Equal opportunities between women and men: employment, vocational training, working conditions

2000/0142(COD) - 23/07/2001 - Council position

The Council presented its common position on the proposed changes to the Directive in July. Following extensive debate within the Council, substantial progress was made in the following fields: - the definitions of direct and indirect discrimination; - the definition of sexual harassment and harassment on the basis of sex; - the creation of bodies promoting equality of treatment between women and men; and - the reinforcement of judicial protection of victims of discrimination. Nevertheless, the Council decided not to incorporate certain Commission sponsored Parliamentary amendments into its common position. Those amendments that were found to be acceptable are as follows: - Setting out the framework within which the Directive is situated by referring to ECJ case-law and the new Treaty provisions. - Defining direct and indirect discrimination. - Freedom of association and the possibility under Article 141(4) of the Treaty to include membership or the continuation of organisations or unions. - Distinction between sexual harassment and harassment on the basis of sex: - Similar recital of Directives based on Article 13. - Protection of women during pregnancy and maternity leave. - Balancing participation of women and men in family and working life as well as the protection of paternity leave. - Mention of Declaration 28. - Maintenance or adoption of positive action measures. - Effective judicial protection. - Reinforcement of legal protection. - Promotion of dialogue between the social partners and with non-governmental organisation to address different forms of discrimination based on sex. - Effective, proportionate and dissuasive sanctions in cases of the obligations under Directive 76/207/ EEC. In addition to Parliamentary amendments which were incorporated into the common position, the Council added the following amendments to the final text: - The need to refer to other international legal instruments. For example, the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the elimination of all forms of Racial Discrimination and the United Nations Covenants on Civil and political Rights; the Charter of Fundamental Rights of the European Union etc - The principle of equal pay as established by Article 141 of the Treaty. - Compensation in cases of violation of the principle of equal treatment as well as the rules concerning the upper limit in cases of compensation. - Rules relating to time limits for bringing actions before the national courts. - The Council took the initiative to delete Articles 3,4 and 5 of the initial Directive and have regrouped it under one newArticle. The new Article covers the whole scope of the principle of equal treatment i.e access to employment, promotion and training and working conditions including pay. - Minimum requirements for the promotion of dialogue with social partners. - Judicial and administrative procedures for the enforcement of obligations under this Directive are without prejudice to national rules relating to time limits. - Communication on positive action measures from Member States should be presented every five years as opposed to every two years as originally suggested. - New provisions specifying that the Directive shall enter into force on the date of its publication in the Official Journal.