



**Europaudvalget  
EU-konsulenten**

**Date:** 26 September 2008

**Opinion adopted by the  
European Affairs Committee of the Danish Parliament**

**On the Commission's proposal for a Directive of the European  
Parliament and of the Council on implementing the principle of equal  
treatment between persons irrespective of religion or belief, disability,  
age or sexual orientation – COM(2008) 426**

At the request of COSAC, the European Affairs Committee of the Danish Parliament has conducted an assessment of whether the "proposal for a Directive of the European Parliament and of the Council on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation" complies with the principle of subsidiarity.

The main objective of the proposal is to combat discrimination based on religion or belief, disability, age or sexual orientation and to put into effect the principle of equal treatment outside the field of employment.

Furthermore, the proposal aims at ensuring legal certainty for economic operators and potential victims across the Member States in terms of the extent of protection against discrimination on the grounds referred to above.

The key question as regards the proposal's compliance with the subsidiarity principle is whether the objectives of the proposal can be sufficiently achieved through national legislation? Or whether the objectives, by reason of scale or effects, be better attained by the Community?

**The subsidiarity check**

In accordance with Article 5 of the TEC it initially has to be clarified if the proposal falls within the limits of powers conferred upon the EU by the

treaties, and whether it concerns an area where the EU and the Member States share the competences.

It is the assessment that both these questions can be positively responded to.

However, the proposal gives rise to some more specific concerns, as it contains a number of vaguely delimited provisions as well as vaguely defined exceptions from the scope of the Directive. It is therefore necessary to further consider a number of questions regarding the legal and economic consequences of the proposal – including the scope of some of the more generally delimited provisions.

It is the overall assessment of a majority of the European Affairs Committee of the Danish Parliament, composed of the Liberal Party, the Social Democrats, the Conservatives, the Socialist People's Party and the Social-Liberal Party, that the objectives of the Directive can best be attained through regulation at the European level, and that the proposal therefore complies with the principle of subsidiarity.

While Member States cannot sufficiently achieve the objective of establishing a minimum standard level of protection against discrimination based on religion or belief, disability, age or sexual orientation in all Member States, EU-regulation provides the necessary legal certainty as to the rights and obligations of citizens and economic operators when moving between the Member States.

However, in this context the majority puts particular emphasis on the fact that the Directive only lays down minimum standards allowing individual Member States to go beyond the common European rules.

### **Minority opinions:**

Two political parties have wished to express a minority opinion.

The Danish People's Party supports combating discrimination based on religion or belief, disability, age or sexual orientation.

However, it finds that the Commission has not provided any good justification for why such measures are best decided at European level. The Danish People's Party holds the view that there are no trans-national aspects to the issue, and that the proposal therefore is in breach with the principle of subsidiarity.

Member States are on the contrary in a far better position to adjust their rules with a view to combating discrimination.

Furthermore the Danish People's Party underlines that it opposes that legal competence in this field is transferred to the European Union institutions, including in particular to the European Court of Justice.

Likewise, it is the view of the Danish People's Party that the work with these questions belongs in the Council of Europe which is already preoccupied with the European Convention of Human Rights. This work should not be transferred to the EU.

The Red-Green Alliance regards the proposal first and foremost as an attempt to expand the powers of the European Union. It stresses that the proposal contains a number of vaguely delimited provisions as well as vaguely defined exceptions from the scope of the Directive . It is therefore difficult to see what objectives are attained with the proposal that could not be achieved through national legislation.

The Red-Green Alliance finds that ensuring equal treatment between persons irrespective of their religion or belief, disability, age or sexual orientation is best achieved through national legislation and by the European Convention of Human Rights, which has been signed up to by all EU Member States.