Progress made in equal opportunities and non-discrimination in the EU (transposition of Directives 2000/43/EC and 2000/78/EC)

2007/2202(INI) - 20/05/2008 - Text adopted by Parliament, single reading

The European Parliament adopted by 362 votes to 262, with 56 abstentions, a resolution on progress made in equal opportunities and non-discrimination in the EU since the transposition of Directives 2000/43/EC and 2000/78/EC.

The own initiative report had been tabled for consideration in plenary by Elizabeth **LYNNE** (ALDE, UK), on behalf of the Committee on Employment and Social Affairs.

The Parliament recalls, above all, that these two Directives provide minimum requirements and should be the foundation on which a more comprehensive Community anti-discrimination policy is built.

The Parliament also considers it necessary to:

1. **ensure a better transposition of the applicable texts**: concerned about the incorrect transposition and the insufficient implementation of these texts in some Member States, the Parliament calls on the EU to ensure that Directives 2000/78/EC and 2000/43/EC are fully, correctly and effectively transposed and adequately implemented. In this respect, the plenary reminds the Commission that Article 4 of Directive 2000/78/EC permits exceptions only to the extent that they are genuinely **objectively necessary** for the satisfactory performance of occupational activities. The Parliament therefore calls on the Commission to interpret that article strictly and to bring actions against Member States if they permit too broad a definition in their national legislation. It also calls on the Commission to draw up interpretive guidelines for implementation of these two directives to ensure the full and correct implementation by Member States. Further to this, the Parliament urges that sanctions be applied to infringements of national provisions adopted pursuant to the transposition of Directives 2000/43/EC and 2000/78/EC and asks the Commission to assure that the legislation resulting from the transposition is complied with, and that it continues to put pressure on Member States by way of infringement procedures. Moreover, the Parliament asks for an annual evaluation of the implementation of these texts by Member States;
2. **combat and prevent the diverse forms of discrimination**: the Parliament believes that the absence of a provision in Directive 2000/78/EC indicating the necessity for broad definitions of **disability** has excluded some categories of disabled people from the legal protection of the Directive. It, therefore, invites Member States and the Commission to agree sufficiently broad definitions of disability urgently, in order to facilitate the harmonisation of anti-discrimination legislation. The Parliament considers that exceptions linked to marital status in Directive 2000/78 /EC have limited the protection against discrimination on the grounds of **sexual orientation** offered by the Directive. On the whole, the Parliament urges the Member States to promote more effectively the application of the rights of citizens of the Union under the Directives 2000/43/EC and 2000/78/EC, and calls for the establishment of national integrated action plans against all forms of discrimination. Moreover, equal treatment and opportunities under employment and social inclusion policies must be ensured, by addressing **discrimination in recruitment procedures**. The Parliament also calls for an end to all discrimination based on the employment contract by guaranteeing all workers: equal treatment, health and safety protection, provisions for working and rest time, freedom of association and representation, protection against unfair dismissal, collective bargaining and collective action;

3. **raise awareness of rights**: the Parliament insists on the need to improve awareness of rights under antidiscrimination Directives and to ensure that victims of discrimination have access to a range of advocacy support. It insists that Member States empower independent, specialised equality bodies with the means to provide an effective help for victims of discrimination. At the same time, it is concerned about the low level of awareness of anti-discrimination legislation among citizens in the Member States and calls on the Commission, the Member States, trade unions and employers to step up their efforts to raise that level of awareness;
4. **help victims**: Member States are called upon to ensure that statutory and non-statutory bodies that participate in the prevention of discrimination and that support the victims of discrimination are adequately resourced. In any case, Member States should ensure that victims of discrimination are automatically assisted in legal proceedings, if necessary by public funding through national legal aid schemes. The Parliament calls on the Commission to support the adoption of such measures through the Progress programme and the European Social Fund;

The Parliament also considers that, in legal terms, it is necessary to:

1. **enlarge the scope of application of antidiscrimination directives**: the Parliament strongly believes that the material scope of any directive concerning combating discrimination within the meaning of Article 13 of the EC Treaty must be broad, covering all the areas that fall under Community competence such as education, life-long learning, social protection, housing and healthcare, images of discriminated groups in the media and advertising, physical access to information for people with disabilities, telecommunications, electronic communication, transport modes and public spaces, social advantages and access to and supply of goods and services which are available to the public. Furthermore, it believes that any new directive should also develop the scope of Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions so that it is consistent with the protection of other groups against discrimination. More generally, the Parliament believe that combating discrimination requires a holistic approach to raising public awareness, which must be developed beginning with suitable programmes in schools;
2. **adopt a new Directive based on Article 13 of the Treaty**: the Parliament calls on the Commission to include provisions explicitly designed to combat multiple discrimination in any future legislation adopted under Article 13 of the EC Treaty. It considers that Directive 2000/43/EC is the foundation upon which a comprehensive antidiscrimination framework for measures relating to the prohibition against discrimination on the basis of race or ethnic origin can be built. The Commission is also called to produce a common, EU-wide definition of the meaning of positive action. The Parliament welcomes the Commission's intention to draft a comprehensive directive to combat discrimination under Article 13 of the EC Treaty as provided in its 2008 work programme. In an amendment adopted in plenary by a small majority, the Parliament notes that the Commission may intend to put forward only legislation to outlaw discrimination in access to goods and services on some, but not all grounds. It reminds the Commission of its commitment to put forward a **comprehensive directive** covering disability, age, religion or belief and sexual orientation to complete the package of anti-discrimination legislation under Article 13 of the EC Treaty and reiterates the political, social and legal desirability of **putting an end to the hierarchy of protection against the different grounds of discrimination**, without which the result would be unbalanced. The plenary also notes that the Parliament awaits with interest the development of the Community definition of disability which will allow disabled people from all over the European Union to enjoy the same rights wherever they are situated within the European Union. At the same time, any new proposed directive in this area will have to prohibit all forms of discrimination, including direct and indirect discrimination, discrimination by association, discrimination linked to perceived membership of a protected group and harassment. Any future legislation under Article 13 of the EC Treaty should include an obligation to consult and include NGOs, independent specialised equality bodies, and

representative national organisations, in regard to the drafting, the transposition process and the monitoring of its implementation. It should also include a requirement that Member States implement equality mainstreaming in all policies and address remedies and enforcement of the law.

The Parliament also calls for an end to the **discrimination of the Roma community**. It calls for specific social protection for these people, as well as measures in the areas of education, health, housing, employment and women's rights. It also recommends high-quality education for Roma children.

Lastly, the Parliament stresses the importance of horizontal implementation and mainstreaming of the non-discrimination clauses (in the Lisbon Strategy for growth and employment, in the open method of coordination on social inclusion, in national reform programmes and in the regulations governing the structural funds etc).