Proposed Council Directive “on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation” (Buitenweg report)

Proposed amendments to be considered by the Committee on Civil Liberties, Justice and Home Affairs

The European Children’s Network (EURONET) is a coalition of national and transnational children’s rights NGOs from across Europe campaigning for the interests and rights of children. Its members share a common concern that children's rights should be taken into account in all EU legislation, policies and programmes which have an impact on children.

Introduction

EURONET welcomes the proposed extension of the EU’s anti-discrimination legislation to areas beyond employment for the grounds of age, religion, disability and sexual orientation. This has the potential to significantly enhance children’s protection from discrimination in the provision of goods, facilities and services, education and healthcare, on these grounds. Like adults, children in the EU can be discriminated against on a range of different grounds, including age, and may experience multiple forms of discrimination.

In light of the upcoming European Parliament report on the proposed Council Directive on equal treatment\(^1\), EURONET urges MEPs to use this opportunity to help combat negative discrimination against children in the EU. The following amendments to the proposed Directive will ensure that children are fully protected from less favourable treatment on grounds of age.

Propose Amendments:

- **Reference to child rights**
  
  In order to fully reflect and address discrimination on the basis of age, EURONET recommends that reference is made to the UN Convention on the Rights of the Child in Recital 2 and article 24 of the Charter of Fundamental Rights in Recital 3.

This would ensure consistency: other international human rights instruments and articles of the Charter of Fundamental Rights, which give rights to specific groups, are already included in Recitals 2 and 3.

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Amendment 1: Recital 2

Text proposed by the Commission
The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

Amendment
The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

Amendment 2

Text proposed by the Commission
(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.

Amendment
(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; Article 24 gives specific rights to children; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.

- Young children’s access to public buildings and transport
EURONET recommends the following amendments in order to address the problems faced by the parents and carers of babies and young children when trying to access public transport and public buildings.

Amendment 3: Article 2 (2) (b)

Text proposed by the Commission
Article 2(5) Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities shall be deemed to be discrimination within the meaning of paragraph 1.

Amendment
Article 2(5) Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) and Article 5 [see proposed new article below] of the present Directive as regards persons with disabilities and young children shall be deemed to be discrimination within the meaning of paragraph 1.

Amendment 4: Proposed new Article (to follow after Article 4)

Amendment
Article 5 Young children’s access to public buildings and public transport

1. Member States shall ensure effective non-discriminatory access for young children to public buildings and public transport unless restrictions in access can be shown to be legitimate and proportionate. Notwithstanding this obligation and where needed in a particular case, reasonable accommodation shall be provided unless this would impose a disproportionate burden.

2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, and the possible benefits of increased access for young children. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.

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