

Brussels, 20 November 2009

## Employment equality rules: reasoned opinion to the UK; cases closed for Slovakia and Malta

*The European Commission has today sent a reasoned opinion to the United Kingdom for incorrectly implementing EU rules prohibiting discrimination based on religion or belief, disability, age or sexual orientation in employment and occupation (Directive 2000/78/EC, see also [MEMO/08/69](#)). It has also decided to close infringement proceedings concerning the same Directive against Slovakia and Malta as their national legislation has been brought into line with EU requirements.*

"Tackling all forms of discrimination – especially at work – has been a priority for this Commission and for me personally. Our legal action has led to better protection against discrimination in workplaces across the EU," said Equal Opportunities Commissioner Vladimír Špidla. "We call on the UK Government to make the necessary changes to its anti-discrimination legislation as soon as possible so as to fully comply with the EU rules. In this context, we welcome the proposed Equality Bill and hope that it will come into force quickly," he added.

In the reasoned opinion sent to the **United Kingdom**, the Commission pointed out that:

- there is no clear ban on 'instruction to discriminate' in national law and no clear appeals procedure in the case of disabled people;
- exceptions to the principle of non-discrimination on the basis of sexual orientation for religious employers are broader than that permitted by the directive.

The Commission has also decided to close the infringement proceeding concerning **Slovakia**.

In the letter of formal notice sent to Slovakia, the Commission argued that their national legislation was not in conformity with EU rules regarding the definitions of the principle of equal treatment and of harassment; the exclusion of third country nationals from the application of the principle of non-discrimination, concerning national justifications of differences of treatment; the obligation to provide reasonable accommodation to disabled employees; as well as regarding justification of differences of treatment on grounds of age.

Slovakia has adopted a set of new legal texts to take into account the Commission's arguments, which bring national law into line with the Directive.

The infringement proceeding against **Malta** has also been closed. In the reasoned opinion sent to Malta, the Commission expressed concern about the lack of protection against discrimination for civil servants, and also the apparent restriction in Maltese law on access to justice for self-employed people, as they have no right to seek justice from industrial tribunals.

Malta has since amended the Equal Treatment in Employment Regulations 2008 (part of the Employment and Industrial Relations Act) so that it applies "to all persons as regards both the public and private sectors and including service with the Government...", thus bringing Maltese law in line with the directive.

Regarding access to justice for self-employed people, Malta explained that industrial tribunals deal only with issues between employees and their employers, and that self-employed people already have access to justice before the civil courts. However, Malta is amending its legislation in order to clarify the difference in jurisdiction and make it easier for self-employed people to understand where they should seek justice.

## **Background**

Anti-discrimination (in areas outside gender and nationality discrimination) is a relatively new area of policy for the EU. The European Community acquired new powers in 1999, with the entry into force of the Amsterdam Treaty, to combat discrimination based on racial or ethnic origin, religion and belief, disability, age and sexual orientation (new Article 13 of the EC Treaty). This led to the unanimous adoption by the Member States of two Directives in 2000:

- Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ("Racial Equality Directive"). This Directive covers direct and indirect discrimination, as well as harassment, in the fields of employment, vocational training, education, social protection (including social security and health care), social advantages and access to goods and services (including housing).
- Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment, occupation and vocational training ("Employment Equality Directive"). This Directive covers direct and indirect discrimination, as well as harassment, in employment and training on the grounds of religion or belief, age, disability and sexual orientation. It includes specific requirements on reasonable accommodation for disabled persons.

The deadlines for transposition of these two Directives into national law by the Member States were 19 July and 2 December 2003 respectively. For the 10 countries which joined the EU in 2004, the deadline was 1 May 2004. For Bulgaria and Romania it was 1 January 2007.

## **Further information**

EU anti-discrimination legislation

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