



## EUROPEAN COMMISSION

DG EMPL G2

Contact:

Helmut Maurer, Telephone:(32-2) 2964599, [helmut.maurer@cec.eu.int](mailto:helmut.maurer@cec.eu.int)

27.01.2006

Overview over **only some** important judgements of the ECJ on equal treatment between men and women.

It is an absolutely essential prerequisite for correct transposition of Directives into national legislation to take notice of the Court's most essential judgements in the area of equal treatment between men and women. The Court is the sole authoritative interpreter of Community law, its judgements are binding for national judges as well as for the national legislator and therefore have to be strictly observed. The Directives as such do not always exclusively reflect the full *acquis communautaire*.

### 1. Equal pay, partly in connection with part-time work and indirect discrimination

Defrenne II, C-43/75; Macarthys, C-129/79; Bilka, C-170/1984; Rinner-Kühn, C-171/88; Kowalska, C-33/89; Helga Nimz, C-184/89; Allonby, C-256/01; Lawrence, C-320/00, Mc Kenna, C-191/03.

### 2. Access to employment, vocational training and promotion and working conditions, direct and indirect discrimination, pregnancy discrimination

Brigitte Kording, C-100/95; Dekker, C-177/88; Webb, 32/93; Mahlburg, C-207/98; Brown, C-394/96; Pedersen, C-66/96; Jenkins, C- 96/80;

### 3. Positive action

Lommers, C-476/99; Kalanke, C-450/93; Helmut Marschall, C-409/95; Briheche, C-319/03. (instructive is the Advocate General's opinion because it explains in detail the principles under which positive discrimination is admissible). Also instructive: EFTA Surveillance Authority v. United Kingdom of Norway, E-1/02.

### 4. Overprotection of women

Kommission./Austria, C-203/03; Johnston, C-222/84; Thiebault, C-136/95; Kreil, C-285/98 and Stockel, C-345/89; Sirdar, C-273/97; Levy, C-158/91; Commission./. France, C-197/96.

### 5. Upper limit for compensation in case of discrimination and effectiveness

Colson and Kamann, C- 14/83; Draehmphael, C- 180/95

### 6. Transposition of Dir. 96/97 on occupational social security

G:\6.4.2.05 Gender equality legislation candidate countries\6.4.2.05.3 Countries\Turkey\Screening 2006\legislation overview doc. 26-01-2006.doc

<http://europa.eu.int/>

E-mail: [helmut.maurer@cec.eu.int](mailto:helmut.maurer@cec.eu.int)

Barber, C-262/88; As a matter of principle, Directives must be transposed on the basis of Art. 10 EC (Principle of Community Solidarity), even in cases where there are no occupational pensions. Commission v UK, C-441/00. See also the case Commission v Greece C-214/98

7. Equal retirement age for civil servants

Beune C-7/93, Griesmar, C-366/99 Niemi, C-351/00