

WRITTEN QUESTION E-5635/06

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to the Commission

Subject: Transposition of EU anti-discrimination directives

In Germany, Directives 2000/43/EC¹, 2000/78/EC², 2002/73/EC³ and 2004/113/EC⁴ have been transposed by the General Act on Equal Treatment (AGG).

1. In the Commission's opinion, is the procedure for protection against dismissal under Section 2(4) of the AGG compatible with Article 3(1)(c) of framework Directive 2000/78/EC despite the fact that it removes dismissals from the scope of the AGG and hence ends the requirements for non-discrimination? If so, what are the Commission's reasons for that opinion?
2. In the Commission's opinion, is the exemption clause under Section 19(3) of the AGG consonant with anti-racism Directive 2000/43/EC despite the fact that for the housing market, because of that clause, unequal treatment with a view to establishing an 'economic, social and cultural balance' is declared admissible and hence justification can be provided for racist discrimination, and what are the Commission's reasons for that opinion?
3. Is the Commission of the opinion that Section 23 of the AGG, which, for anti-discrimination associations, provides for a 'support function' and not for any power of representation in court, is compatible with anti-racism Directive 2000/43/EC and Directive 2004/113/EC? If it is, what are the Commission's reasons for that opinion?
4. Is the Commission of the opinion that Section 22 of the AGG on burden of proof, which states that the party concerned must produce circumstantial evidence for the presumption of discriminatory treatment on a ground referred to in Section 1 of the AGG, is compatible with Article 8 of Directive 2000/43/EC, Article 10 of Directive 2000/78/EC, Article 9 of Directive 2004/113/EC and the requirement deriving from the directives? If it is, what are the Commission's reasons for that opinion?
5. How does the Commission view, and on what grounds, the legal effect of Section 22 of the AGG, as a result of which the scope of protection guaranteed under Section 611a(1)(3) of the Civil Code is indirectly reduced?
6. Does the Commission think it warranted that, because of the two-month time limit laid down in Section 15(4) of the AGG for asserting compensation or damages claims, the scope of protection hitherto guaranteed under Section 61b(1) of the Employment Tribunal Act with reference to Section 611 of the Civil Code. If it does, what are the Commission's reasons for that opinion?
7. What will the Commission do if it comes to the conclusion that a number of provisions of the AGG are not in conformity with the directives?

¹ OJ L 180, 19.7.2000, p. 22.

² OJ L 303, 2.12.2000, p. 16.

³ OJ L 269, 5.10.2002, p. 15.

⁴ OJ L 373, 21.12.2004, p. 37.