

Equal opportunities and equal treatment of men and women: employment and occupation. Recast

2004/0084(COD) - 21/04/2004 - Legislative proposal

PURPOSE : to simplify, modernise and improve EU legislation in the field of equal treatment for men and women in employment and occupational matters by creating a new, recast Directive.

PROPOSED ACT : Directive of the European Parliament and of the Council

CONTENT : the principle of equality between men and women can be traced back to an isolated provision in the Treaty of Rome through to the inclusion of equality as a fundamental right in the Treaty of Amsterdam. Since the conclusion of the Treaty of Amsterdam there has been an increase in EU primary legislation relating to equality. Primary, EU legislation has given the EU legislator a specific legal basis from which to work. This development, in turn, has led to a subsequent increase in EU secondary legislation. Further, EU case law on equality between men and women has helped to clarify and develop the interpretation of the principle of equal treatment.

It has, however, become apparent that for the sake of transparency and ease of use, secondary legislation in the field of equality between men and women in the field of employment, needs to be updated and simplified. Such an update would need to take account of EU enlargement, the age of certain Directives (some are twenty years old), ECJ case law and the adoption of other similar EU legislation.

In order to assess the most appropriate way in which to enact the proposed modernisation of EU legislation, Commission opened up an open consultation with interested parties. Having taken their views into account, the Commission concluded that a recast Directive would be the most suitable way in which to proceed. This would offer a unique opportunity for simplification and clarification.

The Commission, therefore, proposes a recast Directive that:

- 1) Provides a single coherent text on the basis of consolidated Directives.
- 2) Reflects ECJ case law in this field, thus contributing to legal certainty and clarity.
- 3) Reflects the application of horizontal provision and the reversal of the burden of proof in cases of discrimination on the grounds of sex to equal pay and occupational social security schemes.
- 4) Accelerates the implementation of equal treatment.

Practically speaking, the recast Directive takes the form of a single instrument for the sake of reader-friendliness and clarity; it streamlines the implementation of the principle of equal treatment between men and women relating to work and occupation and finally, it improves the EU acquis by integrating ECJ case law into the main body of the text. Lastly, the recast Directive will have five titles. They are: General Provisions; Specific Provisions; Horizontal Provisions; Implementation and Final Provisions. These are sub-divided in various Chapters.

Lastly, there was a need to make some linguistic corrections to the Finnish, Italian, Portuguese and Swedish versions of the texts of the recast Directive in order to ensure consistency with other linguistic versions.

The Commission concludes that recasting existing Directives into one text will help ensure that the principle of equality between men and women in the field of employment and occupational matters and ensure that they are uniformly and effectively applied across the board.