



Council of the
European Union

Brussels, 11 June 2018
(OR. en)

6722/18

LIMITE

SOC 111
ANTIDISCRIM 5
JAI 182
MI 127
FREMP 23

**Interinstitutional File:
2008/0140 (CNS)**

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 14071/1/17 REV 1
No. Cion doc.:	11531/08 - COM(2008) 426 final
Subject:	Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

I. INTRODUCTION

At its meeting on 26 April 2018, the Working Party on Social Questions discussed 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. In view of the 10th anniversary of the adoption of the proposal, the Presidency gave delegations the opportunity for a debate on potential ways to overcome the persisting deadlock in the Council discussions, based on a steering note (6733/18).

II. DISCUSSION ON THE WAY FORWARD

Delegations were invited to reflect in particular on *the aim, the scope and the economic impact* of the proposed Directive.

Delegations broadly welcomed the initiative of the Presidency. With the exception of PL, all delegations that took the floor supported the objectives of the proposal. Three delegations did not take the floor (DE, LU, AT). The outstanding issues include subsidiarity and the division of competences, legal clarity and consistency with other legal acts, budget implications and costs, and the implementation. Delegations raised the following concerns:

- the principle of subsidiarity should be respected, particularly in the areas of social protection and education, and the divisions of competences should be respected;
- several delegations called for greater legal certainty and clarity. Delegations also raised the issue of consistency with other EU Directives on Equal Treatment and with relevant case law as well as with the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD). Others believed that articulations with the European Accessibility Act (EAA) should be further analysed;
- the budgetary implications of the Directive, especially arising from the accessibility provisions and reasonable accommodation. Some delegations asked for more information on the overall financial impact of the proposal and its impact on specific sectors such as transport and housing;
- regarding the implementation of the proposal, some delegations pointed at a lack of legal certainty and asked for flexibility, especially for those Member States that already have legislation in place and/or have implemented the UN CRPD.

The Commission welcomed the discussion on the way forward and took note of the broad support expressed by delegations, which provided a basis for the resumption of constructive work on the file.

1. Aim of the Directive

BE, CY, CZ, DK, EE, ES, FI, FR, UK, EL, HU, HR, IE, IT, LT, LV, MT, NL, PT, RO, SE, SI, SK (23 Member States) reaffirmed their support for the general aim of the proposed Directive. A number of delegations indicated that they had already fulfilled the objectives of the proposed Directive or parts of it through national legislation, but acknowledged the need to fill the gaps and to complete the framework of equal treatment legislation at the EU level. PL recalled its general reservation on the proposal, arguing that the proposed scope gives rise to questions concerning subsidiarity and proportionality.

2. Structure and scope of the Directive

Almost every delegation was in favour of maintaining the proposed scope covering all four grounds in a single instrument and thus supported the horizontal structure of the Directive. Delegations stressed that it would be undesirable to have an unequal level of protection depending on the ground and pointed that a restructuring or a limitation of the scope would not overcome the deadlock as the difficult issues lay elsewhere. One delegation (IT) proposed exploring the possibility of inserting a flexibility mechanism for the benefit of those delegations that already have national legislation covering the same grounds and the same scope.

3. Economic impact of the Directive

Delegations concurred that, although it was difficult to precisely assess the economic impact of the Directive, inclusion and non-discrimination undoubtedly had far-reaching positive consequences for society as a whole, including in economic terms. LV, LT and UK expressed interest in an update of the Impact Assessment (IA) to assess the social and economic impacts of the proposal. FR added that a study by the Ministry of Economy estimated the cost of discrimination at 7% of the GDP.

The Commission recalled that there had been an update of the IA 3 years ago.

III. CONCLUSION

The Chair informed the group that a Progress Report would be presented to the EPSCO Council on 21 June 2018. The discussion on the way forward will feed into the preparatory work of the Austrian Presidency.
