



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country: Belgium
Title: Final adoption and publication of the Brussels' legislative act setting up new anti-discrimination tools on the job market
Date: 19 January 2018
Expert: Bribosia, Emmanuelle
Update of news report: [Belgium - The Brussels Parliament adopts an ordinance setting up new anti-discrimination tools on the job market \(PDF 136 kB\)](#)

Context

Issue at stake: The Brussels' Ordinance setting up new anti-discrimination tools on the job market has been published
Ground of discrimination: Age, disability, religious beliefs, gender, ethnic origin, sexual orientation, etc.
Source: Legislation - *Moniteur Belge* (21st November 2017)
Field: Employment
Applicable law: Ordinance of 16 November 2017 fighting against discrimination on the job market in Brussels

Content

Law development: On 16 November 2017, the Brussels' ordinance aiming to fight against discrimination on the job market has been finally adopted by the Parliament and was published in the Belgian "*Moniteur*" (Official Gazette) on 21 November 2017.

This ordinance provides labour inspectorates in the Brussels region with new tools to fight against discrimination in employment. There are two kinds of "discriminatory tests" explicitly mentioned in the ordinance. First, the "situation testing" which is based on the sending of pairs of equivalent CVs with a variable criterion measuring discrimination (ethnic origin, age, disability, gender...). Second, the "mystery call", i.e. a labour inspector calls, with a false identity, a job intermediary to see whether s/he obeys discriminatory demands of a potential client. The latter chiefly concerns authorized companies getting public funding (*entreprises de titres-service*) that put individuals looking for domestic help in contact with housekeepers.

To be valid, these "discriminatory tests" should meet several conditions: (1) they cannot amount to provocation and should be in line with fairness of proof standards; (2) they cannot be purely proactive or used randomly: they should follow several complaints or reporting (*signalements*), for instance, before UNIA or the Institute for Equality of Women and Men (the national equality bodies) and be based on serious indications of

practices likely to be qualified as direct or indirect discrimination within a particular place or a sector of activity.

Key points of analysis: The socio-economic monitoring carried out in 2015 by UNIA (the Inter-federal Center for Equal Opportunities) and the FPS Employment, Labour and Social Dialogue, under the heading "Labour market and origin", strongly confirms the unequal participation of people of foreign origin to the labour market. In Brussels, the figures are very striking in this respect. This is the background of the ordinance proposal fighting against discrimination on the job market in Brussels. One has to keep in mind that the competence of the Regions (Brussels, Wallonia, Flanders) in the field of employment is limited. The federal State is chiefly competent in this matter. A similar text is in preparation at the federal level.

Internet link source:

<http://www.ejustice.just.fgov.be/eli/ordonnance/2017/11/16/2017014113/moniteur>.