**Follow up to the European Parliament non-legislative resolution on combating discrimination in the EU – the long-awaited horizontal anti-discrimination directive**

1. **Resolution tabled pursuant to Rule 136(5) of the European Parliament's Rules of procedure**
2. **Reference numbers:** [2023/2582 (RSP)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2023/2582(RSP)) / B9- 0201/2023 / P9\_TA (2023)0111
3. **Date of adoption of the resolution:** 19 April 2023
4. **Competent Parliamentary Committee:** Committee onCivil Liberties, Justice, and Home Affairs (LIBE)
5. **Brief analysis/ assessment of the resolution and requests made in it:**

The European Parliament regrets that the Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation in the areas of social protection, education and access to goods and services available to the public (the horizontal anti-discrimination directive) has been blocked in the Council since 2008 and reiterates its previous calls on the Council to urgently unblock it by the end of 2023.

It calls on the Commission: to step up its monitoring of the implementation of the current legislation, and of the case law of the Court of Justice of the European Union (CJEU) and of the European Court of Human Rights (ECtHR), and to pro-actively use all the tools available to enforce EU law in this area, including by launching and advancing infringement procedures against Member States; to broad its annual rule of law report in scope to include all the values in Article 2 of the Treaty on European Union (TEU), including equal treatment and non-discrimination; to step up efforts to promote the Charter of Fundamental Rights of the EU (“the Charter”) and its correct implementation; to address inefficiency in the current processes and systems for reporting experiences of discrimination that do not always aid victims of discrimination in seeking redress and access to justice; to promote the collection and use of equality data in accordance with EU and national legislation; to closely monitor the growing current backlash against fundamental rights and the rise in discrimination across the EU; and to explore all possible avenues to overcome the political deadlock on the horizontal anti-discrimination directive and to combat all forms of discrimination in the EU with equal resolve.

The resolution also considers that any update of the proposal for a horizontal anti-discrimination directive by the Commission must build on Parliament’s position, address intersectional discrimination and explicitly prohibit discrimination on any combination of grounds listed in the Charter. It identifies as ‘inordinately long’ the potential extension of the transposition period as regards the obligation of Member States to provide reasonable accommodation for persons with disabilities, object of discussions in the Council.

1. **Response to the requests in the resolution and overview of the action taken, or intended to be taken, by the Commission:**

The Commission has given the resolution careful consideration. It fully agrees with the Parliament that the adoption of the proposed horizontal anti-discrimination directive would offer a comprehensive framework for combating discrimination at EU level and it would fill a major gap in the EU legislation on non-discrimination by extending protection against discrimination based on religion or belief, disability, age or sexual orientation beyond the area of employment and vocational training.

**Paragraph 8** recalls the position of European Parliament that the Commission’s annual rule of law report should be broadened in scope to include all the values in Article 2 TEU, including equal treatment and non-discrimination.

The Commission underlines that the scope of the rule of law report already covers four broad areas of systemic importance: national justice systems, anti-corruption frameworks, media pluralism and media freedom and other institutional issues related to checks and balances, including the role of equality bodies. The report is one element of a broader endeavour at EU level to strengthen the founding EU values, including democracy, equality, and respect for human rights. The report is complemented by a set of other initiatives including the European Democracy Action Plan, the Strategy to strengthen the application of the Charter of Fundamental Rights in the EU with its thematic annual reports focusing on areas of strategic relevance governed by EU law, and targeted strategies to address the needs of the most vulnerable.

**Paragraphs 8 and 9** contain a call on the Commission’s to step up its monitoring of the implementation of current legislation; and to pro-actively use all the tools available to enforce EU law in this area, including by launching and advancing infringement procedures against Member States (paragraph 8); and a request for the Commission to monitor the implementation of CJEU and the ECtHR case-law, in particular in the area of equal treatment and non-discrimination; calls the Commission and to take action in cases of non-compliance (paragraph 9).

As guardian of the EU Treaties, the European Commission makes sure that, when implementing EU law and EU funded projects, the principle of non-discrimination is fully respected.

In particular, the Commission continuously monitors the effective implementation of the equal treatment Directives, including the Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. As a part of this monitoring exercise, the Commission regularly reports on the application of the equal treatment Directives. The last joint report on the Racial Equality Directive and the Employment Equality Directive was adopted in 2021 (COM(2021) 139).

The infringement procedure is an ultima ratio which the Commission does not hesitate to use when identifying infringements of EU law.

**Paragraph 10** calls on the Commission to step up efforts to promote the Charter and its correct implementation, as well as the EU anti-discrimination framework and the relevant CJEU and ECtHR case-law, in the Member States.

The Commission fully agrees with the European Parliament on the need to step up efforts to promote the Charter and its correct implementation. In this regard, the 2020 Strategy to strengthen the application of the Charter of Fundamental Rights (COM(2020) 711) includes measures aimed at promoting the fundamental rights enshrined in the Charter. Under its four strands, the renewed strategy sets out actions to strengthen the application of the Charter by the Member States; by empowering civil society organisations, rights defenders and justice practitioners; fostering the use of the Charter by EU institutions; and strengthening people’s awareness of their rights under the Charter.

To prepare the Charter strategy, the Commission carried out a Eurobarometer survey on public awareness of the Charter (*Special Eurobarometer 487b*), which showed that people do not know enough about their Charter rights, but would like to get more information, including on how to seek redress.

To implement the Charter strategy, the Commission continues to cooperate with relevant stakeholders and raise awareness about the Charter. Currently, 15 Member States share their best practices on strengthening the use and awareness of the Charter on the European e-Justice Portal and update related information on the Fundamental Rights Information Tool. The Commission furthermore provides training to assist the staff of EU institutions to apply the Charter effectively. It launched an information campaign in 2021 to strengthen people’s awareness of their rights under the Charter (*Let’s unite to promote and protect our fundamental rights!#RightHereRightNow*).

The EU Fundamental Rights Agency (FRA) has made available a variety of resources relating to the application of the Charter. The FRA’s *Charterpedia* provides accessible information on the Charter and its provisions, including case law by national courts that refers to the Charter. The tool is also available as a *Charter-app*. E-learning on the Charter is available at <https://e-learning.fra.europa.eu/>.

The Commission supports the implementation of the Charter also through funding. The first-ever call to promote awareness of the Charter and capacity-building on strategic litigation attracted 71 applications in 2022. With a budget of EUR 2 million, 7 projects were selected. A new call for applications was open until 25 May 2023.

Regarding the enforcement of the Charter, the Commission monitors the application of EU law and the protection of fundamental rights under the Charter, including through the use of infringement proceedings. Detailed information is provided in the annual Report on the application of EU law, with the most recent edition published on 15 July 2022: “Application of EU law: Upholding rights, fundamental freedoms and the rule of law”.

In addition, the 2020-2025 Gender Equality strategy(COM(2020) 152), the 2020-2025 EU Anti-Racism Action Plan (COM(2020) 565), the EU Roma strategic framework for equality, inclusion and participation (COM(2020) 620), the 2021-2030 Strategy for the rights of persons with disabilities (COM(2021) 101), the 2020-2025 LGBTIQ equality strategy (COM(2020) 698), and the EU Strategy on combating antisemitism and fostering Jewish life (2021-2030) (COM(2021) 615) have been all put forward in this mandate to build a Union of equality. These strategies stress the importance of preventing and tackling discrimination, enforcing EU law in this field and improving data collection. They contain concrete actions to achieve these objectives.

The High Level Group on Non-Discrimination, Equality and Diversity was established in 2015 to accompany the development and implementation of policies and programmes at EU and national level aimed at combating discrimination, promoting equality and diversity; to deepen cooperation and coordination between Member States’ relevant authorities and the Commission on questions relating to achieving diversity and equality in practice, and eliminating discrimination, in particular through the exchange of experiences and good practices on related issues of common interest to be defined by the Group and the establishing, when appropriate, of common policy objectives; and to deepen the coherence of effort for equality and against discrimination between the members of the Group, the Presidency, the Council, the European Parliament, the European Commission, and the European Union Agency for Fundamental Rights.

**Paragraph 11** calls on the Commission to address inefficiency in the current processes and systems for reporting experiences of discrimination that do not always aid victims of discrimination in seeking redress and access to justice, which would ensure that all European citizens feel that they can safely disclose any instances of discrimination that they may have faced.

The Commission proposed, on 7 December 2022, EU legislation to strengthen the independence, resources and powers of equality bodies, the national bodies which assist victims of discrimination and promote equality in the Member States (COM(2022) 688 and COM(2022) 689).

One of the purposes of the proposals is precisely to better assist victims of discrimination and to facilitate their access to justice. The proposals include provisions to address the low level of awareness of equality rights and of the services provided by equality bodies. They provide that equality bodies will advise victims on the legal framework, procedures, and how to obtain redress. Redress can take several forms, such as an amicable resolution between parties, and victims will also have the opportunity to seek the support of equality bodies when going to court. The proposals require Member States to ensure that equality bodies provide all their services at no cost to complainants, throughout their territory, and without barriers.

**Paragraph 12** calls on the Commission to promote the collection and use of equality data in accordance with EU and national legislation.

The Commission agrees that the mandatory collection of comparable and disaggregated equality data is necessary to ensure that discrimination is adequately documented while fully respecting the fundamental right to privacy, the protection of personal data and the relevant EU and national legislation. That has been expressed in several Commission initiatives, including the equality strategies mentioned above.

To improve the collection and use of equality data by Member States, in 2018 the EU High Level Group on Non-discrimination, Equality and Diversity set up a Subgroup on Equality Data, supported by FRA. The subgroup has produced “Guidelines on improving the collection and use of equality data”[[1]](#footnote-1), specific Guidelines on LGTBIQ data (forthcoming), a “Compendium of practices on equality data’ (2019, currently under review)[[2]](#footnote-2) and a ‘Diagnostic mapping tool’[[3]](#footnote-3).

FRA regularly publishes equality data on specific grounds of discrimination, and related data-collection guidelines. A recent guide on disability (“Implementing the UN Convention on the Rights of Persons with Disabilities: Human rights indicators”) helps Member States monitoring the situation of persons with disabilities. All these documents are available and easily accessible on the websites of the Commission and of FRA.

On 30 September 2021, as announced in the Anti-racism Action Plan, the Commission organised a Roundtable on equality data, bringing together key stakeholders to examine obstacles to the collection of equality and identify paths to a more consistent approach.

In addition, Eurostat has launched a dedicated work strand on equality data, and it is stepping up its effort in coordination with Member States, EU agencies and other stakeholders. In February 2023 the European Statistical System Committee supported broadly the way forward for improving equality statistics as presented by Eurostat. A detailed action plan will be discussed in the meeting of European Directors of Social Statistics in June 2023, with the aim of launching a task force on equality statistics by the end of 2023.

**Paragraph 13** calls on the Commission to closely monitor the growing current backlash against fundamental rights and the rise in discrimination across the EU.

As noted in the Charter strategy and in the equality strategies, the Commission works to integrate and mainstream the implementation of fundamental rights and equality into all its policies and legislative proposals. Taken together, the measures explained in relation to paragraph 10 also frame the Commission’s response to the backlash against fundamental rights and the rise in discrimination across the EU.

**Paragraph 13** calls on the Commission to explore all possible avenues to overcome the political deadlock on the horizontal anti-discrimination directive and to combat all forms of discrimination in the EU with equal resolve.

The adoption of the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation in the areas of social protection, education and access to goods and services available to the public remains a priority for the Commission. In its Work Programme for 2023, the Commission listed the proposal among the priority legislative files.

The proposal requires Council unanimity for adoption with the European Parliament’s consent (Article 19(1) of the Treaty on the Functioning of the European Union)).

The Commission welcomes that certain progress could be achieved under the 2021 Portuguese and Czech Presidencies. The Commission also appreciates the support of the Swedish Presidency to give impetus to this important file.

Throughout the Council negotiations, the Commission has always actively supported the Council Presidencies and the Member States to find possible ways to make progress on the file. The Commission will continue to offer support in technical and legal questions.

The Commission is open to discuss changes that could support progress towards the required unanimity in the Council, taking into account developments in EU law since the proposal was made. At the same time, particular attention will be paid as regards the potential implications of any possible weakening of the provisions related to persons with disabilities.

**Paragraph 14** states that any update of the proposal for a horizontal anti-discrimination directive by the Commission must build on Parliament’s position, address intersectional discrimination and explicitly prohibit discrimination on any combination of grounds listed in the Charter.

The adoption of the EU Equal Treatment Directive continues to be a priority for the Commission as it would fill a legislative gap in the protection against discrimination at EU level. The Commission continues to support the legislator in its efforts to adopt the proposed legislation.

1. [Guidelines on improving the collection and use of equality data](file:///C%3A%5CUsers%5Cbridema%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5COAM2NPQ0%5CGuidelines%20on%20improving%20the%20collection%20and%20use%20of%20equality%20data) (2021) [↑](#footnote-ref-1)
2. [Compendium of practices on equality data’](https://fra.europa.eu/fr/promising-practices-list) (2019) [↑](#footnote-ref-2)
3. [Diagnostic mapping tool](https://fra.europa.eu/en/themes/equality-non-discrimination-and-racism/about-compendium#diagnostic-tool) (2019) [↑](#footnote-ref-3)