Council of the European Union

Brussels, 25 April 2024
(OR. en, bg, de)

Interinstitutional File: 2022/0400(COD)

8954/24
ADD 1 REV 1

CODEC 1111
SOC 283
ANTIDISCRIM 59
GENDER 65
JAI 635
FREMP 195

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU **(first reading)** - Adoption of the legislative act = Statements

Statement by Austria

Austria fully supports the objectives of the proposed Directives to strengthen the protection against discrimination and to improve the support for victims of discrimination.

Austria emphasizes that the proposed Directives set minimum standards for equality bodies.

Austria already has a well-functioning best-practice system in the field of equal treatment and anti-discrimination that has proven its worth for decades. In order to preserve effective and long-established national structures, there should be flexibility in implementing these Directives. Effective institutions and efficient mechanisms shall continue to exist within this new framework.

Statement by Bulgaria

The Republic of Bulgaria reaffirms its commitment to ensuring equality and combating discrimination as fundamental values of the European Union. The country therefore supports the establishment and implementation of a strong legal framework for applying the principle of equal opportunities and equal treatment of women and men, in particular the objectives of the *Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU.* Establishing minimum requirements for the functioning of equality bodies will improve their effectiveness, ensure their independence and provide timely and effective protection for victims of discrimination.

At the same time, however, during the negotiations on the proposal for a Directive, changes were made to the text that are unacceptable to the Republic of Bulgaria.

In 2018, the Bulgarian Constitutional Court adopted a decision stating that the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence ('Istanbul Convention') promotes legal concepts related to the notion of gender that are incompatible with the main principles of the Constitution of the Republic of Bulgaria.

In 2021, the Constitutional Court further clarified that the term 'sex' used in the Constitution, should, in the context of the national legal order, be understood in its biological sense only (men and women).

Therefore, in line with the abovementioned judgments of the Constitutional Court, the Republic of Bulgaria declares that it cannot accept either the concept of gender or the gender approach of the Istanbul Convention or other documents that differentiate between 'sex' as a biological (women and men) category and 'gender' as a social construct. Consequently, the Republic of Bulgaria cannot accept the extension of the definition of 'victim' in Article 6 and Recital 23 with an indicative list of characteristics including gender: gender, gender identity, gender expression or sex characteristics.

For these reasons, the Republic of Bulgaria does not support the text of the *Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU.*

Statement by Germany

We agree with the general approach on the Directive, subject to the following interpretation:

1. We appreciate the fact that, during the negotiations at the Council Working Party meeting, the Commission assured us that we can also implement Article 8 exclusively by means of an alternative dispute resolution procedure in which the defendant must participate. To that end, the equality body, at the request of a person claiming discrimination, will examine and decide on the case on the basis of the information provided to it, taking into account the reversal of the burden of proof. Germany interprets Article 8 as meaning that the requests for information are not compulsorily enforced, but that the defendant will be made aware of the reversal of the burden of proof.

2. We also appreciate the fact that Germany can prohibit equality bodies from publishing private or company data in the context of the summaries referred to in Article 9.

3. At the Council Working Party meeting, the Commission also assured us that we would have the possibility of implementing Article 10(3), point (a) in such a way that 'competent entities', i.e. recognised anti-discrimination associations in Germany, would be able to initiate proceedings on behalf of victims and thus provide judicial support to those affected by discrimination. This will ensure effective judicial support for those affected by discrimination.

Statement by Hungary

Hungary believes in upholding the values of a cohesive, peaceful and democratic society, based on the equality of all individuals without discrimination on any grounds. That is guaranteed by the Fundamental Law, and the Hungarian Equal Treatment Act which provides horizontal and comprehensive legal protection in the field of non-discrimination.

Hungary recognizes and promotes equality between men and women in accordance with the Fundamental Law of Hungary and the primary law, principles and values of the European Union, as well as commitments and principles stemming from international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets gender as providing equal chances and opportunities for women and men. In line with these and its national legislation, Hungary interprets the concept of 'gender' as reference to 'sex' and the concept of 'gender equality' as 'providing equal chances and opportunities for women and men' in the Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU.