



ANTI-DISCRIMINATION SEMINAR

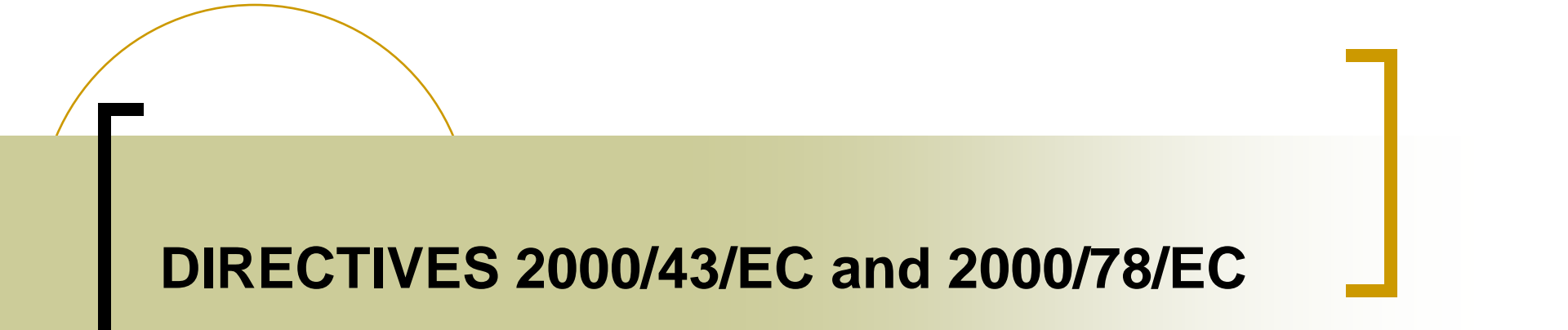
ERA, Trier

5 November 2012

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DIRECTIVES 2000/43/EC and 2000/78/EC

DEFINITIONS

DIRECT DISCRIMINATION

INDIRECT DISCRIMINATION

HARASSMENT



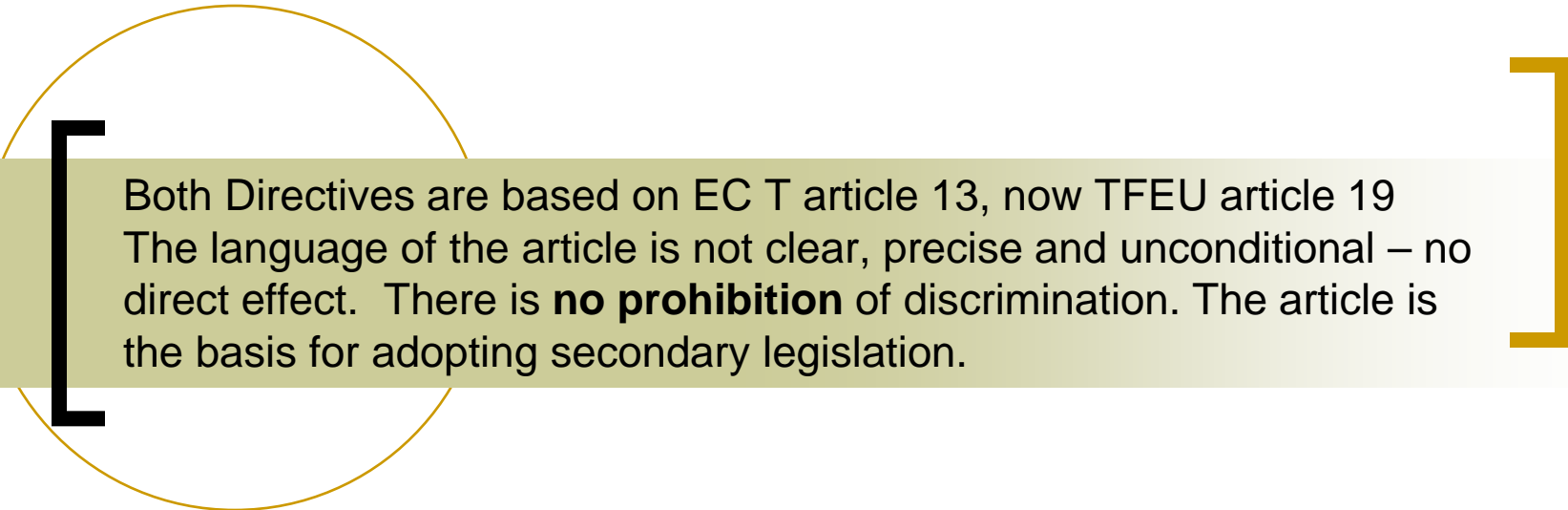
Outline

Introduction to both Directives – duplication and some individual aspects

*(There will be separate presentations on **specific aspects** of Directive 2000/78/EC).*

Definitions – in/direct discrimination + harassment

(as most cases to date are ‘age’ related – a topic being dealt with separately – case usage will be limited)



Both Directives are based on EC T article 13, now TFEU article 19
The language of the article is not clear, precise and unconditional – no direct effect. There is **no prohibition** of discrimination. The article is the basis for adopting secondary legislation.

*1. Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, **may take appropriate action to combat discrimination based on sex**, racial or ethnic origin, religion or belief, disability, age or sexual orientation.....*



Recitals to both Directives

important in clarifying the focus of each Directive and background for their introduction, and point to specific developments in the Directive (e.g. age and disability) or discretion accorded to Member States (e.g. statistical evidence may be required to establish indirect discrimination)

Example: – in both Directives Recital (15)

- *The appreciation of the facts from which it may be inferred that there has been direct or indirect discrimination is a matter for national judicial or other competent bodies, in accordance with rules of national law or practice. **Such rules may provide in particular for indirect discrimination to be established by any means including on the basis of statistical evidence.***

Example: Directive 2000/78/EC: Recital (25)

- *The prohibition of **age** discrimination is an essential part of meeting the aims set out in the Employment Guidelines and encouraging diversity in the workforce. However, **differences** in treatment in connection with **age may be justified** under certain circumstances and therefore require specific provisions **which may vary in accordance with the situation in Member States**. It is therefore essential to distinguish between differences in treatment which are justified, **in particular by legitimate employment policy, labour market and vocational training objectives**, and discrimination which must be prohibited.*

Some other provisions

Victimisation - measures to protect individuals after having made a complaint

Dialogue – social and with NGOs

Burden of Proof **(to be dealt with separately)**

Defence of rights

Sanctions/Remedies **(to be dealt with separately)**

grounds for judicial redress

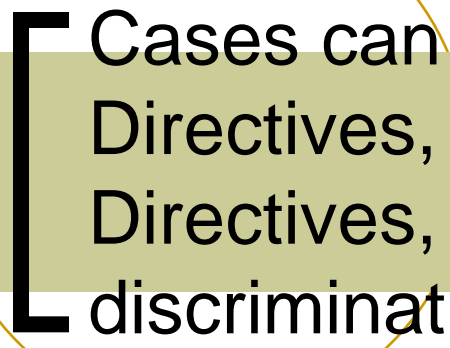
Positive action

Transposition by 2003 (2006 for age/disability provisions) – some cases have been initiated by the Commission – because of late/inaccurate transposition


2000/43/EC wider scope than 2000/78/EC.

Proposal for new Directive (2000/78/EC) – in 2008; Report - Council meeting 15 November 2011 said:

- *“The Council took stock of progress in the negotiations on the directive implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation*
- *The proposed directive has been examined in the Council for more than three years now. It would extend EU legislation into new areas, based on article 19 of the EU treaty (sic)*
- *During the Polish presidency, the Council bodies' discussions have focused on a specific topic, namely, the provisions concerning **age** as a discrimination factor. In certain cases, differential treatment is justified. For example, age limits are needed to protect minors.*
- *Further discussion is needed on a number of outstanding issues, such as:*
 - *the division of competences, the overall scope and subsidiarity;*
 - *the disability provisions, including accessibility and reasonable accommodation for persons with disabilities;*
 - *the implementation calendar;*
 - *legal certainty in the directive as a whole.”*



Cases can be based on **either**, or **both** Directives, or **combined with other** Directives, or other instruments - multiple discrimination can be alleged. For example

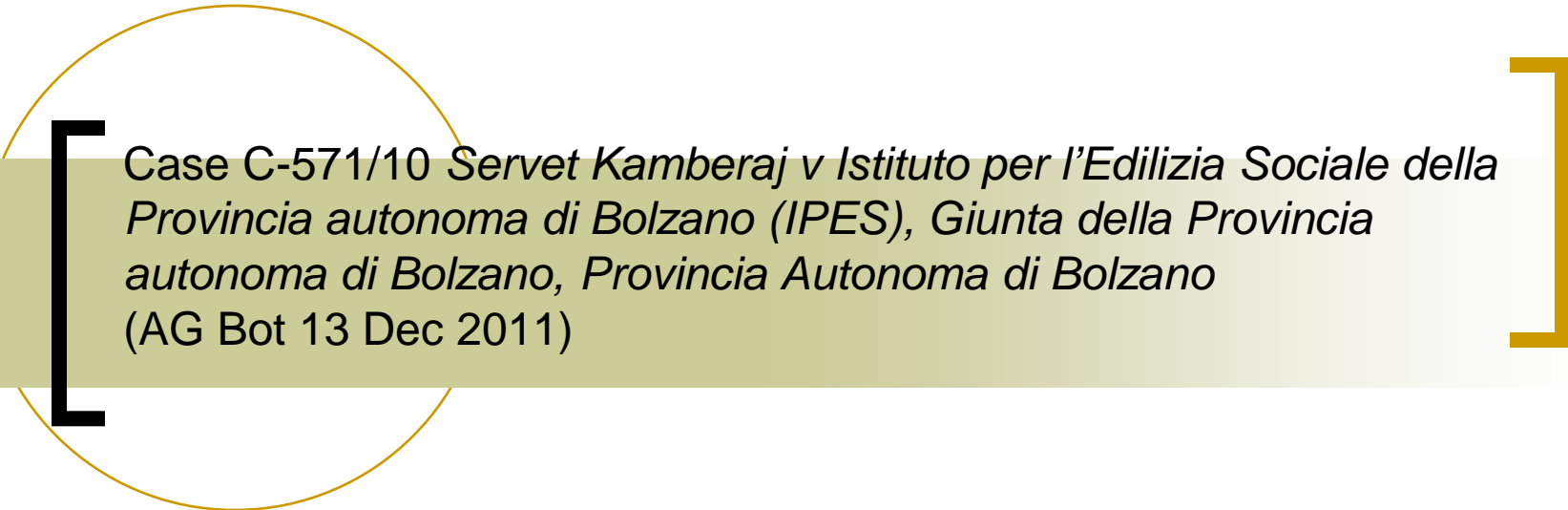


Case C-415/10 Galina Meister v Speech Design Carrier Systems GmbH (19 April 2012, nyr)

Directives 2000/43/EC, 2000/78/EC and **2006/54/EC** - Equal treatment in employment and occupation - Worker showing that the requirements listed in a job advertisement are met - Right of that worker to have access to information indicating whether the employer has recruited another applicant.

[CJEU said]

- *“Article 8(1) of Directive 2000/43/EC and Article 10(1) of Directive 2000/78/EC and Article 19(1) of Directive 2006/54/EC ..must be interpreted as **not entitling** a worker who claims **plausibly** that he meets the requirements listed in a job advertisement and whose application was rejected to **have access to information** indicating whether the employer engaged another applicant at the end of the recruitment process.*
- ***Nevertheless**, it cannot be ruled out that a **defendant’s refusal** to grant any access to information **may be one** of the factors to take into account in the context of **establishing facts** from **which it may be presumed** that there has been **direct or indirect discrimination**. It is for the referring court to determine whether that is the case in the main proceedings, taking into account all the circumstances of the case before it.”*

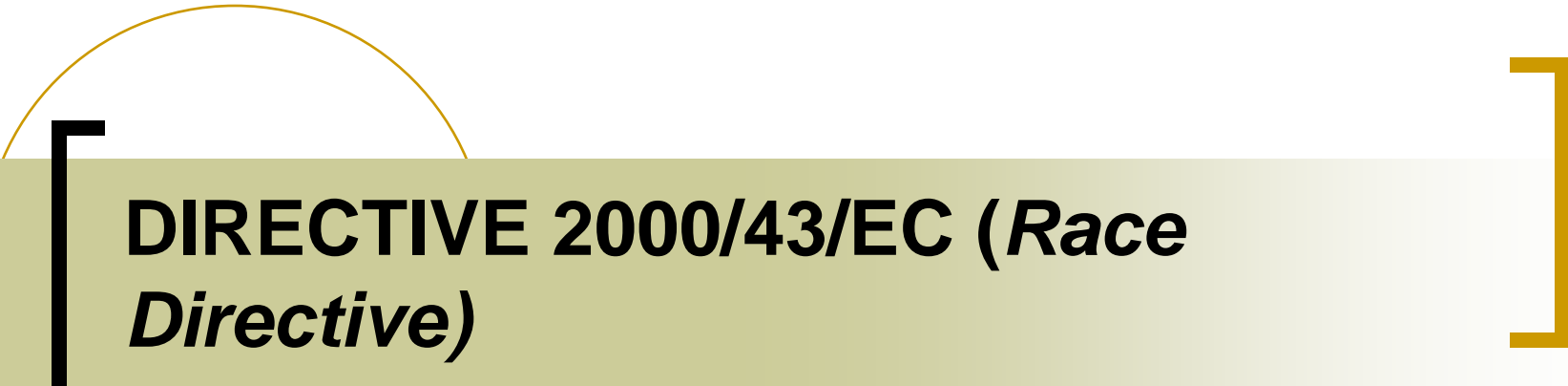


Case C-571/10 *Servet Kamberaj v Istituto per l'Edilizia Sociale della Provincia autonoma di Bolzano (IPES), Giunta della Provincia autonoma di Bolzano, Provincia Autonoma di Bolzano*
(AG Bot 13 Dec 2011)

Directives **2003/109** concerning status of long-term residents third-country nationals and 2000/43/EC (and TEU Articles 2, 6, TFEU Articles 18, 45 and 49 and Articles 1, 21 and 34 of **the Charter** of Fundamental Rights of the European Union)

Status of third-country nationals who are long-term residents – Right to equal treatment with respect to social security, social assistance and social protection as defined by national law – Option for Member States to limit equal treatment in respect of social assistance and social protection to core benefits – Refusal of an application for housing benefit – Ground for refusal – Exhaustion of funds for third-country nationals

AG – complainant's treatment based on his status as a third-country national, and therefore on his nationality, not racial or ethnic origin.



DIRECTIVE 2000/43/EC (*Race Directive*)

Article 1 Purpose

The purpose of this Directive is to lay down a **framework for combating discrimination** on the grounds of **racial or ethnic origin**, with a view to putting into effect in the Member States the **principle of equal treatment**.

DIRECTIVE 2000/43/EC: SCOPE:

Article 3

- 1. *Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:*
 - *(a) conditions for access to **employment, to self-employment and to occupation**, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;*
 - *(b) access to all types and to all levels of vocational guidance, vocational **training**, advanced vocational training and retraining, including practical work experience;*
 - *(c) employment and working conditions, including dismissals and pay;*
 - *(d) membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations;*
 - *(e) **social protection, including social security and healthcare;***
 - *(f) **social advantages;***
 - *(g) **education;***
 - *(h) **access to and supply of goods and services which are available to the public, including housing.***

Exceptions: Defences

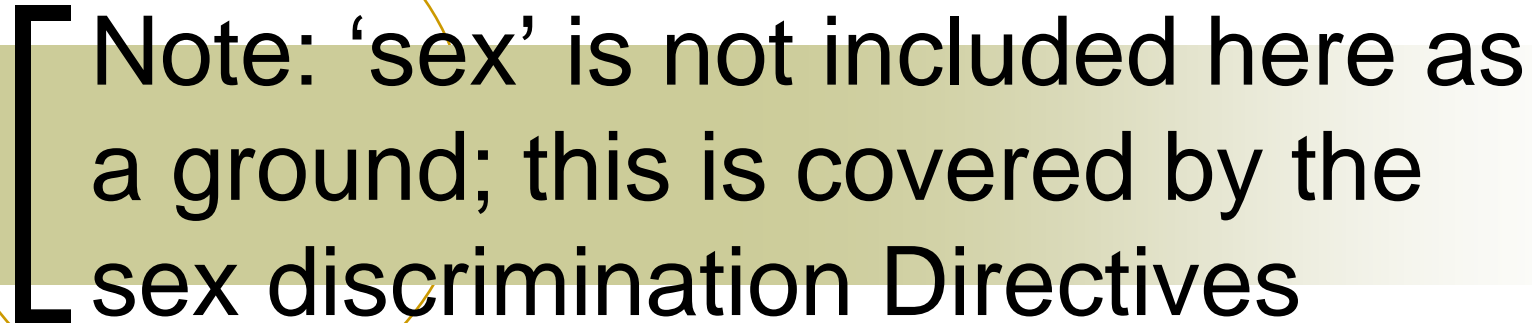
- Article 3(2).**does not cover** difference of treatment based on **nationality** and is without prejudice to provisions and conditions relating to the **entry into and residence of third-country nationals** and stateless persons on the territory of Member States, and to any treatment which **arises from the legal status of the third-country nationals and stateless persons concerned.**
- Article 4. Provided that.... such a **characteristic** constitutes a **genuine and determining occupational requirement**, provided that the objective is **legitimate** and the requirement is **proportionate.**



DIRECTIVE 2000/78/EC (*Employment Directive*)

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**.



Note: 'sex' is not included here as a ground; this is covered by the sex discrimination Directives

'Age' has emerged as a major ground for complaints – despite defence provided for – article 6 –

(Will be dealt with separately)

DIRECTIVE 2000/78/EC: SCOPE: ARTICLE 3:

- 1. *Within the limits of the areas of competence conferred on the Community, this Directive shall apply to all persons, as regards both the **public and private sectors, including public bodies**, in relation to:*
 - (a) *conditions for access to **employment**, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;*
 - (b) *access to all types and to all levels of **vocational guidance**, vocational training, advanced vocational training and retraining, including practical work experience;*
 - (c) *employment and working conditions, including dismissals and **pay***;*
 - (d) *membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.*

- 2. *This Directive **does not cover differences of treatment based on nationality** and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.*

- 3. *This Directive **does not apply to payments of any kind made by state schemes or similar, including state social security* or social protection schemes.***

- 4. *Member States may provide that this Directive, in so far as it relates to **discrimination on the grounds of disability and age**, shall not apply to the armed forces.*

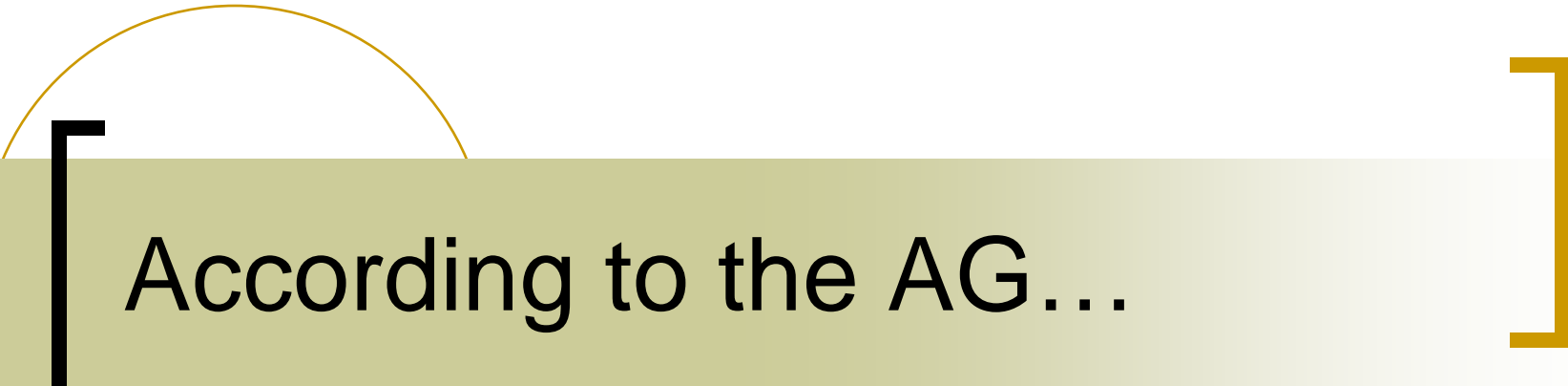
Case C-124/11 *Bundesrepublik Deutschland v Karen Dittrich*
Case C-125/11 *Bundesrepublik Deutschland v Robert Klinke*
Case C-143/11 *Jörg-Detlef Müller v Bundesrepublik Deutschland*

(AG Cruz Villaló 28 June 2012)

Equal treatment in employment and occupation
– National legislation granting assistance to public servants in cases of illness – **Family members** eligible to be covered by the assistance – **Exclusion of registered partnerships** – Scope of Directive 2000/78/EC
– **Concept of ‘pay’**

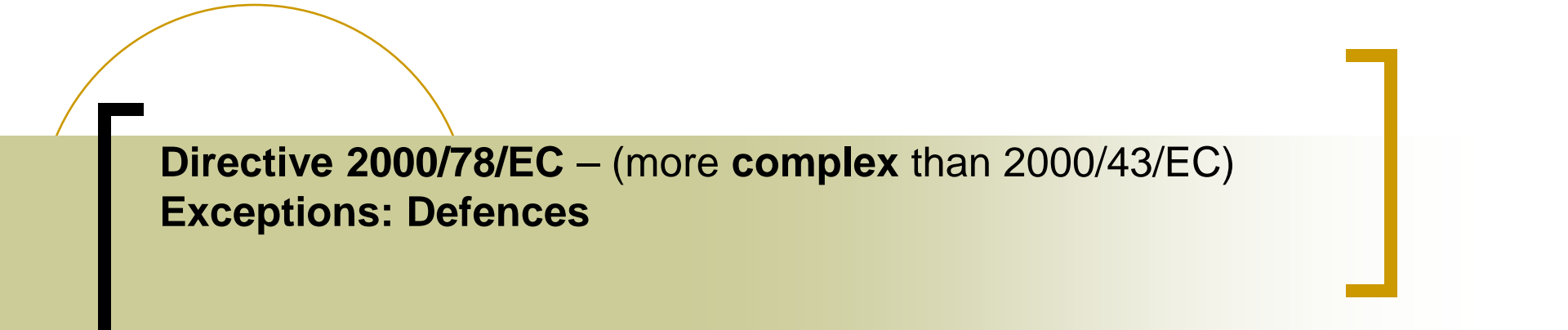
*“..On this occasion the task is to determine whether the directive is applicable to assistance granted to **public servants** in cases of illness. ..”*

- *“35. That is as far as these questions go. By that I mean that the **Court has not been asked whether the rights of the applicants in the main proceedings to be treated in the same way as married couples have been infringed**; it has only been asked whether the conditions have been met for those proceedings to be decided under Directive 2000/78.”*



According to the AG...

*“Directive 2000/78/EC is applicable to national legislation on the grant of **assistance to public servants** in cases of **illness** if the State, in its capacity as a **public employer**, is the **principal source of finance** for that assistance, which is a matter for the national court to ascertain “*



Directive 2000/78/EC – (more **complex** than 2000/43/EC)
Exceptions: Defences

Disability – articles 2(2)(b) and 5

Genuine + determining occupational requirement
(including religion/belief – organisation's ethos) –article 4

Age - article 6

Religion – police/schools – Northern Ireland – article 15

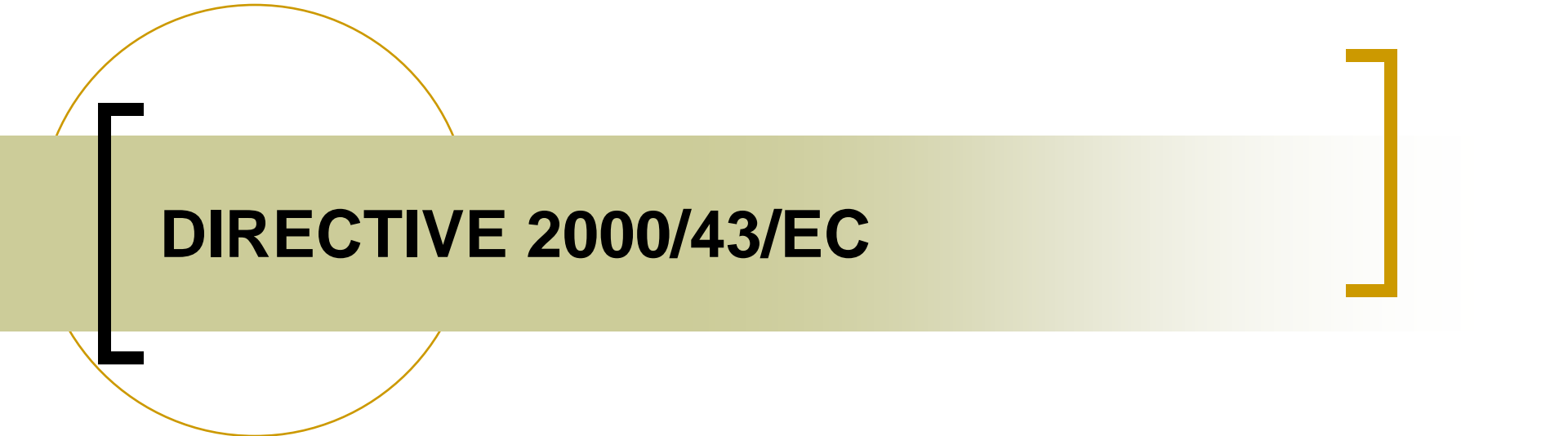


DEFINITIONS

Direct discrimination

Indirect discrimination

Harassment



DIRECTIVE 2000/43/EC

Concept of discrimination: **article 2**

- 2(1). *For the purposes of this Directive, the principle of **equal treatment** shall mean that there shall be **no direct or indirect discrimination based on racial or ethnic origin.***
- 2(3). *Harassment shall be deemed to be **discrimination** within the meaning of para 1...*
- 2(4). *An **instruction to discriminate against persons on grounds of racial or ethnic origin shall be deemed to be discrimination within the meaning of para 1***



Thus - Discrimination includes

Unequal treatment – article 2(1)

Harassment – article 2(3)

Instruction to discriminate - article 2(4)



Direct discrimination:

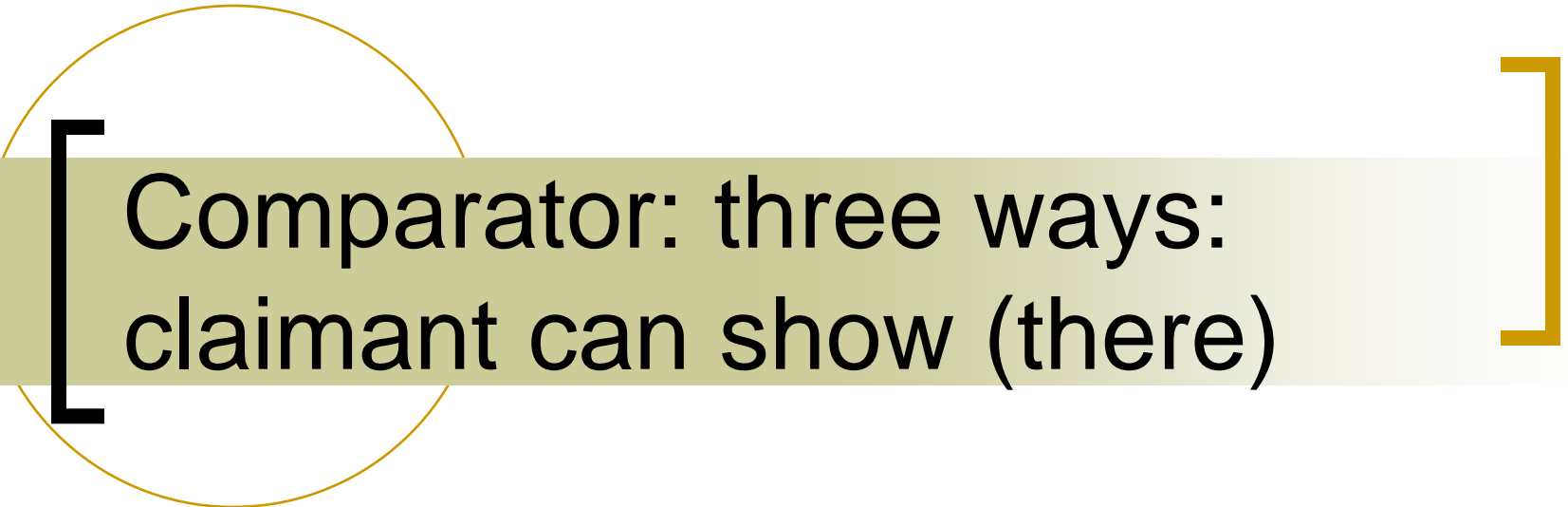
2(2). *For the purposes of paragraph 1:*

(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 grounds of ***racial or ethnic origin***;

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Intention irrelevant

Discrimination established if
'but for (ground)' the
defendant did not discriminate



Comparator: three ways:
claimant can show (there)

‘**is** difference in treatment’

‘**was** difference in treatment’

or


‘Hypothetical comparator’ (would)



Direct discrimination

Case taken by Organisation,
not individual complainant

*Case C-54/07 Centrum voor gelijkheid van kansen en
voor racismebestrijding v Firma Feryn NV [2008]
ECR I-5187*



The question to the Court was to assess the scope **of the concept of direct discrimination** in the **light of the public statements** made by an **employer in the course of a recruitment procedure**

Case taken by organisation, not individual: does this conform with Directive?

- *“..... does not preclude Member States from laying down, in their national legislation, the right for **associations with a legitimate interest** in ensuring compliance with that directive, or for the body or bodies designated pursuant to Article 13 thereof, to bring legal or administrative proceedings to enforce the obligations resulting therefrom **without acting in the name of a specific complainant or in the absence of an identifiable complainant.***
- *It is, however, solely for the national court to assess whether national legislation allows such a possibility.”*

Example of direct discrimination:

- *“the fact that an employer states publicly that it will not recruit employees of a certain ethnic or racial origin constitutes direct discrimination in respect of recruitment within the meaning of Article 2(2)(a) of Directive 2000/43,*
- *such statements being likely strongly to dissuade certain candidates from submitting their candidature and, accordingly, to hinder their access to the labour market.”*
-



Burden of proof/defendant/discharge

- *“public statements by which an employer lets it be known that under its recruitment policy it will not recruit any employees of a certain ethnic or racial origin are **sufficient for a presumption** of the existence of a recruitment policy which is directly discriminatory within the meaning of Article 8(1) of Directive 2000/43. It is then for that **employer** to prove that there was no breach of the principle of equal treatment.*
- ***It can do so by showing that the undertaking’s actual recruitment practice does not correspond to those statements.** It is for the national court to verify that the facts alleged are established and to assess the sufficiency of the evidence submitted in support of the employer’s contentions that it has not breached the principle of equal treatment.”*



Indirect discrimination:

2(2)(b) *indirect discrimination* shall be taken to occur where an **apparently neutral** provision, criterion or practice **would put** persons of a racial or ethnic origin at a **particular disadvantage****unless**



Justification: (Burden of Proof – defendant) **(separate presentation)**

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

(CJEU accords weight to Social Policy, where Member State legislation involved: no leeway for employers)

How to prove '*particular disadvantage*'

Disparate effect? – if drawing on sex discrimination case law, has to be high

Statistical evidence? – Recital 15 gives Member States discretion

Note: 'would put' = allows for potential disadvantage NOT necessarily actual

[To bear in mind: Recital (15)]

- *The appreciation of the facts from which it may be inferred that there has been direct or **indirect discrimination** is a matter for national judicial or other competent bodies, in accordance with rules of national law or practice. **Such rules may provide in particular for indirect discrimination to be established by any means including on the basis of statistical evidence.***

[Harassment:]

- 2(3). *Harassment shall be deemed to be **discrimination** within the meaning of paragraph 1, when an **unwanted conduct related to racial or ethnic origin 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.***

To note: second sentence – some views

- This definition is not exhaustive in light of the reference to Member States' national laws and practice in the second sentence.
- Fear that Member States *might* 'dilute' the definition by legislating to require proof that the harassment was because of the complainant's race or religion.
- **Note:** Recast Directive 2006/54/EC does not have any reference to Member States' legislation. Harassment is prohibited without any potential qualification.




Harassment

Indirect discrimination does not arise

Objective justification does not arise

Intent (or lack of it) – irrelevant
(*purpose OR 'effect'*)

No comparability of situations



DIRECTIVE 2000/78/EC

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.

Concept of discrimination: article 2

- 2(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(3). ***Harassment** shall be deemed to be a form of discrimination within the meaning of para 1...*
- 2(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 **para 1**.*



Thus - Discrimination includes

Unequal treatment – article 2(1)

Harassment – article 2(3)

Instruction to discriminate - article 2(4)

[Direct discrimination:]

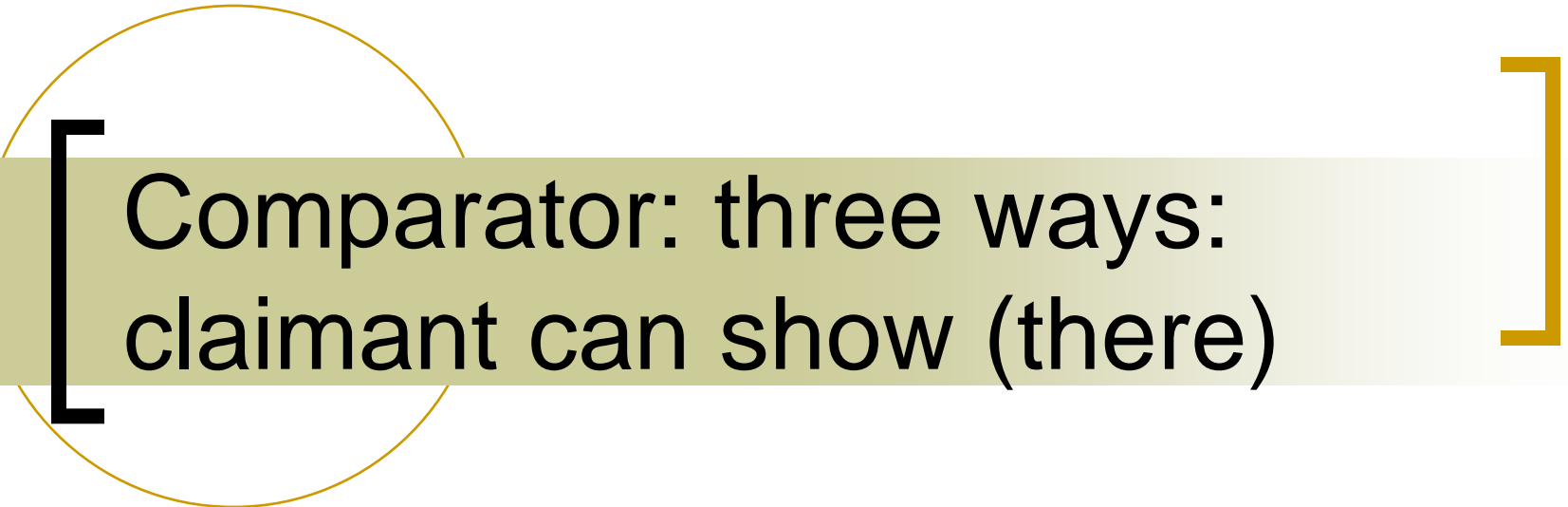
(difference in treatment)

- 2(2)(a). *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;***



Intention irrelevant

Discrimination established if
'but for (ground)' the
defendant did not discriminate



Comparator: three ways:
claimant can show (there)

‘**is** difference in treatment’

‘**was** difference in treatment’

or

‘Hypothetical comparator’ (**would**)

Indirect discrimination:

- 2(2)(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***

Justification:

- (indirect discrimination unless)
- 2(2)(b)(i). *that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary,*
- (CJEU accords weight to Social Policy, where Member State legislation involved: no leeway for employers)
- *or*

Justification: **Indirect discrimination:**

- 2(2)(b)(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 (reasonable accommodation*)** in order to eliminate disadvantages entailed by such provision, criterion or practice.*
- **(*will be dealt with separately)**





Particular disadvantage:


*Equal treatment in employment and occupation – Prohibition against discrimination on grounds of age **and disability** – Compatibility of national measures allowing workers close to retirement age to be excluded from or to receive reduced benefits provided under **a works council's social plan***


Case C-152/11 *Johann Odar v Baxter Deutschland GmbH*

(AG Sharpston 12 July 2012)

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- *50. Here, **disabled workers are treated less favourably** than non-disabled workers because they are eligible for a pension at 60 rather than 65. For any given age, the first component in the special formula calculation (months to earliest pensionable age) will always be lower for a disabled worker than for a non-disabled worker of the same age.*

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- *51. Accordingly, the ostensibly neutral special formula calculation leads to indirect discrimination in respect of disabled workers. The **effect** of the indirect discrimination on grounds of disability is that (i) a disabled worker made redundant at age 58 receives considerably less than an employee of the same age, with the same salary and with the same length of service, who is not disabled; (ii) the disabled worker may be less likely than his able-bodied counterpart to find new employment and be in greater financial need for the rest of his life if he is obliged to accept a reduced level of pension and (iii) it will be significantly cheaper to make disabled employees redundant than those without a disability, so that disabled workers are potentially more likely to be made redundant.*

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- *52. I therefore consider that the social plan leads to **indirect discrimination** on grounds of disability in so far as an **apparently neutral provision** (months until earliest possible beginning of pension) in paragraph 6(1.5) of the **social plan results** in a **disadvantage** (lower awards of compensation) to **disabled** workers who are eligible to retire at 60 in comparison with non-disabled employees who are not eligible for a pension until the standard age (65).*


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- A large black left bracket and a yellow right bracket are positioned at the top of the slide. A horizontal line, colored light green on the left and yellow on the right, spans the width of the slide below the brackets.
- 55. Additionally, **direct discrimination** on grounds of age (**but not on other grounds, such as disability**) is permissible if it is covered by Article 6(1) of the Directive. That provision affords the Member States a wide margin of discretion in establishing their employment policy and allows them to set particular conditions regarding dismissal where these implement **legitimate** aims that justify otherwise discriminatory treatment on grounds of age. Recital 25 in the preamble to the Directive nevertheless makes clear that it is '**essential to distinguish** between differences in treatment which are **justified**, in particular by **legitimate** employment policy, labour market and vocational training objectives, and **discrimination** which must be prohibited'.

Derogation/standard of proof

- *57. The right to work and the prohibition against discrimination on grounds of age and/or disability are enshrined as fundamental rights under the Charter. Since justification under Articles 2(2)(b)(i) and 6(1) of the Directive is a **derogation** from the general principle of non-discrimination, both provisions must be **construed strictly**. Furthermore, **notwithstanding** their **broad discretion** in matters of social policy, **Member States bear the burden** of establishing to a high standard of proof the **legitimacy** of any aim (or aims) pursued.*


Having discussed the special justification allowed for 'age' the AG goes on to say that

- *65. However, because a disabled worker can retire earlier (albeit on a reduced pension) than an able-bodied worker, the **special formula calculation places disabled workers at a particular disadvantage**. In its assessment of the social plan, it is for the national court to examine whether capping the benefits paid to disabled workers in this way is likely to have a sufficiently beneficial impact on the overall funds available for redundancy payments to make it appropriate to reduce their entitlement. Given that in **general the number of disabled employees in an undertaking is relatively small**, it seems unlikely that a measure that (whether deliberately or inadvertently) **targets disabled workers in this way will be appropriate**.*

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- – *Could the aims of the social plan be achieved by less discriminatory means?*
 - *66. Is it necessary to target disabled workers in order to enable the social partners to make more generous provision to other workers?*
 - *67. In my view it is not.*

['particular disadvantage']

- 68. *In calculating the benefits paid to workers facing redundancy, the special calculation formula takes **only one – key – element into account: proximity to pensionable age.** As I have indicated, I consider that to be in principle appropriate. On closer inspection, however, the **apparent fairness of the cap (namely, the express link to when an alternative secure income becomes available) is misleading.** By focusing on a single key element, the cap **fails to give weight to other elements that are relevant to disabled workers.** In particular, whilst any worker who takes a pension early will receive a reduced rate pension and may have to adjust expenditure patterns accordingly, **the special calculation formula has no regard to the possibility that disabled workers may throughout their lives have increased financial requirements arising from their disability and/or that, with advancing age, those financial requirements may increase.** They may not be able to adjust their expenditure patterns **without making significant sacrifices that would not arise in the case of a non-disabled colleague.***

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- *69. It therefore seems to me that the **legitimate aims of the social plan could be achieved by less discriminatory means** that pay due regard to the **particular circumstances of disabled workers** when allocating the limited funds available to be paid as compensation upon redundancy. For that reason, I consider that the arrangements put in place by Baxter's social plan fail to satisfy the proportionality test.*

Having considered the criteria for making workings redundant, the AG is of the opinion (as older/disabled workers are cheaper to make redundant, that)

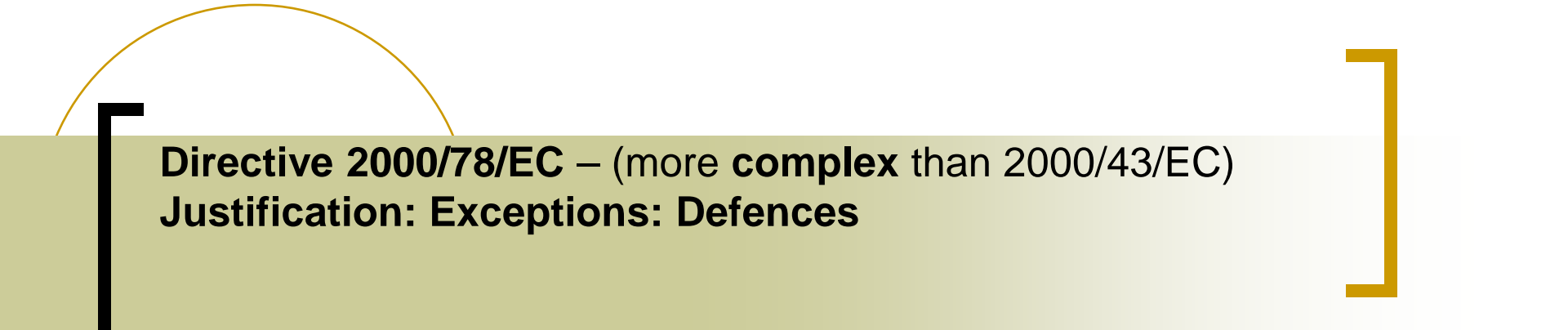
- *76. I therefore consider that the Directive precludes national measures like those contained in paragraph 6(1.1) to 6(1.5) of the social plan. **Such provisions lead to indirect discrimination on grounds of disability, since an apparently neutral provision of the social plan results in a disadvantage.** Disabled workers, because they are eligible to retire at 60, receive lower awards of compensation than non-disabled employees who are eligible to retire at the standard age of 65.*

[Harassment:]

- 2(3). *Harassment shall be deemed to be **discrimination** within the meaning of paragraph 1, when an **unwanted conduct related to racial or ethnic origin 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.*

To note: second sentence – some views

- This definition is not exhaustive in light of the reference to Member States' national laws and practice in the second sentence.
- Fear that Member States *might* 'dilute' the definition by legislating to require proof that the harassment was because of the complainant's race or religion.
- **Note:** Recast Directive 2006/54/EC does not have any reference to Member States' legislation. Harassment is prohibited without any potential qualification.



Directive 2000/78/EC – (more complex than 2000/43/EC)
Justification: Exceptions: Defences

Disability – articles 2(2)(b) and 5

Genuine + determining occupational requirement
(including religion/belief – organisation's ethos) – article
4

Age - article 6

Religion – police/schools – Northern Ireland – article
15

Objective justification - CJEU accords weight to
Social Policy, where Member State legislation involved:
no leeway for employers

[Summary:]

- Similarities and differences in both Directives
- Guidance from/on gender Directives/CJEU case law
 - **From** – operation of objective justification
 - **On** – definition - indirect discrimination
- Objective justification – Member States’ Social Policy given weight; no leeway for employers (economic)
- Shifting burden of proof
- Scope – wider in Race Directive
- Defences/exceptions – more complex in Directive 2000/78/EC
- Proposal for Directive 2000/78/EC (since 2008) still ‘in train’
- Definitions of concepts:
 - Discrimination (includes instruction to discriminate + following this instruction)
 - Direct
 - Indirect
 - Harassment