

EQUALITY

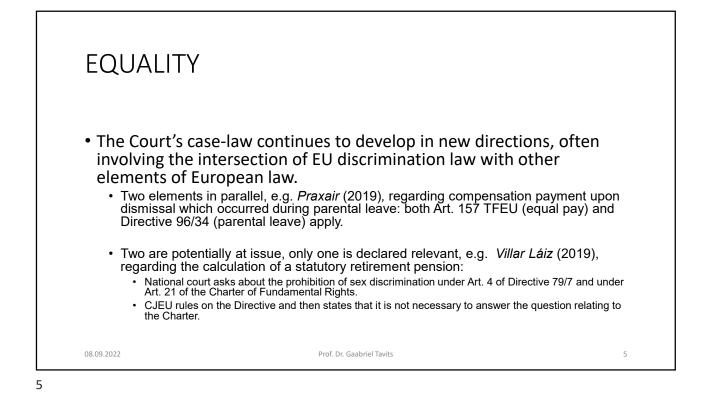
- Unequal treatment v. discrimination
- unequal treatment = discrimination if there is no OBJECTIVE justification for a less favourable treatment C-149/10 Zoi Chatzi, para.63-4 ("comparable situations must not be treated differently and (…) different situations must not be treated in the same way unless such treatment is objectively justified")
- In some cases unequal (special) treatment is required by law
- Positive actions / affirmative actions
- Special treatment (of pregnant women)
- Reasonable accommodation (of persons with disabilities)
- Religious accommodation

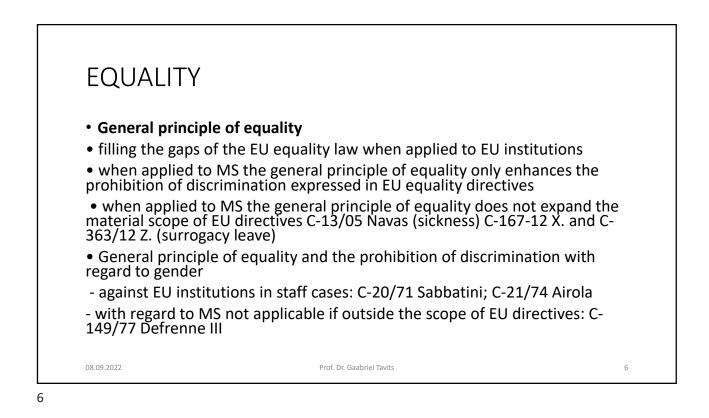
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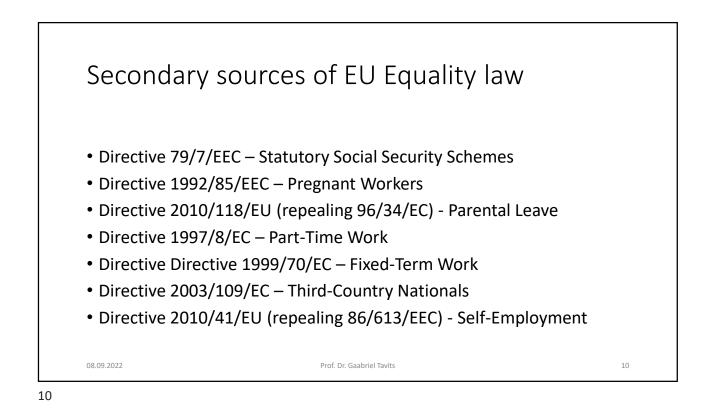


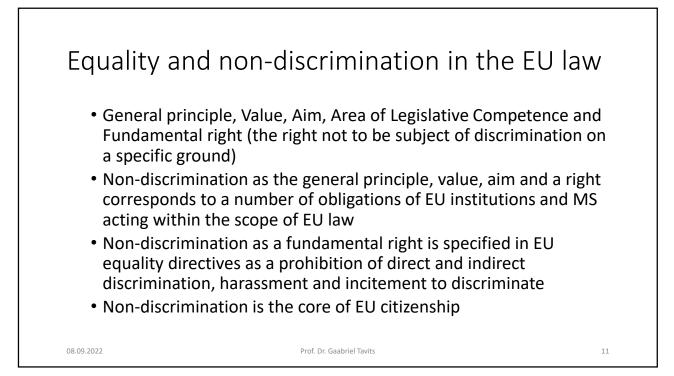


| PRIMARY SO | OURCES: EU TREATIES | | | |
|--|---|--|--|--|
| • Art. 2 TEU – equality as a | value common to all MS | | | |
| • Art. 3(3) TEU - equality as | s a goal for EU | | | |
| Art. 8 TFEU ("in all its activities, the Union shall aim to eliminate inequalities, and to | | | | |
| promote equality, between | men and women"). | | | |
| | g and implementing its policies and activities, the Union shall aim to combat sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.") | | | |
| • Art. 18(1) TFEU - prohibit | ion of discrimination on the basis of nationality (applying to all | | | |
| fields of the EU law) | | | | |
| ., | y 13 TEC) – competence provision – a legal basis of EU Equality Directives – liscrimination based on sex, racial or ethnic origin, religion or belief, disability, age | | | |
| Article 157 (1) and (2) TFI Defrenne | EU (formerly 119 TEEC, and 141 TEC) - equal pay of men and women – C 45/75 | | | |
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| | PRIMARY SOURCES: | EU CHARTER | | | | | |
|---|---|---------------------------|---|--|--|--|--|
| | Art. 20 CFR - equality before the law | | | | | | |
| | Art. 21 CFR - prohibition of discriminatio | n | | | | | |
| | • Art. 23 CFR - equality of men and womer | 1 | | | | | |
| | Art. 24 CFR – rights of the child | | | | | | |
| | • Art. 25 CFR – rights of the elderly (princi | oles) | | | | | |
| | • Art. 26 CFR – integration of persons with | disability (principles) | | | | | |
| | but Art. 51 (1) CFR – the application of the Charter to EU institutions whenever they act, and to MS whenever they implement EU law (or act within its scope) | | | | | | |
| | • C -617/10 Akerberg Fransson | | | | | | |
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| Hierarchy of the protected grounds in EU equality law | | | | | | |
|---|------------|--------------------|-----------------------|------------|--|--|
| | EMPLOYMENT | SOCIAL SECURITY | GOODS AND SERVICES | EDUCATION | | |
| RACE AND ETHNICITY | 2000/43/EC | 2000/43/EC | 2000/43/EC | 2000/43/EC | | |
| GENDER | 2006/54/EC | 79/7/EEC | 2004/113/EC | | | |
| RELIGION DISABILITY AGE SEXUAL ORIENTATION | 2000/78/EC | | | | | |









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EQUALITY

- **Direct discrimination** where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation.
- Indirect discrimination where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

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