

Helen Meenan (ed.), ***Equality Law in an Enlarged European Union. Understanding the Article 13 Directives***. Cambridge: Cambridge University Press, 2007. Pp. xxvi + 370. \$125.00. ISBN 9780521865302.

When you are on the subway in New York, it is difficult not to notice numerous Spanish-language information posters about equality and non-discrimination, such as 'Housing discrimination on the basis of sex, race, ethnic origin ... is unlawful'. They not only state the law: a telephone number in the corner informs you of where to call to make sure that if you are the victim of discrimination, help is available. Have you seen such posters in a Romani

language in the Prague metro? Or in Arabic on the trains around Rotterdam?

The European Union is certainly not the last jurisdiction in the world as far as guaranteeing non-discrimination is concerned—but, also, certainly not the first. While some Member States are better than others in tackling discrimination, the Union-wide non-discrimination policy, as promising as it is young, begs for improvement on numerous counts. And while at the level of political proclamations and even legislation the picture can be promising indeed, in practice, the non-discrimination regime in Europe leaves very much to be desired. This is not only a feeling: the inadequacy of the system has been demonstrated with overwhelming clarity as hundreds of cars have been torched in Parisian suburbs and elsewhere in Western Europe, while in the East of the sub-continent attempts to re-create ghettos proliferate – one of the recent examples being the walled Roma community in Ústí nad Labem, which came into the spotlight not so long ago. All this is child's play, however, compared with the racist policies of the Italian government targeting European citizens on the basis of ethnicity, as the European Commission remains silent and seems very distant. Time could not be riper to write about equality, especially in Europe.

Post-Amsterdam Europe, however promising we regard Article 13 EC and its offspring to be, is not learning from her mistakes. In such an environment, not only relatively new problems in the field of non-discrimination are to be articulated. The very importance of equality and non-discrimination is to be constantly restated, as it does not appear to be obvious to many, including numerous leading politicians.

The book Meenan has edited is an important and extremely timely contribution to the study of equality law in the EU. It makes it absolutely clear that the time for cheering and applause is over. The body of Article 13 EC Directives needs to be assessed critically. The current non-discrimination law in the EU is to be regarded merely as a first shy step in the right direction. Further developments must follow to make it truly meaningful. These should concern not only the right implementation of the Direc-

tives, but also the rebuilding of the whole edifice of equality law in Europe in order to get rid of the present-day hierarchy of the grounds of discrimination (while discrimination on some grounds, such as ethnicity, is flatly outlawed, discrimination on others, such as sexual orientation, is, mysteriously, *de facto* allowed outside the employment context); more attention is to be paid to cross-sectional discrimination, when an overlap of particular grounds results in discrimination not obviously present when the issue is viewed through the lens of each particular prohibited ground alone. Not hiring a black woman while hiring white women and black men is an example of cross-sectional discrimination in action. It is impossible not to agree with Meenan that 'approaches based on inter-sectionality and human rights should now supplant the hierarchy argument as a means of moving towards a level playing field for all grounds' (at 5). Add to this the pressing need to cope with the specific problems of the coming decades, such as the ageing population of the sub-continent and the rise to prominence, yet again, of the far right parties in a number of the Member States. One of the book's strongest points is in being faithful to the initial approach that legal analysis is bound to be placed in the broader context of social problems analysed.

The book masterfully navigates through the whole bulk of equality law of the EU, tracing its history from the inception of two initial prohibited grounds of discrimination – nationality and sex – in 1957 and dedicating special chapters to each of the Article 13 EC prohibited grounds, while placing special emphasis on the interconnection between different grounds and different instruments. Article 13 EC instruments are thus not viewed in isolation, but constantly compared with the legal framework of non-discrimination with respect to nationality and sex, outlining mutual influence of gender, nationality, and Article 13 grounds. The rich examples of regulatory approaches to non-discrimination the authors draw upon come from a wide variety of jurisdictions all round the world from India and the US to the Canadian provinces. Arguments are firmly grounded in international

law, which, too, is not forgotten. In particular, the case law of the Strasbourg Court is rightly awarded, alongside the approaches espoused by the US Supreme Court, a leading place in the discussion of the vistas of non-discrimination in the contemporary world. The EU non-discrimination law rooted in Article 13 EC is thus elegantly placed in the context of EU non-discrimination law in general, comparative law, and international law. All in all, the volume eloquently demonstrates how many equality-related problems still await resolution in today's Europe.

The weaknesses of the book in question are few and mostly relate to the sharpness of its focus. A reader might expect some analysis of immigration law and policy development in the chapter dealing with the ageing population, for instance, instead of being presented with ageing as a phenomenon the irreversible nature of which is taken for granted, without serious assessment of the most viable means to deal with it, which is opening up the borders to some extent. More could be said about the borderline between the idea of equality and the concept of European citizenship; about the, at times, anti-theoretical relationship between the equality ideal and market integration in the EC. While wholly internal situations are briefly mentioned, they seem to represent a vastly important problem for the development of equality in the EU and, ultimately, for the reinvention of EU citizenship as a citizenship of equals – problematic issues brilliantly outlined by Davies in his Mitchell paper.<sup>1</sup> The book could approach the division of competences in the EU as well as the very economic rationale within the Community in a somewhat more critical way, less taking legal developments for granted and asking more systemic questions about the very essence of the equality idea in the EU and where it is going. In focusing on Article 13 EC grounds, however, the book justifies its own title and remains focused and sober even when some

more 'fantasizing' on the topic could probably do it good.

Today, as we are getting closer to an autonomous principle of equality in Community law, the outstanding problems of innumerable kinds are still abundant. Meenan's book not only outlines these with admirable clarity and precision, but also suggests ways to develop equality law further. Linking different fields of law as well as different jurisdictions and approaching the topic with admirable vision the book makes an important contribution to the study of equality law.

## *Individual Contributions*

*Helen Meenan*, Introduction;

*Robin Allen QC*, Article 13 – EC, evolution and current contexts;

*Christopher McCrudden and Haris*

*Kountouros*, Human rights and European equality law;

*Israel Doron*, Demographic, social change and equality;

*Ann Numhauser-Henning*, EU sex equality law post Amsterdam;

*Mark Bell*, EU anti-racism policy – the leader of the Pack?;

*Gwyneth Pitt*, Religion or belief – aiming at the right target?;

*Gerard Quinn*, Disability discrimination law in the European Union;

*Helen Meenan*, Age discrimination – of Cinderella and the golden bough;

*Barry Fitzpatrick*, The 'mainstreaming' of sexual orientation into European equality law;

*Helen Meenan*, Conclusion

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*doi: 10.1093/ejil/chp023*

<sup>1</sup> Davies, 'Services, Citizenship and the Country of Origin Principle', Mitchell papers 2/2007, University of Edinburgh.