



NEWS REPORT

Update of flash report nr:	607-PL-2
Date:	14 July 2010
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Title:	New draft law on equal treatment
Country:	Poland
<u>Context</u>	
Issue at stake:	Consecutive version of “the draft law on implementation of certain provisions of European Union in the field of equal treatment” – a consecutive chance for filling the gaps in the implementation of EC directives.
Ground of discrimination:	All grounds
Source:	Legislation, national equality body, political development
Field:	All fields
Legislative provisions:	”the draft law on implementation of certain provisions of European Union in the field of equal treatment” (21 May 2010)

Content

Case: Poland has generally transposed EC anti-discrimination and equality directives in the employment field. There are still a number of gaps in other fields and there is still no Equality body established. The European Commission has initiated infringement procedures against Poland for failure to transpose EU law three times. On 14 May 2009, the Commission referred Poland to the European Court of Justice for non-transposition of EU rules prohibiting gender discrimination in access to and supply of goods and services (Directive 2004/113/EC).¹ In January 2010, the European Commission sent a reasoned opinion to Poland for incorrectly implementing the Employment Equality Directive 2000/78/EC prohibiting discrimination based on religion or belief, disability, age or sexual orientation in

¹ <http://ec.europa.eu/social/main.jsp?langId=pl&catId=89&newsId=511&furtherNews=yes>

employment and occupation.² On 4 May 2010 the Commission referred Poland to the Court of Justice for incorrectly implementing EU rules prohibiting discrimination based on racial or ethnic origin (Directive 2000/43/EC).³

Works of the Polish Government on the draft for an Act on Equal Treatment started in 2006. The draft Act aimed at implementing four Directives: 2000/43; 2000/78; 2004/113 and 2006/54. Over the last four years there have already been several versions. Successive versions significantly differ, from a quite wide scope to subsequent versions limiting the scope of the Act narrowing it to an almost verbatim implementation of the Directives. The initial draft law (April 2007) was much wider and went beyond the scope of Directives 2000/43 and 2000/78. It somehow anticipated the proposal for a new anti-discrimination framework directive discussed at EU level. It prohibited discrimination in access to social security, health care, education, and access to publicly accessible goods and services (including housing), on the grounds of racial and ethnic origin, nationality, gender, religion or beliefs, political beliefs, disability, age, sexual orientation, property, marital and family status. The draft of 21 January 2008 already limited the scope of the law, omitting the protection of all groups in terms of social security, health care and education and limiting the areas of protection in access to goods and services to gender, racial and ethnic origin. The draft of 24 April 2008 has narrowed the initial scope even further, to simply transpose the directives without going beyond them (it provides protection in fields outside employment only in relation to gender, racial and ethnic origin). The following draft law (October 2009) came back to the original wide scope. In the meantime the draft law also changed its original name to “draft law on implementation of certain provisions of European Union in the field of equal treatment”.

Finally, the latest development – a version presented for public consultations on 21 May 2010 – is again very narrow in terms of scope and is limited to the verbatim implementation of the Directives, with still some gaps remaining.

²C-326/09, *Commission v. Poland*, [OJ C 312 of 19.12.2009, p.10](#).

³<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/71&format=HTML&aged=0&language=EN&guiLanguage=en>
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/531&format=HTML&aged=0&language=EN&guiLanguage=en>

The draft law envisages the designation of an Equality body, which will be the Ombudsperson office (Commissioner for Civil Rights Protection). The draft law includes amendments to the law relating to the Ombudsperson, and imposes new competences such as providing legal assistance as well as conducting independent research and issuing independent reports and recommendations on the Ombudsperson (however the draft law does not envisage any additional resources, funding, etc., for fulfilling these new obligations). The explanatory memorandum part even states that it is not needed as the Ombudsperson office will carry these new competences within the existing structure and budget. The Government Plenipotentiary for Equal treatment (within the Chancellery of the Prime Minister) will remain as the coordinating body within the Government.

Internet link source and additional information:

Draft law and several opinions (in Polish) of different institutions (16 as of July 8, 2010) on draft law might be found at:

http://bip.kprm.gov.pl/kprm/dokumenty/61_3646.html

Opinion of Coalition of NGOs (19 June 2010; in Polish) might be found at:

http://www.ptpa.org.pl/index.php?option=com_content&view=article&id=116&Itemid=65