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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
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Subject:	Proposal for a COUNCIL DIRECTIVE on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation - <i>Progress report</i>

I. INTRODUCTION

On 2 July 2008, the Commission submitted to the Council and the European Parliament a proposal for a Council Directive aiming to extend the protection against discrimination on the grounds of religion or belief, disability, age or sexual orientation to areas outside employment. Complementing existing Union legislation¹ in this area, the proposed horizontal equal treatment Directive would prohibit discrimination on the above-mentioned grounds in the following areas: social protection, including social security and healthcare; education; and access to goods and services, including housing.

¹ In particular, Council Directives 79/7/EEC, 2000/43/EC, 2000/78/EC and 2004/113/EC.

Following the entry into force of the Lisbon Treaty on 1 December 2009, the proposal now falls under Article 19 of the Treaty on the Functioning of the European Union (TFEU) (special legislative procedure); thus, unanimity in the Council is required, following the consent of the European Parliament.

The European Parliament adopted its Opinion on 2 April 2009² under the Consultation Procedure. The Council will have to request the European Parliament's consent on the final text.

Although the proposal has been under discussion for almost 17 years, and almost every Presidency has placed the file on the agenda of the Council, it has so far not been possible to reach an agreement. The most recent Progress Report³ was submitted to the EPSCO Council on 20 June 2024.

While a very large majority of delegations has long supported the Directive, endorsing the fact that it aims to complete the existing legal framework by addressing all four grounds of discrimination through a horizontal approach, certain others have expressed concerns and requested clarifications as relating to the perceived lack of legal certainty, the division of competences and compliance with the principle of subsidiarity, and the impact of the proposal, in particular in terms of potential financial implications.

Important redrafting has been undertaken over the years to address the concerns expressed, including by clarifying the legal obligations both on substance and in terms of the division of competences, and by substantially limiting the potential financial impact of the draft Directive.

It is recalled that, over the past year, a large majority of Member States has clearly and repeatedly expressed the view at the ministerial level that an agreement on this longstanding proposal is opportune, timely and necessary.⁴

² See doc. A6-0149/2009. Alice Kuhnke (SE/Greens/European Free Alliance) has been appointed Rapporteur by the current Parliament.

³ 10817/24.

⁴ EPSCO Council meetings on 7 May 2024, 20 June 2024 and 2 December 2024.

The Commission has supported the search for a compromise, while maintaining a scrutiny reservation on any changes to its original proposal at this stage.

II. THE COUNCIL’S WORK UNDER THE POLISH PRESIDENCY

During the Polish Presidency, work on the proposal was undertaken in order to reach unanimity. Based on the compromise text put forward in 2024 by the Belgian Presidency, the amended proposal was discussed three times in COREPER⁵ as well as at the General Affairs Council (GAC) on 25 February. It was also an information point at the EPSCO Council on 10 March.

In COREPER on 5 February, a majority of Member States supported the current compromise text and the aim of reaching a general approach in the Council on 19 June 2025.

In its 2025 work programme, published on 11 February 2025, the Commission announced its intention to withdraw the proposal for an Equal Treatment Directive.

In response, at the GAC on 25 February, 9 Member States called on the Commission to reconsider its intention to withdraw the proposal. This view was also expressed by 13 Member States at the EPSCO Council on 10 March.

Meanwhile, the Presidency has held bilateral discussions with the delegations that still have outstanding concerns, in an attempt to find solutions and clear the way for reaching unanimity before the possible withdrawal of the proposal. The Presidency’s stated aim was to reach a general approach on the proposal at the EPSCO Council on 19 June. However, during the discussion in COREPER on 28 May, when the Presidency presented the draft agenda of the Council meeting in question, three delegations maintained general reservations, which suggested that the required unanimity could still not be reached. Nevertheless, a very large majority of delegations still support the latest compromise text and the aim of reaching a general approach in the Council.

⁵ 5 February, 28 May and 11 June.

III. CONCLUSION

In the absence of any additional drafting suggestions from the Member States with outstanding concerns, the Presidency has not been able to propose a new compromise text. Nonetheless, a vast majority of delegations has continued to affirm its strong support for the content and rapid adoption of the latest text.⁶

A policy debate will be held during the June EPSCO Council to give guidance on whether a compromise is within reach and on the need for an alternative proposal that would establish a coherent anti-discrimination legislation framework in the EU.

⁶ 10817/24.