

## **B. Non-discrimination and equal treatment**

### **1) Fight against racism and xenophobia**

*a. Resolution of the Council and the representatives of Member States' Governments meeting within the Council of 23 October 1995 on the response of educational systems to the problems of racism and xenophobia*

*Official Journal C 312, 23/11/1995 P. 0001 – 0003*

#### I. General considerations

Education and training have a role of great importance involving efforts at local, national and European levels for combating racism and xenophobia.

A fundamental task of educational systems is to promote respect for all people, whatever their cultural origin or religious beliefs. Moreover, they can make a unique contribution to improving knowledge of European cultural diversity.

(...)

#### II. The role of the educational systems in contributing to the struggle against racist and xenophobic attitudes

(...)

Educational systems are able to make a valuable contribution to the promotion of respect, tolerance and solidarity towards individuals or collectivities of different ethnic or cultural origin or religious beliefs by measures such as the following: (...)

In conclusion, THE COUNCIL AND REPRESENTATIVES OF THE MEMBER STATES' GOVERNMENTS:

INVITE the Commission, in cooperation with the Member States:

(...)

3. to assist in the exchange of experience by collecting and disseminating information about the contribution of European educational systems in combating racism and xenophobia and the integration of people of different ethnic, cultural and religious backgrounds;

*b. Resolution of the Council and the representatives of the Governments of the Member States, meeting within the Council of 5 October 1995 on the fight against racism and xenophobia in the fields of employment and social affairs*

*Official Journal C 296, 10/11/1995 P. 0013 – 0014*

*[Whereas]*

Whereas, in its resolution of 19 January 1995 on the White Paper (5) on European Social Policy, the European Parliament urged the Commission 'to put forward proposals to safeguard people's equal employment opportunities, irrespective of their age, race, sex, disability or beliefs';

(...)

Whereas this resolution affects neither Community law, particularly with respect to the free movement of persons, nor the relevant national provisions, particularly with respect to social security, right of residence and access to employment, applicable to persons not covered by Community law,

1. CONDEMN in the strongest terms racism, xenophobia and anti-semitism in all their forms, flagrant breaches of individual rights, and religious intolerance, particularly in the fields of employment and social affairs;

(...)

4. NOTE with interest that the Council is studying measures aimed at:

(a) making any incitement to racial or religious discrimination, violence or hatred a criminal offence under the Member States' national laws;

(...)

7. CALL UPON the Member States, account being taken of the recommendations made by the Consultative Commission on Racism and Xenophobia, to make progress towards achieving the following common objectives:

(a) guaranteeing protection for persons against all forms of discrimination on grounds of race, colour, religion or national or ethnic origin;

(...)

(e) promoting adherence to democratic principles and human rights, and the principle of cultural and religious diversity among young people and the general public in Europe;

***c. Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 29 May 1990 on the fight against racism and xenophobia***

*Official Journal C 157, 27/06/1990 P. 0001 – 0003*

*[Whereas]*

Whereas, on 11 June 1986, the European Parliament, the Council, the Representatives of the Member States, meeting within the Council, and the Commission, recognizing "the existence and growth of xenophobic attitudes, movements and acts of violence in the Community which are often directed against immigrants", adopted a declaration against racism and xenophobia (6) "vigorously condemning all forms of intolerance, hostility and use of force against persons or groups of persons on the grounds of racial, religious, cultural, social or national differences ; and looking upon it as indispensable that all necessary steps be taken to guarantee that their joint resolve to protect the individuality and dignity of every member of society and to reject any form of segregation of foreigners be carried through";

***d. Declaration against racism and xenophobia***

*Official Journal C 158, 25/06/1986 P. 0001 – 0003*

THE EUROPEAN PARLIAMENT, THE COUNCIL, THE REPRESENTATIVES OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL, AND THE COMMISSION,

(...)

1. vigorously condemn all forms of intolerance, hostility and use of force against persons or groups of persons on the grounds of racial, religious, cultural, social or national differences.

(...)

## 2) Non-discrimination and equal treatment in professional life

***a. Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State***

*Official Journal L 343, 23/12/2011 P. 0001 – 0009*

*[Whereas]*

(29) Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation in particular in accordance with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

***b. Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work***

*Official Journal L 327, 05/12/2008 P. 0009 – 0014*

## CHAPTER II - EMPLOYMENT AND WORKING CONDITIONS

### *Article 5*

The principle of equal treatment

1. The basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job.

For the purposes of the application of the first subparagraph, the rules in force in the user undertaking on:

- (a) protection of pregnant women and nursing mothers and protection of children and young people; and
- (b) equal treatment for men and women and any action to combat any discrimination based on sex, race or ethnic origin, religion, beliefs, disabilities, age or sexual orientation;

must be complied with as established by legislation, regulations, administrative provisions, collective agreements and/or any other general provisions.

***c. Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund***

*Official Journal L 406, 30/12/2006 P. 0001 – 0006, last amended by Regulation (EC) No 546/2009 of the European Parliament and of the Council of 18 June 2009, Official Journal L 167, 29/06/2009 P. 0026 – 0029*

### *Article 7 Equality between men and women and non-discrimination*

The Commission and the Member States shall ensure that equality between men and women and the integration of the gender perspective are promoted during the various stages of implementation of the EGF. The Commission and the Member States shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of the implementation of and, in particular, in access to, the EGF.

***d. Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services***

*Official Journal L 373, 21/12/2004 P. 0037 – 0043*

*[Whereas]*

(3) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context and the freedom of religion.

***e. Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities***

*Official Journal L 124, 27/04/2004 P. 0001 – 0118*

**Annex I Amendments to the staff regulations of officials of the European Communities**

The Staff Regulations of officials of the European Communities are amended as follows:

1) (...)

3) the former Article 1a becomes Article 1d and is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. In the application of these Staff Regulations, 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.

For the purposes of these Staff Regulations, non-marital partnerships shall be treated as marriage provided that all the conditions listed in Article 1(2)(c) of Annex VII are fulfilled.";

(...)

30) Article 26 is amended as follows:

(a) in the third paragraph, the following is added after the word "letter": "to the last address communicated by the official.";

(b) the fourth paragraph is replaced by the following: "An official's personal file shall contain no reference to his political, trade union, philosophical or religious activities and views, or to his racial or ethnic origin or sexual orientation.

The preceding paragraph shall not however prohibit the insertion in the file of administrative acts and documents known to the official which are necessary for the application of these Staff Regulations.";

(...)

**Annex II Amendments to the conditions of employment of other servants of the European Communities**

The Conditions of Employment of other servants of the European Communities are hereby amended as follows:

45) the existing Title IV becomes Title V and the following Title is inserted:

"TITLE IV CONTRACT STAFF

CHAPTER 3 CONDITIONS OF ENGAGEMENT

Article 82

1. Contract staff shall be selected on the broadest possible geographical basis from among nationals of Member States and without distinction as to racial or ethnic origin, political, philosophical or religious beliefs, age or disability, gender or sexual orientation and without reference to their marital status or family situation.

***f. Code of Conduct of the European Central Bank in accordance with Article 11.3 of the Rules of Procedure of the European Central Bank***

*Official Journal C 076, 08/03/2001 P. 0012 – 0015*

**2. Basic principles**

***2.1. Equal treatment and non-discrimination (1)***

The addressees should avoid any form of discrimination and, in particular, any discrimination based on race, nationality, gender, age, physical disability, sexual preference, political opinions, philosophical views or religious convictions.

***g. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation***

*Official Journal L 303, 02/12/2000 P. 0016 – 0022*

*[Whereas]*

(...)

(11) Discrimination based on religion or belief, disability, age or sexual orientation may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and social protection, raising the standard of living and the quality of life, economic and social cohesion and solidarity, and the free movement of persons.

(12) To this end, any direct or indirect discrimination based on religion or belief, disability, age or sexual orientation 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 but does not cover differences of treatment based on nationality and is without prejudice to provisions governing the entry and residence of third-country nationals and their access to employment and occupation.

(...)

(23) In very limited circumstances, a difference of treatment may be justified where a characteristic related to religion or belief, disability, age or sexual orientation constitutes a genuine and determining occupational 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.

(24) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. With this in view, Member States may maintain or lay down specific provisions on genuine, legitimate and justified occupational requirements which might be required for carrying out an occupational activity.

(...)

(26) 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 religion or belief, disability, age or sexual orientation, and such measures may permit organisations of persons of a particular religion or belief, disability, age or sexual orientation where their main object is the promotion of the special needs of those persons.

(...)

(29) Persons who have been subject to discrimination based on religion or belief, disability, age or sexual orientation 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 in proceedings, as the Member States so determine,

either on behalf or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.

(...)

(31) 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. However, it is not for the respondent to prove that the plaintiff adheres to a particular religion or belief, has a particular disability, is of a particular age or has a particular sexual orientation.

(...)

## **Chapter I General provisions**

### *Article 1 Purpose*

The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, 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, the "principle of equal treatment" shall mean that there shall be no direct or indirect discrimination whatsoever on any of the grounds referred to in Article 1.

2. For the purposes of paragraph 1:

(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on any of the grounds referred to in Article 1;

(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons having a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons unless:

(i) that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary, or

(ii) as regards persons with a particular disability, the employer or any person or organisation to whom this Directive applies, is obliged, under national legislation, to take appropriate measures in line with the principles contained in Article 5 in order to eliminate disadvantages entailed by such provision, criterion or practice.

3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and 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 any of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.

5. This Directive shall be without prejudice to measures laid down by national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and for the protection of the rights and freedoms of others.

### *Article 4 Occupational requirements*

(...)

2. Member States may maintain national legislation in force at the date of adoption of this Directive or provide for future legislation incorporating national practices existing at the date of adoption of this Directive pursuant to which, in the case of occupational activities within churches and other public or private organisations the ethos of which is based on religion or belief, a difference of treatment based on a person's religion or belief shall not constitute discrimination where, by reason of the nature of these activities or of the context in which they are carried out, a person's religion or belief constitute a genuine, legitimate and justified occupational requirement, having regard to the organisation's ethos. This difference of treatment shall be implemented taking account of

Member States' constitutional provisions and principles, as well as the general principles of Community law, and should not justify discrimination on another ground.

Provided that its provisions are otherwise complied with, this Directive shall thus not prejudice the right of churches and other public or private organisations, the ethos of which is based on religion or belief, acting in conformity with national constitutions and laws, to require individuals working for them to act in good faith and with loyalty to the organisation's ethos.

### **Chapter III Particular provisions**

#### *Article 15 Northern Ireland*

1. In order to tackle the under-representation of one of the major religious communities in the police service of Northern Ireland, differences in treatment regarding recruitment into that service, including its support staff, shall not constitute discrimination insofar as those differences in treatment are expressly authorised by national legislation.

2. In order to maintain a balance of opportunity in employment for teachers in Northern Ireland while furthering the reconciliation of historical divisions between the major religious communities there, the provisions on religion or belief in this Directive shall not apply to the recruitment of teachers in schools in Northern Ireland in so far as this is expressly authorised by national legislation.

#### ***h. Council Regulation (EC, ECSC, Euratom) No 781/98 of 7 April 1998 amending the Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Communities in respect of equal treatment***

*Official Journal L 113, 15/04/1998 P. 0004 – 0005*

#### *Article 1*

The Staff Regulations of officials of the European Communities are hereby amended as follows:

1. The following Article shall be inserted after Article 1:

##### Article 1a

1. Officials shall be entitled to equal treatment under these Staff Regulations without reference, direct or indirect, to race, political, philosophical or religious beliefs, sex or sexual orientation, without prejudice to the relevant provisions requiring a specific marital status.

(...)

2. The second paragraph of Article 27 shall be replaced by the following:

'Officials shall be selected without distinction as to race, political, philosophical or religious beliefs, sex or sexual orientation and without reference to their marital status or family situation.'

#### *Article 2*

The conditions of employment of other servants of the European Communities are hereby amended as follows:  
(...)

2. the second subparagraph of Article 12(1) shall be replaced by the following:

'Temporary staff shall be selected without distinction as to race, political, philosophical or religious beliefs, sex or sexual orientation and without reference to their marital status or family situation.' (...)

*i. Council Regulation (ECSC, EEC, Euratom) No 1860/76 of 29 June 1976 laying down the Conditions of Employment of Staff of the European Foundation for the Improvement of Living and Working Conditions Official Journal L 214, 06/08/1976 P. 0024– 0046, last amended by Council Regulation (Euratom, ECSC, EEC) No 680/87 of 23 February 1987, Official Journal L 072, 14/03/1987 P. 0015 – 0028*

### **Chapter 3 Conditions of engagement**

#### *Article 23*

1. The engagement of staff shall be directed to securing for the Foundation the services of persons of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of the Member States of the European Communities.

Staff shall be selected without reference to race, creed or sex.

(...)



### **3) Non-discrimination in public administration**

#### ***a. Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)***

*Official Journal L 243, 15/09/2009 P. 0001 – 0058, last amended by Regulation (EU) No 154/2012 of the European Parliament and of the Council of 15 February 2012, Official Journal L 058, 29/02/2012, p. 0003–0004*

## **TITLE III PROCEDURES AND CONDITIONS FOR ISSUING VISAS**

### **CHAPTER II Application**

#### *Article 14 Supporting documents*

1. When applying for a uniform visa, the applicant shall present:

(...)

## **TITLE IV ADMINISTRATIVE MANAGEMENT AND ORGANISATION**

#### *Article 39 Conduct of staff*

1. Member States' consulates shall ensure that applicants are received courteously.

2. Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.

3. While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

### **ANNEX II Non-exhaustive list of supporting documents**

The supporting documents referred to in Article 14, to be submitted by visa applicants may include the following:

#### **A. DOCUMENTATION RELATING TO THE PURPOSE OF THE JOURNEY**

(...)

4. for journeys undertaken for political, scientific, cultural, sports or religious events or other reasons:

- invitation, entry tickets, enrolments or programmes stating (wherever possible) the name of the host organisation and the length of stay or any other appropriate document indicating the purpose of the journey;

### **ANNEX X LIST OF MINIMUM REQUIREMENTS TO BE INCLUDED IN THE LEGAL INSTRUMENT IN THE CASE OF COOPERATION WITH EXTERNAL SERVICE PROVIDERS**

(...)

B. In relation to the performance of its activities, the external service provider shall, with regard to the conduct of staff:

(a) ensure that its staff are appropriately trained;

(b) ensure that its staff in the performance of their duties:

- receive applicants courteously,

- respect the human dignity and integrity of applicants,

- do not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and

- respect the rules of confidentiality which shall also apply once members of staff have left their job or after suspension or termination of the legal instrument;

(...)

***b. Regulation (EC) No 390/2009 of the European Parliament and of the Council of 23 April 2009 amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications***

*Official Journal L 131, 28/05/2009 P. 0001 – 0010, last amended by Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009, Official Journal L 243, 15/09/2009 P. 0001 – 0058*

*[Whereas]*

(1) To ensure the reliable verification and identification of applicants, it is necessary to process biometric data in the Visa Information System (VIS) established by Council Decision 2004/512/EC [3] and to provide for a legal framework for the collection of these biometric identifiers. Furthermore, the implementation of the VIS requires new forms of organisation for the reception of visa applications.

(...)

*Article 1 Amendments to the Common Consular Instructions*

The Common Consular Instructions on visas for diplomatic missions and consular posts are hereby amended as follows:

(...)

2. Part III shall be amended as follows:

(...)

(b) The following point shall be added:

"5. Conduct of staff

Member States' diplomatic missions or consular posts shall ensure that applicants are received courteously.

Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.

While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

(...)

5. The following Annex shall be added:

"ANNEX 19

List of minimum requirements to be included in the legal instrument in the case of cooperation with external service providers

(...)

B. In relation to the performance of its activities, the external service provider shall, with regard to the conduct of staff:

(a) ensure that its staff are appropriately trained;

(b) ensure that its staff in the performance of their duties:

- receive applicants courteously,

- respect the human dignity and integrity of applicants,

- do not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and

- respect the rules of confidentiality which shall also apply once members of staff have left their job or after suspension or termination of the legal instrument;

***c. Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals***

*Official Journal L 348, 24/12/2008 P. 0098 – 0107*

*[Whereas]*

(21) Member States should implement this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, property, birth, disability, age or sexual orientation.

***d. Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)***

*Official Journal L 218, 13/08/2008 P. 0060 – 0081, last amended by Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009, Official Journal L 243, 15/09/2009 P. 0001 – 0058*

*[Whereas]*

(12) Any processing of VIS data should be proportionate to the objectives pursued and necessary for the performance of the tasks of the competent authorities. When using the VIS, the competent authorities should ensure that the human dignity and integrity of the persons whose data are requested are respected and should not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

(...)

## **CHAPTER I - GENERAL PROVISIONS**

### *Article 7 - General principles*

1. Each competent authority authorised to access the VIS in accordance with this Regulation shall ensure that the use of the VIS is necessary, appropriate and proportionate to the performance of the tasks of the competent authorities.

2. Each competent authority shall ensure that in using the VIS, it does not discriminate against applicants and visa holders on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation and that it fully respects the human dignity and the integrity of the applicant or of the visa holder.

***e. Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers***

*Official Journal L 199, 31/07/2007 P. 0030 – 0039*

*[Whereas]*

(16) This Regulation contributes to the correct application of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). To this end, members of the teams and guest officers, while carrying out border checks and surveillance, should not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Any measures taken in the

performance of their tasks and in the exercise of their powers should be proportionate to the objectives pursued by such measures.

(...)

#### *Article 6 - Tasks and powers of the members of the teams*

2. Members of the teams shall, in the performance of their tasks and in the exercise of their powers, fully respect human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, members of the teams shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

#### ***f. Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)***

*Official Journal L 105, 13/04/2006 P. 0001 – 0032, last amended by Decision of the Council of the European Union of 5 December 2011, Official Journal L 112, 24/04/2012 P. 0006 – 0110*

## **Title II External Borders**

### **Chapter I Crossing of external borders and conditions for entry**

#### *Article 5 Entry conditions for third-country nationals*

1. For stays not exceeding three months per six-month period, the entry conditions for third-country nationals shall be the following: (...)

2. A non-exhaustive list of supporting documents which the border guard may request from the third-country national in order to verify the fulfilment of the conditions set out in paragraph 1, point c, is included in Annex I. (...)

### **Chapter II Control of external borders and refusal of entry**

#### *Article 6 Conduct of border checks*

1. Border guards shall, in the performance of their duties, fully respect human dignity.

Any measures taken in the performance of their duties shall be proportionate to the objectives pursued by such measures.

2. While carrying out border checks, border guards shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

### **Annex I Supporting documents to verify the fulfilment of entry conditions**

The documentary evidence referred to in Article 5(2) may include the following:

(...)

(d) for journeys undertaken for political, scientific, cultural, sports or religious events or other reasons:

invitations, entry tickets, enrolments or programmes stating wherever possible the name of the host organisation and the length of stay or any other appropriate document indicating the purpose of the visit.

**g. Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union**

*Official Journal L 349, 25/11/2004 P. 0001 – 0011, last amended by Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011, Official Journal L 304, 22/11/2011 P. 0001 - 0017*

## **CHAPTER II TASKS**

*Article 3b Composition and deployment of European Border Guard Teams*

4. Members of the European Border Guard Teams shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, including access to asylum procedures, and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, they shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

**h. Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland)**

*Official Journal L 166, 30/04/2004 P. 0001– 0123, last amended by Regulation (EU) No 1224/2012 of the Commission of 18 December 2012, Official Journal L 349 , 19/12/2012 P. 0045 - 0046*

## **TITLE I GENERAL PROVISIONS**

*Article 3 Matters covered*

(...)

5. This Regulation shall not apply to:

(a) social and medical assistance or

(b) benefits in relation to which a Member State assumes the liability for damages to persons and provides for compensation, such as those for victims of war and military action or their consequences; victims of crime, assassination or terrorist acts; victims of damage occasioned by agents of the Member State in the course of their duties; or victims who have suffered a disadvantage for political or religious reasons or for reasons of descent.

**i. Code of good administrative behaviour in the Community Plant Variety Office**

*Official Journal C 371, 23/12/2000 P. 0014 – 0017*

*Article 5 Absence of discrimination*

1. In dealing with requests from the public and in taking decisions, an official shall ensure that the principle of equality of treatment is respected. Members of the public who are in the same situation shall be treated to a similar manner.

(...)

3. In particular, an official shall avoid any unjustified discrimination between members of the public based on nationality, sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*j. Guide to the obligations of officials and other servants of the European Parliament (Code of conduct)*

*Official Journal C 097, 05/04/2000 P. 0001 – 0012*

**III. Relations with citizens**

4. When handling a request or matter in the performance of their duties, officials and other servants shall refrain at all times from practising any form of discrimination on the grounds of nationality, sex, race or ethnic origin, culture, religion, age, language, sexual orientation, or physical condition. They shall likewise take care never to abuse the powers conferred on them when carrying out their duties.

*k. Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service*

*Official Journal L 015, 21/01/1998 P. 0014 – 0025, last amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008, Official Journal L 052, 27/02/2008 P. 0003 – 0020*

**Chapter 2 Universal service**

*Article 5*

1. Each Member State shall take steps to ensure that universal service provision meets the following requirements:

(...)

- it shall be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations.

(...)

#### **4) Non-discrimination in development aid**

##### ***a. Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA)***

*Official Journal L 170, 29/06/2007 P. 0001 – 0066, last amended by Commission Implementing Regulation (EU) No 813/2012 of 12 September 2012, Official Journal L 247, 13/09/2011 P. 0012 - 0012*

##### *Article 3 Principles of assistance*

The Commission shall ensure that the following principles apply in relation to assistance under the IPA Regulation:

- Assistance granted shall respect the principles of coherence, complementarity, coordination, partnership and concentration.
- Assistance shall be coherent with EU policies and shall support alignment to the *acquis communautaire*.
- Assistance shall comply with the budgetary principles laid down in the Council Regulation (EC, Euratom) No 1605/2002.
- Assistance shall be consistent with the needs identified in the enlargement process and absorption capacities of the beneficiary country. It shall also take account of lessons learned.
- The ownership of the programming and implementation of assistance by the beneficiary country shall be strongly encouraged and adequate visibility of EU intervention shall be ensured.
- Operations shall be properly prepared, with clear and verifiable objectives, which are to be achieved within a given period.
- Any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation shall be prevented during the various stages of the implementation of assistance.
- The objectives of pre-accession assistance shall be pursued in the framework of sustainable development and the Community promotion of the goal of protecting and improving the environment.

##### ***b. Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation***

*Official Journal L 378, 27/12/2006 P. 0041 – 0071, last amended by Regulation (EU) No 1341/2011 of the European Parliament and of the Council of 13 December 2011, Official Journal L 347, 30/12/2011 P. 0034 - 0040*

##### *Article 5 Geographic programmes*

1. A geographic programme shall encompass cooperation in appropriate areas of activity with partner countries and regions determined on a geographical basis.
2. Consistently with the overall purpose and scope, objectives and general principles of this Regulation, Community assistance to the countries of Latin America, Asia, Central Asia, and the Middle East as set out in Annex I, as well as South Africa, shall include actions within the following areas of cooperation:
  - (a) supporting the implementation of policies aimed at poverty eradication and at the achievement of the MDGs;  
Human development:
    - (b) addressing the essential needs of the population with prime attention to primary education and health, in particular by:  
Health:
      - (i) increasing access to and provision of health services for lower income population groups and marginalised groups, including women and children, persons belonging to groups subject to ethnic, religious or any other discrimination and persons with disabilities, with a central focus on the related MDGs, namely reducing child

mortality, improving maternal and child health and sexual and reproductive health and rights as set out in the Cairo Agenda of the International Conference on Population and Development (ICPD), addressing poverty diseases, in particular HIV/AIDS, tuberculosis and malaria;

(...)

***c. Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999***

*Official Journal L 210, 31/07/2006, P. 25–78, last amended by Regulation (EU) No 423/2012 of the European Parliament and of the Council of 22 May 2012, Official Journal L 133, 23/05/2012 P. 0001 - 0006*

*[Whereas]*

(30) In the context of its effort in favour of economic and social cohesion, the Community, at all stages of implementation of the Funds, has as its goals to eliminate inequalities and to promote equality between men and women as enshrined in Articles 2 and 3 of the Treaty, as well as combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

***Article 16 Equality between men and women and non-discrimination***

The Member States and the Commission shall ensure that equality between men and women and the integration of the gender perspective is promoted during the various stages of implementation of the Funds.

The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the Funds and, in particular, in the access to them. In particular, accessibility for disabled persons shall be one of the criteria to be observed in defining operations co-financed by the Funds and to be taken into account during the various stages of implementation.

***d. Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999***

*Official Journal L 210, 31/07/2006, P. 1–11, last amended by Regulation (EU) No 437/2010 of the European Parliament and of the Council of 19 May 2010, Official Journal L 132, 29/05/2010 P. 0001 – 0002*

*[Whereas]*

(8) The Member States and the Commission should ensure that there is no discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the operational programmes co-financed by the ERDF.

***e. Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)***

*Official Journal L 277, 21/10/2005 P. 0001 – 0040, last amended by Regulation (EU) No 1312/2011 of the European Parliament and of the Council of 19 December 2011, Official Journal L 339, 21/12/2011 P. 0001 - 0003*

### **Chapter III Principles of assistance**

***Article 8 Equality between men and women and non-discrimination***

Member States and the Commission shall promote equality between men and women and shall ensure that any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation is prevented during the various stages of programme implementation.

This includes the stages of design, implementation, monitoring and evaluation.



***f. Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid***

*Official Journal L 163, 02/07/1996 P. 0001 – 0006, last amended by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009, Official Journal L 087, 31/03/2009 P. 0109 – 0154*

*[Whereas]*

(...)

Whereas humanitarian aid, the sole aim of which is to prevent or relieve human suffering, is accorded to victims without discrimination on the grounds of race, ethnic group, religion, sex, age, nationality or political affiliation and must not be guided by, or subject to, political considerations.

(...)

## 5) Different recommendations and resolutions

### *a. Council resolution of 5 December 2007 on the follow-up of the European Year of Equal Opportunities for All (2007)*

*Official Journal C 308, 19/12/2007 P. 0001 – 0005*

THE COUNCIL OF THE EUROPEAN UNION,

Recalling that:

1. non-discrimination and equal treatment, as enshrined in particular in Articles 2, 3 and 13 of the EC Treaty, are fundamental principles of the European Union that should be taken into account in all the European Union's policies;

2. Article 21 of the Charter of Fundamental Rights of the European Union recognises the prohibition of discrimination on a variety of grounds and that Article 23 of that Charter recognises the requirement that equality between men and women be ensured in all areas;

(...)

Considering that:

1. despite much progress in promoting equality and fighting discrimination thanks, inter alia, to the adoption of equality legislation and to the setting up of national equality bodies, inequality and discrimination on the grounds of sex, racial or ethnic origin, age, disability, religion or belief, or sexual orientation continue to exist in the EU, at a substantive cost to the individual women and men concerned and European societies as a whole;

(...)

Noting that:

1. equality policies are essential instruments for social cohesion, economic growth, prosperity and competitiveness and thus for the Lisbon Strategy for Growth and Employment;

2. the three Directives implementing the principle of equal treatment adopted so far under Article 13 are: Council Directive 2000/43/EC [5] covering discrimination on the grounds of racial or ethnic origin in the areas of employment, access to goods and services, education and social protection; Council Directive 2000/78/EC [6] covering all the other discrimination grounds i.e. religion or belief, disability, age or sexual orientation in the field of employment and occupation, and Council Directive 2004/113/EC [7] covering discrimination on the grounds of sex in the area of access to and supply of goods and services;

(...)

5. it is essential that actions fighting discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation take into account the different ways in which women and men experience discrimination;

(...)

7. the benefits of diversity, both for European societies and individuals, should be highlighted through the positive contribution that can be made by all people, irrespective of their sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;

(...)

Invites Member States and the European Commission, in accordance with their respective competencies:

1. to ensure full and effective implementation and evaluation of existing anti-discrimination laws and gender equality legislation;

2. to strengthen efforts to prevent and combat discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation, inside and outside the labour market;

(...)

19. to firmly condemn and take all necessary measures to prevent all forms of discrimination against people on the basis of their religion or belief;

***b. Recommendation of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry***

*Official Journal L 378, 27/12/2006 P. 0072 – 0077*

*[Whereas]*

(5) The Community has already intervened in the field of audiovisual and information services in order to create the necessary conditions to ensure the free movement of television broadcasts and other information services, in compliance with the principles of free competition and freedom of expression and information, but it should act with greater determination in this area with the aim of adopting measures to protect consumers from incitement to discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation and of combating any such discrimination. Such action should strike a balance between the protection of individual rights on the one hand and freedom of expression on the other, in particular with respect to Member States' responsibility for defining the notion of incitement to hatred or discrimination in accordance with their national legislation and moral values.

(...)

(18) The audiovisual and on-line information services industry should be encouraged at Member State level to avoid and to combat any type of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in such media and all advertising, including new advertising techniques, without infringing freedom of expression or of the press.

(...)

HEREBY RECOMMEND THAT:

I. The Member States, in the interests of promoting the development of the audiovisual and on-line information services industry, take the necessary measures to ensure the protection of minors and human dignity in all audiovisual and on-line information services by:

(...)

3. promoting a responsible attitude on the part of professionals, intermediaries and users of new communication media such as the Internet by:

(a) encouraging the audiovisual and on-line information services industry, without infringing freedom of expression or of the press, to avoid all discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, in all audiovisual and on-line information services, and to combat such discrimination,

(...)

II. The audiovisual and on-line information services industry and other parties concerned:

(...)

4. consider effective means of avoiding and combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in audiovisual and on-line information services and of promoting a diversified and realistic picture of the skills and potential of men and women in society.

***c. Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning***

*Official Journal L 394, 30/12/2006 P. 0010 – 0018*

**ANNEX KEY COMPETENCES FOR LIFELONG LEARNING — A EUROPEAN REFERENCE FRAMEWORK**

*Key Competences*

Competences are defined here as a combination of knowledge, skills and attitudes appropriate to the context. Key competences are those which all individuals need for personal fulfilment and development, active citizenship, social inclusion and employment.

The Reference Framework sets out eight key competences:

(...)

#### 6. Social and civic competences

Definition:

These include personal, interpersonal and intercultural competence and cover all forms of behaviour that equip individuals to participate in an effective and constructive way in social and working life, and particularly in increasingly diverse societies, and to resolve conflict where necessary. Civic competence equips individuals to fully participate in civic life, based on knowledge of social and political concepts and structures and a commitment to active and democratic participation.

Essential knowledge, skills and attitudes related to this competence:

(...)

B. Civic competence is based on knowledge of the concepts of democracy, justice, equality, citizenship, and civil rights, including how they are expressed in the Charter of Fundamental Rights of the European Union and international declarations and how they are applied by various institutions at the local, regional, national, European and international levels. (...)

Full respect for human rights including equality as a basis for democracy, appreciation and understanding of differences between value systems of different religious or ethnic groups lay the foundations for a positive attitude. This means displaying both a sense of belonging to one's locality, country, the EU and Europe in general and to the world, and a willingness to participate in democratic decision-making at all levels. It also includes demonstrating a sense of responsibility, as well as showing understanding of and respect for the shared values that are necessary to ensure community cohesion, such as respect for democratic principles. Constructive participation also involves civic activities, support for social diversity and cohesion and sustainable development, and a readiness to respect the values and privacy of others.

#### ***d. Commission Recommendation of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (Text with EEA relevance)***

*Official Journal L 075, 22/03/2005 P. 0067 – 0077*

## **ANNEX**

### **SECTION 1 - The European Charter for Researchers**

#### ***GENERAL PRINCIPLES AND REQUIREMENTS APPLICABLE TO EMPLOYERS AND FUNDERS***

##### *Non-discrimination*

Employers and/or funders of researchers will not discriminate against researchers in any way on the basis of gender, age, ethnic, national or social origin, religion or belief, sexual orientation, language, disability, political opinion, social or economic condition.

#### ***e. Council Recommendation of 27 July 1992 on the convergence of social protection objectives and policies***

*Official Journal L 245, 26/08/1992 P. 0049 – 0052*

I. HEREBY RECOMMENDS THAT MEMBER STATES SHOULD:

A. allow their general policy in the area of social protection, without prejudice to the powers of the Member States to establish the principles and organizations of their own systems in the sectors concerned, to be guided by the following principles:

(...)

2. Social benefits should be granted in accordance with the following principles:

(a) equal treatment in such a way as to avoid any discrimination based on nationality, race, sex, religion, customs or political opinion, provided that applicants fulfil the conditions regarding length of membership and/or residence required to be eligible for benefits;