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From:	Presidency
To:	Permanent Representatives Committee/Council
No. prev. doc.:	9573/25
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>- Policy debate</i>

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Delegations will find attached a Presidency steering note on the above subject, with a view to the policy debate at the Council (EPSCO) on 19 June 2025.

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## **Equal Treatment Directive**

On 2 July 2008, the Commission submitted to the Council and the European Parliament a proposal for a Council Directive aiming to extend the protection against discrimination on the grounds of religion or belief, disability, age or sexual orientation to areas outside employment. Complementing existing EU legislation in this area<sup>1</sup>, the proposed horizontal equal treatment Directive would prohibit discrimination on the above-mentioned grounds in the following areas: social protection, including social security and healthcare; education; and access to goods and services, including housing. In the areas outside employment, discrimination on the grounds of sex and of racial or ethnic origin is already prohibited at the EU level.

The European Parliament adopted its Opinion on 2 April 2009<sup>2</sup> under the Consultation Procedure. Following the entry into force of the Lisbon Treaty on 1 December 2009, the proposal now falls under Article 19 TFEU; thus, unanimity in the Council is required, following the consent of the European Parliament.

The Council has not yet been able to reach the required unanimity on the proposal, which was tabled almost 17 years ago. The most recent Progress Report<sup>3</sup> was submitted to the EPSCO Council on 20 June 2024.

While a very large majority of delegations has long supported the Directive, endorsing the fact that it aims to complete the existing legal framework by addressing all four grounds of discrimination through a horizontal approach, certain others have expressed concerns related to its compliance with the principle of subsidiarity, and the financial implications of the proposal.

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<sup>1</sup> In particular, Council Directives 79/7/EEC, 2000/43/EC, 2000/78/EC and 2004/113/EC.

<sup>2</sup> See doc. A6-0149/2009. Alice Kuhnke (SE/Greens/European Free Alliance) has been appointed Rapporteur by the current Parliament.

<sup>3</sup> 10817/24

Building on the lengthy negotiations, the Council has continued to make concerted efforts to reach an agreement under recent Presidencies. A very comprehensive redrafting of the proposal has been undertaken under successive Presidencies to ensure legal certainty, clarify the division of competences and align the text with the principle of subsidiarity. The removal of the accessibility provisions has significantly reduced the financial implications of the Directive. Compromise solutions found in the Council, particularly during the Belgian Presidency in the spring of 2024, has enabled almost all Member States to support the directive.

It is recalled that, over the past year, a large majority of Member States has clearly and repeatedly expressed support for an agreement on this longstanding proposal, considering it opportune, timely and necessary.<sup>4</sup>

The Polish Presidency intended to advance the discussion with a view to facilitating the earliest possible adoption of the Directive. However, in the absence of any additional drafting suggestions from the Member States with outstanding concerns, the Presidency has not been able to propose a new compromise text and secure unanimity within the Council.

The Commission has long supported the search for a compromise, while maintaining a scrutiny reservation on any changes to its original proposal at this stage. In its 2025 Work Programme, published on 11 February 2025, the Commission announced its intention to withdraw the proposal for an Equal Treatment Directive.

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<sup>4</sup> EPSCO Council meetings on 7 May 2024, 20 June 2024 and 2 December 2024.

In the General Affairs Council (GAC) on 25 February, 9 Member States called on the Commission to reconsider its intention to withdraw the proposal. This view was also expressed by 13 Member States at the EPSCO Council on 10 March.

In the light of these developments, including the discussions at the EPSCO Council, Member States are invited to address the following questions:

- 1) Following the recent announcement by the European Commission of its intention to withdraw the proposal, do you still think that the required unanimity is within reach in the Council and is it your wish to continue working on the compromise text?
  - 2) If this is not the case, would you like to encourage the Commission to prepare a new proposal that would address in an effective way the objectives of the initial proposal and establish a coherent anti-discrimination legislation framework in the EU?
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