



# EU Anti-discrimination Law

## Serbia Enlargement Screening Chapter 23

DG JUSTICE/JUST/D1 Equal treatment legislation unit  
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# Outline

- ✓ The Treaties
- ✓ The Charter
- ✓ The anti-discrimination directives
  - grounds
  - scope
  - key concepts
  - protection for victims





# Principle of non-discrimination in the Treaties

## Article 2 TEU

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, *non-discrimination*, tolerance, justice, solidarity and *equality between women and men* prevail.

## Article 3 TEU

The EU shall promote equality between women and men.





# Principle of non-discrimination in the Treaties

## ❖ ANTI-DISCRIMINATION

Art. 19 TFEU: special legislative procedure (Council acting unanimously and after obtaining the consent of the European Parliament)

## ❖ GENDER EQUALITY

Art. 157 TFEU: ordinary legislative procedure (Council and Parliament). Principle of **equal pay** for men and women for equal work or work of equal value.





# Charter of fundamental rights of the EU

## Title III: Equality

- **Article 20 - Equality before the law**
- **Article 21 - Non-discrimination**: any discrimination based on 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.
- **Article 23 – Equality between men and women** must be ensured in all areas including employment, work and pay.

Scope of the Charter: is applicable to EU institutions and to Member States only when they are implementing EU law.





## **The anti-discrimination Directives**

- ✓ Racial Equality Directive 2000/43 – race / ethnic origin
- ✓ Employment Equality Directive 2000/78 – religion or belief, disability, age and sexual orientation

## **The gender equality Directives**

- ✓ Gender equality directive – 2006/54/EC
- ✓ Directive 2004/113 – Regarding discrimination in the field of access to goods and services





# Prohibited grounds of discrimination

- **Sex** (Directive – 2006/54/EC)
- **Race or ethnic origin** (Directive 2000/43)
- **Religion or belief** (Directive 2000/78)
- **Disability** (Directive 2000/78)
- **Age** (Directive 2000/78)
- **Sexual orientation** (Directive 2000/78)





# Scope of application

## Material scope

### The field of employment and occupation

- Access to employment + promotion
- Working conditions (incl. pay and dismissal)
- Vocational training
- Membership of organisations

### **The Race Equality Directive also covers:**

- Education
- Social advantages
- Social protection and healthcare
- Goods and services, incl. housing (the 2004/113/EC gender equality Directive also covers goods and services but not housing)







# Scope of application

## Personal scope

### All Directives cover

- all persons on EU territory: EU citizens and third country nationals
- public and private sectors

EU anti-discrimination legislation 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.





# Key concepts of EU anti-discrimination law

- **Direct discrimination**
- **Indirect discrimination**
- **Harassment**
- **Instruction to discriminate**





# Exceptions

**NOT all differences of treatment constitute discrimination:**

- **genuine and determining occupational requirement**
- **religion or belief in religion organisations**
- **reasonable accommodation for disabled persons**
- **age requirements**
- **age and disability for the armed forces**
- **positive action**





## **An effective protection**

- Provision of judicial and/or administrative procedures in order to allow victims of discrimination to seek redress
- Associations having a legitimate interest in ensuring the respect of the principle of equal treatment may assist victims of discrimination, either on their behalf or in their support, with their approval, in judicial or administrative procedures
- Adoption of effective, proportionate and dissuasive sanctions





# Help for victims

Member States must set up equality bodies which must:

- ✓ Provide independent assistance to victims of discrimination
- ✓ Conduct independent surveys
- ✓ Publish independent reports and make recommendations

Victims of discrimination may also be supported by:

- ✓ Non-governmental organisations (NGO)
- ✓ Trade unions





## **State of play of EU anti-discrimination acquis**

- Transposed in all 28 Member States
- Monitoring by Commission
- Complaints by citizens
- Infringement procedure
- Role for European Court of Justice:
  - Incorrect transposition of EU law
  - Interpretation of EU law





## New proposal for a Directive

Published in July 2008

Prohibits discrimination on grounds of disability, age, religion & belief and sexual orientation **outside employment:**

- Social protection (social security, health care)
- Social advantages
- Education
- Access to goods & services, including housing

Also provides the obligation to establish **equality bodies** for the promotion of non-discrimination concerning those grounds





## Useful websites

- [http://ec.europa.eu/justice/discrimination/index\\_en.htm](http://ec.europa.eu/justice/discrimination/index_en.htm)

***European commission***

- <http://curia.europa.eu>

***Court of Justice of the EU***

- <http://fra.europa.eu/en>

***EU Agency for Fundamental rights***

- <http://eige.europa.eu>

***European Institute for gender equality***







**Thank you for your attention !**

