

## Hearing on the equal treatment horizontal directive, 20 March 2012, presentation by Greg Czarnecki, on behalf of ILGA-Europe

### Why do we need antidiscrimination legislation at the EU level?

So far, the EU legislation only prohibits discrimination:

- Under the ground of race and ethnic origin in all fields (directive 2000/43/EC)
- Under the grounds of disability, age, religion/belief and sexual orientation in the field of employment (directive 2000/78/EC).

If some MS already provide a protection that goes beyond what is required by the EU legislation (Belgium, Sweden, UK, Ireland, Slovakia, Slovenia etc.), many MS are still lagging behind in terms of comprehensive antidiscrimination legislation.

**In particular, LGB people are not protected against discrimination outside employment in a number of EU MS, among which Cyprus, Estonia, Italy, Latvia, Malta, Poland, Portugal.**

**More concretely, it means that in those MS, LGB people can be:**

- **Bullied at school**
- **Insulted by a doctor and denied the healthcare they need**
- **Refused entry to a restaurant or a hotel**
- **Denied social benefits or pensions**

**At this point, would be good if you can include some concrete examples from Poland.**

**It is extremely unlikely that those countries will adopt laws prohibiting discrimination under the ground of sexual orientation in the fields outside employment without EU pressure to do so. This pressure can only come from a binding, comprehensive and ambitious EU legislation.**

**Non-binding measures would not be effective in countries where it is still seen as legitimate to discriminate LGBT people.**

However, the horizontal directive would not only be useful in those countries. It would allow for consistency and legal certainty in the entire EU. Even MS with a satisfactory legislation don't necessary go as far as the directive is going in terms of:

- the concepts used (definition of discrimination, harassment, reasonable accommodation etc.)
- the material scope (social protection, access to education, housing etc.)
- the requirement of setting up equality bodies covering those grounds & fields.

In addition, its horizontal nature ensures that those at risk of discrimination on the basis of several grounds would be protected throughout the EU- such as **LGB young people**.

## How to unblock negotiations at the Council?

Antidiscrimination networks have been advocating during 4 years before getting the directive proposed by the EC and then they have been campaigning towards its adoption since 2008.

We have met a number of permanent representations since December 2011, which were supposedly friendly. They all said that the political momentum had been lost given the veto of Germany. They also referred to a lack of legal certainty in the text, to problems of respect of the principle of subsidiarity and above all to the costs related to provisions on disability and age.

In this context, it seems very difficult to get this text adopted. **However, we would like to remind MS of their responsibility to protect everyone from discrimination (art 21 of the Charter of Fundamental Rights). There are measures that the EC, the EU MS and the MEPs can take to ensure that the directive is eventually adopted.**

### **The EC and the Commissioner Reding in particular:**

- **should give the signal to the MS that it does want this directive that it proposed 4 years ago!**
- **should continue to provide technical support to the working party on social questions. Could for instance, provide expertise on the comparison between the costs of discrimination (denial of access to healthcare, transports, leisure etc. of many people) and the costs of implementation of this directive.**

### **The EU MS:**

- **should consult NGOs before meetings of the working party focusing on the directive and brief NGOs after those meetings.**
- **Should make sure that the text is not significantly watered down and still provide for a comprehensive protection of all the grounds in all fields outside employment.**
- **Should form a coalition of the willing leading towards real progress on the directive.**
- **Should ensure that the negotiations are taken seriously and do come to an agreement.**

### **The MEPs:**

- **Should continue to show its support to the directive by asking questions to the EC and by adopting reports and resolutions asking for its adoption by the MS.**
- **Should liaise within their national parties to raise their awareness on the need to adopt quickly a comprehensive antidiscrimination legislation and encourage them to take action within national parliaments.**