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AMENDMENTS
29 - 327

Draft report
Kathalijne Maria Buitenweg
(PE418.014v02-00)

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

Proposal for a directive
(COM(2008)0426 – C6-0291/2008 – 2008/0140(CNS))

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Amendment 29
Rareş-Lucian Niculescu

Proposal for a directive
Title

Text proposed by the Commission	*Amendment*
Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation	Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation***, or of any other grounds which might give rise to discrimination***

Or. ro

Justification

Designed to encompass the entire text of the legislative proposal, in view of the supplementing amendments proposed to it.

Amendment 30
Iratxe García Pérez

Proposal for a directive
Title

Text proposed by the Commission	*Amendment*
Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation	Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age***, membership of an association, gender*** or sexual orientation

Or. es

Amendment 31
Richard Howitt, Michael Cashman, Claude Moraes

Proposal for a directive
Recital 2

Text proposed by the Commission	*Amendment*
(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.	(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, ***the UN Convention on the Rights of the child,*** the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

Or. en

Justification

The United Nations Convention on the Rights of the Child is the only relevant UN convention not currently listed in this recital. There is no logical reason for the omission of this convention which is of the same standing as the other treaties mentioned here.

Amendment 32
Jean Lambert

Proposal for a directive
Recital 2

Text proposed by the Commission	*Amendment*

(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.	(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, ***the UN Convention on the Rights of the child,*** the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

Or. en

Amendment 33
Claude Moraes, Richard Howitt

Proposal for a directive
Recital 2

Text proposed by the Commission	*Amendment*

(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.	(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, ***article 14 and Optional Protocol 12*** of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

Or. en

Justification

This amendment clarifies the relevant provisions of the European Convention on Human Rights which relate to equality, namely article 14 which provides for the right to non-discrimination in the enjoyment of rights and Optional Protocol 12 which is the free-standing right to equality before the law.

Amendment 34
Marco Cappato

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission	*Amendment*

	(2a) The principle of equality and the prohibition of discrimination are general principles of international, European and national law, that bind the EU and Member States activities in all matters of their competence. This Directive contributes to reaching this aim and to overcome discrimination that is not compatible with it.

Or. en

Amendment 35
Agustín Díaz de Mera García Consuegra, Jaime Mayor Oreja

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*
(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. ***Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.***	(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular ***by the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, particularly Articles 9 and 10 thereof, and*** by the Charter of Fundamental Rights of the European Union***, particularly Article 10(2) and Articles 21 and 26 thereof.***

Or. es

Amendment 36
Jean Lambert

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*

(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.	(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; ***Article 24 gives specific rights to children;*** and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.

Or. en

Amendment 37
Claude Moraes, Richard Howitt

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*
(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.	(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; ***Article 20 provides everyone is equal before the law*****;** Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.

Or. en

Justification

The right to equality before the law is a fundamental concept to most international

Conventions and is referred to in recital 2 of the draft Directive. As the right to equality before the law is also contained in article 20 of the Charter of Fundamental Rights, it is appropriate to refer to it in recital 3. Although a further reference to it in recital 3 would not make it binding on all Member States, it would help to reinforce its importance as a general principle.

Amendment 38
Iratxe García Pérez

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*
(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.	(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age***,*** ***membership of an association, gender*** or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.

Or. es

Amendment 39
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission	*Amendment*

(3a) In particular, this Directive respects the Declaration on Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the United Nations Resolution 36/55.

Or. en

Amendment 40
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Recital 4

Text proposed by the Commission	*Amendment*
(4) The European Years of Persons with Disabilities in 2003, of Equal Opportunities for All in 2007, and of Intercultural Dialogue in 2008 have highlighted the persistence of discrimination but also the benefits of diversity.	(4) The European Years of Persons with Disabilities in 2003, of Equal Opportunities for All in 2007, and of Intercultural Dialogue in 2008 have highlighted the persistence of discrimination but also ***the need to promote*** the benefits of diversity.

Or. en

Justification

These initiatives have rather raised the awareness on the need to promote the benefits of diversity. A follow-up on these initiatives is very much needed in order to effectively promote the benefits of diversity.

Amendment 41
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission	*Amendment*

(7a) Discrimination based on religion or belief, disability, age, or sexual orientation may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity. It may also undermine the objective of developing the European Union as an area of freedom, security and justice.

Or. en

Justification

Unlike previous EU directives on equal treatment, the current proposal does not have a recital in the preamble acknowledging the significance of the principle of equal treatment in the EU law. We propose the inclusion of a new recital based on the text taken from the Race Directive (2000/43, recital 9). This text highlights the right to equal treatment as a fundamental principle in the EU and clearly establishes the relationship between equal treatment and the achievement of objectives of the EC treaty.

Amendment 42
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Recital 7 b (new)

Text proposed by the Commission	*Amendment*
	(7b) Effective legal procedures must be available to deal with situations of multiple discrimination that is where discrimination occurs on two or more grounds listed in Articles 12 and 13 EC. In particular national legal procedures shall ensure that a complainant can raise all aspects of a multiple discrimination claim in a single procedure.

Or. en

Justification

Specific procedural difficulties can arise in cases of multiple discrimination. In some states, there are separate judicial or non-judicial adjudicatory bodies for different grounds of discrimination (e.g. separate forums for claims of sex or race discrimination). In order to avoid a situation where the individual has to 'split' their claim, the amendment requires Member States to provide procedures which allow a victim of multiple discrimination to present all aspects of their case in a single legal procedure. The amendment also recognises that legal redress is only one aspect of effective protection against multiple discrimination and that complementary non-legislative means also need to be adopted.

Amendment 43
Marco Cappato

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission	*Amendment*
	(7a) This Directive also covers multiple discriminations, that is where discrimination occurs on the basis of two or more grounds listed in Articles 12 and 13 EC. Effective legal procedures must be available to deal with such situations and national legal procedures shall ensure that a complainant can raise all aspects of a multiple discrimination claim in a single procedure.

Or. en

Amendment 44
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission	*Amendment*

(7a) In its accompanying communication 'Non-discrimination and equal opportunities: A renewed commitment' of 2 July 2008 (COM(2008)0420 final), the Commission affirmed that the European Union already has one of the most advanced non-discrimination legal frameworks in the world.

Or. de

Justification

The impression that there is not sufficient protection from discrimination in the EU should be avoided.

Amendment 45
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Recital 8

Text proposed by the Commission	*Amendment*
(8) The Community has adopted three legal instruments on the basis of article 13(1) of the EC Treaty to prevent and combat discrimination on grounds of ***sex, racial and ethnic origin, religion or belief,*** disability***,*** age ***and sexual orientation.*** These instruments have demonstrated the value of legislation in the fight against discrimination. ***In particular, Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation on the grounds of religion or belief, disability, age and sexual orientation. However, variations remain between Member States on the degree and the form of protection from discrimination on these grounds beyond the areas of employment.***	(8) The Community has adopted three legal instruments1 on the basis of article 13(1) of the EC Treaty to prevent and combat discrimination on ***a number of grounds including*** on ***the*** grounds of disability ***and*** age***.*** These instruments have demonstrated the value of legislation in the fight against discrimination.

Or. en

Amendment 46
Sophia in 't Veld

Proposal for a directive
Recital 8

Text proposed by the Commission	*Amendment*
(8) The Community has adopted three legal instruments on the basis of article 13(1) of the EC Treaty to prevent and combat discrimination on grounds of sex, racial and ethnic origin, religion or belief, disability, age and sexual orientation. These instruments have demonstrated the value of legislation in the fight against discrimination. ***In particular***, Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation ***on the grounds of religion or belief, disability, age and sexual orientation.*** However, variations remain between Member States on the degree and the form of protection from discrimination on these grounds beyond the areas of employment.	(8) The Community has adopted three legal instruments on the basis of article 13(1) of the EC Treaty to prevent and combat discrimination on grounds of sex, racial and ethnic origin, religion or belief, disability, age and sexual orientation. These instruments have demonstrated the value of legislation in the fight against discrimination. ***Directive 2000/43/EC establishes a framework against discrimination based on racial or ethnic origin inside and outside the labour market. Directive 2004/113/EC establishes a framework for equal treatment between men and women in the access to and supply of goods and services.*** Directive 2000/78/EC establishes ***for the grounds of religion or belief, disability, age and sexual orientation*** a general framework for equal treatment in employment and occupation. However, variations remain between Member States on the degree and the form of protection from discrimination on these grounds beyond the areas of employment.

Or. en

Justification

Important to make reference to the other anti-discrimination directives, but also that variations remain between Member States regarding discrimination on these grounds beyond employment.

Amendment 47
Marie Panayotopoulos-Cassiotou

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 disability ***or*** age in a range of areas outside the labour market, including housing. It should provide for measures to ensure the equal access of persons with disabilities to the areas covered.

Or. en

Amendment 48
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Recital 9

Text proposed by the Commission	*Amendment*
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.	Therefore, legislation should prohibit discrimination based on religion, 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.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal

treatment on the basis of belief might be misused by extremist groups. See the same authors' amendments to Recitals 13, 21 and 23 and Articles 1, 2(2)(b), 5 and 12(1).

Amendment 49
Emine Bozkurt, Claudio Fava, Stavros Lambrinidis, Michael Cashman, Claude Moraes, Lissy Gröner, Inger Segelström, Armando França, Iratxe García Pérez, Maria Grazia Pagano

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 ***sex, racial or ethnic origin,*** 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.

Or. en

Amendment 50
Sophia in 't Veld

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 ***sex, racial or ethnic origin*** 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.

Or. en

Justification

To avoid discrimination based on sex to start falling behind the other grounds, it should be included in this recital.

Amendment 51
Iratxe García Pérez

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***, membership of an association, gender*** 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.

Or. es

Amendment 52
Claude Moraes, Richard Howitt

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission	*Amendment*

(9a) In this Directive, goods should be taken to be those within the meaning of the provisions of the Treaty establishing the European Community relating to the free movement of goods. Services should be taken to be those within the meaning of article 50 of the Treaty.

Or. en

Justification

It is important to make it clear what the meaning of goods and services is within the Directive. The proposed recital is based on the wording of recital 11 in the Gender Goods and Services Directive 2004/113/EC.

Amendment 53
Mario Mauro, Stefano Zappalà

Proposal for a directive
Recital 10

Text proposed by the Commission	*Amendment*
(10) Directive 2000/78/EC prohibits discrimination in access to vocational training; it is necessary to complete this protection by extending the prohibition of discrimination to education which is not considered vocational training.	(10) Directive 2000/78/EC prohibits discrimination in access to vocational training; it is necessary to complete this protection by extending the prohibition of discrimination to education which is not considered vocational training***, with due regard for religious freedom and with the exception of those forms of education which are based on specific religions or personal beliefs***.

Or. it

Amendment 54
Marco Cappato

Proposal for a directive
Recital 11

Text proposed by the Commission	*Amendment*
(11) This Directive should be without prejudice to the competences of the Member States in the areas of education, social security and health care. It should also be without prejudice to the essential role and wide discretion of the Member States in providing, commissioning and organising services of general economic interest.	***deleted***

Or. en

Amendment 55
Patrick Gaubert

Proposal for a directive
Recital 11

Text proposed by the Commission	*Amendment*
(11) This Directive ***should be*** without prejudice to the competences of the Member States in the areas of education***,*** social security and health care. It ***should*** also ***be*** without prejudice to the essential role and wide discretion of the Member States in providing, commissioning and organising services of general economic interest.	(11) This Directive ***is*** without prejudice to ***the exercise of*** the competences of the Member States in the areas of education ***and social protection, including*** social security and health care. It ***is*** also without prejudice to the essential role and wide discretion of the Member States in providing, commissioning and organising services of general economic interest.

Or. en

Amendment 56
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 12

Text proposed by the Commission	*Amendment*

(12) Discrimination is understood to include direct and indirect discrimination, harassment, instructions to discriminate and denial of reasonable accommodation.	(12) Discrimination***, including multiple discrimination,*** is understood to include direct and indirect discrimination, harassment, instructions to discriminate, denial of reasonable accommodation***, discrimination based on assumptions and discrimination by association.***

Or. en

Amendment 57
Evangelia Tzampazi, Stavros Lambrinidis

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission	*Amendment*
	(12a) Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers, whether environmental or attitudinal, may hinder their full and effective participation in society on an equal basis with others.

Or. en

Amendment 58
Emine Bozkurt, Claudio Fava, Stavros Lambrinidis, Evangelia Tzampazi, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission	*Amendment*

(12a) Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Or. en

Justification

Reference is made to the preambulair text of the UN Convention on the rights of persons with disabilities, paragraph e: "Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others." This wording is restated in article 1 (Purpose):"The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."

Amendment 59
Patrick Gaubert

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission	*Amendment*
	(12a) Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.

Or. en

Amendment 60

Elizabeth Lynne

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission	*Amendment*
	(12a) Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers, whether environmental or attitudinal, may hinder their full and effective participation in society on an equal basis with others.

Or. en

Amendment 61
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission	*Amendment*
	(12a) Owing to the excessive burden on small and medium-sized enterprises (SMEs), they should be afforded special protection, following the model of the US Civil Rights Act.

Or. de

Justification

Small businesses are excluded from the American anti-discrimination legislation laid down in the 1964 Civil Rights Act, owing to the heavy administrative and financial burden and also situations which are difficult to assess in legal terms.

Amendment 62
Alexander Alvaro

Proposal for a directive

Recital 12 b (new)

Text proposed by the Commission	*Amendment*
	(12b) Owing to the excessive burden on small and medium-sized enterprises (SMEs), they should be afforded special protection, following the model of the US Civil Rights Act.

Or. de

Justification

Small businesses are excluded from the American anti-discrimination legislation laid down in the 1964 Civil Rights Act, owing to the heavy administrative and financial burden and also situations which are difficult to assess in legal terms.

Amendment 63
Elizabeth Lynne

Proposal for a directive
Recital 12 b (new)

Text proposed by the Commission	*Amendment*
	(12b) Discrimination on the grounds of disability includes discrimination on the grounds that a person is accompanied by or assisted by a recognised guide dog or assistance dog which has been trained in accordance with either the International Guide Dog Federation or Assistance Dogs International standards.

Or. en

Amendment 64
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Stavros Lambrinidis, Evangelia Tzampazi, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 12 b (new)

Text proposed by the Commission	*Amendment*
	(12b) Effective non-discriminatory access can be provided by a variety of means, including through "design for all" and through facilitating the use of assistive devices by persons with disabilities, including aids to mobility and access.

Or. en

Amendment 65
Kathalijne Maria Buitenweg

Proposal for a directive
Recital 12 b (new)

Text proposed by the Commission	*Amendment*
	(12b) Effective non-discriminatory access can be provided by a variety of means, including through "design for all" and through facilitating the use of assistive devices by persons with disabilities, including aids to mobility and access.

Or. en

Amendment 66
Sophia in 't Veld

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission	*Amendment*
	(12b) Effective non-discriminatory access can be provided by a variety of means, including through "design for all" and through facilitating the use of assistive devices by persons with disabilities, including aids to mobility and access.

Or. en

Amendment 67
Emine Bozkurt, Claudio Fava, Claude Moraes, Armando França, Inger Segelström, Lissy Gröner, Iratxe García Pérez, Maria Grazia Pagano

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) ***As discrimination can occur on multiple grounds***, in implementing the principle of equal treatment, the Community should, in accordance with ***Articles*** 3(2) ***and 13*** of the EC Treaty, aim to eliminate inequalities ***relating to sex, race or ethnic origin, disability, sexual orientation, religion or belief, or age, or a combination of these,*** and to promote equality, ***whatever combination of the above mentioned characteristics. When implementing the provisions of this Directive, Member States should take into account*** multiple discrimination.

Or. en

Justification

This extends the current recital 13 which refers to multiple discrimination experienced by women to cover all the grounds contained in Article 13.

Amendment 68
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

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, 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.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal treatment on the basis of belief might be misused by extremist groups. See the same authors' amendments to Recitals 9, 13, and 23 and Articles 1, 2(2)(b), 5 and 12(1).

Amendment 69
Iratxe García Pérez

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***, membership of an association, gender*** 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.

Or. es

Amendment 70
Sylvia-Yvonne Kaufmann

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission	*Amendment*
	(13a) In the implementation of this directive and when judging complaints of discrimination, there should be as much awareness as possible of multiple discrimination, taking account not only of religion or belief, disability, sexual orientation or age, but also of gender and of racial and ethnic origin.

Or. de

Amendment 71
Evangelia Tzampazi, Stavros Lambrinidis

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission	*Amendment*
	(14a) Differences in treatment related to age and disability may be permitted if they are objectively and reasonably justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. Such differences of treatment may include, for example, special age conditions regarding access to certain goods or services such as alcoholic drinks, arms, or driving licences. The promotion of the economic, cultural or social integration of young or older persons or persons with disabilities is regarded as a legitimate aim. Therefore measures related to age and disability which set more favourable conditions than are available to others, such as free or reduced tariffs for the use of public transport, museums, or sport facilities, are presumed to be compatible with the principle of non-discrimination.

Or. en

Amendment 72
Elizabeth Lynne

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission	*Amendment*
	(14a) Differences in treatment related to age and disability may be permitted if they are objectively and reasonably justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. Such differences of treatment may include, for example, special age conditions regarding access to certain goods or services such as alcoholic drinks, arms, or driving licences. The promotion of the economic, cultural or social integration of young or older persons or persons with disabilities is regarded as a legitimate aim. Therefore measures related to age and disability which set more favourable conditions than are available to others, such as free or reduced tariffs for the use of public transport, museums, or sport facilities, are presumed to be compatible with the principle of non-discrimination.

Or. en

Amendment 73
Patrick Gaubert

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission	*Amendment*

	(14a) Differences in treatment in connection with age and disability may be permitted under certain circumstances if they are objectively and reasonably justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. Such differences of treatment may include, for example, special age conditions regarding access to certain goods or services such as alcoholic drinks, arms, or driving licences. A legitimate aim may also be the promotion of the economic, cultural or social integration of young or old persons or persons with disabilities. Therefore, measures setting more favourable conditions for these persons, such as free or reduced fares for transport, museums, or sports facilities, are presumed to be compatible with the principle of non-discrimination.

Or. en

Amendment 74
Inger Segelström

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*

(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***key*** factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***directly determining*** factors for the assessment of risk. ***The disabled and the elderly should, however, have the right to feel secure and, therefore, be able to avail themselves of insurance , banking and other financial services to the same extent as the rest of the population. Charges and premiums may not be unjustified but should be demonstrably fair and reasonable; otherwise, the directive should apply. Neither should increased charges and premiums for insurance, banking and other financial services entail a large proportion of the individuals concerned being unable to afford to buy or subscribe to the service concerned.***

Or. sv

Justification

Far too many companies refer to increases in costs to justify rising premiums, prices and charges. The rising premiums, prices and charges must, however, be on a par with the actual additional cost and must not be a way of earning easy money for the companies.

Amendment 75
Claude Moraes

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*

(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***key*** factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***determining*** factors for the assessment of risk***, and where the service provider can demonstrate higher risk by actuarial, statistical or other bona fide evidence upon which it is reasonable to rely. Any data used must be reliable, regularly updated and available to the public.***

Or. en

Justification

This amendment draws on the wording of the equivalent provision in the Goods and Services Directive 2004/113/EC, but places the requirement to demonstrate that the information relied upon to justify differential treatment on service providers rather than Member States. The amendment proposed is slightly broader than the equivalent provisions in the Gender Goods and Services Directive in that it permits service providers to rely on other bona fide evidence where it is reasonable to do so.

Amendment 76
Michael Cashman, Claude Moraes

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*
(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***key*** factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***determining*** factors for the assessment of risk***, and where the service provider can fully demonstrate significantly higher risks, by recent relevant and accurate statistical or actuarial data.***

Or. en

Justification

This recital is used to reinforce the provisions in Article 2(7).

Amendment 77
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*
(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors ***are*** shown to be key factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors ***can be*** shown to be key factors for the assessment of risk.

Or. de

Justification

In their risk assessments insurers must be able to make use of a wide range of information, including statistical data or medical experience. They must also take actuarial principles into account in order to meet the requirements of supervisory law. Restricting these sources of information makes the proper assessment of risk impossible and leads to increased premiums. A Member State option breaches the principle of EU-wide equal treatment and also constitutes a barrier to the internal market.

Amendment 78
Alexander Alvaro

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*

(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors ***are*** shown to be key factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors ***can be*** shown to be key factors for the assessment of risk.

Or. de

Amendment 79
Patrick Gaubert

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*
(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be key factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where ***such*** factors are shown to be ***determining*** factors for the assessment of risk.

Or. en

Amendment 80
Emine Bozkurt, Claudio Fava, Claude Moraes, Armando França, Inger Segelström, Lissy Gröner, Stavros Lambrinidis, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*

(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be key factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***determining*** factors for the assessment of risk.

Or. en

Amendment 81
Sylvia-Yvonne Kaufmann

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*
(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***key*** factors for the assessment of risk.	(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be ***decisive*** factors for the assessment of risk.

Or. de

Amendment 82
Richard Howitt, Michael Cashman, Claude Moraes

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission	*Amendment*

(15a) The award of contracts concluded in the Member States on behalf of the State, regional or local authorities and other bodies governed by public law entities, is subject to the respect of the principles of the Treaty and in particular to the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and to the principles deriving therefrom, such as the principle of equal treatment, the principle of non discrimination, the principle of mutual recognition, the principle of proportionality and the principle of transparency. Legal requirements on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts having been laid down by the Directive 2004/18/EC, so that the award of contracts concluded in the Member States on behalf of the State, regional or local authorities and other bodies governed by public law entities, is subject to the respect of the principles of the EC Treaty and in particular to the principle of equal treatment irrespective of sex, race or ethnic origin, disability, sexual orientation, religion or belief or age and the principle of non discrimination. However, for public contracts above a certain value, provisions of Community coordination of national procedures for the award of such contracts have been drawn up so as to guarantee the opening-up of public procurement to competition. Member States should interpret these coordinating provisions in accordance with the principles of equal treatment irrespective of sex, race or ethnic origin, disability, sexual orientation, religion or belief or age and other rules of the Treaty.

Or. en

Justification

This recital reference recognises the use of public procurement as a positive tool in promoting anti-discrimination and is based on recital 2 of the procurement directive 2004/18/EC.

Amendment 83
Marco Cappato

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional or commercial activity.	***deleted***

Or. en

Amendment 84
Patrick Gaubert

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) All individuals enjoy ***the*** freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive ***should*** not apply to ***economic*** transactions undertaken by individuals for whom these transactions do not constitute their professional or commercial activity.	(16) All individuals enjoy ***complete*** freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive ***does*** not apply to transactions undertaken by individuals for whom these transactions do not constitute their professional or commercial activity. ***In this context the concept of professional or commercial activity must be defined in accordance with national laws and Member States' practice.***

Or. fr

Amendment 85
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) ***All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional or commercial activity.***	(16) ***It is important, in the context of the access to and provision of goods and services, to respect the protection of private and family life and transactions carried out in this context.***

Or. en

Justification

The text proposed as an amendment is taken from the Race Directive (2000/43, recital 4). It would arguably allow for the protection of private and family life in relation to transactions carried out in the provisions of goods and services, while limiting the scope of exemptions to this Directive. This text would also contribute to consistency of interpretation between EU directives on equal treatment. Limiting the application of the Directive to professional or commercial activities would de facto imposing more exceptions than those already openly included in the text. It would mean for example that a young person could be refused to rent a flat just because he/she is young or he/she is a student etc if this renting does not constitute a professional activity for the owner (of if the financial gain from this transaction does not constitute a considerable part of the owner's revenue).

Amendment 86
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*

(16) All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional ***or commercial*** activity.	(16) All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional activity.

Or. de

Justification

A restriction on commercial activity is an impermissible encroachment on freedom of contract. Tenancies, in particular, should be excluded from the scope of the directive, taking into account the fact that privacy is concerned in the case of e.g. tenancies in someone's own house.

Amendment 87
Alexander Alvaro

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional ***or commercial*** activity.	(16) All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional activity.

Or. de

Amendment 88
Marco Cappato

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission	*Amendment*

	(16a) Discrimination has a negative impact on the economy, as the use of non-economic criteria leads to the exclusion of certain categories of persons, with negative economic and social consequences for everybody. Economic contracts and the choice of contractual partners for an economic transaction shall consequently be balanced with the principle of equality, non-discrimination and the Lisbon objectives.

Or. en

Amendment 89
Inger Segelström

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*
(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. ***This Directive is without prejudice to national laws on marital or family status, including on reproductive rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.***	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. .

Or. sv

Justification

This approach differs from other EU directives. There is no reason at all to emphasise in what way the Member States may discriminate against their citizens.

Amendment 90
Marco Cappato

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*
(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life ***and transactions carried out in that context, the*** freedom of religion, and ***the*** freedom of association. This Directive is without prejudice to ***national laws on marital or family status, including on reproductive rights. It is also without prejudice to*** the secular nature of the State, state institutions or bodies, or education.	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life, freedom of religion and freedom of association. This Directive is without prejudice to the secular nature of the State, state institutions or bodies, or education.

Or. en

Amendment 91
Patrick Gaubert

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*
(17) ***While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association.*** This Directive ***is without prejudice to national laws on marital or family status, including on reproductive rights***. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.	(17)This Directive ***does not apply to matters covered by family law, including marital status, and laws on reproductive rights.*** It is also without prejudice to the secular nature of the State, state institutions or bodies, or education. ***Moreover, this Directive is without prejudice to the powers of the Member States to organise their social security and health care schemes in such a way as to guarantee their sustainability.***

Or. en

Amendment 92
Agustín Díaz de Mera García Consuegra, Jaime Mayor Oreja

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*
(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive ***is without prejudice to national laws on marital or family status, including on reproductive rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.***	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion***, freedom of expression*** and the freedom of association. This Directive ***does not apply to national legislation on marital or family status, including adoption and the rights deriving therefrom, or to the organisation and content of education, which fall under the competence of the Member States. The Directive does not require Member States to amend their legislation or practices in these respects.***

Or. es

Amendment 93
Thomas Mann

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*

(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive ***is without prejudice*** to national ***laws on*** marital or family ***status, including on reproductive rights***. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, ***the freedom of expression*** and the freedom of association. This Directive ***does not apply*** to national marital or family ***law, or to benefits that are dependent thereon***. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.

Or. de

Justification

Die Formulierung "findet keine Anwendung" macht deutlich, dass die betreffenden Bereiche vom Anwendungsbereich der Richtlinie ausgenommen sind. Die Kompetenz zu diesbezüglicher Gesetzgebung verbleibt bei den Mitgliedstaaten, die Richtlinie hat keinerlei Auswirkungen auf die Ausübung dieser Kompetenz durch die Mitgliedstaaten. Durch diese Formulierung werden sprachliche Unklarheiten beseitigt und damit dem Prinzip der Normenklarheit genüge getan. Die EU besitzt keine Gesetzgebungskompetenzen im Bereich des Ehe- und Familienrechts. Nach ihrem Erwägungsgrund 22 berührt die Richtlinie 2000/78/EG vom Familienstand „abhängige Leistungen" nicht. Um Kohärenz herzustellen, sollte die neue Richtlinie diesen Erwägungsgrund vergleichbar fassen und auch die "hiervon abhängigen Leistungen" explizit in den Wortlaut des Erwägungsgrunds mit aufnehmen. Der Begriff der „reproduktiven Rechte" ist inhaltlich nur sehr unzureichend belegt und auf internationaler Ebene stark umstritten, ein entsprechend aner.

Amendment 94
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*

(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. ***This Directive is without prejudice to national laws on marital or family status, including on reproductive rights.*** It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education

Or. en

Justification

This freedom is already protected and this article just confirms the already existing status quo.

Amendment 95
Sophia in 't Veld

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*
(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is ***without prejudice to national laws on marital or family status, including on reproductive rights. It is also*** without prejudice to the secular nature of the State, state institutions or bodies, or education.	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is without prejudice to the secular nature of the State, state institutions or bodies, or education.

Or. en

Justification

This reference is not required.

Amendment 96
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*
(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is without prejudice to national laws on marital or family status, including on reproductive rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of ***thought, conscience and*** religion, ***the freedom of speech*** and the freedom of association. This Directive is without prejudice to national laws on marital or family status, including on reproductive rights. It is without prejudice to the secular nature of the State, state institutions or bodies, or education.

Or. en

Amendment 97
Mario Mauro, Stefano Zappalà

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*

(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is without prejudice to ***national laws*** on ***marital*** or family status, including on reproductive rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is without prejudice to ***the competences of the Member States*** on ***civil*** or family status, including on reproductive rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.

Or. it

Amendment 98
Manfred Weber, Patrick Gaubert, Anja Weisgerber

Proposal for a directive
Recital 17

Text proposed by the Commission	*Amendment*
(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is without prejudice to national laws on marital or family status, including on reproductive rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.	(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is without prejudice to national laws on marital or family status ***and the value thereof***, including on reproductive ***and adoption*** rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.

Or. de

Justification

Marriage in its traditional form, the family and the related task of bringing up children merit special protection. With a view to safeguarding the well-being of children as effectively as possible and scrutinising the care provided by parents, adoption agencies must be able to

draw on various sources of information, such as biographies, certificates of good conduct and health certificates. Differences in treatment on duly substantiated, objective grounds are not in themselves discriminatory, but often instead reflect the imperative to do what is right or best.

Amendment 99
Mario Mauro, Stefano Zappalà

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission	*Amendment*
	(17a) On the basis of the subsidiarity principle, the Member States shall be responsible for determining, in line with their respective constitutional requirements, the conditions governing the enjoyment and loss of rights pertaining to civil, marital and family status and the rights and duties deriving from possession of such status. However, this Directive shall be without prejudice to national rules governing the legal consequences deriving from recognition of such status.

Or. it

Amendment 100
Patrick Gaubert

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission	*Amendment*

(17a) In accordance with the aim and the scope of the present Directive and of previous Directives adopted on the same legal basis, this Directive seeks to prohibit discrimination on the grounds of religion or belief, age, disability and sexual orientation in relation to the access to social protection, including social security and healthcare; social advantages; education; and the access to, and the supply of, goods and other services which are available to the public, including housing. The Member States retain their general competences in these areas.

Or. en

Amendment 101
Marco Cappato

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission	*Amendment*
	(17a) The principle of equality implies that discriminations based on sexual orientation shall be prohibited in Member States, notably as regards national laws on marital, family and civil status, including sexual and reproductive health and rights.

Or. en

Amendment 102
Marco Cappato

Proposal for a directive
Recital 17 b (new)

Text proposed by the Commission	*Amendment*

(17b) As also held by the Court of Justice, in the exercise of their competences in the fields of marital, family and civil status, Member States must comply with Community law and, in particular, with the provisions relating to the principle of equality and non-discrimination.

Or. en

Amendment 103
Marco Cappato

Proposal for a directive
Recital 17 c (new)

Text proposed by the Commission	*Amendment*
	(17c) This Directive will also contribute to the full application of the fundamental right to freedom of movement, conferred upon Union citizens and their families by the Treaty, and the lifting of discriminatory obstacles related to differences in national laws on the basis of marital, family and civil status and the consequent absence of mutual recognition.

Or. en

Amendment 104
Marco Cappato

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*

(18) ***Member States are responsible for the organisation and content of education.*** The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. ***In particular national law may provide for differences in access to educational institutions based on religion or belief. Member States may also allow or prohibit the wearing or display of religious symbols at school.***	(18) The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs.

Or. en

Amendment 105
Inger Segelström

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*
(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. ***Member States may also allow or prohibit the wearing or display of religious symbols at school.***	(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief.

Or. sv

Justification

This approach differs from other EU directives. There is no reason at all to emphasise in what way the Member States may discriminate against their citizens.

Amendment 106
Patrick Gaubert

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*
(18) Member States are responsible for the organisation and content of education***. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. Member States may also allow or prohibit the wearing or display of religious symbols at school.***	(18) Member States are responsible for the organisation and content of education. ***This Directive does not apply to the content of teaching or activities and the organisation of national educational systems, including the provision of special needs education.***

Or. en

Amendment 107
Claude Moraes, Richard Howitt

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*

(18) Member States are responsible for the organisation and content of education***. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. Member States may also allow or prohibit the wearing or display of religious symbols at school.***	(18) Member states are responsible for the organisation and content of education. ***However, the provisions of this Directive shall apply to private education as it is a service. With respect to public education, non discrimination provisions shall apply to the extent of EU competence as set out in the Treaty of Rome.***

Or. en

Justification

It should be made clear that although Member States have competence in the organisation and content of education, the principal of non discrimination should be upheld in these areas in accordance with EC competences as set out in Articles 3 and 133(6), the heading to Title XI, the heading to Chapter 3 of Title XI and Articles 149, 150, 152 and 153 of TEC. Further, private education falls within services as set out in Article 50 TEC and therefore will be covered by the non discrimination provisions.

Amendment 108
Michael Cashman, Claude Moraes, Richard Howitt

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*

(18) Member States ***are*** responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. ***In particular national law may provide for differences in access to educational institutions based on religion or belief. Member States may also allow or prohibit the wearing or display of religious symbols at school.***	(18) Member States, ***being*** responsible for the organisation and content of education, ***should ensure effective protection against discrimination on the ground of religion or belief, disability, age or sexual orientation in the field of education.*** The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. ***In the exercise of their discretion, in the area of equal treatment in education, on grounds of religion and belief, Member States must ensure that this does not lead to a denial of the right to education nor to discrimination on any other ground.***

Or. en

Justification

The principle according to which discrimination is unacceptable in the field of education should be reiterated. The fact that the competence for organising education lies with Member States should not be used as justification for allowing the denial of the right to education or discrimination in this field.

Amendment 109
Emine Bozkurt, Claudio Fava, Claude Moraes, Armando França, Lissy Gröner, Stavros Lambrinidis, Evangelia Tzampazi, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*

(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. ***In particular national law*** may ***provide*** for differences in access to educational institutions based on religion or belief. ***Member States may also allow or prohibit the wearing or display of religious symbols at school.***	(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. ***Notwithstanding the right to education, Member States*** may ***allow*** for differences in access to educational institutions based on religion or belief ***when to require individuals, only on the basis of objective justifications, to act in good faith and with loyalty to the organization's ethos and should not justify discrimination on any other ground.***

Or. en

Amendment 110
Carlo Casini, Iles Braghetto

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*
(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. ***Member States may also allow or prohibit*** the wearing or display of religious symbols ***at school***.	(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. ***This Directive shall not apply to national laws concerning*** the wearing or display of religious symbols ***in state schools***.

Or. it

Justification

The EU is not competent to adopt a position on the display of religious symbols in schools and on whether or not they may be worn.

Amendment 111
Richard Howitt, Michael Cashman, Claude Moraes

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*
(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. . Member States may also allow or prohibit the wearing or display of religious symbols at school	(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief***, provided that alternative systems are put in place and are geographically accessible to prevent indirect discrimination***. Member States may also allow or prohibit the wearing or display of religious symbols at school.

Or. en

Justification

This amendment seeks to ensure that geographical distance and access does not indirectly discriminate in relation to access to educational institutions based on religion or belief.

Amendment 112
Marian Harkin

Proposal for a directive
Recital 18

Text proposed by the Commission	*Amendment*
(18) Member States ***are*** responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. . Member States may also allow or prohibit the wearing or display of religious symbols at school.	(18) Member States ***being*** responsible for the organisation and content of education, ***shall ensure adequate protection against discrimination in the field of education.*** The Commission Communication on competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. Member States may also allow or prohibit the wearing or display of religious symbols at school.

Or. en

Amendment 113
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Stavros Lambrinidis, Evangelia Tzampazi, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 19

Text proposed by the Commission	*Amendment*

(19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. ***Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on Rights of Persons with Disabilities.***	(19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations.

Or. en

Justification

This recital is separated in two, so two non related issues are not combined in one article. A new recital is proposed to cover the text on disability.

Amendment 114
Marco Cappato

Proposal for a directive
Recital 19

Text proposed by the Commission	*Amendment*

(19) ***The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations.*** Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on Rights of Persons with Disabilities.	(19) ***The right to freedom of religion and belief is a fundamental right that shall be fully guaranteed in the EU and in Member States, and this Directive reinforces the protection against discriminations based on grounds of religion and belief by individuals, churches and non-confessional organisations, in application of the principle of equality.*** Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on Rights of Persons with Disabilities.

Or. en

Amendment 115
Michael Cashman, Claude Moraes

Proposal for a directive
Recital 19

Text proposed by the Commission	*Amendment*

(19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. ***Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden.*** In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on Rights of Persons with Disabilities.	(19) ***Prohibiting discrimination is an important part for the respect of fundamental rights and freedom including the protection of private and family life, the freedom of religion, and the freedom of association.*** The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. ***The directive respects the ability of Member States to use national legislation to ensure the secular nature of the state.*** In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on Rights of Persons with Disabilities.

Or. en

Justification

The proposed amendment places the recognition of the limits of EU competence in this area clearly within the framework of fundamental rights and recognises the status of the proposed Directive as a fundamental rights instrument that not only respects but implements fundamental rights and respects the competence of the Member States.

Amendment 116
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Recital 19

Text proposed by the Commission	*Amendment*
(19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on the Rights of Persons with Disabilities.	(19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. ***This Directive therefore respects national legislation guaranteeing their status and activities and shall not apply thereto.*** Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on the Rights of Persons with Disabilities.

Or. de

Justification

Recital 19 incorporates the Declaration on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty (Declaration No 11). The consequences of that inclusion for the scope of the directive should also be reflected in the text.

Amendment 117

Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Stavros Lambrinidis, Evangelia Tzampazi, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission	*Amendment*
	(19a) Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden.

Or. en

Amendment 118
Maria Grazia Pagano

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 persons of a particular religion or belief, disability, age or sexual orientation***, or having a combination of these specific characteristics, and persons associated with them. This may be accompanied by measures designed to promote equal treatment and equal opportunities which take account of the gender dimension and affirmative actions aimed at meeting the special needs of persons or categories of persons who, because of their characteristics, require structures, services and assistance not required by others***. Such measures ***shall be accompanied by the establishment of independent*** 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. Or. it

Justification

It is important for the Member States to take affirmative action to combat discrimination.

Amendment 119
Marie Panayotopoulos-Cassiotou

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 disability or age. Such measures may permit organisations of persons of a particular disability or age where their main object is the promotion of the special needs of those persons.

Or. en

Amendment 120
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

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, disability, age or sexual orientation. Such measures may permit organisations of persons of a particular religion, disability, age or sexual orientation where their main object is the promotion of the special needs of those persons.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal treatment on the basis of belief might be misused by extremist groups. See the same authors'

amendments to Recitals 9, 13, and 23 and Articles 1, 2(2)(b), 5 and 12(1).

Amendment 121
Iratxe García Pérez

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***, membership of an association, gender*** or sexual orientation. Such measures may permit organisations of persons of a particular religion or belief, disability, age***, gender*** or sexual orientation where their main object is the promotion of the special needs of those persons.

Or. es

Amendment 122
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Recital 23

Text proposed by the Commission	*Amendment*

(23) Persons who have been subject to discrimination based on ***religion or belief,*** disability***,*** age ***or sexual orientation*** should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should be empowered to engage in proceedings, including on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.

(23) Persons who have been subject to discrimination based on disability or age should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should be empowered to engage in proceedings, including on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.

Or. en

Amendment 123
Iratxe García Pérez

Proposal for a directive
Recital 23

Text proposed by the Commission	*Amendment*
(23) Persons who have been subject to discrimination based on religion or belief, disability, age or sexual orientation should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should be empowered to engage in proceedings, including on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.	(23) Persons who have been subject to discrimination based on religion or belief, disability, age***, membership of an association, gender*** or sexual orientation should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should be empowered to engage in proceedings, including on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.

Or. es

Amendment 124
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Recital 23

Text proposed by the Commission	*Amendment*
(23) Persons who have been subject to discrimination based on religion ***or belief***, disability, age or sexual orientation should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should be empowered to engage in proceedings, including on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.	(23) Persons who have been subject to discrimination based on religion, disability, age or sexual orientation should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should be empowered to engage in proceedings, including on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal treatment on the basis of belief might be misused by extremist groups. See the same authors' amendments to Recitals 9, 13, and 21 and Articles 1, 2(2)(b), 5 and 12(1).

Amendment 125
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Recital 24

Text proposed by the Commission	*Amendment*

(24) The rules on the burden of proof must be adapted when there is a prima facie case of discrimination and, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the respondent when evidence of such discrimination is brought. However, it is not for the respondent to prove that the plaintiff ***adheres to a particular religion or belief,*** has a particular disability***,*** is of a particular age ***or has a particular sexual orientation***.	(24) The rules on the burden of proof must be adapted when there is a prima facie case of discrimination and, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the respondent when evidence of such discrimination is brought. However, it is not for the respondent to prove that the plaintiff has a particular disability ***or*** is of a particular age.

Or. en

Amendment 126
Iratxe García Pérez

Proposal for a directive
Recital 24

Text proposed by the Commission	*Amendment*
(24) The rules on the burden of proof must be adapted when there is a prima facie case of discrimination and, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the respondent when evidence of such discrimination is brought. However, it is not for the respondent to prove that the plaintiff adheres to a particular religion or belief, has a particular disability, is of a particular age or has a particular sexual orientation.	(24) The rules on the burden of proof must be adapted when there is a prima facie case of discrimination and, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the respondent when evidence of such discrimination is brought. However, it is not for the respondent to prove that the plaintiff adheres to a particular religion or belief, has a particular disability, is of a particular age***, is a member of a particular association, is of a particular gender*** or has a particular sexual orientation.

Or. es

Amendment 127
Maria Grazia Pagano

Proposal for a directive
Recital 27

Text proposed by the Commission	*Amendment*
(27) Experience in applying Directives 2000/43/EC and 2004/113/EC show that protection from discrimination on the grounds covered by this Directive would be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims.	(27) Experience in applying Directives 2000/43/EC***, 2000/78/EC*** and 2004/113/EC show that protection from discrimination on the grounds covered by this Directive would be strengthened by the existence of ***an independent*** body or bodies in each Member State, ***for each of the various factors of discrimination,*** with competence to analyse the problems involved, to study possible solutions***,*** ***provide information and training*** and to provide concrete assistance for the victims***, including in cases of multiple discrimination so that persons who consider themselves to be victims of multiple discrimination can choose which body to apply to - and also appoint to defend them in judicial or administrative proceedings***.

Or. it

Justification

Reference should also be made to Directive 78/2000 with reference to the responsibilities of the new bodies and mention should be made of the problem of multiple discrimination.

Amendment 128
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 1

Text proposed by the Commission	*Amendment*
This Directive lays down a framework for combating discrimination on the grounds of religion or belief, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.	***1.*** This Directive lays down a framework for combating discrimination***, including multiple discrimination,*** on the grounds of religion or belief, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.

2. Multiple discrimination occurs when discrimination is

(a) on any combination of the grounds of religion or belief, disability, age, or sexual orientation, or

(b) any one or more of the grounds set out in Article 1(1), and also on the ground of any one or more of

(i) sex (in so far as the matter complained of is within the material scope of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services as well as this Directive),

(ii) racial or ethnic origin (in so far as the matter complained of is within the material scope of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin as well as this Directive), or

iii) nationality (in so far as the matter complained of is within the scope of Article 12 EC).

3. In this Directive multiple discrimination and multiple grounds shall be construed accordingly.

Or. en

Justification

In recent years, research has increasingly recognised the phenomenon of multiple discrimination. The structure of anti-discrimination legislation often creates barriers to dealing with this in a comprehensive fashion. EU legislation has created separate rules for race and ethnicity, religion and belief, age, disability, sexual orientation and gender even these are frequently intertwined. Having the same level of legal protection as the Racial Equality Directive, but covering the grounds of religion or belief, disability, age and sexual orientation is therefore an essential starting point for addressing multiple discrimination. Alongside the overlap between religion and ethnicity, it is also evident that religion is closely connected to nationality. Many Muslim, Sikh, Hindu and other religious minority communities in Europe are composed of third country nationals or their descendents.

Therefore, discrimination on grounds of nationality may be difficult to disentangle from discrimination based on religion or ethnicity. This has been recognised in ECRI's recommendation on national legislation to combat racism; it calls for comprehensive laws prohibiting discrimination on ethnic origin, religion and nationality. At the same time, simply having a new Directive on all four grounds will not be sufficient. Difficulties can arise with the manner in which EU Directives are transposed into national legislation. Member States remain free to implement the Directives via separate legislation for each discrimination ground, or to create different avenues for enforcement. For example, in Austria, the Equal Treatment Commission is divided into three 'senates': one dealing with gender discrimination in employment; one dealing with discrimination in employment on grounds of racial or ethnic origin, religion or belief, age and sexual orientation; and one dealing with discrimination outside employment on grounds of racial or ethnic origin. Separate institutional structures exist in relation to disability. It is therefore essential that the Directive explicitly confronts the issue of multiple discrimination and requires Member States to address this in their national legal frameworks.

Amendment 129
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 1

Text proposed by the Commission	*Amendment*
This Directive lays down a framework for combating discrimination on the grounds of religion or belief, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.	***1.*** This Directive lays down a framework for combating discrimination***, including multiple discrimination,*** on the grounds of religion or belief, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation. ***2. Multiple discrimination occurs when discrimination is*** ***(a) on any combination of the grounds of religion or belief, disability, age, or sexual orientation, or*** ***(b) any one or more of the grounds set out in Article 1(1), and also on the ground of any one or more of***

(i) sex (in so far as the matter complained of is within the material scope of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services as well as this Directive),

(ii) racial or ethnic origin (in so far as the matter complained of is within the material scope of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin as well as this Directive), or

3. In this Directive multiple discrimination and multiple grounds shall be construed accordingly.

Or. en

Justification

In recent years, research has increasingly recognised the phenomenon of multiple discrimination. The structure of anti-discrimination legislation often creates barriers to dealing with this in a comprehensive fashion. EU legislation has created separate rules for race and ethnicity, religion and belief, age, disability, sexual orientation and gender even these are frequently intertwined. Having the same level of legal protection as the Racial Equality Directive, but covering the grounds of religion or belief, disability, age and sexual orientation is therefore an essential starting point for addressing multiple discrimination. Alongside the overlap between religion and ethnicity, it is also evident that religion is closely connected to nationality. Many Muslim, Sikh, Hindu and other religious minority communities in Europe are composed of third country nationals or their descendents. Therefore, discrimination on grounds of nationality may be difficult to disentangle from discrimination based on religion or ethnicity. This has been recognised in ECRI's recommendation on national legislation to combat racism; it calls for comprehensive laws prohibiting discrimination on ethnic origin, religion and nationality. At the same time, simply having a new Directive on all four grounds will not be sufficient. Difficulties can arise with the manner in which EU Directives are transposed into national legislation. Member States remain free to implement the Directives via separate legislation for each discrimination ground, or to create different avenues for enforcement. For example, in Austria, the Equal Treatment Commission is divided into three 'senates': one dealing with gender discrimination in employment; one dealing with discrimination in employment on grounds of racial or ethnic origin, religion or belief, age and sexual orientation; and one dealing with discrimination outside employment on grounds of racial or ethnic origin. Separate institutional structures exist in relation to disability. It is therefore essential that the Directive explicitly confronts the

issue of multiple discrimination and requires Member States to address this in their national legal frameworks.

Amendment 130
Rareş-Lucian Niculescu

Proposal for a directive
Article 1

Text proposed by the Commission	*Amendment*
This Directive lays down a framework for combating discrimination on the grounds of religion or belief, disability, age, ***or*** sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.	This Directive lays down a framework for combating discrimination on the grounds of religion or belief, disability, ***non-contagious chronic disorders, HIV/AIDS,*** age, sexual orientation, ***income or appurtenance to a social class,*** with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.

Or. ro

Justification

Not all chronic disorders that might give rise to discrimination are considered to be disabilities. The criterion of appurtenance to a social class is intended to prevent discrimination on grounds of class.

Amendment 131
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Article 1

Text proposed by the Commission	*Amendment*

This Directive lays down a framework for combating discrimination on the grounds of ***religion or belief,*** disability***,*** age***, or sexual orientation,*** with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.	This Directive lays down a framework for combating discrimination on the grounds of disability ***or*** age with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.

Or. en

Amendment 132
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 1

Text proposed by the Commission	*Amendment*
This Directive lays down a framework for combating discrimination on the grounds of religion ***or belief***, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.	This Directive lays down a framework for combating discrimination on the grounds of religion, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal treatment on the basis of belief might be misused by extremist groups. See the same authors' amendments to Recitals 9, 13, 21 and 23 and Articles 2(2)(b), 5 and 12(1).

Amendment 133
Iratxe García Pérez

Proposal for a directive
Article 1

Text proposed by the Commission	*Amendment*

The main objective of the directive is to combat discrimination based on religion or belief, disability, age or sexual orientation and to put into effect the principle of equal treatment, outside the field of employment. The directive does not prohibit differences of treatment based on sex which are covered by Articles 13 and 141 of the EC Treaty and related secondary legislation.	The main objective of the directive is to combat discrimination based on religion or belief, disability, age***, membership of an association, gender*** or sexual orientation and to put into effect the principle of equal treatment, outside the field of employment. The directive does not prohibit differences of treatment based on sex which are covered by Articles 13 and 141 of the EC Treaty and related secondary legislation.

Or. es

Amendment 134
Maria Grazia Pagano

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission	*Amendment*
1. For the purposes of this Directive, the "principle of equal treatment" shall mean that there shall be no direct or indirect discrimination on any of the grounds referred to in Article 1.	1. For the purposes of this Directive, the "principle of equal treatment" shall mean that there shall be no direct or indirect discrimination***, multiple discrimination or discrimination by association***,** on any of the grounds referred to in Article 1.

Or. it

Justification

Reference should be made to the problem of multiple discrimination and discrimination by association.

Amendment 135
Rareş-Lucian Niculescu

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

Text proposed by the Commission	*Amendment*

(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on ***any*** of the grounds referred to in Article 1;	(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on ***one or more*** of the grounds referred to in Article 1***, if the aim or effect of that treatment is the denial, refusal to recognise or limitation of a legitimate right or the exercising thereof***;

Or. ro

Justification

There is a need for discrimination to be defined more strictly, and for the consequences of the 'treatment' to form part of the equation.

Amendment 136
Maria Grazia Pagano

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

Text proposed by the Commission	*Amendment*
(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on ***any*** of the grounds referred to in Article 1;	(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on ***one of more*** of the grounds referred to in Article 1;

Or. it

Amendment 137
Maria Grazia Pagano

Proposal for a directive
Article 2 – paragraph 2 – point (b)

Not applicable to the English version

Or. it

Amendment 138
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Article 2 – paragraph 2 – point (b)

Text proposed by the Commission	*Amendment*
(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of ***a particular religion or belief,*** a particular disability***,*** a particular age***, or a particular sexual orientation*** at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.	(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular disability ***or*** a particular age at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Or. en

Amendment 139
Rareş-Lucian Niculescu

Proposal for a directive
Article 2 – paragraph 2 – point (b)

Text proposed by the Commission	*Amendment*

(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons ***of a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation*** at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.	(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons ***belonging to one or more of the categories defined in accordance with the criteria set out in Article 1*** at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Or. ro

Justification

Designed to ensure the clarity of the legislative proposal.

Amendment 140
Elizabeth Lynne

Proposal for a directive
Article 2 – paragraph 2 – point (b)

Text proposed by the Commission	*Amendment*
(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.	(b) indirect discrimination shall be taken to occur when an apparently neutral provision, criterion or practice would put persons of a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation***, or persons who are associated with such persons***, at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Or. en

Amendment 141
Iratxe García Pérez

Proposal for a directive
Article 2 – paragraph 2 – point (b)

Text proposed by the Commission	*Amendment*
(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.	(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion or belief, a particular disability, a particular age***, membership of a particular association, a particular gender***, or a particular sexual orientation at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Or. es

Amendment 142
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 2 – paragraph 2 – point (b)

Text proposed by the Commission	*Amendment*
(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion ***or belief***, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.	(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal treatment on the basis of belief might be misused by extremist groups. See the same authors' amendments to Recitals 9, 13, 21 and 23 and Articles 1, 5 and 12(1).

Amendment 143
Maria Grazia Pagano

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

Text proposed by the Commission	*Amendment*
	(bb) discrimination by association shall be taken to occur when a person suffers adverse effects as a result of being directly associated with persons of a particular religion or belief, disability, age or sexual orientation. Discrimination by association shall concern persons associated – or presumed to be associated – by emotional ties – not necessarily living together and regardless of formal legal status through marriage or affiliation – with persons of a particular religion or belief, disability, age or particular sexual orientation.

Or. it

Justification

Discrimination by association needs to be defined.

Amendment 144
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	***deleted***

Or. de

Justification

'Unwanted conduct', 'intimidation' and 'harassment' are not objective, clearly defined legal terms. Assessing whether a specific case concerns 'unwanted conduct', 'intimidation' and/or 'harassment' is not straightforward in practice.

Amendment 145
Patrick Gaubert

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment ***shall*** be deemed to be a form of discrimination within the meaning of paragraph 1, ***when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment***.	3. Harassment***, as defined and recognised by the laws of the Member States, can*** be deemed to be a form of discrimination within the meaning of paragraph 1.

Or. fr

Amendment 146
Patrick Gaubert

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment ***is*** deemed to be a form of discrimination within the meaning of paragraph 1, ***when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment***.	3. Harassment***, as defined by the laws of the Member States, can be*** deemed to be a form of discrimination within the meaning of paragraph 1.

Or. fr

Amendment 147
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. ***In this context, the concepts of harassment and unwanted conduct may be defined in accordance with the national laws and practice of the Member States.***

Or. de

Justification

The concept of harassment in the new directive must be defined in a manner which is consistent with the concepts of harassment used hitherto in Directives 2000/78/EC and

2000/43/EC. The wording here must therefore be the same as that in Article 2(3) of Directives 2000/78/EC and 2000/43/EC. As the terms 'harassment' and 'unwanted conduct' are not clear legal terms, the Member States may lay down more detailed provisions.

Amendment 148
Alexander Alvaro

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. ***In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States.***

Or. de

Justification

The concept of harassment in the new directive must be defined in a manner which is consistent with the concepts of harassment used hitherto in Directives 2000/78/EC and 2000/43/EC. The wording here must therefore be the same as that in Article 2(3) of Directives 2000/78/EC and 2000/43/EC.

Amendment 149
Patrick Gaubert

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*

3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. ***In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States.***

Or. en

Justification

Reference to national laws and practices should be added in accordance with previous directive 2000/43 and 2000/78.

Amendment 150
Kathalijne Maria Buitenweg

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place ***in a closed environment*** with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. ***This shall not be withstanding the right to freedom of expression.***

Or. en

Amendment 151

Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Stavros Lambrinidis, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. ***Harassment*** shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	3. ***Notwithstanding the freedom of speech,*** harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Or. en

Amendment 152
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment ***shall*** be deemed to be a form of discrimination within the meaning of paragraph 1, when ***unwanted*** conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	3. Harassment ***may also*** be deemed to be a form of discrimination within the meaning of paragraph 1, when conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Or. de

Justification

'Unwanted conduct', 'intimidation' and 'harassment' are not objective, clearly defined legal terms. Assessing whether a specific case concerns 'unwanted conduct', 'intimidation' and/or 'harassment' is not straightforward in practice.

Amendment 153
Iratxe García Pérez

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when ***unwanted*** conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.	3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Or. es

Justification

Any conduct that involves 'violating the dignity of a person and (...) creating an intimidating, hostile, degrading, humiliating or offensive environment' is unwanted. If the word 'unwanted' is retained, it could imply that behaviour of this kind could be 'wanted' by a particular individual, and a person discriminating against an individual could therefore allege that that individual 'wanted' to be discriminated against.

Amendment 154
Maria Grazia Pagano

Proposal for a directive
Article 2 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*

	3a. Sexual harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct with sexual connotations, expressed in physical, verbal or non-verbal form, takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Or. it

Justification

Sexual harassment should be included in this directive, in particular discrimination on grounds of sexual orientation.

Amendment 155
Rareş-Lucian Niculescu

Proposal for a directive
Article 2 – paragraph 4

Text proposed by the Commission	*Amendment*
4. An instruction to discriminate against persons on any of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.	(4) An instruction ***or request, based on a hierarchical relationship,*** to discriminate against persons on any of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.

Or. ro

Justification

[First part of amendment does not affect the English version] *Covers the whole range of possible hierarchical relations within an institution.*

Amendment 156
Maria Grazia Pagano

Proposal for a directive
Article 2 – paragraph 4

Text proposed by the Commission	*Amendment*
4. An instruction to discriminate against persons on ***any*** of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.	4. An instruction to discriminate against persons on ***one or more*** of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.

Or. it

Justification

In the interests of consistency, the notion of 'multiple grounds' should also be included with reference to instructions to discriminate.

Amendment 157
Elizabeth Lynne

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

Text proposed by the Commission	*Amendment*
	4a. Discrimination within the meaning of paragraph 1 includes discrimination on the grounds that a person has, or is assumed to have, a family or other relationship with a person who has a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation.

Or. en

Amendment 158
Rareş-Lucian Niculescu

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

Text proposed by the Commission	*Amendment*
	(4a) Discriminatory conduct shall include any form of active or passive conduct, the effects of which foster direct or indirect discrimination within the meaning of paragraphs 2, 3 or 4.

Or. ro

Justification

Vindication of the marginalisation of certain groups cannot be tolerated, even in circumstances in which the perpetrator does not have the power to take decisions concerning the persons targeted.

Amendment 159
Rareş-Lucian Niculescu

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

Text proposed by the Commission	*Amendment*
	(4b) The provisions of paragraph 4a cannot be interpreted in such a way as to limit the right to freedom of expression, the right to hold an opinion or the right to information.

Or. ro

Justification

The guaranteeing of personal rights in the categories set out in Article 1 cannot conflict with the rights and fundamental freedoms under this amendment.

Amendment 160
Rareş-Lucian Niculescu

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

Text proposed by the Commission	*Amendment*
	(4c) Discrimination by association shall be considered to mean any act of discrimination committed against a person who, although not belonging to any of the categories defined in accordance with the criteria set out in Article 1, is associated with a person or persons belonging to one of those categories.

Or. ro

Justification

In many circumstances, persons associated with the categories provided for in Article 1 are subject to acts of discrimination, as their friends or colleagues, etc.

Amendment 161
Michael Cashman, Claude Moraes

Proposal for a directive
Article 2 – paragraph 5

Text proposed by the Commission	*Amendment*
5. Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities shall be deemed to be discrimination within the meaning of paragraph 1.	5. Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities***, or persons who associate with a person with a disability, where accommodation is needed to enable such person to provide personal assistance to a person with a disability,*** shall be deemed to be discrimination within the meaning of paragraph 1.

Or. en

Justification

This amendment extends the obligation to provide a reasonable accommodation to individuals who associate with a person with a disability and provide personal assistance to that person. The accommodation in question is only required where it enables an individual

to (continue) to provide personal assistance, and the amendment is designed to prevent disadvantage being experienced by the person with a disability.

Amendment 162
Maria Grazia Pagano

Proposal for a directive
Article 2 – paragraph 5

Text proposed by the Commission	*Amendment*
5. Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities shall be deemed to be discrimination within the meaning of paragraph 1.	5. Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities shall be deemed to be discrimination ***or persons associated with them*** within the meaning of paragraph 1.

Or. it

Justification

In the interests of consistency, provision should also be made in this connection for discrimination by association.

Amendment 163
Jean Lambert

Proposal for a directive
Article 2 – paragraph 5

Text proposed by the Commission	*Amendment*
5. Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities shall be deemed to be discrimination within the meaning of paragraph 1.	5. Article 2(5) Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) ***and Article 4a*** of the present Directive as regards persons with disabilities ***and young children*** shall be deemed to be discrimination within the meaning of paragraph 1.

Or. en

Amendment 164
Agustín Díaz de Mera García Consuegra, Jaime Mayor Oreja

Proposal for a directive
Article 2 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. The behaviour of a person or organisation that does not respect the principles laid down in this Directive shall not be deemed to be a form of discrimination within the meaning of paragraph 1 where such behaviour is motivated by an ethos based on religion or beliefs.

Or. es

Amendment 165
Patrick Gaubert

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*
6. ***Notwithstanding paragraph 2, Member States may provide that*** differences of treatment on grounds of age ***shall not constitute discrimination,*** if***, within the context of national law,*** they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. ***In particular, this Directive shall not preclude*** the fixing of a specific age for access to social ***benefits,*** education and certain goods or services**.**	6. ***This Directive does not preclude*** differences of treatment on grounds of age ***and disability,*** if they are ***objectively and reasonably*** justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary.

Such differences of treatment may include the fixing of a specific age for access to social ***protection, including social security and healthcare; social advantages;*** education***;*** and certain goods or services ***which are available to the public***.

The following are deemed to be compatible with the principle of non-discrimination: the setting of more favourable conditions for access to social protection, including social security and healthcare; social advantages; education; and certain goods or services which are available to the public, for young or old persons or for persons with disabilities, in order to promote their economic, cultural or social integration.

Or. en

Amendment 166
Evangelia Tzampazi, Stavros Lambrinidis

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*
6. ***Notwithstanding paragraph 2, Member States may provide that*** differences ***of*** treatment on grounds of age ***shall not constitute discrimination,*** if, ***within the context of national law,*** they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. ***In particular, this Directive shall not preclude*** the fixing of a specific age for access to social ***benefits***, education and certain goods or services.	6. ***This directive does not preclude*** differences ***in*** treatment on grounds of age ***and disability*** if they are ***objectively and reasonably*** justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. ***Such difference of treatment may include*** the fixing of a specific age for access to social ***protection, including social security and health care; social advantages;*** education***;*** and certain goods and services ***which are available to the public***.

Or. en

Amendment 167
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds ***of age*** shall not constitute discrimination***,*** if***, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary***. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.	6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on ***the*** grounds ***laid down in Article 1*** shall not constitute discrimination if ***there is an objective reason for the violation thereof***. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.

Or. de

Justification

It is not clear why differences of treatment should be possible only on the grounds of age. Article 2(6) should therefore be extended to cover all factors on which discrimination can be based. In contrast to the area of employment and work, no proportionality test is necessary.

Amendment 168
Carlo Casini, Iles Braghetto

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*

6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.	6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age***, religion or personal belief, disability and sexual orientation*** shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.

Or. it

Justification

Member States must be allowed to provide for differences of treatment under particular reasonable circumstances. The concept of discrimination varies in the law and case law of the different Member States and the latter must be able to safeguard the balance they have achieved in their respective legal systems in terms of legislation and case law.

Amendment 169
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Stavros Lambrinidis, Michael Cashman, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are ***appropriate*** and necessary. ***In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.***	6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are ***objectively*** justified by a legitimate aim, and if the means of achieving that aim are ***proportionate*** and necessary.

Or. en

Amendment 170
Marco Cappato

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. ***In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.***	6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary.

Or. en

Amendment 171
Sophia in 't Veld

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*

6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.	6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary***, and they do not create undue disadvantages for other groups***. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.

Or. en

Amendment 172
Michael Cashman, Claude Moraes

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.	6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination if, within the context of national law, they are ***objectively and reasonably*** justified by a legitimate aim and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to education and certain goods or services.

Or. en

Justification

This amendments aim at bringing further legal certainty on differences of treatment on the ground of age allowed by Member States. Indeed, the test for justification is made more stringent by this amendment as it requires objective and reasonably justification. This formulation is also consistent with article 6 of the Framework Employment Directive on differences of treatment on the ground of age.

Amendment 173
Iratxe García Pérez

Proposal for a directive
Article 2 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.	6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, ***health services,*** education and certain goods or services.

Or. es

Justification

Article 2(8) stipulates that 'this Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others'. It would be appropriate to include an explicit reference to health services in Article 2(6) as well.

Amendment 174
Michael Cashman, Claude Moraes

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*

7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit ***proportionate*** differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data.	7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data ***and the difference in treatment is objectively and reasonably justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. The Member States concerned shall inform the Commission and ensure that accurate data relevant to the use of age and disability as a determining factor are compiled, published and regularly updated. These Member States shall review their decision five years after the deadline for the transposition of the Directive, taking into account the Commission report [on the transposition of the directive] and shall forward the results of this review to the Commission.***

Or. en

Amendment 175
Claude Moraes

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*
7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit proportionate differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk ***based on relevant and accurate*** actuarial or statistical data.	7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit proportionate differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk ***and where the service provider can demonstrate higher risk by*** actuarial, statistical data ***or other bona fide evidence upon which it is reasonable to rely. Any data used must be reliable, regularly updated and available to the public.***

Or. en

Justification

This amendment draws on the wording of the equivalent provision in the Goods and Services Directive 2004/113/EC, but places the requirement to demonstrate that the information relied upon to justify differential treatment on service providers rather than Member States. The amendment proposed is slightly broader than the equivalent provisions in the Gender Goods and Services Directive in that it permits service providers to rely on other bona fide evidence where it is reasonable to do so.

Amendment 176
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*
7. Notwithstanding paragraph 2, in the provision of financial services ***Member States may permit*** proportionate differences in treatment where, for the product in question, the use of age or disability is a ***key*** factor in the assessment of risk based on relevant ***and accurate*** actuarial ***or*** statistical data.	7. Notwithstanding paragraph 2, in the provision of financial services proportionate differences in treatment where, for the product in question, the use of age or disability is a ***determining*** factor in the assessment of risk based on relevant actuarial ***principles, accurate*** statistical data ***or medical knowledge shall not be considered discrimination for the purposes of this Directive.***

Or. en

Justification

Differentiating according to the risk exposure of consumers is a vital condition in the provision of private insurance and does not constitute discrimination. When assessing risks insurers have to make use of a wide range of information, including medical knowledge. Actuarial principles must be taken into account in order to meet the requirements of supervisory law. Restricting the information sources would prevent correct risk assessment and lead to higher premiums. A Member State option breaches the principle of EU-wide equal treatment and is an obstacle to the internal market.

Amendment 177
Alexander Alvaro

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*
7. Notwithstanding paragraph 2, in the provision of financial services Member States ***may*** permit ***proportionate*** differences in treatment where, for the product in question, the use of age or disability is a ***key*** factor in the assessment of risk based on relevant and accurate actuarial or statistical data.	7. Notwithstanding paragraph 2, in the provision of financial services Member States ***shall*** permit differences in treatment where, for the product in question, the use of age or disability is a factor in the assessment of risk based***, in particular,*** on relevant and accurate actuarial or statistical data***, medical experience or actuarial principles***.

Or. de

Justification

In their risk assessments insurers must be able to make use of a range of sources of information, including statistics or medical experience. In addition, actuarial principles must also be taken into account in order to meet the requirements of supervisory law. Restricting these sources of information would hamper the proper assessment of risk and push up insurance premiums. A Member State option would breach the principle of EU-wide equal treatment and make the development of an internal market in financial services more difficult, at the consumer's expense.

Amendment 178
Patrick Gaubert

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*

7. Notwithstanding paragraph 2, in the provision of financial services ***Member States may permit*** proportionate differences in treatment where, for the product in question, the use of age or disability is a ***key*** factor in the assessment of risk based on relevant ***and*** accurate ***actuarial or*** statistical data.	7. Notwithstanding paragraph 2, in the provision of financial services proportionate differences in treatment where, for the product in question, the use of age and disability is a ***determining*** factor in the assessment of risk based on relevant ***actuarial principals,*** accurate statistical data ***or medical knowledge shall not be considered as discrimination for the purposes of this directive.***

Or. en

Amendment 179
Rareş-Lucian Niculescu

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*
7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit proportionate differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data.	(7) Notwithstanding paragraph 2, in the provision of financial services Member States may permit proportionate differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data***; such data cannot take the place of an assessment based on the individual circumstances of the person requesting financial services***.

Or. ro

Justification

Any generalised measures on the basis of the criteria set out in Article 1 must be excluded, even in the event of their being supported by statistical data.

Amendment 180
Inger Segelström

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*
7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit proportionate differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data.	7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit proportionate differences in treatment ***only*** where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data. ***These factors must, however, be clearly specified and any increases in charges or premiums must be reasonable.***

Or. sv

Justification

Far too many companies refer to increases in costs to justify rising premiums, prices and charges. The rising premiums, prices and charges must, however, be on a par with the actual additional cost and must not be a way of earning easy money for the companies.

Amendment 181
Marian Harkin

Proposal for a directive
Article 2 – paragraph 7 a (new)

Text proposed by the Commission	*Amendment*
	7a. Member States shall ensure in the case of compulsory financial services, where the product in question is required by law, that a person can not be refused access to such a service based on the grounds of their age or disability except where it can be justified by a legitimate aim or if to provide such a service would be contrary to public interest.

Or. en

Justification

This amendment is in line with the Irish Insurance Federation Declined Cases Agreement which is adhered to by all motor insurers in Ireland. In order to drive a car- by law a person is required to have motor insurance. If an elderly person or a person with a disability has legally acquired a driving licence (e.g. passed their sight test, theory test etc) under the Declined Cases Agreement the motor insurance market can not refuse to provide insurance to such an individual seeking insurance if the person has approached at least three insurers and has not been able to obtain cover from them. The only grounds on which an insurer can refuse to cover are where to provide insurance would be contrary to public interest. The agreement is administered by a Committee made up of representatives of each of the companies who have signed the agreement. The Committee also includes a representative of the Consumers Association of Ireland and the Financial Services Ombudsman's Bureau as external observers. The Committee can also decide whether a quote is so high or the terms so excessive as to make the quote tantamount to a refusal, in which case it will review the matter.

Amendment 182
Marco Cappato

Proposal for a directive
Article 2 – paragraph 8

Text proposed by the Commission	*Amendment*
8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others.	***deleted***

Or. en

Amendment 183
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 2 – paragraph 8

Text proposed by the Commission	*Amendment*
8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others.	This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary ***and proportionate*** for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others. ***It is equally without prejudice to national legislation promoting equality between men and women.***

Or. en

Justification

It is clearly important to question whether there is a legitimate need for such a blanket exception. It should be done by keeping in mind that this clause is based on ECHR language, and that it may bear significance for other grounds of discrimination. But if this clause is kept, we call on the introduction of a proportionality test. This would ensure that states would have to show that measures do not go beyond what is necessary in order to achieve this objective. We think that the without prejudice clause on gender equality legislation is better dealt with in this article than in article 3.4.

Amendment 184
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Article 2 – paragraph 8

Text proposed by the Commission	*Amendment*
8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others.	(8) This Directive is without prejudice to general measures laid down in national law which , in a democratic society, ***are subject to only such limitations as*** are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health ***or morals*** and the protection of the rights and freedoms of others.

Or. en

Amendment 185
Rareş-Lucian Niculescu

Proposal for a directive
Article 2 – paragraph 8

Text proposed by the Commission	*Amendment*
8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of ***criminal*** offences, for the protection of health and the protection of the rights and freedoms of others.	8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public ***and moral*** order and the prevention of offences, for the protection of health***, the protection of minors*** and the protection of the rights and freedoms of others.

Or. ro

Justification

The list should include measures relating to public morals and the protection of minors.

Amendment 186
Kathalijne Maria Buitenweg

Proposal for a directive
Article 2 – paragraph 8 a (new)

Text proposed by the Commission	*Amendment*
	8a. Multiple discrimination occurs, where within the scope of this Directive, a person is discriminated against on a combination of two or more of the grounds set out in this Directive.

Multiple discrimination also occurs, where within the scope of this Directive, a person is discriminated against on a combination of one or more of the grounds set out in this Directive, and, to the extent that such discrimination is also within their scope, on one or more of the grounds contained in one or more of the following Directives:

a. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin,

b. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation,
c. Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services,
d. Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).
Member States shall ensure that the means of enforcement of obligations under this Directive are available to all persons who consider themselves to be victims of discrimination on multiple grounds.
Member States shall provide that where multiple grounds are established, a claim can only be defeated by reason of a justification or other defence which is applicable to all of those grounds on which the claim is made. However if only one ground is established then the claim may be defeated by any justification or defence relevant to that ground.

Or. en

Amendment 187
Agustín Díaz de Mera García Consuegra, Jaime Mayor Oreja

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Within the limits of the powers conferred upon the Community, the prohibition of discrimination shall apply ***to all persons, as regards both the public and private sectors, including public bodies,*** in relation to:	1. Within the limits of the powers conferred upon the Community ***and in accordance with the subsidiarity and proportionality principle***, the prohibition of discrimination shall apply in relation to:

Or. es

Amendment 188
Marco Cappato

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Within the limits of the powers conferred upon the Community, the prohibition of discrimination shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:	1. Within the limits of the powers conferred upon the Community, ***and in application of the general principle of equality,*** the prohibition of discrimination shall apply to all persons, as regards both the public and private sectors, including public bodies, ***including*** in relation to:

Or. en

Amendment 189
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission	*Amendment*

1. Within the limits of the powers conferred upon the Community, the prohibition of discrimination shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:	1. Within the limits of the powers conferred upon the Community, the prohibition of discrimination shall apply to all persons, as regards both the public and private sectors, including public bodies, ***provided they are performing a professional or commercial activity,*** in relation to:

Or. de

Justification

It is unreasonable for a restriction of the scope to persons performing a professional or commercial activity to apply only to access to goods and services which are available to the public, including housing.

Amendment 190
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 3 – paragraph 1 - point c

Text proposed by the Commission	*Amendment*
(c) education;	***deleted***

Or. de

Justification

Articles 149 and 150 of the EC Treaty make it clear that responsibility for education and training lies with the Member States. The EU is restricted to coordinating, supporting and complementary measures. The wholesale extension of the scope of the directive to education proposed in Article 3(1)(c) is therefore not compatible with primary law and should be removed.

Amendment 191
Marco Cappato

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*

(d) Access to and supply of goods and other services which are available to the public, including housing.	(d) Access to and supply of goods and other services which are available to the public, including housing. ***- any other field of EU and Community competence, including implementation by Member States of EU laws and policies***
Subparagraph (d) shall apply to individuals only insofar as they are performing a professional or commercial activity.	

Or. en

Amendment 192
Patrick Gaubert

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) Access to and supply of goods and other services which are available to the public, including housing.	(d) Access to and supply of goods and other services which are available to the public, including housing. ***This directive should not apply to transactions undertaken by individuals for whom these transactions do not constitute a professional or commercial activity. In this context, the concept of professional or commercial activity may be defined in accordance with the national laws and practice of the Member states.***
Subparagraph (d) ***shall apply to individuals only insofar as they are performing a professional or commercial activity.***	Subparagraph (d) ***does not concern existing private and business buildings.***

Or. en

Amendment 193
Ewa Klamt

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) access to and supply of goods and services which are available to the public**,** ***including housing***.	(d) access to and supply of goods and services which are available to the public ***regardless of the person***.
Subparagraph (d) shall apply to individuals only *insofar* as they are performing a professional or commercial activity.	Subparagraph (d) shall apply to individuals only *in so far* as they are performing a professional or commercial activity.

Or. de

Justification

Der Schutz vor Diskriminierungen im Bereich des Zivilrechts darf nicht zu einer unverhältnismäßigen Einschränkung der Privatautonomie führen. Dies wäre der Fall, wenn auch solche Verträge von der Richtlinie erfasst würden, die auf Grund individueller Vertragsverhandlungen geschlossen werden und bei denen das Ansehen der Person von besonderer Bedeutung ist. Andernfalls müsste die Anbieterseite auch bei derartigen Rechtsgeschäften ihre dem Vertragsschluss zu Grunde liegenden Überlegungen im Einzelnen dokumentieren und ggf. gerichtlich überprüfen lassen. Dies wäre ein unzumutbarer Eingriff in die verfassungsrechtlich gewährleistete Vertragsfreiheit. Hieran vermag auch der Umstand nichts zu ändern, dass Artikel 3 Abs. 1 Buchstabe d nur Unternehmen verpflichten soll. Die Vertragsfreiheit gehört zu den grundlegenden Prinzipien unserer Rechtsordnung, in deren Genuss selbstverständlich auch kommt, wer zu beruflichen oder gewerblichen Zwecken handelt. Es wird daher vorgeschlagen, das zivilrechtliche Benachteiligungsverbot auf sog. „Massengeschäfte" zu beschränken, die typischerweise ohne Ansehung der Person geschlossen werden.

Amendment 194
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*

(d) Access to and supply of goods and other services which are available to the public, including housing. ***Subparagraph (d) shall apply to individuals only insofar as they are performing a professional or commercial activity***.	(d) Access to and supply of goods and other services which are available to the public, including housing.

Or. en

Justification

While it is important to protect article 3 (1)(a) to (d), we ask for deletion of the qualifier to subparagraph (d). First, this sentence introduces an exemption which is not included in the Race Directive. It also creates a double limitation to the scope of the directive given that subparagraph (d) already limits the application of the directive to goods and other services which are "available to the public". Moreover, there are concerns about reference to "professional or commercial activity" which creates uncertainty and ambiguity.

Amendment 195
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Michael Cashman, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) Access to and supply of goods and other services which are available to the public, including housing. ***Subparagraph (d) shall apply to individuals only insofar as they are performing a professional or commercial activity***.	(d) Access to and supply of goods and other services which are available to the public, including housing.

Or. en

Amendment 196
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) access to and supply of goods and services which are available to the public, including housing.	(d) access to and supply of goods and services which are available to the public, including housing.
Subparagraph (d) shall apply to individuals only insofar as they are performing a professional or commercial activity.	

Or. de

Justification

It is impossible to understand why restricting the scope to persons performing a professional or commercial activity should apply only to access to goods and services which are available to the public, including housing.

Amendment 197
Manfred Weber, Patrick Gaubert, Thomas Mann

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) access to and supply of goods and services which are available to the public, including housing.	(d) access to and supply of goods and services which are available to the public, including housing.
Subparagraph (d) shall apply to ***individuals only insofar as they are performing a professional or commercial activity***.	Subparagraph (d) shall ***not*** apply to ***existing private and business premises***.

Or. de

Justification

Special consideration must be given to small and medium-sized enterprises (SMEs) with a view to exempting existing premises.

Amendment 198

Alexander Alvaro

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) Access to and supply of goods and other services which are available to the public, including housing.	d) Access to and supply of goods and other services which are available to the public, including housing.
Subparagraph (d) shall apply to ***individuals only insofar as they are performing a professional or*** commercial ***activity***.	Subparagraph (d) shall ***not*** apply to ***existing private and*** commercial ***premises***.

Or. de

Justification

Particular attention must be paid to small- and medium-sized undertakings (SMUs), with a view to ensuring that their continued existence is not jeopardised.

Amendment 199
Patrick Gaubert

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) Access to and supply of goods and other services which are available to the public, including housing.	(d) Access to and supply of goods and other services which are available to the public, including housing.
Subparagraph (d) shall apply to individuals only insofar as they are performing a professional or commercial activity.	Subparagraph (d) ***does not concern existing private and business buildings.***

Or. en

Amendment 200
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) Access to and supply of goods and other services which are available to the public, including housing.	(d) Access to and supply of goods and other services which are available to the public, including housing.
Subparagraph (d) shall apply to individuals only insofar as they are performing a professional ***or commercial*** activity.	Subparagraph (d) shall apply to individuals only insofar as they are performing a professional activity.

Or. de

Justification

Any restriction of commercial activity represents unacceptable interference with the principle of freedom of contract. In particular, landlord and tenant relationships should be excluded from the scope of the directive, given that they have a bearing on privacy, for example in an individual's own home. See also the same authors' amendment to Recital 16.

Amendment 201
Patrick Gaubert

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
(d) Access to and supply of goods and other services which are available to the public, including housing.	(d) Access to and supply of goods and other services which are available to the public, including housing.
Subparagraph (d) shall apply to individuals only insofar as they are performing a professional or commercial activity.	Subparagraph (d) ***doesn't cover transactions between private individuals acting in a private capacity.***

Or. en

Amendment 202
Rareş-Lucian Niculescu

Proposal for a directive
Article 3 – paragraph 1 - point d

Text proposed by the Commission	*Amendment*
d) Access to and supply of goods and other services which are available to the public, including housing.	d) Access to and supply of goods and other services which are available to the public, including housing.
Subparagraph (d) shall apply to ***individuals*** only insofar as they are performing a professional or commercial activity.	Subparagraph (d) shall apply to ***natural persons*** only insofar as they are performing a professional or commercial activity.

Or. ro

Justification

Legislative rigour

Amendment 203
Rareş-Lucian Niculescu

Proposal for a directive
Article 3 – paragraph 1 - point d a (new)

Text proposed by the Commission	*Amendment*
	(da) Participation in social activity.

Or. ro

Justification

Those identified under the criteria set out in Article 1 must enjoy full participation in social life.

Amendment 204
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive is without prejudice to national laws on marital or family status and reproductive rights.	***deleted***

Or. en

Justification

There is no precedent for introducing this kind of exception in the operative paragraph of an Article 13 directive. This article creates inconsistencies with Directive 2000/78 which included a similar exception only in its recital (recital 22). Moreover, this broad exception is not consistent with case law from the ECJ (Maruko - C-267/06) and the European Court of Human Rights (E.B. v. France; Karner v. Austria).

Amendment 205
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Michael Cashman, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive is without prejudice to national laws on marital or family status and reproductive rights.	***deleted***

Or. en

Amendment 206
Marco Cappato

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive is without prejudice to national laws on marital or family status and reproductive rights.	***deleted***

Or. en

Amendment 207
Maria Grazia Pagano

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. ***This Directive is without prejudice to national laws on marital or family status and reproductive rights***.	2. ***Without prejudice to the competence of the Member States for matters relating to marital or family status and reproductive rights, this Directive shall apply to de facto partnerships and civil unions, where these are recognised by the laws of the Member States, and to the social benefits deriving therefrom.***

Or. it

Justification

A reference to this should be included to comply with the case law of the Court of Justice.

Amendment 208
Manfred Weber, Patrick Gaubert, Anja Weisgerber

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive is without prejudice to national ***laws*** on ***marital or*** family status and reproductive rights.	2. This Directive is without prejudice to national ***legislation*** on ***marriage,*** family status ***and the benefits dependent thereon*** and reproductive rights.

Or. de

Justification

The stipulation that the directive is without prejudice to national laws on marriage or family status is in principle self-evident and declaratory, since the directive does not lay down provisions relating to civil status. For that reason, it should be made clear that national laws providing benefits linked to marital or family status are unaffected by the directive. Recital 22 of Directive 2000/78/EC contains an appropriate formulation, which should be taken over here.

Amendment 209
Patrick Gaubert

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive ***is without prejudice to national laws on*** marital ***or family*** status and reproductive rights.	2. This Directive ***does not apply to matters covered by family law, including*** marital status***,*** and ***laws on*** reproductive rights

Or. en

Amendment 210
Thomas Mann

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive ***is without prejudice*** to national ***laws on*** marital or family ***status and reproductive rights***.	2. This Directive ***shall not apply*** to national marital or family ***law and the benefits dependent thereon***.

Or. de

Justification

See justification for the amendment to Recital 17.

Amendment 211
Manfred Weber, Patrick Gaubert, Anja Weisgerber

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*

2. This Directive is without prejudice to national laws on marital or family status and reproductive rights.	2. This Directive is without prejudice to national laws on marital or family status ***and their importance*** and reproductive ***and adoption*** rights.

Or. de

Justification

Marriage in its traditional form, the family and the related task of bringing up children merit special protection. With a view to safeguarding the well-being of children as effectively as possible and scrutinising the care provided by parents, adoption agencies must be able to draw on various sources of information, such as biographies, certificates of good conduct and health certificates. Differences in treatment on duly substantiated, objective grounds are not in themselves discriminatory, but often instead reflect the imperative to do what is right or best.

Amendment 212
Mario Mauro, Stefano Zappalà

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Directive is without prejudice to national laws on marital or family status and reproductive rights.	2. This Directive is without prejudice to national laws on ***civil,*** marital or family status and reproductive rights***, which fall within the competence of the Member States***.

Or. it

Amendment 213
Mario Mauro, Stefano Zappalà

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. The preceding paragraph is without prejudice to Member States' policies regarding access and provision of services relating to reproduction, contraception and abortion.

Or. it

Amendment 214
Marie Panayotopoulos-Cassiotou

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of thought, conscience and religion, the freedom of speech and the freedom of association.

Or. en

Amendment 215
Mario Mauro, Stefano Zappalà

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. This directive is without prejudice to Member States' competences concerning the introduction or continuation of policies to promote the institution of the family as traditionally understood.

Or. it

Justification

This amendment is tabled in the light of the ECHR decision of 20 April 2008 in the Burden vs UK case.

Amendment 216
Marco Cappato

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. This Directive applies also in relation to national laws on marital, family and civil status and sexual and reproductive health and rights.

Or. en

Amendment 217
Marco Cappato

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.	***deleted***

Or. en

Amendment 218
Patrick Gaubert

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*

3. This Directive ***is without prejudice*** to ***the responsibilities of Member States for*** the content of teaching, activities and the organisation of ***their*** educational systems, including the provision of special needs education. ***Member States may provide for differences in treatment in*** access to educational institutions based on religion or belief.	3. This Directive ***does not apply*** to the content of teaching ***or*** activities and the organisation of ***national*** educational systems, including the provision of special needs education. ***This Directive is without prejudice to conditions based on religion or belief in respect of*** access to educational institutions, ***the ethos of which is*** based on religion or belief, ***in accordance with national laws, traditions and practice. It is also without prejudice to national measures authorising or prohibiting the wearing of religious symbols.***

Or. en

Amendment 219
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, ***including the provision of special needs education***. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.	3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching and the organisation of their educational systems, ***Member States shall ensure that, in determining which form of education or training is appropriate, the views of the person with a disability are respected. Where the person is a child or adult who is unable to represent himself, the views of their parents, guardians or designated advocates will be considered as a significant factor.*** Member States may provide for ***necessary and proportionate*** differences in treatment ***based on a person's religion or belief*** in access to educational institutions ***whose ethos is*** based on religion or belief ***where this is necessary to protect religious ethos of the educational institution and does not lead to a violation of the right to education - or discrimination on any other ground.***

Or. en

Justification

Explicit exclusion of special needs education from the scope of the Directive will result in the de facto denial of access to education for many people with disabilities. It is important that the right to an education takes precedence over the school's right to choose its pupils. Where there is no local alternative, a religious school must be obliged to take all local pupils, without consideration of their religion. This amendment also intends to ensure that appropriate education options are provided to people with disabilities.

Amendment 220
Rareş-Lucian Niculescu

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.	3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. Member States may provide for differences in treatment in access to educational institutions based on religion or belief. ***Where separate educational institutions are set up:***
	(a) their object shall not be to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities if the institutions are conducted in accordance with that objective and if the education provided conforms to such standards as may be laid down or approved by the competent authorities in particular for education of the same level;

(b) if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down by or approved by the competent authorities, in particular for education of the same level; and

(c) if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard and afford the opportunity to take the same of equivalent courses of study.

Or. ro

Justification

The wording of this amendment is the same as that of the UNESCO Convention against Discrimination in Education (1960).

Amendment 221
Stavros Lambrinidis, Evangelia Tzampazi

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, ***including the provision of special needs education***. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.	3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, ***while ensuring the rights of persons with disabilities to education without discrimination and on the basis of equal opportunities***. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.

Or. en

Justification

Amendment aims to ensure the right to inclusive education for persons with disabilities.

Amendment 222
Elizabeth Lynne

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organization of their educational systems, ***including the provision of special needs education***. Member States may provide differences in treatment in access to educational institutions based on religion or belief.	3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching and the organisation of their educational systems***, while realizing the rights of persons with disabilities to education without discrimination and on the basis of equal opportunities***. Member States may provide differences in treatment in access to educational institutions based on religion or belief.

Or. en

Amendment 223
Alexander Alvaro

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive ***is without prejudice*** to ***the responsibilities of Member States for*** the content of teaching, activities and the organisation of ***their*** educational systems***, including the provision of special needs education***. Member States may provide for differences in treatment in access to educational institutions based on religion ***or belief***.	3. This Directive ***shall not apply*** to the content of teaching, activities and the organisation of ***national*** educational systems. Member States may provide for differences in treatment in access to educational institutions based on religion.

Or. de

Amendment 224

Thomas Mann

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive ***is without prejudice*** to ***the responsibilities of Member States for*** the content of teaching, activities and the organisation of ***their*** educational systems***, including the provision of special needs education***. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.	3. This Directive ***shall not apply*** to the content of teaching, activities and the organisation of ***national*** educational systems. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.

Or. de

Justification

The wording 'shall not apply to' makes absolutely clear that the areas in question are excluded from the scope of the directive. Legislative competence in this area remains with the Member States, and the directive has no bearing whatsoever on the exercise of that competence. This wording makes for linguistic, and therefore legal, clarity.

Amendment 225
Inger Segelström

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. ***Member States may provide for differences in treatment in access to educational institutions based on religion or belief.***	3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education.

Or. sv

Justification

The Directive does not clarify what type of differences in treatment in access are involved or which individuals may be treated differently. The sentence should therefore be deleted.

Amendment 226
Emine Bozkurt, Claudio Fava, Claude Moraes, Armando França, Stavros Lambrinidis, Michael Cashman, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. Member States may ***provide for*** differences in treatment in access to educational institutions based on religion or belief.	3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. ***Notwithstanding the right to education***, Member States may ***allow for*** differences in treatment in access to educational institutions based on religion or belief ***when to require individuals, only on the basis of objective justifications, to act in good faith and with loyalty to the organization's ethos and should not justify discrimination on any other ground***.

Or. en

Amendment 227
Mario Mauro, Stefano Zappalà

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*

3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. Member States may provide for differences in treatment in access to educational institutions based on religion or belief	3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. Member States may provide for differences in treatment in access to educational institutions based on religion or belief ***and in the recruitment of teaching staff to such institutions, both schools and universities***.

Or. it

Amendment 228
Marco Cappato

Proposal for a directive
Article 3 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. This Directive applies also to the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education, as well as in relation to differences in treatment in access to educational institutions based on religion or belief.

Or. en

Amendment 229
Marco Cappato

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*

4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, ***or concerning the status and activities of churches and other organisations based on religion or belief***. It is equally without prejudice to national legislation promoting equality between men and women.	4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education. It is equally without prejudice to national legislation promoting equality between men and women. ***The status and activities of churches and other organisations based on religion or belief is covered by the directive.***

Or. en

Amendment 230
Claude Moraes, Richard Howitt

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*
4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.	4. This Directive is without prejudice to national legislation the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion and belief ***where this falls outside the competence of the EU. Where the activities of churches or other organisations based on religion and belief fall within EU competence, they will be subject to the EU's non discrimination provisions.*** It is equally without prejudice to national legislation promoting equality between men and women.

Or. en

Justification

Where a church or organisation based on religion and belief is carrying out activities which fall within the TEC - for example, where they are providing commercial services (services for remuneration) as in Article 50 - these activities should be covered by the Directive's non discrimination provisions.

Amendment 231
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*
4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between ***men and women.***	4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between ***males and females.***

Or. en

Justification

The change here reflects that the terms "men" and "women" contain an assumption of age, whereas the terms they are replaced with "male" and "female" do not contain any such assumption of age.

Amendment 232
Thomas Mann

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*
4. This Directive ***is without prejudice*** to national ***legislation*** ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.	4. This Directive ***shall not apply*** to national ***law*** ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.

Or. de

Justification

The wording 'shall not apply to' makes absolutely clear that the areas in question are excluded from the scope of the directive. Legislative competence in this area remains with the Member States, and the directive has no bearing whatsoever on the exercise of that competence. This wording makes for linguistic, and therefore legal, clarity.

Amendment 233
Iratxe García Pérez

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*
4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status ***and*** activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.	4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status**,** activities ***and legal framework*** of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.

Or. es

Justification

The legal framework of churches and other organisations based on religion or belief varies.

Amendment 234
Mario Mauro, Stefano Zappalà

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*

4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.	4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches***, religious communities*** and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.

Or. it

Amendment 235
Csaba Sógor

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*
4) This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation ***promoting*** equality between men and women.	4) This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation ***ensuring*** equality between men and women.

Or. hu

Amendment 236
Marco Cappato

Proposal for a directive
Article 3 – paragraph 5

Text proposed by the Commission	*Amendment*

5. This Directive ***does not cover*** differences of treatment based on nationality and ***is without prejudice to*** provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.	5. This Directive ***covers also the application of asylum and immigration laws by the EU and the Member States, such as*** differences of treatment based on nationality and provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.

Or. en

Amendment 237
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 3 – paragraph 5

Text proposed by the Commission	*Amendment*
5. This Directive does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, ***and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.***	5. This Directive does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States.

Or. en

Justification

This amendment would limit the discrimination experienced by third country nationals and stateless persons when accessing goods and services as well as health and education provision.

Amendment 238
Inger Segelström

Proposal for a directive

Article 3 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. This Directive is without prejudice to the right of publicists to refuse advertisements from individuals, parties and organisations that do not share democratic values, and from individuals, parties or organisations that do not share the political orientation on which the newspaper is founded.

Or. sv

Justification

Publicists should have the right to refuse advertisements from individuals, parties and organisations that do not share the values on which the newspaper is founded. The Directive should not, therefore, apply in this area.

Amendment 239
Patrick Gaubert, Thomas Mann, Manfred Weber

Proposal for a directive
Article 3 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. The advertising and media sector shall be excluded from the scope of this Directive.

Or. de

Justification

This amendment seeks to prevent unjustified violations of press and media freedom. The legal situation regarding the rejection of media advertising, which is both balanced and consistent with actual practice, thus remains unchanged and consistency with the directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services (2004/113/EC), which came into force in 2004, is maintained.

Amendment 240
Alexander Alvaro

Proposal for a directive
Article 3 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. The advertising and media sector shall be excluded from the scope of this Directive.

Or. de

Justification

This amendment seeks to prevent unjustified violations of press and media freedom. The legal situation regarding the rejection of media advertising, which is both balanced and consistent with actual practice, thus remains unchanged and consistency with the directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services (2004/113/EC), which came into force in 2004, is maintained.

Amendment 241
Rareş-Lucian Niculescu

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Access to public places for persons or groups of persons falling within a category identified in accordance with the criteria set out in Article 1 may not be prevented.

Or. ro

Justification

Persons identified in accordance with the criteria set out in Article 1 must enjoy full participation in social life.

Amendement 242
Michael Cashman, Claude Moraes

Proposal for a directive
Article 4 – title

Text proposed by the Commission	*Amendment*
*Equal treatment **of persons with** disabilities*	*Equal treatment **on grounds of** disabilities*

Or. en

Justification

All the proposed areas are as important to persons with disabilities as 'housing and transport', originally proposed by the Commission, and should be explicitly included. The exception of 'fundamental alteration' should apply to specific goods and services, not to the whole scope of the Directive – the proposed amendment makes that clear and explicit.

Amendment 243
Maria Grazia Pagano

Proposal for a directive
Article 4 – title

Text proposed by the Commission	*Amendment*
Equal treatment ***of persons with disabilities***	Equal treatment ***and disability***

Or. it

Justification

Equal treatment needs to refer to both persons with disabilities and their carers.

Amendment 244
Maria Grazia Pagano

Proposal for a directive
Article 4 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities:	1. In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities ***and those connected to them or caring for them***:

Or. it

Justification

Equal treatment needs to refer to both persons with disabilities and their carers.

Amendment 245
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Iratxe García Pérez, Maria Grazia Pagano

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***, 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.***	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, shall be provided by anticipation, including through appropriate modifications or adjustments.

Or. en

Justification

The measures by anticipation called for in this article can hardly impose an undue or

disproportionate burden. Practices, policies, procedures and measures which are ´inclusive` from the start will not raise additional costs. The restriction ´unless this would impose a ´disproportionate burden` on the obligation to provide a reasonable accommodation in individual cases (200/78/EC) is not fit to be used in terms of general inclusive measures by anticipation.

Amendement 246
Michael Cashman, Claude Moraes

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***, 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.***	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 ***telecommunication, information, including information in accessible formats, financial services, culture and leisure, buildings open to the public, transport modes and other public spaces and facilities*** shall be provided by anticipation, including through appropriate modifications or adjustments. Such measures should not impose a disproportionate burden, nor require fundamental alterations ***to nature of the goods or services in question or the nature of the trade, profession or business in question. An alteration is fundamental if it so alters the goods or services or the nature of the trade, profession or business, to the extent that the provider of the goods or services is effectively providing a completely different kind of goods or services.***

Or. en

Justification

All the proposed areas are as important to persons with disabilities as 'housing and transport', originally proposed by the Commission, and should be explicitly included. The exception of 'fundamental alteration' should apply to specific goods and services, not to the whole scope of the Directive – the proposed amendment makes that clear and explicit.

Amendment 247
Manfred Weber, Patrick Gaubert, Thomas Mann

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***, 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.***	(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 ***telecommunications, electronic communication, information, also in accessible formats, modes of transport and other public spaces and facilities***, 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 ***nature of the*** goods ***or*** services in question ***or of the nature of the trade, profession or undertaking in question. An alteration shall be regarded as fundamental if it alters the goods or services or the nature of a trade, profession or undertaking to such an extent that the provider of the goods or services is effectively providing a completely different kind of good or service. Extensive alterations to existing private and business premises shall constitute a disproportionate burden. In addition, Member States may determine what modifications or adjustments are to be considered appropriate.***

Or. de

Justification

'Disproportionate burden' is an undefined legal term which will create considerable legal uncertainty. In each individual case a proportionality assessment will be carried out after the event, even though an undertaking must be able to assess in advance with legal certainty whether building work is necessary or disproportionate.

Amendment 248
Patrick Gaubert

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***, 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***.	(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 ***telecommunications, electronic communication and information, as well as in accessible formats and means of transport, and other public spaces and institutions***. Such measures should not impose a disproportionate burden, *or* require ***substantial*** alteration of the ***nature of the goods or services involved. An alteration shall be substantial if the good or service offered by the provider is entirely changed in terms of its purpose or destination***. ***Major restructuring of premises or an extension to a building shall constitute a disproportionate burden***.

Or. fr

Amendment 249
Alexander Alvaro

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***, 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.***	(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 ***telecommunications, electronic communication, information, also in accessible formats, modes of transport and other public spaces and facilities***, 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 ***nature of the*** goods ***or*** services in question ***or of the nature of the trade, profession or undertaking in question. An alteration shall be regarded as fundamental if it alters the goods or services or the nature of a trade, profession or undertaking to such an extent that the provider of the goods or services is effectively providing a completely different kind of good or service. Extensive alterations to existing private and business premises shall constitute a disproportionate burden. In addition, Member States may determine what modifications or adjustments are to be considered appropriate.***

Or. de

Justification

'Disproportionate burden' is an undefined legal term which will create considerable legal uncertainty. In each individual case a proportionality assessment will be carried out after the event, even though an undertaking must be able to assess in advance with legal certainty whether building work is necessary or disproportionate.

Amendment 250
Jeanine Hennis-Plasschaert

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, 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.	(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, shall be provided by anticipation. ***If effective non-discriminatory access is hampered by existing practices and/or procedures, measures must be taken to remove the obstacle, gradually or otherwise.*** 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.

Or. nl

Justification

In the case of new measures, account should (and can) be taken in advance of the cost of making facilities accessible to all. As regards existing practice (policy and/or procedures), measures must be taken to eliminate their discriminatory character, gradually if necessary. It is not reasonable to demand complete adjustment in one go.

Amendment 251
Csaba Sógor

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, 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.	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***,*** transport ***and access to public institutions***, 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.

Or. hu

Amendement 252
Sophia in 't Veld

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, 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 alternative thereto.***	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, shall be provided by anticipation, including through appropriate modifications or adjustments. ***Where discrimination arises from practice, policy or procedure, measures need to be taken so that it no longer has that effect.*** Such measures should not impose a disproportionate burden, nor require fundamental ***alternative to the nature of the goods, services, trade, profession or business in question.***

Or. en

Amendment 253
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 4 – paragraph 1 – point a a (new)

Text proposed by the Commission	*Amendment*
	(aa) No breach of the ban on disadvantaging individuals shall be deemed to have occurred if there is an objective reason justifying a difference in treatment on grounds of religion or belief, disability, age or sexual orientation. In particular, this may be the case if the difference in treatment
	1. is intended to rule out risks or prevent damage or to serve other, similar purposes,
	2. takes account of the requirement to protect privacy or personal safety,
	3. offers special advantages and there can be no interest in enforcing equal treatment.
	In connection with the rental of housing, different treatment with a view to establishing and maintaining socially stable tenancy patterns and balanced settlement structures and balanced economic, social and cultural conditions shall be admissible.

Or. de

Justification

Differences in treatment are not in themselves discriminatory. In many cases they reflect objective imperatives (e.g. restrictions on access to dangerous services, such as roundabouts, in keeping with the duty to make premises safe, maintenance of the balanced sociocultural/ethnic structure of a district). There may perfectly well be other objective reasons for such a decision. A general clause is needed, therefore, which makes provision for

differences in treatment on objective grounds.

Amendement 254
Sophia in 't Veld

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

Text proposed by the Commission	*Amendment*
b. ***Notwithstanding the obligation to ensure*** effective non-discriminatory access ***and where needed in a particular case,*** reasonable accommodation shall be provided unless this would impose a disproportionate burden.	b. ***For the purposes of paragraph 1,*** effective non-discriminatory access ***involves the identification and elimination of obstacles and barriers and the prevention of new obstacles and barriers that hamper the access of persons with disabilities to goods, services and facilities available to the general public, irrespective of the nature of the obstacles, barrier or disability. Subject to the provisions of this Directive, and regardless of the measures chosen to remove the obstacles or barriers, effective non-discriminatory access for persons with disabilities must be provided under the same terms and conditions as for persons without disabilities wherever possible. Where effective non-discriminatory access cannot be provided under the same terms and conditions and subject to the provisions of this Directive,*** reasonable accommodation shall be provided unless this would impose a disproportionate burden.

Or. en

Amendement 255
Patrick Gaubert

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

Text proposed by the Commission	*Amendment*

b) ***Notwithstanding*** the obligation to ensure effective non-discriminatory access and where needed in a particular case, reasonable accommodation shall be provided unless this would impose a disproportionate burden.	b) ***Without prejudice to*** the obligation to ensure effective non-discriminatory access and where needed in a particular case, reasonable accommodation shall be provided unless this would impose a disproportionate burden. ***For the purposes of this provision, "reasonable accommodation" means measures needed in a particular case to enable a person with a disability to have access to and enjoy or exercise on an equal basis with others rights concerning social protection, including social security and health care, social advantages, education and access to goods and services in the meaning of Article 3, paragraph 1.***

Or. en

Amendement 256
Inger Segelström

Proposal for a directive
Article 4 – paragraph 1 – point b a (new)

Text proposed by the Commission	*Amendment*

(ba) For the purposes of paragraph 1, effective non-discriminatory access involves the identification and elimination of obstacles and barriers and the prevention of new obstacles and barriers that hamper the access of persons with disabilities to goods, services and facilities available to the general public, irrespective of the nature of the obstacles, barrier or disability. Subject to the provisions of this Directive, and regardless of the measures chosen to remove the obstacles or barriers, effective non-discriminatory access for persons with disabilities must be provided under the same terms and conditions as for persons without disabilities wherever possible. Where effective non-discriminatory access cannot be provided under the same terms and conditions and subject to the provisions of this Directive, an equivalent alternative to ensure access must be provided.

Or. sv

Justification

Equivalent is a stronger term than meaningful and specifies what is actually meant. The term 'meaningful' would allow an employer to claim that a reference to a web service is a satisfactory measure.

Amendement 257
Elizabeth Lynne

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*

2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account ***shall*** be taken***, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities.*** The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.	2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account ***should*** be taken ***of whether the measure in question is unfeasible or unsafe and could not be made feasible and safe by a reasonable modification of rules, policies or practices or the removal of architectural, communication or transport barriers or the provision of auxiliary aids or services***. ***Reasonable accommodation would not necessarily require significant structural changes to buildings whose structure is protected specifically under national law on account of their historical, cultural or architectural value.*** The burden shall not be ***deemed*** disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.

Or. en

Amendement 258
Evangelia Tzampazi, Stavros Lambrinidis

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*

2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account ***shall*** be taken***, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities.*** The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.	2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account ***should*** be taken ***of whether the measure in question is unfeasible or unsafe and could not be made feasible and safe by a reasonable modification of rules, policies or practices or the removal of architectural, communication or transport barriers or the provision of auxiliary aids or services***. The burden shall not be ***deemed*** disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.

Or. en

Justification

Feasibility and safety of a measure are much easier to assess and measure than the list of criteria proposed by the Commission. The proposed amendment is much more flexible and allows addressing the financial and other concerns of any-sized enterprise.

Amendement 259
Emine Bozkurt, Claudio Fava, Claude Moraes, Armando França, Lissy Gröner, Stavros Lambrinidis, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*

2. For the purposes of assessing whether ***measures necessary*** to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures ***existing within the framework of the equal treatment policy*** of the Member State concerned.	2. For the purpose of assessing whether to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for person with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures of the Member State concerned.

Or. en

Amendement 260
Patrick Gaubert

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*
2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.	2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation ***or enterprise***, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be ***deemed*** disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned. ***Extensive rebuilding of existing private and business buildings shall constitute a disproportionate burden.***

Or. en

Amendment 261
Rareş-Lucian Niculescu

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*
2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.	2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, ***the number of potential beneficiaries, alternatives producing an equivalent result and*** the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.

Or. ro

Justification

The amendment is a logical complement to the text proposed.

Amendment 262
Jeanine Hennis-Plasschaert

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*

2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the ***equal treatment*** policy of the Member State concerned.	2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities***, pursuant to Directive 2000/78/EC and the UN Convention on the Rights of Persons with Disabilities***. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the policy of the Member State concerned.

Or. nl

Justification

In the interests of coherence.

Amendement 263
Sophia in 't Veld

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*
2. For the ***purposes*** of assessing whether ***measures necessary*** to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures ***existing within the framework of the equal treatment policy*** of the Member State concerned.	2. For the ***purpose*** of assessing whether to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures of the Member State concerned.

Or. en

Amendement 264
Evangelia Tzampazi, Stavros Lambrinidis

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

Text proposed by the Commission	*Amendment*
	2a. In order to comply with the obligation to provide effective non-discriminatory access to existing infrastructures, policies or procedures within the meaning of Article 4- paragraph 1(a), Member States may, if necessary, have an additional period of 10 years from the deadline for transposition to comply with this provision. Member States wishing to use the additional period shall submit to the Commission a plan for progressive compliance with the requirements found in paragraph 1(a), including targets, means and timeline. Any Member State which chooses to use this additional period shall report annually to the Commission on the steps taken to provide effective non-discriminatory access and on the progress towards implementation of paragraph 4(1)(a). The Commission shall report annually to the Council.

Or. en

Justification

Schedules for progressive realisation of the obligation to provide effective non-discriminatory access would be more appropriate and flexible means to address the accessibility of existing infrastructures that need long-term attention. The obligation to provide reasonable accommodation and the obligation to provide accessibility of new infrastructure would remain subject to the general implementation schedule under Article 15.

Amendement 265

Elizabeth Lynne

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

Text proposed by the Commission	*Amendment*
	2a. In order to comply with the obligation to provide effective non-discriminatory access to existing infrastructures, policies or procedures within the meaning of paragraph 1(a), Member States may, if necessary, have an additional period of [X] years [from the deadline for transposition] to comply with this provision. Member States wishing to use the additional period shall submit to the Commission a plan for progressive compliance with the requirements found in paragraph 1(a), including targets, means and timeline. Any Member State which chooses to use this additional period shall report annually to the Commission on the steps taken to provide effective non-discriminatory access and on the progress towards implementation of paragraph 4(1)(a). The Commission shall report annually to the Council.

Or. en

Amendment 266
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

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

Text proposed by the Commission	*Amendment*

2a. When defining what constitutes a 'disproportionate burden' within the meaning of the second sentence of paragraph 1(a) and paragraph 1(b), due account shall be taken of the laws on equal treatment of persons with disabilities in force in each Member State and the interpretation of those laws by national courts.

Or. de

Justification

In many Member States, the level of protection provided under anti-discrimination policies goes beyond the EU requirements. Any fresh requirement to approximate laws would be disproportionate. This amendment seeks to ensure that the existing legal situation in the Member States should be used as a yardstick in determining what constitutes a disproportionate burden. Measures taken under existing national law to protect people against discrimination should not constitute a disproportionate burden. If they are more stringent than the EU requirements, they may constitute such a burden.

Amendement 267
Patrick Gaubert

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

Text proposed by the Commission	*Amendment*
	2a. In order to take account of particular conditions, the Member States may, if necessary, have an additional period of [X] years from the deadline for transposition to comply with paragraphs 1.

Or. en

Amendement 268
Richard Howitt, Michael Cashman, Claude Moraes

Proposal for a directive
Article 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Young children's access to public buildings and public transport
	1. Member States shall ensure effective non-discriminatory access for young children to public buildings and public transport unless restrictions in access can be shown to be legitimate and proportionate. Notwithstanding this obligation and where needed in a particular case, reasonable accommodation shall be provided unless this would impose a disproportionate burden.
	2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, and the possible benefits of increased access for young children. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.

Or. en

Justification

This amendment outlines the obligation for reasonable accommodation in combating age discrimination against young children.

Amendement 269
Jean Lambert

Proposal for a directive
Article 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Young children's access to public buildings and public transport:
	1. Member States shall ensure effective non-discriminatory access for young children to public buildings and public transport unless restrictions in access can be shown to be legitimate and proportionate. Notwithstanding this obligation and where needed in a particular case, reasonable accommodation shall be provided unless this would impose a disproportionate burden.
	2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, and the possible benefits of increased access for young children. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.

Or. en

Amendment 270
Maria Grazia Pagano

Proposal for a directive
Article 5

Text proposed by the Commission	*Amendment*

With a view to ensuring full equality in practice, ***the principle of equal treatment shall not prevent any Member State from maintaining or adopting*** specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.	***All European citizens have the same dignity in society.*** With a view to ensuring full equality in practice, ***Member States shall be called on to maintain or adopt*** specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation***, as well as measures to promote equal treatment and equal opportunities in the context of the gender dimension.***
	This Directive shall not prevent Member States from operating preferential treatment or adopting affirmative action measures with a view to responding to the specific needs of persons or categories of person whose characteristics are such that they require structures, services or assistance not required by other persons.

Or. it

Justification

Equal treatment is a right of the citizen. In this sense, it is important that Member States adopt affirmative action measures to combat discrimination.

Amendement 271
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 5

Text proposed by the Commission	*Amendment*

With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.	With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures ***or from allowing these measures to be taken by the public, private or voluntary sector*** to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.

Or. en

Justification

The existing anti-discrimination Directives permit Member States to allow positive action within their national legal frameworks, but there is no obligation either to take positive action or to permit it in relation to public or private organisations. A small step forward would be to require states to allow public or private organisations to take positive action. The same provision was included in the Framework Employment Directive (article 7). As in the Employment Directive only measure adopted or maintained by Member States are mentioned. In some countries (for example the Netherlands) voluntary policies adopted by employers have not been considered as justified. Differences of treatment included in policies undertaken by the private sector could be important to compensate for disadvantages related to age and therefore should not be excluded a priori.

Amendment 272
Patrick Gaubert

Proposal for a directive
Article 5

Text proposed by the Commission	*Amendment*
With a view to ***ensuring*** full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.	With a view to ***promoting*** full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation***, with the exception of quota systems and automatic recruitment measures***.

Or. fr

Justification

Quota systems and automatic recruitment procedures aimed at restoring equality of treatment in practice are themselves likely to constitute discriminatory measures.

Amendment 273
Iratxe García Pérez

Proposal for a directive
Article 5

Text proposed by the Commission	*Amendment*
With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.	With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, ***membership of an association, gender*** or sexual orientation.

Or. es

Amendment 274
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 5

Text proposed by the Commission	*Amendment*
5. With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion ***or belief***, disability, age, or sexual orientation.	5. With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion, disability, age, or sexual orientation.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal treatment on the basis of belief might be misused by extremist groups. See the same authors' amendments to Recitals 9, 13, 21 and 23 and Articles 1, 2(2)(b) and 12(1).

Amendment 275
Patrick Gaubert

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them***, even after the relationship in which the discrimination is alleged to have occurred has ended***.	1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them.

Or. fr

Amendement 276
Richard Howitt, Michael Cashman, Claude Moraes

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission	*Amendment*

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.	1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended. ***In order to ensure equal and effective rights of access and participation in judicial and/or administrative procedures, such procedures shall be organised and conducted in a manner which is accessible to all persons with disabilities.***

Or. en

Justification

This amendment aims at restricting the possibility of discrimination in access to financial services by ensuring that all data used in such decision making is transparent, authoritative and up-to-date.

Amendment 277
Maria Grazia Pagano

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission	*Amendment*

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the ***relationship in which the discrimination is alleged to have occurred*** has ended.	1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the ***alleged discrimination*** has ended.

Or. it

Justification

The term 'relationship' as used implies a workplace relationship, although what is in question is relationships in any context.

Amendment 278
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.	***deleted***

Or. de

Justification

The right of action granted to associations, organisations and legal entities is at odds with the

proportionality and subsidiarity principles, since it is a measure out of proportion to the need to provide protection against discrimination. There is a real danger that this right may be misused and lead to the submission of class actions.

Amendment 279
Alexander Alvaro

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.	***deleted***

Or. de

Justification

The right of action granted to associations, organisations and legal entities is at odds with the proportionality and subsidiarity principles, since it is a measure out of proportion to the need to provide protection against discrimination. There is a real danger that this right may be misused and lead to the submission of class actions.

Amendment 280
Patrick Gaubert

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission	*Amendment*

2. Member States shall ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.	2. Member States shall***, where their judicial or administrative rules of procedure so permit,*** ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided ***by national laws*** for the enforcement of obligations under this Directive.

Or. fr

Amendement 281
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, ***may*** engage, ***either on behalf or in support of the complainant, with his or her approval***, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.	2. Member States shall ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, ***are empowered to*** engage***, in their own name,*** in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive***, including on behalf of, or in support of, any victim***.

Or. en

Justification

Article 7 (2) currently fails to ensure full legal standing to organizations by restricting their role to acting on behalf or in support of individual litigants. Allowing NGOs to take cases – on behalf of individuals without the obligation for the individual to be named – is therefore essential to ensuring effective access to justice. Moreover, allowing NGOs to have autonomous legal standing also allows for the possibility to challenge discriminatory practices without individual litigants.

Amendment 282
Patrick Gaubert

Proposal for a directive
Article 7 – paragraph 2 – second subparagraph a (new)

Text proposed by the Commission	*Amendment*
	This paragraph is without prejudice to the national judicial or administrative rules of procedure concerning representation and defence before the courts.

Or. fr

Amendment 283
Rareş-Lucian Niculescu

Proposal for a directive
Article 7 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	(2a) Procedures initiated under this article shall be exempt from stamp duty or other equivalent duties.

Or. ro

Justification

The amendment is a logical complement to the text proposed.

Amendment 284
Maria Grazia Pagano

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission	*Amendment*

3. ***Paragraphs 1 and 2 shall be without prejudice to national rules relating to time limits for bringing actions as regards the principle of equality of treatment.***	3. ***The time limit for bringing actions shall be … days throughout the territory of the EU.***

Or. it

Justification

In view of the objective of mobility within the Union, it is necessary to ensure the portability of rights by introducing a standard time limit for bringing actions anywhere in the EU.

Amendment 285
Sylvia-Yvonne Kaufmann

Proposal for a directive
Article 7 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. In the context of their national legal systems, Member States shall take the measures required to ensure that the loss or damage, including immaterial damage, suffered by a person as a result of an instance of discrimination within the meaning of this Directive is actually and effectively compensated for or made good. The relevant measures must be dissuasive and consistent with the nature of the damage suffered.

Or. de

Amendment 286
Patrick Gaubert

Proposal for a directive
Article 7 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*

3a. Member States shall, in accordance with their judicial systems, ensure that all persons who consider themselves wronged by failure to apply the principle of equal treatment to them may seek judicial redress in court within the time limit set by the national laws.

Or. fr

Amendment 287
Henri Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 7 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Member States shall ensure, in accordance with their national judicial systems, that all persons who consider themselves wronged by failure to apply the principle of equal treatment to them can take legal action to assert their rights.

Or. de

Justification

The provision on the reversal of the burden of proof will create a very high degree of legal uncertainty. It is entirely unclear how convincing evidence will need to be to trigger a reversal of the burden of proof. It is also unclear what arguments respondents will be able to put forward in their own defence, given that they will be required to prove negative facts, i.e. the non-existence of discrimination. In addition, reversing the burden of proof will create intolerable administrative problems, for example for persons seeking to rent out a flat, who will be required to document the tenant selection process in detail in preparation for a possible legal action.

Amendment 288
Alexander Alvaro

Proposal for a directive
Article 7 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Member States shall ensure, in accordance with their national judicial systems, that all persons who consider themselves wronged by failure to apply the principle of equal treatment to them can take legal action to assert their rights.

Or. de

Justification

The provision on the reversal of the burden of proof will create a very high degree of legal uncertainty. It is entirely unclear how convincing evidence will need to be to trigger a reversal of the burden of proof. It is also unclear what arguments respondents will be able to put forward in their own defence, given that they will be required to prove negative facts, i.e. the non-existence of discrimination. In addition, reversing the burden of proof will create intolerable administrative problems, for example for persons seeking to rent out a flat, who will be required to document the tenant selection process in detail in preparation for a possible legal action.

Amendment 289
Henri Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 8

Text proposed by the Commission	*Amendment*
1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the prohibition of discrimination.	***deleted***

2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.

3. Paragraph 1 shall not apply to criminal procedures.

4. Member States need not apply paragraph 1 to proceedings in which the court or competent body investigates the facts of the case.

5. Paragraphs 1, 2, 3 and 4 shall also apply to any legal proceedings commenced in accordance with Article 7(2).

Or. de

Justification

The provisions on the burden of proof should be dealt with in a new paragraph inserted in Article 7. See the same authors' amendment to Article 7(3)(a) (new).

Amendment 290
Alexander Alvaro

Proposal for a directive
Article 8

Text proposed by the Commission	*Amendment*
1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the prohibition of discrimination.	***deleted***

2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.

3. Paragraph 1 shall not apply to criminal procedures.

4. Member States need not apply paragraph 1 to proceedings in which the court or competent body investigates the facts of the case.

5. Paragraphs 1, 2, 3 and 4 shall also apply to any legal proceedings commenced in accordance with Article 7(2).

Or. de

Justification

The provisions on the burden of proof should be dealt with in a new paragraph inserted in Article 7. See the same authors' amendment to Article 7(3)(a) (new).

Amendment 291
Rareş-Lucian Niculescu

Proposal for a directive
Article 8

Text proposed by the Commission	*Amendment*
1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the prohibition of discrimination.	***Deleted.***

2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.

3. Paragraph 1 shall not apply to criminal procedures.

4. Member States need not apply paragraph 1 to proceedings in which the court or competent body investigates the facts of the case.

5. Paragraphs 1, 2, 3 and 4 shall also apply to any legal proceedings commenced in accordance with Article 7(2).

Or. ro

Justification

Irrespective of the nature of the claim, the burden of proof shall rest with the complainant.

Amendment 292
Patrick Gaubert

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States ***shall*** take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons ***who*** consider themselves wronged because the principle of equal treatment has not been applied to them ***establish***, before a court or other competent authority, ***facts from which it may be presumed that there has been direct or indirect discrimination,*** it shall be for the respondent to prove that there has been no breach of the prohibition of discrimination.	1. Member States ***may*** take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons consider themselves wronged because the principle of equal treatment has not been applied to them ***and facts suggesting the existence of discrimination have been established*** before a court or other competent authority, it shall be for the respondent to prove that there has been no breach of the prohibition of discrimination.

This paragraph is without prejudice to existing national rules of procedure concerning the burden of proof in civil and criminal matters.

In any event, adaptation of the rules on the burden of proof is only possible if the presumption is established and verified by a court or a competent body.

Or. fr

Amendment 293
Mario Mauro, Stefano Zappalà

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission	*Amendment*
Does not apply to English version	

Or. it

Amendement 294
Claude Moraes, Richard Howitt

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission	*Amendment*
	9a. Member States shall actively promote equality between persons irrespective of religion or belief, disability, age or sexual orientation when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in this Directive.

Or. en

Justification

The European Commission has recognised that simply prohibiting discrimination is not a sufficient means of achieving full equality in practice. The Directive should include a specific provision on mainstreaming and promoting equality in order to seek to achieve change at societal level. A mainstreaming precedent already exists for this in article 29 of the Recast Gender Directive 2006/54/EC and would be entirely consistent with the article 13 powers under the EC Treaty.

Amendment 295
Sylvia-Yvonne Kaufmann

Proposal for a directive
Article 10

Text proposed by the Commission	*Amendment*
10. Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the ***persons concerned*** by appropriate means throughout their territory.	10. Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the ***general public*** by appropriate means throughout their territory.

Or. de

Amendment 296
Maria Grazia Pagano

Proposal for a directive
Article 10 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	With a view to promoting the principle of equal treatment, Member States shall organise ad hoc information and awareness campaigns and training sessions as part of educational programmes.

Or. it

Justification

A developed set of rules on equal treatment should be complemented by increased awareness of the rights of vulnerable groups and an evolved sense of social rights as such.

Amendment 297
Carlo Casini, Iles Braghetto

Proposal for a directive
Article 11

Text proposed by the Commission	*Amendment*
11. 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***.	11. With a view to promoting the principle of equal treatment, Member States shall encourage dialogue with relevant stakeholders, in particular non-governmental organisations, ***churches, religious associations and communities and non-confessional organisations,*** which have, in accordance with national law and practice ***and in the context of their identity and specific contribution,*** a legitimate interest in contributing to the fight against discrimination.

Or. it

Justification

If NGOs are to be explicitly involved in promoting the principle of equal treatment, it follows that reference should also be made to involving churches, religious associations and communities and non-confessional organisations, in line with Artícle 17 of the Treaty on the Functioning of the European Union and the principles of the Treaty of Lisbon.

Amendement 298
Claude Moraes, Richard Howitt

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*

1. Member States shall designate ***a*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate ***an independent and adequately funded*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. ***Member States shall ensure that the body or bodies have competence in the fields covered by this Directive and the fields of employment and occupation under Directive 2000/78/EC.*** These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

Or. en

Justification

The Recitals refer to the need for Equality Bodies to comply with the Paris Principles – which stipulate that equality bodies should be independent of government and adequately funded. It therefore makes sense to re-assert these requirements in the articles of the directive. This Directive should make clear that the Equality Body or Bodies established should also have jurisdiction over employment and occupation.

Amendment 299
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion ***or belief***, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

Or. de

Justification

Discrimination on the basis of belief cannot be equated with discrimination on religious or other grounds. The horizontal approach of laying down the same rules to cover all forms of discrimination fails to take account of the differences between them: for example, belief cannot be equated with disability. There is a danger, however, that the ban on unequal treatment on the basis of belief might be misused by extremist groups. See the same authors' amendments to Recitals 9, 13, 21and 23 and Articles 1, 2(2)(b) and 5.

Amendment 300
Rareş-Lucian Niculescu

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, ***non-contagious chronic disorders, HIV/AIDS infection,*** age or sexual orientation, ***income or social category***. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

Or. ro

Justification

To ensure consistency with other amendments proposed.

Amendement 301
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Stavros Lambrinidis, Michael Cashman, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate ***a*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of ***human rights or the safeguard of individuals' rights, including*** rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate ***an independent functioning*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of ***the*** rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

Or. en

Amendment 302
Iratxe García Pérez

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, ***membership of an association, gender*** or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

Or. es

Amendment 303
Sylvia-Yvonne Kaufmann

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate ***a*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies ***may*** form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate ***an independent*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies ***should*** form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

Or. de

Amendment 304
Csaba Sógor

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate ***a*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate ***an independent*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

Or. hu

Amendment 305
Maria Grazia Pagano

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.	1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC***, 2000/78/EC*** and 2004/113/EC.

Or. it

Justification

Directive 2000/78/CE complements the others named and should also be included in the competences of the bodies dealing with equal treatment.

Amendement 306
Michael Cashman, Richard Howitt, Claude Moraes

Proposal for a directive
Article 12 – paragraph 2 – indent 1

Text proposed by the Commission	*Amendment*
- without prejudice to the right of victims and of associations, organizations or other legal entities referred to in Article 7(2), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination,	- without prejudice to the right of victims and of associations, organizations or other legal entities referred to in Article 7(2), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination, ***including engaging in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive, including on behalf of, or in support of, any victim.***

Or. en

Justification

The importance of having equality bodies independent from Governments, in accordance with the United Nations Paris Principles mentioned in the recital, should be stressed here.

Amendment 307
Rareş-Lucian Niculescu

Proposal for a directive
Article 12 – paragraph 2 – indent -1 (new)

Text proposed by the Commission	*Amendment*
	- facilitating administrative or legal proceedings concerning discrimination where the victim thereof is resident in a Member State other than that of the respondent, by contacting the equivalent organisation or organisations in the Member State of the respondent;

Or. ro

Justification

It is necessary to provide for the possibility of cross-border proceedings.

Amendment 308
Rareş-Lucian Niculescu

Proposal for a directive
Article 12 – paragraph 2 – indent -1a (new)

Text proposed by the Commission	*Amendment*
	- ensuring access by the complainant to legal aid in accordance with Council Directive 2003/8/EC to improve access to justice in cross-border disputes, where appropriate;

Or. ro

Justification

It is necessary to provide for the possibility of cross-border proceedings.

Amendement 309
Marco Cappato

Proposal for a directive
Article 12 – paragraph 2 – indent 2

Text proposed by the Commission	*Amendment*
- conducting independent surveys concerning discrimination,	- ***monitoring and*** conducting independent surveys concerning discrimination, ***including on the application of anti-discrimination law,***

Or. en

Amendement 310
Marco Cappato

Proposal for a directive
Article 12 – paragraph 2 – indent 3 a (new)

Text proposed by the Commission	*Amendment*
	- cooperating and exchanging information with the Fundamental Rights Agency and with other corresponding European bodies.

Or. en

Amendment 311
Maria Grazia Pagano

Proposal for a directive
Article 12 – paragraph 2 – indent 3 a (new)

Text proposed by the Commission	*Amendment*
	- organising awareness and information campaigns and training programmes.

Or. it

Justification

The equal opportunities bodies should also have responsibility for awareness and information campaigns.

Amendement 312
Marco Cappato

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Member States shall consider the possibility to integrate bodies dealing with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts, notably Directives 2000/43/EC and 2004/113/EC, and with the promotion of equal treatment, into a single body or Agency.

Or. en

Amendement 313
Kathalijne Maria Buitenweg

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*

2a. The Member States shall provide this or these bodies with sufficient resources to carry out its tasks in an effective and easily accessible manner.

Or. en

Amendment 314
Sophia in 't Veld

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Member States must provide these bodies with sufficient resources to enable them to carry out their duties in an effective and accessible manner.

Or. nl

Amendment 315
Maria Grazia Pagano

Proposal for a directive
Article 12 – paragraph 2a (new)

Text proposed by the Commission	*Amendment*
	2a. Member States shall ensure a level of funding appropriate to the competences of those bodies with a view to ensuring their operationality and independence.

Or. it

Amendment 316
Csaba Sógor

Proposal for a directive
Article 13 – point a

Text proposed by the Commission	*Amendment*
a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;	a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are ***immediately*** abolished;

Or. hu

Amendment 317
Jeanine Hennis-Plasschaert

Proposal for a directive
Article 13 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Member States shall review carefully what provisions as referred to in points (a) and (b) exist when this Directive enters into force, so that clear baseline measurement is performed. They shall immediately inform the Commission of them.

Or. nl

Justification

It is important to measure the initial position at the time of entry into force of this Directive.

Amendment 318
Henri Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 14

Text proposed by the Commission	*Amendment*

Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. ***Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.***	Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied.

Or. de

Justification

In the Commission's letter of formal notice (treaty infringement proceedings Nos 2007/2253 and 2007/2362) it states, with reference to Articles 15 and/or 17, that a breach of the anti-discrimination provisions does not in itself presuppose fault and should not therefore give rise to sanctions. It remains unclear whether this relates to the area of civil law. The relevant provisions of German civil law are linked to the requirement to answer for actions, i.e. the debtor's liability. The consequences of no-fault liability, however, would be a kind of 'risk liability' for discrimination, with incalculable risks for the parties concerned.

Amendment 319
Sylvia-Yvonne Kaufmann

Proposal for a directive
Article 14

Text proposed by the Commission	*Amendment*
14. Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Sanctions ***may comprise the payment of compensation, which*** may not be restricted by the fixing of a prior upper limit***, and must be effective, proportionate and dissuasive***.	14. Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Sanctions ***must be effective, proportionate and dissuasive. Member States shall ensure that the victims of discrimination are entitled to compensation, including compensation for the immaterial damage suffered. In that connection, the compensation*** may not be restricted by the fixing of a prior upper limit.

Or. de

Amendment 320
Jean-Marie Cavada

Proposal for a directive
Article 14

Text proposed by the Commission	*Amendment*
Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.	Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.
	Member States shall ensure that any injury suffered by a person who has been wronged as a result of failure to apply the principle of equal treatment to them is remedied effectively. Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.

Or. fr

Justification

There is no mention in the Commission proposal of the principle of effective compensation for injury suffered. It would be logical to mention it in this Article concerning sanctions.

Amendment 321
Manfred Weber, Patrick Gaubert, Anja Weisgerber, Thomas Mann

Proposal for a directive
Article 15 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by …. at the latest [***two*** years after adoption]. They shall forthwith inform the Commission thereof and shall communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.	1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by …. at the latest [***three*** years after adoption]. They shall forthwith inform the Commission thereof and shall communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Or. de

Justification

Previous directives on combating discrimination set an implementation deadline of three years after adoption.

Amendment 322
Evangelia Tzampazi, Stavros Lambrinidis

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission	*Amendment*
2. In order to take account of particular conditions, Member States may, if necessary, establish that the obligation to provide effective access as set out in Article 4 has to be complied with by … [at the latest] four [years after adoption]	***deleted***

Or. en

Justification

An alternative proposal for progressive realisation of some obligations under Article 4 is dealt with in a respective amendment to Article 4.

Amendement 323

Elizabeth Lynne

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission	*Amendment*
2. In order to take account of particular conditions, Member States may, if necessary, establish that the obligation to provide effective access as set out in Article 4 has to be complied with by … [at the latest] four [years after adoption].	***deleted***

Or. en

Amendement 324
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Michael Cashman, Richard Howitt, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission	*Amendment*
2. In order ***to take account of particular conditions, Member States may, if necessary, establish that the obligation to provide effective access as set out in Article 4 has to be complied with by … [at the latest] four [years after adoption].***	2. In order ***to comply with the obligation to provide effective non-discriminatory access to existing infrastructures, policies or procedures within the meaning of article 4.1(a), Member States may, if necessary, have an additional period of 10 years [from the deadline for transposition] to comply with this provision.***

Member States wishing to use ***this*** additional period shall ***inform*** the Commission ***at the latest by the date set down in paragraph 1 giving reasons***.	Member States wishing to use ***the*** additional period shall ***submit to*** the Commission ***a plan for progressive compliance with the requirements found in article 4.1(a), including targets, means and timeline. Any Member State which chooses to use this additional period shall report annually to the Commission on the steps taken to provide effective non-discriminatory access and on the progress towards implementation of article 4(1)(a). The Commission shall report annually to the Council.***

Or. en

Justification

Schedules for progressive realisation of the obligation to provide access would be more appropriate and flexible means to address the issue of accessibility of facilities that need long-term attention, such as public transportation system, historic buildings.

Amendment 325
Jeanine Hennis-Plasschaert

Proposal for a directive
Article 16 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. No later than ** years after the entry into force of this Directive, a comprehensive Community legal framework relating to non-discrimination must be in force in the form of a single Directive consolidating and thus replacing all existing Directives based on Article 13 of the EC Treaty, including this Directive. This new Directive shall provide for an equal level of protection for each ground for discrimination.

Or. nl

Justification

To improve legal certainty and efficiency.

Amendment 326
Sylvia-Yvonne Kaufmann

Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission	*Amendment*
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 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.	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 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. ***This report shall also contain information about multiple discrimination, covering not only discrimination on grounds of religion or belief, sexual orientation, age and disability, but also discrimination on grounds of sex, race and ethnic origin.*** In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.

Or. de

Amendement 327
Emine Bozkurt, Claudio Fava, Claude Moraes, Inger Segelström, Armando França, Lissy Gröner, Iratxe García Pérez, Maria Grazia Pagano

Proposal for a directive
Article 16 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*

2a. The European Commission shall propose a new directive in which all of the separate directives based on article 13 EC will be assembled by .... at the latest [2 years after adoption]. In this new directive all grounds for discrimination will enjoy the same level of protection.

Or. en

Justification

After adopting this directive the level of protection against discrimination on the ground of sex will fall behind to that of the other grounds. For the ground of sex different areas such as social protection, health care, social advantages, education, media and advertisement are not yet covered.