

# **Equal treatment in employment and occupation. Employment Equality Directive**

1999/0225(CNS) - 19/06/2008 - Follow-up document

This report concerns the application of Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. This Directive was adopted under Article 13 of the EC Treaty, which gave the Council competence to take action to combat discrimination on grounds of sex, racial and ethnic origin, religion and belief, disability, age and sexual orientation.

Directive 2000/78/EC had to be transposed into national law by 2 December 2003 in EU-15, by 1 May 2004 in EU-10 and by 1 January 2007 in Bulgaria and Romania, with the possibility of up to three additional years to transpose age and disability provisions. The Commission is currently examining all national transposition measures to ensure that the Directive is correctly implemented. Where the Commission considers that this is not the case, it will use its legal powers to bring the national legislation into line with the Directive.

In accordance with Article 19 of the Directive, Member States had to communicate to the Commission the information necessary for this report. The Commission consulted social partners as well as civil society organisations. The Commission has also taken into account the positions taken by the European Parliament.

The aim of this report is not to give a detailed account of transposition of all the provisions of the Directive in Member States, but rather to describe certain aspects that seem to the Commission particularly problematic or important.

The report states that while Directive 2000/43/EC protects from discrimination on grounds of racial or ethnic origin in a wide range of areas outside the sphere of employment (education, social protection, health care, access to goods and services, housing), this is not the case for Directive 2000/78/EC which is limited to employment, occupation and vocational training.

Responding to concerns expressed by the European Parliament and civil society, the Commission announced in 2005 that it would carry out a study into the relevance and the feasibility of possible new initiatives to complement the current legal framework.

The results of the study, completed in 2006, showed that while most countries provide legal protection in some form that goes beyond the current EC requirements in most of the areas examined, there was a good deal of variety between countries as to the degree and nature of the protection.

In accordance with its work programme for 2008 which foresees the adoption of a proposal for a Directive implementing the principle of equal treatment outside employment, the Commission is now preparing a legislative initiative. The starting point for this initiative is the fact that the level of protection from discrimination based on religion or belief, age, disability or sexual orientation is lower than that in place for discrimination based on race. In the preparation of this initiative, the Commission has been careful to take into account issues related to the principles of subsidiarity and proportionality.

The report concludes that Directive 2000/78/EC constitutes a major step forward in the fight against discrimination across the EU. For most Member States, the transposition of Directive 2000/78/EC required extensive changes to existing legislation, covering new grounds of discrimination.

The transposition of the Directive can be considered as an overall success, as all Member States have enacted anti-discrimination legislation covering all the grounds of the Directive, covering areas which were new in many countries. In most Member States, the legal framework can be considered to be adequate, actual implementation being the major challenge.

A particular challenge is enforcement of anti-discrimination laws. In this respect, the shifting of the burden of proof before the courts, dissuasive sanctions and the existence of support institutions, in particular equality bodies fully empowered to carry out their tasks, are all essential elements of a proper anti-discrimination framework.

The Commission recognises also that legislation alone is not enough to prevent discrimination and to promote equality. Combining properly implemented and enforced legislation with complementary policy measures at national and EU level is the key to reducing discrimination on grounds of religion or belief, age, disability and sexual orientation.