New powers to combat discrimination
I am delighted to be able to say that new rights to fair treatment in the workplace and beyond are coming into force across the European Union. European legislation adopted in 2000 prohibits discrimination in employment and training on the grounds of religion and belief, disability, age and sexual orientation. It also prohibits discrimination on the grounds of race or ethnic origin, in employment and areas beyond such as, education, social security, healthcare and access to goods and services, including housing.

The new rules must be incorporated into national law by the Member States by the end of 2003, although Member States may request an additional period of up to three years to bring their legal systems into line to deal with disability and age discrimination.

The rules provide legally enforceable rights for all people in all EU countries. They provide protection against direct and indirect discrimination, as well as harassment. They require Member States to ensure that people who feel that they have been discriminated against have access to law courts, tribunals or other administrative procedures. The rules also provide that dissuasive and effective sanctions must be put in place.

Victims of discrimination may be supported by an NGO or trade union. Member States must also designate an Equality Body to assist victims of racial discrimination.

To support these legal changes, the European Union has also launched an Action Programme to combat discrimination and its underlying causes, to raise awareness of the problem and of the measures being taken across the Union to tackle it. The Programme, which runs until 2006, finances studies aimed at improving our understanding of discrimination and at assessing the effectiveness of measures to promote equal treatment. It finances networks of people and organisations from across the EU to share information, especially about good practice. As part of the Action Programme, I have launched an EU-wide campaign to inform people of their new rights and obligations and to raise awareness of diversity and discrimination issues, more generally.

The fundamental aim of the new legislation and Action Programme is to combat and prevent discrimination. I am confident that by tackling the obstacles facing people at work and in other areas of daily life, we can make full use of Europe’s greatest asset – its people. Our goal is to harness everybody’s potential for their own benefit, for the benefit of society and the economy, and to make the European Union a better place to live and work for everybody.

Anna Diamantopoulou, European Commissioner for Employment and Social Affairs
New rights and obligations
under European antidiscrimination legislation

What areas of discrimination are covered by the new legislation?

- The new legislation prohibits discrimination in employment and training on the grounds of racial or ethnic origin, sexual orientation, religion or belief, age and disability. The rules on racial discrimination also cover other areas such as education, social security, healthcare, access to goods and services and housing.

Who is protected against discrimination?

- Everybody in the territory of the Union is protected against discrimination on the grounds mentioned above.

What does discrimination mean?

- Both direct and indirect discrimination are covered by the new rules.
- Direct discrimination occurs when a person is treated less favourably than another in a comparable situation because of their racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Frequently asked questions

- The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms... principles which are common to the Member States. << Article 6(1) Treaty on European Union.

The European Community has long been active in the fight against discrimination. Indeed, at the time of its creation one of its most pressing missions was to reconcile a continent divided by nationalistic and ethnic conflicts. For many years the focus was on preventing discrimination on the grounds of nationality and sex discrimination. 1997 was a major turning point when the Member States agreed to some far reaching changes to the Treaty. Following the entry into force of the Amsterdam Treaty, the Community was given new powers to combat discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation, and the power to combat sex discrimination was widened.
Employers who invest in a workplace free from discrimination and in a diverse workforce are making the right choice. They gain from a more human work environment which includes and values the differences of the workforce, and prevents the development of a positive work environment based on inclusion, respect and team spirit.

As a coalition of European social NGOs with roots in many different parts of civil society, the Social Platform is also strongly aware of the need to address multiple discrimination, where individuals are discriminated against on the basis of more than one ground.

What about harassment and victimisation?

Harassment with the purpose of violating the dignity of a person on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation and creating an intimidating, hostile, degrading, humiliating and offensive environment is prohibited by the new rules.

Victimisation is also prohibited. This is where someone is treated badly or differently for having made a complaint about discrimination or supporting a colleague who has made a complaint.

What does this mean for employers?

The new rules apply to all private and public sector employers. The Directive also covers conditions for access to self employment (such as the conditions applying to the practice of certain trades or professions). All employers will need to review their employment practices to make sure that they are not discriminating directly or indirectly for example in recruitment procedures, selection criteria, pay and promotions, dismissals or access to vocational training. The new anti-discrimination rules apply to all stages of the employment contract from recruitment through to termination.

What duties will employers have with regard to a person with a disability?

Employers will have a duty of “reasonable accommodation” in respect of candidates or employees with a disability. Employers are required to take appropriate measures to enable a person with a disability to have access to employment and training unless doing so would impose a disproportionate burden on the employer. “Reasonable accommodation” may include, for example, providing wheelchair access, adjusting working hours, adapting office equipment or simply redistributing tasks between members of a team. To determine the disproportionate burden, account should be taken in particular of the financial and other costs entailed, the scale and financial resources of the organisation and the possibility of obtaining public funding or any other assistance.

Employers who invest in a workplace free from discrimination and in a diverse workforce are making the right choice. They gain from a more human work environment and the experience of personnel who reflect the diversity of consumers and users of their services. Discrimination destroys lives, marginalises individuals, and prevents the development of a positive work environment based on inclusion, respect and team spirit.

As a coalition of European social NGOs with roots in many different parts of civil society, the Social Platform is also strongly aware of the need to address multiple discrimination, where individuals are discriminated against on the basis of more than one ground.
What do businesses stand to gain from these new rules?

- Evidence is beginning to emerge in the European Union that good employers are taking an interest in diversity for business reasons, rather than simply to comply with legal requirements. There are many benefits to businesses of having workforce diversity policies. They can form part of companies’ broader strategy to build up human capital and encourage creativity and innovation. Diversity can give companies a “cutting edge” in their dealings with customers, suppliers, shareholders and other stakeholders in today’s multicultural and globalised markets. A commitment to diversity can also enhance a company’s reputation and corporate image. “Discrimination-proofing” can help companies to avoid the costs of litigation, high labour turnover and absenteeism. It can also provide employers with access to non-traditional labour pools and help them to attract and retain high quality employees.

Are there exceptions to the general prohibition of discrimination?

- The new legislation allows limited exceptions to the principle of equal treatment, for example to preserve the ethos of religious organisations, or to allow measures to promote the integration of older or younger workers into the labour market.

Jim O’Hara, Vice President
TMG, General Manager Intel Ireland

Jim O’Hara was delighted at INTEL winning the 2003 EU Employer’s Award for Diversity, “I really appreciate the fact that so many of our employees think we are doing a good job on making Intel Ireland an inclusive company to work for. I was particularly pleased that we received the top award for diversity against 1,000 other top companies across Europe. Every one of us is unique in some way and we want to create an environment that embraces and celebrates each of our unique differences.”

Roger Briesch, President, European Economic and Social Committee

Roger Briesch, President, European Economic and Social Committee

Pat Cox, MEP, President of the European Parliament

“Are we all stakeholders in society? If some face barriers to employment, education and decision-making then it is society which fails the individual in terms of values and vision. We in the EU owe it to ourselves to adopt measures which will deliver equal participation for all.

Those who to date have been left on the margins of society and economy represent a real resource to be cherished and encouraged. It is time that our workplaces reflected our reality.”

“The European Economic and Social Committee strongly endorses EU efforts for a diverse and discrimination-free workplace and society. I am deeply convinced it is essential that all residents of Member States can enjoy a minimum level of protection and rights of legal redress against discrimination and that this would indeed strengthen economic and social cohesion within the Union. I have every confidence that an increased dialogue between business, trade unions and other social and economic actors, based on good practice, could show that equal treatment in employment and occupation can improve both economic performance and social inclusion. The Committee is well placed to help promote such a dialogue.”
How can victims of discrimination make a complaint?

- The legislation requires that Member States give victims of discrimination the right to make a complaint through a judicial or administrative procedure and that appropriate penalties are imposed on those who have discriminated.
- The rules also provide for sharing the burden of proof in civil and administrative cases. This will make it easier for people who have experienced discrimination to prove it.

What help is available to victims of discrimination?

- The legislation on racial discrimination requires Member States to designate bodies for the promotion of equal treatment which will provide independent assistance to the victims of discrimination, conduct surveys and studies and publish independent reports and recommendations. Victims of discrimination may also be supported by a non-governmental organisation or a trade union who have a legitimate interest.

What about equality between the sexes?

- Sex discrimination is covered by separate legislation. This is because action on sex discrimination has a long history at European level, going right back to the beginnings of the European Community. There is a large amount of European legislation on this topic and financial support available via the Community Programme on Gender Equality (2001-2005). More information about this issue is available at http://europa.eu.int/comm/employment_social/eq/index_en.htm

John Monks, General Secretary of ETUC (European Trade Union Confederation)

George Jacobs, President of UNICE (Union of Industrial and Employers’ Confederations of Europe)

“At its Helsinki Congress in 1999, the ETUC made a strong commitment to campaigning against all forms of discrimination. Trade unions across Europe are currently working to ensure that the two equal treatment directives are correctly integrated into national law and that the principle of equal treatment at the workplace is properly applied. For the trade union movement, diversify policies must go hand-in-hand with active trade union membership. For their part, trade unions must promote equal treatment between people in their own ranks and in all their decision-making bodies and structures.”

“Discrimination has its roots in irrational feelings. It is incompatible with economic reasoning. In today’s global economy, companies’ success depends on their ability to respond to increasingly diverse situations and customer needs. Attracting a multi-faceted workforce and managing diversity is therefore an asset.”
When will the new legislation take effect?

- The new rules have to be incorporated into national law by the Member States. The deadline for incorporating the rules on racial equality is 19 July 2003. The deadline for the rules on sexual orientation, religion or belief, disability and age is 3 December 2003. The Member States may also request an additional period of up to three years to bring their legal systems into line with the provisions on disability and age.

What about enlargement of the EU?

- All new Member States must incorporate European rules on anti-discrimination into their national laws before they join the European Union.

Is there any EU funding available to support anti-discrimination projects?

- The Community Action Programme which runs from 2001-2006 has a budget of around 100 million Euro. The broad aim of the programme is to change discriminatory attitudes and practices in a practical way. The programme has three priority areas: these are to increase analysis of the nature of discrimination, to support organisations involved in combating discrimination and to raise awareness of discrimination and the benefits of diversity. More information on the programme can be found on the Commission’s website at http://europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm

Where can I find out more information on the EU’s anti-discrimination policy?

- More information can be found out at http://europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm or by e-mail from the following address:
  empl-antidiscrimination@cec.eu.int

What is the EU doing to promote debate on diversity and discrimination?

- As part of the Community Action Programme, the EU has launched a major information campaign in all EU countries, working closely with trade unions, employers, NGOs and national authorities to highlight the benefits of diversity in the workplace and beyond. More information on the information campaign can be found at http://www.stop-discrimination.info

“Sir Albert Bore, President of Committee of the Regions

The Committee of the Regions rejects all form of discrimination, and firmly believes that the fight against discrimination is a question of changing attitudes and values. The rejection of all forms of discrimination is an essential condition for the European Union to develop into an area of freedom, security and justice. Local and regional authorities have an important role to play in this respect, as they operate at a grass-roots level and are in close contact with ordinary citizens, increasing knowledge and understanding of multiple discrimination. The CoR has therefore called for local and regional authorities and other information-providers to be fully engaged in the Action Programme, because they are best able to raise-awareness of the anti-discrimination package.”
### The Racial Equality Directive 2000/43/EC

- Implements the principle of equal treatment between people irrespective of racial or ethnic origin.
- Gives protection against discrimination in employment and training, education, social security, healthcare and access to goods and services.
- Contains definitions of direct and indirect discrimination, harassment and victimisation.
- Provides for the establishment in each Member State of an organisation to promote equal treatment and provide independent assistance to victims of racial discrimination.

### The Employment Equality Directive 2000/78/EC

- Implements the principle of equal treatment in employment and training irrespective of religion or belief, disability, sexual orientation and age.
- Includes identical provisions to the Racial Equality Directive on definitions of discrimination, rights of legal redress and the sharing of the burden of proof.
- Requires employers to make reasonable accommodation to cater for the needs of a person with a disability who is qualified to do the job in question.
- Allows for limited exceptions to the principle of equal treatment, for example to preserve the ethos of religious organisations or to allow special schemes to promote the integration of older or younger workers into the labour market.

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**www.stop-discrimination.info**