## A. Context, problem definition and subsidiarity check

### Context

The Commission Action Plan to tackle the gender pay gap – adopted on 20 November 2017 – announced that the Commission would assess the possibility of strengthening the enforcement role of equality bodies, for instance by clarifying the requirements under the gender Recast Directive and/or setting horizontal standards for equality bodies. The initiative also follows-up on the European Pillar of Social Rights notably its principles two, three and seventeen on gender equality, equal opportunities and inclusion of people with disabilities. More broadly, this initiative will support the Commission 2017 Communication on 'EU law: better results through better application' and the 2017 EU Justice Scoreboard by strengthening equality bodies, considering the key role that equality bodies play in a comprehensive implementation and enforcement of EU equality legislation.

### Problem the initiative aims to tackle

In order to ensure the effective application of the EU's equal treatment legislation in practice, the Racial Equality Directive (2000/43/EC) and the Gender Equality Directives (2006/54/EC, 2004/113/EC and 2010/41/EU) require that Member States set up equality bodies. Their competences must include (i) providing independent assistance to victims of discrimination in pursuing complaints, (ii) conducting independent surveys, and (iii) publishing independent reports and making recommendations.

The text of the Directives leaves discretion to Member States as to the structure and functioning of equality bodies. This has resulted in significant differences between the bodies established in the Member States, in terms of mandate, competences, structures and resources. In recent years, a number of equality bodies have faced significant reductions in their budgets, and several cases of external pressure and undue interference have been reported. The functioning of a number of equality bodies has been severely hampered, as is evidenced by the increase in complaints about their independence and effectiveness. Studies conducted on equality bodies in the EU (among others, a 2010 ‘Study on Equality Bodies set up under Directives 2000/43/EC, 2004/113/EC, and 2006/54/EC’ and a 2012 Equinet report on ‘Equality bodies – current challenges’) report problems in the setting up of functioning equality bodies in a number of Member States. In particular, they observe that unequal and sometimes insufficient access to protection has been set up for citizens depending on their Member State, and that only an EU-level action can help ensure that equality bodies function efficiently and in an equivalent way across the Union.

The present initiative aims at tackling these issues and helping equality bodies reach their full potential, by setting up recommendations in relation to their mandate, independence, effectiveness and institutional architecture.

### Basis for EU intervention (legal basis and subsidiarity check)

The present initiative will be based on Article 19 of the Treaty on the Functioning of the European Union. Studies conducted on the situation of equality bodies across the EU report problems in the setting up of functioning equality bodies in a number of Member States. These observations demonstrate that Member States...
acting alone have not achieved to set up fully functioning equality bodies, and that only an EU-level action can help ensure that equality bodies function properly and in an equivalent way all across the Union. The conclusion is that the objectives of the initiative cannot be sufficiently achieved by the Member States acting alone, and that only an EU-wide measure can help achieve minimum standards for all equality bodies across the Union.

B. What does the initiative aim to achieve and how

The adoption of EU-level standards for equality bodies will (i) provide practical assistance to Member States in the setting up of these bodies, (ii) provide practical assistance to equality bodies in realising their full potential, and (iii) contribute to close the gap in standards between equality bodies across Europe. The strengthening of equality bodies will itself help achieve a comprehensive and consistent enforcement of EU equality legislation, promote social change towards a more equal and inclusive society, and protect citizens against discrimination in practice.

The proposed initiative will put forward recommendations for equality bodies in relation to the following elements: (i) Mandate of the bodies: to ensure consistency as to the grounds of discrimination and the scope of the activities covered by equality bodies. (ii) Independence: to ensure that equality bodies are free from external pressure and undue interference, and have the ability to work independently. (iii) Effectiveness: to ensure that equality bodies be provided with sufficient resources and appropriate powers. (iv) Institutional architecture: to ensure linkages with other equality institutions and a coherent application of the principle of equality.

The choice of Recommendation as an instrument will allow to be highly focused while leaving the detail to the Member States, so that suitable targeted actions are then taken at national level.

C. Better regulation

Consultation of citizens and stakeholders

A targeted consultation on this initiative is foreseen. The aim of the targeted consultation is to obtain first-hand and up-to-date evidence from key stakeholders, concerning the issues which should be prioritised at EU level. This will enable the Commission to follow an evidence-based approach when establishing the priority areas to be tackled in the Recommendation.

The key stakeholders targeted include equality bodies from EU Member States, the European Network of Equality Bodies (Equinet), the Council of Europe's European Commission against Racism and Intolerance (ECRI), the European Network of National Human Rights Institutions and the United Nations Human Rights Office (OHCHR), and civil society organisations.

The targeted consultation online will run for a minimum of 4 weeks. The questionnaire will be available in English, and it will be possible to reply in any of the 24 official EU languages. The consultation will be accessible via the DG JUST website.

Should other citizens or other bodies wish to participate in the consultation please contact the JUST D1 secretariat (Just-d1@ec.europa.eu).

The synopsis report of the consultation will be published on the consultation page.

Evidence base and data collection


An impact assessment is not deemed necessary, as no significant economic, social and environmental impact is expected. These were also the conclusions already reached in the Impact Assessment accompanying the 2008 Commission proposal for Equal Treatment Directive, which explored among other options that of a Commission
Recommendation covering notably the issue of equality bodies.