

**Proposal for a  
Council Directive  
implementing the principle of equal treatment in respect of age in access to  
and supply of goods, facilities and services**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 13(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Committee of the Regions,

Having regard to the opinion of the European Economic and Social Committee,

Whereas:

- (1) In accordance with Article 6 of the Treaty on European Union, the European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States, and should respect fundamental rights as guaranteed by the European Convention for the protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, as general principles of Community Law.
- (2) 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 and the United Nations Covenants on Civil and Political Rights and on Economic, and Social and Cultural Rights and by the

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European Convention for the Protection of Human Rights and Fundamental Freedoms, to which all Member States are signatories.

- (3) The Charter of Fundamental Rights of the European Union, proclaimed by the European Parliament, Council and Commission in Nice on 7 December 2000, affirms in article 21 (1) that any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation shall be prohibited.
- (4) In article 25, the said Charter declares that everyone has the right to human dignity, to integrity of the person, to equality, and that the rights of older citizens to lead a life of dignity and independence and to participate in social and cultural life, must be respected and protected.
- (5) The Commission Communication on “Compliance with the Charter of Fundamental Rights in the Commission legislative proposals”<sup>1</sup> aims to scrutinise all Commission legislative proposals systematically and rigorously to ensure they respect all the fundamental rights concerned in the course of normal decision-making procedures.
- (6) Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe proclaims that the enjoyment of the rights and freedoms set forth in the convention shall be secured without discrimination on any ground. Protocol 12 proclaims the same for any right set forth by law.
- (7) By Article 5 of the Political Declaration agreed at the conclusion of the United Nations World Conference on Ageing in Madrid 2002<sup>2</sup> it was agreed to reaffirm the commitment to spare no effort, to eliminate all forms of discrimination, including age discrimination, to recognize that persons, as they age, should enjoy a life of fulfilment, health, security and active participation in the economic, social, cultural and political life of their societies, and to enhance the recognition of the dignity of older persons, and to eliminate all forms of neglect, abuse and violence.

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<sup>1</sup> Communication from the Commission on “Compliance with the Charter of Fundamental Rights in Commission legislative Proposals. Methodology for systematic and rigorous monitoring”, (COM(2005) 172 final).

<sup>2</sup> <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N02/397/51/PDF/N0239751.pdf?OpenElement>

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- (8) It is important to respect such fundamental rights and freedoms in all areas of life including in the context of the access to and provision of goods, housing, education, and other facilities and services, to respect the protection of private and family life and transactions carried out in this context.
- (9) The Treaty on European Union marks a new stage in the process of creating an ever closer union among the peoples of Europe, and in that context it is important and necessary to maximise the potential of all to contribute to economic growth and development through their employment and other productive contributions, in their consumption of goods, facilities and services and to build a social Europe. This should include the full social inclusion of all persons irrespective of age and to avoid unjustified ageism and age discrimination of all kinds.
- (10) Such discrimination will serve to undermine the achievement of the objectives of the Treaty, in particular the attainment of a high level of employment and social protection, raising standards of living and the quality of life, economic and social cohesion and social solidarity and the free movement of persons. It may also undermine the objective of developing the European Union as an area of freedom, security and justice.
- (11) In 1999, in its communique, Towards a Europe for All Ages, the European Commission<sup>3</sup> proposed a strategic response to the ageing of Europe's population including the development of strategies to address employment, social protection, the promotion of health and combating of age discrimination and social exclusion of older people.
- (12) In the conclusions of the European Council at Lisbon in March 2000 it was emphasised that steps must be taken to make a decisive impact on the eradication of poverty. The Council invited the Commission to develop priority actions addressed to key target groups including minority groups, children, older people and the disabled. It highlighted that in the context of an ageing population, action to achieve high levels of economic growth would require the full inclusion of older people in economic life.

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<sup>3</sup> COM (1999) 221

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- (13) Since the Lisbon Council in 2000, a number of Open Methods of Co-ordination<sup>4</sup> have been established to take forward these conclusions, including in the areas of employment, pensions, health and social inclusion.
- (14) In the Presidency conclusion made at the European Council's in Gothenburg and Stockholm in 2001, it is stated that the ageing society calls for a comprehensive approach and clear strategies for ensuring the adequacy of pension and health care systems and for maintaining the sustainability of public finances and inter-generational solidarity.
- (15) In the Presidency conclusions made at the European Council in Barcelona in 2002, the importance of reform to pensions systems was stressed with the intention of promoting the active participation of older people in public, social and cultural life and to achieve the objective of active ageing.
- (16) In Europe's Response to World Ageing<sup>5</sup> the Commission noted the need to manage the economic implications of ageing to maintain growth and to achieve access to high quality health care.
- (17) The Annex to the Presidency Conclusions at the Nice Council in December 2000 emphasised the need for mutually reinforcing policies as part of the overall strategy on ageing.
- (18) On 10 April 2002, in its resolution on the Second United Nations World Assembly on Ageing, the European Parliament called on the European Institutions to actively support an international action strategy and a clear commitment towards a society for all ages based on solidarity between generations, a positive image of longer life and older people's contribution to society through urgent, concrete and ambitious equality actions.
- (19) In its Opinion<sup>6</sup> on the Joint Report on Social Inclusion summarising the results of the examination of the National Action Plans for Social Inclusion (2003-2005) (2004/C 121/08) the Committee of the Regions has re-emphasised that social

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<sup>4</sup> Communication from the Commission "Working together, working better: A new framework for the open coordination of social protection and inclusion policies in the European Union" COM(2005) 706 final

<sup>5</sup> COM (2002) 143

<sup>6</sup> Official Journal C 121 , 30/04/2004 P. 0032 – 0035

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inclusion must become a collective priority in combating the devastating effects of precariousness and marginalisation, including the fight against all forms of discrimination including age discrimination.

- (20) In its Third Report on Economic and Social Cohesion<sup>7</sup>, the European Commission highlighted that demographic ageing was one of the four main challenges to cohesion in the enlarged European Union and proposed that in seeking to build cohesion national and regional development strategies need to be adapted to demographic circumstances and, in particular, promote active ageing policies and to exploit the often underused potential of the older population.
- (21) Council Directive 2000/43/EC of 29<sup>th</sup> June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, made provision for combating discrimination in relation to race or ethnic origin on a wider basis than just employment and it is necessary and appropriate to make complementary provision in relation to discrimination on the grounds of age.
- (22) By establishing a general framework for equal treatment in employment and occupation provision was made for the prohibition of discrimination on the grounds of age in relation to employment and occupation, and it is necessary to complement that provision by extension of the protection against age discrimination to include protection in the provision of goods and services.
- (23) Council Directive 2004/113/EC of 13<sup>th</sup> December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, made provision for combating discrimination in relation to sex on a wider basis than just employment and it is necessary to make complementary provision in relation to age.
- (24) The European Court of Justice<sup>8</sup> has stated that it is clear from the third and fourth recitals of Council Directive 2000/78/EC of the 27<sup>th</sup> November 2000 that the sources of the anti-discrimination principle are the various international

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<sup>7</sup> Third report on economic and social cohesion: European Commission, February 2004

<sup>8</sup> Judgement of the European Court of Justice 22 November 2005 (Case C-144/04), preliminary ruling from the Arbeitsgericht München (Germany) in the proceedings Werner Mangold vs Rüdiger Helm

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instruments and the constitutional traditions common to the Member States and that the principle of non-discrimination on the grounds of age must be regarded as a general principle of Community law.

(25) By reason of the different life expectancies and life histories of men and women, combating age discrimination will contribute to the fight against gender discrimination.

(26) Since 34% of the population of the European Union, approximately 156 million people, are aged over 50 and this number will increase in future years as the population ages, since this older group is increasingly diverse, possessing a range of skills, needs and concerns and making a wide range of contribution to society, and further since this is a testament to the immense social advances which have been made in Europe in social organization and improved social and economic conditions, so that as society ages the social and economic cost of age discrimination will increase for people of all ages if discrimination is permitted to persist.

(27) In the context of the Green Paper “Confronting demographic change: a new solidarity between the generations”<sup>9</sup>, the Commission asked how the Community instruments, in particular the legislative framework to combat discrimination, can contribute to deal with the challenges of demographic ageing of the European population.

(28) To ensure the development of democratic and tolerant societies which allow the participation of all persons irrespective of age, specific and comprehensive action in the field of discrimination based on age should go beyond access to employed and self-employed activities and cover areas such as education, social protection including social security and healthcare, social advantages and access to and supply of goods and services. This should include a strong legislative framework underpinned by actions to promote culture change and address discriminatory attitudes and behaviour.

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<sup>9</sup> Communication from the Commission: Green Paper “Confronting demographic change: a new solidarity between the generations” COM(2005) 94 final

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(29) To this end, any direct or indirect discrimination based on age as regards the areas covered by this Directive should be prohibited throughout the Community. This prohibition of discrimination should also apply to nationals of third countries, who are lawfully within the territories of Member States of the European Union, but is without prejudice to provisions based on nationality governing the entry and residence of third-country nationals and their access to employment and to occupation.

(30) As people experiencing age discrimination are also frequently affected by discrimination on other grounds including gender, race, disability, religion and sexual orientation and European Institutions and Member States should ensure that they address multiple discrimination.

(31) Moreover, as some member states have already made provision to prohibit discrimination in relation to access to goods, facilities and services on grounds of age and it is necessary to secure a minimum level of protection throughout the Union to prevent the undermining of the Community as a place where there is free movement of goods and services.

(32) Further as the Services Directive is intended to complete the Single Market, by ensuring a free market for services throughout Europe, so that there is significant benefit to both consumers and providers of creating a common framework of equality law to ensure fair competition and high quality of service delivery to individuals regardless of age.

(33) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the EC Treaty, the objective of this Directive, namely ensuring a common high level of protection against discrimination in all the Member States, cannot be sufficiently achieved by the Member States themselves and can therefore, by reason of the scale and impact of the proposed action, be better achieved by the Community. This Directive does not go beyond what is necessary in order to achieve those objectives.

(34) It is important to protect all natural persons against discrimination on grounds of age. Member States should also provide, where appropriate and in accordance with

their national traditions and practice, protection for legal persons where they suffer discrimination on grounds of the age of their members.

(35) The prohibition of discrimination should be without prejudice to the maintenance or adoption of measures intended to prevent or compensate for disadvantages suffered by a group of persons of a particular age, and such measures may permit organisations of persons of a particular age where their main object is the promotion of the special needs or the economic or social engagement of those persons.

(36) In very limited circumstances, a difference of treatment may be justified where a characteristic related to age constitutes a genuine and determining requirement, when the objective is legitimate and the requirement is proportionate. Such circumstances should be included in the information provided by the Member States to the Commission.

(37) Persons who have been subject to discrimination based on age should have adequate means of legal protection. To provide a more effective level of protection, associations or legal entities should also be empowered to engage, as the Member States so determine, either on behalf or in support of any victim, in proceedings, without prejudice to national rules of procedure concerning representation and defence before the courts.

(38) The effective implementation of the principle of equality requires adequate judicial protection against victimisation.

(39) The appreciation of the facts from which it may be inferred that there has been direct or indirect discrimination is a matter for national judicial or other competent bodies, in accordance with rules of national law or practice. Such rules may provide in particular for indirect discrimination to be established by any means including on the basis of statistical or expert evidence.

(40) The rules on the burden of proof must be adapted when there is a prima facie case of discrimination and, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the respondent when evidence of such discrimination is brought.

(41) Member States need not apply the rules on the burden of proof to proceedings in which it is for the court or other competent body to investigate the facts of the case. The procedures thus referred to are those in which the plaintiff is not required to prove the facts, which it is for the court or competent body to investigate.

(42) Member States should promote dialogue between the social partners and with non-governmental organisations to address different forms of discrimination, to raise awareness and to promote change in attitudes to age and to combat discrimination.

(43) Protection against discrimination based on age would itself be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims.

(44) This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. The implementation of this Directive should not serve to justify any regression in relation to the situation, which already prevails in each Member State.

(45) Member States should provide for effective, proportionate and dissuasive sanctions in case of breaches of the obligations under this Directive.

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

*Article 1*

**Purpose**

The purpose of this Directive is to lay down a framework for combating discrimination on the grounds of age, with a view to putting into effect in the member states the principle of equal treatment.

*Article 2*

**Concept of discrimination**

1. For the purposes of this Directive,
  - (a) the principle of equal treatment shall mean that there shall be no discrimination whatsoever based on age, whether direct or indirect,
  - (b) age includes chronological age, age group or age banding, where
    - i. chronological age means a specific age in length of years or months measured from birth, such as 10 or 10 years and 3 months.
    - ii. age banding means a specific age band such as over 65, or under 30 or teens [ i.e. for instance “de tieners” or “tonåringar”], or born between two dates, or after or before a specific date.
    - iii. age group means a group identified by a general description such as old or elderly, young or middle aged or adolescents [ie for instance “les ados” or “les adolescents”], or post-menopausal.
  - (c) treatment of a person shall be considered to be based on age whether or not the treatment is based on a correct knowledge of the person’s age, or correct inclusion in an age group or band, if it is based on an assumption as to, or guess or estimate of, or the perception of, that person’s age, or inclusion in an age group or band.
2. For the purposes of paragraph 1:

- (a) direct discrimination shall be taken to occur where a person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of age;
- (b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular age, at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.
3. Harassment shall be deemed to be discrimination within the meaning of paragraph 1, when an unwanted conduct related to age takes place with the purpose or effect of violating the dignity of a person or of creating an intimidating, hostile, degrading, humiliating or offensive environment. In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States.
  4. An instruction to discriminate against persons on grounds of age shall be deemed to be discrimination within the meaning of this Article.
  5. For the purposes of paragraph 2(a) treatment of a person shall be considered to be on grounds of age when the grounds for the treatment relate to the age of another person or other people with whom that first person is closely associated, and takes place by reason of that association.
  6. For the purposes of this Article a comparison of the case of a person of a particular age with that of a person not of that age must be such that the relevant circumstances in the one case are the same or not materially different to that of the other.
  7. For the purposes of this Article separate treatment of persons of different ages or from different age groups or different age bands whose circumstances are otherwise the same or not materially different shall be direct discrimination within the meaning of paragraph 2(a).

*Article 3*

**Scope**

1. Within the limits of the powers conferred upon the Community, and save only as otherwise excluded, this Directive shall apply to all persons, in relation to the access to, and supply of, all goods, facilities, and all services which are available to the public, including
  - a. housing,
  - b. education and life-long learning
  - c. health care and social care
  - d. insurance and financial services
  - e. retail services
  - f. transport
  - g. voluntary activity
  - h. licences and permits
  - i. social protection including social security and social advantages
  - j. advertising
  - k. communications, media and information
  - l. sport, culture and recreation
  
2. As regards public, private and non-governmental organisations including the voluntary sector and third sector and similar bodies and including public bodies, provided that the goods, facilities and services are offered outside the area of private and family life.
  
3. This Directive shall apply to decisions by public authorities within the scope of the Public Procurement Directive<sup>10</sup> to the extent that those decisions relate to the access to and supply of all goods, facilities, and all services by those authorities.

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<sup>10</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (30.04.2004)

4. This Directive does not cover differences of treatment in the provision of social security in so far as those differences are otherwise permitted by other legislation of the European Community.

*Article 4*

**Genuine and Determining Requirements**

1. Notwithstanding Article 2 Member States may provide that a difference of treatment which is based on one or more of chronological age, age banding or age groups, shall not constitute discrimination where the difference falls within in the scope of any of the permitted exceptions set out in this Article, provided that the exception is a genuine and determining requirement, the objective for the requirement is legitimate and the requirement is proportionate.
2. Member States may make exceptions in relation to the protection of, or services for, children, or those, who, according to the laws of the Member States, are not of full age, including
  - a. The access to films, plays, books and other media which are not suitable by reason for instance of the portrayal of pornography or violence,
  - b. The special needs of children in the delivery of preventative or other health care,
  - c. The sale of dangerous products such as alcohol or tobacco,
3. Member States may make exceptions in relation to laws and other legal rules that prohibit or limit the power of persons in an age band defined as being below a certain age to enter into contracts, or to give informed and binding consent to health treatments, provided that such age may not exceed the age at which such persons are enfranchised or 21, whichever is the lower age.
4. Member States may make exceptions in relation to primary and secondary education, however no discrimination on the grounds of age may be permitted

in relation to the provision of all forms of university, adult, or fresh start education,

5. Member States may maintain exceptions or establish laws and other administrative provisions which make exceptions by reference to age, in relation to
  - a. Shared private accommodation in cases such as the provision of accommodation by a person in a part of that person's home
  - b. Membership of religious bodies and rules relating to religious governance and observance.
6. Member States may maintain exceptions or establish laws and other administrative provisions which make exceptions by reference to age bands in relation to competitions and sports,
7. Member States may maintain exceptions or establish laws and other administrative provisions which make exceptions by reference to age bands defined by minimum chronological age in relation to
  - a. the use of all means of transport,
  - b. access to dangerous articles, such as guns, drugs, chemicals or machinery
  - c. access to alcohol and tobacco.
8. Member States may maintain exceptions or establish laws and other administrative provisions which make exceptions by reference to age group or age band in relation to charities, trusts, foundations, not-for-profit organisations and similar bodies, and their controlled subsidiaries or governmental bodies which have as a main purpose the welfare of a specific age group or age band.
9. Member States may maintain or establish laws and administrative provisions and programs in relation to social security insofar as they are designed to take into account the different needs and circumstances of different age groups or age bands, such as young children, youth, parents with children below certain ages and people over the relevant age requirement for eligibility for a pension.

10. Member States may make exceptions for the use of age as an actuarial factor, where the use of age is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data.

*Article 5*

**Positive action**

With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to age, age groups or age bands.

Nothing in this Directive shall be construed as prohibiting preferential treatment or the taking of positive measures which are bona fide intended to cater for the special needs of persons, or a category of persons, who, because of their circumstances, may require facilities, arrangements, services or assistance not required by persons who do not have those special needs.

In this context:

- 1) public private and non governmental providers of goods, facilities and services may impose and maintain and provide a proportionate preferential fee, charge or rate in respect of anything offered to persons in a particular age band where such provision aims to compensate for a specific disadvantage suffered by those in that age band or encourage the social inclusion of a substantial proportion of such an age band.

- 2) public and private providers of health care services can target their resources for preventative health care treatments to specific age groups or age bands within the population where it is shown that there is a particular health risk linked to the age group

or age band to which they belong and where such a treatment can be shown to significantly prevent illness for a large group within this age band or age group, provided that such derogation from the principle of equal treatment is proportionate and limited to a specific public health need such as screening or inoculation and does not provide a general exemption for the area of health.

*Article 6*

**Minimum requirements**

1. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.
2. The implementation of this Directive shall under no circumstances constitute grounds for a reduction in the level of protection against discrimination already afforded by Member States in the fields covered by this Directive.

CHAPTER II

REMEDIES AND ENFORCEMENT

*Article 7*

**Defence of rights**

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.
2. Member States shall introduce into their national legal systems such measures as are necessary to secure timely and effective access on a non-discriminatory basis to goods and services by pre-emptive procedures such as applications for “action en cessation”, interdict, injunction or similar expedited procedures, where urgency may be necessary.

3. Member States shall introduce into their national legal systems such measures as are necessary to ensure real and effective compensation or reparation as the Member States determine, for the loss and damage sustained by a person injured as a result of discrimination within the meaning of this Directive, in a way which is dissuasive and proportionate to the damage suffered. Such compensation or reparation shall not be restricted by the fixing of a prior upper limit.
4. Member States shall ensure that associations, organisations or other legal entities, which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.
5. Paragraphs 1 and 3 are without prejudice to national rules relating to time limits for bringing actions as regards the principle of equality of treatment.

*Article 8*

**Burden of proof**

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.
2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.
3. Paragraph 1 shall not apply to criminal procedures.
4. Paragraphs 1, 2 and 3 shall also apply to any proceedings brought in accordance with Article 7(2).

5. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.

*Article 9*

**Victimisation**

Member States shall introduce into their national legal systems such measures as are necessary to protect individuals from any adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing compliance with the principle of equal treatment.

*Article 10*

**Dissemination of information**

1. Member States shall take care that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the persons concerned by all appropriate means throughout their territory.
2. Member States shall take steps to promote and facilitate strategies to address ageist attitudes and behaviours and to combat age discrimination.

*Article 11*

**Social dialogue**

1. Member States shall, in accordance with national traditions and practice, take adequate measures to promote social dialogue with and between stakeholders with a view to fostering equal treatment, including through the monitoring of the access to and supply of all matters within the scope of this Directive, codes of conduct, research or exchange of experiences and good practices.

2. Where consistent with national traditions and practice, Member States shall encourage stakeholders without prejudice to their autonomy to conclude, at the appropriate level, agreements laying down anti-discrimination rules in the fields referred to in Article 3 which fall within the scope of national agreements as to service levels. These agreements shall respect the minimum requirements laid down by this Directive and the relevant national implementing measures.
3. Member States shall require public bodies to take action to combat age discrimination and promote equality.

*Article 12*

**Dialogue with non-governmental organisations**

Member States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of age with a view to promoting the principle of equal treatment.

*Article 13*

**Mainstreaming**

Member States shall actively take into account the objective of equal treatment without discrimination on ground of age when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in Article 3.

CHAPTER III

INDEPENDENT BODIES FOR THE PROMOTION OF EQUAL TREATMENT

*Article 14*

## **Proposed European Directive addressing age discrimination in goods, facilities and services**

1. Member States shall designate an independent body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of age. These independent bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights.
2. Member States shall ensure that the competencies of these independent bodies include:
  - without prejudice to the right of victims and of associations, organisations or other legal entities referred to in Article 7(4), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination,
  - conducting independent surveys concerning such discrimination,
  - publishing independent reports and making recommendations on any issue relating to such discrimination.

### CHAPTER IV

### FINAL PROVISIONS

#### *Article 15*

#### **Compliance**

Member States shall take the necessary measures to ensure that:

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;
- (b) any provisions contrary to the principle of equal treatment which are included in service level agreements, individual or collective contracts or agreements, internal rules of undertakings, rules governing profit-making or non-profit-making associations, and rules governing the independent professions and workers' and employers' organisations, are or may be declared, null and void or are amended.

*Article 16*

**Sanctions**

Member States shall lay down the rules on sanctions applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are applied. The sanctions, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by xxxx at the latest and shall notify it without delay of any subsequent amendment affecting these provisions.

*Article 17*

**Implementation**

Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by xxxx .

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

*Article 18*

**Report**

1. Member States shall communicate to the Commission by xxx, and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.
2. The Commission's report shall take into account, as appropriate, the views of the Fundamental Rights Agency, as well as the viewpoints of the social partners and relevant non-governmental organisations. In accordance with the principle of gender mainstreaming, this report shall, inter alia, provide an assessment of the impact of the measures taken on women and men. In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.

*Article 19*

**Entry into force**

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

*Article 20*

**Addressees**

This Directive is addressed to the Member States.

Done at xxxxxxxx, xx xxxxx 200x.

For the Council

The President

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