

MCH91-102-2-1

W.G. HART WORKSHOP 1990

The Limitations of Market Equality
With Reference To The European Community

Dr Erika Szyszczak
London School of Economics

References

Commission For Racial Equality Annual Report 1989

The Cecchini Report 1988

A. Sivanandan, "The New Racism" New Statesman/Society 4.11.88.

B. Fitzpatrick, "The Significance of EEC Directives in U.K. Sex Discrimination Law" (1989) 9 Oxford Journal of Legal Studies 336

Böhning, (1973) CMLRev 81

Eden and Patijn, (1972) CMLRev 322

H. Storey, "The Right To Family Life and Immigration Case Law at Strasbourg" (1990) 39 ICLQ 328

A.G. Toth, "The Legal Status of the Declarations Annexed to the Single European Act" (1986) 23 CMLRev 803

Lak, "Interaction Between EPC and the EC (External) - Existing Rules and Challenges" (1989) 26 CMLRev 281

"Migrant Workers Organise Against Fortress Europe" International Labour Reports, No 38 March-April 1990

C. Docksey, "The E.C. and the Promotion of Equality" in C. McCrudden (ed) Women Employment and European Equality Law (London, Eclipse, 1988)

B. Hepple, "The Crisis in EEC Labour Law" (1987) 16 I.L.J. 77

F. Weber, "Europe 1992" Race and Class Vol 31 (1989) 78

P. Gordon Fortress Europe? The Meaning of 1992

The Runnymede Trust 1989

K. Simmonds, "The Concertation of Community Migration Policy" (1988) 25 CMLRev 177

European Parliament Committee of Inquiry into the Rise of Fascism and Racism in Europe December 1985

Cases:

- 170/84 Bilka-Kaufhaus v Weber [1986] ECR 1607
- 171/89 Rinner Kuhn [1989] IRLR 493
- 222/86 Heylens
- 31/87 Gebroeders Beentjes BV v State (Netherlands) [1990] 1 CMLR 287
- 43/75 Defrenne v Sabena (No. 2) [1976] ECR 455
- Grimaldi v Fonds des Maladies Professionnelles
not reported
- 152/84 Marshall v S.W.H.A.H.A. (T) [1986] ECR 723
- 222/84 Johnston v RUC [1986] 3 CMLR 240
- 14/83 Von Colson and Kammen v Land Nordrhein Westfalen [1984] ECR 1891
- Duke v GEC Reliance [1988] IRLR 118
- Finnegan v Clowney Youth Training Programme Ltd
not reported
- 184/83 Hofman v Barmer Ersatzkasse [1984] ECR 3047
- 316/85 Centre Public de l'Aide Sociale Courcelles v Lebon [1989] 1 CMLR 337
- 12/86 Demirel v Stadt Schwabisch Gmund [1989] 1 CMLR 421
- R v S/S For Home Dept. ex p. Narin [1990] 1 CMLR 682
- 175/78 R v Saunders [1979] ECR 1129
- 167/73 EC Commission v France [1974] 2 CMLR 216
- 281, 283, 285 and 287/85 Germany and Others v Commission [1988] 1 CMLR 11
- 149/77 Defrenne v Sabena (No 3) [1978] ECR 1365
- 126/86 Zaera v Instituto Nacional de la Seguridad Social [1989] 1 CMLR 827
- 78/85 Group of the European Right v European Parliament [1986] 11 ECR 1753

Relevant Community Legislation

Council Directive 89/48/EEC of 21 December 1988 on a General System For Recognition of Higher Education Diplomas Awarded on Completion of Profession Education and Training of At Least Three Years Duration.

Article 1 a diploma must show "that the education and training attested... were received mainly in the Community, or the holder thereof has three years' professional experience certified by the Member State which recognised a third country diploma..."

Article 117 EEC:

"Member states agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonisation while the improvement is being maintained".

Article 118 B:

"The Commission shall endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it necessary, lead to relations based on agreement".

Article 100 A (3):

"The Commission, in its proposals... concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection".

Article 119 EEC:

Equal pay without discrimination based on sex means:

"(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job".

Council Directive 75/117/EEC (Equal Pay) OJ 1975 L 45/19

Council Directive 76/207/EEC (Equal Treatment) OJ 1976 L 39/40

Article 2 (1):

"... the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status".

Article 7 EEC:

"Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on the grounds of nationality shall be prohibited.

The Council may, on a proposal from the Commission and in co-operation with the European Parliament, adopt by a qualified majority, rules designed to prohibit such discrimination".

Article 48 EEC:

"(1) Freedom of movement for workers shall be secured within the Community by the end of the transitional period...

(2) Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment remuneration and other conditions of work and employment".

General Declaration on Articles 13-19 of the Single European Act 1986

"Nothing in these provisions shall affect the right of Member States to take such measures as they consider necessary for the purposes of controlling immigration from third countries and to combat terrorism, crime, the traffic in drugs and illicit trading in works of art and antiques".

Political Declaration on Free Movement of Persons

"In order to promote the free movement of persons, the Member States shall co-operate without prejudice to the powers of the Community, in particular as regards third countries. They shall also co-operate in the combatting of terrorism, crime, the traffic in drugs and illicit trading in works of art and antiques".

Decision 85/381/EEC OJ 1985 L 183/36

Joint Declaration Against Racism and Xenophobia OJ 1986 C 176/62

Council Resolution on the fight against racism and xenophobia 29 May 1990.