

ABSTRACT

Europe has known, in the second half of the twentieth century, major changes in the composition of the populations of its member because of migration processes related to job search. Unified political organization like the European Union could not fail to regulate these flows nor to consider its consequences, among which, unfortunately, some are in a sense appalesate strongly negative, contrary to the expectations of the founding fathers of the initial Community Europe.

Among the factors that make up an obscure point of the achievement of unity we find the lack of integration of elements of diversity into existing environments, or incidents of discrimination, in a transversal way, occurs in all countries and all sectors, from school to work.

In the context of this study, has focused attention on a particular aspect of discrimination, that discrimination on grounds of race, which looks like an anomaly in a project of integration and globalization, which should focus on merit alone, regardless from the origin, and above that should be central-European system of human beings and the respect of his rights.

Just the prevention and resolution of the violation of these rights, motivated by racial prejudice, is the appearance connoting an entire regulatory framework, called "anti-discrimination law", which aims to target and discourage behaviors based on individual aspects and, in the specific case of Racial Discrimination, on matters related to the origin or membership of a particular ethnic group. Through the study of the Guidelines, the judgments of the Court of Justice of the European Union and of particular cases and practice more than others have traced the path of combating racial discrimination has completed a job analysis that allows you to highlight how All EU institutions have taken - gradually - the consciousness of the struggle against forms of discrimination is complex and as the prohibition of racial discrimination, a problem even more relevant today than ever before, has consistently rejected despite "good intentions "and the great expenditure of energy at both European and international level.

The dissertation consists of three chapters, in a "gradual" approach the topic in question, returning a picture of the situation on the one hand characterized by copious production of legal acts, the

other by the resistance offered by the individual States to transpose of the same.

The first chapter relates to the prohibition of discrimination in EU law and the analysis is conducted through the explanation of fundamental concepts such as discrimination in all its meanings and "anti-discrimination law" as a new tool for protecting subject of "weak" and potentially discriminable. Through the regulatory framework for the prohibition of discrimination and analysis of anti-discrimination Directives-blocks are the factors of discrimination, the phenomenon of multiple discrimination, prohibited behavior and the exceptions to the rules. Fundamental analysis is the principle of non-discrimination in the judgments of the Court of Justice of the European Union, as is its case-law that makes "live" cd. anti-discrimination law. The Court itself has actually seen an evolution of their positions going from an initial phase of closing against an involvement in the issue of protection of human rights to an opening phase called "protectionist", establishing a dialogue with the European Court of Human Rights in Strasbourg. The streets of the two courts, first rigidly distinct, in fact, have begun to converge on the level of protection of human rights since the second half of the '80s. In this regard, the speech finds its completion in the subject of the second chapter, namely the prohibition of discrimination in the European Convention for the Protection of Human Rights and Fundamental Freedoms. The chapter begins with a question much debated: the European Union's accession to the ECHR, in view of enhanced protection of human rights. This topic is part of a deepening process that sees the European Union pledged to seek ever more effective means for the protection and defense of human rights and the ECHR is suitable, more than any other instrument, to assume the role of guideline for their protection.

While all EU states are part of the Council of Europe, the Union as such is not participating in the system of the European Convention on Human Rights. However, the interference between the responsibilities of the States of their obligations under the European Convention and those of membership, leading to say that there are already difficult, but important elements of integration between the EU and that of Convention. As the Constitutional Courts and Supreme Courts of the Member States, the EU Court interprets and applies the European Convention of Human Rights in disputes that are brought before it.

As was noted in the literature under the wing of equality stands the image of a new, shared and coordinated by the case law of both Courts.

It seems, now, more and more clearly the trend of recent judgments of the Court of Justice to consider the contents of the Convention and decisions of the European Court of Human Rights as a 'mandatory' landmark cases involving the definition of Fundamental Rights ; above all it seems, on the other hand, moving the principle of equality which emerges as an integration tool not only judicial but also politics in European level.

The same doctrine notes that the protection of fundamental rights, which seems to bring the two Courts, located in the equal treatment of its central node, and this convergence, however, has its own *ubi consistam* and, perhaps, at the same time, its boundary, what might be called a "metaprincipio" of European law, the principle of equality, higher-level, unconditional and immediately applicable. And yet, a closer examination, the contact between the courts may take a different and more far-reaching and, in particular, can overcome the risk of incurring what would seem inevitable conflicts when moving along the tracks of the complete restatement of fundamental rights from disparate sources that, in the intentions of the compilers, was destined to become the first point of reference for all those involved in the protection of fundamental rights under EU law: the Charter of Nice-Strasbourg.

At the heart not only of the jurisprudence of the ECHR but also that of the ECJ are related to the protection of individual rights more than others lend themselves to a close dialogue with national courts and national legislators.

It seems that the principle of equality goes, gradually assuming a disruptive force, unifying, compared to the national case law and those emanating from the two supranational courts. However, this stabilization process requires the completion of a process of European integration in the absolute respect of fundamental rights. It is in this spirit that takes strength *aggregatrice* the realization of the process of EU accession to the ECHR.

The work continues with the analysis of the protection provided by art. 14 of the ECHR, the issues related to its limited scope of operations and attempting to extend the same work by the Protocol. 12. Highlighting the scope of the rights enshrined in the ECHR, are then presented the cases in which the most relevant case law: the case *Nachova c / Bulgaria* in the *SH* case and other *c. Austria*.

The third chapter, finally gets to the heart of the matter, addressing the issue of the prohibition of discrimination on racial grounds within the European and international level.

The analysis can not be separated from the presentation of what are the recent developments of the principle of racial non-discrimination in European and international acts, just as the continuous "becoming" of this principle ensures protection and a relentless focus on a subject as delicate and important. Particular attention is devoted to Directive 2000/43/EC, whereby it is possible to identify cases of direct and indirect racial discrimination, and the Framework Decision 2008/913/JHA on the subject of combating certain forms and expressions of racism and xenophobia, which, although not implemented, however, represents a key step in the process of building protection, as it presents a characterization of such penalty, unlike what happened until then.

The mechanisms of protection against discrimination and the principle of "mainstreaming equal opportunities in all areas of action", the *mainstreaming*, complete the analytical framework.

Finally, upon completion of the course of investigation, is presented the "Feryn case", which is now the first, if not exclusive, interpretation of the Court of Justice ruling on Directive 2000/43/EC and, therefore, appears as a "milestone" in the process of interpretation of the prohibition of racial discrimination .