

# PROMOTING EQUALITY AND NON-DISCRIMINATION VIA THE EUROPEAN STRUCTURAL AND INVESTMENT FUNDS FOR 2014–2020

Guidance and recommendations for  
intermediary bodies and fund beneficiaries



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# Presentation

Equality of treatment and non-discrimination is one of the European Union's founding principles. Consequently, when implementing its policies and actions, the EU strives to combat all discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

This Community policy focus on genuinely and effectively fulfilling this principle is reflected in the fact that the European Structural and Investment (ESI) Funds for the 2014–2020 period must contribute towards that goal. Likewise, the principle must be taken into account at every stage of the fund lifecycle, from programming through the evaluation. It should also be noted that including a specific investment priority aimed at combating all forms of discrimination is an adequate tool to implement specific actions that directly contribute to creating a fairer and more equal society.

This guide is intended to facilitate the application of the principle of equality and non-discrimination in use of the ESI Funds for 2014–2020 and to encourage effective actions and measures when designing and implementing operations related to the investment priority entitled “combating all forms of discrimination and promoting equal opportunities” in accordance with the actions and measures laid down in the Partnership Agreement signed between Spain and the European Union.

This contribution, along with the other actions that will accompany it, are based on a multi-level approach that aims to encourage collaboration between all stakeholders involved in combating discrimination. In particular, it aims to facilitate training and capacity-building among personnel employed by the authorities responsible for managing and monitoring the ESI Funds used to implement EU legislation and policy to combat discrimination.

We hope this guide will be used as a reference source by operators involved in managing these funds, both those involved in specific actions to combat discrimination and

those involved in applying the principle across all the activities which they finance. The ultimate objective of this guide is none other than to ensure that all the actions supported by these funds contribute to reducing inequality and preventing and eradicating discrimination and, in particular, to improving the situation for the groups and collectives especially those more vulnerable to this phenomenon.

We would like to express our thanks to all the public and private institutions involved, especially the representatives of the Ministry of Health, Social Services and Equality, the Ministry of Employment and Social Security; the Ministry of Public Administration and Finance; the Fundación ONCE; and the Fundación Secretariado Gitano, all of which have contributed to this document sharing their perspectives, experience and insights. Thank you all for your invaluable input.

We hope this guide provides food for further thought.

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# Introduction

The regulations governing the programming period for the **European Structural and Investment Funds** for 2014–2020 acquire greater importance to equality and non-discrimination compared to the previous period. This is in line with the mandate of the Treaty on European Union which, in Article 3, establishes, *“the Union is, inter alia, to combat social exclusion and discrimination and is to promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.”*

Specifically, the new regulations introduce a series of new features in this domain that will directly affect the ESI Fund 2014–2020 lifecycle from planning and implementation through to monitoring and evaluation. Among the most noteworthy changes is the importance assigned to equality and non-discrimination following its establishment as one of the 3 horizontal principles applicable to all funds. These principles require Member States to specify in their planning documents the form in which the principles will be implemented in practice. In fact, the 2017 and 2019 annual implementation reports will have to include a specific chapter describing the measures implemented via the various operational programmes related to equality and non-discrimination.

This guide therefore has a double objective. On the one hand, it contains guidance and recommendations intended to facilitate a mainstreaming application of the principle of equality and non-discrimination in the use of ESI Funds for 2014–2020 (throughout the entire project cycle); on the other, it includes guidance, examples and case studies intended to provide intermediary bodies and fund beneficiaries with inspiration about the most effective types of actions and measures when designing and implementing operations addressing the investment priority of “combating all forms of discrimination and promoting equal opportunities” in accordance with the actions and measures envisaged in the Partnership Agreement signed between Spain and the European Union.

This guide is especially aimed at intermediary bodies and managing authorities responsible for administering ESI Funds (ESF, ERDF and EAFRD) within national and regional government. It is also aimed at organisations that although not being part of the public authorities, nonetheless participate in managing the operational programmes (for example, various private intermediary bodies are expected to participate in administration of the ESF). It is also aimed at units responsible for promoting equality and non-discrimination policies in public authorities at national, regional and local level.

It is important to emphasise that this guide complements the publication entitled “Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy. Training handbook on how to mainstream the principle of equality and non-discrimination into public policy design, implementation and assessment”, which addresses in depth all the issues identified in Chapter 4 of this guide and describes in greater detail the tools available to public authorities when designing, implementing and evaluating public policy, managing public services, managing teams or personnel departments inclusively, and respecting the principle of equality and non-discrimination.

“Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy. Training handbook on how to mainstream the principle of equality and non-discrimination into public policy design, implementation and assessment”

# 1. Equality and non-discrimination in the ESI Funds for 2014–2020: Main new features

As mentioned in the Introduction, equality and non-discrimination acquire a higher relevance in the regulations governing the ESI Funds for 2014–2020. This chapter describes the main new features and indicates the specific references included in the Common Provisions Regulation applicable to all ESI Funds (hereinafter, Common Regulation),<sup>1</sup> Annex I (Common Strategic Framework) and its implementing regulation<sup>2</sup>, highlighting the operational implications for managing authorities.

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1.- Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, in:

<http://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=CELEX:32013R1303&from=EN>

2.- Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0480&from=EN>

## **New feature 1. The ESI Funds for 2014–2020 should contribute towards the EU goal of combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation**

*Reference: Whereas (13) of the Common Regulation*

“In the context of its effort to increase economic, territorial and social cohesion, the Union should, at all stages of implementation of the ESI Funds, aim at eliminating inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation as set out in Article 2 of the Treaty on the European Union (TEU), Article 10 TFEU and Article 21 of the Charter of Fundamental Rights of the European Union, taking into account in particular accessibility for persons with disabilities, as well as Article 5(2) of the Charter of Fundamental Rights stating that no one is to be required to perform forced or compulsory labour.”

### **What does this imply in practice?**

ESI Funds are subject to the TEU and TFEU. Therefore, actions and measures implemented with these funds must be designed from an inclusive perspective to prevent them being discriminatory on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

## **New feature 2. Bodies responsible for promoting equality and non-discrimination are considered key partners that should participate actively in the ESI Fund lifecycle**

*Reference: Article 5 of the Common Regulation*

Another of the horizontal principles of the ESI Funds for 2014–2020 is that of partnership and multi-level governance. In accordance with this principle, Member States shall co-operate at institutional and operational level both in planning and in implementing the funds and shall involve the following key partners throughout the process:

- Regional, local and other competent public authorities.
- Economic and social partners.
- Organisations that represent civil society, including environmental partners, non-governmental organisations and organisations responsible for promoting equality and non-discrimination.

**What does this imply in practice?**

Bodies responsible for promoting equality and non-discrimination should be included on the operational programmes, monitoring committees, especially those related to the ESF, as well as the Subdirectorate, General for Equal Treatment and Non-Discrimination. Specialised NGOs should also be encouraged to participate.

### **New feature 3. Non-discrimination is one of the 3 horizontal principles applicable to all ESI Funds for 2014–2020.**

*Reference: Article 7 of the Common Regulation*

The Member States and the Commission shall take appropriate steps to prevent discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during programme preparation and implementation. In particular, accessibility for persons with disabilities shall be taken into account throughout programme preparation and implementation.

**What does this imply in practice?**

This principle not only applies to the ESF, but to all other funds as well (ERDF, EAFRD and EMFF) and, therefore, they should all incorporate it throughout the entire lifecycle of the ESI Funds for 2014–2020.

The Partnership Agreement should include a specific chapter describing the objectives and approach to be adopted over the 2014–2020 period.

### **New feature 4. All operational programmes should include a section describing the actions to be undertaken to prevent discrimination on the grounds of sex, racial or ethnic origin or religion or belief, disability, age or sexual orientation**

*Reference: Article 96 of the Common Regulation*

6. Operational programmes will likewise establish the following elements, taking into account the content of the Partnership Agreement and each Member State's institutional and legal framework:
  - b) for each ex ante conditionality, established in accordance with Article 19 and Annex XI, which is applicable to the operational programme, an assessment of whether the ex ante conditionality is fulfilled at the date of submission of the Partner-

ship Agreement and operational programme, and where ex ante conditionalities are not fulfilled, a description of the actions to fulfil the ex ante conditionality, the bodies responsible and a timetable for such actions in accordance with the summary submitted in the Partnership Agreement;

7. Each operational programme, except those where technical assistance is undertaken under a specific operational programme, shall, subject to the Member State's duly justified assessment of their relevance to the content and objectives of the operational programmes, include a description of:
  - b) the specific actions to promote equal opportunities and prevent discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, design and implementation of the operational programme and in particular in relation to access to funding, taking account of the needs of the various target groups at risk of such discrimination and in particular the requirements to ensure accessibility for persons with disabilities;

Member States may submit, in conjunction with the proposal for an operational programme under the investment for growth and jobs goal, an opinion from the national equality bodies on the measures set out in points (b) and (c) of the first subparagraph.

#### What does this imply in practice?

During the design and planning of all operational programmes, irrespective of the applicable fund (ESF, ERDF, EAFRD or EMFF), the units responsible for managing and administering the funds should analyse and describe which appropriate measures will be undertaken in the coming period to guarantee equality and non-discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Furthermore, the regulation allows Member States to submit an opinion on equality and non-discrimination, in conjunction with the operational programme, when appropriate.

**New feature 5. One of the monitoring committees' functions is to guarantee that operational programmes comply with the horizontal principle of equality and non-discrimination**

*Reference: Article 110 of the Common Regulation*

1. The monitoring committee shall examine in particular:
  - f) actions to promote equality between men and women, equal opportunities, and non-discrimination, including accessibility for persons with disabilities

**What does this imply in practice?**

regular monitoring.

Monitoring committees should design a system to monitor compliance with the horizontal principle of equality and non-discrimination and include it in their list of items which require

## **New feature 6. The 2017 and 2019 annual implementation reports should include a specific section on measures undertaken to prevent discrimination**

*Reference: Article 111 of the Common Regulation*

1. By no later than 31 May 2016, and by the same date on successive years through to and including 2023, the Member State shall submit to the Commission an annual implementation report in accordance with Article 50, Section 1. The report submitted in 2016 shall cover the 2014 and 2015 financial years as well as the period between the start date for subsidised expenditure and 31 December 2013.
4. The annual implementation reports submitted in 2017 and 2019 shall describe and assess the information required as per Article 50, Sections 4 and 5, respectively, and the information indicated in Section 3 of this Article. They shall also include the following information:
  - e) the specific actions taken to promote equality between men and women and to prevent discrimination, in particular accessibility for persons with disabilities, and the arrangements implemented to ensure the integration of the gender perspective in the operational programme and operations;

**What does this imply in practice?**

information compiled in preparation for the 2017 and 2019 annual implementation reports.

Managing authorities should define an evaluation system (objectives and indicators) that allows monitoring of the measures taken to prevent discrimination and that systematises the

## **New feature 7. The general ex ante conditionalities include a specific conditionality on equality and non-discrimination**

*Reference: Article 19 and Annex XI, Part II of the Common Regulation*

The existence of administrative capacity to implement and apply Union anti-discrimination law and policy in the field of ESI Funds:

- Arrangements in accordance with the institutional and legal framework of Member States for the involvement of bodies responsible for the promotion of equal treatment of all persons throughout the preparation and implementation of programmes, including the provision of advice on equality in ESI Fund-related activities;
- Arrangements for training for staff of the authorities involved in the management and control of the ESI Funds in the fields of Union anti-discrimination law and policy.

#### What does this imply in practice?

Member States should guarantee that they have sufficient administrative capacity to implement and apply EC equality and non-discrimination law and policy, reinforcing participation of equality bodies in European funds (sufficient administrative capacity) and promoting appropriate training and capacity-building among public-sector personnel.

### **New feature 8. The Common Strategic Framework establishes specific guidelines on equality and non-discrimination**

*Reference: Annex I to the Common Regulation*

- 5.3 Promotion of equality between men and women and of non-discrimination
2. Member States shall ensure, in accordance with Articles 5 and 7, the participation of the relevant bodies responsible for promoting gender equality and non-discrimination in the partnership, and ensure adequate structures in accordance with national practices to advise on gender equality, non-discrimination and accessibility in order to provide the necessary expertise in the preparation, monitoring and evaluation of the ESI Funds.
  4. Member States shall address, in an appropriate manner, the needs of disadvantaged groups in order to allow them to better integrate into the labour market, and thereby facilitate their full participation in society.

#### What does this imply in practice?

Member States should guarantee that they have in place appropriate structures with which to advise on and promote equality and non-discrimination, especially in the field of employment.

ESI Funds should particularly address the needs of disadvantaged groups in order to guarantee their inclusion in society.



## 5.4 Accessibility

1. Member States and the Commission shall, in accordance with Article 7, take appropriate steps to prevent any discrimination based on disability. Managing authorities shall ensure by means of action throughout programme lifecycles that all products, goods, services and infrastructures that are open or provided to the public and are co-financed by the ESI Funds are accessible to all citizens including those with disabilities in accordance with applicable law, thereby contributing to a barrier-free environment for persons with disabilities and the elderly. In particular, accessibility to the physical environment, transport, ICT in order to promote inclusion of disadvantaged groups, including persons with disabilities, shall be ensured. Actions to be undertaken may include directing investments towards accessibility in existing buildings and established services.

### What does this imply in practice?

Member States should guarantee, via actions and measures financed by the funds, universal accessibility for persons with disabilities to the physical environment, transport, and information and communication technology, and should do so in particular in the education and employment fields.

## New feature 9. The implementing regulation for the ESI Funds for 2014–2020 establishes specific codes for operations related to equality and non-discrimination

*Reference: Annex I of the implementing regulation for the ESI Funds for 2014–2020*

Annex I describes the dimensions and codes of the funds' categories of intervention.

- The **codes for the dimension of the intervention fields** include specific codes related to equality and non-discrimination:
  - **109** Active inclusion, including with a view to promoting equal opportunities and active participation, and improving employability
  - **111** Combating all forms of discrimination and promoting equal opportunities
  - **115** Reducing and preventing early school-leaving and promoting equal access to good quality early-childhood, primary and secondary education including formal, non-formal and informal learning pathways for reintegrating into education and training

- **117** Enhancing equal access to lifelong learning for all age groups in formal, non-formal and informal settings, upgrading the knowledge, skills and competences of the workforce, and promoting flexible learning pathways including through career guidance and validation of acquired competences
- The codes **for the dimension of the secondary theme** pursuant to the ESF (Table 6), include a specific code for “non-discrimination” separate from the code for “gender equality”:
- **06** Non-discrimination
- **07** Equality between women and men

#### What does this imply in practice?

Intermediary bodies and beneficiaries of ESI Funds for 2014–2020 should plan specific equality and non-discrimination operations associated with the codes listed in the implementing regulation in all fund operation catalogues (ESF, ERDF, EAFRD and EMFF).

## Complementariness and synergy with the EC Rights, Equality and Citizenship Programme 2014–2020

It is important to take into account that under the new multiannual 2014–2020 funding framework, the European Commission seeks to reinforce complementariness and synergy between the various European funds available. Although an action cannot be financed simultaneously by various funds, it is possible to fund actions and measures that complement and reinforce one another.

At European level, the EC Rights, Equality and Citizenship Programme 2014–2020 may be a means of complementing equality and non-discrimination actions implemented using ESI Funds.

The objective of the Rights, Equality and Citizenship Programme is to consolidate and promote equality and the individual rights enshrined in the Treaty, Charter and international conventions on human rights.

It establishes 9 specific objectives:

Promote non-discrimination	Combat racism, xenophobia, homophobia and other forms of intolerance	Promote rights of persons with disabilities
Promote equality between women and men and gender mainstreaming	Prevent violence against children, young people, women and other groups at risk (Daphne)	Promote the rights of the child
Ensure the highest level of data protection	Promote the rights deriving from Union citizenship	Enforce consumer rights

Further information about the Programme:  
[http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index\\_en.htm](http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm)

Further information about calls for grant applications:  
[http://ec.europa.eu/justice/grants1/open-calls/index\\_en.htm](http://ec.europa.eu/justice/grants1/open-calls/index_en.htm)



## 2. Practical recommendations for implementing the horizontal principle of equality and non-discrimination throughout the lifecycle of the ESI Funds for 2014–2020

The specific section on the Partnership Agreement's horizontal principles adopts a double approach to the principle of equality — on the one hand it takes a mainstreaming perspective complemented by an approach, which fosters the implementation of specific and positive actions.

This chapter focuses on the first of those two approaches — the mainstreaming perspective — which in this case consists of taking into account equality and non-discrimination throughout the entire lifecycle of the ESI Funds for 2014–2020, from planning through to evaluation.

## 2.1. Recommendations for the design and planning of funds

During the ESI Funds' design and planning phase, Member states select the thematic objectives, investment priorities and specific objectives for the entire period and defines the implementation mechanisms. It is therefore a key moment in which to incorporate equality and non-discrimination into both programming instruments, such as the Partnership Agreement and the operational programmes, and management and monitoring instruments, such as the operations catalogue, monitoring committees, list of indicators and evaluation systems. It is also the moment to identify which key partners to involve in the consultation processes and monitoring systems (e.g. equality and non-discrimination bodies and specialised NGOs).

### → How to incorporate equality and non-discrimination into programming instruments

#### Partnership Agreement

To ensure that the Partnership Agreement incorporates the equality and non-discrimination perspective, the following are required:

1. A **specific reference to equality and non-discrimination** that describes the objectives pursued and the approach adopted over 2014–2020 in accordance with each country's challenges in this field. This reference should be included in the section on applying the horizontal principles and the cross-cutting objectives when implementing the funds.
2. A **specific chapter on compliance with the general ex ante conditionality** stipulating the existence of the administrative capacity to implement and apply EC law and policy to combat discrimination in relation to ESI Funds.

**Which official information sources can I consult to find out more about the challenges related to discrimination in Spain on grounds of racial or ethnic origin, disability, sexual orientation, age and religion or belief?**

- **EU Eurobarometer:** 3 specific studies (No 393, 2012; No 317, 2009; and No 263, 2007) of discrimination in the EU on the above five grounds (see the section on Spain).
- **EU Fundamental Rights Agency:** specific studies of the various grounds (with specific information by country in some publications).
- **Inmujer** (Spanish Institute for Women and Equal Opportunities), Ministry of Health, Social Services and Equality:
  - Survey of the perception of discrimination in Spain, conducted in partnership with the CIS.
  - Diagnostic study of secondary sources on discrimination in Spain, 2013.
- **Oberaxe** (Observatory on racism and xenophobia in Spain) of the Secretariat-General for Immigration and Emigration, Ministry of Employment and Social Security: Regular report on racism and xenophobia in Spain (since 2008).
- **CPEDRE** (Council for the elimination of racial and ethnic discrimination, formerly the Council for the promotion of equal treatment and non-discrimination of persons on the grounds of racial or ethnic origin):
  - Regular study of discrimination on racial or ethnic grounds and the perception of potential victims (since 2010).
  - Annual report on discrimination and the application in Spain of the principle of equal treatment irrespective of racial or ethnic origin (since 2010).
  - Annual report by the support service for victims of discrimination (since 2010).

### How else can I find out about the challenges related to discrimination?

- **Studies and reports** produced by NGOs specialising in equality and non-discrimination, such as “Discriminación y población gitana” on discrimination against the Roma community, published annually by the Fundación Secretariado Gitano. 2014 Report.  
<http://www.gitanos.org/publicaciones/discriminacion14/index.html>
- **Consulting with people** at greatest risk of suffering discrimination, either *ad hoc* or via stakeholder or representative councils.

## Operational programmes

To ensure that the operational programmes incorporate the equality and non-discrimination perspective they should include **a specific section on equality and non-discrimination** that contains the following:

- A reference to groups more at risk of suffering discrimination on the grounds of discrimination protected under EU directives (racial or ethnic origin, disability, sexual orientation, age and religion or belief), as well as to domains in which discrimination may be more frequent (e.g. workplace, media and Internet, access to goods and services, etc.).
- A description of how the operational programme can contribute to addressing the challenges faced in relation to discrimination in this country:
  - Training and capacity-building for public sector staff.
  - Better application and regulatory effectiveness of anti-discrimination legislation.
  - Better support mechanisms for victims of discrimination.
  - Better information by conducting studies and collecting data.
  - Better management of diversity in public services.
  - Greater awareness of and better information about equality, non-discrimination and the benefits of diversity.
  - Better management of internal diversity within public authorities.

### What measures can I implement to address these challenges?

Pages 83–86 of the handbook “Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy” provide various examples of actions and measures.



- A description of the equality and non-discrimination approach that will inspire the operational programme 2014–2020.
- If applicable, mention of especially vulnerable groups and the specific measures that will be undertaken to compensate for potential disadvantages.

### **Which are the most common grounds of discrimination in Spain?**

According to the studies available, racial or ethnic origin and age are the two most common grounds of discrimination encountered in Spain.

### **Which are the fields in which discrimination occurs most commonly in Spain?**

According to the studies available, the fields in which discrimination occurs most commonly are the employment, conventional and social media, access to some public services (e.g. health care), education, and interaction with security forces.

## **→ How to incorporate equality and non-discrimination into management and monitoring instruments**

### **Catalogue of eligible operations**

When drawing up the catalogue of eligible operations it is important to make sure that the list includes operations that allows the implementation of the principle of equality and non-discrimination in practice. It is likewise essential to take into account that the implementing regulation for the ESI Funds for 2014–2020 establishes specific intervention and secondary codes (see pages 16–17) for operations related to equality and non-discrimination. Consequently, the entries in the operations catalogue should be linked to those codes.

Practitioners are therefore advised to check that the catalogue includes the following operation types:

- Training courses
- Training workshops
- Seminars
- Conferences
- Data compilation systems

- Reports
- Studies
- Research
- Surveys
- Handbooks or guides
- Communication actions
- Awareness-raising actions
- Information actions and publications
- Legal aid
- Legal representation
- Mediation
- Non-legal aid (information, intermediation, negotiation)
- Psychological support
- Technical assistance and advice
- Transport
- Housing
- Subsistence allowances
- Capacity-building programmes for NGOs
- Strategies or plans
- Specialist personnel
- Action protocols and guidelines
- Consultative actions with key partners.
- Consultative committees and commissions
- Impact assessments
- Screening reports
- Grants to not-for-profit organisations
- Economic support for individuals, provided this support is complementary and of limited scope and duration (EU funds may not be used to replace social protection systems or ordinary aid in Member States)

## **Monitoring system and indicators**

In this new period, during the ESI Fund design and planning phase Member States should draw up the list of indicators used to monitor the measures and actions implemented and to evaluate the results and impact achieved. These indicators should be linked to specific objectives. One of the new features introduced in this period is that

the regulations establish that the 2017 and 2019 annual implementation reports should include a specific chapter on the measures taken to prevent discrimination, indicating the results obtained.

Consequently, during the design and planning phase, it is important to define the specific indicators in this field and to specify the objectives pursued.

By way of guidance, below is a list of possible indicators used to assess the actions taken to **prevent discrimination**, according to the operations catalogue and the objectives pursued:

### IMPLEMENTATION

- Number of protocols of assistance to discriminatory incidents support protocols approved by mainstreaming public services (employment, education, housing, health care, justice, etc.).
- Number of training or capacity-building actions undertaken by public sector staff on equality, non-discrimination and diversity management.
- Number of public sector staff participating in training or capacity-building actions.
- Number of mainstreaming policy units or departments participating in or contributing to measures or actions related to non-discrimination.
- Number of protocols and systems compiling data on discriminatory incidents established in mainstreaming policies, police or jurisdictional units or departments.
- Number of discriminatory incidents dealt with.
- Number of discriminatory incidents dealt with by courts.
- Number of information and communication actions carried out to raise awareness about equality, non-discrimination and diversity management.
- Number of sector-specific information and communication actions carried out that reflect and promote diversity.
- Number of consultative and participative actions that involve people more vulnerable to discrimination.
- Number of studies and reports published on equality, non-discrimination and diversity management.
- Number of NGO capacity-building programmes implemented.
- Number of opinion surveys conducted.
- Number of satisfaction surveys conducted among groups most likely to suffer discrimination.

## RESULTS

- Number of discriminatory incidents resolved by mutual accord.
- Number of incidents resolved in the various court systems.
- Increase in the number of formal complaints of discrimination.
- Increase in the number of discriminatory incidents reported.
- Number of victims awarded compensation.
- Improvement in positive scores in satisfaction surveys conducted among groups most likely to suffer discrimination.

### ➔ How to incorporate equality and non-discrimination into consultative and stakeholder systems

#### Consult stakeholders

In accordance with Article 5 of the Common Regulation on the principle of partnership and multi-level governance, bodies responsible for promoting equality and non-discrimination and non-governmental organisations should participate actively in the ESI Fund lifecycle.

In fact, the [Code of Conduct that regulates this principle](#) describes in detail which partners should be involved, at the very least, in the Partnership Agreement and operational programmes (Articles 3 and 4).

- Regional, local, city and other competent public authorities that should be involved include *national public authorities responsible for the application of horizontal principles referred to in Articles 4 to 8 of Regulation (EU) No 1303/2013, in view of the planned use of the ESI Funds; and in particular the bodies for the promotion of equal treatment established in accordance with Council Directive 2000/43/EC, Council Directive 2004/113/EC and Directive 2006/54/EC of the European Parliament and of the Council;*
- The bodies representing civil society should include *other organisations or groups which are significantly affected or likely to be significantly affected by the implementation of the ESI Funds, in particular groups considered to be at risk of discrimination and social exclusion.*

Therefore, one way of incorporating equality and non-discrimination into consultative and stakeholder systems is to guarantee participation by stakeholders specialising in equality and non-discrimination:

#### **Equality bodies established under EU directives**

- Inmujer
- Council for the elimination of racial and ethnic discrimination.

#### **Organisations or groups representing groups at risk of discrimination or social exclusion**

- Representative organisations, federations or platforms, such as the state council of social action NGOs, the third sector platform, the Spanish network to combat poverty and social exclusion, etc., and their equivalents in Spain's autonomous communities.
- Organisations specialised in equality and non-discrimination on the various grounds established.

### **Where can I find information about regional consultative/ stakeholder councils?**

Pages 66–103 of the analytical handbook (Spanish) of the *the 2011 project Todoimás equality and non-discrimination forum*

It is important to take into account that, in relation to participation by partners in the programmes, the Code of Conduct establishes that the programmes should specify:

- The actions taken to ensure the active participation of the partners in preparation of the programmes and their amendments.
- The planned actions to ensure the participation of the partners in the implementation of the programmes.

### **Which aspects of the Partnership Agreement should be consulted according to the Article 6 of the Code of Conduct?**

- The analysis of disparities, development needs and growth potential with reference to the thematic objectives, including those addressed by the relevant country-specific recommendations;
- Ex ante conditionalities of the programmes and key findings of any ex ante evaluations of the Partnership Agreement undertaken at the Member State's initiative;
- The selection of the thematic objectives, the indicative allocations of the ESI Funds and their main expected results;
- The list of programmes and the mechanisms at national and regional level to ensure co-ordination of the ESI Funds with one another and with other Union and national funding instruments and with the European Investment Bank;
- The arrangements for ensuring an integrated approach to the use of ESI Funds for the territorial development of urban, rural, coastal and fisheries areas and areas with particular territorial features;
- The arrangements for ensuring an integrated approach to addressing the specific needs of geographical areas most affected by poverty and of target groups at the highest risk of discrimination or exclusion, with special regard to marginalised communities;
- The implementation of the horizontal principles referred to in Articles 5, 7 and 8 of Regulation (EU) No 1303/2013.

### **Which aspects of the operational programmes should be consulted according to the Article 8 of the Code of Conduct?**

- The analysis and identification of needs;
- The definition or selection of priorities and related specific objectives;
- The allocation of funding;
- The definition of programmes' specific indicators;
- The implementation of the horizontal principles as defined in Articles 7 and 8 of Regulation (EU) No 1303/2013;
- The composition of the monitoring committee.

## Stakeholder participation in monitoring committees

Another of the aspects that should be specified in the ESI Fund design and planning phase is the composition of the operational programmes' monitoring committees.

In this respect, the Code of Conduct (Article 10) establishes that, *when formulating the rules of membership of the monitoring committee, Member States shall take into account the involvement of partners that have been involved in the preparation of the programmes and shall aim to promote equality between men and women and non-discrimination.*

Therefore, one way of incorporating the gender and non-discrimination perspective into monitoring committees is to involve the equality bodies established under the EU directives as well as organisations representing the groups at risk of discrimination or social exclusion and which, as a general rule, will have participated actively in the consultative phases of the Partnership Agreement and operational programmes.

### **What role should equality and non-discrimination bodies play in the ESI Fund design and planning phase?**

Their main role is to participate as a key partner in consultation during the drafting phase of the Partnership Agreement and of the operational programmes. The function of Inmujer in this regard, for example, is to produce an opinion on equality between men and women. In the case of the CPEDRE, although it is not mandatory this body may also issue an opinion on equality and non-discrimination in accordance with the Common Regulation. If it does not issue an opinion, it is advisable to set up a system via which the CPEDRE can make proposals and channel its contributions.

## 2.2. Recommendations for the implementation of the funds

There are various formulas to put into practice the principle of equality and non-discrimination during the implementation phase of the ESI Funds in accordance with what has been established in under the Partnership Agreement and operational programmes. The majority of the actions described below do not require implementation of specific actions or measures and, consequently, do not require a lot of budget. In fact, in some cases they do not involve any additional expense at all. Above all, the aim is to ensure

that an inclusive approach is adopted when designing the actions and measures. This in turn guarantees that the greatest possible number of people benefit from that action. In short, they are all initiatives that can be implemented to prevent discrimination.

→ **Ensure universal access to the actions financed by the funds and ensure adoption of compensatory measures when necessary**

Equality and non-discrimination studies and research indicate that, due to their particular characteristics, certain groups are more likely to suffer discrimination when accessing both public and private services. As a consequence, when designing and planning actions and measures public authorities should take these groups’ specific characteristics into account. To avoid and prevent discrimination against certain groups in access to particular services it may be useful to answer the questions below to ascertain whether it is necessary to adapt the actions and measures planned.

Specific public targeted by the action	
Will this action have a positive impact on the groups at greatest risk of suffering discrimination?	<ul style="list-style-type: none"> <li>Racial or ethnic origin:    yes    no In what way?</li> <li>Disability:                                yes    no In what way?</li> <li>Sexual orientation:                yes    no In what way?</li> <li>Age:    yes    no In what way?</li> <li>Religion or belief:                yes    no In what way?</li> </ul>
How will you compensate the disadvantages experienced by groups at greatest risk of suffering discrimination?	<ul style="list-style-type: none"> <li>Racial or ethnic origin:</li> <li>Disability:</li> <li>Sexual orientation:</li> <li>Age:</li> <li>Religion or belief:</li> </ul>



## What disadvantages do the groups at greatest risk of suffering discrimination share, and what type of measures can be taken to compensate for them?

Disadvantage	Measure or adaptation
<p><b>Lack of awareness about rights or about services available</b></p>	<p>Design an information system adapted to the groups at greatest risk of suffering discrimination.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> <li>➤ Involve community organisations or representatives of those groups, as these are usually in close contact with individual members.</li> <li>➤ Produce material adapted to groups that, due to their particular characteristics, require use of appropriate language.</li> </ul>
<p><b>Restricted access to services</b></p>	<p>Adapt the access system certain services which access might be restricted due to one of the following reasons:</p> <ul style="list-style-type: none"> <li>➤ The services are not located close to individuals, for example, in the case of families living in shanty towns, or they are not adapted to the specific needs of some people.             <ul style="list-style-type: none"> <li>▪ In these cases, it is advisable to design an adapted system that compensates for these disadvantages (e.g. a transport system or a training course on diversity management).</li> </ul> </li> <li>➤ The services are difficult to access and are not adapted to the specific needs of some individuals (e.g. persons with disabilities).             <ul style="list-style-type: none"> <li>▪ In these cases, it is advisable to make all reasonable physical adaptations to ensure compliance with the principle of universal accessibility.</li> </ul> </li> </ul>

## → Compilation of beneficiaries' profile data

One way of ensuring that the actions and measures adapt to individuals' needs, especially those of individuals at greatest risk of suffering discrimination, is to analyse the profile of beneficiaries and so ascertain whether the operations are reaching their target public. This information offers an extremely useful way of checking if the actions and measures are achieving their objectives and reaching the people who need them most.

It is usual to monitor these individuals' sex and age. However, other data can also be compiled related to the other grounds on which discrimination is most common.

It is important to remember that many of these data are personal and sensitive. Consequently, guarantees need to be in place before the data can be compiled.

### Conditions that must be met when compiling personal data:

<b>Data on ideology, religion or belief</b>	<p>To compile and process this type of data, the authority must have the individual's express written consent.</p> <p>Exception: files held by political parties, unions, churches, religious denominations and communities, associations, foundations and other not-for-profit bodies whose purpose is political, philosophical, religious or union-related, when those files contain data about members, <u>they</u> require individual's prior consent.</p>
<b>Racial origin, health and sexual orientation</b>	<p>This type of data may be compiled, processed and shared in the following cases:</p> <ul style="list-style-type: none"><li>▪ For reasons of public interest, as stipulated by law.</li><li>▪ With the individual's express consent.</li></ul> <p>Remember: It is unlawful to create files for the exclusive purpose of storing personal data about ideology, union membership, religion, belief, racial or ethnic origin or sexual orientation.</p>

### Recommendations:

- Compile profile data in an independent database that does not allow the information collected to be associated with individuals' personal or contact data.
- Protect databases with the levels of protection established by the country's data protection agency to prevent improper use.

- Obtain individuals' consent by explaining the reasons why this information is being compiled.

Further information in the EC publication (2007) entitled  
**Measuring discrimination - Data Collection and Equality EU Law**

## ➔ Inclusive criteria for information and communicating actions, financed by ESI Funds

In addition to specific information and communication actions undertaken to raise public awareness about citizens' rights and the benefits of diversity, another way of mainstreaming the principle of equality and non-discrimination in the implementation phase of European funds is to ensure that actions aimed at informing and communicating actions financed by those funds meet the following inclusive criteria:

- Guarantee that all communication products (websites, electronic newsletters, publications, etc.) are accessible.
- Use straightforward language that guarantees cognitive accessibility.
- Emphasise social diversity in videos, posters, etc., using people with a variety of profiles to encourage identification among all groups.

### **European Project “Pathways to Adult Education for People with Intellectual Disabilities” sponsored by the FEAPS and Inclusion Europe under the lifelong learning action programme**

This project published materials that can be useful when implementing information and training actions targeting persons with intellectual disabilities. The leaflet entitled “Information for All: European Standards on How to Make Information Easy to Read and Understand” is particularly useful.

[More information \(Spanish\)](#)

➔ **Participation by people at greatest risk of suffering discrimination in the design, implementation and assessment of the operations**

Consulting potential beneficiaries and encouraging their participation in the design, implementation and evaluation of the operations is another way of mainstreaming the principle of equality and non-discrimination.

In the fund implementation phase it is advisable for intermediary bodies to create spaces in which to co-ordinate actions and establish dialogue with potential beneficiaries and specialised NGOs. This has two major advantages as it makes it possible to:

- Optimise existing resources and encourage mutual learning and understanding, avoiding duplicating efforts and implementing actions that are already under way elsewhere.
- Gain a greater understanding of the needs of people more likely to suffer discrimination and so be in a position to design operations that better match these groups' actual circumstances. While it is important to produce scientifically based reports and studies, it is equally important to create opportunities for victims to describe their experiences and the situations they face.

**Instruments to encourage participation**

<b>Bodies affiliated with public authorities</b>	<b>Consultative committees and commissions</b>	<b>Spaces for <i>ad hoc</i> dialogue and debate</b>
Specialist NGOs and those representing society's most vulnerable groups are usually represented in these bodies.	Created by public authorities, specialist NGOs and those representing society's most vulnerable groups usually participate in these bodies.	Spaces, meetings, discussion groups, etc. to which are invited organisations and groups able to share qualified experience and knowledge.

Further information, case studies and examples of public initiatives that have foster participation:  
Pages 150-159 of the handbook "Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy"

## → Ethical public procurement within ESI Funds

Encouraging ethical procurement by public authorities is an extremely effective way of promoting equality and non-discrimination, as it supports initiatives that foster social and labour-market inclusion of individuals at greatest risk of discrimination and social exclusion.

Existing public procurement legislation<sup>3</sup> establishes two means of encouraging ethical procurement by public authorities:

### WAYS OF ENCOURAGING RECRUITMENT OF PERSONS WITH DISABILITIES

- Require companies to hold a certificate accrediting that 2% of their staff are persons with disabilities, or that they apply relevant alternative measures when mandatory, or that they submit an exemption statement, in order to be eligible to bid for public sector contracts.
- Indicate in tender specifications a preference to award contracts to organisations that, when providing proof of their technical capacity, demonstrate that at least 2% of their staff are persons with disabilities, provided that the proposals submitted match the terms of the most advantageous proposals based on the award criteria.
- Use accreditation that at least 2% of bidders' staff are persons with disabilities as a deciding criterion in the case of submission of two equally advantageous proposals.

### ENCOURAGING CONTRACTING OF SOCIAL ENTERPRISES, NOT-FOR-PROFIT ORGANISATIONS AND SPECIAL EMPLOYMENT CENTRES

- Establish preference in the award of contracts, provided the bid matches the terms of the most economically advantageous submissions, for proposals submitted by social enterprises complying with the provisions of Law 44/2007 ([link](#), [Spanish](#)).
- Establish preference in the award of contracts related to provision of social or support services to bids submitted by not-for-profit organisations incorporated as legal entities, provided that their object or activity, as stated in their respective statutes or founding articles, is directly related to the object of the contract and provided that they are listed in the corresponding official register.
- Reserve the right to participate in contract award procedures to Special Employment Centres or provide for such contracts to be performed in the context of sheltered employment programmes in which at least 70% of the employees concerned are persons with disabilities who, by reason of the nature or the seriousness of their disabilities, cannot carry on occupations under normal conditions.

3.- Royal legislative decree 3/2011, of 14 November, approving the recast text of the law on public sector contracts (Spanish):

<https://www.boe.es/buscar/act.php?id=BOE-A-2011-17887>

### **What role should equality and non-discrimination bodies play in the ESI Fund implementation phase?**

Their main role is to participate in implementation of the funds as a key consultative partner when designing the operations. Involving equality bodies in the process of adapting actions and measures can be a way of ensuring that those actions are inclusive, as well as of preventing potentially discriminatory situations.

In particular, it can be useful to involve equality bodies in actions implemented in domains like employment, communications and the Internet, in which discrimination is usually most common.

## **2.3. Recommendations for monitoring and evaluating the use of funds**

In this new 2014–2020 period, monitoring and evaluation acquires a greater weight and significance as the funds adopt a tighter focus on obtaining specific results and achieving impact.

It is also possible to mainstream the principle of equality and non-discrimination in this third phase of the fund lifecycle. As in the preceding phases, this does not necessarily require additional expenditure if it is incorporated right from the start.

### **➔ Including equality and non-discrimination among the issues regularly addressed by monitoring committees**

When drawing up the agenda of issues regularly addressed by the monitoring committees, intermediary bodies and fund beneficiaries should take into account that one of their responsibilities is to examine the actions designed to promote equality between men and women, equal opportunities and non-discrimination, as established by Article 110 of the Common Regulation.

It is therefore advisable that monitoring committees establish from the start the agenda and method used to track issues related to equality and non-discrimination, taking as a reference the objectives established in the corresponding operational programme and the issues highlighted in sections 3.1 and 3.2 of this guide:

- Equality and non-discrimination in management and monitoring instruments:
  - Catalogue of eligible operations
  - Results and impact indicators
- Equality and non-discrimination in implementation of the operations:
  - Means of ensuring universal access to the actions financed by the funds and of determining which type of compensatory measures are most appropriate
  - Compilation of beneficiary profile data
  - Criteria applied to ensure that publicity and communication actions are inclusive
  - Consultation with stakeholders
  - Formulas for ethical public procurement
  - Specific equality and non-discrimination actions: good practice

## ➔ Including a specific chapter on equality and non-discrimination in the annual implementation reports (at least those for 2017 and 2019)

Article 111 of the Common Regulation establishes that the 2017 and 2019 annual implementation reports should include a chapter on all specific actions undertaken to promote equality between men and women and prevent discrimination, in particular in relation to accessibility for persons with disabilities, and on the measures applied to ensure mainstreaming of the gender perspective in the operational programme and ensuing operations.

In accordance with Article 50.4 and 50.5 of the Common Regulation, information on the actions undertaken to prevent discrimination shall follow the guidelines established in Article 50.2 of the Regulation, which establishes that the annual implementation reports should include the following information:

- Financial data.
- The programme's common and specific indicators and the quantified values envisaged including, if applicable, any changes produced in the values of the results indicators.
- The milestones defined under the performance framework.
- A summary of the conclusions of all assessments of the programme during the previous year and of all issues affecting programme performance, as well as of all measures taken.

It is therefore advisable that intermediary bodies and beneficiaries detail the following in their operational programmes:

- Specific budget assigned to preventing discrimination.
- Reference indicators.
- Milestones.
- Evaluation system used.

In addition, in order to make monitoring more consistent, participants are advised to include a specific chapter on mainstreaming application of the principle of equality and non-discrimination in:

- The monitoring reports produced by the intermediary bodies, particularly for the ESF.
- The assessment reports produced over the entire period.

### **What role should equality and non-discrimination bodies play in the ESI Fund monitoring and assessment phase?**

Their main role is to participate as a member of the monitoring committees, especially for operational programmes financed by the ESF. In particular, they can contribute when defining the monitoring and evaluation system for actions related to the mainstreaming application of the principle of equality and non-discrimination, as well as for specific actions.



### 3. Practical recommendations for implementing the investment priority of “combating all forms of discrimination and promoting equal opportunities”

Among the eight intervention proposals foreseen under thematic objective 9 “Promoting social inclusion and combating poverty and any discrimination”, the second refers to adoption of measures and programmes in partnership with the most vulnerable groups and to combating all discrimination. In particular, “actions will be strengthened to combat discrimination on grounds of sex, racial or ethnic origin, disability, sexual orientation, age and religion or belief, gender identity and nationality and, especially, to support and protect victims.” To implement this intervention proposal, the Partnership Agreement has selected investment priority 9.3: “Combating all forms of discrimination and promoting equal opportunities,” under which it adopts Specific Objective 9.3.2: “Combating multiple discrimination by encouraging equality and non-discrimination on the grounds protected by the European directives (racial or ethnic origin, disability, sexual orientation, age and religion or belief), including social and workplace discrimination against migrants and groups at risk of exclusion.”

In the context of Specific Objective 9.3.2, the Partnership Agreement envisages a series of actions related specifically to equality and non-discrimination. This chapter includes practical recommendations for implementing those actions and suggests a series of potentially useful practical tools. It also includes references to examples that may provide inspiration.

#### **SOCIAL AND WORKPLACE EQUALITY AND NON-DISCRIMINATION**

Improve the social and employment status of persons subject to social and workplace discrimination, including second- and third-generation immigrants.

#### **SUPPORT AND PROTECTION FOR VICTIMS OF DISCRIMINATION**

Reinforce initiatives to support and protect victims of discrimination on the grounds established under European directives.

#### **COMMUNICATION AND AWARENESS-RAISING**

Actions to increase social awareness of, information about and contributions to equality of treatment, designed to promote the economic and social benefits of diversity and prevent all discrimination.

#### **TRAINING AND CAPACITY-BUILDING**

Actions designed to build capacity and train key partners (NGOs, participants in the justice system, public authorities, etc.) on how to prevent and address discrimination and apply the principle of equality and non-discrimination in public policy.

#### **RESEARCH AND STUDY**

Actions designed to study and research equality of treatment and non-discrimination and publicise the findings.

#### **STRENGTHEN EQUALITY BODIES**

Measures to support equality bodies.

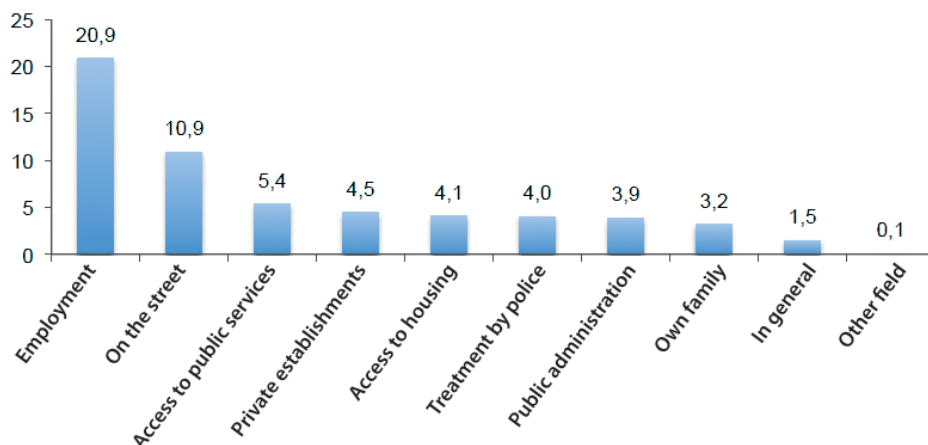
## **3.1. Improve the social and employment status of persons subject to discrimination in the field of employment, including second- and third-generation immigrants**

### **Main challenges**

According to various studies conducted in recent years by several institutions (among them the Eurobarometer survey and the European Union Agency for Fundamental Rights), as well as to the preliminary report on the CIS Survey entitled "Mapping and profiling

discrimination in Spain: Perception of Discrimination in Spain" (Survey no. 3000), the greatest number of discriminatory situations occurs in the field of employment.

**Figure 1. Percentage of people who report suffering discrimination, by field**



Source: CIS Survey 3.000, Perception of discrimination in Spain

The most frequently reported forms of discrimination in the field of employment are as follows:

- Lower pay (17.7%)
- Given tasks not included in the job description (17.1%)
- Not given a job (13.3%)

The most common grounds on which people feel discriminated against in this domain are as follows:

- Age (9.7%)
- Physical appearance (4.6%)
- Nationality (4%)
- Racial or ethnic origin (2.6%)

According to the "Annual study of perceptions of discrimination on grounds of racial or ethnic origin among Spain's main ethnic minorities (Spanish)", the field of employment is where greatest discrimination is perceived. The Roma, sub-Saharan and Maghrebi populations perceive higher levels of discrimination in this field (over 50% in all cases) than other minority groups.

Further information about discrimination in the field of employment on grounds of racial or ethnic origin is available in the following report published by the CPEDRE ([link](#), [Spanish](#)).

## Effective actions and measures to tackle these challenges

Based on the European and national information available, the initiatives that have been most successful in tackling these challenges focus on promoting the value of diversity in the workplace:

- Actions designed to emphasise diversity management in organisations, such as:
  - Official certifications, or contests that promote diversity in organisations.
  - Initiatives that create spaces for mutual understanding and learning between organisations (networks, forums, etc.).
- Actions designed to encourage organisations to provide staff training on diversity management.
- Public awareness-raising campaigns designed to inform organisations of the benefits of diversity.
- Actions designed to improve co-ordination between services operated by public authorities (e.g. social and employment services) and to establish single points of public contact with these services.

## Examples

Country/ region/ region	Initiative
SPAIN	<p><i>Acceder</i>: employment mediation programme run by the Fundación Secretariado Gitano designed to achieve effective incorporation of the Roma population into the labour market. The programme is co-financed by the European Social Fund Operational Programme to Combat Discrimination 2007–2013.</p> <p><a href="#">More information (Spanish)</a></p>
	<p><i>Por talento</i>: programme run by the Fundación ONCE designed to increase employment and qualification levels among persons with disabilities. The programme is co-financed by the European Social Fund Operational Programme to Combat Discrimination 2007-2013..</p>

Country/ region/ region	Initiative
SPAIN	<p><i>Igualdad en la empresa</i>: mark issued by the former Directorate-General for Equal Opportunities (now part of Inmujer), reporting to the Ministry of Health, Social Services and Equality.  <a href="#">More information (Spanish)</a></p>
	<p><i>Guide to managing cultural diversity in small and medium-sized enterprises</i> published by Oberaxe, which reports to the Ministry of Employment and Social Security (2012).  <a href="#">Link (Spanish)</a></p>
	<p><i>Guide to managing diversity in the workplace</i> published by Oberaxe, Ministry of Employment and Social Security (2011). <a href="#">Link (Spanish)</a></p>
	<p><i>Diversity Charter</i>: network of companies that voluntarily sign up to the charter to promote equality and non-discrimination in their organisations.  <a href="#">More information (Spanish)</a></p>
	<p>"La igualdad de trato en el Empleo": handbook on equal treatment in the workplace published by Fundación ONCE (2007). <a href="#">Link (Spanish)</a></p>
EUROPEAN UNION	<p><i>Good practice guide on promoting diversity in the workplace</i> published by Equinet, the European Network of Equality Bodies. <a href="#">Link</a>  This publication highlights the following case studies:</p>
	<p>➤ <b>Denmark:</b></p> <ul style="list-style-type: none"> <li>▪ MIA Award: an initiative that annually acknowledges best practice in combating discrimination and promoting diversity in the workplace.</li> <li>▪ Diversity training for executives, sponsored and designed by the national equality body.</li> <li>▪ Diversity Lab: an initiative sponsored by the national equality body via which 10–15 organisations are invited to be part of a one-year exchange network to encourage mutual learning and knowledge sharing.</li> </ul>

Country/ region/ region	Initiative
EUROPEAN UNION	<ul style="list-style-type: none"> <li>➤ Equality is Quality award: like the MIA award, this acknowledges organisations' initiatives to combat discrimination and manage diversity.</li> <li>➤ <b>Malta:</b> Equality Mark.</li> <li>➤ <b>France:</b> good practice handbook published by the national equality body. It includes case studies of diversity management in organisations and descriptions of ways of combating discrimination on the 18 grounds protected under French law.</li> <li>➤ <b>Belgium:</b> diversity training in organisations, sponsored and designed by the national equality body.</li> <li>➤ <b>United Kingdom:</b> Equality Exchange Network, a forum dedicated to the exchange of knowledge and advice on non-discrimination and diversity management. The network comprises employers, trainers and consultants.</li> </ul>

## Success factors of these experiences

- All the initiatives have been approached from a positive standpoint and with the intention of highlighting the benefits of diversity and acknowledging and disseminating good practice. This encourages involvement of more organisations, as it offers them a way of communicating their experiences and enhancing their reputation.
- Large organisations usually have a locomotive effect, as when they participate in this type of initiative it becomes more likely that other similar or smaller firms will show an interest in the issue.
- Initiatives that present awards to organisations usually attract media attention, which helps to convey a positive message about the benefits of social diversity.
- Initiatives that involve senior management and executives usually have a greater long-term impact on staff.
- In addition to encouraging diversity management, these initiatives help to raise awareness among organisations and their personnel about anti-discrimination legislation and the right to equality and non-discrimination, as well as providing information about what to do if somebody feels discriminated against.

## 3.2. Reinforcing initiatives to support and protect victims of discrimination on the grounds established under the European directives

### Main challenges

The specific studies on equality and non-discrimination conducted at European level by Eurobarometer, the European Union Agency for Fundamental Rights, and Equinet (European Network of Equality Bodies), and in Spain by the CPEDRE, show that although the majority of people are aware of their rights in case of discrimination or harassment, almost 40% are still unaware of their rights are.

In fact, within the European Union there is a concern about the low number of formal complaints, which is known as under-reporting. For example, according to the EU-MIDIS survey conducted by the European Union Agency for Fundamental Rights (2009), 88% of survey respondents did not report a discriminatory incident. In the case of discrimination in Spain on the ground of racial or ethnic origin, this percentage stands at 93% according to a study of the perception of discrimination on the ground of racial or ethnic origin among the main ethnic minorities published by the CPEDRE in 2011.

According to the studies, the main reasons why the individuals who felt discriminated against did not report the situation are as follows:

- They believe reporting discrimination would not make any difference.
- They fear they will be victimised by the person reported, especially in the fields of employment and access to public services.
- They do not know where and how to report discrimination.
- They believe it is a minor issue that has always affected their group, or they believe it is normal behaviour (they internalise or assume the discriminatory situation).

The fact that a country has a low number of formal discrimination complaints does not necessarily mean that these incidents do not occur; quite the contrary, it may well mean that discriminatory incidents go unpunished, that victims have difficulties accessing the justice system, or that victims of discrimination are unaware of the support services available to them.

## Effective actions and measures to tackle these challenges

Support for victims of discrimination can be provided from a number of perspectives. Experiences in various Member States show that several types of action can be employed to strengthen support for victims of discrimination:

- By implementing and consolidating initiatives to support victims of discrimination, which can be approached in various ways depending on the objectives pursued:
  - Via equality bodies specialised in particular grounds of discrimination. For example, institutes of women's affairs specialised in discrimination between men and women, while bodies like the CPEDRE specialise in discrimination on racial or ethnic grounds.
  - Via equality bodies specialised in specific fields, as is the case in Portugal, which has a body specialised in discrimination in employment.
  - Via comprehensive equality bodies that address all grounds and fields of discrimination, as is the case in the United Kingdom, Bulgaria and France.
  - Via services attached to government departments, which may either be specialised in particular grounds or fields or adopt a comprehensive approach. This is the case of the OND, the office for non-discrimination operated by Barcelona City Council reporting to the office of civil rights.
  - Via a network of centres or focal points, such as the support service for victims of discrimination operated by the CPEDRE.
  - Via specific call for proposals to support assistance to victims of discrimination initiatives, such as the specific priority on equality and non-discrimination category added in 2014 in the call for proposal aimed at national NGOs working in the field of social action.
- By reinforcing legal aid and strategic litigation via actions that promote and support investigation and prosecution of discriminatory incidents in all jurisdictions (civil, labour, administrative and criminal) to ensure that all conducts that contravenes the law or that are crimes are sanctioned or penalised accordingly. The objective of this type of action is to ensure that discriminatory conduct does not go unpunished and that victims receive compensation.
- By promoting training and capacity-building in anti-discrimination legislation among participants in the justice system via (see 3.4):
  - Specialist training courses aimed at participants in the justice system: court officers, lawyers and members of the public prosecution service and security forces. These courses can be arranged *ad hoc*, as part of training received in preparation to access these professions, or as lifelong learning training.



- Training modules on anti-discrimination legislation and litigation in degree syllabuses (bachelor's and master's).
- By promoting information, communication and awareness-raising actions on the right to equality and non-discrimination and on the reporting mechanisms available, particularly targeting those groups at greatest risk of suffering discrimination. This can be done in various ways (see 3.3):
  - Via public campaigns led by public authorities.
  - Via information sessions aimed at those groups at greatest risk of suffering discrimination.
  - Via campaigns led by NGOs in partnership with public authorities.

## Examples

Country/ region/ region	Initiative
SPAIN	<p>Support service for victims of discrimination set up by the CPEDRE and managed by a network of NGOs specialising in non-discrimination.</p> <p><a href="#">More information (Spanish)</a></p>
	<p>Service specialising in hate crime and non-discrimination operated by the deputy public prosecutor's office reporting to the public prosecutor for protection of the principle of equality and non-discrimination.</p> <p>In 2009, Barcelona's provincial public prosecutor's office created a service specialising in hate crime and discrimination that prosecuted several cases related to those two offences. This service has prosecuted a number of cases of incitement to hatred, violence and discrimination perpetrated via the Internet, via social media and via platforms propagating ideas, photographs, videos and music that "justify genocide" and incite hatred between cultures and belief systems.</p>
	<p>In 2013, this specialist service was extended to the rest of Spain's national territory following appointment of a deputy public prosecutor within the state prosecution service to protect the principle of equality and non-discrimination. Its functions are to co-ordinate and create specialist services for this sphere in all the country's provincial prosecutor's offices. In March 2013, deputy public prosecutors were appointed in each provincial capital and were specifically charged with leading and co-ordinating actions instigated by the national public prosecutor's office against hate crime.</p>

Country/ region/ region	Initiative
SPAIN	<p>For further information, see pages 118–119 of the handbook "<a href="#">Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy</a>".</p> <p>Discriminatory incident support and assistance service operated by Barcelona City Council's office for non-discrimination.</p> <p>For further information, see pages 123–124 of the handbook "<a href="#">Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy</a>".</p> <p>Information and support programme for homosexuals and transsexuals in the autonomous region of Madrid.</p> <p>For further information, see pages 142–143 of the handbook entitled "<a href="#">Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy</a>".</p>
EUROPEAN UNION	<ul style="list-style-type: none"> <li>➤ Belgium: the Centre for Equal Opportunities and Opposition to Racism established a co-operation protocol with various regional and local authorities and other partners, such as NGOs, to set up a network of contact points to combat discrimination.</li> <li>➤ Northern Ireland: the Equality Commission established a partnership programme with NGOs designed to build their capacity to detect discriminatory incidents and to establish a protocol to refer to the Commission cases in which discriminatory incidents are believed to have occurred.</li> <li>➤ Romania: the Bucharest-based National Council to Combat Discrimination has two regional offices via which it provides assistance to victims in collaboration with regional and local partners and NGOs.</li> </ul> <p>For further information, see the Equinet publication entitled "<a href="#">Providing Independent Assistance to Victims of Discrimination</a>".</p>

## Success factors of these experiences

- Having a local focus and proximity to the groups at greatest risk of suffering discrimination, as this facilitates close relationships with community leaders and mediators, as well as with the NGOs that represent them.
- Agreeing on and implementing protocols that ensure that discriminatory incidents are dealt with appropriately and which ensure at least the following phases: 1)

recording of the incident; 2) investigating the incident; 3) establishing an action strategy; 4) providing legal advice and representation, if appropriate; 5) closing file and evaluating the incident. Having this type of protocol in place makes it possible to record all incidents and produce reports.

- Focusing on resolving conflicts and reaching agreement between the parties involved. When assisting victims, it is important to remember that reporting discrimination may have serious negative consequences for victims in the form of victimisation. For this reason, it is vital to remember that assistance should not aggravate the conflict, but resolve it. It is crucial to have the victim's consent to all action taken.
- Having a strategic litigation service available for recurring discriminatory incidents or for the cases that, due to their seriousness, require initiating legal proceedings.
- Involving and co-operating with all social partners, particularly with NGOs specialised in equality and non-discrimination which, due to their proximity to victims, can be a key ally in resolving potential conflicts arising from discriminatory incidents.

### 3.3. Actions to increase social awareness, to inform and foster participation on equality treatment, designed to promote the economic and social benefits of diversity and prevent all types of discrimination

#### Main challenges

One of the European Union's biggest social challenges at present is being able to build a cohesive and tolerant society that ensures social harmony and in which all members are respected and in which the rights to equality and personal dignity are guaranteed. In an increasingly open and globalised world, diversity and differences are growing. This means that prejudices and stereotypes, which are simply ways of cataloguing the world, can also proliferate.

Despite the fact that the European Union has promoted a discourse based on harmonious co-existence and tolerance ever since it was created in the mid-20th century, social movements that openly support discrimination, racism, hate and intolerance are growing. In fact, there is an increasing concern about this trend among bodies like the OSCE, the Council of Europe and the European Union Agency for Fundamental Rights, as well as among NGOs like Amnesty International.

Member States therefore face three major challenges:

- To protect the principle of and right to equality and non-discrimination and raise public awareness about their scope.
- To inform the public and raise awareness about the economic and social benefits of diversity.
- To prevent and halt the proliferation of discrimination and hate in society, a phenomenon that is growing, specially on the Internet, on social media and in traditional media. Given these three domains' reach and anonymity, these developments are of particular concern.

## **Effective actions and measures to tackle these challenges**

Modifying beliefs based on stereotypes, prejudices or hatred is far from easy to achieve. Beliefs of this type generally originate from individuals' social and educational environment and life experiences. The effectiveness of the actions and measures taken will depend on the objectives set, which may include:

- Information: actions designed to inform the population about the rights to and benefits of diversity. Information can be provided in various formats: leaflets, guides, videos, workshops, etc. Information provided in this type of initiative is generally based on data compiled from reports, testimonies, real cases and experiences, etc. The most effective actions are usually those that:
  - Target a specific public rather than the general population. The more specific the target, the more effective the action.
  - Employ straightforward language and a simple format that connects with the target.
  - Reach the target public via organisations and spaces that are close to them.
- Interaction or experience: actions based on fostering interactions with the groups towards which there are more prejudices, stereotypes and feelings of hatred. This type of action is based on personal interaction: experience shows that having direct and varied contact with people towards whom there are more prejudices and stereotypes exist favours tolerance and respect. The most effective actions are usually those that:
  - Involve people or groups towards whom there are prejudices, stereotypes or feelings of hatred.
  - Foster interactions between people from a diverse background in formal (work-place and education) and informal environments (leisure activities) where they have the opportunity to get to know each other.

## Examples

Country/ region/ region	Initiative
SPAIN	<p><b>Information</b></p> <p>Pages 144–147 of the handbook "Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy" contain multiple examples of this type of action and measure.</p> <p>Below is a list of the practical guides published by the Fundación Secretariado Gitano in 2014 as part of the NETKARD project funded by the Rights, Equality and Citizenship Community Programme run by the European Commission's Directorate-General for Justice:</p> <ul style="list-style-type: none"> <li>• "Practical guide for media professionals to prevent discrimination against the Roma population", Fundación Secretariado Gitano, 2014. <a href="#">Link (Spanish)</a></li> <li>• "Practical guide for police services to prevent discrimination against the Roma population". <a href="#">Link (Spanish)</a></li> <li>• "Practical guide for NGOs to prevent discrimination against the Roma population". <a href="#">Link (Spanish)</a></li> <li>• "Human rights litigation and the Roma population: a guide for lawyers". <a href="#">Link (Spanish)</a></li> </ul> <p><b>Interaction</b></p> <p>Activities to improve the interaction with a diverse society carried out by Fuenlabrada's local police. To improve the service provided to diverse citizens by Fuenlabrada's local police, two Interactive initiatives have been launched to facilitate better and mutual understanding between the police and the town's various minority groups: 1) Creation of a commission for public safety in a diverse society designed to allow these social groups to express their opinion about the local police services and to discuss with them the problems they encounter in the spheres of public safety and harmonious coexistence; 2) Organisation of road safety education events in minority groups' meeting places (mosques, association headquarters, etc.)</p>

Country/ region/ region	Initiative
EUROPEAN UNION	<p><b>BEAMS — Breaking Down European Attitudes Towards Migrants/ Minority Stereotypes:</b> This two-year project (now completed) was led by the Veneto region (Italy) and received contributions from 13 partners from 10 European countries, among them the Directorate-General for Immigration at the Regional Government of Madrid's Ministry of Social Affairs. The project aimed to broaden the analysis of stereotypes of minorities (Roma and Sinti, migrants, ethnic/religious groups) within various areas of popular culture and society. In doing so, it aspired to change racist trends, create a positive culture, promote intercultural understanding and improve tolerance within the EU.</p> <p>See the <a href="#">"Good practice guide on communication principles for national equality bodies"</a> for further examples.</p>

### Success factors of these experiences

- Defining appropriate objectives for the actions in order to identify which type of action is most suitable (information, interaction or legal action).
- Clearly identifying the target group and establishing the necessary level of awareness-raising. Each public requires a different type of communication product depending on its level:
- Aware: highly familiar with the context and concepts of equality and non-discrimination.
- Familiar with democratic values and rights: not aware of the scope of equality and discrimination, but sensitive to the topic because of his/her democratic convictions.
- With prejudices and stereotypical beliefs: despite being aware of legislation and that discrimination is wrong exhibits prejudices and stereotypical views acquired via life experiences.
- Openly racist: does not believe in equality and is in favour of discrimination. Usually hates diversity and difference.
- Defining the most suitable communication product to reach the target group. Select the communication product or channel based on the type interests and profile of the target group.

### 3.4. Actions designed to build capacity and train key partners (NGOs, legal operators, public authorities, etc.) on how to prevent and address discrimination and implement the principle of equality and non-discrimination in public policy

#### Main challenges

In 2013, a diagnostic report was published analysing the training carried out by public authorities on equality and non-discrimination since 2010. This report examined the training offered to staff working in public administration. Based on the information available, it identified three types of competencies and skills to improve:

- Knowledge-related: greater understanding of the phenomenon of discrimination, of existing legislation, and of social diversity and its benefits.
- Skills-related, in three areas:
  - Design, implementation and assessment of policies and projects, particularly those related to compilation of data about discriminatory incidents, publication of studies and reports, detection and assistance to discriminatory incidents, elaboration of plans and monitoring systems, awareness-raising, etc.
  - Management of social diversity in public service provision.
  - Management of internal diversity within organisations.
- Attitude-related: ways of relating to diversity and methods for overcoming prejudices and stereotypes.

#### Effective actions and measures to tackle these challenges

When planning training and capacity-building actions it is important to remember that different methods can be used according to the objectives pursued. Their effectiveness will depend on the type of competence and skill that require improvement. A single training action can include several of the methods described below, as many of them are complementary.

- Theory: use of materials and references to create content designed to deepen understanding of the legal, institutional and social context.

- Practice: linking the content of training to the trainees' daily work, providing practical guidance on how to implement highly cost-effective initiatives.
- Knowledge transfer and mutual learning: description and presentation of case studies implemented by other public authorities.
- Involvement of members of other public authorities and key partners (particularly NGOs, unions and employers) to explain their experiences. In addition to the trainer, it is advisable to involve representatives of other public authorities and to encourage them to share their knowledge. Experience shows that this type of involvement, particularly by personnel from other public authorities, creates a much more convincing message, as the person describing their experience is a peer and speaks the same language as the recipients (this approach has worked very well in providing training to security forces).
- Involvement of members of minority groups or NGOs:
  - As trainers.
  - As a way of enhancing the understanding of the reality experienced by public sector personnel (for minority groups) or of the reality experienced by minority groups (for public sector personnel).

These types of sessions have been very effective at raising awareness and breaking down prejudices on both sides.

- Experiential exercises: to address real difficulties and their causes (generally prejudices and stereotypes). For example, referring to specific situations, trainers can ask participants how they would describe the situation, what they think about it and how they would react, before going on to discuss their responses. These can provide starting points from which to address the various types of discrimination.
- Coaching or mentoring: personalised guidance aimed at adapting the content of the course to individual needs and personal challenges in order to ensure full engagement with the issues addressed during the course.
- *Ad hoc* sessions with experts or experienced persons to resolve doubts, answer questions and follow up initiatives being implemented.



## Examples

Country/ region/ region	Initiative
SPAIN	<p>Local plan for comprehensive action against discrimination 2010–2011 implemented by the former Directorate-General for Equal Opportunities from the Ministry of Health, Social Services and Equality in partnership with the FEMP (Spanish federation of municipalities and provinces). This initiative was designed to improve the understanding of equality and non-discrimination in local authorities. The objective was to examine in depth:</p> <ul style="list-style-type: none"> <li>• The legal framework within which to combat discrimination.</li> <li>• The theoretical framework for combating discrimination via local authorities.</li> <li>• A methodology proposal for comprehensive action to combat discrimination in local authorities.</li> </ul>
	<p>Series of practical sessions on social diversity for <b>Fuenlabrada local police</b>. Various sessions were held to understand the reality of various minority groups living in Fuenlabrada and to learn to manage the differences:</p> <ul style="list-style-type: none"> <li>• Awareness-raising about social diversity (event to establish contact with Fuenlabrada's diverse society).</li> <li>• Public management of religious diversity.</li> <li>• Sessions on Roma and Muslim culture, Islam and the history and culture of Equatorial Guinea.</li> </ul>
	<p>Course entitled "Serving a culturally diverse public" provided by the INSS (national institute of social security) to customer service personnel working in the Information and supports centers of the Social Security -CAISS network- in order to improve the way services are provided in a context of diversity. The content of the courses (delivered more than 10 times) focuses on:</p> <ul style="list-style-type: none"> <li>• Conceptual approximation to culture, cultural diversity and multiculturalism.</li> <li>• Professional intercultural skills.</li> <li>• Intercultural communication and barriers.</li> <li>• Managing multicultural conflict in public service provision.</li> </ul> <p>The course combines theory with practical exercises and experiential exercises.</p>

Country/ region/ region	Initiative
SPAIN	<p>Series of courses on equality and non-discrimination delivered as part of the lifelong learning training offer provided by the state prosecution service to enhance knowledge of anti-discrimination legislation. Three courses have been given:</p> <ul style="list-style-type: none"> <li>• Criminal law and freedom of expression: the discourses of hate, 2013.</li> <li>• The principle of equality, combating discrimination from various perspectives, 2012.</li> <li>• Combating discrimination under criminal law: the impact of amendment of Organic Law 5/2010 and the principle of equality, 2011.</li> </ul>
	<p>“Training to Identify and Record Racist incidents”, led by Oberaxe in partnership with the Ministry of the Interior, the FEMP and the regional governments of the Basque Country, Navarre and Catalonia. The objective was to raise awareness and provide training to the security forces on equality of treatment and non-discrimination on racial and ethnic grounds. One of the outcomes of this project was the publication of a training manual (<a href="#">link, Spanish</a>).</p>
	<p>Series of courses on how to manage religious diversity held by the Directorate-General for Religious Affairs improve the Regional Government of Catalonia in partnership with the EAPC (Catalonia’s school of public administration) and designed to improve the knowledge on how to manage religious diversity within public authorities.</p>
	<p>Training course on how to manage social diversity in Barcelona’s transport authority, aimed at security guards and designed to change attitudes, stereotypes and the way in which the service is provided and how social diversity is dealt with.</p>
EUROPEAN UNION	<p>ART Project, led by the Migration Policy Group and funded by the PROGRESS 2007–2013 Community Programme. The project’s objective was to train NGOs in equality and non-discrimination. The project included a training manual (<a href="#">link</a>).</p> <p>Training initiatives co-ordinated by Equinet in various domains. (<a href="#">More information</a>)</p>

## Success factors of these experiences

- Course content adapted to the target public's profile and knowledge. The more generic and theoretical the course, the less likely it is to be useful to participants.
- Use of participative, interactive and experiential methodologies when the objective is to improve skills and change attitudes. In fact, conventional-format courses (theory explained by PowerPoint slides) are less effective than short sessions that involve minority groups towards whom there are prejudices and stereotypes.
- Inclusion of sessions designed to present real experiences, such as mutual learning between peers is highly effective.
- Avoidance of long, densely packed courses (20–30 consecutive hours), as delivering large volumes of information in short periods of time is less effective than other options. For example, regular sessions accompanied by an expert or experienced person made available to answer questions are much more productive.

## 3.5. Actions designed to study and research equality of treatment and non-discrimination and publicise the findings

### Main challenges

Study and research of equality and non-discrimination does not have a long tradition. Most of the studies available were conducted in the last 10 years, the majority of them at the initiative of the European Union Agency for Fundamental Rights and Eurobarometer. Several studies have been conducted in Spain, particularly in the sphere of equality between men and women, which has a much longer history of research than the other grounds of discrimination. Nevertheless, in the last 5 years an increasing number of studies and research projects have been sponsored or conducted by public authorities.

More and more is being learnt about discrimination. However, as it is a complex phenomenon there remain challenges arising from the need to understand it in greater depth:

- The causes, consequences, grounds and fields related with discrimination, as well as the profiles of victims and perpetrators.
- The most effective measures and actions with which to prevent and tackle discrimination.

Obtaining this type of information is vital to understanding the main issues and therefore designing more effective policies and projects. It also makes it possible to monitor them and evaluate the impact and outcomes of the measures implemented.

### Effective actions and measures to tackle these challenges

When studying and measuring discrimination, the following types of action are useful:

- Studies and reports on the perception of people at greatest risk of suffering discrimination.
- Studies and reports on changes and developments in topics related to discrimination based on information compiled by public authorities on discriminatory incidents, cases and rulings. Consequently, it is crucial that those authorities that compile information on discriminatory incidents and cases have specific protocols and mechanisms in place that enables them to compile this data according to the data protection legislation. This usually means that the personnel who perform this task have to change the way and the tools to they used to register this information (files, databases, etc.). At the same time, it is important that these personnel receives training in this new way of processing information.
- Studies and reports on the most effective measures and actions to prevent and tackle discrimination based on the experiences of people who deal with discriminatory incidents and cases.

### Examples

Country/ region/ region	Iniciative
SPAIN	<p>Studies of the perception of people at greatest risk of suffering discrimination:</p> <ul style="list-style-type: none"><li>• The CPEDRE conducts a regular study of the perception of discrimination on racial and ethnic grounds.</li></ul>

Country/ region/ region	Initiative
SPAIN	<p>Reports on discriminatory incidents, cases, and rulings:</p> <ul style="list-style-type: none"> <li>• Since 2012, the Ministry of the Interior has included a chapter on racist and xenophobic incidents in its statistical yearbook.</li> <li>• Barcelona's provincial public prosecutor's office for legal protection of the principle of equality of treatment and non-discrimination produces an annual report of the cases dealt by this service.</li> <li>• Barcelona City Council's OND produces an annual report on discriminatory incident cases dealt by the support and assistance service.</li> <li>• The support service for victims of discrimination operated by the CPEDRE produces an annual report on the cases dealt by this service. This report includes a section on the actions that have been most and least successful when dealing with discriminatory incidents.</li> </ul>
	<p>Studies of social perceptions and opinions of discrimination:</p> <ul style="list-style-type: none"> <li>• In 2013, the former Directorate-General for Equal Opportunities, of the Ministry of Health, Social Services and Equality, conducted a survey of the perception of discrimination in Spain in partnership with the CIS (forthcoming publication).</li> <li>• In 2013, the former Directorate-General for Equal Opportunities, of the Ministry of Health, Social Services and Equality, conducted a diagnostic study of secondary sources on discrimination in Spain.</li> <li>• Since 2008, Oberaxe, of the Ministry of Employment and Social Security, publishes a regular report on racism and xenophobia in Spain.</li> </ul>
EUROPEAN UNION	<p>Studies of the perception of people at greatest risk of suffering discrimination:</p> <ul style="list-style-type: none"> <li>• In 2009, the European Union Agency for Fundamental Rights conducted the Europe-wide EU-MIDIS survey.</li> </ul>

Country/ region/ region	Initiative
EUROPEAN UNION	<p>Studies of discriminatory incidents, cases, and rulings on them:</p> <ul style="list-style-type: none"> <li>• The United Kingdom's equality body publishes a regular report on the cases dealt by the discriminatory incident support service.</li> <li>• The UK Home Office produces a regular report on racist incidents reported by the security forces.</li> <li>• The Fundamental Rights Agency publishes information on rulings by the European Court of Justice on cases of discrimination.</li> </ul>
	<p>Studies of social perceptions and opinions of discrimination:</p> <ul style="list-style-type: none"> <li>• In 2012, Ireland's equality body conducted a survey on social awareness of equality.</li> <li>• In 2012, Romania's equality body conducted a survey on social perception of discrimination.</li> </ul>

## Success factors of these experiences

- These reports and studies provide information on previously unknown issues and complement studies conducted from other perspectives. The findings have helped to refocus policies and improve the design of the measures and actions.
- The studies and reports have been designed from a long-term approach, that is, they are conducted on regular basis. This has allowed an analysis of analyse the way the phenomenon is evolving.
- The majority of the initiatives carried out have been participative and have involved multiple partners in both study design and implementation — public authorities (European, national, regional and local), specialised NGOs, specialised research centres, unions and business associations, and members of groups at greatest risk of suffering discrimination.
- Several of the reports and studies are based on pilot initiatives that have allowed practitioners to ascertain if the format and method chosen are fully appropriate.
- In initiatives involving compilation of data on discriminatory incidents and cases, it has been vital to include a capacity-building process that combines design of a protocol, in partnership with key individuals and organisations, with training sessions. Adaptation of the tools used has also been crucial.

## 3.6. Measures to support equality bodies

### Main challenges

With the approval of specific legislation on equality and non-discrimination within the European Union, Member States have gradually created bodies responsible for promoting equality and non-discrimination on various grounds.

However, the creation of these bodies has been uneven across EU Member States and development has varied from country to country. In the majority of cases, Member States have created bodies specialised in each of the grounds of discrimination, with those promoting equality between women and men being the most extensive followed by bodies specialised in discrimination on the grounds of disability and racial or ethnic origin, particularly following implementation of Equality Directives 2000/43 and 2000/78. In most European countries, among them the United Kingdom, Ireland, Bulgaria, France and Romania, the tendency is to establish a single body responsible for monitoring all the grounds of discrimination from a mainstreaming perspective.

In Spain, there are two equality bodies set up to implement the EU anti-discrimination directives:

- Inmujer, created in 1983 (now the Institute for Women and Equal Opportunities).
- The Council for the Elimination of Racial and Ethnic Discrimination (CPEDRE), created in 2008.

Although some departments within public authorities have responsibility for addressing discrimination on the other grounds (disability, sexual orientation, age and religion or belief), separate equality bodies specifically responsible for promoting equality and non-discrimination on all the individual grounds have not been created.

According to the European legislation, equality bodies' main functions are:

- To support victims of discrimination.
- To conduct independent studies of discrimination.
- To publish independent reports and make recommendations about issues related to discrimination.

According to a report published by Equinet in 2012 on the challenges faced by equality bodies "Equality bodies: current challenges", the two main ones are:

- To increase the independence and establish more appropriate legal structures and systems of governance.
- To make the work carried out more effective, a challenge influenced by the economic and human resources available to them, and to adopt a more strategic approach by building capacity among personnel, raising public awareness of their existence and developing the capacity to operate also at regional and local level whilst maintaining their capacity to develop relationships with key partners.

In Spain, another of the challenges is to ascertain which is the most appropriate administrative structure to address equally all the grounds of discrimination protected under the European directives.

### **Effective actions and measures with which to tackle these challenges**

Many of the potentially implementable actions involve strengthening equality bodies by building capacity among personnel and ensuring more appropriate organisational and institutional development in line with the challenges faced in this field. These include:

- Analysis and strategic reports of:
  - The legal structure, competences, functions and resources needed to carry out the duties assigned to existing bodies.
  - The most appropriate administrative structure to deal with all the grounds of discrimination within an equality bodies.
- Spaces for collaboration and debate between European Structural and Investment Funds managing authorities, intermediary bodies and equality bodies.
- Strategies, plans and roadmaps to strengthen equality bodies and increase the effectiveness of the actions carried out.
- Workshops and debate with peer organisations in Spain and other EU countries to encourage mutual learning and build capacity among personnel.
- Plans to build capacity among personnel in equality bodies and partners.
- Communication initiatives designed to raise society's awareness of the existence of and services provided by equality bodies.
- Funding for personnel specialised in equality and non-discrimination in various areas: 1) legal; 2) discriminatory incident support; 3) public policy design and management; 4) reporting and studies; 5) communication and awareness-raising.



- Financial support for specific actions related to assisting victims of discrimination, conducting studies and making recommendations.
- Technical assistance initiatives on initiatives accessibility issues.

## Examples

Country/ region/ region	Initiative
SPAIN	Training sessions organised by the CPEDRE aimed at social partners (NGOs, unions, business associations, universities, etc.).
	Creation of the support service network for victims of discrimination set up by the CPEDRE in partnership with specialist nationwide NGOs working in co-ordination to a single action protocol.
	Exchange project between Norway's equality body (LDO) and the CPEDRE, financed via the European Economic Area Financial Mechanism. The aim of this programme is to learn about Norway's anti-discrimination legislation and the public policy and good practice developed by the LDO and other bodies and institutions in the country, paying special attention to situations of multiple discrimination suffered by women (project being implemented until 2015).
EUROPEAN UNION	Report published by Equinet in 2013 entitled <i>Processes and indicators for measuring the impact of equality bodies</i> .
	EC-commissioned study of the equality bodies envisaged by Directives 2000/43, 2004/113 and 2006/54 ( <i>Release of the EC synthesis report on Equality Bodies</i> ).
	Annual training plan, working groups, workshops and conferences on specific issues co-ordinated by Equinet. <a href="#">More information</a>

## **Success factors of these experiences**

- Clear definition of each action's objectives, adopting a realistic approach to the scope and expected impact and matching expectations to available resources.
- Involvement of key partners (particularly thematic public departments- employment, education, housing etc. - representatives of the justice system and specialist NGOs) in the policy cycle right from the design phase.
- Involvement of experts and specialists in equality bodies' actions and projects, including representatives of groups at greatest risk of suffering discrimination.

# 4. What is it important to know about equality and non-discrimination?

## 4.1. Key concepts

### **Direct discrimination**

*This form of discrimination occurs when one person is treated less favourably than another would be in a comparable situation.*

The key to this definition lies in what is known as the 'comparator', i.e. proving that in the same situation, or in a comparable one, one person has been treated differently and worse than another.

For example could be if, when applying a merit-based selection procedure to recruit a level-29 post, only the CVs of women aged 30–35 are rejected.

Case analysis:

- Person(s) analysed: all women aged between 30 and 35 who have submitted their curriculum as part of the selection process.
- Unfavourable treatment: automatic rejection of all female candidates aged between 30 and 35, without applying the same criterion to men of the same age.
- Comparator: men aged between 30 and 35 who submitted their curriculums as part of the selection process.

Direct discrimination does not just involve receiving unfair treatment or treatment that we consider inappropriate. For this form of discrimination to exist, it is necessary to prove that one person has been treated less favourably than another person or group of persons.

## **Indirect discrimination**

*This occurs when an apparently neutral attitude, criterion or practice puts, or could put, one of more persons at a particular disadvantage compared with other persons.*

This form of discrimination is difficult to detect because, a priori, the neutral criteria applied are objective and usually meet or are justified by specific requirements.

For example, a local authority opens a competitive selection process to recruit gardening staff. One of the criteria is to have passed the national exams required to enter university, even though the work itself does not require those qualifications.

Case analysis:

- Apparently neutral attitude, criterion or practice: national qualifications required to enter university.
- Persons potentially affected by this neutral criterion: those less likely to hold the required qualifications (immigrants, Roma people, persons with disabilities, etc.).
- Particular disadvantage: a group of persons with certain characteristics (immigrants, Roma people, persons with disabilities, etc.) are excluded from the recruitment process for not meeting a requirement that is not relevant to the work performed.
- Comparator: population of persons of Spanish, non-Roma origin without disabilities.

## **Discriminatory harassment**

*Any form of conduct carried out with the intention or effect of undermining the dignity of a person, or of the group to which that person belongs, and of creating an intimidating, hostile, degrading, humiliating or offensive environment.*

For example, if in a state-owned company one person constantly refers to another person's disability in a disparaging way, the first person may be creating a hostile, humiliating or offensive environment for the second person. This situation may be exacerbated if, furthermore, that person is assigned the worst working hours, does not receive e-mails sent to the rest of the staff, or is assigned tasks for which that person is not trained.

## Instruction to discriminate

*Any inducement, order or instruction to discriminate.*

For example, if public service customer service staff were to receive instructions to reduce the number of appointments given to persons of Maghrebi origin, but not to reduce the number given to anybody else, this would constitute an instruction to discriminate.

## Discrimination by association

*When a person or group receives discriminatory treatment due to their relationship with another person or group.*

For example, after several years of satisfactory work as a secretary in the directorate-general of a regional ministry, a woman is dismissed and replaced by another female civil servant. A few months earlier, in an informal conversation, her female boss had discovered that the woman had a child with a disability.

A similar case occurred in England in a law practice (Coleman vs Attridge, 2006) and reached the European Court of Justice, where it was proved that the woman had suffered discrimination by association with a person with a disability. It was proved that she had been dismissed because her superiors believed that her role in caring for a person with disabilities would make her more likely to be absent from work.

## Discrimination by perception

*When a person or group receives discriminatory treatment due to the perception of that person or group.*

For example, a father goes to enrol his daughter in a public school. When he hands over the papers, the school secretary tells him that immigrant families have to enrol their children in another public school, despite the fact that neither the father nor the daughter are immigrants or are of immigrant descent. In this case, the school secretary thought that the father or daughter were immigrants (because of the colour of their skin or hair or for other reasons) and therefore discriminated them based on that perception. In fact, in Spain it is against the law to segregate pupils on the grounds of racial or ethnic origin.

## Multiple discrimination

*When a person suffers discriminatory treatment in which various grounds of discrimination coincide or interact. It is not equivalent to the sum of all the grounds of discrimination, but is rather the interaction of these on each person or social group and reflects the power structures that exist within society.*

As a result, in recent years the term 'intersectionality' has entered the vocabulary to describe the process of analysing simultaneous interaction between the various forms of discrimination that a person may suffer and that make up that person's identity.

For example, if an immigrant female wheelchair user is not able to enter her local council offices because the building is not provided with a ramp, that woman is being discriminated against on the grounds of her disability, but not on the grounds of being an immigrant or female. On the other hand, if a black male homosexual is not allowed to enter a nightclub because the club does not admit either blacks or homosexuals, then multiple discrimination exists because that person is treated less favourably than another would be in a comparable situation on the grounds of being black and homosexual.

Important note: this is one of the hardest forms of discrimination to detect because, although people may be susceptible to being discriminated against on various grounds (for being an immigrant female; for being an immigrant with a disability; for being a black homosexual, etc.), for this form of discrimination to exist it must be proved that discrimination occurred on at least two grounds.

## **Positive action measures**

*All differential treatment intended to prevent, eliminate or, if applicable, compensate for any form of collective or social discrimination is considered positive action. These measures will be applicable for as long as the discriminatory situations that justify them persist. They must be reasonable and proportionate to both the means available to implement them and to the objectives they pursue.*

Examples include use of quotas to encourage recruitment of persons with disabilities; subsidies to foster recruitment of women in spheres in which they are not as well represented as men; legal initiatives to eliminate discrimination against women and to prevent situations of discrimination and violence against them (e.g. the Spanish law providing comprehensive protection against gender-based violence); and campaigns to raise awareness about equality and emphasise the value and benefits of diversity.

## **Reasonable adjustments**

Necessary and appropriate modification and adaptation of the physical, social and attitudinal spheres to meet the specific needs of persons with disabilities, provided that meeting those needs does not constitute a disproportionate or undue burden. In each particular case, the adjustments should facilitate effective and practical access and participation for persons with disabilities and ensure that they have the same rights, and on equal terms, as the rest of society.

For example, this may mean adapting the environment in the workplace to facilitate wheelchair access (ramps, desks, etc.).

## 4.2. The five grounds of discrimination protected under the European directives

### **Racial or ethnic origin**

Although the European Union does not have an official definition of racial or ethnic origin, this usually refers to membership of a minority group that shares common characteristics such as language, culture, geographical region, belief, etc.

When talking about this type of discrimination, it is advisable to avoid using the term 'race' because, although it is commonly employed when referring to groups of different racial or ethnic origin, it no longer has taxonomical validity and is only applied to domestic animals.

### **Disability**

According to UN CRPD<sup>4</sup>, "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."

It is important to underline that since the adoption of the law on promotion of personal autonomy and care for dependent persons in 2006, legislative texts may no longer refer to persons as 'handicapped', 'crippled', 'mentally deficient' or 'disabled'. The correct term is 'persons with disabilities'. It is advisable to use this as it is more respectful and does not have the pejorative or disparaging connotations of other terms.

### **Sexual orientation**

Refers to individual capacity to feel emotional, affectional and sexual attraction to persons of a different sex, of the same sex, or of more than one sex, and to maintain intimate and sexual relations with them.

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4.- Article 1: <http://www.un.org/esa/socdev/enable/documents/tccconvs.pdf>

## Religion or belief

Refers to a person's religion or belief as understood from a personal and subjective perspective and which need not be associated with an organised institution-based faith. The legislation protects people with religious beliefs as well as protecting those who are atheists, agnostics, sceptics, etc. or who have beliefs not associated with a specific religion.

## Age

Refers to a person's age. Discrimination on this ground usually occurs for belonging to a specific age group, e.g., being over 55 or under 30 years old.

## 4.3. Discrimination on grounds of sex or gender and other grounds of discrimination

In addition to these five grounds, it is important to take into account the potential discrimination between men and women as it is one of the most widespread forms. This is usually referred to as sex or gender discrimination:

- Sex refers to the biological differences between men and women. It persists over time and exists in identical form in all human societies. It is a universal reference. Gender is the social construct that defines masculine and feminine traits and determines all human relations in all societies and cultures.
- Gender is variable over time and space. It influences and determines behaviour by allocating different roles and social responsibilities to women and men.

Finally, gender identity refers to each person's internal feeling and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.

References are also often made to sexual identity, above all in legal texts, reflecting the above-mentioned distinction between sex and gender. Spanish Law 3/2007, of 15 March, regulating changes of registry entries mentioning an individual's sex, establishes the requisites for changing the sex recorded in the civil register when that entry does



not correspond with the affected party's true gender identity. It also allows for a change name should that person's name be inconsistent with the sex claimed.

## 4.4. Existing legislation

Below is a list of the equality and non-discrimination legislation in place in Europe and Spain. For further information, see pages 44–51 of the handbook entitled “Investing in Equality and Non-Discrimination: Towards More Efficient and Inclusive Public Policy”.

### European Union

<b>TREATY ON EUROPEAN UNION, 2009<sup>5</sup></b>	<b>Article 3:</b> “the Union shall, inter alia, combat social exclusion and discrimination and to promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.”
<b>TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, 2009</b>	<b>Article 10:</b> “In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.” <b>Article 19:</b> “the Council [...] may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”
<b>CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION</b>	<b>Article 21:</b> “1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.”

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5.- Link:

[http://europa.eu/eu-law/decision-making/treaties/pdf/consolidated\\_versions\\_of\\_the\\_treaty\\_on\\_european\\_union\\_2012/consolidated\\_versions\\_of\\_the\\_treaty\\_on\\_european\\_union\\_2012\\_en.pdf](http://europa.eu/eu-law/decision-making/treaties/pdf/consolidated_versions_of_the_treaty_on_european_union_2012/consolidated_versions_of_the_treaty_on_european_union_2012_en.pdf)

## DIRECTIVES

- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC.
- Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC.
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.
- Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
- Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

## Proposal for a directive<sup>6</sup>

- Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

6.- Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC(2008) 2180} {SEC(2008) 2181}; <http://eur-lex.europa.eu/legal-content/ES/ALL/?uri=CELEX:52008PC0426>

## Spanish constitution<sup>7</sup>

<b>Article 1.1.</b>	"Spain is hereby established as a social and democratic State, subject to the rule of law, which advocates freedom, justice, equality and political pluralism as highest values of its legal system."
<b>Article 14</b>	"Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance."
<b>Article 9.2</b>	"It is the responsibility of the public authorities to promote conditions ensuring that freedom and equality of individuals and of the groups to which they belong are real and effective, to remove the obstacles preventing or hindering their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life."
<b>Article 23.1</b>	"They also have the right to accede under conditions of equality to public functions and positions, in accordance with the requirements laid down by the law."
<b>Article 149.1.1</b>	"The State shall have exclusive competence over the following matters: Regulation of basic conditions guaranteeing the equality of all Spaniards in the exercise of their rights and in the fulfilment of their constitutional duties."

## Specific equality legislation<sup>8 9</sup>

<b>Racial or ethnic origin</b>	<ul style="list-style-type: none"> <li>• Law 19/2007, of 11 July, on measures to combat violence, racism, xenophobia and intolerance in sport.<sup>8</sup></li> <li>• Law 62/2003, of 30 December, on fiscal, administrative and public order measures (incorporation into national law of Directive 2000/43).<sup>9</sup></li> </ul>
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7.- Link (Spanish): <https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229>

8.- Link (Spanish): <http://www.boe.es/buscar/doc.php?id=BOE-A-2007-13408>

9.- Link (Spanish): <https://www.boe.es/buscar/act.php?id=BOE-A-2003-23936>

<b>Disability</b>	<ul style="list-style-type: none"> <li>• Royal legislative decree 1/2013, of 29 November, approving the recast text of the general law on the rights of persons with disabilities and on social inclusion thereof.<sup>10</sup></li> <li>• Law 26/2011, of 1 August, on adaptation of legislation to the International Convention on the Rights of Persons with Disabilities.<sup>11</sup></li> </ul>
<b>Sexual orientation</b>	<ul style="list-style-type: none"> <li>• Law 3/2007, of 15 March, regulating changing of registry entries mentioning an individual's sex.<sup>12</sup></li> <li>• Law 13/2005, of 1 July, amending the civil code with regard to the right to enter into marriage.<sup>13</sup></li> </ul>
<b>Religion and belief</b>	<ul style="list-style-type: none"> <li>• Organic law 10/1995, on the criminal code (Articles 522 to 526 list crimes against freedom of conscience, religious belief and respect for the deceased).<sup>14</sup></li> <li>• Organic law 7/1980, of 5 July, on freedom of religion.<sup>15</sup></li> </ul>
<b>Gender equality</b>	<ul style="list-style-type: none"> <li>• Organic law 3/2007, of 22 March, on effective equality between women and men.<sup>16</sup></li> <li>• Organic law 1/2004, of 28 December, on measures to provide comprehensive protection against gender-based violence.<sup>17</sup></li> <li>• Law 39/1999, of 5 November, on balancing work and family life among people in employment.<sup>18</sup></li> </ul>

10.- Link (Spanish): [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2013-12632](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2013-12632)

11.- Link (Spanish): <http://www.boe.es/boe/dias/2011/08/02/pdfs/BOE-A-2011-13241.pdf>

12.- Link (Spanish): <http://www.boe.es/buscar/doc.php?id=BOE-A-2007-6115>

13.- Link (Spanish): <http://www.boe.es/buscar/doc.php?id=BOE-A-2005-11364>

14.- Link (Spanish): <https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444>

15.- Link (Spanish): <http://www.boe.es/buscar/doc.php?id=BOE-A-1980-15955>

16.- Link (Spanish): <http://www.boe.es/buscar/doc.php?id=BOE-A-2007-6115>

17.- Link (Spanish): <https://www.boe.es/boe/dias/2004/12/29/pdfs/A42166-42197.pdf>

18.- Link (Spanish): <https://www.boe.es/buscar/act.php?id=BOE-A-1999-21568>

## 4.5. Institutions and bodies promoting equality and non-discrimination

### Departments specialised in equality and non-discrimination

Since the adoption of specific legislation on equality and non-discrimination, public authorities have gradually created specialist departments and bodies specifically responsible for ensuring equality and non-discrimination on the various grounds protected under the European directives.

However, creation of these departments has been uneven across European Union Member States and development has differed from country to country. In most cases, specialised departments have been set up to cover each of the grounds of discrimination. The longest-established departments are those that promote equality between women and men, followed by those that focus on the grounds of disability and racial or ethnic origin, particularly since the adoption of the Equality Directives 2000/43 and 2000/78. Recently, the tendency in Europe has been to set up a single department to lead and co-ordinate equality and non-discrimination initiatives on all grounds from a mainstreaming perspective.

Within the General State Administration, the department responsible for designing, implementing and co-ordinating equality and non-discrimination policy from a mainstreaming perspective, is the Institute for Women and Equal Opportunities, which reports to the Secretariat of State for Social Services and Equality at the Ministry of Health, Social Services and Equality.

Other departments performing similar duties include Oberaxe, which reports to the Secretariat-General for Emigration and Immigration at the Ministry of Employment and Social Security, and the OADIS (disabled persons support office), which reports to the Ministry of Health, Social Services and Equality.

At regional level, all Spanish regions have departments responsible for ensuring equality between men and women. Some of them also have departments responsible for ensuring non-discrimination on other grounds, although very few of them currently have departments that deal with equality and non-discrimination from a mainstreaming perspective.

### Equality bodies created to implement the EU directives

In parallel to the creation of specific departments, equality bodies have been set up principally to support victims of discrimination, to encourage analysis, study and research of this phenomenon, and to provide information and raise awareness about it.

In Spain, this trend started in 1983 with the creation of Inmujer (now the Institute for Women and Equal Opportunities). Today, similar bodies exist in all Spanish regions.

In 2008, the Council for the Elimination of Racial and Ethnic Discrimination was created as the equality body to address discrimination on the grounds of racial or ethnic origin envisaged under Directive 2000/43. It reports to the Institute for Women and Equal Opportunities.

No other similar bodies currently exist at regional level (though regional institutes for women's affairs have been set up).

## References

EUROPEAN COMMISSION. Commission Communication: Europe 2020. A European strategy for smart, sustainable and inclusive growth. COM (2010)2020 final EN.

Spain. Ministry of Public Finance and Administration. Partnership Agreement for Spain, 2014–2020 (summary available at: [http://ec.europa.eu/contracts\\_grants/pa/partnership-agreement-spain-summary\\_en.pdf](http://ec.europa.eu/contracts_grants/pa/partnership-agreement-spain-summary_en.pdf)).

Spain. Ministry of Public Finance and Administration. *Ex ante* conditionalities, Thematic Objective 9: Promoting social inclusion and combating poverty and discrimination of any kind. October 2014 (electronic document, Spanish, [http://www.dgfc.sepg.minhap.gob.es/sitios/dgfc/es-ES/ipr/fcp1420/p/pa/Documents/20140505\\_OT\\_9\\_INCLUSION\\_SOCIAL\\_OCT.pdf](http://www.dgfc.sepg.minhap.gob.es/sitios/dgfc/es-ES/ipr/fcp1420/p/pa/Documents/20140505_OT_9_INCLUSION_SOCIAL_OCT.pdf)).

Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, in: Official Journal of the European Union (20.12.2013) L 347/469

Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006, in: Official Journal of the European Union (20.12.2013) L 347/470

Council regulation (EU, Euratom) No 1311/2013 of 2 December 2013, laying down the multiannual financial framework for the years 2014–2020. In: Official Journal of the European Union (20.12.2013) L 347/891

Commission delegated regulation (EU) No 240/2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds.



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