Application of the principle of equal treatment between persons irrespective of racial or ethnic origin

2007/2094(INI) - 27/06/2007

The Committee on Civil Liberties, Justice and Home Affairs adopted an own-initiative report drawn up by Kathalijne Maria **BUITENWEG** (Greens/EFA)on the application of Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. It reiterated the importance of the Directive, recalling that it was a minimum standard and should therefore act as the foundation on which a comprehensive anti-discrimination was built. It welcomed the Commission Communication (please see the summary of 31/10/2006) on the application of Directive 2000/43/EC, but stated that it would also have been useful to have been provided with a detailed description of the way in which the provisions of Directive 2000/43/EC have been incorporated into national law. It went on to make a series of recommendations to the Commission and Member States, and placed some emphasis on **adequate and reliable data collection**.

Whilst most Member States had taken action in order to implement the Directive, the Committee was disappointed that only a few had adequately transposed all of its provisions fully. A number of provisions, such as the definitions of direct and indirect discrimination, harassment and the burden of proof had not been correctly transposed in many countries. The Committee called, in particular, for strict monitoring of the application of the rule on the partial reversal of the burden of proof, which was particularly effective in the case of employment-related disputes. It expressed concern that Member States had exempted more areas of activity from the scope of the Directive than justifiable.

The Commission was asked to submit a specific action plan on the mechanisms and methods of observation and description of the impact of the national implementation measures and to lay down common standards for data. The Committee went on to ask the Commission to do the following:

- to request Member States to analyse the effectiveness of anti-discrimination legislation in combating patterns of systematic segregation of minorities and women, particularly in the education sector and as regards access to the labour market, healthcare and goods and services, and further to incorporate a gender equality perspective into the reports;

- to step up efforts to raise level of awareness of ant-discrimination legislation;
- to facilitate the exchange between Member States of best practices in the field of action to combat discrimination on the labour market, including on training courses, and with regard to anonymity in job applications. The Committee considered that the Roma community, together with other recognised ethnic communities, need particular social protection, particularly further to enlargement, since the problems of exploitation, discrimination and exclusion have become more acute in their regard;
- to adopt a set of minimum standards under the open coordination method, so as to guarantee access for children from ethnic minorities – particularly girls – to high-quality education and equal conditions, and to adopt positive legislation making it compulsory to end segregation in schools and lay down detailed plans to put an end to the provision of separate, lower quality education for ethnic minority children;
- to monitor the independent functioning of equality bodies, for which purpose it can use as a reference the Principles relating to the Status of National Institutions ('the Paris Principles');

The Committee urged Member States to do the following:

- to ensure that all persons from ethnic minorities – particularly women – have access to primary, preventive and emergency healthcare services;
- to ensure equal treatment under employment and social inclusion policies, to address the extremely high unemployment rates recorded particularly among women from ethnic minorities and, in particular, to address the serious barriers raised by direct discrimination in recruitment procedures;
- to collect accurate and gender-disaggregated statistics relating to the following: the labour market, housing, education and training, health and social benefits, public access to goods and services, the criminal justice system, and civic and political participation, and to set clear, quantitative targets and indicators within the employment and social inclusion guidelines that enable them to measure progress in the situation of migrants and/or minorities.

With regard to **equality bodies**, Member States were asked to resource and empower their equality bodies properly so that they could perform their important function effectively, and so that where equalities bodies do have substantial powers, they exercise these fully. Member States should resource the NGOs active in informing citizens and providing legal aid in matters of discrimination. In informing citizens and providing legal aid, NGOs carry a disproportionate share of the burden without enjoying corresponding status and funding from the Members State authorities. Independent bodies must have adequate financial resources at their disposal in order at least to be able to guarantee that complaints will be dealt with free of charge in the case of those who are not in a position to contribute financially them themselves. The Committee recommended that Member States make use of the best practices of other Member States, such as allowing equality bodies to initiate legal proceedings on behalf of victims or participate as amicus curiae in legal proceedings. Such bodies should also be given the necessary powers to investigate cases.

Lastly, the Committee asked the Commission to monitor attentively disguised discrimination based on ‘genuine and determining occupational requirements’, on the interaction between discrimination based on the application of this exemption on religious grounds in the framework of the Directive on employment and its consequences for race and ethnicity, and to pay particular attention to discrimination in the field of education.