to Roma issues. Secondary objectives included encouraging greater use of mediation by the Ombudsman in complex situations, improving information on the central problems being faced by the Roma, and disseminating anti-discrimination tools and expertise to enable public bodies to respond appropriately to the Roma.

The cooperation network includes about 30 partners. It involved an open invitation to NGOs to participate. Regular meetings were arranged at least twice a year, for the first two years. The specific problems discussed mainly related to issues of official registration and housing. After 2010, the network began to function on a more intermittent basis, when the needs of a specific investigation require contact with Roma or relevant stakeholders in a particular region.

All the on spot investigations, visits and meetings of the Ombudsman all over Greece, were connected with these meetings with the local partners and were planned with prior notice and discussions with these partners.

The number of complaints has risen as a result of the cooperation network. The information gathered through the cooperation network provided sufficient data³² and permitted a typology of the problems, needs and possible solutions to be developed. This initiative permitted, for the first time in Greece, a systemic and documented intervention on the part of a public body in relation to the Roma. This was important and has already made an impact.

The impact of this cooperation network was enabled by the gradual building of trust between the partners and the encouragement of and respect for their active involvement. There was a particular challenge to gain the trust of the Roma. Some local authorities were resistant to getting involved. This cooperation was difficult at times, due to conflicts of interest between various Roma groups or among the partners.

On the other hand, the impact and effectiveness of the network was influenced by the general situation in Greece and the dominant issues of concern. In this regard, the economic crisis had a significant impact. Apart from that, the issues surrounding refugees and immigrants in recent years has led to a deprioritising of the focus on the Roma.

The lack of resources became a major barrier. Funding was crucial due to the need to travel in order to cover various and isolated regions in the country. It became difficult to keep regular contact and sustain a presence all over Greece, due to funding problems. This had direct and negative impact on the functioning of the cooperation network.

³² For information, Roma settlements map, Greek: <http://www.synigoros.gr/maps?i=maps.el.maps>, English: <http://www.synigoros.gr/?i=maps.en.en-roma-maps>)

Alternative virtual ways of keeping contact were used in other networks but have not been useful for maintaining contact with Roma.

In late 2013, the Ombudsman established cooperation networks for the other grounds of discrimination: sexual orientation, religion, age, and disability. This development made use of the experience gained by the establishment and functioning of the Roma cooperation network.

Despite the lack of funding in recent years, these networks have managed to function, mainly through electronic or phone contacts. Meetings are held at the office of the Ombudsman when a specific issue of high importance requires further discussion. However, partners from outside Athens cannot easily participate. Visits to regions outside Athens can be planned on an exceptional basis, where a mixed agenda has to be addressed in order to cover the various needs of the Ombudsman.

One important success has been in relation to the LGBT cooperation network in enabling an intervention by the Ombudsman when the new law on civil partnership agreement was under public consultation. This intervention related to a recommendation as regards the custody of children born or adopted before or after entering into a civil partnership agreement. The new law does not establish rights for these children. Prior to this intervention the Ombudsman had a productive co-operation with the partners on the LGBT cooperation network. Even though the recommendation of the Ombudsman was not accepted by the parliament, it caused a productive public dialogue that had an impact in ensuring the issue was made known in a comprehensive manner.

Good practice of the Office of the Ombudswoman of the Republic of Croatia³³: Engaging the wider infrastructure for equality.

Non-governmental organisations have been the key focus for the Office of the Ombudswoman in implementing its advisory function through engagement with the wider infrastructure for equality. The legislation governing the Office of the Ombudswoman encourages this engagement by requiring consultation by the Office with civil society organisations and the inclusion of their data in reports. The Office of the Ombudswoman includes NGO inputs in its annual report.

In this engagement the Office of the Ombudswoman has principally operated as a hub around which cooperation with NGOs has been developed. The Office of the Ombudswoman has joined a wide NGO network in analysing national anti-discrimination strategy and worked with NGOs to develop proposals for a national anti-discrimination plan. This cooperation has been further underpinned by working relationships developed by the Office of the Ombudswoman in recruiting five NGOs to operate as regional contact points for it and in implementing joint projects with NGOs.

Civil society is an important partner for the Office of the Ombudswoman for the knowledge and information that NGOs can have access to. This knowledge and information can inform advisory documents prepared by

³³ See Republic of Croatia, Ombudsman, www.ombudsman.hr.

the Office of the Ombudswoman. NGOs working with particular groups experiencing inequality and discrimination have a particular contribution to make in assessing the impact of the advisory function of the Office of the Ombudswoman and in enabling a more effective dissemination of the positions taken in this advisory function. This offers valuable feedback to the Office of the Ombudswoman and enables its voice to have a greater reach at grassroots level.

The Office of the Ombudswoman is a valued partner for civil society for the legitimisation and recognition that results for the NGOs involved. This enhances their standing in society and with the administration and enables greater impact from their work.

The diversity of civil society, both in focus and in capacity, assists the impact of the Office of the Ombudswoman. However, it can also present barriers to cooperation. NGOs can hold different understandings of the advisory function and of the cooperation offered. Expectations from the relationship with the Office of the Ombudswoman can vary. NGOs can change over time in their priorities and activities. This can significantly alter their contribution as partners and as channels of communication.

The Office of the Ombudswoman approaches this cooperation with a strong public image as a body determined to take on a proactive role in seeking change and as a body with clear and ambitious policy positions. This protects and secures the independence and distinct identity of the body in this cooperation. The Office of the Ombudswoman can act as an intermediary between NGOs and Government. It can offer an approach to cooperation that minimises bureaucratic and technocratic elements.

A current focus for the Office of the Ombudswoman is the five regional contact points. This is because the Office of the Ombudswoman has secured resources to open its own regional offices in three points outside the capital and due to shifts in the focus of work for some of the NGOs acting as regional contact points. A new network of NGOs is now being considered that goes beyond a regional focus to encompass all NGOs working in the field of combating discrimination who are interested in cooperating with the Office of the Ombudswoman.

7.4 Internal Organisation

The practice of implementing the advisory function needs to be accorded a status by national specialised bodies on a par with their other key functions, in particular their enforcement function. This suggests the need for a parity of resources, human and financial, for implementing the advisory function with those allocated for the implementation of its other functions. It is useful to ensure these resources are deployed across all three elements of the advisory function, given their interlinked nature:

- Influencing the content of legislation and policy;
- Shaping the procedures and practices of institutions;
- Supporting the wider institutional infrastructure for equality.

Parity of status also points to a value in having a distinct department with its own specialist expertise within the national specialised body for this advisory function. This is an issue that goes beyond status as it can serve to protect the independence of the national specialised body as it engages in this advisory work. At the same time, national specialised bodies might valuably create linking systems so that there can be an integration and a coherence between their different functions and such that expertise can be shared between these functions.

SECTION EIGHT: CONCLUSIONS AND RECOMMENDATIONS

8.1 Conclusions

The advisory function of national specialised bodies merits attention for the significant potential it holds to contribute to change at the level of:

- Communities that experience discrimination;
- Institutions; and
- Society as a whole.

This advisory function offers opportunities to national specialised bodies to contribute to long term change for equality and non-discrimination. However, action in this field poses specific challenges for national specialised bodies. Many national specialised bodies still need to gear up to implement this function effectively. The advisory function usually has no enforcement powers attached to it. In contexts of constrained resources, it can be all too easy for national specialised bodies to reduce the focus and work on this advisory function.

This advisory function makes demands on those international organisations that provide important and necessary support for national specialised bodies and their work. This international support needs to be increased and further developed to protect national specialised bodies operating in hostile contexts. ECRI has offered a valuable example in its country reports and in its commitment to review legislation and standards established for national specialised bodies.

8.2 Recommendations

National specialised bodies should:

- a. Accord some priority to this advisory function and avoid easy but damaging choices to ignore it or to limit their action on it in a context of limited resources. The potential impact of this advisory function demands some parity in the resources devoted to it compared to their other functions.
- b. Develop coherence their advisory function and their enforcement function by devising and pursuing a strategy that secures an alignment of these two functions under the common goal of contributing to the achievement of full equality in practice.
- c. Recruit or develop specific skills and expertise that are tailored to the strategies required for their advisory function. This expertise is not always available internally and a pool of available external expert assistance needs to be developed.
- d. Mobilise or leverage power to enable and maximise the impact of its work on this function. This can include participation in public debate, developing supportive institutional relationships with other stakeholders, building and

communicating its expertise, developing and disseminating the case for change, and engaging international support.

- e. Establish long-term goals in implementing their advisory function and in devising and implementing an innovative strategy capable of achieving these.

Member states should:

- a. Adopt legislation that provides for adequate and appropriate powers to allow national specialised bodies to implement an effective advisory function.
- b. Create adequate conditions for national specialised bodies to implement a full and effective advisory function both in the powers provided for them in equal treatment legislation and in the budget made available for their operations.
- c. Develop national parliamentary, administrative and institutional systems that can engage positively with the advice and recommendations made by national specialised bodies and create conditions conducive to their implementation.

Local Authorities should:

- a. Engage as partners with national specialised bodies to enable the implementation and impact of the advisory function of these bodies.

International organisations should:

- a. Capture the complexity of this advisory function and ensure national specialised bodies are empowered and resourced to implement it to best effect in new European standards for national specialised bodies.
- b. Monitor member states to track recommendations made and advice given by national specialised bodies in terms of the quality of the work that the national specialised bodies are able to do and the manner in which recommendations and advice are received and implemented.
- c. Increase their protection of national specialised bodies that come under undue pressure from the public authorities due to taking and promoting policy positions for equality and non-discrimination in hostile contexts.

Synergies should be achieved by:

- a. National specialised bodies making links with national human rights institutions and Ombudsman Offices to build coherence and mutual support behind their pursuit of change through the provision of advice and recommendations, whilst maintaining the distinctive contribution of each type of body.

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