Equality and non-discrimination

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PREFACE
by ODILE QUINTIN
Director-General for Employment and Social Affairs

The last twelve months have been a key period in the European Union’s efforts to combat discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation.

The deadlines for putting European anti-discrimination rules into national law have now passed. Over the last year, we have witnessed a significant increase in the level of protection against discrimination across the EU. Important changes to national legislation are outlined in this report.

Nevertheless, the Commission is concerned that European anti-discrimination legislation has not yet been fully implemented and enforced in a number of Member States. I urge national authorities to take action to meet their obligations as soon as possible.

It will also be important to support positive measures to promote equality and to back up the new legal rights introduced by European legislation. Awareness-raising activities have a crucial role to play in this context. This report provides information on several initiatives, including the “For Diversity – Against Discrimination” Information Campaigns launched by the European Commission.

Clearly, much work remains to be done in order to ensure the effective implementation of the principle of non-discrimination across the enlarged EU. The European Commission looks forward to working with all of the relevant stakeholders in order to address this challenge. It has recently published a Green Paper on “Equality and non-discrimination in an enlarged European Union” inviting comments on possible options for future policy development in this area.

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In 2000, the European Union introduced a package of measures designed to enforce the right of people everywhere to be treated equally and to strengthen respect for human rights throughout the EU.

The package consisted of two Directives, or EU laws:

- the Racial Equality Directive (2000/43/EC), prohibiting discrimination on the grounds of a person’s racial or ethnic origin;
- the Employment Equality Directive (2000/78/EC), prohibiting discrimination on the grounds of a person’s religion or belief, disability, age or sexual orientation.

These Directives are supported by an action programme, (established by a Council Decision — 2000/750/EC). This promotes practical measures to combat the discrimination prohibited by the Directives, for example by making people aware of their rights and obligations and by trying to change attitudes and behaviour.

The package supplements related legislation to combat sex discrimination. This legislation is outside the scope of this report, but it is important that all forms of discrimination are tackled together as, in many cases, discrimination occurs on multiple grounds.

Both Directives prohibit discrimination in employment and training. They cover, in particular, recruitment and promotion, the provision of training, pay, working conditions and practices and dismissals. The Racial Equality Directive further prohibits discrimination in relation to education, social security benefits and health care and the purchase and renting of goods and services, including housing.

EU Member States were required to bring their national laws into line with the Racial Equality Directive by 19 July 2003 and with the Employment Equality Directive by 2 December 2003. They could, however, extend the deadline in respect of age and disability by up to three years, provided they informed the Commission. The new Member States were required to implement the Directives by the time they joined the Union on 1 May 2004.

Although the Directives have not yet been fully implemented in all countries, they have had a clear effect in strengthening protection against discrimination across Europe. They have also encouraged the development of an integrated approach to tackling discrimination on different grounds, based on respect for the right of everyone to be treated equally. This reflects a growing recognition of the benefits of diversity for the economy and for society as a whole.

The new policy is also having an effect beyond the current frontiers of the EU, with the Directives serving as a model for the development of anti-discrimination legislation elsewhere. In Bulgaria and Romania, which are still in the process of negotiating membership of the Union, laws are already in place banning discrimination on the grounds specified in the two Directives.
The purpose of this report is to give an overview of what is happening across the Union as the policy against discrimination is implemented. It covers both the steps being taken by national governments to ensure that the legal protection provided against discrimination is in line with the two Directives and the other activities being carried out to complement the new laws, supported in part by the action programme.

The Report is divided into two parts. The first part reviews progress across the recently enlarged Union in modifying existing laws or introducing new ones to meet the requirements of the Directives. It describes some of the main features of the legislation which has been put into effect in different countries, or which is in the process of being introduced. And it examines the measures taken to help those experiencing discrimination to stop it from happening and to get adequate recompense for any harm suffered.

The second part describes one important set of activities being supported by the action programme, namely the awareness-raising activities undertaken at EU level and in individual Member States. The aim of these to make sure that everyone knows about the new laws which are now in place across Europe to ban discrimination and the right they give people to be treated equally. The aim is also to draw attention to the harm caused by discrimination and the benefits to be gained from diversity both in the work place and in society generally. This part of the report includes, in addition, a summary list of the other activities supported by the action programme.

**OUTLINE OF REPORT**
Part I >
Implementing the EU’s new legal framework for tackling discrimination

The Racial Equality and Employment Equality Directives adopted by Member States in 2000 have raised the level of protection against discrimination in all parts of the Union. Together they outlaw discrimination on grounds of racial or ethnic origin, religion or belief, age, disability and sexual orientation in respect of employment and training. The Racial Equality Directive further bans discrimination on grounds of racial or ethnic origin in respect of access to education, social security, health care, social advantages of various kinds (such as special concessions or housing benefits) and goods and services, including housing (see Box for more details).

The two Directives complement the legislation combating sex discrimination, including the Directive on Gender Equality (2002/73/EC) which amended the earlier 1976 Directive (76/207/EEC) and which contains very similar provisions to enforce equal treatment of men and women across the EU.

Although some laws prohibiting discrimination were in place before the adoption of the Directives in most countries, in none of them did they provide the protection required under the Directives. Member States therefore, had the task of implementing national legislation to comply with the new requirements. It has been for each of them to choose how to do this in the light of their legal and cultural traditions and the legislation already in place. But whatever process they have followed and whatever form legislation has taken, they have had to put into effect the minimum level of legal protection which they themselves agreed was needed.

Member States undertook to ensure that the national legislation required to comply with the two Directives was in place by the deadlines specified or, in the case of the new Member States, by when they joined the Union. As allowed under the Employment Equality Directive, a number of Member States have notified the Commission that they need a longer period for meeting all the requirements in respect of age and disability.

This part of the report describes the progress made across the enlarged EU to modify existing laws or to introduce new ones to meet the requirements of the Directives. It also summarises the similar steps taken in countries outside the EU to outlaw discrimination. It then examines a number of key legal provisions which affect how effective the legislation is likely to be in combating discrimination and reviews measures which have been taken to support the new laws.
Main features of the Racial Equality and Employment Equality Directives

The Directives are intended to establish a minimum level of legal protection against discrimination throughout the European Union. It is open to national governments to introduce more favourable provisions but they cannot reduce the level of protection if this is already higher than the minimum required.

Scope

The Directives cover everyone living or working in the EU. The Directives outlaw discrimination on grounds of racial or ethnic origin and on grounds of religion and belief, disability, age and sexual orientation, in respect of:

- access to employment and self-employment as well as to opportunities for promotion
- access to vocational guidance and training at all levels as well as work experience
- employment and working conditions, including dismissals and pay
- membership of trade unions and professional bodies and access to any benefits they provide

The Racial Equality Directive further prohibits discrimination in respect of:

- social security and health care
- social advantages, such as free prescriptions, housing benefits and concessions of various kinds
- education
- access to goods and services available to the public, including housing

Forms of discrimination

The Directives outlaw the following forms of discrimination:

- direct discrimination, which arises where a person is treated less favourably than another is, has been or would be treated on any of the grounds covered by the Directives;
- indirect discrimination, which arises where an apparently neutral provision, criterion or practice, whether intentionally or not, puts people of a particular racial or ethnic origin, religion or belief, disability, age or sexual orientation at a particular disadvantage compared with others. If it has this effect, the provision, criterion or practice will constitute discrimination unless it is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary;
- harassment, which arises when unwanted conduct related to any of the grounds covered by the Directives takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

The Directives also ban instructions to discriminate and victimisation (or retaliation against those complaining about or giving evidence of discrimination).

Remedies and sanctions

Victims of discrimination should have access to administrative or judicial procedures, including conciliation where appropriate, to enforce their right to equal treatment. Bodies with a legitimate interest in ensuring that the provisions of the Directives are complied with (such as trade unions or representative organisations) must be given the right to support victims of discrimination in any proceedings. Those responsible for discrimination should face sanctions which are effective, proportionate and dissuasive (in the sense of deterring discriminatory behaviour).

Burden of proof

Once someone who considers that they have not been treated equally establishes facts from which it may be presumed that discrimination has occurred, it is then for the person accused of discrimination to prove that there has been no breach of the principle of equal treatment.

Equality Body

The Racial Equality Directive requires a specialised body to be designated in each Member State to promote equal treatment in relation to race or ethnic origin. These bodies must provide independent assistance to victims of discrimination to pursue their complaints, conduct independent surveys, publish independent reports and make recommendations.

Accommodating people with disabilities

Employers are required to take appropriate measures, where necessary, to enable a person with a disability to have access to, participate or advance in employment, or to undergo training, unless such measures impose a disproportionate burden on the employer.

Dissemination of information

Governments have an obligation to make people aware, by all appropriate means, of the provisions of the legislation and the right which they have to be treated equally as a result.
No attempt, it should be emphasised, is made to cover developments in all countries systematically or to examine the wording of legislation in detail. The aim of the report is to give an overview of the actions taken across the Union and to give examples of the measures introduced to illustrate what has been happening in different countries. Readers who wish to have a full and accurate understanding of the legislation implemented in a particular Member State, need to refer directly to the details of this. Under the Directives, it is the duty of every Member State to bring the relevant legal provisions to the attention of everyone concerned.

It should also be made clear that this report does not assess whether legislation in Member States complies fully with the Directives. Mention of particular legal provisions, therefore, does not necessarily imply that it does so.

The information presented below, moreover, relates to the situation as at 1 May, 2004 when the report was finalised.

**Changes in National Legislation**

When Member States adopted the two Directives in 2000, they agreed a timetable for implementing them. Member States were given until 19 July 2003 to make the changes to national legislation needed to comply with the Racial Equality Directive and until 2 December 2003 to do the same in respect of the Employment Equality Directive.

Because of the potentially greater effect on policy and working practices, it was accepted that more time might be needed for implementing the Employment Equality Directive as regards discrimination on the grounds of age and disability. Member States were, therefore, allowed, if they so wished, an additional period of up to three years to make the changes required to provide the same level of protection against discrimination on these grounds as on the others covered by the Directives. They had, however, to inform the Commission before the implementation deadline about their intention to do this. They have also to report to the Commission each year the steps they are taking to tackle discrimination on these grounds and the progress they are making to provide the protection required.

In a number of countries, governments have taken up this option and have given themselves more time to make the changes in legislation needed to meet all the requirements of the Directive in these two areas (see Summary Table).

In the case of the new Member States, the obligation was to have legislation complying with the two Directives in place by the time they entered the Union.

Leaving aside age and disability, a number of Member States have not managed to meet these deadlines for the full implementation of the Directives. In some of these cases, however, changes have already been made to national legislation but have not yet taken effect or are in the process of being made.
The changes in Member States

In Belgium, legislation was adopted by the Federal Government at the beginning of 2003 to implement both the Racial Equality and Employment Equality Directives. At the regional and community level, where responsibility for job placement, education and training partly lies, legislation has been adopted by the Flemish-speaking areas and in Brussels. In the French and German-speaking parts of the country legislation is in the process of being introduced. The Belgian Government has notified the Commission of its intention to use the additional three-year period to implement the provisions of the Employment Equality Directive with regard to age discrimination.

In the Czech Republic, amendments to the Labour Code to bring protection into line with the employment requirements of the two Directives were approved by Parliament in January, 2004 and came into force in March. The draft legislation prohibiting discrimination on grounds of racial or ethnic origin in areas other than employment is due to be discussed by Parliament in June 2004 and to come into effect from January 2005.

In Denmark, legislation designed to meet the requirements of the Racial Equality Directive, except in respect of employment, came into force in July 2003. An Act aimed at bringing legislation on employment into line with the requirements of the two Directives was passed by Parliament in March 2004 and is now in force.

In Spain, legislation intended to cover the provisions in both the Racial Equality and Employment Equality Directives was adopted by Parliament at the end of 2003 and came into effect in January 2004.

In France, new legislation prohibiting discrimination on various grounds was passed at the end of 2001. This, however, was limited to employment. The Government has notified the Commission of its intention to use the additional period to implement the provisions of the Employment Equality Directive as regards disability. A draft bill on this was presented to Parliament in the first part of 2004. A draft bill banning discrimination on grounds of racial or ethnic origin covering the non-employment areas specified in the Directive – except housing where discrimination has been outlawed since early 2002 – is due to be presented to Parliament during 2004.

In Ireland, the legal protection in place against discrimination is relatively extensive. In a few aspects, however, it does not meet the requirements of the two Directives. An Equality Bill aimed at closing these gaps was published in January 2004 and is expected to become law later in the year.

In Italy, two Government Decrees intended to bring Italian law into line with the requirements of each of the two Directives were passed in the Summer of 2003.

In Cyprus, bills designed to put into effect the requirements of the two Directives were drafted and discussed in 2003 and were adopted in March 2004. Among other things, these extend existing protection against discrimination to cover age and sexual orientation and establish a specialised Equality Body.

In Latvia, the Labour Law introduced in 2001 went some way to meeting the requirements of the Employment Equality Directive. But it did not explicitly prohibit discrimination on grounds of sexual orientation and it did not apply to vocational training or membership of a trade union. Amendments to the Law intended to bring it into line with the Directive, as well as new laws implementing the require-

In **Lithuania**, a new Labour Code was introduced in January 2003 and amendments aimed at meeting the requirements of the Employment Equality Directive were adopted in November 2003. Amendments to existing laws on racial discrimination were adopted at the same time and both sets of amendments are due to take effect from the beginning of 2005.

In **Hungary**, a new law (The Equal Treatment and Promotion of Equal Opportunities Act) designed to meet the requirements of the two Equality Directives came into effect in January 2004. This covers other grounds of discrimination in addition to those specified in the Directives, such as nationality and political views. It also extends protection to access to goods and services, education, social security and the other areas specified in the Racial Equality Directive to everyone, not just those discriminated against because of their racial or ethnic origin.

In **Malta**, legislation increasing existing protection against discrimination in respect of employment was implemented in 2003 and is in the process of being extended further under the Employment and Industrial Relations Act. Legislation to cover the non-employment aspects of the Racial Equality Directive has been drafted but not yet adopted.

In the **Netherlands**, amendments to the Equal Treatment Act of 1994 designed to bring it into line with the two Directives came into force on 1 April, 2004. The new law prohibiting discrimination on grounds of disability that came into force in December, 2003 was also modified at the same time with the aim of bringing it into line with the Employment Equality Directive. The Dutch Government had notified the Commission that it wished to have an additional three years to meet the requirements of the Directive in respect of age. A new law banning age discrimination was, however, adopted in December 2003 and came into effect on 1 May, 2004.

In **Austria**, draft legislation was submitted to Parliament in November 2003 with a view to implementing the two Directives at federal level and at establishing two Equality Bodies. This is expected to be adopted in June 2004. The legislation covers all the grounds of discrimination specified in the two Directives, apart from disability, and includes, in addition, provisions against sex discrimination. It remains for the authorities in individual states (or Länder) to implement the Directives in their areas of responsibility (for example, in respect of their own employees). The Federal Government is preparing proposals for new legislation on disability and these are intended to be widely debated before being implemented.

In **Poland**, legislation amending the Labour Code and a number of other existing laws came into effect in January 2004, with the aim of meeting the requirements of the two Equality Directives in respect of employment. Some protection against discrimination on grounds of racial or ethnic origin in areas other than employment is provided under various pieces of existing legislation. There are no plans at present to consolidate or to extend this legislation.

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The new legislation that we have adopted in Finland will prevent and decrease all kind of discrimination in people’s everyday lives. The obligation on public authorities to formulate equality plans is a particularly important complement of legislation. We recognise that legislation is not enough. Our goal is a practical diversity policy, which provides equal opportunities for everybody and gives minorities their “own voice”. Mainstreaming of non-discrimination is a very important objective, which cannot be achieved without identification of unequal processes and redressing policies, structures and working practices, which could lead to indirect discrimination. In other words, one of the preconditions for mainstreaming of equality is awareness of the problems faced by minorities in their everyday life.

An important step towards functional diversity is a continuing dialogue between decision-makers, social partners and those from civil society representing the potential victims of discrimination.

**TARJA FILATOV, MINISTER OF LABOUR, FINLAND**
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<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>CZ</td>
<td>Draft legislation to be discussed June 2004 and enacted January 2005.</td>
<td>Amendments to existing legislation came into force Mar 2004</td>
<td>1 year for age and disability</td>
</tr>
<tr>
<td>DE</td>
<td>No specific proposals for implementation</td>
<td>No specific proposals for implementation</td>
<td>3 years for age</td>
</tr>
<tr>
<td>EE</td>
<td>No specific proposals for implementation</td>
<td>No specific proposals for implementation</td>
<td></td>
</tr>
<tr>
<td>FR</td>
<td>Law of Nov 2001 (employment) and Jan 2002 (housing). Draft bill on other aspects extending the scope of existing law due in 2004</td>
<td>Law of Nov 2001 + draft bill on disability due in 2004</td>
<td></td>
</tr>
<tr>
<td>IE</td>
<td>Equality Bill published Jan 2004 making minor changes to existing legislation to comply with Directive to be enacted during 2004</td>
<td>Equality Bill published Jan 2004 making minor changes to existing legislation to comply with Directive to be enacted during 2004</td>
<td></td>
</tr>
<tr>
<td>CY</td>
<td>Law adopted Mar 2004 and due to come into effect May 2004</td>
<td>Law adopted Mar 2004 and due to come into effect May 2004</td>
<td></td>
</tr>
<tr>
<td>LV</td>
<td>Law due to be passed in May 2004</td>
<td>Amendments to existing legislation due to be passed in May 2004</td>
<td></td>
</tr>
<tr>
<td>LT</td>
<td>Amendments to bring existing laws into line with Directive presented Nov 2003. Due to enter force Jan 2005</td>
<td>Amendments to bring existing laws into line with Directive presented Nov 2003. Due to enter force Jan 2005</td>
<td></td>
</tr>
</tbody>
</table>
### Racial Equality Directive

<table>
<thead>
<tr>
<th>Country</th>
<th>Legislation Status</th>
<th>Date into Force</th>
</tr>
</thead>
<tbody>
<tr>
<td>MT</td>
<td>Legislation drafted but not yet adopted</td>
<td></td>
</tr>
<tr>
<td>NL</td>
<td>Single law making minor changes to existing legislation to comply with Directive entered into force Apr 2004</td>
<td></td>
</tr>
<tr>
<td>AT</td>
<td>Legislation came into force Jul 2004</td>
<td></td>
</tr>
<tr>
<td>PL</td>
<td>Protection provided under various existing pieces of legislation. No plans to consolidate or extend</td>
<td></td>
</tr>
<tr>
<td>SI</td>
<td>New legislation adopted Apr 2004 and effective from May 2004</td>
<td></td>
</tr>
<tr>
<td>SK</td>
<td>Single Law due to be adopted May 2004</td>
<td></td>
</tr>
<tr>
<td>FI</td>
<td>Single Act adopted in Dec 2003 and effective since Feb 2004</td>
<td></td>
</tr>
<tr>
<td>UK</td>
<td>Legislation bringing existing law into line with Directive came into force Jul 2003. Similar law to be adopted in Gibraltar Mar 2004</td>
<td></td>
</tr>
<tr>
<td>BG</td>
<td>Law passed Sep 2003</td>
<td></td>
</tr>
<tr>
<td>RO</td>
<td>Legislation passed in 2002</td>
<td></td>
</tr>
</tbody>
</table>

### Employment Equality Directive

<table>
<thead>
<tr>
<th>Country</th>
<th>Legislation Status</th>
<th>Date into Force</th>
</tr>
</thead>
<tbody>
<tr>
<td>LU</td>
<td>Draft bill submitted to Parliament Nov 2003, unlikely to be passed before elections in Jun 2004</td>
<td></td>
</tr>
<tr>
<td>HU</td>
<td>Law passed Dec 2003, came into force Jan 2004</td>
<td></td>
</tr>
<tr>
<td>MT</td>
<td>Existing legislation in process of being extended</td>
<td></td>
</tr>
<tr>
<td>NL</td>
<td>Single law making minor changes to existing legislation to comply with Directive entered into force Apr 2004 + law on disability Dec 2003 + law on age entered into force May 2004</td>
<td></td>
</tr>
<tr>
<td>AT</td>
<td>Legislation due to come into force Jul 2004 covering all grounds except disability. Draft legislation on disability circulated for discussion</td>
<td></td>
</tr>
<tr>
<td>PL</td>
<td>Laws passed Jan 2004</td>
<td></td>
</tr>
<tr>
<td>SK</td>
<td>Amendments to existing legislation introduced in 2003 + Single Law due to be adopted May 2004</td>
<td></td>
</tr>
<tr>
<td>FI</td>
<td>Single Act adopted in Dec 2003 and effective since Feb 2004</td>
<td></td>
</tr>
<tr>
<td>SE</td>
<td>Legislation bringing existing laws into line with Directive, except for age and disability, came into effect Jul 2003</td>
<td></td>
</tr>
<tr>
<td>UK</td>
<td>Legislation covering religion and belief and sexual orientation came into force Dec 2003. Similar law to be adopted in Gibraltar Mar 2004</td>
<td>3 years for age and disability</td>
</tr>
<tr>
<td>BG</td>
<td>Law passed Sep 2003</td>
<td></td>
</tr>
</tbody>
</table>

### Extension Notified

- **3 years for age and disability**
- **3 years for age, 1 for disability**

Note: The table summarises the legislation passed or in the process of being implemented in relation to the two Directives. It does not necessarily imply that the legislation complies fully with the Directives.
Consultation

In **Sweden**, proposals for legislation prohibiting discrimination on grounds of racial or ethnic origin in respect of education have recently been published. Proposals for outlawing discrimination on grounds of age and disability are under preparation and are planned to be published in 2005. In each case, there will be close consultation with the social partners, the law courts, the Ombudsmen against discrimination, universities, NGOs and other interest groups within the wider public over the contents.

In the **UK**, the plan is to implement the requirements of the Employment Equality Directive regarding age by October 2006. The arrangements for ensuring wide consultation follow a similar pattern to that for other legislation against discrimination already introduced:

- the publication of a consultation document and draft regulations for comment in Spring 2004;
- a mailing of this to all major interest groups, in addition to all those who responded to the previous consultation Equality and Diversity: Age Matters;
- the posting of information on the consultation on two government internet sites.

In **Latvia**, a working group was set up to consider proposals for meeting the requirements of the Racial Equality Directive, including representatives from various relevant government ministries, the National Human Rights Office, the Institute for Human Rights and the Latvian Centre for Human Rights and Ethnic Studies. In addition, legal experts were invited to give their views and European Commission officials were also consulted. Amendments to the Labour Law were drafted in cooperation with the social partners and checked with the trade unions association and the employers’ confederation.

In **Portugal**, a new Labour Code designed to bring legislation into line with the Employment Equality Directive entered into force in December 2003. This covers all the grounds of discrimination specified in the Directive together with a number of others, such as political views and trade union membership. The new law 18/2004 banning discrimination on grounds of racial and ethnic origin entered into force in May 2004.

In **Slovenia**, new legislation was adopted in April 2004 with the aim of providing the protection against discrimination required by the two Directives. This extends the scope of the new Labour Code which came into force in January 2003 and also bans discrimination on grounds of racial or ethnic origin in respect of access to goods and services and the other areas specified in the Racial Equality Directive.

In **Slovakia**, a Labour Code prohibiting discrimination in employment on all the grounds included in the Employment Equality Directive apart from sexual orientation was adopted in 2002 and amended in 2003. In addition, amendments were made in 2003 to the Law on State Service, covering public sector employees and, unlike the Labour Code, including provisions against discrimination on grounds of sexual orientation. A single law extending protection further with the intention of meeting the requirements of both the Directives is being considered by parliament and is due to be adopted before the end of May 2004.

In **Finland**, a single act prohibiting discrimination on the grounds and in the areas specified in both of the two Directives was passed in December 2003 and became effective in February 2004.

In **Sweden**, legislation designed to bring existing laws into line with the two Directives, except as regards age and disability, came into effect in July 2003. The legislation, however, does not cover access to education in respect of discrimination on grounds of racial or ethnic origin. Draft proposals to fill this gap were published in April 2004 for probable implementation in 2005. The Government has reported its intention of
taking more time to meet the require-
ments of the Employment Equality
Directive as regards age and disability.
Proposals are being drafted by a
Committee of Enquiry. A process of
consultation on these is then planned
before legislation comes into force before
2 December, 2006.

In the UK, the Government has also noti-
ﬁed the Commission that it intends to
take more time to implement the
Employment Equality Directive in respect
of age and disability. These apart, amend-
ments to long-standing legislation prohibi-
ting discrimination on racial or ethnic ori-
gin grounds came into effect in July 2003
with the aim of meeting the requirements
of the Directive. New regulations banning
discrimination on grounds of religion
or belief and sexual orientation became
effective in December 2003.
Amendments to the 1995 legislation
banning discrimination on grounds of dis-
ability, designed to bring it into line with
the Directive, were passed in July 2003
and will come into effect in October
2004. Proposals for banning discrimina-
tion on grounds of age were published in
Spring 2004 and new legislation is plan-
ned to take effect by October 2006.

In the other EU countries, the timetable
for implementing the two Directives is
less clear. In Luxembourg, draft bills
intended to meet the requirements of the
two Directives, but containing no propo-
sals for setting up a specialised Equality
Body, were presented to Parliament in
November 2003.

In the same month, a single draft bill was
submitted to Parliament in Greece. It is
not yet known whether this will be consi-
dered by the new Parliament or whether
a new bill will be presented.

In cases where Member States fail to
implement the Directives either fully or
properly, the European Commission can
take legal action against them. Moreover,
the people living in these countries may
have some protection against discrimina-
tion under European law (see Box).

### What happens if Member States fail to
implement the Equality Directives

In cases where a Member State fails to implement
either the Racial Equality or Employment Equality
Directive or both (or fails to implement them proper-
ly), the European Commission can take action under
Article 226 of the European Community Treaty. The
ﬁrst step is for the Commission to issue a formal let-
ter outlining why it considers the Member State has
failed to meet its legal obligations. The Member State
then has two months to reply.

If this fails to resolve the matter, the Commission will
deliver a ‘reasoned opinion’ setting a time limit for the
Member State to comply. If this also fails, the
Commission can refer the matter to the European
Court of Justice for judgment. If the Court ﬁnds
against the Member State and the judgment is igno-
red, a ﬁne can be imposed under Article 228.

In the meantime, individuals suffering discrimina-
tion contrary to the Directives in the Member State
concerned may be assisted by the general legal prin-
ciples established by the European Court of Justice.

The provisions of Directives may be directly effective
against organs of the State (eg public authorities). In
order for this to be the case, the provisions must be
unconditional, clear and precise. Ultimately, this would
be determined by the European Court of Justice but,
given the case law on similar provisions in the sex dis-
crimination Directives, it is likely that quite a lot of the
provisions in the two Directives could be directly effec-
tive. However, the principle will not assist in litigation
against private, non-state, individuals or organisa-
tions.

National courts are under a duty to interpret, as far
as possible, any existing legislation (even if it predates
the Directives) consistently with the Directives in such
a way as to secure the outcome the Directives are
trying to achieve.

The Member State itself may also be liable to compen-
sate individuals for loss or damage suffered as a
result of its breach of Community law. Liability will
arise where the legal rule infringed is intended to
confer rights on individuals; the breach is sufﬁciently
serious (such as a failure to implement the
Directives); and there is a direct causal link between
the breach and the damage sustained by the indivi-
duals.

These principles assist individuals in proceedings befo-
re national courts, although, during the proceedings,
those courts may refer any particular question to the
European Court of Justice under Article 234 of the
European Community Treaty.
Legislation against discrimination in Bulgaria and Romania

In Bulgaria, comprehensive legislation prohibiting discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation as well as others, was approved by Parliament in September 2003. The scope is similar to Protocol 12 of the European Convention of Human Rights and the two Equality Directives. It covers direct and indirect discrimination, harassment and victimisation, including in each case by association or presumption, as well as incitement to discrimination and racial segregation.

It makes clear that employers and teachers who fail to prevent discrimination by others in places of work or study are liable for prosecution just as if they were directly involved. It also sets out a list of illustrative cases of discriminatory behaviour in key areas in order to make the meaning of the law clearer.

Victims of discrimination have the right to be represented in court by trade unions or NGOs, both of which can bring public interest lawsuits on their own initiative. The law also allows collective cases to be brought where a number of people are discriminated against.

Legislation against discrimination, on similar lines to the Racial Equality and Employment Equality Directives, has also recently been adopted in Norway (see Box).

There are plans to set up an independent body to promote equal treatment and to help people who suffer discrimination. This is intended to have the power to issue binding decisions, to access information and to summon and question witnesses, as well as to challenge Government decisions in court, bring civil lawsuits and intervene in proceedings on behalf of complainants.

In Romania, an Ordinance adopted in August 2000 on ‘Preventing and Punishing All Forms of Discrimination’ was strengthened by legislation in 2002 banning discrimination on all the grounds specified in the two Equality Directives.

The National Council for Combating Discrimination was also established in August 2000 and began operating at the end of 2002. Its statutes guarantee its independence from Government. Its functions include promoting positive action against discrimination, making recommendations to Government, approving draft laws on equality and non-discrimination, cooperating with public authorities to ensure domestic legislation is in line with international norms, helping people who suffer discrimination, and carrying out studies and research on relevant issues.

Developments outside the EU

Bulgaria and Romania, which are both negotiating entry into the EU, were not among the new Member States joining the Union in 2004. Nevertheless, in both countries extensive legislation against discrimination has already been implemented (see Box).

New anti-discrimination legislation in Norway

The Norwegian Government has adopted a policy of bringing legislation against discrimination into line with the Racial Equality and Employment Equality Directives, even though it has no legal obligation to do so. A bill amending the Act on Worker Protection and the Working Environment was passed by Parliament in March 2004, so establishing much the same legal protection against discrimination in respect of employment as in most EU Member States. Moreover, the Government has announced that it intends to come forward with proposals for legislation on the lines of the Racial Equality Directive before the end of the year.
**ACCESSING NEW RIGHTS TO PROTECTION AGAINST DISCRIMINATION**

**Access to justice**  A key requirement of the Directives is that Member States must ensure that judicial or administrative procedures are open to those who consider that they have suffered discrimination.

Furthermore, bodies with a legitimate interest in ensuring that the provisions of the Directive are complied with (such as trade unions or other representative organisations) must be given the right to support victims of discrimination in any proceedings. In some countries, these requirements have been included in legislation and efforts have been made to make it relatively easy for victims of discrimination to take legal action. People complaining of unequal treatment are, therefore, usually able to bring their cases before a civil court or employment tribunal, which tend to be less forbidding than a criminal court.

In some countries, arrangements exist to mediate between the two sides involved and to bring about conciliation where possible so that an agreed settlement can be reached. In a number of cases, the independent Equality Body, set up, among other things to help people suffering discrimination, plays the role of mediator (see Box).

In some countries, people can also take their complaints of discrimination to the Equality Body instead of to a tribunal or civil court. This is the case, for example, in the Netherlands. In Ireland and Sweden, on the other hand, Equality Bodies can provide direct support by taking cases to court on behalf of people suffering discrimination. The Equality Body in Hungary will be able to do the same, once it comes into being in January 2005.

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**Conciliation arrangements**

In a number of Member States (such as Sweden and the UK), civil courts and employment tribunals have a deliberate policy of trying to reach an agreed settlement in discrimination cases. Conciliation arrangements or services are, therefore, in place to help the two parties involved to resolve their differences and to agree a suitable remedy. In many countries, specific organisations have been set up, or designated, to perform this role.

In Denmark, Sweden, the Netherlands and Finland, one of the functions of the independent Equality Body is to act as a mediator in discrimination cases. In Austria, the Commission for Equal Treatment (GBK), whose remit is due to be extended by pending legislation to cover all grounds of discrimination specified by the Directives, is intended to operate in a non-bureaucratic way so that it is more accessible and more effective in bringing about conciliation.

In France, people suffering discrimination at work can take their case to the Labour Court (Conseil des prud’hommes) to try to reach an agreed settlement. Once the planned independent Equality Body begins operating in 2005, this will also have powers to mediate in discrimination cases.
People complaining of discrimination are also entitled to help from representative organisations in taking action, as outlined above. Trade unions are allowed to assist and represent their members in legal cases in most parts of the Union where new laws against discrimination have been adopted. The same is true of NGOs, so long as they are officially approved. There are, however, some differences between countries in the extent to which representative organisations can be involved in judicial proceedings. In some countries, trade unions and other representative organisations can take the lead in bringing discrimination cases, in others not (see Box).

The year 2003 should have been a milestone in the journey towards a European Union free from discrimination. The two Equality Directives which came into force during the year were intended to mark genuine progress, by ensuring legal protection throughout the European Union against discrimination based on race, religion, sexual orientation, age or disability.

In reality a number of Member States made little or no attempt to transpose these two Directives on time or in full. The reasons for partial or incomplete transposition into national law were various, but suggest a lack of political will to promote real equality.

The Platform of European Social NGOs ('Social Platform') is disappointed with the delays in implementing this vital legislation, and applauds the Commission for its robust actions and attitudes towards those Member States that are dragging their heels. Social Platform members will continue to monitor progress in this area, and we expect the situation to improve in the year ahead.

However; the accession process has also seen delays in meeting the acquis communautaire and we trust that the Commission will take a similarly strong position with new Member States.

AILSA SPINDLER, CHAIR, ANTI-DISCRIMINATION WORKING PARTY, SOCIAL PLATFORM

ANNE-SOPHIE PARENT, PRESIDENT, SOCIAL PLATFORM

The entitlement of trade unions and NGOs to support victims of discrimination

In Luxembourg, NGOs approved by the Ministry of Justice, which have been in existence for at least 5 years and are active in combating discrimination, can represent victims of discrimination in civil courts. This is also the case in Belgium while in France, although they cannot represent victims of discrimination, they can bring independent action.

In Italy, ‘legitimate associations’, approved by the Department of Equal Opportunities, can represent victims of racial discrimination in court. Trade unions are allowed to do the same in employment cases involving not only discrimination on racial grounds but on any of the other grounds specified in the Directives.

In Spain, legal entities qualified to represent the interests of people suffering racial discrimination can act on their behalf in court. But, with the exception of trade unions and employers’ organisations, this does not apply to victims of discrimination on other grounds, apart from disability.

In Portugal, the new law introduced in May 2004 allows representative associations which are officially approved to defend the rights of victims in discrimination cases.

In Finland, the possibilities of representation are limited. Trade unions and other representative organisations can only provide assistance to people and are not allowed to represent those complaining of discrimination in court proceedings.

In Sweden, the possibilities of representation are also more limited at present and largely confined to trade unions. A Committee of Enquiry has been set up to consider, among other things, whether interest groups other than trade unions should be allowed to represent people in discrimination cases. This is due to report in 2005. At the same time, trade unions as well as any of the four Ombudsmen can take legal action on behalf of people who consider that they have been treated unequally.

This is also the case in Poland, where, in addition to trade unions, organisations active in protecting human rights can institute legal proceedings on behalf of victims of discrimination.
Compensation arrangements

In **Ireland**, under the 1998 Equality Act, those suffering discrimination or victimisation can be awarded compensation in the form of arrears of earnings for up to 3 years plus compensation for the effects of discrimination of up to two years’ earnings, together with reinstatement to their jobs.

In **Finland**, compensation of up to EUR 15,000 can be paid to victims of discrimination or of retaliatory measures.

In the **Czech Republic**, anyone who has been discriminated against is entitled to financial compensation and the court fixes the amount in relation to the seriousness of the harm inflicted and the circumstances involved.

In **Latvia**, under the new employment law, victims of discrimination can claim reasonable or appropriate compensation for ‘material’ and ‘non-material’ damage suffered, with the court deciding the amount. Much the same applies to those suffering racial discrimination outside the work place.

In **Poland**, the amendment to the Labour Code, designed to bring legislation into line with the Employment Equality Directive, removes the upper limit for compensation to victims of discrimination, which was previously set at 6 times minimum earnings.
According to both Directives, the burden of proof should shift to the person accused of discrimination once the person bringing the complaint has established facts from which it can be presumed that there has been discrimination. It is then up to the person accused to prove that they did not act in a discriminatory way.

The requirement that the burden of proof should be shifted, or shared, in this way is a recognition of two general aspects of discrimination cases. The first is that those suffering discrimination are rarely in a position to prove it. The second is that only those who are accused of discrimination are likely to have access to the full facts of the case.

Although this shifting of the burden of proof is a recent feature of legislation in many countries, it is not new. It has been widely adopted before as part of new laws on equality between men and women.

Provisions in legislation on the burden of proof

In **France**, legislation is still being modified to comply fully with the Directives. Nevertheless, the 2001-1066 Law of November 2001 against all forms of discrimination in employment and the 2002-73 Law of January 2002 against discrimination in housing both include a provision that it is up to the defendant to prove they did not discriminate once apparent discrimination has been shown.

In **Ireland**, the Employment Equality Act of 1998 and the Equal Status Act of 2000 do not explicitly specify where the burden of proof should lie. In practice, however, the equality tribunal has tended to adopt the approach required by the Directives. The Equality Bill published in January 2004 formalises this tendency by stating explicitly that the burden of proof should be shifted to the person accused once apparent discrimination has been demonstrated.

In **Sweden**, the requirement that the burden of proof should be shared between the two parties involved in discrimination and victimisation cases was incorporated in the legislation adopted in 2003, with very similar wording to that in the Directives.

In **Portugal**, the new Labour Code, which entered into force in December 2003, puts the onus on employers to prove that differences in working conditions or other aspects of employment are not the result of discrimination.

In **Poland**, the new legislation states that where the principle of equal treatment seems to have been violated, the onus is on the employer to prove that the grounds for their actions were ‘legitimate and objective’.

In **Hungary**, according to the new Act on Equal Treatment and the Promotion of Equal Opportunities, the person complaining of unfair treatment needs to show, first, that they have suffered a disadvantage and, secondly, that they possess characteristics defined in the law as being possible grounds for discrimination. According to the provisions in the legislation, it is then up to the accused to prove that they either observed the principle of equal treatment or were not obliged to observe it in the case in question.

Sharing the burden of proof

UNICE condemns discrimination for obvious moral reasons as well as on economic grounds. In today’s global markets, where innovation is key to success, it is in companies’ interest to have a diversified workforce and make optimal use of its competencies. Diversity management is important for business success.

Jürgen Strube, President of UNICE
Examples of reasonable accommodation for people with disabilities

In Spain, the new law banning discrimination at work, adopted in January 2004, states that employers are obliged to take appropriate measures to adapt the working environment and access to the place of work to help people with disabilities participate in training, find and keep a job and progress in their working career, unless this represents a disproportionate burden. This is complemented by a new law which came into force around the same time, aimed at providing universal access to goods, services and facilities to those with disabilities. Under this law, the Government is committed to approving a national accessibility plan for the period 2004 to 2012. This requires that precise deadlines are set for ensuring full access to:

- goods and services supplied by public authorities
- all goods and services available to the public
- ICT products and services
- all means of transport
- public spaces

In Poland, a Charter of Rights for Persons with Disabilities was passed by Parliament in August 1997, covering access to goods and services, public buildings and public transport as well as to employment. Finance is available for employers so that they can accommodate the needs of people with disabilities by adapting places of work or by providing special training. This, therefore, increases the extent of measures which employers can undertake in this regard beyond what is reasonable for them to finance from their own resources. The funds for this come partly from payments made by companies which fail to meet their legal quota of employees with disabilities.

Ensuring reasonable accommodation for people with disabilities

People with disabilities are in a different position from other groups vulnerable to discrimination. In many cases, their disability can prevent them from earning a living and pursuing a working career in the same way as other people unless there is some modification of working arrangements and places of work. In simple terms, they have to be able to get into offices, factories or training establishments in order to work or train. The equipment they use might also need to be modified for them to work efficiently, or even at all. Treating people with disabilities in the same way as other people, therefore, does not by itself ensure that they are treated equally. Unless their particular needs are accommodated, they are likely to be disadvantaged and not have the same opportunities as others in their working lives. This is why the Employment Equality Directive contains a specific requirement that employers should make ‘reasonable accommodation’ for people with disabilities.

According to the Directive, employers are obliged to take whatever measures are reasonable to enable those concerned to work, advance in their careers and participate in training, so long as this does not impose a disproportionate burden. This provision is included in the legislation adopted in all countries in which laws prohibiting discrimination on grounds of disability have been introduced or modified in response to the Directive, often with the same or very similar wording. In some cases, moreover, this provision extends beyond employment to cover access to goods and services, which means, for example, ensuring that people can access shops and restaurants or buses and trains (see Box).
Part I — Implementing the EU’s new legal framework for tackling discrimination

The Directives include other requirements which need to be implemented in Member States for the new laws established to be most effective. In particular, Member States must establish an Equality Body to help combat discrimination on grounds of racial or ethnic origin. In addition, national authorities need to make people aware of the new legislation and the importance of treating people equally as well as promoting measures which further equality of treatment.

MEASURES TO PROMOTE EQUAL TREATMENT

In Dublin, in October 2003, the Irish Equality Authority, in partnership with the European Year of People with Disabilities (EYPD), launched a public education campaign entitled ‘Be reasonable – it pays’. The aim was to show that it does not take much for businesses and public service providers to accommodate the needs of customers with disabilities. Three examples of simple ways of achieving this were given:

- moving to a brighter area to help someone who has to lip-read
- installing automatic doors
- providing information in large print, on audio tape or on CD or video.

The Equality Bodies

The Racial Equality Directive requires the Government in each EU country to set up a body, or to designate an existing organisation, to support legislation by promoting equality of treatment. The functions of this body have to include helping victims of discrimination pursue their complaints, conducting independent surveys about discrimination, publishing independent reports on discrimination and related issues and making recommendations.

In a number of countries, including the UK, Sweden, Belgium and the Netherlands, Equality Bodies have been in existence for some years. In others, they were established shortly before the Directive was adopted (in Ireland, for example).

The functions undertaken by these bodies generally include those listed above. But in many countries, their role is wider, extending to issuing codes of practice, providing a conciliation service, hearing complaints and taking independent action against those behaving in a discriminatory way. In a number of countries, their coverage extends to other grounds of discrimination in addition to racial or ethnic origin, particularly disability (see Box).
Examples of Equality Bodies

In **Sweden**, the Ombudsman against ethnic discrimination was set up in 1986 with a remit to eliminate racial discrimination at work or elsewhere. Three other Ombudsmen cover disability and sexual orientation as well as gender equality. They are responsible for monitoring compliance with the various laws prohibiting discrimination as well as giving advice and helping victims to realise their rights. Under the 2003 Act, they can take legal action on behalf of anyone discriminated against.

In **the UK**, where the Commission for Racial Equality along with the Equal Opportunities Commission was established in the mid-1970s and the Disability Rights Commission in 2000, the Government announced plans in October 2003 to create a single body, the Commission for Equality and Human Rights. This is intended to cover the remit of the existing bodies and to combat discrimination in all its various forms. Its priorities will be to promote equality and diversity and respect for human rights and to provide advice and guidance to businesses, public services and individuals on their obligations under the law, as well as information and support on good practice.

In **Austria**, legislation due to be passed on 1 July 2004 extends the responsibilities of the two existing Equality Bodies (the **Gleichbehandlungskommission** and **Gleichbehandlungsanwaltschaft**) to cover all the grounds of discrimination specified in the two Directives, apart from disability.

In the **Netherlands**, the Equal Treatment Commission was set up in 1994. Its responsibilities were widened at the end of 2003 to cover disability as well as discrimination on grounds of racial origin, religion and sexual orientation which were covered before. They were widened further to cover age discrimination from May 2004.

In a number of countries, the creation of an independent body, or the designation of an existing organisation to fulfil this role, has lagged behind the introduction of legislation against discrimination. But in most cases they are in the process of being established.

In **Italy**, a specialised body is being set up in the Department for Equal Opportunities. In addition to helping victims of discrimination, giving information and advice, conducting surveys and making proposals, it will also promote positive action by local authorities and NGOs.

In **Spain**, two bodies, one promoting racial equality and one the equal treatment of people with disabilities, are in the process of being set up as part of the Ministry of Labour and Social Affairs.

In **France**, following a report of a task force, chaired by the Ombudsman, the Government announced its intention of introducing a law establishing a High Authority for equality and against discrimination before the end of 2004. This will cover all the grounds of discrimination included in the two Equality Directives, provide guidance and counselling, as well as a conciliation service, and be able to bring cases to court. It will also produce codes of good practice for both private businesses and public authorities in respect of the provision of goods and services as well as employment.

In **Hungary**, a new equal Treatment Commission is due to be operational from the beginning of 2005. Its remit will not only be to promote racial equality but to cover all forms of discrimination. In addition to the functions it is required to perform under the Racial Equality Directive, it will also be responsible for monitoring the effectiveness of legislation and other measures to stamp out discrimination. In performing these tasks, it will cooperate closely with representative organisations and relevant public bodies.

In a number of other Member States, existing organisations have been designated as the Equality Body and their role extended to meet the requirements of the Racial Equality Directive.

In **Slovakia**, the responsibilities of the National Centre for Human Rights will be widened in line with the Directive and its remit will include promoting equal treatment and combating discrimination on other grounds in addition to racial and ethnic origin. In **Latvia**, the same is true of the National Human Rights Office.

Similarly, in **Cyprus**, the present functions of the Ombudsman are being extended to cover those specified in the Racial Equality Directive and to deal with complaints of discrimination on all the grounds covered in the two Directives. The Ombudsman will also have the power to impose sanctions where discrimination is proved to have occurred.
Other measures play an important role in supporting the practical implementation of equal treatment and non-discrimination. They include awareness-raising activities to make people aware of their rights and obligations and, more generally, of the importance of eliminating discrimination in society. These are considered in Part 2 of this report.

Measures also include more specific and targeted activities, such as the positive promotion of a policy of equal treatment in public authorities and the provision of public services as well as in the drawing up of codes of practice to guide people on how they should behave in the workplace or outside (see Box).

Measures undertaken by governments to promote equality have generally been supported by trade unions and employers’ organisations which, in a number of countries, have issued codes of practice of their own and have taken independent action to combat discrimination (see Box).

The fight against racism and discrimination is one to which the ETUC is fully committed. Today’s workforce in Europe is made up of men and women from many different races, religious beliefs, ages, sexual orientations and includes both able-bodied and disabled workers. To ensure that this mix works well and that all persons are treated equally, all stakeholders have got to tackle discrimination and prevent instances arising.

This means that the two Equality Directives need to be implemented in all countries - to date, this has not been done. The ETUC is very disappointed by this lack of progress and through our member organisations at national level is working to put pressure on governments to do the necessary without further delay.

There is also a clear role for the social partners to take this issue seriously to ensure that workplaces are free from discrimination, by ensuring the application of relevant legislation, as well as through their actions, including collective agreements and bargaining. A recent study carried out by the ETUC highlighted a number of interesting agreements which seek to do this. However, such agreements are thin on the ground and this is clearly an area where further progress is urgently needed.

JOHN MONKS, GENERAL SECRETARY, ETUC
Measures to promote equality

In Sweden, the 2003 Act prohibits discrimination in employment services and labour market programmes. It also states explicitly that this does not prevent these services and programmes from accommodating the special needs of ethnic minorities. A number of programmes have, therefore, been undertaken specifically aimed at this section of the community. The Committee of Enquiry set up to review the workings of the legislation and due to report in 2005 will consider the possible need for positive action in other areas.

In Sweden also, legislation puts a positive obligation on employers in both the public and private sectors to make conscious efforts to promote ethnic diversity among their work forces. They must also prevent any employee from being subjected to harassment or retaliation as a result of complaining about abuse or unfair treatment. Employers equally have an obligation to make sure that people from ethnic minorities are given every opportunity to apply for job vacancies and for promotions.

This is similar in the UK, where under the Race Relations (Amendment) Act 2000, public authorities have a statutory duty not only to avoid acting in a discriminatory way but to promote racial equality. The Commission for Racial Equality has published certain codes for providing information and guidance to public authorities on the duty to promote equality.

In Portugal, the Commission for Immigrants and Ethnic Minorities (ACIME) has a task force aimed at identifying the obstacles to the integration of the Roma community into Portuguese society. Two of the organisations working with the Roma community are represented on the task force as are four members nominated by the community itself.

In France, pilot action programmes have been carried out in six cities, since the beginning of 2001, to educate and train local officials in ways of avoiding and preventing discrimination in employment practices. In addition, in October 2003, the Ministry of Justice published a guide on the provisions available in law to combat racism and other forms of discrimination.

In France also, a government policy of ‘positive mobilisation’ includes giving grants to 30 000 schools in disadvantaged areas, a sponsorship scheme aimed at helping young immigrant graduates to find a job, with a target of 25 000 in 2004, and the setting up of 10 centres to help young people prepare for public service entrance exams.

In the Netherlands, the Ministry of Social Affairs and Employment has initiated the ‘Article 13 Project’, aimed at putting equality of treatment on to the agenda of works councils and associations of small and medium-sized firms. The project consists of a special training package emphasising the need to pay more attention to the issue, developed in cooperation with other Ministries, the Equal Treatment Commission, the Royal association of SMEs and various NGOs.

In Poland, under the new amendments to the Labour Code, employers are obliged to make available to employees the text of provisions on equal treatment in employment in the form of a written document distributed at places of work.

Trade union activities against discrimination

In France, a code of practice on combating discrimination at work, entitled ‘Against racism in the enterprise’ was published by the trade unions (CFDT) in 2003.

In the UK, the activities undertaken by trade unions to combat discrimination and encourage employers to adopt more diversity-oriented policies include the ‘move on up’ event organised by the Broadcasting, Entertainment, Cinematograph and Theatre Union (BECTU), designed to persuade employers to commission more work from ethnic minorities; the anti-racist strategy adopted in 2002 by UNISON, the union of public service workers, aimed at combating institutional racism within the organisation and at ensuring racial equality is properly reflected in the union’s bargaining and campaigning priorities; the ‘Racism is no joke’ campaign organised by USDAW, the union for retailing and allied workers, intended to educate its members about the importance of avoiding discrimination.
Legislation by itself is not enough to stamp out discrimination. If policy is to work, it also needs to:

- make people aware of the damaging effects of discrimination and the positive benefits of diversity
- inform everyone of their new rights under the law to protect themselves from discrimination
- challenge discriminatory attitudes and behaviour.

This is why the European Commission is working with national authorities, representative organisations and the social partners to develop awareness-raising activities, which is one of the three priority areas of the Community action programme to combat discrimination. A number of the awareness-raising activities supported by the programme are described in this section of the report.

**FOR DIVERSITY. AGAINST DISCRIMINATION**

A new EU-wide information campaign with the slogan *For Diversity. Against Discrimination* was launched in June 2003 by Anna Diamantopoulou, the then EU Commissioner for Employment and Social Affairs. The aim of the campaign, which will run for 5 years, is to raise awareness about people’s rights to protection against discrimination and to highlight the positive benefits of diversity. With a budget of EUR 19 million the campaign is the largest and most ambitious of the activities funded under the programme.

The primary focus of the first stage of the campaign is on employment and the workplace. This is an area where European legislation banning discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation is expected to have a major impact. Evidence is also emerging that employers are increasingly recognising the business benefits that can stem from having a diverse work force.

**Adapting the campaign for each Member State**

From the outset one of the major challenges for the campaign was to adapt the message to suit different audiences and target groups across the Union. Debates on diversity issues were more advanced in some Member States than others and existing legislation also differed. In some countries information campaigns were already up and running so the campaign had to complement and build on what was already taking place.

This is why the campaign has adopted a decentralised approach and why special working groups have been established in each Member State to give on-the-spot advice, including from the beginning of 2004 in the new Member States. These working groups bring together representatives from trade unions, employers’ associations, public authorities and non-governmental organisations. They meet regularly to discuss how best to conduct the campaign and how the various organisations can be involved in the different activities. The Austrian working group, for example, agreed that advertising at film festivals would be an effective way of getting the campaign messages across. The Belgian group has produced a fact sheet on the new legislation implementing the European Equality Directives. The Finnish group has looked at ways in which the European initiative can reinforce the national awareness-raising campaign launched three years ago.
The campaign makes full use of all the many ways of communicating with people and getting its messages across. This includes TV and newspaper adverts; brochures, leaflets and posters; conferences, seminars and a range of different media and sporting events. A new Internet site in all EU languages has also been created containing a great deal of information and news. Since the campaign began in June 2003 some 50 000 people have visited the site to find out about the new laws, the protection they give to victims of discrimination and the action people can take to stop discrimination – including where to go for advice and support.

A special information pack has also been produced for the campaign. This includes a ‘tool box’ for NGOs, trade unions and employer associations. Along with details of the two Directives and the legislation which has followed from them, the tool box contains:

- an 8 minute film, available on video, DVD and the Internet, dealing with the problems of discrimination at work, and describing the new laws
- a user-friendly booklet on the rights and obligation under new European Equality Directives
- a set of over 40 slides which speakers at conferences and seminars can use to present the campaign and the new legislation
- a large information poster (A1 size) with the slogan *Our differences make the difference*
- a set of posters which can also be downloaded from the Internet and which can be customised by having text added to them
- five fact sheets giving basic information on EU policy towards discrimination and practical guidance on how employers and employees can avoid it occurring and can combat it when it does.

The five fact sheets are designed to:

- make people think about the way they behave towards colleagues, employees and clients – *I don’t discriminate do I?*
- give guidance to victims of discrimination on how to react and how to seek protection
- help create a discrimination-free workplace by setting out guidelines and good practice for businesses and other organisations.
- draw attention to the benefits of diversity for companies by addressing the question *Is it good for business?*
- answer the main questions that people tend to ask about European anti-discrimination policy.

National working group are encouraged to add their own supplementary material, for example details of the national laws implementing the directives or details on victim support in their Member States.
The advertising being undertaken is designed to drive home to people that discrimination concerns everybody. Its aim is to bring out the positive benefits which come from diversity in the work place and from having a work force of people who are different from each other rather than being the same. It does this through the imaginative use of crash-test dummies, all of which are identical. The poster shows a dull and dreary office scene with identical dummies performing various tasks, a world with no diversity where uniformity is taken to extremes. The slogan reads *Our differences make the difference*. The adverts, which also give details about the new European anti-discrimination laws, have been published in newspapers and magazines across the Union, including *Le Figaro Magazine*, *Der Spiegel* and *The Irish Times*.

The same dummies also feature in a short film made especially for television. Here the dummies are used to make viewers think about their attitudes to other people and what discrimination involves. The film shows a smartly dressed and presentable young man arriving for interview in an office where the people working are all identical looking dummies. On entering the interview room, he is immediately turned away because he looks different! The film has been shown on Euro News and on TV stations in Italy, Greece and Portugal.

Gaelic Football final in Ireland, the Identity and Diversity Festival in Italy and Diversity Day in Finland.

**Dirty Pretty Things**

In 2003, the campaign organisers joined forces with the distributors of the film *Dirty Pretty Things* to publicise EU policy against discrimination. The film is a graphic portrayal of the struggle of a group of immigrants living in London and the problems they face. A public meeting to debate the issues relating to discrimination raised by the film was held at the film’s premier in Portugal in October.

The leaflets advertising the film in Portugal featured details of the ‘For Diversity. Against Discrimination.’ campaign. And stands were set up in cinemas showing the film with crash-test dummies distributing information about the campaign.

**Events**

The campaign took in some 90 events around the EU in 2003. Actors dressed up in crash-test dummy costumes to draw attention to the importance of diversity, attended many of these, including the Europride and the Notting Hill Carnivals in the UK, the Karneval der Kulturen and the Berlin Marathon in Germany, the Women’s
To experience a marathon is to experience diversity

City marathons have become large international events attracting people of all age and from all backgrounds. As a result, they provide a natural opportunity for promoting diversity. The campaign is, therefore, giving away free ‘run for diversity’ t-shirts to people competing in races around Europe. Some 35,000 people ran in the Paris marathon, for example, and over 400 of these sported ‘run for diversity’ t-shirts.

Stops are so far planned in cities and towns in Denmark, Latvia, Poland, the Czech Republic, Slovakia, Hungary, Italy, France, the UK and Ireland.

For more details, visit: http://www.stop-discrimination.info

Journalist Award 2004

A new award for journalists was launched in March 2004. This prize recognises articles which contribute to a better understanding of the benefits of diversity published during 2004. The best national articles from each of the 25 countries will be judged by an international jury of distinguished media professionals and experts who will then choose the winners of the award.

Europe Together Conference

A conference will take place in Riga in Latvia in Autumn 2004 on best-practice examples of awareness-raising activities from around the EU. This will be attended by representatives of all the 25 national working groups and members of the European-level advisory group on the campaigns. The aim is both to share experience and to get ideas for future awareness-raising activities. This is especially important for the new Member States where the campaign is just getting under way. The Latvian Social Integration Minister Nils Muiznieks will give the opening address.

Marathons and other runs at which ‘Run for diversity’ teams are participating:

<table>
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<tr>
<th>Date</th>
<th>Event</th>
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<tr>
<td>4 April</td>
<td>Pans marathon</td>
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<td>23 May</td>
<td>Prague International Marathon</td>
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<td>5 June</td>
<td>Stockholm Marathon</td>
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<td>4 July</td>
<td>City Jogging Luxembourg</td>
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<td>26 Sept</td>
<td>Great North Run, Newcastle</td>
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<td>26 Sept</td>
<td>Berlin marathon</td>
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<td>10 Oct</td>
<td>Brussels Marathon</td>
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Register at www.stop-discrimination.info for a free T-shirt
NATIONAL AWARENESS-RAISING ACTIVITIES

As well as the EU-wide information campaign, many other similar activities are being organised in countries across the Union with support from the European Community action programme to combat discrimination. Four of these are described below.

Finland

STOP – Finland forward without discrimination

In Finland, a series of awareness-raising campaigns have been organised since 2001 by four government ministries acting together, in cooperation with Equality Bodies and NGOs. Each of them has involved groups vulnerable to discrimination in their design and implementation.

Two campaigns are running at the moment. The STOP III campaign includes both high-profile activities – such as the first national Diversity Day in December 2003 with a large conference in Helsinki as one of the main events – and longer-term activities aimed at changing basic attitudes and behaviour. These involve, for example, designing and testing training modules for teachers, police, trade unions and employers. Other activities include the organisation of training sessions for trainers and a database with details of experts on discrimination on the campaign Internet site.

All of the campaigns lay stress on the importance of producing easy-to-read material and of making it widely available. A brochure explaining the rights and obligations of people under the new Finnish anti-discrimination legislation is, therefore, published in a number of minority languages as well as in Braille.

For information, contact Sinikka Keskinen at sinikka.keskinen@mol.fi

Netherlands

Discrimination? Phone right away

In the Netherlands, a publicity campaign is being launched in June to encourage people to report cases of discrimination. A telephone hot-line and Internet site have been set up where they can do so. The various agencies involved, including the regional Anti-Discrimination Bureaus and the Equal Treatment Commission, are working closely together to back up the campaign. This will increase the impact of the campaign and make it easier to deal with complaints effectively. It also means that information on instances of discrimination is centrally coordinated.

The aim is not only to get people suffering discrimination to complain about this but also to persuade the public at
Italy

Making it easier for immigrants to get business finance

A recent study has estimated that there are around 125,000 firms in Italy run by people who have come from countries outside the EU. Around a quarter of these are firms in the craft industry. According to the study, many immigrants from outside the EU experience difficulties in getting bank loans and credit, both when they start up a company and when it is in operation.

A project, partly funded under the action programme and involving the Ministry of Social Affairs, an Italian bank (Banca Popolare Etica) and the association of craft traders and small businesses (Confartigianato), has, therefore, been launched to try to address this problem. Those involved explained their reasons for participating and what they expected from the project.

The object is to devise new financial instruments which can ease access to credit of people from third countries seeking to set up business and can perhaps provide an example to be followed in other EU countries. The first phase is to interview a sample of the businessmen or women concerned in a number of Italian cities. A report will then be produced based on the information collected. This will be discussed at a large conference in Summer 2004 bringing together representatives of business associations and people from third countries running companies in both Italy and other EU countries. A report on the conference will be published and made available in all Member States.

GIUSEPPE SILVERI, MINISTRY OF LABOUR AND SOCIAL POLICY

The activities of Banca Popolare Etica are inspired by principles of ethical finance. Among the most important of these, we believe, is the right of individuals to have equal access to credit. This is why we have an interest in participating in the project. Our aim is to identify possible solutions to the difficulties in accessing finance faced by people from third countries who are often victims of racial discrimination.

FABIO FAINA, BANCA POPOLARE ETICA

As an association of craft traders and small businesses, we also represent the interests of people from other countries who are looking to start up a company. Our hope is that the project will be able to identify new instruments of bank credit, which is crucial for starting up any new business project and keeping it going. This would be a major way of easing the integration of immigrants into society and the economy. The project will also help to raise awareness of the growing number of businesses run by people from outside the EU and the problems they face.

CLAUDIO CANETRI, CONFARTIGIANATO

FOR INFORMATION, CONTACT GIUSEPPE SILVERI AT GSILVERI@WELFARE.GOV.IT

For information, contact Marjon Rensen at mrensen@minszw.nl

large to report cases of discrimination they witness.

Activities are, therefore, directed at making people more willing to report instances of discrimination and to take appropriate action when they see discrimination occurring.

A new information campaign will be launched later in 2004 when new legislation banning discrimination in employment on grounds of age comes into force.

For information, contact Marjon Rensen at mrensen@minszw.nl
The new anti-discrimination law implemented in July 2003 in Sweden gives the Ombudsman against ethnic discrimination (DO), the Disability Ombudsman (HO) and the Ombudsman against discrimination on grounds of sexual orientation (HomO) more power to enforce respect for the rights of those they were set up to protect. The three have been jointly requested by the Government to make people aware of the new law and have launched the Against discrimination. Towards a more open society campaign. The aim is both to inform and to encourage people to complain if they experience discrimination.

The campaign consists of a mixture of adverts, pamphlets and an Internet site. A special team of lawyers has also been formed to visit interest groups, companies and other organisations to give presentations on the new law.

In addition, it is planned to conduct a survey, with support from the action programme, to measure the impact of the information campaigns which are being undertaken. The target group for this includes trade unions, employer organisations, banks, insurance companies, restaurants, catering firms and housing associations.

*The right not to be subjected to unjust treatment because of one’s sexual orientation ... is a basic human right, not a negotiable concession.*

**HANS YTTERBERG,**
**OMBUDSMAN AGAINST DISCRIMINATION ON GROUNDS OF SEXUAL ORIENTATION**

For information, contact Louise Westerdhal at louise.westerdhal@do.se

We all have to work hard to become aware of our own prejudices .... and not to judge (people) on the basis of group characteristics. The person who succeeds in seeing the individual will be able to avoid discrimination.

**MARGARETA WADSTEIN,**
**OMBUDSMAN AGAINST ETHNIC DISCRIMINATION**
Examples of other activities being undertaken in EU Member States, many with support from the Community action programme to combat discrimination, include:

- the preparation of an education and training module on anti-discrimination law for judges, public prosecutors and lawyers (Austria)
- the organisation of a competition for students aged 10 to 19 to come up with creative ideas for combating discrimination (Austria)
- an award to companies for good practice in ensuring equal treatment of employees (Belgium)
- the distribution of a leaflet on the rights of workers with disabilities and the obligations on employers to provide reasonable accommodation for them (Belgium)
- the adoption of an Action Plan to Promote Equal Treatment and Diversity and Combat Racism (Denmark)
- the distribution of a leaflet entitled Me, racist? to all schools (Portugal)
- the sponsorship of the Guardian Newspaper conference Equality at Work (UK)
- the dissemination by ACAS (the employment relations service) of free guidance on the new legislation prohibiting discrimination on grounds of sexual orientation and religion or belief, including possible scenarios and frequently asked questions; the distribution of an information pack on the duties of employers under disability discrimination legislation (UK)
- the organisation of seminars aimed at raising awareness of the provisions of the two Equality Directives and the distribution of information to schools, government and non-government organisations and the general public (Cyprus)
- the distribution of leaflets on anti-discrimination policies and the publication of a monthly newsletter on different aspects of discrimination (Poland)
- cooperation with NGOs in designing and conducting public awareness campaigns, including the Let them see us campaign against homophobic behaviour (Poland)
- the organisation of a workshop for NGOs and the media on the implementation of the Racial Equality Directive (Latvia)

EUMC
The Vienna-based European Monitoring Centre on Racism and Xenophobia (EUMC) have organised a series of awareness-raising activities over the recent past to draw attention to the deadlines for implementation of the Equality Directives and to urge continuing action to combat racism. These included:

- national round table meetings in 11 Member States
- a joint European round table meeting and workshop with the Council of Europe’s European Commission against Racism and Intolerance (ECRI)
- the creation with the Evens Foundation of the Jean Kahn Award for outstanding contribution to combating racism.

The round table meetings were designed to encourage cooperation between public authorities and representative organisations and to enable them to exchange information and views on policies and practices across the EU.

The European round table workshops have considered various issues, including local solutions to combating racism, community cohesion in urban areas and the implications of EU enlargement.

The Jean Kahn award for 2003 went to FARE (Football Against Racism in Europe) a fan-based network set up to fight racism in football.

For more information on the EUMC’s activities: http://www.eumc.eu.int
THE COMMUNITY ACTION PROGRAMME TO COMBAT DISCRIMINATION

The action programme has three main aims:

• to improve understanding of discrimination and underlying behaviour through research studies;

• to increase capacity to tackle discrimination by supporting exchanges of information on the measures adopted in different countries and their effectiveness;

• to raise public awareness about the importance of combating discrimination and about the steps taken to protect people against unequal treatment.

The programme supports a range of activities in pursuit of these aims.

Analysis and evaluation

• The operation of three groups of independent experts to monitor the implementation of the Equality Directives in different countries in relation to the various grounds of discrimination (soon to be replaced by a single European network of experts).

• The development of comparable statistics on the nature and extent of discrimination in EU countries, by:
  - carrying out a Eurobarometer survey in 2003 on discrimination in employment, education, access to goods and services and other areas
  - establishing a working group on data collection of researchers, experts from national policy units and statistical offices and representatives of those vulnerable to discrimination (which has, for example, explored alternative ways of collecting data on the income and living conditions of first and second generation immigrants across the EU)
  - investigating the data collected across the EU, or which could be collected, to measure the extent and impact of discrimination

• The undertaking and publication of various studies, including:
  - national bodies for promoting equality and fighting discrimination (published)
  - anti-discrimination legislation in the accession countries (published)
  - the feasibility of measuring the cost-effectiveness of diversity in companies (see box on p. 36)
  - the inclusion of equality and diversity considerations in public purchasing policy
  - Roma communities in the enlarged EU
  - overall evaluation of the action programme, of the aims, methods and activities carried out.

All studies are available at: http://www.europa.eu.int/comm/employment_social/fundamental_rights/programme_en.htm)
Capacity building

- Support for the exchange of information between countries of experience and good practice in fighting discrimination and for joint projects carried out by organisations in different Member States to swap ideas and develop common approaches.

- Support of four European umbrella networks of NGOs (the European Network against Racism, the European Disability Forum, the International Lesbian and Gay Association and AGE) and five smaller European-level organisations (the European Blind Union, the European Union of the Deaf, Inclusion Europe, Autisme-Europe and Action Européenne des Handicapés) representing the interests of sections of the community exposed to discrimination.

- Organisation of joint meetings between these groups to exchange information and get feedback (such as the two-day seminar organised in September 2003).

Awareness raising

In addition to the activities described in this part of the report:

- organisation of a series of seminars by the Academy of European Law (ERA) for judges, lawyers and other legal practitioners to inform them about the Equality Directives and their provisions and about the new laws being adopted across the EU to combat discrimination – Trier, 2003 and 2004.

- European conferences on anti-discrimination:
  - Brussels, October 2001
  - Copenhagen, November 2002
  - Milan, July 2003
  - Limerick, May 2004
  - The Hague, November 2004

- awards to the 100 best workplaces in the European Union, Brussels, March 2003

- conference on Civil Dialogue and Social Policy in an enlarged European Union, Budapest, June 2003

ETUC activities

The ETUC has recently completed a two-year project funded by the EU on tackling racial and religious discrimination in the workplace, which studied trade union activity in this area across the Union. The study highlighted examples of action, including collective agreements, designed to stamp out racism at work and to help integrate migrants and ethnic minorities. But it also revealed a number of gaps and underlined the urgent need for more effort to be devoted to the problem in a more systematic way.

Following the study, an ETUC Action Plan was adopted in October 2003, aimed at focusing attention on the problem and at urging action at both the European and national levels. A series of national seminars promoting the Action Plan has been organised. These provide an opportunity not only for discussing specific programmes but also for raising awareness of the Equality Directives and the legal obligations they impose on national governments. They also help to highlight the lack of progress in some cases in implementing the Directives and to develop strategies for putting pressure on governments to speed up implementation.
The benefits of diversity

The gains which can follow from a positive policy towards diversity in the workplace have recently been highlighted in a report published by the European Commission. The report, entitled *The costs and benefits of diversity*, shows how an active diversity policy not only helps people to realise their potential but can also create real benefits for businesses.

The report is based on a survey of 200 companies (both small and large companies in the public and private sectors) plus case studies and interviews. It shows how firms with a positive attitude towards diversity can use the people they employ better and how they can open up new markets, reduce costs and improve performance. At the same time, a diverse workforce can enable them to build a better corporate image.

Over two-thirds of companies interviewed said that addressing the issue of diversity had enhanced their corporate reputation. And well over half said that this had helped them to attract and retain talented personnel, improve motivation and efficiency, increase innovation and add to customer satisfaction.

However, according to the report, it is still the case that only a limited number of ‘pioneering’ companies recognise the positive effect that diversity can have on business performance. But the report concludes that there is already ‘an emerging business case for diversity’.

The report identifies two main obstacles to companies adopting a more positive policy towards diversity. The first is the difficulty of changing business culture, or staff attitudes. The second is a lack of awareness of what constitutes good practice in relation to diversity. Whereas, it is argued, public programmes can help to create awareness of good practice, changing business culture is largely up to companies themselves.
Additional information on ‘Fundamental rights & anti-discrimination’ is available from the following address:

European Commission
Directorate-General for Employment and Social Affairs
Unit D.3
B-1049 Brussels

Or consult our internet site:

http://europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm

www.stop-discrimination.info