Direct discrimination

2006/54/EC, art.2

“where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation”
**Direct discrimination**

Less favourable treatment/disadvantage
On grounds of sex
Comparator (including pregnancy/maternity)
Causation
Reason/motive/inherently discriminatory criterion/stereotyping
Person
Is a victim necessary?
No justification – except genuine occupational requirement

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**Indirect discrimination**

2006/54/EC, art.2

“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”
*Indirect discrimination*

Provision, criterion or practice (“PCP”)
Apparently neutral
Selection of pool
Particular disadvantage
Legitimate aim (cost/cost plus)
Appropriate and necessary means
*Enderby* indirect discrimination (equal pay)

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*Direct/indirect discrimination – other issues*

Mutual exclusivity direct/indirect discrimination
Why does the direct/indirect classification matter?
Distinguishing direct/indirect discrimination—CHEZ RB C-83/14
Intersectional discrimination
**Harassment**

2006/54/EC, art.2

“where unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment”

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**Harassment**

Unwanted conduct  
Related to sex of a person  
Gender reassignment  
Violates dignity  
Intimidating etc environment  
Purpose or effect  
No comparator  
No justification  
Perception of victim
Sexual harassment

2006/54/EC, art.2

“where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment”

Sexual harassment

Of a sexual nature