

Introduction on the state of play¹

This is the third issue of the biannual European equality law review, produced by the European network of legal experts in gender equality and non-discrimination. This issue provides an overview of legal and policy developments across Europe, and reflects as far as possible the state of affairs from 1 July to 31 December 2015.

The aim of the European network of legal experts in gender equality and non-discrimination is to provide the European Commission and the general public with independent information regarding gender equality and non-discrimination law, and more specifically the transposition and implementation of the EU equality and non-discrimination Directives. In addition to this biannual review, the Network produces annual country reports, thematic reports and comparative analyses. All publications and other relevant information can be found on the Network's website: www.equalitylaw.eu.

In this issue

This third issue contains one section relating the most recent case law of the Court of Justice of the European Union and of the European Court of Human Rights and one section detailing the most recent developments in legislation, case law and policy on the national level,² as well as four in-depth analytical articles. In the field of non-discrimination law, Christopher McCrudden, the Network's senior expert on EU and human rights law, first provides an article examining the consequences and legal implications of a recent landmark decision of the Court of Justice of the EU,³ exploring whether the Court has redefined the concepts of direct and indirect discrimination, in particular with regard to the ground of racial or ethnic origin. Declan O'Dempsey has authored the second non-discrimination article which provides an up-to-date overview of the Court of Justice's rich and evolving body of case law on age discrimination in the employment field. In the field of gender equality, the first article is authored by Kevät Nousiainen, the Network's national gender equality expert for Finland, and discusses the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) and the EU, with a focus on converging standards on violence against women. The Network's acting specialist coordinator for gender equality, Alexandra Timmer, then provides an article examining gender stereotypes as they appear in the case law of the Court of Justice of the EU.

European policy developments⁴

In July 2015, the Council of Europe's Commission against Racism and Intolerance (ECRI) presented its Annual Report for 2014.⁵ The main trends noted in the report include a dramatic increase in antisemitism, Islamophobia, online hate speech and xenophobic political discourse, across Europe.

-
- 1 The work of the European Commission with regards to gender equality law can be followed on its website: <http://ec.europa.eu/justice/gender-equality/>. Similarly, its work related to tackling discrimination on racial or ethnic origin, religion or belief, disability, age and sexual orientation can be found here: <http://ec.europa.eu/justice/discrimination/>. All the Network's publications are available on the Commission website.
 - 2 On the basis of information provided by the national experts, Erin Jackson from Utrecht University drafted the sections regarding gender equality while Isabelle Chopin, Catharina Germaine and Jone I. Elizondo from the Migration Policy Group drafted those regarding anti-discrimination and made the final compilation.
 - 3 Case C-83/14 *CHEZ Razpredelenie Bulgaria AD v Komisia za zashtita ot diskriminatsia*, 16 July 2015.
 - 4 This section, as the rest of the Review, covers the period of 1 July to 31 December 2015.
 - 5 Annual report on ECRI's activities, covering the period from 1 January to 31 December 2014, CRI (2015) 26, available at: http://www.coe.int/t/dghl/monitoring/ecri/activities/Annual_Reports/Annual%20report%202014.pdf, last accessed 7 June 2016.

In October 2015, an important addition to the relatively weak body of equality data available in Europe was made as a special module of the Eurobarometer was published on Discrimination in the EU in 2015.⁶ The survey explores attitudes and perceptions of Europeans towards discrimination on the grounds of gender, ethnic origin, religion or belief, age, disability, sexual orientation and gender identity as well as their opinions on different policy measures to combat discrimination. In addition, the survey looks into the social acceptance of specific groups belonging to ethnic and religious minorities and of LGBT persons.

With regard to gender equality law, the European Commission held two public consultations during the period covered by this issue. The first was a public consultation on the implementation and application of Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security. It took place from 21 September to 14 December 2015, and welcomed views from citizens, stakeholders, EU Member States, EU institutions, and intergovernmental and non-governmental organisations, among others. The second consultation followed the Commission's publication of a Roadmap to address the challenges of work-life balance faced by working families⁷ and concerned possible actions to address the challenges of work-life balance faced by working parents and caregivers. A public questionnaire was made available on 25 November 2015 on the possible tools at EU level to support work-life balance.

In December 2015, the Commission showed its commitment to combating discrimination on the grounds of sexual orientation and gender identity by publishing its List of Actions to Advance LGBTI Equality.⁸ The publication is to be implemented during the period 2016-2019 and contains a number of measures within areas such as improving rights and ensuring legal protection; monitoring and enforcement of existing rights; reaching citizens, fostering diversity and non-discrimination; and supporting key actors responsible for promoting and advancing equal rights for LGBTI people in the EU.

In addition, the Commission also published the Strategic Engagement for Gender Equality 2016-2019 in December 2015.⁹ The report outlines the Commission's commitment to and strategy for promoting equality between men and women. The Commission outlines a reference framework for increased effort at all levels based on the continuation of five key areas of action from the 2010-2015 strategy: equal economic independence for women and men; equal pay for work of equal value; equality in decision-making; dignity, integrity and ending gender-based violence; and promoting gender equality beyond the EU.

Recent Network publications

The Network has recently published four thematic reports; two concerning gender equality law and two concerning non-discrimination law. The two latter reports are complementary as they both concern duties to provide reasonable accommodation for persons with disabilities. The first was authored by Delia Ferri and Anna Lawson and provides a legal analysis of the duties of employers to provide reasonable accommodation for job seekers and employees with disabilities.¹⁰ The second was authored by Lisa Waddington and Andrea Broderick and looks into duties to provide reasonable accommodation for

6 Special Eurobarometer 437 "Discrimination in the EU in 2015", available at: <http://ec.europa.eu/COMMFrontOffice/PublicOpinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2077>, last accessed 24 May 2016.

7 http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_just_012_new_initiative_replacing_maternity_leave_directive_en.pdf.

8 The list, published on 7 December 2015, is available at: http://ec.europa.eu/justice/discrimination/files/lgbti_actionlist_en.pdf, last accessed 24 May 2016.

9 The report is available at: http://ec.europa.eu/justice/gender-equality/document/files/strategic_engagement_en.pdf, accessed 17 May 2016.

10 Ferri, D., Lawson, A. (2016), *Reasonable accommodation for disabled people in employment*, European network of legal experts in gender equality and non-discrimination, available at: <http://www.equalitylaw.eu/downloads/3724-reasonable-accommodation-for-disabled-people-in-employment>, last accessed 24 May 2016.

persons with disabilities beyond the employment field, across the EU Member States.¹¹ The first thematic report on gender equality is ‘Legal implications of EU accession to the Istanbul Convention’.¹² Authored by Kevät Nousiainen and Christine Chinkin, the thematic report clarifies the legal preconditions and impact of the possible accession of the EU to the Istanbul Convention. It also considers the Convention in relation to EU law and describes the current positions of the 28 EU Member States. The second thematic report, authored by Aileen McColgan, provides a comparative analysis of the extent to which 31 European states have adopted measures that promote the reconciliation of working and private and family life. The report, ‘Measures to address the challenges of work-life balance in the EU Member States, Iceland, Liechtenstein and Norway’,¹³ focusses specifically on measures (such as flexible working arrangements, family-related leave and carers’ leave) which go beyond those required by EU law.

In addition, two country reports for each of the 35 countries of the Network, one for gender equality law and one for non-discrimination law, as well as executive summaries translated into French and German, have been finalised and are now available on the Network’s website (www.equalitylaw.eu). They are authored by the Network’s national experts and provide a detailed overview of the relevant legal frameworks including case law. Finally, on the basis of the country reports produced in 2015, one comparative analysis for each of the two strands of the Network have been published.¹⁴ They provide a detailed analysis of the transposition and implementation across the 35 countries of the Network of EU non-discrimination law, on the one hand, and of gender equality law on the other.

Alexandra Timmer
Utrecht University

Isabelle Chopin
Migration Policy Group

Marcel Zwamborn
Human European Consultancy

-
- 11 Waddington, L., Broderick, A. (2016), *Disability law and reasonable accommodation beyond employment*, European network of legal experts in gender equality and non-discrimination, available at: <http://www.equalitylaw.eu/downloads/3795-disability-law-and-reasonable-accommodation-beyond-employment>, last accessed 24 May 2016.
- 12 Chinkin, C., Nousiainen, K. (2016), *Legal implications of EU accession to the Istanbul Convention*, European network of legal experts in gender equality and non-discrimination, available at: <http://www.equalitylaw.eu/downloads/3794-legal-implications-of-eu-accession-to-the-istanbul-convention>, accessed 17 May 2016.
- 13 McColgan, A., (2015), *Measures to address the challenges of work-life balance in the EU Member States, Iceland, Liechtenstein and Norway*, European network of legal experts in gender equality and non-discrimination, available at: <http://www.equalitylaw.eu/downloads/3631-reconciliation>, accessed 17 May 2016.
- 14 Chopin, I., Germaine, C. (2016), *A comparative analysis of non-discrimination law in Europe 2015*, European network of legal experts in gender equality and non-discrimination and Timmer, A., Senden, L. (2016), *A comparative analysis of gender equality law in Europe 2015*, European network of legal experts in gender equality and non-discrimination, both available at <http://www.equalitylaw.eu/publications/comparative-analyses>, last accessed 24 May 2016.