



October 2009

Fight discrimination and guarantee equality for all

A joint ETUC and Social Platform declaration to the EU and Member States

- 1. Adopt the proposed Article 13 Directive on non-discrimination outside employment and ensure the effective implementation of all EU Equal Treatment Directives**
- 2. Tackle remaining gender gaps and ensure gender mainstreaming,**
- 3. Mainstream equality in all EU policies**
- 4. Invest in strong social policies and public services that support equality**
- 5. Develop rights-based migration and integration policies**
- 6. Work in partnership with trade unions and civil society organisations**

ETUC and Social Platform believe that the fight for equality in Europe requires new legal and policy initiatives from the European Institutions and Member States as well as greater commitment to ensure equality in practice. This includes effective implementation of the current European Directives. Having come together in Budapest in June 25 to discuss their role in promoting equality for all, ETUC and Social Platform address this declaration to the European Institutions and the Swedish Presidency and call for:

- 1. Adoption by the European Council of the proposed Article 13 directive protecting against discrimination on the grounds of age, disability, religion or belief, and sexual orientation in all areas of life**

In order to give everyone the same legal protection from discrimination on the grounds covered by Article 13 of the EU Treaty and to avoid a hierarchy of grounds, this directive should have the same scope and the same level of protection as the Race Equality Directive 43/2000, and should be adopted within an adequate timeframe.

Why?

- Discrimination is a very serious infringement of a person's human rights. It can range from insult to physical violence, it may lead to the denial of basic services and other rights, and affects the lives and perspectives of millions of people across the European continent.
- There is sound and extensive evidence of discrimination based on any one of the grounds mentioned in Article 13 of the EC Treaty, and legislation is an important pre-condition to deal effectively with this discrimination.
- Article 21 of the EU Charter of Fundamental Rights also makes no distinction between any grounds of discrimination.
- Trade unions, civil society, the public, the European Commission, and 90% of respondents to the Commission's consultation are calling for it. Furthermore, the European Parliament supports it.
- The same protection for everybody, regardless of discrimination ground, is the simplest and fairest choice. A single instrument for the four grounds will ensure the same level of protection for all, avoid any unprincipled hierarchy of treatment between the different groups, ensure simplicity, transparency and coherence both for those whose rights are protected by it and those who have duties under it, and provide a context in which multiple discrimination can be more effectively dealt with. This would give Europe a strong and level playing field for all grounds of discrimination in all Member States.
- The European Commission must continue to ensure the adequate transposition and implementation of this legislation into Member State legislation. Standards should be set and enforced for the effectiveness and independence of equality bodies established under this legislation. Data should be gathered to track the impact of this legislation on discrimination under each of the grounds across the EU.

Despite any silent campaign that may seek to argue the contrary, challenges in implementing legislation at national level, due to cost or otherwise, cannot be a justification for disregarding human rights.

2. Tackle remaining gender gaps in gender equality policies and legislation and ensure gender mainstreaming

Gender equality constitutes a core field of activity for the EU based on specific Treaty provisions. A great deal of progress has been made, but much remains to be done.

- The existing legislative framework has to be strictly implemented and further strengthened, for example in the areas of equal pay and reconciliation of work and private life for both women and men, and to address discrimination of women in all areas of life. Therefore European gender equality legislation should be carefully reviewed and revised as soon as possible in order to provide the same scope and the same level of protection as the Race Equality Directive of 2000,
- Stronger commitments must be made to implement existing legislation in practice, invest in the necessary care infrastructures and promote women's participation in decision-making,

- In this period of economic crisis, special measures must be taken to ensure that women benefit from actions and activities to tackle unemployment, such as training and investment in jobs in public and private services.

To achieve this, gender mainstreaming in all policy areas is a key priority. ETUC and Social Platform call on the Commission and the presidency of the European Council to take this into account when drafting the new Roadmap on gender equality and when evaluating the Council's Gender Pact.

We also call on the EU institutions and Member States to always include the gender dimension in any further work on the revised Lisbon Strategy and the broader equality and diversity agenda.

Finally we draw attention to the need to include issues of gender identity and equal treatment of transgender people, which according to jurisprudence are already covered by gender equality rules, more effectively in gender equality policies and legislation.

3. Mainstreaming equality in all EU policies

Ensuring equality requires the EU to go beyond Article 13 which only covers six grounds of discrimination i.e. age, sex, race or ethnic origin, religion or belief, sexual orientation and disability. Both Article 14 of the European Convention on Human Rights and Article 21 of the EU Charter of Fundamental rights provide a non-exhaustive list of prohibited discrimination and include grounds such as social origin, genetic characteristics, trade union membership and political or any other opinion.

EU decision makers should adopt a broader approach to the fight against all type of discrimination. This means:

- Recognising the similarities as well as the differences between the different forms of discrimination on the various grounds, which must be respected and taken into account when developing a mainstreaming approach;
- Ensuring that the European Commission's impact assessment incorporates clear guidelines on the implementation of the EU Charter of Fundamental Rights and in particular with regard to gender equality, equality for all and non-discrimination. There should also be a requirement to consult with (organisations of) potentially affected groups;
- Establishing and requiring national gender equality and non discrimination benchmarking, evaluation and mainstreaming in all instruments, in particular those relating to the implementation of Structural Funds, public procurement, the Integrated Guidelines for Growth and Jobs, and the guidelines for the open method of coordination on social inclusion, social protection and pensions;
- Designing additional EU tools, instruments and Communications to implement the new Lisbon Treaty horizontal clauses on gender mainstreaming and anti-discrimination and the EU Charter of Fundamental Rights.

4. Invest in strong social policies and public services that support equality

Equality legislation and policies are important but not sufficient. Social inequality is on the rise, and exacerbates situations of discrimination. Strong, participative and inclusive social policies in the areas of employment, education and training, social security, housing, and care infrastructures are an essential pre-condition for a positive climate preventing and countering discrimination.

ETUC and Social Platform therefore call on the EU Institutions and the Swedish Presidency to take the necessary steps:

- to develop and implement the New Social Deal they have been calling for in recent times to tackle the economic crisis;
- to design additional EU legislation, tools, instruments and Communications to implement the new Lisbon Treaty horizontal clause on social mainstreaming and the fundamental social rights enshrined in the EU Charter of Fundamental Rights;
- to give the Protocol on Services of General Interest introduced by the Lisbon Treaty the fullest effect.

5. Develop rights-based migration and integration policies

The EU has an urgent duty to ensure the full implementation of the Article 13 Race Directive which is an essential component to counteract the problems of racism and xenophobia faced by black and ethnic minority European citizens and third country nationals both in society at large and in the world of work.

Rights based migration and integration policies are also essential to prevent and counteract xenophobia and racial and religious discrimination.

- EU and national policies should offer migrants legal channels for migration at all skills levels, protection against exploitation, and equal rights and opportunities in our societies. This could be achieved by guaranteeing fundamental social rights and access to services, supporting effective inclusion mechanisms promoting their labour market integration, while promoting social cohesion. These policies should be developed in close consultation with social partners and civil society and the migrants themselves at all relevant levels.
- These policies must be based on a clear framework of rights as established by UN and ILO conventions and Council of Europe instruments, and ensure humane treatment and respect of the human rights for everyone, including undocumented migrants and the most vulnerable groups of migrants such as unaccompanied minors.
- They should also offer both documented and undocumented migrants, refugees and those seeking asylum a clear and unambiguous framework of protection according to international human rights standards, taking into account that for some of them the reason for leaving their home country lies in the fact that they suffer from serious discrimination by the state, the society or their families.

ETUC and Social Platform call on the Swedish Presidency and the EU Commission and Council to take this into account when developing and implementing the new 'Stockholm programme' on Migration and Asylum this autumn.

6. A strong partnership with and regular consultation of civil society and trade unions at European and national level in the drafting, enacting, implementation and evaluation of equality and non discrimination policies – in particular regarding the preparation and organisation of the forthcoming Equality Summit in the autumn in Stockholm.

Policy making should not only be done for people but also with people.

Trade unions and civil society organisations should be recognized as having each a specific and complementary role in giving voice and representation to people inside the workplace, in the labour market, and in society at large, and should therefore be recognized and facilitated as important stakeholders to inform, consult and involve in any policy making and initiatives aimed at promoting equality.

ETUC and Social Platform call on the EU institutions and the Swedish as well as other upcoming EU Presidencies to strongly commit themselves to following up on this declaration.

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The ETUC exists to speak with a single voice, on behalf of the common interests of workers, at European level. Founded in 1973, it now represents 82 trade union organisations in 36 European countries, plus 12 industry-based federations.

Social Platform is the largest civil society alliance fighting for social justice and participatory democracy in Europe. Consisting of 42 pan-European networks of NGOs, Social Platform campaigns to ensure that EU policies are developed in partnership with the people they affect, respecting fundamental rights, promoting solidarity and improving lives.

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