

Brussels, 11 May 2000

OPINION

of the Committee of the Regions

of 12 April 2000

on the

Communication from the Commission on certain Community measures to combat discrimination [COM(1999)564 final]

Proposal for a Council Directive establish a general framework for equal treatment in employment and occupation [COM(1999)565 final - 1999/0225 (CNS)]

Proposal for a Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [COM(1999)566 final - 1999/0253 (CNS)]

and the

Proposal for a Council Decision establishing a Community Action Programme to combat discrimination 2001-2006 [COM(1999)567 final - 1999/0251 (CNS)]

The Committee of the Regions,

Having regard to:

- A Communication from the Commission on certain Community measures to combat discrimination [COM(1999)564 final];
- A proposal for a Council Directive establish a general framework for equal treatment in employment and occupation [COM(1999)565 final - 1999/0225 (CNS)];
- A proposal for a Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [COM(1999)566 final - 1999/0253 (CNS)]

- A proposal for a Council Decision establishing a Community Action Programme to combat discrimination 2001-2006 [COM(1999)567 final - 1999/0251 (CNS)]
- the decisions taken by the Council on 19 January and 4 February 2000, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee of the Regions on the matter;
- the decision taken by the Bureau of the Committee of the Regions on 2 June 1999 to instruct Commission 5 - Social Policy, Public Health, Consumer Protection, Research and Tourism to prepare the relevant opinion;
- Declaration of the Committee of the Regions (Graz Resolution) of 9 November 1998
- Opinion of the Committee of the Regions (13.6.1996) on 1997 Year Against Racism (CdR 156/96 fin¹)
- Opinion of the Committee of the Regions (12.6.1997) on racism, xenophobia and anti-Semitism (CdR 80/97 fin²)
- Opinion of the Committee of the Regions (11.3.1999) on a Action Plan Against Racism (CdR 369/98 fin³)
- Opinion of the Committee of the Regions (16.9.1999) on the International Year for Older People (CdR 442/98 fin⁴)
- Council Directive 97/80/EEC on the burden of proof in cases of discrimination based on sex⁵

Having regard to :

- the draft opinion adopted by Commission 5 on 6 March 2000 (CdR 513/99 rev.1) (rapporteurs: **Mrs Granberg** (SV/EPP) and **Mr Moore** (UK/ELDR));

Whereas:

- a. the rejection of all forms of discrimination is an essential condition for the development of the European Union into an area of freedom, security and justice as foreseen by the Treaty establishing the European Union (Article 2 TEU), and enshrined in the Treaty establishing the European Community (Article 13 EC);
- b. the Treaty establishing the European Union sets as a fundamental objective the strengthening and protection of the rights and interests of the nationals of its Member States (Article 2 TEU);
- c. the Treaty establishing the European Union sets as an objective the preventing and combating of racism and xenophobia (Article 29 TEU);
- d. the Treaty establishing the European Community expressly prohibits any discrimination on grounds of nationality (Article 12 EC);
- e. the Treaty establishing the European Community authorises the Council, acting unanimously

on a proposal from the Commission and after consulting the European Parliament, to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 13 EC);

- f. the draft directives set a common minimum standard of protection from discrimination and enable individual Member States to set higher and more comprehensive safeguards;

adopted the following opinion at its 33rd plenary session held on 12 and 13 April 2000 (the meeting of 12 April):

The Committee of the Regions:

1. Firmly rejects all forms of discrimination.
2. Recalls and reaffirms its declaration of 9 November 1998 (“Graz Declaration”) in which it firmly rejected any form of alliance or political co-operation with political parties which make racist or xenophobic statements at local, regional, national or European level and asked that all democratic political parties at all levels to oppose the activities of such groups and racist movements with all democratic means placed at their disposal.
3. Extends the Graz Declaration to incorporate all forms of discrimination covered by Articles 12 and 13 EC.

LEGAL BASE AND SUBSIDIARITY

4. Welcomes the fact that the Commission has referred the draft package to the COR voluntarily, in recognition of the relevance of this package to the ordinary citizen. It considers that Article 13 EC should be made subject to mandatory referral to the COR and co-decision with the European Parliament, and calls for these deficiencies should be corrected at the Intergovernmental Conference.
5. As proposed in the COR's earlier resolution on the European Action Plan Against Racism, the Commission is requested to establish an inter-institutional working group on anti-discrimination.
6. Calls on the European Commission to reflect the draft directives in its proposals for Employment Guidelines in 2001 and 2002, pending transposition of the directives by the Member States, in view of the fact that Member States have until 31 December 2002 to transpose the directives into their legislation.

ROLE OF LOCAL AND REGIONAL AUTHORITIES

7. Underlines that the fight against discrimination is also a question of changing attitudes and values. Local and regional authorities have an important role to play in this

respect, as they operate at a grassroots level and are in close contact with ordinary citizens.

8. Local and regional authorities are major employers and providers of goods and services in their regions, and therefore have a powerful demonstration effect. They should exemplify best practice and compliance with these Directives for other employers and providers of goods and services to emulate.
9. It considers that engaging minority groups in political life is important in all spheres of governance (local; regional; national; European), including in the selection of candidates.

DEFINITIONS

10. Draws attention to the importance of definitions on the grounds of discrimination in order to facilitate effective access to redress.
11. Considers that indirect discrimination and burden of proof in cases of discrimination based on sex should be defined in accordance with the draft Directives.
12. Considers that Article 5(f) of the draft employment directive concerning age limits is unclear, and should be rephrased.

NEED FOR VERTICAL DIRECTIVES

13. Welcomes the draft package as an important initial step towards giving effect to Article 13 EC. However, it regrets that due to the Commission's step by step approach in introducing vertical directives, the impression of a hierarchy of discrimination may be created.
14. Calls for specific directives to be drafted on the remaining grounds for discrimination covered by Article 13 EC, being age, disability, religion or belief, and sexual orientation (recitals referring to the proposal for a Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [referred to in this opinion as the "directive against racism"] would apply, by extension, to any subsequent proposals relating to the other grounds).
15. Considers that the draft employment directive should extend the prohibition of discriminatory treatment in relation to employees' partners (whether same or opposite sex) or family situations.
16. Acknowledges that competence for teaching content and educational systems remains a responsibility of the Member States; the COR therefore calls on the Member States to expand the directive against racism to cover the educational field. In this respect, it would be helpful to encourage all forms of schooling in the multicultural society, so that children can get used to cultural diversity at the earliest possible age.

COMPLIANCE

17. Considers that the obligation to monitor the composition of the workforce has a considerable consciousness-raising effect, and therefore individual employers or providers of goods and services, whether public or private sector, should be required to record monitor and evaluate compliance with the directives. This requirement should be exercised in accordance with prevailing norms concerning data protection, and should not provide a means of identifying any individual employee.
18. Believes that the number of employees is not a good measure of resource capacity, although smaller and larger firms need to be treated differently at times.
19. Welcomes the requirement in the directive against racism to establish independent bodies in the Member States, as these will be of immense value in supporting individual victims of discrimination. However it regrets that the requirement to establish independent bodies (Article 12 in the directive against racism) has not been extended to other grounds for discrimination. In consequence, the potential for multiple discrimination is inadequately addressed.

ACTION PROGRAMME

20. Calls for one component of the proposed Action Programme to be aimed at increasing knowledge and understanding of multiple discrimination.
21. Calls for the second strand of the proposed Action Programme to be accessible to smaller networks and interest groups, as well as the major networks envisaged in the proposal.
22. Calls for local and regional authorities and other information-providers to be fully engaged in the proposed Action Programme, because they are best able to raise-awareness of the anti-discrimination package.
23. Whilst acknowledging that established European anti-discrimination networks have an invaluable role to play, considers that smaller grass-roots organisations should also be consulted and involved in the proposed Action Programme.
24. Calls for all projects funded under the proposed Action Programme to involve stakeholders at grassroots level, and that this should be a factor in receiving EU funding under the programme.
25. Regrets that no consideration has been given to contract or grant compliance with respect to funding and calls for this to be rectified.
26. Calls on the budgetary authority both to ensure adequate funding for the Action Programme and to ensure that local and regional authorities are eligible for support, whilst reducing red tape (as often called for by the Committee of the Regions).
27. Considers that the cross-over between the proposed Action Programme and other existing programmes needs to be explained in greater detail so that greater synergies and complementarity can be found, without supplanting existing initiatives or duplicating what is already being done.

VADEMECUM

28. Recalling its resolutions on race and on older people which proposed inventories of good practice in these areas, the COR undertakes to publish a vademecum of anti-discrimination good practice for local authorities as employers, including examples from each Member State of initiatives covering all six grounds for discrimination recognised by Article 13 EC.

COR PERSONNEL POLICY

29. Instructs the Secretary-General of the COR to evaluate the personnel policy and employee profile of the General Secretariat and report to the Bureau within one year as to whether the COR will be in compliance with the new legislation - both in law and in spirit - when it comes into effect, and on any actions to be taken in association with this.

Brussels, 12 April 2000.

The President

The Acting Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

Jos Chabert

Vincenzo Falcone

¹ OJ C 337, 11.11.1996, p.63

² OJ C 244, 11.8.1997, p.58

³ OJ C 198, 14.7.1999, p.48

⁴ OJ C 374, 28.12.1999, p.36

⁵ OJ L 14, 20.1.1998, p.6

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CdR 513/1999 rev. 1 E/o .../...

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