



Committee of the Regions

ECOS-IV-030

**80th Plenary Session
17-18 June 2009**

**OPINION
of the
Committee of the Regions
on
NON-DISCRIMINATION, EQUAL OPPORTUNITIES AND THE
IMPLEMENTATION OF THE PRINCIPLE OF EQUAL TREATMENT
BETWEEN PERSONS**

THE COMMITTEE OF THE REGIONS:

- endorses the Commission's renewed commitment to presenting new proposals for implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation: firmly backs the principle that discrimination on the grounds of religion or belief, disability, age or sexual orientation has no place in an enlightened society bound by fundamental rights
- identifies non-discrimination mainstreaming and individual well-being as essential priorities in support of an increasingly diverse Europe, following the EU enlargement process, migration, social changes such as demographic ageing, and new familial trends
- reiterates that achieving equality mainstreaming is only possible through the genuine involvement of local and regional authorities; as the main service providers (particularly in the public health, social care and education sectors), these authorities play a key role in identifying and providing information about the emerging needs of vulnerable groups of people
- emphasises the need to set up a body within each regional government to monitor respect for rights and equal opportunities in the practical application of the principle of equal opportunities and in all regional measures part-financed by the EU.

Rapporteur

Mrs Claudette Abela Baldacchino (MT/PES), Deputy Mayor, Qrendi Local Council

Reference documents

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Non-discrimination and equal opportunities: A renewed commitment

COM(2008) 420 final

Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

COM(2008) 426 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. endorses the Commission's renewed commitment to presenting new proposals for implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation: firmly backs the principle that discrimination on the grounds of religion or belief, disability, age or sexual orientation has no place in an enlightened society bound by fundamental rights;
2. identifies non-discrimination mainstreaming and individual well-being as essential priorities in support of an increasingly diverse Europe, following the EU enlargement process, migration, social changes such as demographic ageing, and new familial trends;
3. recalls that although considerable progress has been made in combating discrimination on the grounds of gender, disability and race in the past decade, the scope of protection against discrimination needs to be extended to all grounds covered by Article 13;
4. endorses the Commission's renewed commitment to equal treatment between persons irrespective of religion or belief, race, disability, age or sexual orientation, and stresses that this must be based on recognition of and respect for shared European fundamental values;
5. points out that it is necessary to consider whether non-discrimination mainstreaming can be achieved through legislation allowing for reasonable accommodation on the one hand and concerted adjustment in policies and procedures on the other;
6. points out that awareness raising and education, particularly education for diversity, are important strategic measures that improve social relationships and strengthen social cohesion;
7. acknowledges the central importance that the media play in fostering an objective debate and reporting on diversity and stresses the responsibility that the media bear in promoting social cohesion through the celebration of diversity;

Local/regional and CoR relevance

8. reiterates that achieving equality mainstreaming is only possible through the genuine involvement of local and regional authorities; as the main service providers (particularly in the public health, social care and education sectors), these authorities play a key role in identifying and providing information about the emerging needs of vulnerable groups of people;

9. emphasises the need to set up a body within each regional government to monitor respect for rights and equal opportunities in the practical application of the principle of equal opportunities and in all regional measures part-financed by the EU;
10. emphasises that local and regional authorities are, in view of their closeness to the public and their responsibilities for most social and economic aspects of people's daily lives, well-placed to put into practice the values and structures of the proposed Directive;
11. believes that equality mainstreaming and non-discrimination in society at large can only be achieved through joint efforts with civil society and integration policies at all levels of government;
12. notes that effective and concrete action to promote equal treatment needs to exist and be co-ordinated at all levels of public administration. Furthermore, acknowledges that dialogue through mediation is an effective tool enabling citizens and institutions to build new social relations to make equal treatment a real possibility;

Subsidiarity, Proportionality and Regulation

13. highlights the key role of local and regional decentralisation and subsidiarity for increased participation and more effective involvement of citizens, in particular of those who may be discriminated against in policy or programme development and implementation;
14. recalls the need to respect the principle of proportionality as regards provisions for remedies and enforcement, for example in relation to limits to sanctions and the burden of proof;
15. draws attention to the fact that the scope of the directive as regards discrimination on grounds of age has not been clearly defined. A number of public services and rights are granted on the basis of age, which is often used as an objective criterion in legislation and administration. The directive's current wording could render legal and administrative provisions such as these legally contentious or even illegal;
16. stresses the need to reduce administrative burdens, and to take into account the impact of the proposed Directive on economic actors, for example SMEs, and also consumers;
17. notes the fact that the proposed Directive does not call into question national competencies to define the relations between church and state or related institutions and organisations, the content of teaching activities and the organisation of their educational systems, and to legislate on the recognition of marital or family status, reproductive rights, adoption or other similar questions;

Enhancing the legal framework

18. acknowledges the need to consider whether stronger EU anti-discrimination legislation is necessary to ensure equal treatment and protection for everyone living and/or working in Europe;
19. notes the aim to achieve full equality in practice for vulnerable groups in education, social protection, social benefits, and access to goods and services;
20. encourages the enforcement, where such enforcement is lacking, of legal provisions to prohibit physical or sexual abuse as well as exploitation;
21. identifies the need for sound legal procedures to protect minority groups from violence and other attacks due to their vulnerability;
22. points out that legal protection is fundamental but reiterates that mediated settlements are more desirable, as the process of mediation has an educational and empowering function for citizens and enables institutions and service providers to change and improve;
23. calls upon the Commission and all other responsible authorities to enhance and promote not only the institution of mediation, in particular social and cultural mediation at the local and regional level, but also to foster intercultural competencies for service providers and their employees, particularly in the public sector;
24. points out that human trafficking and commercial exploitation of women and children are still widespread in numerous Member States; and that this modern form of human slavery undermines shared European values and fundamental human rights;
25. reiterates the need for effective measures to counteract such objectionable practices and calls for current legislation to be strengthened and more effectively enforced; also advocates mobilising appropriate services and practices to inform migrants, particularly women and children, about possible fraudulent migration opportunities and exploitation; urges closer networking through common approaches and strategies at local and regional levels; and recommends that victims be given social assistance, mainly through independent organisations and associations;
26. points out that under Article 3 of the proposed Directive, the ban on discrimination is also to cover all persons in the private sector, and feels that the term "private sector" should be defined, as there could be problems with its interpretation. In doing so, it is important to ensure constitutional protection for property ownership and the associated autonomy of private law at national and EU level;

27. points out that when establishing the existence of a disproportionate burden, the various needs of people with disabilities must also be taken into account, regardless of whether they are physical, mental, sensory or learning difficulties, as must the extent of the disability;

Strengthening policy tools

28. recalls that anti-discrimination legislation has to be combined with policy tools that challenge unequal treatment, stereotypes and denigration in order to effectively tackle complex, multiple and diverse patterns of discrimination;
29. emphasises that the proposed Directive should accentuate equality mainstreaming, to ensure that all forms of discrimination are taken in account when drafting public policies, analysing their impact and raising awareness;
30. stresses that equality issues must be addressed in all plans, policies and programmes, and accentuates the relevance of mainstreaming tools, especially consultation and direct involvement of all stakeholders and under-represented groups in society;
31. deems that social dialogue, both at European level, and with NGOs and other representative organisations, is vital to facilitating change, since diverse social realities and solutions are identified through shared knowledge, skills and best practice;
32. believes that cooperation with the Council of Europe's Committee on Social Cohesion could help to ensure effective implementation of the principles of equality mainstreaming and acknowledges the work of the existing working group set up by the Commission and the Council of Europe on intercultural competencies in social services;
33. reaffirms the importance of inclusiveness for local and regional authorities and accentuates the role of specific measures to ensure equitable and fair access for persons and groups at risk of social exclusion from goods and service;
34. urges the effective mobilisation of available instruments under the Structural Funds to support measures to facilitate social inclusion and to promote accessibility to the labour market, to goods and services and to participation in society at large;
35. supports awareness-raising programmes aimed at educating stakeholders on their rights and obligations and at challenging discrimination and harassment;
36. notes and welcomes the existence in many Member States of services accessible to all children meant to inform and guide them with regard to their rights; calls upon all Member States to provide such facilities to children while highlighting the need to educate children, not least about the relationship between rights and responsibilities;

37. advocates that further information about the difficulties and needs of vulnerable groups is needed, in particular about unaccompanied immigrant minors, human trafficking, children's rights, low-income workers, low-income households, as well as discrimination on grounds of religion/belief and sexual orientation;
38. considers the collection of data on equality issues important in providing a holistic explanation of the current situation with regard to discrimination; supports the development of common criteria for data collection and analysis so as to obtain reliable and comparable data and statistics without undue additional bureaucracy;

Developing targeted approaches

39. endorses specific responses tailored to each form of discrimination since the various forms of discrimination differ from one another considerably;
40. points out that certain citizens in some Member States are faced with multiple discriminatory obstacles, namely: a lack of adequate healthcare, pension schemes and retirement mechanisms, and the inaccessibility of a wide range of convenient and economical goods and services due to real impediments in using modern technology such as the internet;
41. encourages public and private service providers to ensure user friendly services in a way that is respectful of dignity and commensurate to individual capabilities, while providing adequate information on technological aspects;
42. reiterates that the proposed Directive should also provide women outside the labour market with stronger protection given that sexual harassment, abuse and violence represent a persistent challenge to women's dignity and safety;
43. argues that as a result of gender stereotypes, as well as structural and cultural barriers in formal education, the media and politics, women are still at a higher risk of poverty and social exclusion, due to the gender pay gap, as well as disadvantageous social welfare provisions and pension entitlements;
44. demands legislation and policies against: homophobia (especially hate speech and hate crime), barriers to accessing housing, direct discrimination in healthcare services, as well as bullying and harassment in educational establishments, employment and vocational training;
45. stresses the need to enhance social inclusion and the participation of LGBT in society at large;
46. suggests that reasonable accommodation to the disabled and for disadvantaged persons has to be broadened to improve their access to and participation in educational or vocational training, healthcare services, housing, transport, shops, leisure activities and access to other

goods and services in a proportional way, to ensure they are treated equally and to avoid undue bureaucracy and the abuse of complaints procedures;

47. notes that persons with mental health problems are more likely to be socially excluded and stereotyped, and therefore calls on Member States to pay particular attention to these groups, and to make greater efforts to help people with mental health problems; in particular, children suffering from mental health difficulties should be provided with support which meets their needs;
48. insists that individuals and groups suffering discrimination should receive adequate attention, with the necessary support to mitigate their difficulties in accessing and remaining in education, training, leisure and culture, as key elements for social participation;

Addressing multiple discrimination

49. states that European legislation should take better account of multiple discrimination, primarily by defining this phenomenon clearly, in order to protect and address the needs of groups and individuals who are at risk of multiple discrimination (migrants, especially women and children, Roma children, unaccompanied minors, asylum seekers, the disabled, persons suffering from mental health problems, older persons from ethnic minorities, etc.);
50. in the context of local and regional authority policies, calls for the promotion and support of specialised equality centres and observatories with responsibility for addressing all forms of discrimination and safeguarding the rights of people with multiple characteristics and identities, and may experience multiple discrimination, and for assisting victims, conducting surveys, publishing reports on multiple discrimination, and carrying out all functions in the areas covered by the proposed Directive;

Access to quality employment

51. discrimination can prevent individuals from achieving their full potential and they therefore risk ending up in low income jobs, which consequently bring about further difficulties in accessing goods and services such as education and housing, thus leading to poverty and social exclusion;
52. insists that barriers to securing paid employment are some of the main causes of inequality and social exclusion, and that very often precarious and low-income jobs are taken up by people in vulnerable situations, such as young and older workers, migrants and persons with disabilities;
53. supports voluntary charters and other incentives encouraging businesses to adopt working methods which foster non-discrimination and equal opportunities, for example the promotion

of diversity management in businesses, which not only benefit employers, but also employees and customers;

54. while the principles of non-discrimination and equal treatment are universal, the Committee of the Regions draws special attention to the particularly vulnerable position of children and Roma in Europe;

Social inclusion of Roma

55. reiterates the need to enhance the participation of and recognition for the contribution of Roma in employment and training on one hand and the shared responsibility needed in order to improve their access to goods and services such as housing and health, reduce their risk of poverty, reduce their risks of suffering violence and abuse, and protect Roma children from suffering health problems, becoming involved in child prostitution, sexual abuse or child trafficking;
56. acknowledges the importance of targeted measures to reduce or abolish discriminatory practices against Roma, in order to promote equal treatment of Roma and accelerate their process of social inclusion;
57. calls for the effective use of the European Social Fund for: constructive campaigns and awareness-raising of the importance of the Roma's contribution to society; further job creation schemes, literacy campaigns, vocational training, scholarships for students in secondary and higher education; services catering specifically to their needs (for instance women's healthcare) and other services that are indispensable for the social inclusion of Roma children, such as well-organised care services and protection, and vocational education (especially language skills);
58. recommends that the Commission step up efforts to combat gender discrimination in the fields of education, healthcare, social services and social protection; demands that the same level of protection be provided against all forms of discrimination and that the Commission present a timetable for achieving this objective;

The Committee of the Regions' recommendations

59. sees stereotypes in education, employment and the media as significant barriers to equal treatment and social inclusion, and urges their eradication. It is vital to ensure that children at a young age learn respect for and befriend students from different ethnic or religious minorities as well as students with disabilities;
60. argues that the recommendations set out in the proposed Directive should be complemented by practical training sessions and conferences with stakeholders to inform them about the full potential of equality mainstreaming in achieving equal treatment;

61. highlights the importance of training professionals from various sectors (doctors, teachers, media professionals, etc.) and personnel of public authorities at all levels, as well as from the service industry, in intercultural competencies and in social and cultural mediation, in order to eliminate any discriminatory, insulting or insensitive behaviour, to question stereotypes and to sensitise such professionals to the specific needs of persons having different characteristics and needs;
62. is concerned about male and female migrants, who are at higher risk of poverty and social exclusion due to exploitation at their workplace, and believes that providing ethnic minorities with education (especially in language skills) and vocational training would encourage male and female_migrants to look for better jobs;
63. is particularly concerned about migrant women since: they are at risk of physical or sexual abuse for the purposes of employment, marriage, or prostitution; they need to be aware of the actual situations and dangers in potential host countries, to prevent them from falling prey to human trafficking; and their protection and integration has to be further enhanced to ensure their effective enjoyment of human rights;
64. proposes creating a specific fund for unaccompanied immigrant minors which will help the regions responsible to look after them, to offer them the same opportunities as other children their age and integrate them into the host society, thus avoiding the dual discrimination they may suffer on account of being minors and immigrants.
65. Points out that asylum seeking is a social problem with economic and other implications and should be treated as such, primarily by promoting the social integration of asylum seekers – especially minors and youth – through shared responsibilities and equal opportunities in accessing goods and services;
66. endorses the implementation of active education and training schemes to promote non-discrimination and equal opportunities and to help reach the Lisbon targets, through the ongoing renewal of skills and a commitment to lifelong learning;
67. notes that groups with different requirements necessitate tailor-made provisions, for instance: vocational training for the Roma, migrants and older unemployed persons to ensure their inclusion in the labour market; IT training for older persons to enhance their consumer or purchasing power; literacy campaigns targeted at rural and poor women and children; guidance for disabled persons, low-income workers, and children of low-income workers, and so on;
68. underscores the need to develop promotional and awareness-raising campaigns bringing the recommendations of the proposed Directive to the attention of all, informing stakeholders

about their rights and obligations, and explaining specific measures and processes implemented to assist victims;

69. highlights the key role of equality bodies and organisations representing the interests of people at risk of discrimination and unequal treatment, in disseminating information, mainly by publishing culturally sensitive and group-specific material, online information campaigns and conferences, and points out that information must be clearly targeted to specific groups;
70. reiterates that the implementing the proposed Directive requires adequate human and financial resources (mainly through PROGRESS funds) if it is to cover all forms of discrimination;
71. calls upon all LRAs to promote non-discrimination at local and regional level by promoting respect for human rights, and building trust through constructive dialogue that empowers people, democratises societies while minimising polarisation and strengthening social cohesion. Furthermore, the Committee of the Regions should promote the value of diversity, celebrate its dynamic nature as a source of innovation and creativity, progress and well being for all, consistent with the fundamental values of human rights, the rule of law and democracy;

Brussels, 18 June 2009

The President
of the Committee of the Regions

Luc Van den Brande

The Secretary-General
of the Committee of the Regions

Gerhard Stahl

II. PROCEDURE

Title	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Non-discrimination and equal opportunities: A renewed commitment Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation
Reference(s)	COM(2008) 420 final COM(2008) 426 final
Legal basis	Art. 265, paragraph 1 ECT
Procedural basis	
Date of Commission letter	2 July 2008
Date of President's decision	22 August 2008
Commission responsible	Commission for Economic and Social Policy (ECOS)
Rapporteur	Ms Claudette Baldacchino (MT/PES)
Analysis	24 October 2008
Discussed in commission	10 December 2008 – 29 April 2009
Date adopted by commission	Planned for 19 February 2009, postponed for 29 April 2009 and adopted on 29 April 2009
Result of the vote in commission	By majority
Date adopted in plenary	18 June 2009
Previous Committee opinions	<ul style="list-style-type: none"> – Opinion on A Roadmap for equality between women and men 2006-2010 (CdR 138/2006) – Opinion on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Non-discrimination and equal opportunities for all - A framework strategy And the Proposal for a Decision of the European Parliament and the Council on the European Year of Equal Opportunities for All (2007): Towards a Just Society (CdR 226/2005 fin) – Opinion on the Green Paper on an EU approach to managing economic migration (CdR 82/2005 fin) – Opinion on the Green Paper on equality and non-discrimination in an enlarged European Union (CdR 241/2004 fin)

	<p>– Opinion on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on immigration, integration and employment (CdR 223/2003 fin)</p>
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