Implementation of the Employment Equality Directive

The need to promote equal treatment in specific areas, such as nationality and gender, was recognised right from the start of European construction, with the Treaty of Rome. This protection has only expanded and deepened over the years, especially since the Treaty of Amsterdam. The Court of Justice of the EU has been a significant defender of citizens’ rights, while several directives have been adopted to promote equal treatment in a range of policy areas.

Employment Equality Directive

Equal treatment and non-discrimination in employment and occupation have been guaranteed by the Employment Equality Directive (EED, 2000/78/EC). To ensure better implementation, Member States are required every five years to provide the Commission with all the information necessary to compile a report on their progress in implementing it. The latest report has been published this year. In accordance with Article 6 of the Treaty on the EU and Article 8 TFEU, the Directive aims to combat any direct or indirect discrimination based on religion or belief, disability, age or sexual orientation in the areas covered by its scope. It applies to all persons in both public and private sectors, and concerns access to employment, self-employment and occupation, recruitment and promotion, vocational guidance, training, retraining and practical work experience, employment and working conditions.

The Directive also applies to nationals of third countries, although in this case it does not cover difference of treatment based on nationality. It does not apply to social security and social protection schemes whose benefits are not treated as income and is without prejudice to national provisions laying down retirement ages. It gives some space to Member States to introduce different treatment on grounds of age but only if this is reasonable and justified. Reasonable accommodation for disabled persons is also emphasised as a means of combatting discrimination on grounds of disability, while gender mainstreaming is also addressed.


The latest, 2014, report reviews the implementation of two Directives in Member States: the EED and the Racial Equality Directive (RED, 2000/43/EC). The two are covered in the one report because their regulatory approach and content are almost identical, and most Member States have transposed them in a single act. RED has a much wider scope than EED, though, and implements the principle of equal treatment irrespective of racial or ethnic origin in employment, access to welfare systems and social security, goods and services.

The findings of this report are significant because they examine the state of affairs after Member States have had some time to adjust to the new provisions. It mostly covers implementation issues, as all Member States have now fully transposed the Directives (although there are still three pending infringement proceedings related to the EED’s transposition or application as a result of complaints to the Commission). The report identifies several problems: people are unaware of their rights under the new laws, there is a lack of data on equality, and incidents of discrimination are under-reported for various reasons. Moreover there are obstacles in access to justice, and inadequate sanctions and remedies, with Member State courts often choosing the most lenient sanctions for perpetrators.

In accordance with these findings, the report concludes that legislation is not enough to achieve full equality. Awareness of existing protection needs to be increased, even though there is already funding available for awareness raising and training through the EU Programme for Employment and Social Solidarity. Strengthening of national equality bodies as watchdogs for equality is also given emphasis.