COUNCIL DIRECTIVE

of 9 February 1976

on the implementation of the principle of equal treatment for men and women
as regards access to employment, vocational training and promotion, and
working conditions

(76/207/EEC)

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community, and in particular Article 235
thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parlia-
ment (1),

Having regard to the opinion of the Economic and
Social Committee (2),

Whereas the Council, in its resolution of 21 January
1974 concerning a social action programme (3),
included among the priorities action for the purpose of
achieving equality between men and women as
regards access to employment and vocational training
and promotion and as regards working conditions,
including pay;

Whereas, with regard to pay, the Council adopted on
10 February 1975 Directive 75/117/EEC on the
approximation of the laws of the Member States
relating to the application of the principle of equal
pay for men and women (4);

Whereas Community action to achieve the principle
of equal treatment for men and women in respect of
access to employment and vocational training and
promotion and in respect of other working conditions
also appears to be necessary; whereas, equal treatment
for male and female workers constitutes one of the
objectives of the Community, in so far as the harmoni-
zation of living and working conditions while main-
taining their improvement are inter alia to be
furthered; whereas the Treaty does not confer the
necessary specific powers for this purpose;

Whereas the definition and progressive implementa-
tion of the principle of equal treatment in matters of
social security should be ensured by means of subse-
quent instruments,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The purpose of this Directive is to put into effect
in the Member States the principle of equal treatment
for men and women as regards access to employment,
including promotion, and to vocational training and
as regards working conditions and, on the conditions
referred to in paragraph 2, social security. This prin-
ciple is hereinafter referred to as ‘the principle of equal
treatment.’

2. With a view to ensuring the progressive imple-
mentation of the principle of equal treatment in
matters of social security, the Council, acting on a
proposal from the Commission, will adopt provisions
defining its substance, its scope and the arrangements
for its application.

Article 2

1. For the purposes of the following provisions, the
principle of equal treatment shall mean that there
shall be no discrimination whatsoever on grounds of
sex either directly or indirectly by reference in par-
icular to marital or family status.

2. This Directive shall be without prejudice to the
right of Member States to exclude from its field of
application those occupational activities and, where
appropriate, the training leading thereto, for which,
by reason of their nature or the context in which they are
carried out, the sex of the worker constitutes a deter-
mining factor.

3. This Directive shall be without prejudice to prov-
isions concerning the protection of women, particu-
larly as regards pregnancy and maternity.

4. This Directive shall be without prejudice to
measures to promote equal opportunity for men and
women, in particular by removing existing inequalities
which affect women’s opportunities in the areas
referred to in Article 1 (1).

Article 3

1. Application of the principle of equal treatment means that there shall be no discrimination whatsoever on grounds of sex in the conditions, including selection criteria, for access to all jobs or posts, whatever the sector or branch of activity, and to all levels of the occupational hierarchy.

2. To this end, Member States shall take the measures necessary to ensure that:

(a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished;

(b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended;

(c) those laws, regulations and administrative provisions contrary to the principle of equal treatment when the concern for protection which originally inspired them is no longer well founded shall be revised; and that where similar provisions are included in collective agreements labour and management shall be requested to undertake the desired revision.

Article 4

Application of the principle of equal treatment with regard to access to all types and to all levels, of vocational guidance, vocational training, advanced vocational training and retraining, means that Member States shall take all necessary measures to ensure that:

(a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished;

(b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended;

(c) without prejudice to the freedom granted in certain Member States to certain private training establishments, vocational guidance, vocational training, advanced vocational training and retraining shall be accessible on the basis of the same criteria and at the same levels without any discrimination on grounds of sex.

Article 5

1. Application of the principle of equal treatment with regard to working conditions, including the conditions governing dismissal, means that men and women shall be guaranteed the same conditions without discrimination on grounds of sex.

2. To this end, Member States shall take the measures necessary to ensure that:

(a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished;

(b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended;

(c) those laws, regulations and administrative provisions contrary to the principle of equal treatment when the concern for protection which originally inspired them is no longer well founded shall be revised; and that where similar provisions are included in collective agreements labour and management shall be requested to undertake the desired revision.

Article 6

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply to them the principle of equal treatment within the meaning of Articles 3, 4 and 5 to pursue their claims by judicial process after possible recourse to other competent authorities.

Article 7

Member States shall take the necessary measures to protect employees against dismissal by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment.

Article 8

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 employees by all appropriate means, for example at their place of employment.

Article 9

1. Member States shall put into force the laws, regulations and administrative provisions necessary in order to comply with this Directive within 30 months of its notification and shall immediately inform the Commission thereof.

However, as regards the first part of Article 3 (2)(c) and the first part of Article 5 (2)(c), Member States shall carry out a first examination and if necessary a first revision of the laws, regulations and administrative provisions referred to therein within four years of notification of this Directive.
2. Member States shall periodically assess the occupational activities referred to in Article 2 (2) in order to decide, in the light of social developments, whether there is justification for maintaining the exclusions concerned. They shall notify the Commission of the results of this assessment.

3. Member States shall also communicate to the Commission the texts of laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

Article 10
Within two years following expiry of the 30-month period laid down in the first subparagraph of Article 9 (1), Member States shall forward all necessary information to the Commission to enable it to draw up a report on the application of this Directive for submission to the Council.

Article 11
This Directive is addressed to the Member States.

Done at Brussels, 9 February 1976.

For the Council
The President
G. THORN