



# Equality initiatives of the European Commission

Current reflections on EU Anti-Discrimination Law  
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## Outline

- 1 - Proposal to amend the Maternity Directive**
- 2 - Proposal on an Equal Treatment Directive**
- 3 - Proposal on Women on Boards Directive**



## 1 - Proposal to amend the Maternity Directive

- Presented in October 2008
- Amends the current Maternity leave Directive (Directive 92/85/EEC)
- Improves the protection to pregnant workers and workers who have recently given birth by a longer leave period



## Content of the proposal

- Extension of maternity leave **from 14 to 18 weeks** (at least 6 weeks after birth) and longer for specific cases (premature birth, disability, multiple birth, etc.)
- **Dismissal duly substantiated** (on the request of the worker) up to six months after end of maternity leave
- Adequate **allowance**: sick pay (as currently). But MS are recommended to pay full salary
- Workers may request **changes to their working hours** and employers are obliged to consider such requests

## Enforcement

- Burden of proof
- Victimisation
- Penalties

## State of play

### **Negotiations in the Council**

- Qualified majority rule (ordinary legislative procedure - Art. 294 TFEU)
- Blocking majority in Council
- MS cannot accept EP's first reading position

### **European Parliament**

- Strong support
- In first reading on 20 October 2010 the EP proposed to grant 20 weeks of fully paid maternity leave and a fully paid paternity leave of 2 weeks

## 2 - Proposal on an Equal Treatment Directive

- Presented in July 2008
- **Prohibits discrimination** on grounds of disability, age, religion & belief and sexual orientation **outside employment**:
  - Social protection (social security, healthcare)
  - Education
  - Access to goods and services, available to the public and offered outside the context of private and family life

## Exceptions

- Differential treatment on ground of **age** → if objectively justified by a legitimate aim and if means are appropriate and necessary
- Age and/or disability can be taken into account in **financial services** (insurance) if it is a key factor in determining risk

## Disability issues

- Obligation to ensure **accessibility** for persons with disabilities by anticipation
  - Unless it imposes a disproportionate burden
- Obligation to provide **reasonable accommodation** (individually designed measures)
  - Unless it imposes a disproportionate burden

## Areas not covered by the Directive

- Family law (including marital status and adoption)
- Reproductive rights
- The organisation of MS social protection systems
- The content of teaching, organisation of educational systems, including special needs education
- The status and activities of churches + secularity of the State
- Nationality



## Remedies and enforcement

- Defense of rights
- Burden of proof
- Equality body



## State of play

### **Negotiations in the Council**

- Unanimity rule
- Support by majority of MS

### **European Parliament**

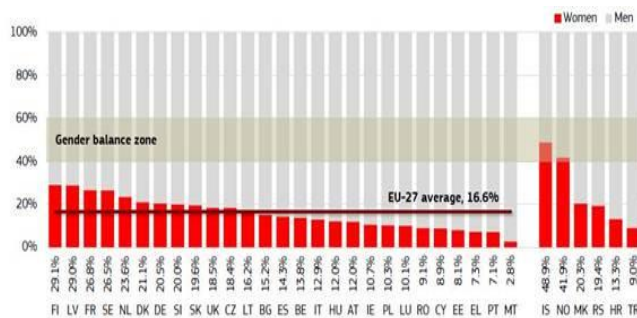
- Consent (special legislative procedure – Art. 289(2) TFEU)
- Strong support
- Supportive vote in plenary April 2009

### 3 - Proposal on women on boards Directive

- Proposed on 14 November 2012
- Aims at improving the gender balance among non-executive directors of listed companies
- 40% target for the underrepresented sex
- By 1 January 2020 (2018 for public undertakings)



### Why this proposal?



## Scope

- EU companies listed on EU stock exchanges
- Except SMEs
- Privately or publicly owned
- 5000 companies involved

## Non-executive directors

- Preference rule → Kick in only if 40% target not achieved
- Qualifications remain decisive
- Appointment procedure
  - Criteria: pre-established, clear, neutrally formulated and unambiguous
  - Comparative analysis of qualifications
  - Preference rule in case of equal qualification
  - Disclosure of assessment and burden of proof



## Executive directors

- No pre-established objective and no procedural obligations related to appointments
- Companies have to set **individual targets (flexi quota)**

## Reporting and monitoring

### Reporting by **companies**:

- yearly and published on the company's website
- both on executives and non-executives
- explanation of the reasons for not reaching the objectives and measures planned

### Monitoring and reporting by **Member States**:

- every two years
- information about measures taken

### Monitoring and reporting by the **Commission**:

- report on the application of the Directive every two years
- assessment if need to extend the duration of the Directive



## Sanctions

- effective, proportionate and dissuasive
- kick in in case of failing to implement obligations under Directive:
  - nonexecutives: non-compliance with procedural obligations (not for not reaching 40%)
  - executives: non-compliance with obligation to set individual objectives



## State of play

### **Negotiations in the Council**

QMV rule

MS are divided, some are still undecided

Blocking minority

### **European Parliament**

Ordinary legislative procedure

Broad cross-party support for the proposal

The Plenary's adoption of the first reading position is envisaged for November 2013



Thank you for your attention !

For further information:  
[http://ec.europa.eu/justice/discrimination/index\\_en.htm](http://ec.europa.eu/justice/discrimination/index_en.htm)