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TRADE UNION PRIORITIES ON THE EUROPEAN COMMISSION'S PROPOSALS ON STANDARDS FOR EQUALITY BODIES OF DECEMBER 7 2022

RESOLUTION OF CESI'S STATUTORY COMMISSION ON WOMEN'S RIGHTS AND GENDER EQUALITY

The European Confederation of Independent Trade Unions (CESI) is a confederation of more than 40 national and European trade union organisations from over 20 European countries, with a total of more than 5 million individual members. Founded in 1990, CESI advocates improved employment conditions for workers in Europe and a strong social dimension in the EU. CESI is a recognised European sectoral social partner and represents public and private sector workers.

CESI's statutory Commission on Women's Rights and Gender Equality broadly welcomes the European Commission's legislative complementary parallel proposals of December 7 2022 on

- on **standards** for equality bodies in the field of equal treatment and equal opportunities between women and men in **matters of employment and occupation** (COM(2022) 688 final)¹
- on **standards** for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in **matters of social security and in the access to and supply of goods and services**, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC (COM(2022) 689 final).^{2, 3}

On the European Commission's two parallel proposals, which seek to strengthen the role of Member States' equality – bodies public organisations assisting victims of discrimination, monitoring and reporting on discrimination issues, and contributing to an awareness of rights and a societal valuing of equality⁴ –, CESI notes:

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0688>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0689>

³ The aim of the two parallel proposals is to strengthen and streamline the role of equality bodies under different existing EU directives in the field of equal treatment. As existing EU directives in the field of equal treatment where originally adopted under two different legal basis – COM(2022) 688 final under Art. 157 TFEU and COM(2022) 689 final under Art. 19 TFEU – two legislative proposals are necessary for this exercise. However, the wording of both parallel proposals is identical in content.

⁴ <https://equineteurope.org/what-are-equality-bodies/>

- Litigation rights of trade unions: A core right of unions pertains to a right to represent and defend the interests of their affiliates on their behalf in courts. It is imperative that right is maintained even if the current proposals aims (Art. 9 in both proposals) to ensure the possibility of equality bodies to act in court proceedings within the realm of their competences. In this line, **it is vital to maintain the recital 34/recital 35 in the two proposals to ensure that “the provisions on the equality bodies’ right to act in court proceedings do not alter the rights of victims and of associations, organisations or other legal entities that enforce the rights of victims.”**
- Cooperation between equality bodies and trade unions: Systematic cooperation between equality bodies should be further fostered by the proposals. Article 12 (in both proposals) foresees that *“Member States shall ensure that equality bodies have appropriate mechanisms in place to cooperate ... with relevant public and private entities, including civil society organisations, at national, regional, local level as well as in other Member States and at Union and international level.”* Following recitals 39 (Art. 19 proposal)/38 (Art. 157 proposal), **trade unions should be explicitly listed as key interlocutors for equality bodies in all aspects related to discrimination at the workplace.**

National equality bodies and trade unions are no competitors but can be strong partners, complementing their supporting roles when workers become victims of discrimination. The rationale of trade unions is to assist their worker-affiliates where they are discriminated against; the mission of equality bodies is to combat discrimination and assist victims more broadly. Regardless of whether under current rules or potentially revised roles of equality bodies in the Member States, **national trade unions and equality bodies are called upon maximise their efforts to reach out to each other and engage in systematic cooperation to prevent, manage and combat discrimination at the workplace.** Enhanced cooperation between trade unions and equality bodies is in the interest of workers.

Beyond aspects related to unions, CESI also notes:

- that it should be **obligatory for alleged perpetrators and any third parties to be legally bound to provide any information** and documents requested by equality bodies. There should be no discretion for Member States to make this a voluntary commitment, as the European Commission’s proposals suggest in Art. 8(3). Without effective access to information, equality bodies will find it hard to investigate cases meaningfully.
- that **litigation rights of equality bodies should be further strengthened** than is stipulated in Art. 9 of the proposals. In particular, Art. 9(4), which forbids equality bodies to use in court proceedings evidence that it has obtained through the exercise of powers, should be removed. This can render investigate powers toothless.
- that it is regretful that the **scope of the directives does not span to any type of discrimination** as an open list of grounds (as is stipulated in the Charter of Fundamental Rights, which Member States must adhere to when they act in the scope of EU law) but that they are restricted to the specific areas of employment and occupation (Art. 157 proposal) as well as on race and ethnic origin; religion or belief, disability, age or sexual orientation in employment and occupation; and sex in matters of social security and access to and supply of goods and services (Art. 19 proposal).