Article 23 CFREU – a new vision of equality rights beyond women and men?

European Academy of Law, 2 June 2014
Overview

• Vision of Article 23
  – Ensuring equality
  – Women and men

• Implications in practice
  – Reading Article 21
  – Intersectional discrimination
  – Reading Article 23 (2)

• Beyond women and men?
  – Article 23 and women’s rights
  – Ensuring other equalities?
Vision of Article 23 (1)

- Women and men
  - Reverse order
  - Gender or sex?

- Ensuring
  - beyond….
    - Equal treatment
    - Gender mainstreaming
Implications in practice

• Reading Article 21 CFREU
  – Beyond Aristotle
  – Do we need comparators?
  – Dynamic view of indirect discrimination
Ensuring equality for all women?

- Intersections
More implications: Article 23 (2)

- Until now: restrictive interpretation
- Ensuring equality: progressive interpretation
- How to phrase “positive action” adequately

COM (2012) 614: gender parity in Europe’s board rooms
Beyond women & men?
Limits of Article 23 CFREU (1)

- Women’s rights
  - Improve position of women in law and society
  - Not necessarily in reference to men
Limits of Article 23 CFREU (2)
Hierarchies of equality?

- Article 23 creates a new vision for equality, moving beyond equal treatment, mainstreaming and comparison
- This seems to reinforce a prerogative for gender equality over other equalities in the Treaties
- While it is worthy of critique that EU legislation prioritises race and ethnicity, priority for gender is equally worthy of critique
Thank you for your attention!

I always welcome questions and comments, even after the seminar

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