

Equal treatment in employment and occupation. Employment Equality Directive

1999/0225(CNS) - 25/11/1999 - Legislative proposal

PURPOSE : To establish a framework in order to combat discrimination and ensure equal treatment in employment. **CONTENT** : Article 13 of the Treaty establishing the European Community provides a solid base for comprehensive anti-discrimination policies. The discriminatory grounds covered by this proposal coincide with those laid down in Article 13 with the exception of the ground of sex, which is already covered by other legislative acts. With regard to sexual orientation, a clear dividing line should be drawn between sexual orientation, which is covered by the proposal and sexual behaviour, which is not. - The areas covered are access to employment and occupation, vocational training, promotion, employment conditions and membership of certain bodies. - The proposal covers both direct and indirect discrimination. The latter is more difficult to discern. According to the definition in the proposal, an apparently neutral provision, criterion or practice will be regarded as indirectly discriminatory if it is intrinsically liable to adversely affect a person or persons on one of the discriminatory grounds described. This "liability test" may be proven on the basis of statistical evidence or by any other means that demonstrate that that the provision might be intrinsically disadvantageous for the person or persons concerned. Harassment is also included within the definition of discrimination. - With regard to disability, the principle of equal treatment entails the identification and removal of barriers in the way of persons with disabilities who, with reasonable accommodation, are able to perform the essential functions of a job. - The proposal permits justified differences of treatment when a characteristic constitutes a genuine occupational qualification for the job. The proposal also provides a non-exhaustive list of differences of treatment on grounds of age, which shall not constitute direct discrimination, provided that they are objectively justified. - Positive action measures are permitted, but are to be interpreted strictly, in the light of the current case law on sex discrimination. - There are provisions for remedies and enforcement. Particular provisions exist with regard to the burden of proof, which rests initially on the defendant rather than the plaintiff.