ENE-006470/2020Answer given by Ms Dallion behalf of the European Commission
(8.3.2021)

Article 21 of the Charter of Fundamental Rights of the EU explicitly prohibits discrimination based on sexual orientation and sex. However, the Charter only applies to the Member States when they are implementing EU law. Beyond the implementation of EU law, it is for Member States to ensure that fundamental rights are effectively respected and protected, in accordance with their national legislation and international human rights obligations.

The Commission always stands ready to provide updates to the Council as regards rule of law related developments falling under the ongoing Article 7(1) Treaty on EU proceedings, as well as to present its views in the context of formal hearings. It is up to the Council to decide when and how to organise such formal hearings, and on which topics these should concentrate. The Commission will continue to support the Council in this respect.

According to Directives 2000/43/EC[[1]](#footnote-1), 2004/113/EC[[2]](#footnote-2), 2006/54/EC[[3]](#footnote-3) and 2010/41/EU[[4]](#footnote-4), equality bodies ‘may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals’ rights’. However, all Member States should ensure that equality bodies can carry out their functions, as set out in the above Directives, in an independent and effective way[[5]](#footnote-5). Furthermore, the role of independent authorities, such as the Ombudsperson and other National Human Rights Institutions, and the role of civil society organisations in safeguarding the rule of law, are elements part of analysis laid down in the Rule of Law Report[[6]](#footnote-6).

1. Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.7.2000. [↑](#footnote-ref-1)
2. Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ L 373, 21.12.2004. [↑](#footnote-ref-2)
3. Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), OJ L 204, 26.7.2006. [↑](#footnote-ref-3)
4. Directive 2010/41/EU 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, OJ L 180, 15.7.2010. [↑](#footnote-ref-4)
5. Commission Recommendation (EU) 2018/951 on standards for equality bodies,(OJ L 167, 04.07.2018, p. 28. [↑](#footnote-ref-5)
6. <https://ec.europa.eu/info/publications/2020-rule-law-report-communication-and-country-chapters_en> [↑](#footnote-ref-6)