



Race Equality Directive

European Commission, DG JUST.D1

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union



Directive 2000/43/EC – the Race Equality Directive

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

Addresses direct and indirect discrimination based on racial or ethnic origin, including harassment and sexual harassment

Applies to:

All persons (both in the public and private sectors)

Scope covered

- (a) **conditions for access to employment**, to **self-employment** and to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;*
- (b) access to all types and to all levels of **vocational guidance**, **vocational training**, advanced vocational training and retraining, including practical work experience;*
- (c) **employment and working conditions**, including dismissals and pay;*
- (d) membership of and involvement in an **organisation of workers or employers**, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations;*
- (e) social protection, including **social security and healthcare**;*
- (f) **social advantages**;*
- (g) **education**;*
- (h) **access to and supply of goods and services** which are available to the public, including **housing**.*

The Directive does not cover

- *Difference of treatment based on **nationality** (covered by other EU acquis)*
- *Provisions/conditions on **entry/residence of 3rd State nationals** and stateless on the national territory*

*Indirect discrimination accepted if **justified** by a legitimate aim, appropriate and necessary – not direct discrimination*

Genuine and determining occupational requirements OK

Positive action to prevent or compensate for disadvantages linked to racial or ethnic origin

May not be used to justify regression in the protection already offered in the Member State

Main features

- *Principle of equal treatment*
- *Legal and/or administrative remedies*
- *Sanctions: dissuasive, proportionate -> real and effective compensation*
- *Equality bodies' and other organisations' right to engage in support or on behalf of a complainant*
- *Burden of proof*

Equality body

Obligation under this and several other Directives to designate an equality body

Commission's recent Standards on equality bodies

De facto infringements

Infringements can occur

- *by legislation*
- *by government/regional provisions*
- *by court judgments if they have a "precedent" effect*
- *by de facto situations caused even by independent institutions*

C-154/08 Commission v Spain, Case C-129/00 Commission v Italy (inter alia)

Discrimination in access to education

- *Notion of discrimination also present in ECHR*
- *Settled case-law of the ECtHR: separate education of Roma children is in principle discriminatory (for example, Sampanis and Others v. Greece, application 32526/05, Sampani and Others v. Greece, application 59608/09 , and Lavidia and Others v Greece, application 7973/10).*

ECTHR

***Even in the absence of any discriminatory intention** from the State's side, a position which amounts to **making a permanent measure of the education of Roma children in a Roma-only school or class and abstain from actual de-segregation measures**, such as allocating Romani students to other schools or re-organising the catchment areas, **cannot be considered as objectively justified** by a legitimate objective (see *Lavida*, paragraph 73).*

Thank you for your attention!



Roma inclusion

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EU Framework for national Roma integration strategies (NRISs)

- **Aim:** close the gap between Roma and non-Roma in four key areas: education, employment, healthcare and housing
- Followed-up by **Council and European Council Conclusions**, inviting all Member States "to prepare, update or develop their national Roma inclusion strategies"

Council Recommendation on effective Roma integration measures (2013)

- ***Strengthening and complementing the EU Roma Framework***
- ***Aim***: guidance to Member States in enhancing the effectiveness of their measures to achieve Roma integration and strengthen the implementation of Roma integration strategies
- Sharpened focus on ***anti-discrimination***
- Introduction of ***annual reporting obligation*** on Member States

Council Conclusions on accelerating the process of Roma integration (Dec. 2016)

- *Re-confirmation of the commitment of the Member States*
- *Specific focus on Roma youth*
- *Called for a midterm review of the EU Framework for National Roma Integration Strategies up to 2020*

Mid-term review of the EU Framework for National Roma Integration Strategies up to 2020

- *Adopted on 30 August 2017*

- *Confirms:*

- Added value of the framework
- Relevance of EU Roma integration goals
- Continued need for a combination of targeted and mainstream approaches

Thank you for your attention!