



ASTRA- Central and Eastern European Women’s Network for Sexual and Reproductive Health and Rights’ Statement on Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

ASTRA welcomes the emphasis put on the principle of equal treatment in the newest proposal for a *Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation*. However, certain provisions need to be clarified. While combating different grounds of discrimination, the new proposal fails to enhance adherence to principles of non-discrimination related to gender and race, and excludes the area of reproductive health from the scope of the planned directive.

Accordingly with the commitment of the 4th World Conference on Women in Beijing and the EU’s decision to adopt gender mainstreaming policy, gender should become a transversal consideration in all aspects of national and international decision-making, cutting across all issue-areas and across all stages of the policy cycle from conception to implementation.

Although *Roadmap for equality between women and men, 2006-2010* adopted by the European Commission in 2006 foresees the promotion of gender equality as a basic human right in external and development policies and that “improving sexual and reproductive health is strongly linked to the achievement of MDG 3 (gender equality and the empowerment of women)”, the newest *Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation* fails to address the issue of gender equality.

Originally, the planned directive was supposed to address a wide range of discriminations beyond labour market (as opposed to the directive 2000/78/EC prohibiting discrimination in employment, and directive 2000/43/EC on equal treatment irrespective of racial or ethnic origin), thus both, gender and race, were the factors to be addressed in this directive. However, although the current proposal draws on Directives 2000/43/EC, 2000/78/EC, and 2004/113/EC prohibiting discrimination on grounds of sex, racial or ethnic origin, age, disability, sexual orientation, religion or belief, it does not include gender and race as discrimination grounds, and the scope of the discrimination specifies only four grounds of the discrimination, as in the new title i.e. religion or belief, disability, age or sexual orientation.

The fact that differences of treatment based on sex are covered by Articles 13 and 141 of the EC Treaty and related secondary legislation¹, does not suffice for excluding gender-based discrimination from the proposal for new anti-discriminatory directive. Moreover, the current proposal fails to overcome the limitations of the previous directives and creates new legal gaps concerning implementation of the EU's anti-discriminatory policy related to the fields of health care, education, political participation and violence against women in Member states. In order to complement the existing anti-discriminatory legal framework of the EU, it is necessary for planned directive to implement the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation as well as gender and race.

Furthermore, the article 3., paragraph 2. on subsidiarity and proportionality reading:

“Moreover, national traditions and approaches in areas such as healthcare, social protection and education tend to be more diverse than in employment-related areas. These areas are characterized by legitimate societal choices in areas which fall within national competence. The diversity of European societies is one of Europe's strengths, and is to be respected in line with the principle of subsidiarity. Issues such as the organization and content of education, recognition of marital or family status, adoption, reproductive rights and other similar questions are best decided at national level.”

should be carefully reviewed. Although non-discrimination is recognized to be one of the fundamental values of the EU, in practice the level of legal protection to secure these values differs between Member States and between discrimination grounds. As a result, those at risk of discrimination often find themselves less able to participate fully in society and the economy, with negative effects both for the individual and for broader society.

The negative references to reproductive rights might have negative impact on the prevention of gender discrimination related the reproductive health issues and may seriously delay the achievement of gender equality in Europe. The proposal in its current shape undermines international consensus and provision of human rights in respect of health care (and its specific aspects; i.e.: reproductive health), and might have chilling effect on full enforcement of laws prohibiting discrimination in the EU Member states.

Therefore, ASTRA urges the European Parliament and Council to include gender as a ground of discrimination and remove the provisions related to reproductive rights from the content of the directive.

The newest proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation fails to address the issue of gender equality na be found at: <http://ec.europa.eu/social/BlobServlet?docId=477&langId=en>

Previous ASTRA statements related to the directive can be found at: <http://www.astra.org.pl/ASTRA%20EPSCO%2029%2009%2008.doc> and http://www.astra.org.pl/ASTRA_EU_EqualitySummit29%2009%2008.doc

¹ Directive 2000/43/EC (Racial Equality Directive) implements the principle of equal treatment between people irrespective of racial or ethnic origin; directive 2000/78/EC (Employment Equality Directive) implements the principle of equal treatment in employment and training irrespective of religion or belief, disability, age or sexual orientation in employment, training and membership and involvement in organizations of workers and employers; directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

ASTRA SECRETARIAT
Nowolipie 13/15, 00-150 Warsaw, Poland
<http://www.astra.org.pl>
info@astra.org.pl