

# Editorial

## The European Commission and Social Developments

During a brief study at the University of Memphis, all students attending a certain course were asked to read George Orwell's novel *Animal Farm*. In class much attention was given to the phrase replacing the so-called Seven Commandments: "*All animals are equal, but some animals are more equal than others.*" Equal rights and treatment was, more in general, given ample attention at the University. It was a loaded topic in the US at that time, as the OJ Simpson trials were pending. It remains a loaded topic today, as we can witness from the events following the tragic death of George Floyd.

Equality has been given a very important role in modern societies. Inequality is something that is always lurking. Equality wasn't a major issue at the beginning of the European Economic Community though. The rule that men and women should receive equal pay for equal work was introduced from the start, but mainly served as a means to prevent Member States not abiding by this rule from having a competitive advantage over others. The moral fundamentals underlying this rule were given less thought. Slowly but gradually this changed as can be witnessed from the landmark ruling *Defrenne (No 2)* (Case 43/75):

"Article 119 pursues a double aim. First, in the light of the different stages of the development of social legislation in the various Member States, the aim of Article 119 is to avoid a situation in which undertakings established in States which have actually implemented the principle of equal pay suffer a competitive disadvantage in intra-community competition as compared with undertakings established in States which have not yet eliminated discrimination against women workers as regards pay. Secondly, this provision forms part of the social objectives of the community, which is not merely an economic union, but is at the same time intended by common action, to ensure social progress and seek the constant improvement of the living and working conditions of their peoples as is emphasized by the preamble to the treaty. (...) This double aim, which is at once eco-

nomic and social, shows that the principle of equal pay forms part of the foundations of the community."

Nowadays, equal treatment on various topics (not only gender equality) is thoroughly laid down in multiple EU legislative acts. Article 20 of the Charter of Fundamental Rights of the European Union briefly states: Everyone is equal before the law. We have definitely made a lot of progress on this issue. Still, it sometimes can be very difficult to assess whether a certain measure is discriminatory and whether it perhaps can be justified. But we can learn from each other. That is the main purpose of this magazine. In this edition, you will find multiple cases on discrimination, including comments of other jurisdictions. Do you agree on the line chosen by the national courts? Are the outcomes sound and would they have been the same in your jurisdiction? Moreover, topics like collective dismissal, paid leave, transfer of undertaking and privacy are covered as well.

Enjoy!

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