

EUROPEAN UNION



Committee of the Regions

ECOS-IV-030

80th Plenary Session
17-18 June 2009

DRAFT OPINION
of the
Committee of the Regions
on
NON-DISCRIMINATION, EQUAL OPPORTUNITIES AND THE
IMPLEMENTATION OF THE PRINCIPLE OF EQUAL TREATMENT
BETWEEN PERSONS

Rapporteur: **Mrs Claudette Abela Baldacchino (MT/PES)**
Deputy Mayor, Qrendi Local Council

Deadline for tabling amendments:

Tuesday 9 June 2009 at 3 p.m. (Brussels time) (email: [ecos\(@cor.europa.eu\)](mailto:ecos(@cor.europa.eu)))

Number of signatures required: 6

References documents

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Non-discrimination and equal opportunities: A renewed commitment
COM(2008) 420 final

Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation
COM(2008) 426 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. endorses the renewed commitment of the Commission to present new proposals for implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation;
2. identifies non-discrimination mainstreaming as an essential priority in support of an increasingly diverse Europe, following the EU enlargement process, migration, demographic changes such as ageing population, and new familial trends;
3. recalls that although considerable progress has been made in favour of equal treatment on grounds of gender, disability and race in the past decade, the scope of protection against discrimination needs to be extended on all grounds covered by Article 13;
4. endorses the renewed commitment of the Commission to equal treatment between persons irrespective of religion or belief, race, disability, age or sexual orientation, and stresses that this must be based on the recognition of and respect for the shared European fundamental values;
5. points out that non-discrimination mainstreaming can be achieved through legislation that allows for reasonable accommodation on the one hand and concerted adjustment in policies and procedures on the other;
6. points out that awareness raising and education, particularly education for diversity, are important strategic measures that improve social relationships and strengthen social cohesion;
7. acknowledges the central importance that the media play in fostering an objective debate and reporting about diversity and stresses the responsibility that the media bear in promoting social cohesion through the celebration of diversity;

Local/regional and CoR relevance

8. reiterates that the achievement of equality mainstreaming would only be possible through the genuine involvement of local and regional authorities; being the main providers (particularly in the public health, social care and education sectors), these authorities play a key role in identifying and providing information about the emerging needs of vulnerable groups of people;
9. emphasises that being closest to the people and responsible for most of their social and economic aspects of their daily lives, local and regional authorities are able to put into practice the values and structures of the proposed Directive;

10. believes that equality mainstreaming and non-discrimination in society at large can only be achieved through joint efforts with civil society, and integration policies on all levels of government;
11. notes that effective and concrete action for the promotion of equal treatment needs to feature and be co-ordinated at all levels of public administration. Furthermore, acknowledges that dialogue through mediation is an effective tool that enables citizens and institutions to build new social relations that make equal treatment a real possibility;

Subsidiarity, Proportionality and Regulation

12. highlights the key role of local and regional decentralisation and subsidiarity for an increased participation and effective involvement of citizens, in particular of those who may be discriminated in policy or programme development and implementation;
13. recalls the need to respect the principle of proportionality as regards remedies and enforcement provisions, such as limits to sanctions and burden of proof;
14. draws attention to the fact that the scope of the directive as regards discrimination on grounds of age has not been clearly defined. A number of public services and rights are granted on the basis of age, which is often used as an objective criterion in legislation and administration. The directive's current wording could render legal and administrative provisions such as these legally contentious or even illegal;
15. stresses the need to reduce administrative burdens, and to take into account the impact of the proposed Directive on economic actors, for example SMEs, but also consumers;
16. notes the fact that the proposed Directive does not call into question national competencies to define the relations between church and state or related institutions and organisations, the content of teaching activities and the organisation of their educational systems, and to legislate on the recognition of marital or family status, reproductive rights, adoption or other similar questions;

Enhancing the legal framework

17. acknowledges the need to strengthen EU anti-discrimination legislation, so as to ensure equal treatment and protection for everyone living and/or working in Europe;
18. welcomes the aim to achieve full equality in practice for vulnerable groups in education, social protection, social benefits, and access to and supply of goods and services;

19. encourages the enforcement of legal provisions to prohibit physical or sexual abuse as well as exploitation;
20. identifies the need for sound legal procedures to protect minority groups from violence and other attacks due to their vulnerability;
21. points out that legal protection is important as a means of recourse of last resort but re-iterates that mediated settlements are more desirable, as the process of mediation has an educational and empowering function for citizens and enables institutions and service providers to change and improve;
22. calls upon the Commission and all other responsible authorities to enhance and promote not only the institution of mediation, in particular social and cultural mediation at the local and regional level, but also foster intercultural competencies for those working and providing services particularly public service providers;
23. points out that human trafficking and the commercial exploitation of women and children are still pervading numerous Member States; and that this modern form of human slavery undermines shared European values and fundamental human rights;
24. reiterates the need for having in place effective measures to counteract such, objectionable practices and calls for strengthening and enforcing current legislation and mobilising appropriate services and practices to inform migrants, particularly women, about possible deception on the purpose of migration and about possible exploitation; reinforcing networking, by means of common approaches and strategies at local and regional levels; and sustaining social assistance to victims, mainly through independent organisations and associations;
25. points out that under Article 3 of the proposed Directive, the ban on discrimination is also to cover all persons in the private sector, and feels that the term "private sector" should be defined, as there could be problems with its interpretation. In doing so, it is important to ensure constitutional protection for property ownership and the associated autonomy of private law at national and EU level;
26. points out that when establishing the existence of a disproportionate burden, the various needs of people with disabilities (type of physical or mental disability or learning difficulty) must also be taken into account;

Strengthening policy tools

27. recalls that anti-discrimination legislation has to be combined with policy tools that challenge unequal treatment, stereotypes and denigration in order to effectively tackle complex, multiple and diverse patterns of discrimination;

28. highlights that the proposed Directive should accentuate equality mainstreaming, whereby all grounds of discrimination are taken in account when drafting and analysing the impact and consequences of public policies and awareness-raising;
29. stresses that equality issues have to be incorporated in all plans, policies and programmes, and accentuates the relevance of mainstreaming tools, especially consultation and direct involvement of all stakeholders and the under-represented groups in society;
30. deems that social dialogue, both at European level, and with NGOs and other representative organisations, is vital to facilitate change, since diverse social realities and solutions are identified through shared knowledge, skills and best practice;
31. believes that cooperation with the Committee on Social Cohesion of the Council of Europe could help to ensure effective implementation of the principles of equality mainstreaming and acknowledges the work of the existing working group of the Commission and the Council of Europe on Intercultural Competencies in social services;
32. reaffirms the importance of inclusiveness to local and regional authorities and accentuates the role of specific measures to ensure an equitable and fair access for persons and groups at risk of social exclusion from goods and service;
33. urges the effective mobilisation of available instruments under the Structural Funds to support measures which facilitate social inclusion, and to promote accessibility to the labour market, to goods and services and to participation in society at large;
34. supports awareness-raising programmes aimed at educating stakeholders on their rights and obligations and at challenging discrimination and harassment;
35. notes and welcomes the existence in many Member States of services accessible to all children meant to inform and guide them with regard to their rights; calls upon all Member States to provide such facilities to their children while highlighting the need to educate children also about the relationship between rights and responsibilities;
36. advocates that further information about the difficulties and needs of vulnerable groups is required, in particular about human trafficking, children's rights, low-income workers, low-income households, discrimination on grounds of religion/belief and sexual orientation;
37. considers the collection of data on equality issues important to produce a holistic explanation of the current situation regarding problems of discrimination; supports the development of common criteria for data collection and analysis so as to obtain reliable and comparable data and statistics without undue and additional bureaucracy;

Developing targeted approaches

38. endorses a tailored response for each ground of discrimination since the various grounds of discrimination are considerably different from each other;
39. calls for a programme for the deinstitutionalisation of children in institutional care, since this discrimination is against their right for the enjoyment of family life; requests authorities at the relevant levels to provide adequate support to assist families with children at risk of social exclusion, and investing in alternative systems such as adoption and foster care in cases where the natural family is unable to care for its young;
40. points out that certain citizens in some Member States are faced with multiple discriminatory obstacles, namely: lack of adequate services in health care, pension schemes and retirement mechanisms, and the inaccessibility of a wide range of convenient and economical goods and services due to real impediments in using modern technology such as the internet;
41. encourages public and private service providers to ensure user friendly services in a way that is respectful of the dignity and commensurate to the capabilities of the individual, including adequate information about the technology;
42. reiterates that the proposed Directive should also enhance the level of protection of women outside the labour market since sexual harassment, abuse and violence represent a persistent challenge to women's dignity and safety;
43. argues that due to gender stereotypes, as well as structural and cultural barriers in formal education, the media and politics, females are still at a higher risk of poverty and social exclusion, due to gender pay gap, disadvantages in social welfare provisions, and in pension entitlements;
44. demands legislation and policies against: homophobic hatred (especially hate speech and hate crime), obstacles in access to housing, direct discrimination in health care services, as well as bullying and harassment in educational establishments, employment and vocational training;
45. stresses the need to enhance social inclusion and participation of LGBT in society at large;
46. suggests that reasonable accommodation to the disabled and for disadvantaged persons has to be broadened to improve their access to and participation in educational or vocational training, health care services, housing, transport, shops, leisure activities and access to other goods and services in a proportional way, to avoid undue hardship;
47. notes that persons with mental health problems are more likely to be socially excluded and stereotyped, and therefore calls on Member States to pay particular attention to these groups, and to make greater efforts to help people with mental health problems; in particular, children

suffering from mental health difficulties should be provided with support which meets their needs;

48. insists that individuals and groups suffering discrimination should be offered appropriate support, ranging from financial support for specific activities in early childhood education, leisure and cultural events to formal education, in order to mitigate their disadvantage;

Addressing multiple discrimination

49. states that European legislation should take better account of multiple discrimination, primarily by defining clearly this phenomenon, in order to protect and address the needs of groups and individuals who are at risk of suffering multiple discrimination (migrants, especially women and children, Roma children, unaccompanied asylum minors, disabled and persons suffering from mental health problems, older persons from ethnic minorities, etc.);
50. in the context of local and regional authority policies, calls for the promotion and support of specialised equality centres and observatories with responsibility for addressing all forms of discrimination and safeguarding the rights of people who have multiple characteristics and identities, and may experience multiple discrimination, and for assisting victims, conducting surveys, publishing reports in relation to multiple discrimination, and carrying out all functions in the areas covered by the proposed Directive;

Access to quality employment

51. discrimination can prevent individuals from achieving their full potential and they therefore risk ending up in low income jobs, which consequently bring about further difficulties in accessing goods and services such as education and housing, thus leading to poverty and social exclusion;
52. insists that barriers to having a paid employment constitute one of the main driving forces underlying inequality and social exclusion, and that very often precarious and low-income jobs are taken up by people in vulnerable situations, such as young and older workers, migrants, persons with a disability and females;
53. supports voluntary charters and other incentives that encourage businesses to adopt working methods which foster non-discrimination and equal opportunities, for example the promotion of diversity management in businesses since it is not only advantageous to employers, but also to employees and customers respectively;
54. while the principles of non-discrimination and equal treatment are universal, the Committee of the Regions draws special attention to the particularly vulnerable position of children and Roma in Europe;

Social inclusion of Roma

55. reiterates the need to enhance the participation of and recognition for the contribution of Roma in employment and training on one hand and the shared responsibility needed in order to improve their access to goods and services such as housing and health, reduce their risk of poverty, inhibit their risks of suffering violence and abuse, and protect Roma children from suffering health problems, becoming involved in child prostitution, sexual abuse or child trafficking;
56. acknowledges the importance of targeted measures to reduce or abolish discriminatory practices against Roma, in order to promote equal treatment of Roma and accelerate their process of social inclusion;
57. calls for the effective mobilisation of the European Social Fund for: constructive campaigns and awareness-raising about the relevance of the contribution of Roma persons in society; further job creation schemes, literacy campaigns, vocational training, scholarships to students in secondary and higher education; services catering specifically to their needs (for instance women in health) and other services that are indispensable for the social inclusion of Roma children, such as well-organised care services and protection, and vocational education (especially language skills);
58. recommends that the Commission steps up efforts to combat discrimination on the grounds of gender in the areas of education, healthcare, social services and social protection; demands that the same level of protection be provided against all forms of discrimination and that the Commission present a timetable for achieving this objective;

The Committee of the Regions' recommendations

59. identifies stereotypes in education, employment and the media as a significant barrier to equal treatment and social inclusion, and encourages their eradication. It would be a positive step if children at a young age were to learn respect for and befriend students from different ethnic or religious minorities and other students with a disability;
60. argues that the recommendations set forth by the proposed Directive should be complemented by practical training sessions and conferences with stakeholders to inform them about the full implications of equality mainstreaming towards the achievement of equal treatment;
61. highlights the importance to train professionals from various sectors (doctors, teachers, media professionals, etc.) and personnel of public authorities at all levels, as well as from the service industry in intercultural competencies and in social and cultural mediation, in order to eliminate any discriminatory, insulting or insensitive behaviour, to contest stereotypes and to sensitise these professionals for the specific needs of persons having different characteristics and needs;

62. is concerned about migrants, who are at higher risk of poverty and social exclusion due to exploitation at their workplace, and believes that education (especially language skills) and vocational training to ethnic minorities would encourage migrants to look for better jobs;
63. gives special attention to migrant women since: they are at risk of physical or sexual abuse for the purpose of employment, marriage, or prostitution; they need to be knowledgeable about the actual situations and dangers in potential countries of migration, to be better able to prevent deceit about the purpose of migration; and their protection and integration has to be further enhanced to ensure their effective enjoyment of human rights;
64. Points out that asylum seeking is a social problem with economic and other implications and should be treated as such, primarily by promoting the social integration of asylum seekers, especially minors and youth through shared responsibilities and equal opportunities in the access to goods and services;
65. endorses the implementation of an active education and training schemes to facilitate the promotion of non-discrimination and equal opportunities and to reach the Lisbon targets, through the ongoing renewal of skills and a commitment to lifelong learning;
66. notes that groups with different requirements necessitate tailor-made provisions, for instance: vocational training to Roma, migrants and older unemployed persons for their inclusion in the labour market; IT training to older persons to enhance their consumer or purchasing power; literacy campaigns targeted at rural and poor women and children; guidance to disabled persons, low income workers, and children of low-income workers, and so on;
67. underscores the need to develop promotional and awareness-raising campaigns bringing the recommendations of the proposed Directive to the attention of all, informing stakeholders on their rights and obligations, and delineating specific measures and processes implemented to assist victims;
68. highlights the key role of equality bodies and organisations representing the interest of those who are potentially exposed to discrimination and unequal treatment, in disseminating information, mainly by publishing culturally sensitive and group specific material, online information campaigns and conferences, and points out that information must be clearly targeted to specific groups;
69. reiterates that the implementation of the proposed Directive necessitates adequate human and financial resources (mainly through PROGRESS and EQUAL funds) to be able to cover all grounds of discrimination;
70. calls upon all LRAs to promote non-discrimination at local and regional level by promoting the respect for human rights, and building trust through constructive dialogue that empowers

people, democratises societies while minimising polarisation and strengthening social cohesion. Furthermore, the Committee of the Regions shall promote the value of diversity, celebrate its dynamic nature as a source of innovation and creativity, progress and well being for all, consistent with the fundamental values of human rights, the rule of law and democracy;

Brussels,

II. PROCEDURE

Title	<p>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Non-discrimination and equal opportunities: A renewed commitment</p> <p>Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation</p>
Reference(s)	<p>COM(2008) 420 final COM(2008) 426 final</p>
Legal basis	Art. 265, paragraph 1 ECT
Procedural basis	
Date of Commission letter	2 July 2008
Date of President's decision	22 August 2008
Commission responsible	Commission for Economic and Social Policy (ECOS)
Rapporteur	Ms Claudette Baldacchino (MT/PES)
Analysis	24 October 2008
Discussed in commission	10 December 2008 – 29 April 2009
Date adopted by commission	Planned for 19 February 2009, postponed for 29 April 2009 and adopted on 29 April 2009
Result of the vote in commission	By majority
Date adopted in plenary	Planned for 21-22 April 2009, postponed for 17-18 June 2009
Previous Committee opinions	<ul style="list-style-type: none"> – Opinion on "A Roadmap for equality between women and men 2006-2010" (CdR 138/2006) – Opinion on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Non-discrimination and equal opportunities for all - A framework strategy And the Proposal for a Decision of the European Parliament and the Council on the European Year of Equal Opportunities for All (2007): Towards a Just Society (CdR 226/2005 fin) – Opinion on the Green Paper on an EU approach to managing economic migration (CdR 82/2005 fin) – Opinion on the Green Paper on equality and non-discrimination in an enlarged European Union (CdR 241/2004 fin)

	<p>– Opinion on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on immigration, integration and employment (CdR 223/2003 fin)</p>
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