



# Equality and non-discrimination

## Annual report 2006



2007 - European Year of Equal Opportunities for All



European Commission



# Equality and non-discrimination

## Annual report 2006

European Commission  
Directorate-General for Employment, Social Affairs and Equal Opportunities  
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# Table of contents

	<b>Introduction</b> .....	5
	<b>Part I: Progress in implementing the EU's Equal Treatment Directives</b> .....	7
	1. Overview .....	7
	2. Changes in national legislation between April 2005 and June 2006 .....	7
	3. Short update on implementation by those countries that requested an extension to transposition .....	14
	4. Protecting and enforcing individual rights .....	15
	4.1 Rights of Individuals in cases where the Directives have not been fully transposed .....	15
	4.2 The role of the European Court of Justice .....	15
	4.3 Core Concepts and Examples of related Court Cases .....	17
	4.4 National Equality Bodies .....	21
	4.4.1 Equality bodies (or similar entities) in each country .....	24
	4.4.2 Brief examination of some of the powers and competences of the equality bodies .....	27
	<b>Part II: 2007 – European Year of Equal Opportunities for All</b> .....	29
	1. Introduction .....	29
	2. Building on past work .....	29
	3. Involving people on the ground .....	29
	4. High level launch .....	30
	<b>Interviews</b> .....	32
	Vladimír Špidla, European Commissioner for employment, social affairs and equal opportunities .....	32
	Ursula von der Leyen, German Federal Minister for family affairs, senior citizens, women and youth .....	34
	<b>Expectations for the year</b> .....	35
	Martine Roure, member of the European Parliament .....	35
	Cities and regions: key players in 2007 .....	36
	NGOs crucial to success .....	37
	The role of equality bodies .....	38
	Unions and employers – partners in the Year .....	40
	<b>Previous European Years: lessons learnt</b> .....	41
	<b>The European Year in my country</b> .....	42



## Introduction

The past year has seen a series of important developments in the European Union's efforts to combat discrimination and ensure equal opportunities for all in Europe – both in terms of laws and other forms of action.

Despite delays in some countries, the EU's Member States have continued to adopt and amend national laws to bring them into line with the EU anti-discrimination legislation adopted in 2000. Some of the changes relate to disability and age discrimination, where an extended deadline for introducing certain provisions into national law – expiring at the end of 2006 – was applied by several countries.

Part I of this report summarises these developments in anti-discrimination legislation and presents the state of play in each of the 25 Member States. It takes a look at how the individual's rights to equal treatment laid down in EU law can be protected and enforced. This part also explains several of the legislation's key concepts and includes case studies revealing how they are applied in practice.

In June 2005, the European Commission set out its new framework strategy as part of a concerted effort to promote equality and non-discrimination in the EU. While a great deal of progress has been made in recent years, discrimination still remains a fact of life for many people in our societies. The strategy is designed to ensure that discrimination is effectively tackled, diversity is celebrated and equal opportunities for all are promoted. At its centrepiece is the designation of 2007 as the European Year of Equal Opportunities for All. The European Year will build on the success of the Community Action Programme to combat discrimination by providing a new boost to making equal treatment a reality for everyone in the EU.

Part II of this report sets out the main objectives of the Year, explains what will happen and when, and asks several key stakeholders in the fight against discrimination about their hopes and expectations for the Year – as well as how they plan to get involved. Since most of the European Year's activities will be decentralised to national, regional and local level, the crucial contact points for people planning to participate are set out for each country in a table on p. 42.





## Progress in implementing the EU's Equal Treatment Directives

### 1. Overview

The Racial Equality Directive (Directive 2000/43) and the Employment Equality Directive (Directive 2000/78) require Member States to establish a legal framework to prohibit discrimination on the grounds of racial or ethnic origin, religion or belief, age, disability and sexual orientation and thereby put into effect the principle of equal treatment. The two Directives were adopted in 2000 in order to ensure a minimum standard of protection in these areas for all Member States. They do not prevent Member States from providing greater protection against discrimination than that required by the Directives. However in transposing the Directives Member States were not entitled to reduce the level of protection which previously existed.

The Directives protect everyone in the European Union, including persons who are not EU citizens. Both Directives prohibit discrimination in the field of employment, occupation and vocational training. In addition to this, the Racial Equality Directive prohibits discrimination on the grounds of racial or ethnic origin in the fields of social protection, including social security and healthcare; social advantages; education; and access to and supply of goods and services which are available to the public, including housing. Within their remits, both Directives protect everyone against direct and indirect discrimination, harassment, instructions to discriminate and victimisation. They both contain

the same provisions on positive action, defence of rights, a shift in the burden of proof and sanctions.

### 2. Changes in national legislation between April 2005 and June 2006

Despite the deadlines for transposition of the Directives having already passed, laws are still being amended and adopted in a number of Member States. Some of these laws relate to age and disability discrimination where a few Member States had informed the European Commission that they were going to take advantage of the possibility to extend the deadline for transposition in relation to these two grounds to the end of 2006.

In **Finland**, the Act on the Prevention of Discrimination, the Act on the Discrimination Ombudsman and the Provincial Decree on the Discrimination Board transposed the Directives in the Åland Islands and all entered into force on 1 December 2005. In **Austria**, on the federal level the Equal Status Act for People with Disabilities passed through Parliament as well as substantial amendments to the Disabled Persons Placement Act and entered into force on 1 January 2006 and on the provincial level several acts entered into force. In Styria an amendment to the Styrian Act for People with Disabilities was adopted, in Vienna

amendments were adopted for people with disabilities in the Contractual Public Employees Regulations Act and in the Agricultural Equal Treatment Act and Anti-discrimination Acts were adopted in Upper Austria, Voralberg, Burgenland and Salzburg. In **France**, Law 2005-102 for the Equality of Rights and Opportunities and Social Participation of the Disabled entered into force on 11 February 2005. Decree 2005-1617 on Equal Access to Employment for the Disabled, Law 2005-846 and Decree 2005-901 eliminating Age Limits for Access to Employment in the Public Sector were adopted. In **Great Britain** the Disability

services, education, and other facilities and these are expected to come into effect later this year. The Act also establishes a Commission for Equality and Human Rights (CEHR) which will become the equality body for all grounds when it begins its operation in October 2007. In January 2006, in **Latvia**, amendments to the Law on the National Human Rights Office were adopted, specifically designating the National Human Rights Office as the body responsible for the implementation of the principle of equal treatment. In **Spain**, the Parliament passed Law 14/2005 of 1 July 2005 enabling compulsory retirement clauses to be included in collective agreements if they are objectively and reasonably justified, by being linked to legitimate employment policy and labour market and vocational training objectives. In **Estonia**, the Law on Amendments to the Law of the Republic of Estonia on Employment Contracts of 8 February 2006 abolished age as a basis for termination of employment contracts. Moreover, the Law on Employment Services and Allowances entered into force on 1 January 2006 and provides unemployed disabled persons with special services, which include 'accommodation of the workplace and means to work.' In **Italy**, a Joint Decree of the Ministries of Labour/Welfare and Equal Opportunities establishing a register of associations and bodies with standing to litigate discrimination claims was passed. In **Lithuania** a Law amending the Code of Administrative offences providing for administrative liability of public and private sector employers and the imposition of sanctions for a violation of the Law on Equal Treatment entered into force on 11 October 2005. In **Denmark**, as a result of a new section 5A(5) and (6) of Act No.31 on the prohibition of discrimination in employment and occupation, young people under 18 years old are no longer protected against discrimination on the grounds of age, if collective agreements allow for differential treatment. In the **Netherlands**, the Equal Treatment Act has been amended. The New law ("Wet tot wijziging van de Algemene Wet Gelijke Behandeling; Evaluatiewet Awgb) of 15 September 2005 permits the Equal Treatment Commission to conduct independent surveys in both the public and private sectors. The Dutch Penal Code has been amended so that any discrimination on the ground of a person's physical, psychological or mental disability is prohibited. In **Sweden**, on 8 February 2006, the Parliament adopted a new Act banning discrimination against children and pupils and prohibiting other degrading treatment of them.



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Discrimination Act 2005 is being implemented in stages, starting from 30 June 2005. It includes a positive duty on public bodies to promote equal opportunities for disabled people which comes into effect on 4 December 2006. The parallel legislation for Northern Ireland (The Disability Discrimination (Northern Ireland) Order 2006 (2006 No.312 (N.I. 1)) starts its first implementation phase on 3 July 2006 (Commencement Order No. 1 2006 No.289 (C.16)). In Great Britain the Civil Partnership Act 2004 (Amendments to Subordinate Legislation Order 2005) was passed with the result that employers now have to extend any benefits offered to the spouses of married employees to the partners of employees who are in a Civil Partnership – a corresponding Order was made in Northern Ireland. On 16 February 2006 the Equality Act received Royal Assent. Measures included or provided for in this Act will extend protection against discrimination beyond the Directives to cover discrimination on the basis of religious belief and sexual orientation in relation to goods and

### Table on the Legislation implementing the Directives (as of 30 June 2006)

This table summarises the legislation passed in relation to the Directives. It does not assess whether national law is fully in line with the Directives or whether these have been fully complied with in the respective Member States. As national law is still changing quite rapidly in this area, it may not be long before new legislation can be added to that described here.

<p><b>Austria</b></p>	<p><i>Federal level: Concerns all grounds (except disability) in two Directives and sex:</i> Federal Equal Treatment Act (adopted 1979, amended 2004), Equal Treatment Act, Law on the Equal Treatment Commission and the Ombudsperson for Equal Opportunities (all in force from 1 July 2004).</p> <p><i>Concerns disability:</i> Disability Equality Act (in force from 1 January 2006), (Amendment to) Act on the Disabled Persons' Placement Act, Federal Disability Act (both in force from 1 January 2006)</p> <p><i>Provincial level:</i> Styrian Equal Treatment Act 2004, Styrian Ombud for Disabled Persons (March 2005); Viennese Service Order 2004; Viennese Anti-discrimination Act 2004 amendments to the Contractual Public Employees Act and the Agricultural Equal Treatment Act (September 2006); Lower Austrian Equal Treatment Act 2004, (amendments April 2005), Lower Austrian Anti- Discrimination Act, Amendments to the Agricultural Labour Regulations (both April 2005); Carinthian Anti-discrimination Act 2004, as well as amendments to the Agricultural Labour Regulations (July 2006); Voralbergian Act on Anti-discrimination 2004; Upper Austrian Act on Anti-discrimination; and Burgenland's Anti-discrimination Act 2004 and amendments of the Agricultural Labour Regulations (2006); amendment to the Salzburg Agricultural Labour Regulations (2005) and Salzburgian Anti-discrimination Act 2006; Tyrolean Anti- Discrimination Act (April 2005), Tyrolean Equal Treatment Act for Provincial Public Employees (January 2005) as well as amendments of the Provincial Teachers (Employment) Act (December 2005) and Agricultural Labour Regulations (July 2005).</p>
<p><b>Belgium</b></p>	<p><i>Federal level: Concerns all grounds in two Directives and additional grounds including sex:</i> Law of 25 February 2003 on combating discrimination and amending the Act of 15 February 1993 setting up the Centre for Equal Opportunities and Opposition to Racism; <i>Concerns race and ethnic origin and other grounds:</i> Law of 30 July 1981 criminalising certain acts inspired by racism or xenophobia as amended by the Laws of 12 April 1994, of 7 May 1999, and of 20 January 2003.</p> <p><i>Regional level: Concerns all grounds:</i> Flemish Region/Community: Decree of 8 May 2002 on proportionate participation in the employment market; French speaking Community: Decree of 19 May 2004 on the implementation of the principle of equal treatment; Walloon Region Decree of 27 May 2004 on the equal treatment in employment and professional training; German-speaking Community: Decree of 17 May 2004 on the guarantee of equal treatment on the labour market; Brussels Capital region: Ordinance of 26 June 2003 on the mixed management of the employment market in the Brussels-Capital region.</p>
<p><b>Cyprus</b></p>	<p><i>Concerns only racial and ethnic origin:</i> The Equal Treatment (Racial or Ethnic Origin) Law, 2004 Law No. 59(I)/2004;</p> <p><i>Concerns racial and ethnic origin, religion or belief, age, sexual orientation:</i> Equal Treatment in Employment and Occupation Law 2004 (Law No. No. 58(I)/2004).</p> <p><i>Concerns disability:</i> Law on Persons with Disabilities (Amendment) No. 57(I)/2004;</p> <p><i>Concerns all grounds in two Directives and additional grounds:</i> The Commissioner for Administration (Amendment) Law, 2004 (Law No.36(I)/2004; - The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law 2004 (Law No. 42(1)/2004).</p>

<b>Czech Republic</b>	<p><i>Concerns all grounds in two Directives except disability plus additional grounds:</i> Law No. 65/1965 Coll. Labour Code as amended by Law no. 46/2004 Coll; Law no. 361/2003 Coll. on the service by members of security forces; Law no. 221/1999 Coll. on service by members of armed forces amended in 2002 Coll.;</p> <p><i>Concerns all grounds in two Directives and additional grounds including sex:</i> Law No. 435/2004 Coll on Employment, Law no. 218/2002 Coll. on official service in State administration and on remuneration of these officials and other employees, School Law no. 561/2004 Coll.</p>
<b>Denmark</b>	<p><i>Concerns race, colour, national or ethnic origin, religion and sexual orientation:</i> Act No 960 (2004) on Section 266(b) of the Penal Code; Act No 626 (1987) prohibiting racial discrimination; Act No 459 (1996) amended by Act 253 (2004) and Act No 1416 (2004) on the prohibition of discrimination in respect of employment and occupation;</p> <p><i>Concerns race and ethnic origin:</i> Act No 374 (2003) on the prohibition of unequal treatment due to race and ethnicity; Act no. 411 (2002) on the Institute for International Studies and Human Rights.</p> <p><i>Concerns age and disability:</i> Act No 1417 of 22 December (2004) on the prohibition of direct and indirect discrimination on the grounds of age and disability;</p> <p><i>Concerns all grounds in two Directives and additional grounds:</i> Act No. 31 (2005) Act on prohibition against discrimination in respect of employment and occupation.</p>
<b>Estonia</b>	<p><i>Concerns all grounds in two Directives plus additional grounds:</i> Law on Amendments to the Law on the Legal Chancellor and Related Laws; Law of the Republic of Estonia on Employment Contracts and to the Decision of the Supreme Soviet of the Republic of Estonia "Implementation of the Law of the Republic of Estonia on Employment Contracts" of 22 April 2004; Law on Amendments to the Law of the Republic of Estonia on Employment Contracts of 8 February 2006</p> <p>Penal Code 2002 (<i>does not protect sexual orientation, all forms of disability and age</i>);</p> <p><i>Concerns all grounds in two Directives and additional grounds including sex:</i> Law on Employment Services and Allowances entered into force on 1 January 2006.</p>
<b>Finland</b>	<p><i>Concerns all grounds in two Directives and additional grounds, including sex:</i> Non-discrimination Act (21/2004); Penal Code, as amended by Law 578/1995 and Law 302/2004; Employment Contracts Act, as amended by Law 23/2004;</p> <p><i>Concerns all grounds in two Directives:</i> Province of Åland: Act on the prevention of discrimination; Act on the Discrimination Ombudsman; Provincial Decree on the Discrimination Board (all in force from 1 December 2005).</p>
<b>France</b>	<p><i>Concerns religion:</i> Law on Separation of Church and State 1905; Law on secularity in public schools n° 2004-228 of March 15, 2004.</p> <p><i>Concerns all the grounds in two Directives and additional grounds including sex:</i> Law of the Press 1881 (last amended February 2005); Law Combating Discrimination, No. 2001-1066; Law of Social Modernisation No. 2002-73; Law creating the specialised body (HALDE) of 21 December 2004; Decree no. 2006-641 of 1 June 2006 modifying the Code of Criminal Procedure to incorporate criminal transactions which can be proposed by the HALDE.</p> <p><i>Concerns race and religion:</i> Law on Social Cohesion of 20 December 2004; Law on Equal Opportunities of 9 March 2006.</p> <p><i>Concerns disability:</i> Law 2005-102 for the equality of rights and opportunities and the social participation of the disabled (in force as of 11 February 2005).</p> <p><i>Concerns age:</i> Law No 2005-846 of 26 July 2005 authorising the Government to adopt emergency measures for employment by way of Governmental Decree, Governmental Decree 2005-901 on access to employment in the public service.</p>

<b>Germany</b>	<p><i>Concerns all grounds in two Directives and additional grounds including sex:</i> Industrial Relations Law, amended 2001; Law on the Federal Employee Representation Law 1975, amended 2005;</p> <p><i>Concerns disability:</i> Law on Promoting the Equality of the Disabled</p> <p><i>Concerns age and disability:</i> Law on the Protection against Unfair Dismissal, Social Code.</p> <p><i>Concerns all grounds in two Directives and additional grounds including sex:</i> The Law Transposing the European Directives Realising the Principle of Equal Treatment from 18 August 2006 (generally transposes Directive 2000/43 and 2000/78 into German law).</p>
<b>Greece</b>	<p><i>Concerns all grounds in two Directives:</i> Law No. 3304/2005 on the Application of the Principle of Equal Treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation (entered into force on publication on 27 January 2006).</p> <p><i>Concerns racial or ethnic origin or religion:</i> The Law n. 927/1979, Anti-racist Law against discrimination on the grounds of racial or ethnic origin or religion.</p> <p><i>Concerns disability:</i> The Law no. 2643/1998 on the compulsory employment of disabled persons and of people of special groups as revised by the Law n. 3144/2003 Social dialogue on the promotion of occupation and social protection.</p>
<b>Hungary</b>	<p><i>Concerns all grounds in two Directives and additional grounds including sex:</i> Act CXXV of 2003 on Equal Treatment and the Promotion of the Equality of Opportunities (last amended in May 2005); Government Decree 362/2004 on the Equal Treatment Authority and the Detailed Rules of its Procedure.</p>
<b>Ireland</b>	<p><i>Concerns all grounds in two Directives and additional grounds including sex:</i> Equality Act 2004, amending Employment Equality Act 1998 and the Equal Status Act 2000; Pensions Act 1990-2004; Intoxicating Liquor Act 2003.</p> <p><i>Concerns all grounds in two Directives except disability and age and additional grounds:</i> Prohibition on the Incitement to Hatred Act 1989.</p> <p><i>Concerns all grounds in two Directives except disability:</i> Unfair Dismissals Act 1977 – 1993.</p>
<b>Italy</b>	<p><i>Concerns racial and ethnic origin:</i> Legislative Decree No 215 of 9 July 2003 transposing Directive 2000/43, subsequently amended by Legislative Decree No 256 of 2 August 2004; Decree of 11 December 2003 on internal structures and competences of specialised body; Joint Decree of the Ministries of Labour/Welfare and Equal Opportunities of 16 December 2005 establishing a register of associations and bodies with standing to litigate discrimination claims.</p> <p><i>Concerns all grounds in the Employment Equality Directive:</i> Legislative Decree No. 216 of 9 July 2003 transposing Directive 2000/78, amended by Legislative Decree No. 256 of 2 August 2004.</p> <p><i>Concerns disability:</i> Act of 25 June 1993, No.205, Attribution of the force of ordinary statute, with modifications, to the government's legislative decree of 26 April 26, No.122 "Urgent measures concerning racial, ethnic and religious discrimination"; Act of 12 March 1999 N.68 Provisions on the right to work of disabled persons; Framework Law of 5 February 1992, No. 104 on the assistance, social integration and rights of disabled persons; Act of 20 May 1970, No. 300, Provisions on the protection of the freedom and dignity of workers, freedom of association with trade unions and freedom of trade union activity at the workplace, and work placement.</p>
<b>Latvia</b>	<p><i>Concerns an inexhaustive list of grounds (sexual orientation is still not explicitly mentioned among prohibited grounds):</i> Labour Law, adopted 2001, amended 07.05.2004); Law on Social Security 1995, amendments containing the equality guarantee in force from 03.01.2006; <i>Concerns all grounds except age:</i> amendments to the Law on the National Human Rights Office entered into force on 13 January 2006.</p>

<b>Lithuania</b>	<i>Concerns all grounds in two Directives:</i> Law on Equal Treatment, entered into force on 1 January 2005; Employment Code (June 2002), Law amending the Code of Administrative Offences, entered into force on 11 October 2005.
<b>Luxembourg</b>	Penal Code of 19 July 1997. Bill No. 5518 to transpose the Directives (pending before the Parliament).
<b>Malta</b>	<i>Concerns all grounds in two Directives:</i> Employment and Industrial Relations Act 2002 and Legal Notice 461 of 2004 (Equal Treatment in Employment Regulations); <i>Concerns disability:</i> Equal Opportunities (Persons with Disabilities) Act 2000.
<b>Netherlands</b>	<i>Concerns grounds of race/ethnic origin, religion or belief, sexual orientation and additional grounds including sex:</i> General Equal Treatment Act of 1994, amended by EC Implementation Act 2004 and by a Law ("Wet tot wijziging van de Algemene Wet Gelijke Behandeling; Evaluatiewet Awgb) of 15 September 2005; <i>Concerns age:</i> Equal Treatment in Employment (Age Discrimination) Act of 17 December 2003; <i>Concerns disability:</i> Act on Equal Treatment on the grounds of disability or chronic disease of 3 April 2003; Amendments to the Criminal Code (any discrimination on the ground of a person's physical, psychological or mental disability is prohibited).
<b>Poland</b>	<i>Concerns all grounds in two directives:</i> Labour Code (last amended 14 November 2003); Act of 20 April 2004 on the Promotion of Employment and the Institutions of Labour Market; <i>Concerns all grounds but disability:</i> Council of Ministers Ordinance of 25 June 2002 on Government's Plenipotentiary for Equal Status of Men and Women; Plenipotentiary abolished by Decree of Council of Ministers of 3 November 2005; Law on National and Ethnic Minorities and on Regional Language (entered into force on 1 May 2005).
<b>Portugal</b>	<i>Concerns racial and ethnic origin:</i> Law 18/2004 on racial ethnic origin discrimination as amended by Decree-law 86/2005; Decree Law 251/2002 as amended by Decree-law 27/2005; <i>Concerns disability:</i> Law 38/2004 on measures for the rehabilitation and participation of persons with disabilities; <i>Concerns all grounds in two Directives and additional grounds including sex:</i> Labour Code Law 99/2003; Law 35/2004 regulating the Labour Code.
<b>Slovak Republic</b>	<i>Concerns all grounds in two Directives:</i> Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws; Act No. 308/1993 Coll. on establishing the Slovak National Centre for Human Rights, last amended in 2004 Coll.; Labour Code no. 311/2001 Coll. last amended in 2004.
<b>Slovenia</b>	<i>Concerns all grounds in two Directives and additional grounds including sex:</i> Implementation of the Principle of Equal Treatment Act 2004; Employment Relations Act 2003; <i>Concerns disability:</i> Vocational Rehabilitation and Employment of Disabled Persons Act 2004.
<b>Spain</b>	<i>Concerns all grounds in the two Directives:</i> Law 62/2003 of 30 December on fiscal, administrative and social measures; Legal Decree 5/2000 of 4 August 2000, (Law on Infractions and Sanctions on the Social Order, amended January 2004); <i>Concerns age:</i> Law 14/2005 of 1 July 2005; <i>Concerns disability:</i> Decree 1865/2004 creating the National Disability Council, Law 51/2003 of 2 December on Equal Opportunities, Non-discrimination and Universal Access for Persons with Disability.

<p><b>Sweden</b></p>	<p><i>Concerns racial and ethnic discrimination and religion:</i> Prohibition of Ethnic Discrimination Act, last amended by Act 2003:308;</p> <p><i>Concerns disability:</i> Prohibition of Discrimination in Working Life of People with a Disability Act (1999:132), amended by Act 2003:309;</p> <p><i>Concerns sexual orientation:</i> Act against Discrimination in Working Life on the grounds of Sexual Orientation (1999:133), amended by Act 2003:310; Legislation against discrimination on the grounds of sexual orientation in respect of social security entered into force in January 2005;</p> <p><i>Concerns racial and ethnic origin, religion and belief, sexual orientation and disability:</i> Equal Treatment of Students at Universities Act (2001:1286), amended by Act 2003:311; Prohibition of Discrimination Act (2003:307), amended by Act 2004:1089.</p>
<p><b>United Kingdom</b></p>	<p><i>Concerns racial and ethnic origin:</i></p> <p><i>Great Britain:</i> Race Relations Act 1976, last amended by the Race Relations in 2003.</p> <p><i>Northern Ireland:</i> Race Relations (NI) Order 1997, last amended by Race Relations Regulations 2003;</p> <p><i>Concerns disability:</i></p> <p><i>Great Britain:</i> Disability Discrimination Act 2005 amends the Disability Discrimination 1995 already amended in 2003 (entered into force on 30 June 2005 with the positive duty coming into force in December 2006); Disability Discrimination Act 1995 (Pensions) Regulations 2003; Special Educational Needs and Disability Act 2001; The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006</p> <p><i>Northern Ireland:</i> Disability Discrimination Act 1995 (Amendment) Regulations 2004; Special Educational Needs and Disability (Northern Ireland) Order 2005.</p> <p><i>Concerns sexual orientation:</i></p> <p><i>Great Britain:</i> Employment Equality (Sexual Orientation) Regulations 2003; The Serious Organised Crime and Police Act 2005 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006 (S.I. 594/2006). Para 37.</p> <p><i>Northern Ireland:</i> Employment Equality (Sexual Orientation) Regulations (NI); The Serious Organised Crime and Police Act 2005 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006 (S.I. 594/2006). Para 42.</p> <p><i>Concerns religion and belief:</i></p> <p><i>Great Britain:</i> The Employment Equality (Religion and Belief) (Amendment) Regulations 2003 (S.I. 2003/2828); The Employment Equality (Religion or Belief) (Amendment) Regulations 2004 (S.I. 2004/437); The Employment Equality (Religion or Belief) (Amendment) (No 2) Regulations 2004 (S.I. 2004/2520); The Serious Organised Crime and Police Act 2005 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006 (S.I. 594/2006). Para 36.</p> <p><i>Concerns religious belief and political opinion:</i></p> <p><i>Northern Ireland:</i> Fair Employment and Treatment (NI) Order 1998, last amended by the Fair Employment and Treatment (Amendment) Regulations 2003 (2003 No.520).</p> <p><i>Concerns all grounds of discrimination including sex:</i> Great Britain - The Equality Act 2006</p>

Legislation is still going through Parliament in the **Czech Republic** where in January 2006 the Anti-discrimination Bill failed in the Second Chamber of the Czech Parliament by one vote. The rejected Bill went back to the Deputy Chamber for a second round of voting scheduled for 7 March 2006. The Bill proposed designating the existing Ombudsperson the Article 13 equality body. However, in the second round of voting, the higher majority (101 out of 200) was needed to secure final approval of the Bill and this was not attained. In **Luxembourg**,

in November 2005, Bill No. 5518 was introduced to Parliament with the aim of transposing the Directives after the two former Bills were withdrawn. Under the new Bill a Centre for Equal Treatment will be created which will publish reports and recommendations and assist victims by advising on their rights and how to defend them. In **Germany**, on 18 May 2006, the Government presented a bill to Parliament to implement Directives 2000/43/EC, 2000/78/EC, 2002/73/EC and 2004/113/EC. The Bundesrat has recommended reducing the

scope of the bill to a text which does not go beyond the Directives. In **Belgium**, on 24 May 2006, the Council of Ministers (Federal Government) approved a bill fundamentally revising the implementation of Directives 2000/43/EC, 2000/78/EC and 2004/113/EC, concerning the competences of the Federal State. It may take a few months for the Council of State to take a position on the proposed changes, for reasons of complexity and because of the absence of a consensus on the precise division of tasks between the Federal State, the Regions and the Communities in the implementation of the Anti-discrimination directives.

There have been a few legislative developments of concern: In **Poland**, for instance, a Decree of the Council of Ministers of 3 November 2005 abolished the Government Plenipotentiary for Equal Status of Women and Men, which was the equality body competent for discrimination on the grounds of age, sexual orientation, race or ethnic origin as well as gender. On 9 December 2005 however a Statute of the Ministry of Labour established a new Department for Women, Family and Counteracting Discrimination at the Ministry of Labour and Social Policy and in an internal Regulation of the Ministry of Labour of 30 December 2005 the tasks fulfilled by the Office of the former Government Plenipotentiary for Equal Status of Women and Men were ascribed to it.

### 3. Short update on implementation by those countries that requested an extension to transposition

Directive 2000/78/EC permitted Member States an additional period of time for transposition of the provisions on age and disability discrimination, coupled with an obligation to send an annual progress report to the Commission. For age discrimination, Sweden, the UK, Germany, Belgium and the Netherlands notified the Commission that they would extend the deadline for the full three years until 2 December 2006, and Denmark notified its intention to extend the deadline for one year until 2 December 2004. For disability, the UK and France notified the Commission that they would extend the deadline for the full three years and Denmark for one year.

On the basis of the information provided by the Member States, the Commission drafted a report on the progress made towards transposition and presented it to the Council in October 2005. For disability, new legislation was introduced in France, the UK and Denmark. For age, the Netherlands adopted legislation but, until 2 December





2006, it will still be possible to link a compulsory dismissal to the starting date of a pension under the age of 65 without any justification of the dismissal being necessary. Belgium informed the Commission that it considers that it has transposed the Directive apart from Article 6 which provides that certain differences in treatment may be justified in certain circumstances. It informed the Commission of its strategy for the transposition of this exception which involves a screening process of existing legislation. Sweden has established a commission to examine how to extend existing anti-discrimination legislation to age. It was due to report in January 2006. The UK undertook public consultations on age with draft secondary legislation set to come into force on 1<sup>st</sup> October 2006. Germany presented the Commission with the Bill that existed prior to the elections that halted the legislative process. The Commission views the coming into force of new legislation in Denmark, France, the Netherlands and the UK as a positive step towards the full transposition of the Directive by 2 December 2006, and it hopes that the other Member States will have their legislation in force by the deadline.

## 4. Protecting and enforcing individual rights

### 4.1 What rights does a person have where the Directives have not been fully transposed?

If individuals think a Member State has not implemented the Directives or has failed to implement the Directives correctly there are a number of ways of invoking provisions of the Directives, even where they have not been correctly or fully implemented into national law.

Where the alleged discriminator is the State or a public body, provisions of the Directives which are clear, precise and unconditional can be directly invoked before the national courts. Such provisions are defined as having 'vertical direct effect.' This means that if a Member State has failed to transpose the Directives on time, or has transposed them incorrectly, individuals who allege that they have been discriminated against by a public body can nevertheless rely on the provisions of the Directives. This may be necessary where there is no national law transposing the Directive.

According to established case-law, directives may not be directly invoked before the national courts

against another individual or private entity (this is usually described as the possibility of directives having 'horizontal direct effect'). Where the alleged discriminator is another individual or private entity, national courts must in any case give directives 'indirect effect' and do everything possible to interpret national law in a way which is compatible with Community law. This means that as far as is possible the national courts are obliged to interpret national law in light of the Directives in order to achieve the result intended by the Directives. It is irrelevant whether national legislation was adopted before or after the Directives.

Another possibility is for individuals to rely on the concept of state liability. Where, after the transposition deadline, there is no national law implementing a directive, or a national law is contrary to EC law, the Member State must compensate for any loss actually suffered by individuals which directly resulted from this failure to implement the Directive. Three conditions must be satisfied: first, the aim of the Community provision which has been breached must be to grant rights to individuals; second, the breach must be sufficiently serious; and third, there must be a causal link between the state's failure and the damage suffered by the individual concerned. National courts can be asked to decide whether a Member State has implemented the Directive incorrectly and if the court finds it has and these conditions are met then the complainant will be entitled to monetary compensation.

National courts can also refer questions about the interpretation of particular requirements of the Directives to the European Court of Justice which will then consider the issue and direct the national court on the correct interpretation of the EC law provision (see below).

### 4.2 What role does the European Court of Justice play?

Where a national court is unsure whether the implementation of the Directives is correct, or is not certain how a particular term in the Directives should be interpreted, it can ask the European Court of Justice (ECJ) for a preliminary ruling on the interpretation of the Directives, in order to enable it to give its judgment in the case before it (Article 234 of the EC Treaty). Last instance courts (those whose judgments cannot be appealed) are obliged to refer such questions to the ECJ. In response, the ECJ will look at the relevant provision of the Directives and

give its interpretation taking account of the circumstances of the national case. It will also consider any observations submitted by Member State governments or the Commission. Such ECJ judgments are extremely important for the proper and uniform application of the provisions of the Directives. Preliminary rulings have been vital in the interpretation of EU sex equality legislation, for example. NGOs, trade unions and other interested organisations in Member States can seek clarification of the provisions of the Directives and test the law in their country by strategically bringing cases which force national courts to make preliminary references to the ECJ.

A German court of first instance referred questions to the ECJ on the compliance with the Employment Equality Directive of a provision in national law under which fixed-term contracts may be made with workers aged 52 or over in Case C-144/04 *Mangold*, OJ C 146/1, 29.5.2004.

*Case C-144/04 Mangold v Rüdiger Helm, judgment of the Grand Chamber of 22 November 2005*

The facts concerned Mr Mangold, 56, who had brought proceedings in the Munich labour court against his employer, challenging the fixed-term nature of his contract. Under the German law which regulates fixed-term employment contracts (the "TzBfG"), fixed-term employment contracts are only permissible where they are justified by an objective reason. However, Article 14(3) of the TzBfG sets out an exception allowing the conclusion of fixed-term employment contracts with persons who are 58 years old; such contracts do not require an objective reason. A legal amendment to this provision in January 2003 lowered the age from 58 to 52. The Munich labour court asked the ECJ whether the German rules on fixed-term employment contracts for older workers were compatible with Article 6 of Directive 2000/78. In the view of the national court the lowering of the age at which it is possible to conclude fixed term contracts from 58 to 52 does not guarantee the protection of older persons at work, nor is it proportionate. In the event that the two were incompatible, the Munich court also asked whether it must refuse to apply the rule of domestic law which is contrary to Community law.

The Court found that a national provision permitting fixed-term employment contracts to be offered to anyone who had reached the age of 52, without restriction, constituted age discrimination, which

breaches both the general Community law principle of equality and, more specifically, Article 6 of Directive 2000/78. Whilst the Court conceded that the TzBfG's public-interest purpose was a legitimate objective in that its purpose was clearly to promote vocational integration of unemployed older workers, it held that the means used to achieve that objective go further than is appropriate and necessary. It noted that legislation such as the TzBfG could lead to a situation in which all workers aged 52 or over may lawfully be offered fixed-term contracts until they retire. The court held that this finding could not be called into question by the fact that in respect of its provisions on age, the Directive does not need to be transposed into German law until 2 December 2006. The Court stated that the general principle of equal treatment, in particular in respect of age, cannot be conditional upon the expiry of the period allowed Member States for the transposition of a Directive. It concluded that, "it is the responsibility of the national court to guarantee the full effectiveness of the general principle of non-discrimination in respect of age, setting aside any provision of national law which may conflict with Community law." This is the case irrespective of whether the deadline for a directive's transposition has expired.

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A Hungarian court has asked the ECJ whether the Racial Equality Directive allows people to express their political convictions through a symbol. The specific subject-matter was whether the Directive precludes a national provision, such as Article 269/B of the Hungarian Criminal Code, which imposes sanctions on the use, in public, of the symbol of the five-pointed red star symbol in question in the main proceedings. The ECJ held that the Hungarian provisions were outside the scope of Community law and that consequently it did not have jurisdiction to answer the questions referred. (*Case C-328 Vajnai Attila, Order of 6 October 2005*).

A Spanish court has also made a preliminary reference to the ECJ which involves an interpretation of the notion of disability for the purposes of the protection afforded by the Employment Equality Directive. More particularly the question being asked is whether the protection of the Directive, in so far as Article 1 lays down a general framework for combating discrimination on the grounds of disability, covers a worker who has been dismissed from her company solely because she was ill. (*Case C-13/05 Chacón Navas, OJ C 69/8, 19.3.2005*).

Another preliminary reference has been made by the same Spanish Court in a different case concerning the compatibility of compulsory retirement clauses in collective agreements with the Employment Equality Directive. (*Case C-411/05 Félix Palacios de la Villa v Cortefiel Servicios SA, José María Sanz Corral and Martín Tebar Less, OJ C36/20, 11.2.2006*)

Cases that interpret the key concepts contained in the Directives are slowly starting to come before the national courts of the Member States. Some examples are included below.

### 4.3 What are the core concepts and what related court cases have there been so far?

#### Direct discrimination

Article 2 of the Racial Equality Directive and Article 2 of the Employment Equality Directive prohibit direct discrimination. Direct discrimination occurs when a person is treated less favourably than another actual person in a comparable situation is being treated or has been treated in the past, or a hypothetical person would be treated, on the grounds of racial origin, religion or belief, disability, age or sexual orientation.

#### **Hungary: Labour Court condemns company for refusal to employ Roma security guard**

A man of Roma origin, applied for a job at a security company. He had the necessary qualifications for a security guard but was told by an employee of the company that they did not employ Roma. The man filed a complaint with the Labour Inspectorate, which examined compliance with Hungarian non-discrimination provisions. During proceedings, the owner of the company admitted the discrimination and expressed his regret but said that the company's clients did not want Roma security guards. The Labour Inspectorate imposed a fine of HUF 100,000 (400) on the company. The man also brought a separate employment claim against the company for damages for non-pecuniary loss, under the Labour Code and the Equal Treatment Act. He was assisted by the Legal Defence Bureau for National and Ethnic Minorities. A decision of the Labour Court in October 2004 established direct discrimination based on the claimant's ethnic origin, and awarded him HUF 500,000 (€2,000). The owner of the company – who admitted the direct discrimination in court – appealed but the decision was upheld by the Labour Council of the County Court in May 2005.

#### Indirect discrimination

Article 2 of the Racial Equality Directive and Article 2 of the Employment Equality Directive prohibit indirect discrimination. Indirect discrimination occurs when a provision, criterion or practice which appears neutral actually puts persons with a particular race or ethnic origin, religion or belief, disability, age or sexual orientation at a particular disadvantage compared with other persons unless that provision, criteria or practice is objectively justifiable by a legitimate aim and the means of achieving that aim are appropriate and necessary. This concept is illustrated by an opinion of the Irish quasi-judicial equality body in section 4.4 below.

#### Reasonable accommodation

Article 5 of the Employment Equality Directive provides that employers shall be required to reasonably accommodate persons with disabilities. This means that employers are obliged to take appropriate measures where necessary in a particular case to enable a person with a disability to have access to, participate in or advance in employment, or to undergo training. Employers will have to take such measures if they do not place a dispro-





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portionate burden on them. This burden is not considered disproportionate when it is sufficiently remedied by measures existing within the framework of the disability policy of the Member State concerned (like the availability of public financing to accommodate persons with disabilities).

**Italy: Public sector employer fails to provide reasonable accommodation**

An employee of the Ministry of Justice was certified as disabled and declared unfit for working activities requiring displacement on foot, both during employment and to reach the workplace. The competent commission also declared her job as a court clerk suitable provided it took place close to her home. On the basis of this certification, the claimant asked to be moved from Bologna to Pistoia. The request was accepted and her appointment renewed twice. On request for a third renewal, the Ministry invited the applicant to apply for an appointment in the court office of Monsummano Terme, which was closer to her home than Pistoia. The applicant accepted the position, but after several renewals the Ministry decided that she had to serve again in Pistoia. The claimant brought an action against the Ministry. In September 2005 the Court of Pistoia declared that the decision of the Ministry constituted indirect discrimination on

grounds of disability and ordered the Ministry to stop the discriminatory behaviour and pay costs. The Court mentioned the definition of indirect discrimination in the Decree which implemented the Employment Equality Directive into national law, however, in order to qualify the behaviour of the administration as discriminatory, it made reference to Recitals 6, 9, and 20 and Article 5 of the Directive, even though the Italian government had not included any mention of “reasonable accommodation” in the Decree. The court therefore applied the principle of indirect effect by interpreting national law in light of the Directives to achieve the result intended by them (see above). As the defendant did not appear in court the judge was unable to assess whether the indirect discrimination was objectively justified by legitimate aims carried out through appropriate and necessary means. This would have been for the employer to prove in court.

**Exceptions to the principle of equal treatment**

Under Article 4(2) of the Employment Equality Directive Member States can maintain national laws or practices which existed before adoption of the Directives and which allowed churches and other public or private organisations whose ethos is based on religion or belief to treat persons differently on the basis of their religion or belief.

**Denmark: Cleaner for Christian humanitarian organisation dismissed for not being a member of the national Lutheran Church**

In February 2004 the claimant was dismissed from his cleaning job at the Christian Cross Army. The letter giving him his notice stated that he was being dismissed because he was not a member of the National Lutheran Church. According to the rules of the organisation all staff must be members of the National Church. The Christian Cross Army argued that according to Danish law they, as an employer, had the right to demand this. However they admitted that Article 4 of the Employment Equality Directive no longer permitted this requirement for a cleaning position, but as Denmark did not transpose the Directive until April 2004 they argued that in February 2004 they were not obliged as a private employer to follow the Directive and therefore the dismissal was not illegal. The claimant demanded €8,000 in compensation on the basis of a violation of Danish law and the Directive. At the first court hearing however the Christian Cross Army agreed to pay compensation of €8,000 without further discussion. The court consequently issued a verdict awarding the claimant this amount.

**Burden of proof**

Article 8(1) of the Racial Equality Directive and Article 10(1) of the Employment Equality Directive establish the burden of proof. This provides that Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

**UK: Court of Appeal sets guidelines for the application of the shift in the burden of proof**

The cases of *Igen Ltd. & Others v Wong*, *Chamberlin & Another v Emokpae* and *Brunel University v Webster* concerned three appeals from the Employment Appeals Tribunal to the Court of Appeal. The appeals related to complaints of sex and race discrimination, but the decision is relevant to all grounds in the Directives. The Court of Appeal provided a step-by-step guide which is binding on any tribunal or court in Great Britain or Northern Ire-

land hearing a case concerning the shift of the burden of proof. In outline, the guidance states that it is for the claimant to prove, on the balance of probabilities, facts from which conclusions could be drawn that the respondent has treated the claimant less favourably on the ground of [sex]. If not the claimant will fail. If so, the burden shifts to the respondent who has to discharge that burden by proving, again on the balance of probabilities, that the treatment was "in no sense whatsoever" on the grounds of [sex] ([2005] EWCA Civ 142, paras 1-13 of the annex to the judgment).

**Defence of rights**

Under Articles 7(2) of the Racial Equality Directive and 9(2) of the Employment Equality Directive Member States shall ensure that associations, organisations or other legal entities, which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of the Directives are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under the Directive.

**Ireland: Court grants Equality Authority right to intervene in case**

A traveller family are challenging an Irish law which criminalises trespass on public and private land. The Law applies to all groups, but they argue that it has a discriminatory impact on the Traveller Community. On 11 January 2006 the High Court permitted the Equality Authority to appear in the case as an 'amicus curiae' or friend of the court, to give evidence in relation to the Racial Equality Directive for the first time. This means that if any element of the case has relevance to the Racial Equality Directive the Authority can intervene. The decision sets a precedent, assisting the Authority to ensure the application of the Irish equality provisions.

**Situation Testing**

The appreciation of the facts from which discrimination may be inferred is a matter for national judicial or other competent bodies, in accordance with national law or practice. These rules may provide that indirect discrimination can be established by different types of evidence, such as statistical evidence (Recital 15 of the Directives) or evidence from situational tests.

**Czech Republic: Situation testing evidence establishes discrimination on the grounds of ethnic origin**

In 2003, a Roma woman applied for a job in a chemist but was told that the position had already been filled. Several minutes later, a non-Roma woman acting as a tester, of the same age, with a hidden cassette recorder, was offered an interview and even though she confessed that she had neither training nor experience, the deputy manager of the shop had indicated that she might be accepted. The claimant took her case to court with the support of Czech NGOs. The Prague Municipal Court awarded the claimant an apology and non-material damages of 50,000 CZK (€1,670). The Chemist apologised and paid the damages.

**France: Telephone testing is admissible as evidence of discrimination**

In June 2005 the Cour de Cassation admitted telephone testing as evidence of discrimination in access to rental accommodation in criminal cases on the basis of the Penal Code. The Court declared admissible recordings of telephone conversations which established that an estate agent informed prospective clients that apartments were still available or not according to whether or not their surnames sounded "French." The Court decided that the weight to be attributed to this evidence is however a matter for the trial judge.

**Sanctions**

Article 15 of the Racial Equality Directive and Article 17 of the Employment Equality Directive require Member States to provide sanctions for infringements of national provisions which are adopted to implement the Directives and to take all measures necessary to ensure that they are applied. The sanctions must be effective, proportionate and dissuasive. They may include compensation. A wide range of remedies exist at national level depending on whether discrimination is criminal (fines) or civil (re-instatement in your job or damages in the form of compensation for loss of earnings or damages for injury to feelings or moral damages). Some Equality Bodies have different remedies to those of the courts at their disposal (see below).

**Czech Republic: apology and non-material damages of CZK 90,000 (€3,000)**

In March 2005, a regional court found that the owner of the Diablo Bar in Ostrava should apolo-

gise for discrimination and pay non-material damages of CZK 90,000 (€3,000) to each of the three claimants because the bar had refused to serve them because of their Roma origin. In 2004, the waitress in the bar had told them to leave because a private event was taking place. Several minutes afterwards Czech NGO activists were served as normal. The victims were supported in their case by Czech NGOs.

**Belgium: injunction preventing repetition of discrimination**

In April 2005 the first instance court of Nivelles considered the case of a homosexual couple who had expressed their interest in renting a house and had paid the rental agency one month's rent as a deposit. Two days later the couple were informed by the rental agency, acting on the owner's behalf, that the owner preferred to rent the house to a "traditional couple." The Centre for Equal Opportunities and Opposition to Racism, the Belgian equality body, sought and obtained on behalf of the homosexual couple an injunction against the owners not to repeat the discrimination in the future under the threat of a fine of €100 per violation of that injunction. A request for an injunction against the rental agency prohibiting them from acting in fulfilment of a mandate received from a landlord and which would be discriminatory was denied as the agency had simply transmitted to the couple on behalf of the owner the information that the house had been rented.

**Denmark: First Danish court decision on age discrimination**

In a weekly newspaper published on 28 January 2005, an advert for vacancies at International Office Supply asked for persons aged 18 to 30 years old who were Danish. The job advert was reported to the Copenhagen police. In July 2005 the police informed the complainant that the investigation of the case had been finalised and issued the company with a fine of €950 for a violation of the Danish law. The company did not pay and the police consequently took the case to court. On 3 January 2006 the company was convicted of a violation of the Danish law by the City Court of Copenhagen which imposed a fine of 950 (part of the fine related to discrimination on the basis of nationality).



#### **UK: Exemplary damages awarded in race discrimination case**

The local police force in the English county of Kent rejected two job applications from the Claimant for employment as an intelligence analyst in 1999 and 2000. Following this, the Kent police prepared a report on Mr Husain, on the basis that there had been 'material differences' between his applications for the two jobs. The report specifically suggested that he had falsified elements of his academic qualifications and professional experience. Mr Husain was then later arrested and detained for 10 hours when he applied for a job at Avon and Somerset police force although Mr Husain was highly qualified and was a high-ranking officer in Pakistan where he was director of intelligence. The report was circulated to other police forces, and warned them to be aware of a 'potentially fraudulent' application. On 6 April 2006, the Employment Tribunal decided that Mr Husain had been

subject to serious race discrimination by Kent police. The tribunal considered that this case should result in exemplary damages due to the seriousness of the discrimination at issue, and awarded Mr Husain £65,000 (approx €93,000) in damages.

#### **4.4 National Equality Bodies**

Many Member States have designated a national body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin, as they are required to do under Article 13 of the Racial Equality Directive. Under this provision, one of the competences the body or bodies must have is the provision of independent assistance to victims of discrimination in pursuing their complaints about discrimination. Such assistance takes many forms; some bodies provide legal advice and assistance on taking a case to court (see below), while others can provide an opinion or a recommendation on a complaint submitted to them. The opinions are usually not binding on the parties but are of persuasive value and in the event that the opinions or recommendations are not followed, the victim can subsequently take legal action before the courts (The Cyprus Ombudsman, the Austrian and Dutch Equal Treatment Commissions, the Danish Complaints Committee, the Finnish Discrimination Board, the Latvian Human Rights Office, the Greek Ombudsman and Equal Treatment Committee and the Slovenian Advocate for the Principle of Equality). Some however are binding (Irish Equality Tribunal, Hungarian Equal Treatment Authority, Lithuanian Equal Opportunities Ombudsman). The following are opinions or recommendations from some equality bodies:

#### **Hungary: Equal Treatment Authority establishes discrimination in employment based on testing**

In response to a newspaper advertisement, the complainant called a company which was recruiting painters. He met the requirements set by the employer, but when he informed the employer that he was of Roma origin, he was rejected. The complainant turned to the Legal Defence Bureau for National and Ethnic Minorities (NEKI), which conducted a situation test in order to substantiate the suspicion of discrimination. Taking into consideration the result of the testing, the Equal Treatment Authority found that the employer directly discriminated in breach of Article 8 Equal Treatment Act and imposed a fine of HUF 700,000 (EUR 2,800) on him.

***Finnish National Discrimination Board finds discrimination on grounds of ethnic origin***

On 26 April 2005, the Discrimination Board, established under the Racial Equality Directive, decided that a Russian woman, assisted by the Ombudsman for Minorities, had been denied access to the Helsinki-based restaurant Teatteri on the basis of her ethnic origin. All who had either taken part in the discriminatory decision, or who were aware of it and should have taken action to correct it – the restaurant, the doormen service company, and the individual doormen involved – were issued with an order prohibiting discriminatory conduct. The restaurant and the company from which it hired its doormen argued that the denial of access was based on the previous improper conduct of the applicant. This was not sufficient to rebut, in accordance with the burden of proof provisions, the presumption that the applicant had been discriminated against.

***Irish Equality Body decides length of service requirement indirectly discriminates***

The Equality Tribunal decided that a five-year length of service requirement for promotion in the Civil Service to Higher Executive Officer indirectly discriminated against Executive Officers under 30

years of age and was not objectively justifiable. The Tribunal did not accept the respondent's defence that five years were necessary to evaluate the Executive Officers to ensure they were suitable for promotion. In their view there was no objective evidence to justify this requirement, which had no particular connection with a candidate's experience and suitability for promotion. (*DEC-E2003/036 McGarr v. Department of Finance*).

***Cyprus Ombudsman recommendation to change admission criteria to nursing school which discriminates on the grounds of disability***

Following a complaint from the parent of an applicant with reduced hearing, the Ombudsman investigated the admission criteria of the state nursing school which included requirements to possess, among others, excellent hearing and be between 17 and 35 in age. A regulation permitted the admission of persons with disabilities (2%), provided their disability does not affect their exercise of nursing tasks, but persons admitted under this regulation were not those with disabilities according to the definition in the Law on Persons with Disabilities N.127 (I) 2000, but those suffering from thalassaemia, diabetes, etc. The Ombudsman found that the admission criteria constituted direct discrimination





on the grounds of disability. The Ombudsman recommended that the new regulation on admission requirements which was in the process of being drafted, should be based solely on how the applicants' characteristics affect their performance as students and not their future employment performance and that the age limit be removed from the admission requirements. The relevant authority has since complied with the report's recommendation.

***Dutch Equal Treatment Commission's opinions in three age discrimination complaints***

In three cases the Equal Treatment Commission (ETC) evaluated the policies of medical insurance companies concerning service contracts with doctors/psychiatrists over the age of 65 and issued opinions on age discrimination in the medical profession. Doctors and psychiatrists only get paid for their work when they have a service contract with medical insurance companies.

In case no. 2005/49 from 25 March 2005 a General Practitioner (GP) aged 80 contested

exclusion by an insurance company. The ETC concluded that there were solid methods available to test whether elderly GPs' are still able to do their job properly applied by the Registration Committee of Medical Doctors and the National Association of Medical Doctors. On the basis of these tests the insurance company can decide whether or not to conclude a service contract with a doctor who is over the age of 65. The ETC concluded therefore that there was no objective justification for the exclusion of this doctor. As a result of the finding, the insurance company offered the GP a service contract for 2005 with the result that patients insured by the insurance company can now be reimbursed for visits to the GP. In case no. 2000/50 from 25 March 2005 and case no. 2000/135 from 21 July 2005, two psychiatrists of 69 and 70 years old contested their exclusion by an insurance company. The ETC concluded that where there is no valid method available to test whether psychiatrists are still capable of doing their work properly, this fact constitutes an objective justification for the age limit of 65 years.

## 4.4.1 Equality bodies (or similar entities) in each country

	Equality body	Contact	Grounds
<b>Austria</b>	Federal level <sup>1</sup> National Equality Body <i>Anwaltschaft für Gleichbehandlung</i> consisting of 3 independent bodies: Ombud for Equal Opportunities between Women and Men; Ombud for Equality at Work on the grounds of Ethnic Origin, Religion or Belief, Age or Sexual Orientation; and Ombud for Ethnic Equality in Goods and Services.	Tel.: +43 1 5320244	All grounds covered by the two Directives, except disability plus sex.
	Federal Ombud for Disabled Persons ( <i>Behindertenanwalt</i> )	Tel.: +43 800 808016 <a href="http://www.bmsg.gv.at/cms/site/liste.html?channel=CH0624">www.bmsg.gv.at/cms/site/liste.html?channel=CH0624</a>	Disability
<b>Belgium</b>	Centre for Equal Opportunities and Opposition to Racism – Centre pour l'égalité des chances et la lutte contre le racisme Centrum Voor Gelijkheid Van Kansen En Voor Racismebestrijding	Tel.: +32 (0)2 212 30 00 Free-of-charge number: 0800/17364 (NL) or 0800/14912 (FR) <a href="http://www.antiracisme.be">www.antiracisme.be</a>	All grounds covered by the two Directives plus other grounds
<b>Cyprus</b>	Office of the Commissioner for Administration (Ombudsman)	Tel.: +357 22405500 <a href="http://www.ombudsman.gov.cy">www.ombudsman.gov.cy</a>	All grounds covered by the two Directives plus sex
<b>Czech Republic</b>	Public Defender of Rights	Tel.: +420 542 542 111 <a href="http://www.ochrance.cz">www.ochrance.cz</a>	All grounds covered by the two Directives plus sex
<b>Denmark</b>	Danish Institute for Human Rights – Institut for Menneskerettigheder	Tel.: +45 32 69 88 88 <a href="http://www.humanrights.dk">www.humanrights.dk</a> <a href="http://www.klagekomite.dk">www.klagekomite.dk</a>	Racial and ethnic origin
<b>Estonia</b>	Office of the Chancellor of Justice – Õiguskantsler	Tel.: +37 22456300 <a href="http://www.oiguskantsler.ee">www.oiguskantsler.ee</a>	All grounds specified in the two Directives plus sex and other grounds
<b>Finland</b>	Ombudsman for Minorities – Vähemmistövaltuutettu National Discrimination Tribunal – Syrjintälautakunta	Tel.: +358 10 60 47048	Ethnic origin
		Tel.: +358 9 10 60 48049 <a href="http://www.mol.fi/mol/fi/06_tyoministerio/02_organisaatio/05_muut/syrjintalautakunta/index.jsp">www.mol.fi/mol/fi/06_tyoministerio/02_organisaatio/05_muut/syrjintalautakunta/index.jsp</a>	Ethnic origin

<sup>1</sup> Every Bundesland (provincial level) has also established specific equality bodies (Ombudspersons and/or Equal Treatment Commissions)

	<b>Equality body</b>	<b>Contact</b>	<b>Grounds</b>
<b>France</b>	High Authority for Combating Discrimination and for Equality	Tel.: +33 1 55 31 61 00 www.halde.fr	All grounds specified in the two Directives plus sex and other grounds
<b>Germany</b>	Federal Government Commissioner for Migration, Refugees and Integration - Arbeitsstab der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration  Federal Government Commissioner for the Needs of Disabled People - Beauftragte der Bundesregierung für die Belange behinderter Menschen	Tel.: +49 30/20655-1835 or +49 1888-555-1835 www.integrationsbeauftragte.de  Tel.: +49 1888 441 29 44 www.behindertenbeauftragter.de	Racial and ethnic origin  Disability
<b>Greece</b>	The Greek Ombudsman  Equal Treatment Committee  Work Inspectorate	Tel.: +30 210 7289600 www.synigoros.gr  Tel.: +30 210 7767317 www.ministryofjustice.gr  Tel.: +30 210 3702406	All grounds specified in the two Directives and sex (public sector, all fields) All grounds under the two Directives (all fields except employment, private sector) All grounds (employment, private sector)
<b>Hungary</b>	Equal Treatment Authority - Egyenlő Bánásmód Hatóság  Parliamentary Commissioner for the National and Ethnic Minorities Rights	Tel.: +36 1 336 7842 www.egyenlobanasmod.hu  Tel.: +36-1-475-7100 http://www.obh.hu/index.htm	All grounds specified in the two Directives plus sex and other grounds Ethnic origin and other grounds
<b>Ireland</b>	Equality Authority  Equality Tribunal	Tel.: +353 1 4173333 www.equality.ie  Tel.: +353 1 4774100 www.equalitytribunal.ie	All grounds specified in the two Directives plus sex and other grounds  All grounds specified in the two Directives plus sex and other grounds
<b>Italy</b>	Office against Racial Discrimination (UNAR)–Ufficio Nazionale Antidiscriminazioni Razziali	Tel.: +39 06 67792267 www.pariopportunita.gov.it Toll free number: 800 90 10 10	Race and ethnic origin and religion

	<b>Equality body</b>	<b>Contact</b>	<b>Grounds</b>
<b>Latvia</b>	Latvian National Human Rights Office - Valsts cilvēktiesību birojs	Tel.: +371 7287210 www.vcb.lv	All grounds specified in the two Directives except age plus sex and other grounds
<b>Lithuania</b>	Office of the Equal Opportunities Ombudsman – Lygių galimybių kontrolieriaus tarnyba	Tel.: +370 5 261 27 87 www.lygybe.lrs.lt	All grounds specified in the two Directives plus sex and other grounds
<b>Luxembourg</b>	Permanent Special Commission against Racial Discrimination – Commission Spéciale Permanente contre la Discrimination Raciale du Conseil National pour Etrangers	Tel.: +352 478 3695	Racial or ethnic origin
<b>Malta</b>	Not yet established. Intention is to extend the remit of the National Commission for the Promotion of Equality for Men and Women.		
<b>Netherlands</b>	Equal Treatment Commission – Commissie Gelijke Behandeling	Tel.: +31 30 8883888 www.cgb.nl	All grounds specified in the two Directives plus sex and other grounds
<b>Poland</b>	Ministry of Labour and Social Policy  Commissioner for Civil Rights Protection	Tel.: +48 22 693 50 00  Tel.: +48 22 551 77 00	All grounds under the Directives plus sex. Rights specified in the Constitution and other legal acts; that includes all grounds covered by the Directives.
<b>Portugal</b>	High Commissioner for Immigration and Ethnic Minorities – Alto Comissariado para a Imigração e Minorias Étnicas	Tel.: +351 218 10 61 00 www.acime.gov.pt	Racial and ethnic origin
<b>Slovak Republic</b>	Slovak National Centre for Human Rights – Slovenské národné stredisko pre ľudské práva	Tel.: +421 2 208 50114 Fax: + 421 2 208 50135 www.snslp.sk	All grounds specified in the two Directives
<b>Slovenia</b>	Office for Equal Opportunities - Urad za enake možnosti – Advocate of the Principle of Equality – Council for the implementation of the principle of equal treatment	Tel.: +386 1 478 84 60 www.uem.gov.si	All grounds specified in the two Directives plus sex and other grounds

	Equality body	Contact	Grounds
<b>Spain</b>	National Disability Council – Consejo Nacional de la Discapacidad Ombudsman – El Defensor del Pueblo	Tel.: +34 91 363 70 00 www.mtas.es/sec_as/consejo.htm Tel.: +34 91 432 7900 www.defensordelpueblo.es	Disability  All grounds
<b>Sweden</b>	Ombudsman against Ethnic Discrimination- Ombudsmannen mot etnisk diskriminering Disability Ombudsman Handikappombudsmannen	Tel.: +46 8 508 88 700 www.do.se  Tel.: +46 8 20 17 70 www.handikappombudsmannen.se	Racial and ethnic origin  Disability
<b>UK</b>	Disability Rights Commission  Equality Commission for Northern Ireland  Commission for Racial Equality	Tel.: +44 8457 622 633 www.drc-gb.org/ Tel.: +44 2890 500 600 www.equalityni.org/  Tel.: +44 20 7939 0000 www.cre.gov.uk/	Disability  Racial and ethnic origin, religious belief and political opinion, sex, disability, sexual orientation and age Racial and ethnic origin
<b>Romania</b>	National Council For Combating Discrimination Romania - Consiliul National pentru Combaterea Discriminarii	Tel.: +40213126578/79 www.cncd.org.ro	All grounds specified in the two Directives plus sex and other grounds
<b>Bulgaria</b>	Commission for the Protection against Discrimination – Komisija za zashtita sreshtu diskriminacijata	Tel.: +359 2/870 23 45	All grounds specified in the two Directives plus sex and other grounds
<b>Norway</b>	The Equality and Anti-discrimination Ombud Ligestillings- og diskriminering-sombudet	Tel.: +47 24 05 59 50 www.ldo.no	All grounds specified in the two Directives plus sex and other grounds

#### 4.4.2 Brief examination of some of the powers and competences of the equality bodies

Some equality bodies provide legal assistance in the form of support in taking cases to court - the Belgian, Finnish, Hungarian, Irish, Italian, Northern Ireland, British, Swedish, Slovak and Latvian bodies can do this. Of those without this power, the Danish Complaints Committee and the Estonian Chancellor of Justice can recommend that legal aid be given to the complainants. Most bodies can also arrange for mediation or conciliation between the parties and most can review and comment on legislative proposals and the reform of existing laws.

A number of equality bodies, such as those in Austria, Britain, Cyprus, France, Hungary, Ireland, Lithuania and Sweden can investigate complaints of discrimination and can usually force compliance with their investigations by all persons involved. In France, the High Authority for Combating Discrimination and for Equality (HALDE) may conclude an investigation by issuing its conclusions and recommendations to the parties who will have a certain amount of time to comply. In case of non-compliance, the HALDE has the power to call public attention to its recommendations and to alert the relevant authorities in cases that require disciplinary sanctions against the respondent. In Ireland,

the Equality Authority may serve a non-discrimination notice following an investigation. This notice may set out the conduct that gave rise to the notice and what steps should be taken in order to prevent further discrimination. It will be a criminal offence not to comply with a notice for a period of 5 years after its issue. The Equality Authority is also empowered to seek an injunction from the courts during this 5 year period to restrain any further contravention or failure to comply with a notice.

In some Member States the equality body is empowered to issue sanctions in cases in which they have found discrimination. The Hungarian Equal Treatment Authority can apply sanctions on the basis of an investigation. The Cyprus Commissioner for Administration can impose limited fines including fines for non-compliance with its recommendations within the specified time (subject to appeal to the Supreme Court of Cyprus). It can also issue orders, published in the Official Gazette, for the elimination within a specified time limit and in a specified way of the situation which directly produced the discrimination. The Commissioner's Reports can be used to obtain damages in a regional court or an employment tribunal.

### Positive Action

Article 5 of the Racial Equality Directive and Article 7 of the Employment Equality Directive provide that the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to any of the grounds under the Directives.

### ***Slovak Republic: unconstitutionality of the provision of the Anti-discrimination Act on positive action measures to counter racial discrimination***

In October 2005 the Constitutional Court decided that Section 8 (8) of the Anti-discrimination Act which provides that specific balancing measures to prevent disadvantages linked to racial or ethnic origin may be adopted, was incompatible with the Constitution. The provision was in contradiction with Article 1(1) of the Constitution on the rule of law because taking such measures constitutes more favourable treatment of persons linked to racial or ethnic origin; and neither the criteria for taking such measures, nor limits on the duration of such measures were specified. It was also incompatible with Article 12 of the Constitution on equality which prohibits both positive and negative discrimination. The Court did not reject the application of balancing measures (positive action) in general. It simply stated that taking such action must have a constitutional basis, which is not the case for such measures on the grounds of racial and ethnic origin. Four judges disagreed with the verdict, one insisting that the Constitution does allow different treatment when the purpose is to ensure equal opportunities in practice and the other three insisting that "more favourable treatment" does not constitute discrimination. They criticised the lack of clearly defined terminology as to what is meant by positive or negative discrimination, equality of opportunities etc. and were of the view that there was a constitutional basis for taking positive measures because under Article 33 membership of any national minority or ethnic group may not result in detriment to any individual.



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## 2007 — European Year of Equal Opportunities for All

### 1. Introduction

Ten years after the European Year Against Racism and six years after its landmark anti-discrimination laws were adopted, the European Union is stepping up its efforts to promote equal opportunities for all in Europe. Building on the success of the Community Action Programme to combat discrimination – which has supported anti-discrimination activities worth almost EUR 100 million since 2001 – the EU has named 2007 the European Year of Equal Opportunities for All. The initiative is designed to provide a new boost to making equal treatment a reality for everyone in the Union.

The two equal treatment directives of 2000 were a milestone in the fight against discrimination in Europe, and quickly followed the 1999 Treaty of Amsterdam – which gave the European Community powers to take action in the field for the first time.



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will continue and build on the work of the Community Action Programme to combat discrimination, with a new emphasis on reaching out to a broad public and making people aware of their rights to equal treatment.

In addition, the European Year aims to highlight the benefits of diversity for Europeans, promote respect for everyone in society, and encourage participation of groups who may be subject to discrimination.

The initiative responds to some of the biggest challenges identified during the European Commission's 'green paper' consultation of 2004 on future EU equality policies. The vast majority of contributions called for further action to inform people about their rights and obligations and to challenge discriminatory attitudes and behaviour.

### 2. Building on past work

Making 2007 the European Year of Equal Opportunities for All gives a new impetus to tackling discrimination on the grounds of sex, ethnic or racial origin, age, sexual orientation, disability, religion or belief – in all areas of daily life where unfair or unequal treatment may occur. At the same time it

### 3. Involving people on the ground

The first ever Equality Summit, a Europe-wide campaign to raise awareness of EU anti-discrimination measures, and a survey of people's attitudes towards diversity in Europe. These are just some of the initiatives planned during 2007 at European level.

But equally important are the hundreds of activities and events that will take place locally, regionally and nationally. That is why the European Year will be decentralised as far as possible – to involve the people and organisations who have a stake in it. These include trade unions, employers, youth groups, organisations representing people facing unequal treatment and local and regional authorities.

The budget for the European Year amounts to EUR 15 million. Around half of this will finance Europe-wide initiatives, while the remainder will be dedicated to activities at national, regional and local level.

Support will be channelled through specially appointed bodies at national level – for example a national equality body or social affairs ministry – in charge of coordinating European Year activities in each country. Each of these will develop a national strategy for the Year. The idea is to translate the overall objectives of the Year into the reality and needs in each country – although every country will have to cover all of the grounds of discrimination in their activities.

These ‘national implementing bodies’ will be in charge of identifying individual activities at national, regional and local level for support. These might include a writing competition for schools on the theme of respect and tolerance; a prize for companies deploying effective diversity policies; training for trade unionists on the impact of anti-discrimination laws at work; or a workshop for local service providers on equal treatment in health and education. In addition to the EU’s current 25 members, Bulgaria and Romania will also participate, as will Norway, Iceland and Liechtenstein.

## 4. High level launch

The European Year will kick off at a major launch event – the first European Equality Summit – hosted by the German Presidency of the EU in January 2007. The summit will gather EU leaders, equality ministers, and senior representatives of civil society.

National strategies and activities will have been identified by the end of 2006, so the Year can get underway all over Europe at the start of 2007. The final European-level event will be a closing conference in Portugal at the end of the Year to look back on the diverse activities carried out and the progress made.



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But the European Year will not end there. The dynamics created by twelve months of activities to promote equal opportunities and combat discrimination will be felt for a long time to come. New tools, new approaches and a new impetus will help Europe to continue to move forward with its efforts in the field of equality and non-discrimination. The EU’s PROGRESS programme – to fund activities in employment and social affairs from 2007-2013 – is expected to take up some of the best ideas generated during the European Year, ensuring they make a real impact in the long term as well.

**For more information:**  
<http://equality2007.europa.eu>



## Did you know that...?

- Most Europeans believe that a person's ethnic origin, religion, disability or age can be an obstacle to finding a job, even when they have the same qualifications.
- With an employment rate of 40% compared to an EU average of 62%, older workers face considerable difficulties in getting a job.
- Only 47 % of disabled people have a job.
- Migrants and ethnic minorities living in deprived urban areas often face a double risk of being socially excluded – due to their local residence and due to their ethnicity.
- Since 2000 it has been illegal to discriminate in employment on the basis of sexual orientation, racial or ethnic origin, religion, handicap and age, across the whole of the EU.
- Women in Europe are still paid on average 15% less than men to do the same job. They still only occupy less than a quarter of parliamentary seats in the EU.
- More than half of young lesbian, gay, bisexual and transgender Europeans experienced prejudice or discrimination in school or in their families.



2007 — European Year of Equal Opportunities for All

“The European Year will provide a fresh impetus.”

*Vladimír Špidla is European Commissioner for employment, social affairs and equal opportunities*



**European laws to guarantee equal treatment already exist. Why did you decide to also have a European Year of Equal Opportunities for All?**

The European Union's anti-discrimination legislation is one of the most ambitious and far-reaching in the world but the laws have to be widely known, understood and fully applied in order for them to have a real impact. Calling for equal rights and adopting laws to try and guarantee this is not enough to ensure equal opportunities are available for everyone in practice. Of course the EU's action programmes to combat discrimination can continue to provide support and help ensure that Member States are complying with the Directives and generally challenge discriminatory attitudes and behaviours. But more incentives are needed if we are to bring about a change in behaviour and mentality. The 2007 European Year of Equal Opportunities for All will help provide a fresh impetus. The overarching aim of the Year is to promote the benefits of diversity for both our economy and our society.

**The 2007 Year comes ten years after the European Year Against Racism. What progress has been made since then, and what are the new challenges?**

In my view, real progress has been made since 1997. The European Year Against Racism spar-

ked off a broad range of initiatives at all levels, which have had far reaching results. The adoption of the Amsterdam Treaty in 1997, which introduced a new Article into the EC Treaty, represented a quantum leap forward in the fight against discrimination. For the first time the EU was given the powers to take action to combat discrimination on a whole new range of grounds – including racial or ethnic origin, religion or belief, disability, age and sexual orientation. In 2000, we saw the adoption of the Racial Equality Directive and the Employment Equality Directive.

These actions have served as a signal to our Member States, our neighbours and those countries that would like to join the EU that the principle of equality and non-discrimination is part of the bedrock of fundamental rights on which the EU is based.

But despite this progress, we need to do more to tackle the deep-seated, intricate patterns of inequality suffered by certain groups and communities in Europe. We also need to examine the roots of these problems. We have to acknowledge too that our societies have changed considerably and are more diverse now than in 1997. Take the European Union's ageing population and its increasingly multi-ethnic makeup. This ever-growing diversity gives us a whole range of new challenges to meet.

**What are the underlying principles of the Year?**

In Europe today we must stamp out discrimination so as to reap the benefits of diversity and develop a more competitive and dynamic economy and society. By promoting equal opportunities for all, we can tackle the structural barriers faced by many migrants, ethnic minorities, the disabled, older and younger workers and other vulnerable groups. The European Year in 2007 will seek to make people in the EU more aware of their rights to enjoy equal treatment and a life free of discrimination. These are two of the basic principles underpinning the Union. I would say the main objective of the Year is to raise the awareness of the benefits of a fair and cohesive society where we all have equal chances whatever our sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

**How much do you think it is really possible to achieve during one year?**

Of course a Year is by definition only made up of 12 months, but the idea of such a wide initiative is to put diversity – which is a fact of life in Europe – on the agenda of all the participating countries today and well beyond 2007. During the Year itself we will have a huge range of activities, but the way in which they are organised means that we will get close to people who are

active on the ground. We hope this will have long-lasting effects beyond 2007 itself. We hope to show with the European Year that the EU is actively engaged in improving people's daily lives all over Europe. And the good ideas and successful results generated during the Year will be taken up and continued under the new PROGRESS programme, which will support EU activities in anti-discrimination and gender equality – among others – from 2007 up until 2013.

“The fact that society has become more colourful and diverse is an opportunity”

*Ursula von der Leyen is German Federal Minister for family affairs, senior citizens, women and youth*



**The European Year of Equal Opportunities for All will coincide with the six-month German Presidency of the EU. How will you deal with the start of the Year?**

Organising the opening conference for the Year – at the same time as the first Equality Summit on 30-31 January 2007 in Berlin – will be a particularly exciting task and challenge for us. Equal opportunities will be a key theme of the German Presidency of the EU. I am confident that the opening conference will provide the impetus for all the planned activities and events in Germany and throughout Europe. We can look forward to a fascinating Year!

**What will be discussed at the opening conference and who will be there?**

The key topic on the first day will be a round-table discussion on the theme of diversity, in which I shall be discussing with Commissioner Špidla and representatives of non-governmental organisations, social partners and the European Parliament

about the challenges and opportunities of diversity in society. After that, working groups will discuss in depth the four key messages of the Year – rights, representation, recognition and respect. We are expecting about 450 participants at the conference. Representatives have been invited from the Member States, civil society and European and international organisations.

**What benefits and challenges can diversity bring to Germany, in your opinion?**

The football World Cup in Germany this year really brought home to us just how much fun can come out of that diversity. We were able to welcome friends from all over the world, and share and celebrate great sport with them. If we can succeed in maintaining that awareness and that positive atmosphere, then we will be well on the way to achieving the objectives of the Year. We should see the fact that society has become much more colourful and diverse as an opportunity. The European Year of Equal Opportunities offers the right opportunity to take that realisation into a different context, and make further progress.





*Martine Roure MEP  
drafted the European  
Parliament's report on the  
European Year of  
Equal Opportunities for All  
2007*

## “The European Parliament is extremely committed”

### What are your main hopes for the European Year?

My wish is that this Year will show people in Europe that the European Union is above all built on common values that we share. These values are, among other places, laid down in Article 13 of the Treaty, which prohibits all discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

### What do you see as Europe's specific role in promoting equal opportunities? How does a European Year help?

Europe has a very complete set of legislation in the field of equal opportunities. Its duty is therefore to ensure that the Member States correctly apply these European values of combating discrimination and of equal opportunities. The European Year will allow people to get to know the European legislation in this area and to help better apply it.

### What about the role of the European Parliament, and individual MEPs? How do you see that?

The European Parliament – and in particular the members of its Civil Liberties Committee – are extremely committed to the fight against discrimi-

nation. This determination helps to push the Member States into putting into place specific laws to ensure equal opportunities. For example, the resolution on homophobia in Europe adopted on 18 January 2006 notably “urges Member States to enact legislation to end discrimination faced by same-sex partners in the areas of inheritance, property arrangements, tenancies, pensions, tax, social security.”

### Equal opportunities issues are becoming more and more salient in the country you represent. How is Europe's work to combat discrimination seen there?

During the recent events in France, the young people from the suburbs were above all demonstrating their dissatisfaction with living in poverty and without any future perspectives. The European Union is not involved enough in this area. To put an end to discrimination, Europe also has to end the discrimination that occurs on the basis of income and position in society. That's what I wanted to do with my report on equal opportunities. European policies for equal opportunities must also be accompanied by minimum social standards so as to promote better social inclusion in Europe.

**For more information:** [www.europarl.europa.eu](http://www.europarl.europa.eu)

## Cities and regions: key players in 2007

Local and regional authorities throughout the EU have a key role in ensuring the success of 2007 as the European Year of Equal Opportunities for All. A large number of them contributed to the consultation process when the Commission was drawing up its Green Paper on non-discrimination.

An important part of Year will be the exchange of experiences and good practices between those active in the fight against discrimination. As the tier of government closest to people, local and regional authorities are well placed to engage in these activities.

There are a number of ways local and regional authorities can get involved. We can raise awareness among our citizens at large but we can particularly target children and young people through schools and youth organisations. We can engage with local ethnic minority groups, local NGOs and the local and regional media through our existing networks.

### Get involved!

The national implementing bodies for the European Year should include where possible a representative from local government. But even if that isn't the case, they need to recognise our key role in making the Year a success. Local authorities should be looking at taking up some of the funding available for activities during the Year. They should be talking to their national coordinating bodies about their plans and they should use the logo of the Year in their literature when publicising equal opportunities activities throughout 2007.

As large employers and providers of goods and services, local authorities have a duty to combat discrimination and to make employees, citizens and local businesses aware of their rights and responsibilities.

Equal opportunities for all means exactly that – for all. Groups that feel excluded and discriminated against can sometimes become disengaged and

radicalised with often tragic results – as we've recently seen in France. My hope is that by raising awareness across the EU – through joint activities and exchanges of good practice – we can help to ensure that community cohesion can be a reality rather than an aspiration.

*The Committee of the Regions is a consultative body designed to give local and regional government across the European Union a say on proposed EU laws.*

[www.cor.europa.eu](http://www.cor.europa.eu)



*Cllr Peter Moore is a member of Sheffield City Council and drafted the Committee of the Regions' report on the European Year of Equal Opportunities for All.*

## NGOs crucial to success

Organisations representing and defending people exposed to discrimination play an essential role in making anti-discrimination rights effective – through advocacy and awareness-raising activities. Involving civil society in the design and implementation of its activities is therefore one of the European Year's key principles – both at European and national level. But how do the NGOs themselves plan to get involved and what are their expectations for the Year?

The **European Network Against Racism** has organised a four-month series of roundtable discussions on the European Year through its national members. "These will help the network formulate its ideas on how to contribute to the Year in a meaningful way while helping to inform our members about the Year and how to take part," says its director, Pascale Charhon.

And organisations from other grounds are also getting involved. Patricia Prendiville of **ILGA-Europe** (International Lesbian and Gay Association) welcomes the initiative: "These events will provide national organisations an opportunity to network with other NGOs working on non-discrimination, to encourage joint actions during the Year and to work on issues like multiple discrimination."

### Balanced treatment is important

ILGA is also encouraging its members to get involved in the preparatory process for the Year at national level – by taking part in consultations on national

priorities and participating in national activities. "This could mean contributing to campaigns or undertaking projects," says Prendiville. "We're also keen to ensure that all countries give proper, balanced treatment to all grounds – including sexual orientation – as they are obliged to do anyway."

For the **European Disability Forum**, 2007 offers a good opportunity to raise awareness about the different forms of discrimination faced by disabled people: "We will promote education and awareness raising measures on discriminatory attitudes affecting all groups and positive actions to achieve equal opportunities," explains director Carlotta Besozzi. "This work will be supported by our target committees, such as youth, people with complex dependency needs and people with chronic illness. We'll also reinforce our alliances with other networks of discriminated groups and our cooperation with trade unions."

On the gender ground, the **European Women's Lobby** is also encouraging its members to get involved in national coordinating bodies for the Year and to take part in national level activities. In addition, they are keen to emphasise gender mainstreaming during the Year: "We would like to make sure that a gender perspective is included in all aspects of the setting up and activities of the Year," says Kirsti Kolthoff, the organisation's president. "For example, in terms of having gender experts in the national coordinating bodies or ensuring a gender balance in the panels of meetings and conferences taking place in the framework of the Year."



## It's about participation

For Anne-Sophie Parent, president of the **Platform of European Social NGOs** and director of **AGE – the Older People's Platform**, participation is the key to success: "This was one of the findings that came out of the European Year for People with Disabilities in 2003. It will create a strong motivation to support, promote and implement activities during the Year and help ensure it creates positive changes for people who face discrimination. The messages need to be driven by the people who are affected and be adapted to the local and national context in order to have an impact."

The decision to make 2007 the European Year of Equal Opportunities for All has also been welcomed by the **European Youth Forum**, which represents young people's organisations in Europe. "We want to take an active part during this Year and to contribute to it so as to bring an indispensable youth perspective," says vice-president James Doorley. "Given the inequality and discrimination that many young people across Europe experience, we plan to work closely with a range of other European NGOs to maximise the impact and legacy of the year".

To help ensure that EU policies meet people's needs, the European Commission provides co-funding for a number of NGO networks at European level. These organisations represent civil society in EU policy consultations.

[www.ec.europa.eu/employment\\_social/fundamental\\_rights/civil](http://www.ec.europa.eu/employment_social/fundamental_rights/civil)



[www.womenlobby.org](http://www.womenlobby.org)



[www.youthforum.org](http://www.youthforum.org)

## "Equality bodies will make an important contribution"



*Chila M. van der Bas is chair of Equinet – the network of specialised equality bodies from across the member and accession states – and commissioner at the Dutch Equal Treatment Commission*

### What are Equinet's hopes and expectations for the European Year of Equal Opportunities for All?

Equinet welcomes the forthcoming European Year. It provides a timely and valuable opportunity to reflect on the challenges we still face in achieving full equality in practice across the grounds of age, disability, gender, racial and ethnic origin, religion and sexual orientation.

The Year should facilitate a focus on the role of specialised equality bodies in promoting equality and combating discrimination. It should allow for an affirmation of the independence of these bodies and a commitment to ensuring they are adequately resourced to fulfil their roles.



It should also provide a stimulus at national level to celebrate progress made in promoting equality and to further develop the mechanisms and budgets that are needed to achieve greater progress. It should be a year for new investment in equality in the Member States and for developing new initiatives in areas such as equality legislation, equality mainstreaming and equality data.

**The European Year is structured in a very decentralised way. What does this mean for the national equality bodies and how will they be involved in the Year's activities?**

I hope the overarching European theme will stimulate new initiatives to promote equality and combat discrimination in all EU countries.

The specialised equality bodies have an important contribution to make to the success of the Year at both EU and national level. This contribution flows from our practical experience and expertise in the effective implementation and enforcement of non-discrimination and equality legislation.

**Do you see a specific role for the Equinet network during the Year and do you have any concrete activities planned so far?**

Equinet has developed an opinion for the European Commission on the Equality Summit. Hopefully this contribution will assist in shaping the event. It is a moment during the Year when Equinet and its members could have a particular contribution to make.

Equinet is also currently preparing an opinion on equality mainstreaming. We hope this contribution will help encourage and inform a focus on mainstreaming during the Year.

**You're also a member of the Equal Treatment Commission (CGB) in the Netherlands. How does the CGB plan to get involved in the Year?**

The CGB will be active in activities at national level, to be coordinated by the Dutch Ministry of Social Affairs. We will also emphasise that extra efforts are needed to improve the national structure for combating discrimination. In 2007, the CGB will make a special focus on the grounds of handicap and chronic illness, sexual orientation and racial discrimination (in some cases in combination with nationality and religion).

Under EU anti-discrimination law, Member States are required to designate a 'national equality body' to help promote equal treatment and combat discrimination on the grounds of racial or ethnic origin. The Equinet network brings together these bodies, many of which also cover other grounds of discrimination. Equinet is supported by the EU's Action Programme to combat discrimination.

[www.migpolgroup.com/topics/2078.html](http://www.migpolgroup.com/topics/2078.html)



## Unions and employers – partners in the Year

As organisations representing employers and employees, the European social partners also have a key interest in equal opportunities and diversity – particularly in the workplace. They will also take an active role in the various activities organised locally, regionally, nationally – and across Europe – during 2007.

UEAPME – the association representing European crafts, trades and small businesses – has welcomed

public and also to boost actions at local level,” says Jeanne Schmitt, social affairs adviser.

“We also have some actions foreseen in our joint work programme with the ETUC for 2006-2008 that entail equal opportunities dimensions. And our German member, the BDA, intends to organise a special event during the Year in cooperation with the German trade unions and government, where we will also actively participate.”

### A twofold role

CEEP – which represents public sector employers in Europe – sees its role as twofold: both as employers and as service providers. “Public service employers have an excellent track record of implementing innovative anti-discrimination and equal opportunities measures and are indeed often looked at by policy makers to take a lead in these areas. In addition, CEEP members are concerned particularly to address the causes and effects of disadvantage in society as general interest services have a particular role to play in preventing social exclusion,” explains Tina Weber of the organisation’s social affairs committee.

“In preparation for the European Year, CEEP is currently in the process of compiling a compendium of good practices at workplace level in addressing all forms of discrimination covered by the Year, and due to be completed in 2007.

“In addition, we are keen to provide advice and good practice inputs into the European Year and the planned information campaign – which will form the core of the Year. Our national affiliates will work with the national implementing agencies to ensure their full involvement in the activities of the Year.

“It is our hope that 2007 will raise awareness in relation to existing rights to non-discrimination, the business and societal benefits of diversity, as well as showcasing existing good practice to allow for an exchange of experiences at European level.”

For more information:

[www.ceep.org](http://www.ceep.org)  
[www.etuc.org](http://www.etuc.org)  
[www.ueapme.com](http://www.ueapme.com)  
[www.unice.org](http://www.unice.org)



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the decision to make 2007 the Year of Equal Opportunities for All. “One of the objectives for this Year should be to make employers – and in particular SMEs – aware of the richness and benefits of diversity for the enterprise,” says the organisation’s social policy adviser Ralf Drachenberg.

“The results of the European conference ‘the benefits of diversity and inclusion for SMEs’ held in September 2006 in Cyprus should be used as a basis for this. UEAPME plans to disseminate the results of the Year amongst its members and will participate in activities going on at EU level.”

### Joint projects

UNICE – the main European business federation – plans to cooperate with the European Trade Union Confederation (ETUC) on equal opportunities issues during the European Year. “UNICE intends to continue its work with the European trade unions on gender equality. This work started in 2005 but activities taking place during 2007 will be good opportunities to promote our priorities even further among our respective members and the wider

### Previous European Years: lessons learnt

The 2007 European Year is the first major EU-wide campaign to promote equal opportunities across all the grounds of discrimination laid down in EU law – but it is not the first to deal with equal treatment issues. So what lessons can the 1997 European Year Against Racism and 2003 European Year of People with Disabilities provide in 2007?

- A key finding of the European Year of People with Disabilities (EYPD) was that its **decentralised approach** was key to its success. According to the European Commission's assessment, "the choice of a decentralised approach increased the efficiency and output of the campaign and amplified the overall impact of the Year at national level."<sup>1</sup>
- The high level of **involvement** of people with disabilities in the EYPD was also applauded by its external evaluators, who noted "the benefits of integrating disability organisations in the Commission's planning and implementation of like interventions."<sup>2</sup> The European Disability Forum – which groups together NGOs representing people with disabilities across the EU – was a key player throughout the Year. It will now lend its experience to the European Year of Equal Opportunities too.
- However, the evaluation also called for **more focus on highlighting good practices** and innovation so that the EYPD's results could be replicated and transferred more easily to other contexts.
- One of the biggest successes of the European Year Against Racism in 1997 was in "**mobilising people and organisations** across the EU," according to the Commission's implementation report<sup>3</sup>. This spawned the creation of the European Network Against Racism – an EU-wide umbrella network of anti-racism NGOs, now poised to play a key role in the 2007 European Year.
- The high level of cooperation and focus "created in turn a favourable **climate for political progress**, which led to several major political initiatives. These notably included the insertion of dedicated anti-discrimination provisions in the EU Treaty (Article 13), the creation of the EU Monitoring Centre on Racism & Xenophobia, and the Action Plan against racism.

1 Communication on the implementation, results and overall assessment of the European Year of People with Disabilities 2003, COM(2005) 486 final.

2 Evaluation of the European Year of People with Disabilities – Synthesis, Rambøll Management, October 2004.

3 Report on the Implementation of the European Year Against Racism (1997), COM(1999) 268 final.



The following organisations are responsible for implementing European Year activities at national, regional and local level in each participating country. Contact them to get involved!

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Country	National implementing body	Country	National implementing body
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European Commission

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