

Why does the European Commission need to propose a Horizontal Directive on the principle of equal treatment?

The Case for a Horizontal Anti-Discrimination Directive

ILGA-Europe (The European Region of the International Lesbian and Gay Association) and the European Network Against Racism (ENAR) have been arguing for the need to propose a single horizontal anti-discrimination Directive, covering the grounds of age, disability, religion/belief and sexual orientation. Here is a summary of arguments in favour of a single equality legislation.

A single comprehensive legislation is the most effective way to ensure legal clarity and coherence in relation to levels of protection against discrimination:

- ❖ Experience has shown that a **harmonized and coherent single legislation is easier to implement** than a legislative framework fragmented by grounds. A single piece of legislation considerably **increases the ability to adopt a consistent approach and to deal effectively with any inconsistencies** and/or tensions that may arise between grounds of discrimination. It is for similar reasons that countries like the United Kingdom which had ground-specific legislation have been moving towards single equality legislation.
- ❖ A single legislation **provides individuals with a clear means to know their rights** across the EU. Having separate laws leads to fragmented legislation which has been shown to be confusing to the public in many countries.
- ❖ A single directive **offers maximum legal clarity for businesses and other providers of goods and services**. A harmonized legislation would mean that employers and service providers can rely on a coherent, transparent, accessible and easily understood body of law to be informed about their obligations.

A single comprehensive legislation is the most effective way to ensure that all grounds of discrimination are treated equally and to address multiple discrimination:

- ❖ Creating separate rules for different grounds of discrimination often creates significant barriers to dealing with multiple discrimination. For instance, different definitions of direct discrimination and indirect discrimination, or the different material scope of legislation from one ground to another would make it difficult, if not impossible, to address multiple discrimination.
- ❖ A single directive underlines the human rights nature of the issue of discrimination regardless of the discrimination ground and enables potential conflicts of rights to be addressed within the human rights framework, avoiding any actual or perceived hierarchy of human rights.

A single initiative CAN address the specificities of the different types of discrimination:

- ❖ It is the opinion of several well-respected European legal experts that the specific needs of the grounds of sexual orientation, religion or belief, disability and age can be equally met within single equality legislation. The different range of provisions that may be necessary to respond to the characteristics of each ground of discrimination (such as reasonable accommodation for disability or preferential treatments related to age) can be integrated in a horizontal directive, for instance under different chapters.

- ❖ The Employment Framework Directive 2000/78 already demonstrates how European legislation can combine general provisions applying to all grounds with specific provisions addressing the different context of certain grounds (e.g. the reasonable accommodation duty).

Proposing a horizontal directive is the most effective way to ensure the strong endorsement of a wide-ranging coalition of supporters

- ❖ A single directive that fully addresses the specificities of each ground would be supported by a wide coalition of NGOs working on human rights, equality and non-discrimination and social issues at European and national level. It would support and strengthen social cohesion as well as solidarity between the grounds.
- ❖ Representatives from some States have clearly expressed to ILGA-Europe and ENAR that they will be more willing to agree to EU legislation on some grounds of discrimination as part of a *package*, which they consider to be easier to introduce in their country. Fragmenting the grounds of discrimination in different pieces of discrimination will open up the door to *leading* in negotiations and allow for States to have an *à la carte* approach to legislation whereby they can choose the grounds of discrimination they wish to see protected and those grounds they wish to reject. Due to the need for unanimity, this could result in no protection for any ground.
- ❖ A single legislation would also receive the support of several political parties, of trade unions, as well as of European and national human rights institutions and equality bodies.

To discuss any aspect of this position further, please contact Evelyne Paradis, ILGA-Europe's Senior Policy and Programmes Officer (evelyne@ilga-europe.org) or Tansy Hutchinson, ENAR Policy Officer at (tansy@enar-eu.org)