EU measures against discrimination

Equality and respect for human dignity and human rights are among the core values of the EU. This is reflected in several EU directives targeting various types of discrimination. However, not all grounds and areas of discrimination are covered by EU law, and work on better protection against discrimination is ongoing.

Combating discrimination in the EU

As expressed in Article 2 of the Treaty on European Union (TEU), values of ‘respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities’ are the foundation of the EU. To actively defend them, Article 19 of the Treaty on the Functioning of the EU (TFEU) gives the Council licence to combat discrimination (within its powers and with the consent of the European Parliament). Article 10 lists the bases of discrimination to be addressed through legislation: gender, race, religion, disability, age and sexual orientation. Discrimination may be direct, where someone is treated differently solely because of the characteristics mentioned in Article 10, and indirect, where a practice may seem neutral, but has a disadvantageous impact on a person or a group with a specific characteristic.

The Charter of Fundamental Rights of the EU which, according to Article 6(1) TEU, has the same legal value as the Treaties, enshrines the rights on which the EU is based. Article 10 grants everyone freedom of thought, conscience and religion, Article 20 ensures equality before the law, and Article 21 prohibits discrimination.

Based on these principles, the EU has developed secondary legislation on anti-discrimination. The most relevant current legislative acts here are:

- **Racial Equality Directive (2000/43/EC)**, providing a framework for combating direct and indirect discrimination on the grounds of racial or ethnic origin, and covering the widest range of areas: employment, vocational training, education, social protection and access to public goods and services,
- **Employment Equality Directive (2000/78/EC)**, combating direct and indirect discrimination on multiple grounds (religion or belief, disability, age, sexual orientation), as regards employment and occupation,
- **Recast Directive (2006/54/EC)**, on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation,
- **Access to Goods and Services Directive (2004/113/EC)** addressing direct and indirect discrimination based on gender regarding access to goods and services,
- **Council Framework Decision (2008/913/JHA)** on racism and xenophobia, which has made offences against persons based on race, colour, religion, descent, or national or ethnic origin punishable in criminal law,
- **Victims of Crime Directive (2012/29/EU)**, establishing minimum standards on the rights, support and protection of victims of crime, including hate crime.

**Figure 1 – Grounds for discrimination and affected policy areas, with EU directives that address them**

<table>
<thead>
<tr>
<th>Grounds</th>
<th>Education</th>
<th>Social protection</th>
<th>Employment</th>
<th>Access to goods and services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td>79/7/EEC</td>
<td>2004/113/EC</td>
</tr>
<tr>
<td>Religion</td>
<td>2000/78/EC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disability</td>
<td>2000/78/EC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td>2000/78/EC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sexual orientation</td>
<td></td>
<td></td>
<td>2000/78/EC</td>
<td></td>
</tr>
</tbody>
</table>
Discrimination in the EU

In the absence of legal measures against discrimination – or in spite of them where they exist – research shows that discrimination against people in the EU continues.

In 2015, 21% of respondents to a 2015 Eurobarometer survey reported having experienced discrimination in the previous 12 months, an increase from 17% in 2012. Of these 21%, 16% had experienced discrimination on a single basis and 5% on multiple grounds. Age was reported as the most common ground for discrimination, with 5% reporting having been discriminated against for being older than 55, and 2% for being under 30 years old. Gender was reported as the ground for discrimination for 4%, ethnic origin for 3%, religious or belief for 3%, sexual orientation for 2%, and being transgender or transsexual for 1% of those surveyed.

On the other hand, 20% of the people surveyed would feel uncomfortable working with a Roma person, and some 15% of respondents would be uncomfortable with having a person from a religious minority in the highest political office. Regarding co-workers, perceptions varied for different religions, with 94% of respondents stating that they would be comfortable or indifferent to working with a Christian, 87% with atheists, 84% with Jewish, 81% with Buddhist, and 71% with Muslim people.

When it comes to persons with disabilities, 8% would be uncomfortable with such persons occupying the highest political office and 3% would be uncomfortable working with them. A significant percentage of people (29%) would be uncomfortable with having a person older than 75 in the highest political office. More people are comfortable or indifferent to having a person under 30 years in that position (61%).

Survey results from 2012 showed that 16% of respondents agreed that the use of offensive language about LGBT people among politicians was very widespread in their country. By Member State, the percentage of people agreeing with this ranged from 58% in Lithuania down to 1% in Luxembourg. The 2015 Eurobarometer survey revealed that 23% of respondents disagree with LGBT people having the same rights as heterosexual people.

As regards gender-based discrimination in the EU, according to the 2015 Eurobarometer survey, 37% of respondents think that gender discrimination is widespread in their country. For example, one of the outcomes of cumulative direct and indirect gender discrimination is a lack of women in leadership positions, with only 23.3% female board members on large listed companies in the EU-28. Inequality is not limited to the top, but affects a wide section of women, and results in, for example, a gender pay gap of 16.3% and a gender pension gap of 40.2% in favour of men.

Work in progress

In 2008, a horizontal Equal Treatment Directive (targeting discrimination based on religion or belief, disability, age or sexual orientation) was proposed by the Commission, and endorsed by the Parliament in 2009. However, it is blocked in the Council, as the required unanimity of all Member States has not so far been achieved. According to the Council’s 2016 progress report, whilst progress had been made, issues remain that need to be resolved and clarified, primarily concerning subsidiarity, scope and the impact of the proposal. The proposal is important because it covers a gap in the EU anti-discrimination legal framework and extends measures against discrimination on several grounds beyond employment and occupation, so as to achieve a scope of protection similar to the Racial Equality Directive.

The European Parliament’s resolution of 13 December 2016, on the situation of fundamental rights in the European Union in 2015, called upon the Council to take a position on the 2008 Equal Treatment Directive, expressed concern that several Member States had not transposed the provisions of Framework Decision 2008/913/JHA correctly, and called on Member States to implement it, along with the 2012 Victims of Crime Directive.

Another important development would be EU accession to the European Convention on Human Rights, which would enable individual recourse against the actions of the EU on violation of human rights, a right which is now available to individuals only against Member States’ actions. However, this procedure has been blocked by the European Court of Justice since 2014, because the Court concluded that the draft agreement was incompatible with EU law and may upset the underlying balance of the EU.

Alongside the work on legislative measures, the EU is combating discrimination through various other means, such as awareness-raising and supporting the exchange of good practices, because legislation is only the first step in fighting discrimination.