

# EU EQUALITY LAW

## Legal Framework

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# EU EQUALITY AND NON DISCRIMINATION LAW

- A multilevel law
- A law to export to the rest of the world
- A law threatened in times of crisis
- A law requiring reaffirmation

## THE ROLE OF EQUALITY IN THE EUROPEAN UNION

- Equality as essential foundation of the Communities and European Union
- Equality as EU principle
- Equality as EU value

## EU LEGAL BASIS OF EQUALITY AND NON-DISCRIMINATION

- Founding treaties of the European Union
- Charter of Fundamental Rights of the European Union
- Directives on equal treatment
- International instruments
  - Council of Europe
  - United Nations
- Constitutional traditions common to Member-States

## Founding Treaties of the European Union

- Original treaties

- Prohibition of discrimination on grounds of nationality
- Equal pay between women and men
- relevance of EC case-law in the disclosure of the Equality and Non-discrimination Law

## Impact of the amendments to the Treaties under Equality Law

- Treaty of Amsterdam

- Equality between women and men entrenched in the EC
- Introduction of the *mainstreaming* concept in original law
- Introduction to Article 13 of the EC treaty

- Treaty of Lisbon

- Equality as EU goal
- Expansion of mainstreaming concept to all suspect classifications



## Charter of Fundamental Rights of the European Union

- “Human dignity is inviolable. It must be respected and protected” – Article 1 of the Charter
- Title III: Equality
  - Equality before the law (Article 20.);
  - Non-discrimination on the grounds of several suspect classifications (Article 21);
  - Equality between women and men (Article 23);
  - Cultural, religious and linguistic diversity (Article 22);
  - Rights of the Child (Article 24);
  - Rights of the Elderly (Article 25);
  - Rights of people with disabilities (Article 26)



## Directives on Equal Treatment

- Council Directive 2000/43/EC of 29 January 2000, applies the principle of equal treatment between persons, irrespective of racial or ethnic origin
- Council Directive 2000/78/EC of 27 November 2000, establishes a general framework for equal treatment in employment and occupation
- Council Directive 2004/113/EC, of 13 December 2004, applies the principle of equal treatment between men and women in the access to and supply of goods and services.

## Universal and International Instruments

### • UN General Instruments

- ✓ UN charter -Articles 1,3, 13 and 55 (c);
- ✓ UDHR - Articles 1, 2, 7, 16 (1), 21(2), 23 (2), and 25 (2);
- ✓ IPCPR - Articles 2, 3, 14 (1), and 26
- ✓ ICESCR- Articles 2 (2), (3), 7(a)i

## Universal and International Instruments

### Specific instruments

- ✓ Convention on the elimination of all forms of racial discrimination
- ✓ Convention on the elimination of all forms of discrimination against women
- ✓ ILO conventions 100 concerning equal remuneration and 111 concerning employment and occupation;
- ✓ UNESCO convention against discrimination in education
- ✓ Convention on rights of persons with disabilities
- ✓ Convention on the rights of the child

## International and Regional Instruments

- Council of Europe
- European Convention on Human Rights
  - ✓ Article 14
  - ✓ Protocol No. 12
- Importing the case-law of the ECHR in the interpretation and enforcement of European Convention on Human Rights
- Other Council of Europe conventions

## The CJEU dialogue with other enforcers of Equality and Non-discrimination Law

- ECHR – a more difficult dialogue after OPINION 2/13?
- Constitutional Courts of Member States - dialogue or two monologues?
- Human Rights Committee

## CONCLUSION

- Presently, the world faces several challenges - international terrorism, migratory movements, racism, xenophobia, populism, nationalism, etc. - imposing the reinforcement of the EU Equality and Non-discrimination Law.

## ANA M.<sup>a</sup> GUERRA MARTINS BACKGROUND TEXTS

- *Handbook on European Law*, 2 edition., Almedina, 2017.

- *Equality and non-discrimination of third-country nationals legally residing in the European Union*, Almedina, 2010.

- "Equality and non-discrimination as the foundation for migrant and refugee rights in International Law"; in *Refugees, Immigrants and Equality of People – Studies which pay tribute to António Guterres*, São Paulo, Ed. Quartier Latin, 2017, 185-204.

- "Does the Treaty of Lisbon Really Implement Equal and Non-discriminatory Treatment of Third-Country Nationals (TCN)? The Case of Legally Resident TCN within a Member State of the Union" in: José Maria Beneyto / Ingolf Pernice, *Europe's Constitutional Challenges in the Light of the Recent Case Law of National Constitutional Courts – Lisbon and Beyond*, Nomos, p. 327-352.