



EP Hearing Unblocking the Anti-Discrimination Directive

**Committee on Civil Liberties, Justice and Home Affairs
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**Contribution by the European Disability Forum
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The European Disability Forum is an umbrella organization led by persons with disabilities and that represents the interests of the 80 million disabled citizens in Europe.

EDF has campaigned since its creation in 1996 for non-discrimination legislation. The first step was the campaign for including disability in the Amsterdam Treaty, when discussions started for an article allowing the EU to take action against discrimination. Already at that time it took a lot of actions, including an important demonstration in the streets of Amsterdam, to achieve that. It was unthinkable that disability issues could be thought as equality issues and not as a social protection issue.

Then came the first legislation on discrimination which focused on equal treatment in employment and occupation. At that time together with the other NGOs representing different grounds for discrimination we were satisfied but also disappointed. How would it be possible to ensuring access to employment for persons with disabilities when people faced discrimination in public transport, the built environment, in education, in access to goods and services?

EDF has continued to fight for a legislation that would address all these other areas and in 2007 a major campaign was organized: 1million4disability to which 1,3 million citizens participated with signatures of support.

Such legislation remains the dream of the disability movement, but also a necessity for all citizens with disabilities across Europe that face daily discrimination.

Of course EDF welcomed the anti-discrimination directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, proposed in 2008 by the European Commission because it has a large scope and it



includes both the obligation to provide reasonable accommodation and the requirement to provide accessibility in anticipation. Nonetheless EDF also regretted some gaps like in education where the proposal foresees exceptions for special education, and in access to financial and insurance services. All formulations that fall short of the United Nations Convention on the rights of Persons with disabilities. In addition there is confusion in the text between reasonable accommodation and accessibility. The European Parliament has clarified and improved the text in many of those areas and also included reference to discrimination by association.

The EC proposal benefitted from the momentum of EDF citizenship campaign as well as of the United Nations Convention on the rights of persons with disabilities (concluded by the EU, and ratified by 21 out of 27 members States). Also today there is no political resistance to adopting a directive on the ground of 'disability'. The UNCRPD standard is fast becoming the EU consensus on disability rights. It names 'non-discrimination', 'equality of opportunity' and 'accessibility' as general principles of the Convention. There is a specific article 5 on equality and prohibition of discrimination and provision of reasonable accommodation.

Many Member States have already moved to comply with the Convention standards in some way or the other. However, the protection is far from uniform, which hampers free movement of persons with disabilities. It makes sense to agree on a *minimum* standard of protection against discrimination in all areas that are within the competence of the EU.

Now the equal treatment directive is blocked in the Council and one of the arguments that are brought forward is the issue of costs of making goods and services accessible. Questions most often raised around disability relate to the difference between accessibility and reasonable accommodation; the applicability of the accessibility criteria on SMEs; cost of adaptations, etc.

As I mentioned before the European Parliament report has brought more clarity in the issue by splitting the provisions on general accessibility by anticipation that can be achieved over time with the introduction of deadlines, and with distinction between new goods, services and infrastructure and those that will need to be retrofitted, and the provisions on reasonable accommodation of individual needs, the latter being mitigated, as in the employment directive, by the concept of disproportionate burden.

Several member states have non-discrimination legislation covering access to goods and services, and all have implemented since a decade legislation on employment. Despite the far reaching provisions of many of these legislations, we have never heard of a company, whether big or small, that has been liquidated or suffered major downturn because of having to comply



with those rules, not even those that have been found guilty in court of not compliance with that principle!

On the contrary, there is a higher cost for not having non-discrimination legislation. The segregated system that has been promoted for persons with disabilities: institutions versus community care, special schools versus mainstream, unemployment benefits versus employment costs more. Equality will bring more participation, more inclusion, more economic activities...

We believe that technical discussions which are being led in the Council would benefit from further technical expertise to clarify more difficult aspects of the directive. In addition to learning from good practice in the various EU countries, a voice must be given to organisations that are composed of victims of discrimination. Relevant NGOs could be invited to bring their perspectives on the examination of different provisions, such as the ones on education, financial and insurance, disability provisions, etc.

This would also help to dispel some of the current fears and more creative solutions could be found.

We need to move forward towards the adoption of the legislation.

When we see the efforts that some developing countries are making to implement the UN Convention on the rights of persons with disabilities we cannot find almost ludicrous some of comments from the most developed EU member States on costs.

How can the EU teach lessons on equality and human rights to partner countries when it fails to implement its own obligations?

Such situation is shameful, and the Council needs to move forward and unblock the anti-discrimination directive.