

## Basic information

1999/0225(CNS)

CNS - Consultation procedure  
Directive

Equal treatment in employment and occupation. Employment Equality Directive

See also [2007/2202\(INI\)](#)  
See also [2014/2862\(RSP\)](#)  
See also [2015/2116\(INI\)](#)  
See also [2020/2086\(INI\)](#)

### Subject

4.15.08 Work, employment, wages and salaries: equal opportunities women and men, and for all

Procedure completed

## Key players

European Parliament

### Committee responsible

EMPL

Employment and Social Affairs

### Rapporteur

MANN Thomas (PPE-DE)

### Appointed

15/02/2000

### Committee for opinion

AFET

Foreign Affairs, Human Rights, Common Security, Defense

### Rapporteur for opinion

The committee decided not to give an opinion.

### Appointed

BUDG

Budgets

The committee decided not to give an opinion.

27/01/2000

LIBE

Citizens' Freedoms and Rights, Justice and Home Affairs

SWIEBEL Joke (PSE)

24/02/2000

JURI

Legal Affairs and Internal Market

MCCARTHY Arlene (PSE)

01/02/2000

ITRE

Industry, External Trade, Research, Energy

MCAVAN Linda (PSE)

28/03/2000

CULT

Culture, Youth, Education, Media and Sport

The committee decided not to give an opinion.

FEMM

Women's Rights and Equal Opportunities

MARTENS Maria (PPE-DE)

26/01/2000




Council of the

### Council configuration

Meetings

Date

European Union	Employment, Social Policy, Health and Consumer Affairs	2313	2000-11-27
	Employment, Social Policy, Health and Consumer Affairs	2296	2000-10-17
	Social Affairs	2259	2000-05-08
European Commission	<b>Commission DG</b>	<b>Commissioner</b>	
	Employment, Social Affairs and Inclusion		










Key events			
Date	Event	Reference	Summary
25/11/1999	Legislative proposal published	COM(1999)0565 	<a href="#">Summary</a>
14/02/2000	Committee referral announced in Parliament		
13/03/2000	Debate in Council		
08/05/2000	Debate in Council		
19/09/2000	Vote in committee		<a href="#">Summary</a>
19/09/2000	Committee report tabled for plenary, 1st reading/single reading	A5-0264/2000	
04/10/2000	Debate in Parliament		
05/10/2000	Decision by Parliament	T5-0437/2000	<a href="#">Summary</a>
12/10/2000	Modified legislative proposal published	COM(2000)0652 	<a href="#">Summary</a>
27/11/2000	Act adopted by Council after consultation of Parliament		
27/11/2000	End of procedure in Parliament		
02/12/2000	Final act published in Official Journal		

Technical information	
Procedure reference	1999/0225(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	See also <a href="#">2007/2202(INI)</a> See also <a href="#">2014/2862(RSP)</a> See also <a href="#">2015/2116(INI)</a> See also <a href="#">2020/2086(INI)</a>
Legal basis	EC Treaty (after Amsterdam) EC 013 Rules of Procedure EP 050
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/5/12524

**Documentation gateway****European Parliament**

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0264/2000</a> <a href="#">OJ C 178 22.06.2001, p. 0009</a>	19/09/2000	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0437/2000</a> <a href="#">OJ C 178 22.06.2001, p. 0184-0254</a>	05/10/2000	<a href="#">Summary</a>

**European Commission**

Document type	Reference	Date	Summary
Legislative proposal	<a href="#">COM(1999)0565</a>  <a href="#">OJ C 177 27.06.2000, p. 0042 E</a>	25/11/1999	<a href="#">Summary</a>
Modified legislative proposal	<a href="#">COM(2000)0652</a>  <a href="#">OJ C 062 27.02.2001, p. 0152 E</a>	12/10/2000	<a href="#">Summary</a>
Follow-up document	<a href="#">SEC(2005)1176</a> 	28/09/2005	<a href="#">Summary</a>
Follow-up document	<a href="#">COM(2008)0225</a> 	19/06/2008	<a href="#">Summary</a>
Follow-up document	<a href="#">SEC(2008)0524</a> 	19/06/2008	
Follow-up document	<a href="#">COM(2014)0002</a> 	17/01/2014	<a href="#">Summary</a>
Follow-up document	<a href="#">SWD(2014)0005</a> 	17/01/2014	
Follow-up document	<a href="#">COM(2021)0139</a> 	19/03/2021	
Follow-up document	<a href="#">SWD(2021)0063</a> 	19/03/2021	

**Other institutions and bodies**

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	<a href="#">CDR0513/1999</a> <a href="#">OJ C 226 08.08.2000, p. 0001</a>	12/04/2000	
EESC	Economic and Social Committee: opinion, report	<a href="#">CES0596/2000</a> <a href="#">OJ C 204 18.07.2000, p. 0082</a>	25/05/2000	

**Additional information**

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Source	Document	Date
European Commission	EUR-Lex	

Final act
<a href="#">Directive 2000/0078</a> <a href="#">OJ L 303 02.12.2000, p. 0016</a> <span style="float: right;"><a href="#">Summary</a></span>

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

1999/0225(CNS) - 12/10/2000 - Modified legislative proposal

This amended proposal presented by the Commission relates to a Council Directive establishing a general framework for equal treatment in employment and occupation, pursuant to Article 250(2) of the EC Treaty. On 25 November 1999, the Commission adopted a package of anti-discrimination proposals based on Article 13 of the EC Treaty. In light of the opinions of the Committee of the Regions, the Economic and Social Committee and the European Parliament, the Commission has amended the initial proposal. The European Parliament's amendments which have been accepted by the Commission can be grouped into three broad categories: 1) Amendments bringing the proposal into line with Council Directive 2000/43/EC (implementing the principle of equal treatment between persons irrespective of racial or ethnic origin). 2) Amendments which clarify or improve the Commission proposal; 3) Amendments concerning major points relating to disability, and to religion and beliefs.

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

1999/0225(CNS) - 05/10/2000 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Thomas MANN (EPP/ED, Germany) on equal treatment in employment and occupation. Parliament made several amendments to the Commission's draft directive. The areas to which the directive will apply are expanded to include access to unpaid and voluntary work or official duties and access to social assistance. Reasonable adjustment should be made to guarantee equal treatment for people with disabilities so that they can participate in services and employment. Such adjustment would include changes in practices or procedures. Parliament provided that Member States will introduce into national systems provisions to ensure that public authorities keep statistics on everyone to whom this directive will apply. Member States need also provide for independent bodies to promote equal treatment. States may take account of an organisation's record on implementing the directive when awarding contracts. In public procurement tenders authorities may include demands that discriminate in favour of persons falling within the scope of the directive. There is provision for consultation with non-governmental organisations on drawing up reports on the application of the directive.

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

1999/0225(CNS) - 27/11/2000 - Final act

**PURPOSE** : to implement the principle of equal treatment in employment.

**COMMUNITY MEASURE** : Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

**CONTENT** : in accordance with Article 13 of the Treaty of the European Communities, this Directive aims to establish a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting it into effect in the Member States the principle of equal treatment.

The Directive sets out a definition of 'discrimination' whether it be direct (when one person is treated less favourably than another is) or indirect (where an apparently neutral provision, criterion or practice puts persons at a particular disadvantage compared with other persons). Moreover, as regards persons with a particular disability, the employer or any person or organisation to whom this Directive applies, is obliged under national legislation, to take appropriate measures in order to eliminate disadvantages entailed by such provision, criterion or practice. Harassment shall be deemed to be a form of discrimination when unwanted conduct takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. Even an instruction to discriminate against persons on any grounds shall be deemed to be discrimination.

With regard to the scope, the Directive applies to:

- 1) conditions for access to employment, to self-employed or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;
- 2) access to all types and to all levels of vocational training, advanced vocational training and retraining, including practical work experience;
- 3) employment and working conditions, including dismissal and pay;
- 4) membership of, and involvement in, any organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.

This Directive does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned. The Directive does not apply to payments of any kind made by state schemes or similar, including state social security or social protection schemes.

The Directive does, however, provide an exhaustive list of differences of treatment on grounds of age, which shall not constitute direct discrimination, provided that they are objectively justified. There are also 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. In addition, Member States must also:

- introduce into their national legal systems measures to protect employees against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment;
- take adequate measures to promote dialogue between the social partners with a view to fostering equal treatment.

Lastly, in order to tackle the under-representation of one of the major religious communities in the police service in Northern Ireland, differences in treatment regarding recruitment into that service, including its support staff, shall not constitute discrimination insofar as those differences in treatment are expressly authorised by national legislation. With regard to maintaining a balance of opportunity in employment of teachers in Northern Ireland while furthering the reconciliation of historical divisions between the major religious communities there, the provisions on religion or belief in this Directive shall not apply to the recruitment of teachers in schools in Northern Ireland in so far as this is expressly authorised by national legislation.

ENTRY INTO FORCE : 02.12.2000.

DEADLINE SET FOR TRANSPOSITION : 02.12.2003.

## **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.

## **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.

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

1999/0225(CNS) - 28/09/2005 - Follow-up document

Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation was adopted in November 2000. The Directive's objective is to prohibit discrimination on the ground of religion or belief, disability, age or sexual orientation in employment, occupation and vocational training. Although transposition should have been completed by 2/12/2003 for the EU 15 and 01/05/2004 for the EU 10, Member States were given an additional period of up to three years to implement the age and disability discrimination provisions. Sweden, the UK, Germany, Belgium and the Netherlands notified the Commission that there were seeking an extra three years to implement the age discrimination provisions of the Directive. Denmark notified the Commission that it required an additional year. An application from Austria to extend the transposition period for three of its Länder was turned down by the Commission on the grounds of a late application. In addition, none of the new Member States have notified the Commission whether or not they require more time for the transposition of the age and disability requirements.

On a separate note, the purpose of this Report is not to assess the measures adopted since this will be dealt with in the normal way through infringement procedures in combination with a forthcoming report on the Directive's transposition. The purpose of the Report under discussion is to assess the level of implementation relating to age and disability discrimination provisions set out in the 2000 general framework Regulation.

In its conclusions, the Commission notes that implementing anti-age and disability provisions is particularly difficult to transpose into national law because of the potential impact on the labour market. It also challenges long-held assumption about people's abilities and their place in society. It was precisely for this reason that Member States were given an additional period of time to transpose these provisions into their national legislation. The promptness and level of detail with which this obligation was complied with varied greatly. The coming into force of new legislation in Denmark, France, the Netherlands and the UK is seen by the Commission as a very positive step towards the full transposition of the Directive by 02/12/2006. The Commission therefore hopes that the other Member States will follow suit and use the extra period of time to adopt their legislation in time for the official deadline.

# Equal treatment in employment and occupation. Employment Equality Directive

1999/0225(CNS) - 17/01/2014

The Commission presents a report on the joint report on the application of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('Employment Equality Directive').

The report recalls that protection from discrimination is one of the areas in which EU law closely affects the everyday life of people in the EU. The comprehensive framework provided by the Directive in question and [Council Directive 2000/43/EC](#) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('Racial Equality Directive'), examined at the same time, has shaped the landscape of European anti-discrimination law for over a decade now.

Some Member States had hardly any legislation in this field before the transposition of the two Directives, and the Directives introduced novel elements like protection from age discrimination into the legislation of all Member States.

**Joint Report:** given that both of the anti-discrimination Directives have to be reported on regularly, the present document is a joint report because the regulatory approach and content of most of the provisions are identical. In addition, **most Member States have transposed the two Directives in a single national act.**

Today, all 28 Member States have transposed the Directives and gained experience in their application. The Court of Justice of the European Union (CJEU) has also developed the interpretation of the Directives through its case-law.

This report provides an opportunity to:

- examine the application of the Directives,
- take stock of the interpretation given by the CJEU and national courts,
- identify challenges ahead.

**Application of the Directives:** both Directives have been transposed into national law, but the review of national experiences reveals that there are still challenges to their implementation and application. These relate in particular to the following issues:

- **Indirect discrimination:** this concept is complex and many Member States had initial difficulties in transposing it correctly. It is now enshrined in law, but its application in practice remains a challenge due to its lack of clarity or lack of understanding in national courts;
- **Burden of proof:** this means that where a person claiming to be a victim of discrimination can establish facts from which it may be presumed that discrimination has occurred, it is for the respondent to prove that there has been no discrimination. Some Member States report that the correct application of the reversed burden of proof remains a challenge and is not sufficiently well known by national courts;
- **Discrimination by association, assumption and perception:** as suggested by existing national case-law, the Commission considers that the Directives also prohibit a situation where a person is directly discriminated against on the basis of a wrong perception or assumption of protected characteristics, for example, if a candidate for a job is not selected because the employer wrongly believes he/she is of a specific ethnic origin or homosexual;
- **Protection for everyone in the EU:** the two Directives make it clear that the prohibition of discrimination also applies to nationals of third countries, but does not cover differences of treatment based on nationality, and is without prejudice to provisions governing entry and residence. This is an important element of the Directives, underlining the fact that the prohibition of discrimination protects everyone in the European Union and not only EU citizens. Some problems, however, do not derive directly from legislation, but from how the relevant legislation is applied on the ground.

The report also deals with **aspects specific to the racial equality directive 2000/78/EC** such as:

- religion or belief,
- disability,
- age,
- sexual orientation

and examines the difficulties relating to these specific aspects in terms of their implementation and their interpretation.

**Main findings:** all the Member States have taken the necessary measures to transpose the two Directives into their respective domestic legal orders and to set up the procedures and bodies that are indispensable for the implementation of these Directives.

According to the joint report, the main challenge now is to increase awareness of the already existing protection and to **ensure better practical implementation and application of the Directives**. The Commission will, together with the Member States and their equality bodies, make a concerted effort to realise the full potential of the Directives in terms of protection of the fundamental right to equal treatment in the EU. However, legislation alone is not enough to ensure full equality, so it needs to be combined with appropriate policy action. Funding for awareness-raising and training activities is already available under the European Union Programme for Employment and Social Solidarity (Progress), but this work needs to be further strengthened by the Commission in cooperation with Member States to ensure tangible improvements in the awareness of rights throughout the EU. Strengthening the role of the national equality bodies as watchdogs for equality can make a crucial contribution to more effective implementation and application of the Directives.