Equal treatment: implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

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On the basis of a **progress report**, the Presidency briefed the Council on the state of play in the discussions on the draft directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation. The Commission proposal seeks to extend protection against discrimination on the grounds of religion or belief, disability, age or sexual orientation to areas outside the labour market, including social protection, social advantages, education and access to goods and services.

Under the Czech Presidency, the discussions within the preparatory bodies of the Council concentrated on the provisions aimed at protecting persons with disabilities from discrimination (Article 4 of the proposal). The Presidency tabled drafting suggestions to align the Directive more closely with the text of the UN Convention on the Rights of Persons with Disabilities and to provide for the progressive implementation of the Directive. Delegations have taken a broadly favourable view of the Czech Presidency's approach as a step in the right direction, particularly welcoming the attempt to clarify the text, to provide for the gradual implementation of certain provisions and to align the draft Directive more closely with the UN Convention.

However, further work is needed, in particular, on the following issues:

- the scope of the provisions, including in respect of infrastructures, buildings, transport and the design and manufacture of goods;
- the financial and practical implications of the provisions;
- ensuring legal certainty, especially in regard to the concrete obligations created by the Directive, including with respect to terms such as "on an equal basis with others" and "reasonable accommodation";
- the interrelationship between the draft Directive and more detailed sectoral standards or specifications on the accessibility of particular goods, including public transport;
- the implementation calendar, particularly in respect of provisions requiring modifications to existing infrastructures and buildings;
- the possible need for further alignment with the UN Convention, taking into account the need for legal clarity.

Further discussion is needed with a view to **demarcating the division of competences between the Member States and the European Community** as precisely as possible. More work is also needed to elucidate the delicate distinction between access to fields such as education, healthcare and social protection, and the organisation of such fields, the latter being an area of national competence. Other issues that require additional examination include the cross-border dimension that underlies the Community competences in the fields listed in the scope, the provisions related to family law, and the need to find a balance between anti-discrimination and the rights of individuals in the private sphere.

The current draft text provides for **certain differences of treatment** that should not be seen as discrimination (for example, cheaper public transport offered to children, disabled persons or pensioners),

and contains specific provisions concerning the assessment of risk by the providers of financial services, including insurance. However, further discussion is needed, particularly on the key notion of objective and reasonable justification, so as to distinguish clearly between differences of treatment which would not be permitted and those which are justified.

Lastly, in underlining the importance of **legal certainty**, delegations have expressed the wish to avoid further cases having to be brought before the European Court of Justice (ECJ). They have consequently stressed the need for the clearest possible wording throughout, including in the definitions of key terms, and have underlined the importance of ensuring consistency with existing legislation.