

Brussels, 31 January 2008

“Employment” Directive (2000/78/EC): list of Member States to which a reasoned opinion or letter of formal notice will be sent

Reasoned opinion

Estonia

- No ban on discrimination as regards civil servants, self-employment, and membership of or participation in a professional organisation
- The definition of harassment only covers hierarchical relationships
- Exceptions to the ban on discrimination based on occupational requirements too broad
- No obligation to make reasonable accommodation for disabled employees
- No justification for certain age differences in the public service
- Incorrect definition of the provision on the shift of the burden of proof
- No protection against victimisation

France

- Incorrect definitions of direct and indirect discrimination and harassment
- Restrictive definition of instructions to discriminate
- No ban on discrimination in access to self-employment or with regard to professional organisations
- Limitation of the right of interested bodies (especially associations) to appear in court to defend victims of discrimination
- Inadequate penalties for forms of victimisation other than dismissal

Finland

- The exception for occupational requirements is broader than authorised by the Directive
- The ban on discrimination on grounds of sexual orientation is not guaranteed for public service workers

Greece

- Incorrect definition of harassment
- Exclusion of fire services from the legislation transposing the Directive

Hungary

- Incorrect definition of indirect discrimination
- No ban on discrimination relating to membership of or participation in an employers' or self-employed workers' organisation
- The obligation to make reasonable accommodation for disabled employees is too restricted
- Incorrect definition of the obligation concerning the shift of the burden of proof

Ireland

- Incorrect definition of indirect discrimination
- Discrimination based on beliefs is not prohibited
- Exclusion of protection against discrimination for certain "private" types of employment
- Interested bodies do not have the right to participate in legal proceedings on behalf of victims of discrimination
- Limit to damages payable to victims of discrimination
- The exception from the ban on discrimination on grounds of religion is too broad

Malta

- The ban on discrimination does not cover access to self-employment or occupation
- Protection against victimisation in the public sector does not cover discrimination on grounds of age or sexual orientation

Netherlands

- Incorrect definitions of direct and indirect discrimination
- The ban on discrimination does not apply to "personal services"
- The exceptions for employment in a church or religious association are broader than authorised by the Directive

Sweden

- No transposition relating to age discrimination
- Limited protection against harassment
- The exceptions to the principle of equality in higher education are too broad
- Limitation of NGOs' right to participate in legal proceedings to defend victims of discrimination
- Limited damages payable in the event of discriminatory dismissal

Czech Republic

- No definitions of the various types of discrimination

- The physical scope of the discrimination ban is limited compared with the Directives
- No ban on discrimination on grounds of disability, but on grounds of state of health, which does not necessarily cover all disabled workers

Letter of formal notice

Germany

- The Anti-Discrimination Act does not cover dismissal
- Deadline for lodging a complaint too short (2 months)
- Limitation of NGOs' right to participate in legal proceedings to defend victims of discrimination
- The obligation to make reasonable accommodation applies only to severely disabled employees
- The exception to the ban on age discrimination does not contain any of the conditions required by the Directive

Complementary letters of formal notice

Latvia

- Definition of discrimination too restrictive
- Exceptions to the ban on age discrimination too broad

Lithuania

- Exception to the ban on age discrimination too broad