

European Commission proposal to ensure equal treatment beyond the workplace

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- 1. The proposed Social Package**
- 2. Eurobarometer on Equal treatment beyond the workplace**
- 3. Eurobarometer Malta on Equal treatment beyond the workplace**
- 4. European Commission on equal treatment beyond the workplace**
- 5. European Greens – some points**
- 6. European Social Platform – some points**
- 7. Recommendations for Alternattiva Demokratika – The Green Party**

1 The Proposed Social Package – European Commission

The proposed 'Social Package' includes:

1. Commission proposal for a directive of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare (COM (2008) 414),
2. Commission proposal for a European Parliament and Council Directive on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (recast) (COM(2008) 419),
3. Commission 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). (Check out: <http://ec.europa.eu/social/BlobServlet?docId=477&langId=en> **Communication on Non-discrimination and equal opportunities: A renewed commitment**)

This presentation covers no. 3

2 Eurobarometer on equal treatment beyond the workplace

The Commission adopted a proposal for a directive which provides for protection from discrimination on grounds of age, disability, sexual orientation and religion or belief beyond the workplace. This new directive would ensure equal treatment in the areas of social protection, including social security and health care, education and access to and supply of goods and services which are commercially available to the public, including housing. Eurobarometer surveys show that a large majority of Europeans support such legislation: 77% back measures to protect people from discrimination in education and 68% in access to goods and services.

According to a 2008 Eurobarometer survey Europeans think that discrimination remains rife, particularly when it comes to sexual orientation (51%), disability (45%), age and religion (42% each). Around 1 in 3 Europeans report witnessing discrimination or harassment in the past year, and 48% think that not enough is being done to fight this scourge. An earlier survey conducted in February 2008 highlighted that a large majority of EU citizens (between 68% and 77%) see a need for specific legislation to protect people from discrimination in areas beyond the labour market.

Meanwhile, 15% of Europeans claim they were personally discriminated against in the last 12 months, and 3 in 10 Europeans report witnessing discrimination or harassment in the past year. 48% think that not enough efforts are being made to fight discrimination in their country, while only 33% know their rights, should they face discrimination or harassment.

http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf

3. Eurobarometer Malta on Equal treatment beyond the workplace

http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_sheet_mt.pdf

“Perceptions of the extent of discrimination vary in Malta, depending on the type of discrimination under consideration. Discrimination on the bases of disability and age are seen as widespread by a significantly lower share of Maltese than the share recorded across the EU. On the other hand, a relatively larger proportion of the Maltese population perceives discrimination on the grounds of sexual orientation and ethnic origin as widespread, with the latter being seen as the most widespread form of all”.

“Just over 1 in 10 Maltese report being discriminated against or harassed on at least one of the grounds under consideration here over a 12 month period. This proportion is lower than that in the EU as a whole. This is in part accounted for by the fact that relatively fewer Maltese feel discriminated against on the grounds of age. Hardly any Maltese report experiencing discrimination on the basis of ethnic origin and sexual orientation”.

“Maltese respondents show a high level of comfort with most of the neighbour scenarios presented to them. They are most comfortable of all with the idea of a disabled neighbour and at a level above that seen in the EU results. Compared to the average European, the average Maltese is also more comfortable with the idea of a homosexual neighbour. In Malta the least comfortable idea is having a Roma neighbour – although here again the Maltese average is higher than the EU average”.

“Respondents from Malta are generally as comfortable as the average European with various scenarios presented to them for incumbents of their highest political office. As in the EU, the most comfortable prospects are having a leader who is from a minority religious group or one who is a woman. Compared to the EU results, the Maltese tend to be relatively more comfortable with a younger leader but are less with an older one (which is also the idea with which Maltese are least comfortable). They are also relatively less comfortable with having someone from an ethnic minority holding this position”.

“The Maltese are more likely to think that current anti-discrimination efforts suffice than they are to give the opposite opinion: however the gap between these two results is not large. In the EU results are evenly split. The Maltese who are most likely to think that current efforts to fight all forms of discrimination are not enough are those in the 40 to 54 age bracket and those who finished education at the age of 20 or above. This differs from the answers given by EU respondents, where education has less of an effect and the youngest respondents are the most likely to think efforts do not suffice. The opinion that not enough effort is made is given by a lower proportion of women than men in Malta - unlike in the EU as a whole where women are more likely than men to say efforts are not sufficient”.

“As in the EU, the majority of Maltese are favourable to providing equal opportunities on all of the grounds under consideration here. More than 9 in 10 Maltese respondents are in favour of equal opportunity measures based on gender and disability and more than 8 in 10 would favour equal opportunity measures based on age and religion. Furthermore, with the exception of ethnic origin, where the Maltese and Europeans compare closely, the average Maltese is markedly more likely to support these measures and less likely to oppose them than the average European”.

“Almost half of the Maltese say they would know their rights if they are the victims of discrimination or harassment. This means that a significantly higher proportion of Maltese than of Europeans say that they do know their rights should they be a victim of discrimination or harassment. In Malta, men are significantly more likely to claim knowledge about their rights than are women. As is also true in the EU, those who finished education at the age of 20 or who stayed in education for longer are most aware of their rights in Malta. In contrast with EU respondents, Maltese aged between 15 and 24 are the least aware of their rights, while those in the 25 -39 age bracket are the most aware”.

“Broadly speaking, the average Maltese has a less diverse social circle than the average European. They are especially less likely than their European counterparts to have friends or acquaintances from a different ethnic origin, of a different religion or who are Roma . The Maltese are more likely to have a disabled person as a friend or acquaintance than any other of the groups mentioned. Demographic factors have a large influence on the composition of one's social circle. In the case of ethnic diversity, men are more likely than women to have friends of a different ethnic origin than theirs in both Malta and the EU as a whole. In Malta and the EU, the 55+ age bracket are the least likely to have friends from different ethnic origin. Again as in the EU, Maltese respondents who spent the least time in education are least likely to have such friends”.

4. European Commission on equal treatment beyond the workplace

The proposal will create a level playing field across the EU as some Member States already have very extensive national anti-discrimination protection in place.

The law will prohibit direct and indirect discrimination as well as harassment and victimisation. For people with disabilities, non-discrimination will involve general accessibility as well as the principle of "reasonable accommodation" which is already used in existing European legislation. It will, however, avoid imposing a disproportionate burden on service providers by taking account of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the

goods and services and the possible benefits of increased access for persons with disabilities. The directive will only apply to private persons in so far as they are performing their commercial or professional activities. Also, Member States will remain free to maintain measures ensuring the secular nature of the State or concerning the status and activities of religious organisations. The directive will have no effect on generally accepted practices such as discounts for senior citizens (e.g. bus fares and entrance to museums) or age restrictions on access to certain goods (e.g. alcohol for young people) on grounds of public health. To ensure effectiveness of the proposed measures, national equality bodies will give advice to victims of discrimination while civil society organisations will also have the possibility to help victims in judicial and administrative procedures.

Will this new legislation cost a lot to business?

No. Providers of goods and services will have to try and ensure equal access for disabled people, and make "reasonable accommodation". However, they are only expected to provide what is "reasonable" and this depends very much on the circumstances of the case (i.e. proportionate measures, depending on size and character of the provider, on expected costs etc.). Not discriminating against people on grounds of religion, age or sexual orientation usually costs nothing, and tapping into the spending power of these groups can be financially beneficial for businesses. There will be a transitional period of four years for ensuring accessibility. The Commission consulted business through the European Business Test Panel in 2007, and 74% of those that replied thought that consumers should be protected against discrimination on the grounds of age, disability, religion and sexual orientation. 69% of the respondents thought that new European rules protecting customers against discrimination would have no financial impact for them.

How will the protection against discrimination work in practice?

The rules will primarily act as a deterrent to those who discriminate. Nevertheless, where people think they have been discriminated against, disputes can in many cases be resolved with the help of the so called "Equality Bodies" in each Member State. All the Member States already have such a national body to deal with discrimination on grounds of gender and racial or ethnic origin.

Now they will have to have a body to help victims of discrimination on grounds of religion and faith, disability, age and sexual orientation. This could be achieved by expanding the competences of the existing Equality Bodies. In addition, associations and organisations working in the anti-discrimination field must also be allowed to help victims of discrimination.

If attempts at conciliation fail, victims of discrimination will have to plead their cases under national law, which transposes the Directive, and go before the national courts.

What are the next steps?

The Commission's proposal was approved by the European Parliament and now needs approval from the Council of Ministers. It will have to be agreed under the normal legislative process (consultation procedure with the European Parliament and unanimity in Council) before becoming law and finally being implemented in the national legal systems of each Member State.

5. European Greens – some points

The European Green Party has welcomed the European commission's decision to extend anti-discrimination legislation so that it covers discrimination on grounds of age, disability, religion/belief and sexual orientation, beyond the workplace. Such legal protection already exists to deal with discrimination on grounds of race/ ethnic origin and gender.

"The European Commission must get tough with Member States to protect all the citizens of Europe. If some governments oppose new anti-discrimination legislation they should explain to us all why they condone discrimination against particular groups in their society".

"Many people do not suffer from discrimination on one ground alone, so to create legislation covering only one area is misguided. It will also continue the hierarchy of discrimination where some grounds are better protected than others. A directive covering all types of discrimination should be developed as soon as possible."

6. European Social Platform – some points

On religious discrimination, we call for legal action to ensure equal protection for those with religions and those without, who face bullying and harassment, who are refused services, denied a decent education in a safe school environment, and who face discrimination in housing.

On disability related discrimination, we welcome the Commission's announcement to take legal action to ban discrimination against persons with disabilities in all areas of life in view of contributing to the implementation of the UN Convention on the rights of persons with disabilities.

On discrimination on the grounds of sexual orientation, we call for legal action to improve the daily lives of the millions of lesbian, gay, bisexual and transgender people in Europe.

The daily experience of harassment, prejudice, violence, refusal of service, social exclusion and denial of equality in education, healthcare and in accessing goods and services requires similar legal protections in all countries.

On age discrimination we need legal action to combat discrimination older and younger people face in access to fundamental goods and services such as insurance products and healthcare services. The legislative initiative should therefore not include exception clauses for the insurance and health services. It should also include an article protecting preferential treatments that young and older people enjoy in many areas in order to protect young and older people's interests.

On gender discrimination, we recognize that the adopted directive on goods and services was a first step in addressing discrimination between women and men outside employment. However, we call for more legal action to ensure equal representation of women in decision-making. There is a need to legally protect women from all forms of violence including banning sexism in the media. It is crucial to eliminate discrimination in all areas of life, such as tax and social benefits,

health and pensions for which unpaid care is not recognised. Education schemes encourage girls to choose “traditional-female” low paid jobs: Action targeting education systems must also be part of the legal framework.

Article 13 is limitative and does not cover all the types of discrimination prohibited by the EU Charter of Fundamental Rights. Article 21 of the Charter is not limitative and provides that “*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*”.

7. Recommendations by Alternattiva Demokratika – The Green Party:

- 1. The proposed directive, which promotes equality of opportunity, should be supported, though it should have a stronger social orientation for a more equal European Union.**
- 2. The ‘reasonable accommodation’ which is to be adopted for service providers should also be supported but it should have clear standards to avoid dodging of responsibilities.**
- 3. The Directive should cover all types of discrimination, as per the EU Charter of Fundamental Rights, which states that “*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*” (Article 21).**
- 4. Insurance and other financial products should be covered by the Directive. Discriminatory practices in insurance and financial products must be prohibited by the Directive.**
- 5. This Directive should be complemented by social and economic policy measures which promote equality of outcome and sustainability – such as investment in social inclusion, sustainable development and employment; Policies that strengthen the standard of living of low and middle income earners vis-à-vis the cost of living; educational policies that focus on equality, inclusion and comprehensive systems; Welfare policies that focus on universalism rather than selectivism, whilst tackling the particular needs of different groups; Energy policies aimed to prevent ‘energy poverty’, which, whilst focusing on the polluters-pays principle, ensures that basic use of energy is universally accessible and affordable.**
- 6. This Directive should be accompanied by clear regulations that disallow social dumping (as was experienced in recent cases such Vaxholm, Ruffert and Viking), whereby companies can employ workers from other countries (both EU member states and non-member states) at wages which are lower than that established by national collective agreements.**
- 7. This Directive should be accompanied by measures that tackle discrimination in family policy such as the right to divorce for persons residing in Malta. This also**

includes the regularization of cohabitation and non-married households such as those made up of relatives, which should have equal legal and social rights with other family units as well be free from discrimination in social protection; the right for same-sex persons to form regularized civil partnerships which are free from discrimination in social protection.