

Equal treatment: implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

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The Council held an orientation debate on the equal treatment directive. This Directive is designed to extend protection against discrimination on the grounds of religion or belief, disability, age or sexual orientation to areas outside employment.

A large majority of delegations have welcomed the proposal in principle, many endorsing the fact that it aims to complete the existing legal framework by addressing all four grounds of discrimination through a horizontal approach.

Most delegations have affirmed the importance of promoting equal treatment as a shared social value within the EU. In particular, several delegations have underlined the significance of the proposal in the context of the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

The German Delegation has maintained a general reservation and expressed various concerns in particular the existence of an adequate legal basis. It has taken the view that the proposal violated the subsidiarity principle and emphasised the burden that the proposed measures would impose on businesses (especially SMEs) and underlined the lack of legal certainty as a critical issue.

Germany has also taken the view that the issues covered in the proposal could be better regulated at the national level and therefore regarded the proposal as infringing on national competence. The Maltese delegation has similarly called for a clear delineation of national competences and respect for the principles of subsidiarity and proportionality to be ensured. The Dutch delegation called for solutions to be found to its concerns, particularly in respect of the financial implications.

Outstanding issues: although progress has recently been made, in particular, in the discussions on the scope of the Directive and on the concept of "access," the Working Party has recognised the need for further discussion, with a view to resolving the outstanding questions, which include the following:

- remaining issues related to the scope, the division of competences and the issue of subsidiarity; areas where clarification is required include housing, information and communication technology (ICT), education, social security, transportation and the physical/built environment;
- the disability provisions, including accessibility and reasonable accommodation for persons with disabilities;
- the implementation calendar;
- the need to ensure legal certainty in the Directive as a whole;
- the overall financial and practical impact of the proposal, including on SMEs.

For the time being, all delegations have therefore maintained general scrutiny reservations on the proposal, with sometimes parliamentary scrutiny reservations. The Commission has meanwhile affirmed its original proposal at this stage and has maintained a scrutiny reservation on any changes thereto.

To recall, the proposal now falls under Article 19 of the Treaty on the Functioning of the European Union; thus unanimity in the Council is required, following the consent of the European Parliament.