



An initiative of the European Union

Combating discrimination

in the European Union



For Diversity



Against Discrimination



Vladimir Špidla,
European Commissioner
for Employment,
Social Affairs and
Equal Opportunities

Foreword

by Commissioner Vladimir Špidla

Every day across the European Union people are being prevented from participating to their full ability in work and society because of prejudice and discrimination. This is why legislation has been introduced to give people equal rights and to help tackle the barriers they face.

European legislation makes it illegal to discriminate in employment and training on the grounds of religion and belief, disability, age and sexual orientation. It also prohibits discrimination on the grounds of racial or ethnic origin, in employment and training and other areas of daily life such as education, housing and healthcare.

The rules can help protect people against discrimination and harassment. They allow people who have been discriminated against to have access to law courts, tribunals or other administrative means to pursue their complaint. A non-governmental body, association or trade union can also act on their behalf. And an equality body must also be designated by each Member State to support people who have faced discrimination and to promote equal treatment.

The European Union is helping support these legal changes by financing research, projects and organisations in the field of combating discrimination. Hundreds of different activities are being financed from training lawyers and judges on the new rules to challenging prejudice and discrimination in media and sport. We are also working hard to raise awareness of antidiscrimination legislation as well as diversity and discrimination issues, more generally.

For this reason, 2007 has been designated as the European Year of Equal Opportunities for All. The aim of the Year will be to inform people of their rights, to celebrate diversity and to promote equal opportunities for everyone in the Union, be it in economic, social, cultural or political life. In tackling discrimination, in promoting fair and equal treatment, all of us in the European Union stand to gain.



Vladimír Špidla

European Commissioner for Employment,
Social Affairs and Equal Opportunities

Rights and

>> The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms ... principles which are common to the Member States. <<

Article 6(1) Treaty on European Union



- > **The European Community has long been active in the fight against discrimination. Indeed, at the time of its creation one of its most pressing missions was to reconcile a continent divided by nationalistic and ethnic conflicts. For many years the focus was on preventing discrimination on the grounds of nationality and sex. Since 1999, the Community has had new far-reaching powers to combat discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation, and the power to combat sex discrimination has also been widened.**

obligations

under European antidiscrimination legislation

What is the EU doing to combat discrimination?

- > Two European laws or 'Directives' banning discrimination were adopted unanimously by the European Union Member States in 2000. Each country had until 2003 to implement these rules into national law. For the provisions on age and disability, Member States could request an extension to the end of 2006 for implementation. As well as the laws, the EU also finances projects, organisations, research and awareness-raising in the field of combating discrimination.

What areas of discrimination are covered by the laws?

- > The legislation adopted in 2000 prohibits discrimination in employment and training on the grounds of racial or ethnic origin, sexual orientation, religion or belief, age and disability. The rules on racial discrimination also cover other areas such as education, social security, healthcare, access to goods and services and housing. Discrimination between men and women is covered by separate legislation (see page 10).

Frequently asked questions



Who is protected against discrimination?

- > Everybody in the territory of the Union is protected against discrimination on the grounds mentioned above.

What does discrimination mean?

- > Both direct and indirect discrimination are prohibited by the rules.
- > Direct discrimination occurs when a person is treated less favourably than another in a comparable situation because of their racial or ethnic origin, religion or belief, disability, age or sexual orientation.

For example:

- > a 40-year woman applies for a job as a shop assistant in a clothes store but when she gets to the interview she is told that the firm only recruits people in their 20s.
- > a Nigerian couple is looking for a new apartment to rent – when they go to visit one they are told by the landlord that he cannot consider them as tenants as the neighbours would object to having black people in the apartment block.
- > However, in reality discrimination often takes more subtle forms. That is why indirect discrimination is also covered. This occurs when a seemingly neutral provision or practice is applied to all groups but has a disproportionate effect on the members of one group.

> Example of indirect discrimination:

An employer decides to exclude job applicants who live in a certain area of a city. A higher proportion of Roma, however, live in that area. This would put Roma candidates at a disadvantage and they would therefore be discriminated against indirectly.

Indirect discrimination is only permitted if it can be objectively justified by a legitimate aim.

For example:

A construction company could insist that all workers on a dangerous building site wear safety hats. This would have a negative impact, for example, on Sikhs who are required to wear turbans. Because of the health and safety need this would not constitute unlawful discrimination.

What about harassment and victimisation?

- > Harassment with the purpose or effect of violating the dignity of a person on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation and creating an intimidating, hostile, degrading, humiliating and offensive environment is prohibited by the rules.
- > Victimisation is also prohibited. This is where someone is treated badly or differently for having made a complaint about discrimination or supporting a colleague who has made a complaint.



What does this mean for employers?

- > The rules apply to all private and public sector employers. The Directive also covers conditions for access to self employment and occupation. All employers will need to review their employment practices to make sure that they are not discriminating directly or indirectly for example in recruitment procedures, selection criteria, pay and promotions, dismissals or access to vocational training. The antidiscrimination rules apply to all stages of the employment contract from recruitment through to termination.

What duties do employers have with regard to a person with a disability?

- > Employers have a duty of “reasonable accommodation” in respect of candidates or employees with a disability. Employers must take appropriate measures to enable a person with a disability to have access to employment and training unless doing so would impose a disproportionate burden on the employer. “Reasonable accommodation” may include, for example, providing wheelchair access, adjusting working hours or simply redistributing tasks between members of a team. To determine the disproportionate burden, account should be taken in particular of the financial and other costs entailed, the scale and financial resources of the organisation and the possibility of obtaining public funding or any other assistance.



Anne-Sophie Parent,
President, Platform of
European Social NGOs
(www.socialplatform.org)

“Employers who invest in a workplace free from discrimination and in a diverse workforce are making the right choice. They gain from a more human work environment and the experience of personnel who reflect the diversity of consumers and users of their services. Discrimination destroys lives, marginalises individuals, and prevents the development of a positive work environment based on inclusion, respect and team spirit. As a coalition of European social NGOs with roots in many different parts of civil society, the Social Platform is also strongly aware of the need to address multiple discrimination, where individuals are discriminated against on the basis of more than one ground.”



Anne-Marie Sigmund,
President, European
Economic and Social
Committee (www.ces.eu.int)

“As a bridge between European and organised civil society, the European Economic and Social Committee strongly endorses EU efforts for a diverse and discrimination-free workplace and society. It is therefore well placed to help promote such a dialogue. I am truly convinced that all EU residents should enjoy a minimum level of protection and rights of legal redress against discrimination. This would also strengthen economic and social cohesion within the Union. I am confident that better dialogue based on good practice, between business, trade unions and other social and economic actors, could show that equal treatment in employment and occupation can improve both economic performance and social inclusion.”



Renaldas Vaisbrodas, President
of the European Youth Forum
(www.youthforum.org)

“Young people must be at the core of the development of cohesive, yet diverse civil societies that are based on respect for human rights and democratic principles. Youth organisations play a key role in this objective, by promoting those values and offering young people a space for active participation and engaged citizenship. We recognise that not all young people have equal opportunities to participate and that many suffer from discrimination. The European Youth Forum and its member organisations are committed to work for equal opportunities for all and against all types of discrimination. This can only be done through partnership and cooperation with the European and international institutions while organising non-formal education programmes, employment initiatives aimed at securing decent jobs for all young people, and human rights education.”

What do businesses stand to gain from these rules?

- > A growing number of European companies are adopting diversity and equality strategies not only for ethical and legal reasons but also for the business benefits they are expected to deliver. Among the most important of these benefits are enhanced employee recruitment and retention from a wider pool of high quality workers, improved corporate image and reputation, greater innovation and enhanced marketing opportunities.

Are there exceptions to the general prohibition of discrimination?

- > The legislation allows limited exceptions to the principle of equal treatment, for example to preserve the ethos of religious-based organisations, or to allow measures to promote the integration of older or younger workers into the labour market. There may also be a need for the job holder to have a particular profile, e. g. it would not be unreasonable to hire a black actor to play Nelson Mandela. Such exceptions are however, strictly limited.

How can people who have been discriminated against make a complaint?

- > Under the legislation, Member States are obliged to give victims of discrimination the right to make a complaint through a judicial or administrative procedure and that appropriate penalties are imposed on those who have discriminated.
- > Under the rules in civil and administrative cases, the burden of proving discrimination is shared between the person who has experienced discrimination and the alleged discriminator. This will make it easier for people who have been discriminated against to prove it.



Josep Borrell Fontelles,
MEP, President of the
European Parliament
(www.europarl.eu.int)

“Respect for diversity is fundamental for the European Union. Nevertheless, Europe is not immune to intolerance and discrimination. The European institutions condemn any kind of discrimination and work together to prevent discrimination within the framework, according to article 13 of the Treaty of the European Community and the Charter of Fundamental Rights. The European Parliament, as the institution representing all the citizens of the Union, is strongly committed to the fight against discrimination and racism. It will continue to demand the existence of appropriate legislation at a European level against racism and xenophobia.”



John Monks, General Secretary
of ETUC (European Trade Union
Confederation – www.etuc.org)

“At its Prague congress in 2003, the ETUC made a strong commitment to campaigning against all forms of discrimination. Trade unions across Europe are currently working to ensure that the two equal treatment directives are correctly integrated into national law and that the principle of equal treatment at the workplace is properly applied. For the trade union movement, diversity policies must go hand-in-hand with active trade union membership. For their part, trade unions must promote equal treatment between people in their own ranks and in all their decision-making bodies and structures.”

What help is available to people who have been discriminated against?

- > The EU legislation on racial discrimination requires Member States to designate bodies for the promotion of equal treatment which will provide independent assistance to the victims of discrimination, conduct surveys and studies and publish independent reports and recommendations. Victims of discrimination may also be supported by a non-governmental organisation or a trade union. For a list of these bodies see: http://europa.eu.int/comm/employment_social/fundamental_rights/rights/neb_en.htm

In a number of EU countries such bodies also deal with discrimination on other grounds, e. g. against gays and lesbians and people with disabilities.

What about equality between the sexes?

- > Sex discrimination is covered by separate EU legislation. This is because action on sex discrimination has a long history at European level, going right back to the beginnings of the European Community. There is a large amount of European legislation on this topic and financial support available. More information about this issue is available at: http://europa.eu.int/comm/employment_social/equ_opp/index_en.htm

What is multiple discrimination?

- > Most people have multiple identities: everyone has an age, a gender, a sexual orientation and an ethnicity; many have or acquire a religion or a disability as well. Because people have multiple identities, more than one factor can underlie discrimination. For example, a woman from an ethnic minority background could experience both sex discrimination or race discrimination or a combination of the two. A Roma man with disabilities may also face prejudice on more than one level.

When did the legislation take effect?

- > The antidiscrimination rules had to be incorporated into national law by the Member States. The deadline for incorporating the rules on racial equality was 19 July 2003. The deadline for the rules on sexual orientation, religion or belief, disability and age was 2 December 2003. The Member States could also have requested an additional period of up to three years to bring their legal systems into line with the provisions on disability and age.



Ernest-Antoine Seillière,
President of UNICE
(Union of Industrial and
Employers' Confederations
of Europe – www.unice.org)

“UNICE is firmly committed to equality and diversity in employment. Business benefits when employees are recruited, trained and promoted on the basis of their competences and without reference to their gender, age, race, disability, sexual orientation or religion. A growing number of enterprises conduct successful diversity policies as part of their efforts to achieve high performance workplaces. UNICE is eager to spread good practices and encourage enterprises and employees to take action. In March 2005, it for example adopted together with the European Trade Unions a framework of actions on gender equality which highlights priorities for action for the coming years.”



Pascale-Marie Deschamps,
Deputy Editor-in-chief at Enjeux
Les Echos. Winner of the "For
Diversity. Against Discrimina-
tion." EU Journalist Award 2004
(www.stop-discrimination.info)

"Discrimination is an offence against human dignity, as stated in international law. But the gap between these values and reality is substantial. A reality that journalists must understand without complacency, but also without naivety and sensationalism, since discrimination is the product of complex historical, cultural and economic relations. This is the reason why I felt especially honoured receiving this Award for our report about racism in the workplace. I hope that the existence of this Award scheme will encourage my European compatriots to tackle these subjects."

What about enlargement of the EU?

- > All new Member States must incorporate European rules on antidiscrimination into their national laws before they join the European Union.

Is there any EU funding available to support anti-discrimination projects?

- > The Community Action Programme which runs from 2001–2006 has a budget of around 100 million Euro. The broad aim of the programme is to change discriminatory attitudes and practices in a practical way. The programme has three priority areas. These are to increase analysis of the nature of discrimination, to support organisations involved in combating discrimination and to raise awareness of discrimination and the benefits of diversity. From 2007 to 2013 a new funding programme entitled "PROGRESS" will continue to finance initiatives in the anti-discrimination field.

What is the EU doing to promote debate on diversity and discrimination?

- > As part of the Community Action Programme, the EU is running a major information campaign in all EU countries, working closely with trade unions, employers, NGOs and national authorities to highlight the benefits of diversity in the workplace and beyond. More information on the information campaign can be found at:
<http://www.stop-discrimination.info>

Why has 2007 been designated the European Year of Equal Opportunities for All?

- > Based on a proposal from the European Commission, 2007 has been designated as European Year of Equal Opportunities for All. The aims of the Year are to inform people of their rights, celebrate diversity as an asset for the EU, and to promote equal opportunities for everyone. The Year will support activities in all 25 Member States.

Where can I find out more information on the EU's antidiscrimination policy and programmes?

- > More information can be found out at: <http://europa.eu.int/comm/antidiscrimination> or by e-mail from the following address: empl-antidiscrimination@cec.eu.int
To sign up for regular email updates on the EU's antidiscrimination policies please register your details at: <http://www.nondiscrimination-eu.info>



Peter Straub, President of the Committee of the Regions (www.cor.eu.int)

"The Committee of the Regions rejects all forms of discrimination, and firmly believes that the fight against discrimination is a question of changing attitudes and values. The rejection of all forms of discrimination is an essential condition for the European Union to develop into an area of freedom, security and justice. Local and regional authorities have an important role to play in this respect, as they operate at a grassroots level and are in close contact with ordinary citizens, increasing knowledge and understanding of multiple discrimination. The Committee of Regions has therefore called for local and regional authorities and other information-providers to be fully engaged in the Action Community Programme to Combat Discrimination, because they are best able to raise awareness of antidiscrimination issues."

The Directives

at a glance

The Racial Equality Directive¹

- > Implements the principle of equal treatment between people irrespective of racial or ethnic origin.
- > Gives protection against discrimination in employment and training, education, social security, healthcare and access to goods and services, including housing.
- > Contains definitions of direct and indirect discrimination, harassment and victimisation.
- > Gives victims of discrimination a right to make a complaint through a judicial or administrative procedure, associated with appropriate penalties for those who discriminate.
- > Shares the burden of proof between the complainant and the respondent in civil and administrative cases.
- > Provides for the establishment in each Member State of an organisation to promote equal treatment and provide independent assistance to victims of racial discrimination.

The Employment Equality Directive²

- > Implements the principle of equal treatment in employment and training irrespective of religion or belief, disability, sexual orientation and age.
- > Includes identical provisions to the Racial Equality Directive on definitions of discrimination, rights of legal redress and the sharing of the burden of proof.
- > Requires employers to make reasonable accommodation to cater for the needs of a person with a disability who is qualified to do the job in question.
- > Allows for limited exceptions to the principle of equal treatment, for example to preserve the ethos of religious organisations or to allow special schemes to promote the integration of older or younger workers into the labour market.

¹ EC Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

² EC Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Publisher

European Commission

Directorate General Employment,
Social Affairs and Equal Opportunities
1049 Brussels – Belgium

Design & Layout

MEDIA CONSULTA
International Holding AG
Wassergasse 3
10179 Berlin – Germany
www.media-consulta.com

Printing

Druckhaus Schönevide
Berlin – Germany

Revised edition 2005
ISBN 92-79-00689-4

ISBN 92-79-00689-4



9 789279 006890