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REPORT

on the joint text approved by the Conciliation Committee for a European Parliament and Council directive amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

(PE-CONS 3624/2002 – C5-0185/2002 – 2000/0142(COD))

European Parliament delegation to the Conciliation Committee

Rapporteur: Heidi Anneli Hautala

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

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PROCEDURAL PAGE

At the sitting of 31 May 2001 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (COM(2000) 334 – 2000/0142 (COD)).

At the sitting of 5 September 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Women's Rights and Equal Opportunities (9848/1/2001 – C5-0387/2001).

At the sitting of 24 October 2001 Parliament adopted amendments to the common position.

By letter of 21 January 2002 the Council stated that it was unable to approve all Parliament's amendments.

The President of the Council, in agreement with the President of Parliament, convened a meeting of the Conciliation Committee on 21 February 2002.

By letter of 28 March 2002 the President of the Council informed the Parliament that it was necessary to extend the period for the work in committee, as laid down in Article 251(7) of the EC Treaty.

At its meetings of 21 February 2002 and 17 April 2002 the Conciliation Committee considered the common position on the basis of the amendments proposed by Parliament.

At the latter meeting it reached agreement on a joint text.

At its meeting of 17 April 2002 the Parliament delegation approved the results of the conciliation unanimously.

The following took part in the vote: Renzo Imbeni, Vice-President and chairman of the delegation; Anna Karamanou, chairman of the Committee on Women's Rights and Equal Opportunities; Heidi Anneli Hautala, rapporteur; María Antonia Avilés Perea, Regina Bastos (for Charlotte Cederschiöld), James E.M. Elles (for Giorgos Dimitrakopoulos), Fiorella Ghilardotti, Lissy Gröner, Christa Klab (for Maria Martens), Rodi Kratsa-Tsagaropoulou (for Miet Smet), Astrid Lulling, Lousewies van der Laan and Anne E.M. Van Lancker.

On 19 April 2002 the co-chairmen of the Conciliation Committee established that the joint text had been approved, pursuant to paragraph III.8 of the Joint declaration on practical arrangements for the new co-decision procedure,¹ and forwarded it to Parliament and the Council in all the official languages.

The report was tabled on 29 May 2002.

¹ OJ C 148, 28.5.1999, p. 1.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the joint text approved by the Conciliation Committee for a European Parliament and Council directive amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (PE-CONS 3624/2002 – C5-0185/2002 – 2000/0142(COD))

(Codecision procedure: third reading)

The European Parliament,

- having regard to the joint text approved by the Conciliation Committee (PE-CONS 3624/2002 – C5-0185/2002,
 - having regard to its position at first reading¹ on the Commission proposal and amended proposal to Parliament and the Council (COM(2000) 334² and COM(2001) 321³),
 - having regard to its position at second reading⁴ on the Council common position⁵,
 - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2001) 689 - C5-0602/2001)⁶,
 - having regard to Article 251(5) of the EC Treaty,
 - having regard to Rule 83 of its Rules of Procedure,
 - having regard to the report of its delegation to the Conciliation Committee (A5-0207/2002),
1. Approves the joint text;
 2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
 3. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
 4. Instructs its President to forward this legislative resolution to the Council and Commission.

¹ OJ C 47, 21.2.2002, p. 19

² OJ C 337, 28.11.2000, p. 204

³ OJ C 270, 25.9.2001, p. 9.

⁴ Texts Adopted, 24.10.2001, point 5.

⁵ OJ C 307, 31.10.2001, p. 5

⁶ OJ C not yet published.

EXPLANATORY STATEMENT

Background

1. On 11 July 2000 the Commission submitted a proposal for a Directive amending and revising the 25-year old Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, based on Article 141(3) of the Treaty.
2. On 31 May 2001 the European Parliament adopted a total of 46 amendments at first reading. On 23 July 2001 the Council adopted its common position. On 24 October 2001 the Parliament adopted a total of 15 amendments at second reading. The Council formally informed the Parliament on 21 January 2002 that it was not in a position to accept them.

Conciliation

3. The Parliament delegation to the Conciliation Committee held its constituent meeting on 13 November 2001 in Strasbourg, and mandated the Parliament negotiators: the chairman of the delegation, the chair of the Committee on Women's Rights and Equal Opportunities, and the rapporteur to start negotiations with the Council.
4. Before the first meeting of the Conciliation Committee on 21 February 2002, the representatives of the Parliament delegation met the Council at two trialogues on 23 January and 5 February 2002. Agreement was reached on one amendment with the two sides remaining far apart after an unsuccessful first Conciliation Committee meeting. Both sides agreed to pause before continuing negotiations. During that pause Mr Imbeni took the place of Mr Friedrich as the vice-president responsible.
5. Following a third trialogue on 9 April 2002, agreement was reached on 10 further amendments. The four outstanding amendments dealt with the definition of 'sexual harassment', general exclusion or restriction of access of representatives of one sex to a profession, prevention of discrimination against parents of adopted children, and funding and competence of equality bodies.
6. On 17 April 2002, a fourth trialogue took place before the second and conclusive Conciliation Committee, where an overall agreement was reached on all outstanding amendments. The agreement was unanimously endorsed at the subsequent Parliament delegation meeting. The Conciliation Committee confirmed this agreement after which the representatives of the three institutions held a joint press conference.
7. The agreement reached in conciliation covers the following main issues:
 - the definition of 'sexual harassment' for the first time at EU-level: "where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, humiliating or offensive environment". The Directive also defines 'direct discrimination', 'indirect discrimination' and 'harassment';

- the new Directive prohibits discrimination against women on the grounds of pregnancy or maternity leave and it provides for the right of return to the same job or an equivalent post after maternity leave, or after paternity or adoption leave, where such rights are recognised by Member States;
 - the Amsterdam Treaty provisions on positive measures are incorporated into the new Directive, i.e. the possibility for Member States to provide specific advantages to the under-represented sex in a professional activity (reference to Declaration 28 of the Amsterdam Treaty).
8. Under the agreement, Member States have undertaken a number of obligations in implementing the Directive by 2005:
- equality monitoring bodies shall be established; their competence to include promotion, analysis, monitoring and support of equal treatment for men and women;
 - employers and those responsible for vocational training shall take preventive measures against discrimination on grounds of sex, in particular harassment and sexual harassment;
 - effective measures have to be introduced to ensure real sanctions for breaches of the directive, where compensation to victims may not be restricted by fixing a prior upper limit fixed, except in very limited cases;
 - equal treatment at the workplace shall be promoted in a planned and systematic way, e.g. through company equality reports with regular information on equal treatment for men and women;
 - persons supporting the victims of gender discrimination and harassment shall enjoy the same protection against adverse treatment;
 - Member States shall report every four years to the Commission on measures taken to provide specific advantages to the under-represented sex in a professional activity as well as their implementation;
 - Member States shall ensure that provisions of contracts or agreements in breach of the Directive be amended or nullified.
9. The delegation regrets that the Council was unwilling to prohibit general exclusion or restriction of access of representatives of one sex to any kind of professional activity or to the training required to gain access to such an activity by classing it as discrimination.

Conclusions

10. The delegation welcomes the Directive as a milestone in promoting equal treatment of men and women at the workplace. After this revision, the Directive reflects better developments in society, working conditions and family circumstances and will prove to be an important socio-political tool in an enlarged European Union. The delegation wishes to thank the Spanish Presidency of the Council and the Commission for their constructive co-operation. The delegation therefore recommends that Parliament adopt the joint text attached.