

Maria Torres-Perez*

Article 23 of the Charter of Fundamental Rights of the European Union on equality between men and women

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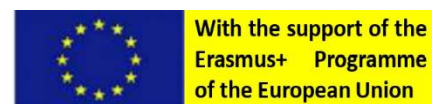
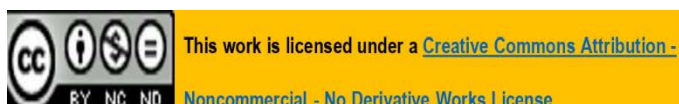
Hello, welcome. I am Maria Torres, and in this video I am going to talk about equality between men and women, integrated in Title III of the Charter, which is generally dedicated to equality.

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Equality between men and women is particularly affirmed in Article 23 of the Charter, according to which "Equality between women and men shall be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures involving specific advantages in favour of the under-represented sex".

However, this provision must be read in conjunction with other provisions dedicated to the



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prohibition of discrimination or the Union's fight against it, to give it precise content, since equality between men and women is not only a value of the European Union itself, as stated in Article 2 of the Union Treaty, but also one of its primary objectives in Article 3.

In any case, most of the doctrine consider Art. 23 as reflecting the basic normative threshold in the matter.

Currently, the Union has a series of Directives dedicated to specifying this equality in certain areas, among which we will highlight two: Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, and Directive 2006/54/EC of the European Parliament and of the Council 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.

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Equal treatment can be demanded by both women and men, as discrimination can affect both sexes, and the CJEU has also included the issue of gender among the prohibited forms of discrimination in this provision.

The Member States of the Union undertake to repeal all internal rules contrary to the development of secondary legislation and to adopt the necessary measures to ensure compliance, declaring contrary provisions null and void.

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The principle of equal treatment, however, does not prohibit, as the article states, the adoption of measures that entail specific advantages (positive actions) or create situations known as "special protection", including protection in the case of pregnancy and maternity.

Positive actions are characterized, as the CJEU has stated on many occasions, by the following characteristics:

- 1) They are exceptions to the principle of equality.
- 2) They have a precise and limited purpose, namely: to eliminate or reduce de facto inequalities that may exist in social life.
- 3) The need for there to be a situation of under-representation that justifies their application in access.
- 4) The need for objective assessment of all candidates irrespective of gender.

If these criteria are not met, they may be considered discriminatory.

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That is all I had to say. Thank you very much for your attention.