

Is the new European Anti-Discrimination Directive really necessary?

The European Commission has proposed a new European Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age and sexual orientation. The Directive would impact areas of social protection, including social security and healthcare, social advantages, education and access to and supply of goods and other services which are available to the public, including housing.

It is now the parliament's turn to decide whether we would like to extend the existing anti-discrimination laws. Like most Europeans I am against discrimination in any form, however, I do not believe that a framework directive is the best way to protect the persons concerned. In fact, the interpretation of the proposal will cause legal uncertainty and burdensome administrative costs.

We are still awaiting the decision in the leading Committee for Civil Liberties, Justice and Home Affairs. I would urge the parliament to evaluate the new directive's possible impact on small and medium enterprises. I believe the new directive could be especially cumbersome for SMEs. All aspects of a SME's business process would be impacted, from the conception of a business plan, implementation of the plan, to the sales process, to the closing and conclusion of the contract.

A particularly grey area in the proposal is the legal interpretation of proper access for physically disabled persons. While the directive states that a business must only implement the directive if it does not impose a "disproportionate burden" or require major changes to the product or service, this is legally problematic to define and implement. How will the "disproportionate burden" and "major changes to the product or service" be defined? For example, will all restaurants now have to have a wheelchair ramp? Will there be a differentiation between a small pub and a big restaurant with seating for 200?

This directive will be especially problematic to implement for small businesses owners, who often do not have the financial resources for legal services. Furthermore, the proposed directive does not clearly state the responsibilities for the implementation of the directive. Will the member states be responsible for defining the terms in the directive, or will we leave this to the courts?

The new directive could require entire social security, healthcare, education, housing, and social structures to be re-defined and re-structured at a huge administrative cost. I am against the new directive, however, if it is adapted, we must ensure strong protections for small and medium enterprises.

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