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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	9108/21
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

In view of the informal videoconference of members of the Working Party on Social Questions, which is scheduled for 27 October 2021, delegations will find attached a Presidency steering note.

Delegations are also welcome to send in written input at any time, including before the meeting. The deadline for written comments sent after the meeting will be Wednesday 3 November 2021. Written comments should be sent to the following email addresses:

LIFE.social@consilium.europa.eu and SIEPSCO.spbr@gov.si

Presidency Steering Note

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 was adopted by the Commission on 2 July 2008. The European Parliament adopted its Opinion under the Consultation Procedure on 2 April 2009.¹ Despite the best efforts of successive Presidencies since 2008, the required unanimity has yet to be found in the Council.

Complementing existing EU legislation in this area, the Directive would prohibit discrimination on the grounds of religion or belief, disability, age or sexual orientation in the following areas: social protection, including social security and healthcare; social advantages; education; and access to goods and services, including housing. The proposal thus seeks to fill a gap in EU anti-discrimination legislation and has thus raised considerable expectations among the public, both at European level and at national level. The importance of promoting social rights, including equal treatment, has been reaffirmed in the European Pillar of Social Rights² as well as in the Porto Declaration.³ The importance of fighting discrimination has also been specifically addressed in recent formal and informal political discussions in the field of employment and social policy.⁴

In May this year, the Portuguese Presidency tabled a new compromise text including new suggestions on the key issues.⁵ Building on this work, the Slovenian Presidency wishes to facilitate further discussion on the main outstanding questions as set out in the questions below.

With a view to advancing the work on the text, delegations are kindly requested to indicate **which specific parts of the Directive (if any) are still problematic for them**. Please **explain the reasoning** and also **propose possible solutions**.

¹ In practice, the EP will have to give its consent (once more) before the Directive can be adopted, as the legal basis has changed.

² https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf

³ <https://www.consilium.europa.eu/en/press/press-releases/2021/05/08/the-porto-declaration/>

⁴ A policy debate on “Enhancing anti-discrimination in the European Union” took place at the EPSCO Council on 24 October 2019. (Ministers of Employment and Social Policy also discussed the topic of “Equality, non-discrimination and diversity” at their *informal* videoconference on 15 March 2021.)

⁵ See 8549/21, 9108/21, 9109/21.

1. Subsidiarity (in particular, Articles 2(8) and 3(1-2) and Recital 16)

- a. Is there the right balance between subsidiarity and protection against discrimination through EU law?
- b. Is there the right balance between protection against discrimination on the one hand and the protection of rights such as respect for private and family life, freedom of association and the freedom of the press on the other?

2. Implementation costs (in particular, Article 15 and Recitals 19ca, cb and cc)

- a. Can you support the provisions that grant the Member States the right to request a temporary exemption from the requirement to provide reasonable accommodation? How would you wish to see these provisions fine-tuned?
- b. Could you provide examples of the concrete situations you would wish to see covered, bearing in mind the fact that the absence of an undue or disproportionate burden is already included in the concept of reasonable accommodation?
- c. Are you satisfied with the consistency between the current text and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

3. Legal certainty (in particular, Article 2(7 and 7a))

Can you support the provisions concerning permitted differences of treatment in the provision of insurance, banking and other financial services based on “age” or on a “health condition that may be linked to a person’s disability”? If not, what should be changed to accommodate your concerns?

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