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Committee on the Environment, Public Health and Food Safety

2008/0140(CNS)

27.1.2009

OPINION

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation
(COM(2008)0426 – C6-0291/2008 – 2008/0140(CNS))

Rapporteur: Amalia Sartori

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SHORT JUSTIFICATION

The European Union is based on the common principles of freedom, democracy and respect for human rights and fundamental freedoms. Inherent recognition of the unique nature of each individual and his or her right to enjoy equal access to the possibilities that life offers is a common feature of all European societies, which have made the concept of 'united in diversity' the bulwark of their union.

The diversity of European society is a key aspect of the cultural, political and social integration of the Union and must be respected, just as the discrimination which constitutes a threat to its core values should be opposed.

There is a long tradition of European measures aimed at ensuring equality between individuals. The Treaty of Amsterdam granted new powers to take action against any discrimination on the grounds of sex, race, ethnic origin, religion or belief, disability, age or sexual orientation. European-level laws and safeguards already exist with regard to discrimination in the field of employment. Once adopted, this directive will supplement the process of implementation of Article 13 of the EC Treaty by extending the scope of the prohibition of discrimination to any form of discrimination on the grounds of race, ethnic origin or sex, and ending any perceived hierarchy in the protection of rights.

As regards the specific field of interest of the Committee on the Environment, Public Health and Food Safety, achieving that ambitious objective in the sectors for which it is responsible calls for a wide-ranging response, since the respective national traditions and strategies in areas such as healthcare and social protection tend to be more diversified than in employment-related sectors.

Despite the progress made, the European legal framework enabling discrimination to be combated remains incomplete. Some Member States have adopted measures which prohibit, over and above existing provisions in the field of employment, any discrimination on the grounds of age, sexual orientation, disability, religion or belief, but for the moment there is no uniform minimum standard on what constitutes discrimination or for safeguarding against it. Notwithstanding these shortcomings, however, the European Union still boasts one of the most developed legal scenarios in the world when it comes to combating discrimination.

The main calls for stronger action against discrimination have come from the public, who expect an increase in joint action in this field, above and beyond what is already specifically provided for, and in a range of sectors, such as healthcare, where broad disparities still exist between Member States, alongside clear discrimination, often against vulnerable sectors of the population, and even within individual States.

It is surprising and unfortunate that in a Union so far advanced in many areas, there are still no common rules on disability or sexual violence and harassment, and no adequate recognition of the fundamental rights which in a contemporary society should surely enjoy the legal protection they deserve.

Combating discrimination means investing in raising the awareness of a society that is developing through integration but which in order to achieve it needs to invest in training,

information and the dissemination of best practices, seeking out for the good of all its citizens, and in their interest, a fair compromise and common equilibrium between its many and multiform diversities.

AMENDMENTS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission	*Amendment*
(1) In accordance with Article 6 of the Treaty on European Union, the European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to all Member States and it respects fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, as general principles of Community law.	(1) In accordance with Article 6 of the Treaty on European Union, the European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to all Member States and it respects fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, as general principles of Community law. ***In accordance with Article 13 of the Treaty establishing the European Community, which empowers the Council to take appropriate action to combat discrimination, in combination with the provisions of Article 152 of that Treaty, there is a need to encourage the systematic mainstreaming of non-discrimination and equal opportunities into all policies, particularly in the context of already-existing coordination mechanisms for employment, social integration, education, training and public health.***

Amendment 2

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission	*Amendment*
	(2a) Equal importance should be placed on mental health and physical health as the former is associated with cardiovascular disease, cancer and diabetes as a consequence of drug abuse and addiction.
	People with severe mental health problems are mostly exposed to social stigma, poverty, limited housing options and difficulties in accessing physical health care, while mental illnesses such as depression or anxiety contribute to increased cost from lost worker productivity.

Amendment 3

Proposal for a directive
Recital 2 b (new)

Text proposed by the Commission	*Amendment*
	(2b) Physical and mental health and well-being are key to the quality of life of individuals and society and are vital factors for achieving the objectives of the European Union's Lisbon Strategy.

Amendment 4

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) The public expect an increase in joint action in the field of health, and huge healthcare disparities still exist between Member States and within individual States, just as there are some sectors in

which Member States cannot operate effectively on their own. These circumstances demand a greater commitment from the European Union, including the possibility of a common health policy tailored to the interests of the general public.

Amendment 5

Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission	*Amendment*
	(3b) Access to healthcare is a fundamental right enshrined in Article 35 of the Charter of Fundamental Rights of the European Union[1], and it is a prime responsibility of the public authorities in the Member States to provide equal access for all to a high-quality healthcare system.

[1] OJ C 364, 18.12.2000, p. 1.

Amendment 6

Proposal for a directive
Recital 4 b (new)

Text proposed by the Commission	*Amendment*
	(4b) The diversity of European society is a key aspect of the cultural, political and social integration of the Union and must be respected.

Amendment 7

Proposal for a directive
Recital 4 c (new)

Text proposed by the Commission	*Amendment*
	(4c) Good health is essential to physical

and psychological well-being. Leaving aside biological differences, social and economic disparities, environment and access to education, knowledge and information all have an incisive effect on public health. The rights of citizens and their responsibility for their own health are of fundamental importance, hence the importance of promoting health literacy programmes and encouraging all sectors of society to lead healthy lifestyles. Initiatives aimed at reducing the disparities between healthcare systems should include targeted health promotion and public education;

Amendment 8

Proposal for a directive
Recital 4 d (new)

Text proposed by the Commission	*Amendment*
	(4d) Violence against women, sex slavery and prostitution are among the main health issues affecting women. Although violence against women is particularly widespread, that health issue is not factored into medical training or practice.
	According to World Health Organisation estimates, at least one fifth of all women worldwide have suffered physical or psychological abuse at some point in their lives. The combating of sexual harassment and violence against women must be made a priority for Community action, not least in the form of specific public health measures.

Amendment 9

Proposal for a directive
Recital 9

Text proposed by the Commission	*Amendment*
(9) Therefore, legislation should prohibit discrimination based on religion or belief, disability, age or sexual orientation in a range of areas outside the labour market, including social protection, education and access to and supply of goods and services, including housing. It should provide for measures to ensure the equal access of persons with disabilities to the areas covered.	(9) Therefore, legislation should prohibit discrimination based on religion or belief, disability, age or sexual orientation in a range of areas outside the labour market, including social protection, education and access to and supply of goods and services, including housing ***and health***. It should provide for measures to ensure the equal access of persons with disabilities to the areas covered.

Amendment 10

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission	*Amendment*
	(12a) Discrimination is understood to include denial of medical treatment on the grounds of age alone.

Amendment 11

Proposal for a directive
Recital 13

Text proposed by the Commission	*Amendment*
(13) In implementing the principle of equal treatment irrespective of religion or belief, disability, age or sexual orientation, the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination.	(13) In implementing the principle of equal treatment irrespective of religion or belief, disability, age or sexual orientation, the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination. ***To that end, the scope of protection needs to be extended to also cover multiple discrimination.***

Amendment 12

Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission	*Amendment*
	(19a) Member States should support partnerships of people with learning disabilities and/or mental health problems to spread awareness of their rights, present proposals for improved services and facilitate access to information on new medicines and innovative treatments.

Amendment 13

Proposal for a directive
Recital 21

Text proposed by the Commission	*Amendment*
(21) The prohibition of discrimination should be without prejudice to the maintenance or adoption by Member States of measures intended to prevent or compensate for disadvantages suffered by a group of persons of a particular religion or belief, disability, age or sexual orientation. Such measures may permit *organisations* of persons of a particular religion or belief, disability, age or sexual orientation where their main object is the promotion of the special needs of those persons.	(21) The prohibition of discrimination should be without prejudice to the maintenance or adoption by Member States of measures intended to prevent or compensate for disadvantages suffered by a group of persons of a particular religion or belief, disability, age or sexual orientation. ***Community legislation on non-discrimination does not prevent Member States from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to discrimination on grounds where there is provision for protection.*** Such measures may permit *organizations* of persons of a particular religion or belief, disability, age or sexual orientation where their main object is the promotion of the special needs of those persons.

Amendment 14

Proposal for a directive
Recital 25

Text proposed by the Commission	*Amendment*
(25) The effective implementation of the principle of equal treatment requires adequate judicial protection against victimisation.	(25) The effective implementation of the principle of equal treatment requires adequate judicial protection against victimisation. ***Effective judicial protection of individual rights must be flanked with active promotion of non-discrimination and equal opportunities.***

Amendment 15

Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission	*Amendment*
	(30a) Each Member State has a responsibility to ensure the health of all its citizens, but cooperation between the Member States, EU institutions, local authorities, international organisations and the general public is nevertheless needed in order to achieve that goal.

Amendment 16

Proposal for a directive
Recital 30 b (new)

Text proposed by the Commission	*Amendment*
	(30b) The provision of healthcare calls for effective political support, in all sectors and at every level, within the EU Member States and the European Union and at a global level. Besides this, in view of the existence of new health threats that are often cross-border in scale, such as pandemics, new transmissible diseases and biological warfare, and of the effects of climate change and globalisation,

particularly on food and migration, the issue of health should be addressed as a fundamental policy issue, in the spirit of the Treaty of Lisbon and the Lisbon strategy, and mainstreamed into all the relevant European Union policies.

Amendment 17

Proposal for a directive
Recital 31 a (new)

Text proposed by the Commission	*Amendment*
	(31a) Satisfactory information on existing legislation is needed, so that potential victims of discrimination can actually invoke that legislation and so that employers, service providers and the authorities are informed as to their obligations. However, knowledge of non-discrimination legislation is still limited. The Commission must promote and contribute to training and information measures on existing legislation, which should be specifically aimed at the key stakeholders, including the bodies responsible for equality matters, the judiciary, the legal profession, NGOs and the social partners.

Amendment 18

Proposal for a directive
Article 2 a – paragraph 1 (new)

Text proposed by the Commission	*Amendment*
	Article 2a
	Definitions
	1. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in combination with various barriers may hinder their full and effective participation in society on an equal basis

with others.

Justification

The definition of 'persons with disabilities' should be the same in all the Member States, to ensure equal treatment. Accordingly the definition of 'persons with disabilities' applied in the directive should correspond to the definition used in the UN Convention on the Rights of Persons with Disabilities.

Amendment 19

Proposal for a directive
Article 2 a – paragraph 2 (new)

Text proposed by the Commission	*Amendment*
	2. 'Universal design' means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. 'Universal design' shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Justification

To ensure genuine and non-discriminatory access for people with disabilities to goods available to the public, it is desirable to promote goods usable by all. Accordingly, a definition of 'universal design' should be added to the directive corresponding to the definition in the UN Convention on the Rights of Persons with Disabilities.

Amendment 20

Proposal for a directive
Article 4 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
a) The measures necessary to enable persons with disabilities to have effective non-discriminatory access to social protection, social advantages, health care, education and access to and supply of goods and services which are available to the public, including housing and transport,	a) The measures necessary to enable persons with disabilities to ***be consulted about their care needs and*** to have effective non-discriminatory access to social protection, social advantages, health care, education and access to and supply of goods and services which are available to

shall be provided by anticipation, including through appropriate modifications or adjustments. Such measures should not impose a disproportionate burden, nor require fundamental alteration of the social protection, social advantages, health care, education, or goods and services in question or require the provision of alternatives thereto.	the public, including housing and transport, shall be provided by anticipation, including through appropriate modifications or adjustments. Such measures should not impose a disproportionate burden, nor require fundamental alteration of the social protection, social advantages, health care, education, or goods and services in question or require the provision of alternatives thereto.

Amendment 21

Proposal for a directive
Article 4 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a The Member States shall pay particular attention to the possibility of access to electronic services for people with disabilities.

Justification

There is an increasing trend for public services to be provided via the electronic network, and yet we have no real knowledge of particular groups' ability to access these services. We need to do all in our power to prevent the exclusion of people with disabilities from the information society.

Amendment 22

Proposal for a directive
Article 4 a (new)

Text proposed by the Commission	*Amendment*
	Article 4a
	Equality of treatment under healthcare systems
	1. Subject to the principle of subsidiarity, and with due regard for Member States' competences in the area of ensuring respect for the principle of equal treatment between persons:

a) emphasis should be placed on disease prevention strategies. Preventive measures, based on scientific data, should reflect, inter alia, gender-specific concerns and other factors underlying disparities;

b) the Member States should use gender-disaggregated statistics and data in all health and medical services;

c) awareness should be increased of the different physical conditions of women and men, within all medical research and in the development of new drugs, and of the differences in the effects of medication;

d) health policy strategies need to reflect the existence of environmental factors particularly affecting vulnerable groups such as pregnant or nursing women, children, teenage girls and the disabled, whose health is specifically at risk from those hazardous environmental factors.

2. Member States shall take the necessary measures to ensure that the rights of citizens and their responsibility for their own health are promoted and safeguarded, inter alia by sponsoring health literacy programmes and encouraging all sectors of society to lead healthy lifestyles.

3. The Commission must promote targeted training programmes for medical and paramedical staff.

Amendment 23

Proposal for a directive
Article 10 - subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	The Commission shall promote training, continuous education and information measures in respect of existing legislation, aimed specifically at key stakeholders.

Amendment 24

Proposal for a directive
Article 11

Text proposed by the Commission	*Amendment*
With a view to promoting the principle of equal treatment, Member States shall encourage dialogue with relevant stakeholders, in particular non-governmental organisations**,** which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on the grounds and in the areas covered by this Directive.	With a view to promoting the principle of equal treatment, Member States shall encourage dialogue with relevant stakeholders, in particular ***professional associations representing medical and paramedical staff and*** non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on the grounds and in the areas covered by this Directive. ***The Commission shall collect, analyse and disseminate objective, comparative, reliable and relevant information, including any available research findings and best practices***.

Amendment 25

Proposal for a directive
Article 16

Text proposed by the Commission	*Amendment*
1. Member States and national equality bodies shall communicate to the Commission, by …. at the latest and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.	1. Member States and national equality bodies***, in association with the European Institute for Gender Equality,*** shall communicate to the Commission, by …. at the latest and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.
2. The Commission's report shall take into account, as appropriate, the viewpoints of the social partners and relevant non-governmental organizations, as well as the EU Fundamental Rights Agency. In	2. The Commission's report shall take into account, as appropriate, the viewpoints of the social partners and relevant non-governmental organizations, as well as ***the European Institute for Gender***

accordance with the principle of gender mainstreaming, this report shall, inter alias, provide an assessment of the impact of the measures taken on women and men. In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.

Equality and the EU Fundamental Rights Agency. In accordance with the principle of gender mainstreaming, this report shall, *inter alia*, provide an assessment of the impact of the measures taken on women and men***, especially in the areas referred to Article 3***. In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.

PROCEDURE

Title	Equal treatment of persons irrespective of religion or belief, disability, age or sexual orientation
References	COM(2008)0426 – C6-0291/2008 – 2008/0140(CNS)
Committee responsible	LIBE
Opinion by Date announced in plenary	ENVI 2.9.2008
Drafts(wo)man Date appointed	Amalia Sartori 7.10.2008
Discussed in committee	1.12.2008
Date adopted	22.1.2009
Result of final vote	+: 35 –: 3 0: 5
Members present for the final vote	Adamos Adamou, Georgs Andrejevs, Liam Aylward, John Bowis, Frieda Brepoels, Martin Callanan, Dorette Corbey, Magor Imre Csibi, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Jill Evans, Anne Ferreira, Karl-Heinz Florenz, Cristina Gutiérrez-Cortines, Satu Hassi, Jens Holm, Marie Anne Isler Béguin, Caroline Jackson, Dan Jørgensen, Christa Klaß, Urszula Krupa, Marie-Noëlle Lienemann, Peter Liese, Jules Maaten, Linda McAvan, Riitta Myller, Miroslav Ouzký, Dimitrios Papadimoulis, Vittorio Prodi, Frédérique Ries, Guido Sacconi, Daciana Octavia Sârbu, Amalia Sartori, Richard Seeber, Bogusław Sonik, María Sornosa Martínez, Thomas Ulmer, Anja Weisgerber, Glenis Willmott
Substitute(s) present for the final vote	Inés Ayala Sender, Iles Braghetto, Philip Bushill-Matthews