

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1996/0095(COD) Procedure lapsed or withdrawn
Equal treatment for men and women: access to employment, vocational training	
Subject 4.15.08 Work, employment, wages and salaries: equal opportunities women and men, and for all	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	FEMM Women's Rights		02/09/1999
		PSE THEORIN Maj Britt	
	Former committee responsible		
	FEMM Women's Rights		02/07/1996
		PPE LULLING Astrid	
Council of the European Union	Former committee for opinion		
	JURI Legal Affairs, Citizens' Rights		04/06/1996
		GUE/NGL SIERRA GONZÁLEZ Angela del Carmen	
	JURI Legal Affairs, Citizens' Rights		23/07/1996
	PSE ODDY Christine Margaret		
Council of the European Union	Council configuration	Meeting	Date
	Social Affairs	1999	17/04/1997
	Social Affairs	1974	02/12/1996

Key events			
27/03/1996	Legislative proposal published	COM(1996)0093	Summary
06/06/1996	Committee referral announced in Parliament, 1st reading		
02/12/1996	Debate in Council	1974	
17/04/1997	Debate in Council	1999	
19/01/1999	Vote in committee, 1st reading		Summary

19/01/1999	Committee report tabled for plenary, 1st reading	A4-0038/1999	
08/03/1999	Debate in Parliament		
09/03/1999	Decision by Parliament, 1st reading	T4-0153/1999	Summary
02/09/1999	Vote in committee, 1st reading		
02/09/1999	Committee report tabled for plenary confirming Parliament's position	A5-0007/1999	
16/09/1999	Decision by Parliament, 1st reading	T5-0016/1999	Summary
11/12/2001	End of procedure in Parliament		
11/12/2001	Additional information		Summary

Technical information

Procedure reference	1996/0095(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 141
Stage reached in procedure	Procedure lapsed or withdrawn

Documentation gateway

Legislative proposal	COM(1996)0093 OJ C 179 22.06.1996, p. 0008	27/03/1996	EC	Summary
Economic and Social Committee: opinion, report	CES1086/1996 OJ C 030 30.01.1997, p. 0057	25/09/1996	ESC	Summary
Committee report tabled for plenary, 1st reading/single reading	A4-0038/1999 OJ C 150 28.05.1999, p. 0004	19/01/1999	EP	
Text adopted by Parliament, 1st reading/single reading	T4-0153/1999 OJ C 175 21.06.1999, p. 0017-0067	09/03/1999	EP	Summary
Reconsultation	SEC(1999)0581	28/04/1999	EC	
Committee final report tabled for plenary, 1st reading/single reading	A5-0007/1999 OJ C 054 25.02.2000, p. 0010	02/09/1999	EP	
Text adopted by Parliament confirming position adopted at 1st reading	T5-0016/1999 OJ C 054 25.02.2000, p. 0056-0081	16/09/1999	EP	Summary

Additional information

European Commission	EUR-Lex
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Equal treatment for men and women: access to employment, vocational training

OBJECTIVE: To amend Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women to take account of a judgment by the Court of Justice (Kalanke Judgment), according to which all kinds of positive action in favour of persons of the under-represented gender at work are permissible provided they allow for the assessment of the particular circumstances of the individual case. - **SUBSTANCE:** The amendment is purely of an interpretative nature and refers to the conclusions of the Court of Justice in the Kalanke Case

(C-450/93). The issue was whether, in connection with promotion, it was legal to give automatic preference to a woman over a man, both having the same qualifications, in sectors where women were under represented. The Court concluded that national rules which guarantee women absolute and unconditional priority for appointment or promotion go beyond promoting equal opportunities and overstep the limits provided for by Directive 76/207/EEC on positive action (to promote equal opportunities and remove existing factors of inequality affecting the under-represented gender). For this reason, the Commission proposes to amend the Directive in order to bring it into line with the judgment and allow all types of positive action provided they allow for the assessment of the particular circumstances of the individual case. This wording allows employers the possibility of choosing someone not belonging to the under-represented sex.?

Equal treatment for men and women: access to employment, vocational training

The Committee basically welcomes the Commission proposal, which is designed to clarify the question of equal treatment between men and women. The Committee appreciates the difficulties involved in trying to achieve unequivocal clarification of this question. The Committee therefore believes that the Commission should take a clear stand on whether the principle of positive measures - particularly quotas - should in future be admissible and be incorporated in Community law. In the view of the Committee, however, the Commission's present proposal does not provide the definitive clarification the Commission itself claims to be offering. In the view of the Committee a Directive is not the appropriate legal instrument for arriving at a clear and definitive clarification of this question of principle. The Committee takes the view that the proposed amendment anticipates future clarification and primary legislation ?

Equal treatment for men and women: access to employment, vocational training

The committee has unanimously adopted the motion for a resolution concerning the revision of Article 2(4) of Directive 76/207/EC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (consultation procedure). The amendment in question was proposed by the Executive following the Kalanke judgment of October 1995. The European Court of Justice in Luxembourg upheld Mr Kalanke's complaint that the application by the federal state of Bremen, Germany, of its Positive Discrimination Act contravened Community law on equal opportunities for men and women. Mr Kalanke alleged that he had been the victim of sexual discrimination because a woman colleague who was no more qualified than himself was automatically promoted ahead of him. Two years later, the Court of Justice revisited the subject of positive discrimination in favour of women. In this case, it recognised such discrimination as an acquired collective right. In the test case, it decided that promotion had not been the automatic and unconditional result of national legislation, because the law contained an open clause authorising the examination of a candidate's individual and objective circumstances. The rapporteur, Mrs Astrid Lulling (PPE, L), draws attention to this latest change of position on the part of the Court and cites the three new articles, particularly Article 141, on equal opportunities that have been introduced into the EC Treaty by the Treaty of Amsterdam as grounds for her rejection of the Executive proposal for the amendment of the aforementioned Article 2(4) of Directive 76/207/EC. The rapporteur asks the European Commission to present a new proposal for a directive that is consistent with the Treaty and with the latest judgment delivered by the Court. At the plenary sitting of 8 March, the Commission should announce its intention to withdraw its current proposal and to replace it with a new proposal as soon as the Treaty of Amsterdam has been ratified. ?

Equal treatment for men and women: access to employment, vocational training

At first reading under consultation procedure, the European Parliament rejected the Commission's proposal for a Council directive amending directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. The resolution by Astrid Lulling (PPE,LU) calls on the Commission to submit a proposal for a directive based on the Treaty of Amsterdam and on recognition of the collective nature of positive action measures, which contains mandatory legal instructions to take positive action wherever necessary in order to achieve equal treatment and opportunities for men and women and to remedy the under-representation of women at all levels of decision-making.?

Equal treatment for men and women: access to employment, vocational training

The Parliament confirmed its first reading in the context of the codecision procedure of the text voted upon on 09.03.1999 concerning this proposal for an amended directive.?

Equal treatment for men and women: access to employment, vocational training

The Directorates General or responsible departments have asked for this proposal to be withdrawn. The reasons are indicated as follows: A) for objective reasons (change of de facto situation, objectives already achieved by other means, etc) B) because the Commission has now adopted another approach : - the proposal is replaced implicitly, - a new proposal is in preparation, - no planned replacement.?