

EQUALITY AND NON-DISCRIMINATION

Class #1

SCHEDULLE

General introduction to the topic

- Format, course requirements and grading procedure
- Definition of key concepts (direct and indirect discrimination, harassment)
- The legal framework on equality:
 - European Union
 - Council of Europe
 - United Nations (incl. ILO)

COURSE STRUCTURE

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Office hours: Tuesdays, 17:00-19:00 (via MS Teams)
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Equality and Non-discrimination:

- 7 live online sessions = 14 teaching units
- classes are conducted using the synchronous method (during the hours provided in the schedule)
- A separate MS Teams meeting will be scheduled for each class (please check your MS Teams calendar)
- Feel free to use ask questions and start new conversations in the „Posts” tab

< All teams

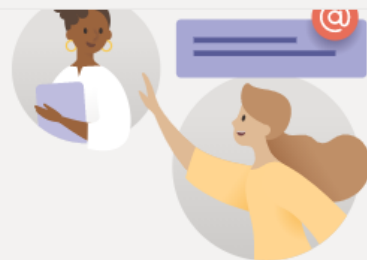


Equality and Non-Discrimin... ⋮

General

EN **General** Posts Files +

Team Meet ⓘ ⋮



Let's get the conversation started

Try @mentioning a student or teacher to begin sharing ideas.



Magdalena Abu Gholeh Yesterday 21:19
Użytkownik zaplanował spotkanie



Equality and Non-Discrimination - class #1
Monday, 5 October 2020 @ 09:45



← Reply

New conversation



Activity



Chat



Teams



Assignments



Calendar



Apps



Help



Calendar

Meeting



Today



October 2020

05

Monday

06

Tuesday

07

Wednesday

08

Thursday

09:00

10:00

11:00

12:00

13:00

Equality and Non-Discrimination - class #1
Magdalena Abu Gholeh



COURSE REQUIREMENTS AND GRADING PROCEDURE

Participation - Only one absence is allowed for the entire semester. Exceptions are made dependent upon the nature of the absence.

In principle, each absence above one reduces the final grade by 0.5.

Test - written case-study test

Test will be conducted online during the last class (23.11.2020).

Your active participation in classes will be appreciated. Active participation in classes entitles student to receive the final grade increased by 0.5.

The final decision on student's grade rests with the lecturer.

COURSE REQUIREMENTS AND GRADING PROCEDURE

Suggested Literature:

1. *Handbook on European non-discrimination law*,
<https://fra.europa.eu/en/publication/2018/handbook-european-non-discrimination-law-2018-edition>
2. U. Belavusau, K. Henrard, *EU Anti-Discrimination Law Beyond Gender*, 2018.
3. Additional articles provided by lecturer before each meeting

ADDITIONAL INFORMATION - RECORDINGS

Following the Rules of conducting courses in the winter semester of the academic year 2020/2021 (*Komunikat Dziekana Wydziału Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego z dnia 14 września 2020 r.*) each session will be recorded.

The recordings will be available for course participants, lecturer and professors until the end of the academic year 2020/2021.

In case of any questions related to personal data protection, do not hesitate to contact your lecturer.

Definition of key concepts and the legal framework on equality

DEFINITION OF KEY CONCEPTS

Direct discrimination

„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”

Art. 2 (2) Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

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

Art. 2(1) Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation

„difference in the treatment of persons in analogous, or relevantly similar, situations”(…) „based on an identifiable characteristics”

Based on European Court on Human Rights judgements

Direct discrimination is when a person is treated less favourably on the basis of ‘protected grounds’.

DEFINITION OF KEY CONCEPTS

Direct discrimination

Direct discrimination is when a person is treated less favourably on the basis of „protected grounds“.

- How to identify the less favourably treatment?
- How to identify a comparator?
- Causation

DEFINITION OF KEY CONCEPTS

Indirect discrimination

„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 compared to other persons”

Art. 2 (2) Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

„a difference in treatment may take the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group”

Based on European Court on Human Rights judgements

Indirect discrimination occurs when an apparently neutral rule disadvantages a person or a group sharing the same characteristics.

DEFINITION OF KEY CONCEPTS

Indirect discrimination

Key elements of indirect discrimination:

1. A neutral rule, criterion or practice
2. that affects a group defined by a 'protected ground' in a significantly more negative way
3. in comparison to others in a similar situation.

DEFINITION OF KEY CONCEPTS

Harassment

„where 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“

Art. 2 (3) Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

„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.“

Article 2(1) Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation

Harassment is a specific type of discrimination.

DEFINITION OF KEY CONCEPTS

Harassment

Harassment shall be considered a discrimination when:

1. unwanted conduct related to a protected ground takes place;
2. with the purpose or effect of violating the dignity of a person;
3. and creating an intimidating, hostile, degrading, humiliating or offensive environment.

„The Tribunal stated (...) that, to be classified as harassment, the reprehensible conduct must have ‘led objectively to ... consequences’ that discredit the victim or impair the latter’s working conditions. (...) [T]he classification of harassment is subject to the condition of its being objectively sufficiently real, in the sense that an impartial and reasonable observer, of normal sensitivity and in the same situation, would consider it to be excessive and open to criticism.”

Case F-442/10 Skareby v Commission EU:F:2012:64

DEFINITION OF KEY CONCEPTS

Protected grounds

A 'protected ground' is an identifiable, objective or personal characteristic of an individual that should not be considered relevant to the differential treatment or enjoyment of a particular benefit.

Art. 14 ECHR – *The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination **on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.***

Art. 21 The EU Charter of Fundamental Rights - *Any discrimination based **on any ground such as 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.*

THE LEGAL FRAMEWORK ON EQUALITY

Human Rights protection systems:

- Universal – United Nations
- European – Council of Europe
- European – European Union
- national

THE LEGAL FRAMEWORK ON EQUALITY

United Nations

- Members - 193 member states (+2 observer states)
- Sources of equality law:
 - Universal Declaration of Human Rights (1948)
 - International Covenant on Civil and Political Rights (1966)
 - International Covenant on Economic, Social and Cultural Rights (1966)
 - Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Enforcement - Individual Complain to the Human Rights Committee

THE LEGAL FRAMEWORK ON EQUALITY

International Labour Organization (ILO) – UN agency

- Members - 187 member states
- Sources of equality law:
 - Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (1951)
 - Convention concerning Discrimination in Respect of Employment and Occupation (1958)

THE LEGAL FRAMEWORK ON EQUALITY

Council of Europe

- Members - 47 member states
- Sources of equality law:
 - European Convention on Human Rights
- Enforcement - Application to the European Court of Human Rights

THE LEGAL FRAMEWORK ON EQUALITY

European Union

- Members - 27 member states
- Sources of equality law:
 - Treaty on European Union (art. 2,3 and 6)
 - Treaty on the functioning of the European Union (art. 8-10, 17-19)
 - Charter of Fundamental Rights of the European Union
 - Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
 - Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
 - Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation

NEXT MEETING

Discrimination based on nationality, race and ethnicity

- Dragan Durmic v Serbia and Montenegro, Communication No. 29/2003, U.N. Doc. CERD/C/68/D/29/2003.
- Centrum voor gelijkheid van kansen en voor racismebestrijding v Firma Feryn NV, C-54/07, 10.07.2008.
- Iraklis Haralambidis v Calogero Casilli, C-270/13, 10.09.2014.