The EU legal framework on equality

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Outline

1- What is there?
   Prohibited discrimination, EU Charter & International law

2 - The content of the legislation – Dir. 2000/43 & 2000/78
   A wide and effective protection

3 – And in Real Life? and the future?
1- What is there? Prohibited discrimination in the EU

- **Nationality** (of a EU Member State)
  1968 - Free Movement of Goods, Services, Capital and … Persons now Article 18 of the TFEU - EU Citizenship

- **Sex** 1957 – EEC Treaty - equal pay for work of equal value

- **Racial or ethnic origin** – Dir. 2000/43
  in employment & social security, education, access to goods services

- **Religion/belief, disability, age, sexual orientation**
  Dir. 2000/78 - in employment only

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**EU Charter of fundamental rights**

of 2000 / 2009

**Article 21 (1)**

«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.»

But

**Article 51**

«1. The provisions of this Charter are addressed to [EU] institutions (…) and to the Member States only when they are implementing Union law.
2. The Charter does not (…) establish any new power or task for the Union… »
Relation with …

• European Convention of Human Rights

• United Nations Human Rights treaties

2 – The **content** of Dirs. 2000/3 and 2000/78

**A wide protection**

A – **Forms of discrimination**,  
- direct, indirect, harassment, instructions to discriminate

B - **Personal scope**  
– public and private, any dimension, all in the EU regardless nationality
C - Material scope

- Both Directives cover employment
  ✓ Applying for a job
  ✓ Working conditions – pay
  ✓ Training
  ✓ Membership of organisations

- Race Equality Directive also covers
  ✓ Education
  ✓ Social security
  ✓ Health care
  ✓ Access to Goods and services

An effective protection

- Sanctions - effective, proportionate and dissuasive
- Sharing of the burden of proof
- Rights of associations
- Equality Body for race ( & sex)
exceptions

Not all differences of treatment are unlawful:

• genuine & determining occupational requirement
• churches – special rules
• nationality
• age
• limitations on reasonable accommodation
• (Positive action)

3- In Real life …
Eurobarometer 2015

21 %
of Europeans experienced discrimination

Eurobarometer 2015

There is widespread discrimination based on:

- Ethnic origin - 64 %
- Sexual orientation - 58 %
- Religion - 50 %
- Disability - 50 %
- Being older than 50 - 42 %
- Gender - 37 %
Gender Pay Gap:

on average women earn 16,1% less than men in the EU in 2014

And pensions? 38%

Difficulties

• Lack of information of rights

• Access to justice – court and lawyers' fees

• Indirect discrimination (no data collection)
and the future … ?

Draft legislation

2008 proposal for

Directive on equal treatment
beyond employment
on the basis of religion or belief,
age, disability and sexual orientation
(already covered for employment)
More info ?

European Commission website :

http://ec.europa.eu/justice/discrimination/index_en.htm

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