

 This training session is funded under the "Rights, Equality and Citizenship Programme 2014-2020" of the European Commission.

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The EU legal framework on equality: EU Charter and the EU Treaties, EU Directives on equal treatment – overview and scope, International instruments

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Vienna, 28 May 2018

The EC/EU Treaties

I) Art. 157 TFEU (former Artt. 119 EEC and 141 EC)

Principle of equal pay (for equal work) between women and men

- ECJ, *Defrenne II* (Case 43/75) – direct effect
- ECJ, *Schröder* (Case 50/96) – fundam. right

II) Art. 19 TFEU (former Art. 13 EC Treaty)

Enables the Council (upon recommendation of the Commission) to take appropriate action to combat discrimination based *inter alia* on sex

The EU Charter of Fundamental Rights

I) Art. 21

Principle of non-discrimination on the grounds of sex

II) Art. 23

Principle of equality between women and men in all areas, including employment, work and pay

III) Art. 33 (2)

Right to family and professional life with prohibition of dismissal connected with maternity leave and paid maternity leave

EU Directives on Equal Treatment

I) Directive 75/117/EEC

On approximation of laws relating to the application of the principle of equal pay for men and women

II) Directive 76/207/EEC

On implementation of equal treatment principle for men and women in the employment domain as regards access to employment, vocational training and promotion, and working conditions

III) Directive 86/378/EC

On implementation of equal treatment principle for men and women as regards access to occupational social security schemes

IV) Directive 92/85/EEC

On improvement of safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

EU Directives on Equal Treatment (cont'd)

V) Directive 97/80/EC

On the burden of proof in cases of discrimination based on sex

VI) Directive 2000/43/EC

Race Equality Directive

VII) Directive 2000/78/EC

Equal treatment in employment and occupation (age, disability, religion, sexual orientation)

VI) Directive 2004/113/EC

On equal treatment principle outside the employment market (i.e. access to goods and services)

VII) Directive 2006/54/EC (recast)

On principle of equal opportunities and equal treatment of men and women in matters of employment and occupation

VIII) Directive 2010/18/EU

On parental leave

IX) Directive 2010/41/EU

On equal treatment principle for self-employed workers

International Instruments

I) Council of Europe (CoE)

a) European Convention on Human Rights (1950)

Article 14: non discrimination *inter alia* on the grounds of sex

- Protocoll No. 12 (2000)

- ECtHR: *Zarb Adami v. Malta* (17209/02, 2006)
 - ECtHR: *Opuz v. Turkey* (33401/02, 2009)
- ECtHR: *Konstantin Markin v. Russia* (GC, 30078/06, 2012)
 - ECtHR: *Valiuliene v. Lithuania* (33234/07, 2013)
- ECtHR: *Carvalho Pinto de Sousa Morais v. Portugal* (17484/15, 2017)

International Instruments (cont'd)

b) European Social Charter (1961/1996)

Article 4 (3): right of men and women workers to equal pay for work of equal value

Article 8: right of employed women to protection of maternity

Article 20: right to equal opportunities and treatment in employment without discrimination on the grounds of sex

Article E: non-discrimination *inter alia* on the grounds of sex

Collective claim(s) no. 124-138, 4 July 2017

d) International Commission against Racism and Intolerance (ECRI – since 2002)

c) Istanbul Convention on Combating Violence Against Women (no. 210 - 2011)

International Instruments (cont'd)

ii) **United Nations**

- a) Convention on the elimination of all forms of racial discrimination (1965)
 - b) CEDAW Convention (1979)
 - c) UN Convention on Transnational Organized Crime ("Palermo Convention"): Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000)

iii) **ILO**

- a) 1951 Equal Remuneration Convention (No. 100)
- b) 1958 Discrimination (Employment and Occupation) Convention (No. 111)
- c) 1981 Workers with Family Responsibilities Convention (No. 156)
- d) 2000 Maternity Protection Convention (No. 183)