

Social Affairs

DISCRIMINATION BEYOND THE WORKPLACE

Proposal ([COM \(2008\) 0426 final](#)) for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

Objective

To combat discrimination on the grounds of religion or belief, disability, age or sexual orientation, beyond the workplace.

Relevance for the hospitality industry

Service providers including restaurants or hotels will have to take measures in advance (“by anticipation”) to facilitate accessibility for people with disabilities, unless such measures impose a disproportionate burden or require fundamental alteration of the service.

State of progress

The European Commission issued this proposal on 2 July 2008.

On 2 April 2009, the European Parliament adopted, under the consultation procedure, a non-binding opinion on the proposal. In parallel, the proposal was being discussed within the Council. However, no agreement could be reached amongst the Member States under the Czech Presidency (1 January 2009-31 June 2009).

For a detailed overview of the state of progress and related documents you can visit [PreLex](#) (European Commission) or [OEIL](#) (European Parliament).

Content

The proposal for a Council Directive establishes the prohibition of discrimination based on religion or belief, disability age or sexual orientation, beyond the workplace, as regards both the public and private sector, in relation to:

- social protection, including social security and health care;
- social advantages;
- education; and
- access to and supply of goods and other services which are available to the public including housing

In terms of access to and supply of goods and services, only professional or commercial activities are covered: transactions between private individuals acting in a private capacity are not covered by the scope of the proposal.

The proposal establishes that the necessary measures to guarantee effective non-discriminatory access for disabled people to social protection, social advantages, health care, education and access to goods and services which are available to the public, shall be provided by anticipation. Such measures may include appropriate modifications or adjustments. However, “*such measures should not impose a disproportionate burden, nor require fundamental alteration of the service in question*”.

According to the proposal, it shall be for the provider of the service to prove, in the case of a claim, that there has been no breach of the prohibition of discrimination.

The proposal builds upon Directives [2004/113/EC](#), [2000/78/EC](#) and [2000/43/EC](#).

HOTREC position

HOTREC fully shares the concerns of the European institutions in relation to the protection of persons with disabilities, but is of the opinion that this issue is better dealt with at national level, where existing national legislations already offer a comprehensive framework to combat the various forms of discrimination. Moreover, HOTREC is of the opinion that the proposal is formulated in a very general manner leaving many issues (what is a disproportionate burden? what is a fundamental alteration?) open for different interpretations. Over 99% of the hospitality industry is composed of SMEs: legal certainty and minimum bureaucracy are crucial for the survival of these companies

Official references

Proposal ([COM \(2008\) 0426 final](#)) for a Council Directive of 2 July 2008, on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

European Parliament legislative resolution ([T6-0211/2009](#)) of 2 April 2009 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

See also:

Concerning discrimination outside employment:

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, O.J. L 373 of 21.12.2004.

Directive [2000/43/EC](#) of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, O.J. L 180 of 19.7.2000 (*in the case of access to and supply to good and services*)

Concerning discrimination within the employment:

Directive [2000/78/EC](#) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, O.J. L 303 of 21.12.2000.

Directive [2000/43/EC](#) of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, O.J. L 180 of 19.7.2000.