

Equality Law: A New Generation *CJEU Database User Guide*

This guide is designed to provide users with assistance in how to extract the data from the Equality Law: A New Generation *CJEU Database* that is most relevant for their specific research interests. More advanced users may wish to skip ahead to the codebook, which is included as an annex below.

I. The Contents of the Database and How to Interpret Them

This database includes all cases registered with the Court of Justice of the European Union (CJEU) that relate to the grounds identified in Article 19 TFEU, which provides that:

Without prejudice to the other provisions of this Treaty, and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission, and after consulting the European Parliament, may take appropriate action to combat discrimination based on *sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation*.¹

The database is available for download as an Excel file. Once you have downloaded the database, you will see that it is divided into a series of rows and columns. Each row contains information about a specific case. The first case in the dataset is *Defrenne I*, which was decided by the Court on 25 May 1971. The dataset will be continually updated as new cases are published by the Court.

NB: Two additional datasets are included. The sheet titled “Discrimination PRs Only” is identical to the main dataset, but excludes cases categorized as “infringement proceedings” and “other” in the main dataset. The sheet titled “PR by MS 1961-2018” contains the total number of all preliminary references lodged with the CJEU by each Member State by year. “PR by MS 1961-2018” was constructed using data provided in the *Annual Report of the Court of Justice of the European Union: Judicial Activity* (2017) and the CURIA search function and selecting “Date of the Lodging of the Application Initiating Proceeding”; from 01/01/2018 to 31/12/2018; [COUNTRY]. These sources are publicly available at www.curia.europa.eu.

The columns in the database provide several categories of information about each case:

1. *Case Identification:* Identifying information includes the case number, case name, the date that the case was entered into the court’s registry, and the date of judgment or order of the court (if applicable).
2. *Procedure:* Every case in the dataset falls into three discrete procedural categories: a preliminary reference from a Member State court, an infringement proceeding launched by the European Commission, or “Other”, which is usually a complaint concerning the EU civil service. Each case is coded according to its procedure. For example, if the case is a preliminary reference from a Member State, it is coded as having a value of “1” and a value of “0” in the columns pertaining to infringement proceedings and EU civil service complaints. Alternatively, an infringement

¹ emphasis added.

proceeding would receive a value of “1” in the infringement proceeding column, and a “0” in the preliminary reference and EU civil service complaint columns.

3. *Legal Basis*: Each case in the dataset relies on at least one specific EU legal treaty provision or, directive, or regulation. In some instances, cases concern more than one legal instrument. When a legal instrument is cited in the CJEU judgment, it receives a value of “1” in the corresponding column. Otherwise, the column is coded as having a value of “0”.
4. *Ground of Discrimination*: Each case in the dataset involves a complainant who alleges that she or she has been discriminated against on a protected ground, or in the case of an infringement proceeding, the European Commission has alleged that a Member State has failed to properly transpose an anti-discrimination provision. In all cases in which it is clear which ground is at issue, that ground is coded as “1” in the corresponding column. If more than one ground is alleged to be at issue, the column with the identifier MULTI is also coded with the value of “1”.
5. *Member State Concerned*: With the exception of EU civil service complaints, all cases originate from (in the case of preliminary references) or are directed at (in the case of infringement proceedings) a specific Member State. The Member State concerned is coded as “1”. All other countries are coded as “0”. For example, if a case is referred from a Belgian court or if the case involves an infringement proceeding against Belgium, the column pertaining to Belgium receives the value of “1”. All other countries in the dataset are coded as “0”.
6. *Gender Identification*: If the complainant is female, it receives a value of “1” in the corresponding “female” column. If the complainant is male, it receives a value of “1” in the corresponding “male” column. Note: in the event that it was not possible to discern the gender of the complainant from the judgment, or if the judgment includes *both* women *and* men, the “male” and “female” columns were coded as “0”.
7. *Age Identification*: For cases alleging age discrimination, we divided the complainants into those over 45 years old and those less than 45 years old. Note: in the event that it was not possible to discern the age of the complainant from the judgment, both columns were coded as “0”.
8. *Collective Actors*: If a collective actor is a party to the case, it is coded as having a value of “1”. The name of the collective actor is then provided in the following column. NB: We have deliberately included collective actors in the dataset *only if their name appears in the CJEU judgment*. We are aware, based on our own research, that collective actors occasionally participate in cases, but are not identified in the CJEU judgment. In order to maintain the replicability of our work, we exclude any information about collective actors that we have obtained from sources other than the CJEU judgment itself.
9. *Additional Information*: The dataset also includes (where applicable), the name of the referring Member State court, the name of the CJEU chamber that decided the case, whether an Advocate General Opinion was issued, and whether the Court disposed of the case by issuing an order or a judgment. A brief summary of the case is also included in the final column.

II. Counting and Removing Cases from the Database

Counting the number of relevant cases is not as straightforward as one might initially think. Take, for instance, two common occurrences in the dataset:

- a. Some preliminary references are removed from the registry without a judgment.
- b. Preliminary references are sometimes joined by the CJEU.

Should a case that has been removed from the court registry without a decision on the merits be counted? Should two cases that have been joined and produce one judgment be counted as one case or two? We believe the answers to these questions depends on what the researcher wants to know. Accordingly, we have designed the dataset to give users the maximum freedom to make decisions for themselves.

In the column “REMOVE”, where relevant, we include four nominal numbers: 1, 2, 3, and 4. A value of “1” means that the case was stricken from the registry; a value of “2” means the case was joined with another case; a value of “3” means that the CJEU ruled that the case was inadmissible, the directive did not apply to facts of case, or the Court had no jurisdiction; a value of “4” means that primary or secondary EU law was cited, but not discussed by the Court at length.

We provide this information to only to flag potential reasons why the user may not want to include a case in his or her analysis. Ultimately, is up to the researcher to determine if a case in the “REMOVE” category is relevant to his or her work.

ANNEX

Codebook for Equality Law: A New Generation *CJEU Database*

1. Identification Data

Name: ID
Description: Unique ID sequenced chronologically based on date of CJEU judgment
Level of Measurement: Nominal; discrete
Values: 1 to infinity

Name: DATE
Description: Date of CJEU Judgment
Level of Measurement: Interval

Name: DATE LODGED
Description: Date the case was lodged with the CJEU registry
Level of Measurement: Interval

Name: CASE NO.
Description: Case number provided in CURIA
Level of Measurement: Nominal

Name: NAME
Description: Case name provided in CURIA
Level of Measurement: Nominal

2. Procedure Data

Name: PRELIM REF
Description: Preliminary Reference from a Member State
Level of Measurement: Nominal; unordered, categorical, binary
Values: 1 = present; 0 = not present

Name: INFRINGEMENT
Description: Infringement proceeding against a Member State
Level of Measurement: Nominal; unordered, categorical, binary
Values: 1 = present; 0 = not present

Name: OTHER
Description: Case involves other procedure, usually EU civil service-related
Level of Measurement: Nominal; unordered, categorical, binary
Values: 1 = present; 0 = not present

3. Legal Basis; Characteristics of Complaining Party; Alleged Ground of Discrimination

Name: FEMALE LITIGANT(S)
Description: All complaining parties are female
Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present or mix of male and female litigants

Name: MALE LITIGANT(S)

Description: All complaining parties are male

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present or mix of male and female litigants

Name: LITIGANT(S) > 45 years

Description: All complaining parties > 45 years old

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present or mixed age litigants

Name: LITIGANT(S) < 45 years

Description: All complaining parties < 45 years

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present or mixed age litigants

Name: 2000/78

Description: Citation to Directive 2000/78 in judgment

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present

Name: 2000/43

Description: Citation to Directive 2000/43 in judgment

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present

Name: 1975/117 (equal pay; repealed by recast)

Description: Citation to Directive 1975/117 in judgment

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present

Name: 1976/207 (equal work; repealed by recast)

Description: Citation to Directive 1976/207 in judgment

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present

Name: 2002/73 (amending 76/207; repealed by recast)

Description: Citation to Directive 2002/73 in judgment

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present

Name: 1979/7 (social security)

Description: Citation to Directive 1979/7 in judgment

Level of Measurement: Nominal; unordered, categorical, binary

Values: 1 = present; 0 = not present

Name: 1986/378 (occupation sss)

Description: Citation to Directive 1986/378 in judgment

Level of Measurement: Nominal; unordered, categorical, binary

Values:	1 = present; 0 = not present
Name:	1996/97 (amending 86/378; repealed by recast)
Description:	Citation to Directive 1996/97 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	1986/613 (self-employed)
Description:	Citation to Directive 1986/613 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	2010/41(self-employed; repealing 86/613)
Description:	Citation to Directive 2010/41 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	1992/85 (pregnancy)
Description:	Citation to Directive 1992/85 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	1996/34 (parental leave inkl.UK extension 1997/75)
Description:	Citation to Directive 1996/34 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	2010/18 (parental leave; repealing 96/34)
Description:	Citation to Directive 2010/18 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	1997/80 (burden of proof; repealed by recast)
Description:	Citation to Directive 1997/80 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	2006/54 (recast)
Description:	Citation to Directive 1997/80 in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	119 EEC
Description:	Citation to 119 EEC in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	141 EC
Description:	Citation to 141 EC in judgment
Level of Measurement:	Nominal; unordered, categorical, binary

Values:	1 = present; 0 = not present
Name:	157 TFEU
Description:	Citation to 141 EC in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	GENDER
Description:	Reference to gender discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	RACE
Description:	Reference to race discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	AGE
Description:	Reference to age discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	DISABILITY
Description:	Reference to disability discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	SEX ORIENT
Description:	Reference to sexual orientation discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	RELIGION
Description:	Reference to religious discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	ETHNICITY
Description:	Reference to ethnic discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	MULTI
Description:	Reference to multiple grounds of discrimination in judgment
Level of Measurement:	Nominal; unordered, categorical, binary
Values:	1 = present; 0 = not present
Name:	REMOVE
Description:	Cases that researcher may want to remove his/her for reasons Indicated in “Values” descriptor

Level of Measurement: Nominal; unordered, categorical

Values:

1. Case stricken from the registry
2. Case ruled inadmissible, directive does not apply to facts of case, or court has no jurisdiction
3. Case joined with another case
4. Case in which the directive is cited, but not discussed by the Court at length

4. Preliminary Reference Country Data

This section codes the country from which the preliminary reference is sent (if it is a preliminary reference). There is one column for each of the 28 Member States. If the preliminary reference comes from the Member State, it receives a value of “1”. Otherwise, the column receives a value of “0”.

AUSTRIA	1 = present; 0 = not present
BELGIUM	1 = present; 0 = not present
BULGARIA	1 = present; 0 = not present
CROATIA	1 = present; 0 = not present
CYPRUS	1 = present; 0 = not present
CZECH REPUBLIC	1 = present; 0 = not present
DENMARK	1 = present; 0 = not present
ESTONIA	1 = present; 0 = not present
FINLAND	1 = present; 0 = not present
FRANCE	1 = present; 0 = not present
GERMANY	1 = present; 0 = not present
GREECE	1 = present; 0 = not present
HUNGARY	1 = present; 0 = not present
ITALY	1 = present; 0 = not present
IRELAND	1 = present; 0 = not present
LATVIA	1 = present; 0 = not present
LITHUANIA	1 = present; 0 = not present
LUXEMBURG	1 = present; 0 = not present
MALTA	1 = present; 0 = not present
NETHERLANDS	1 = present; 0 = not present
POLAND	1 = present; 0 = not present
PORTUGAL	1 = present; 0 = not present
SLOVAKIA	1 = present; 0 = not present
SLOVENIA	1 = present; 0 = not present
SPAIN	1 = present; 0 = not present
ROMANIA	1 = present; 0 = not present
SWEDEN	1 = present; 0 = not present
UNITED KINGDOM	1 = present; 0 = not present

Name: MS COURT
 Description: Name of Member State Court from which preliminary reference originates
 Level of Measurement: Nominal; unordered

Name: CHAMBER
 Description: CJEU Chamber
 Level of Measurement: Nominal; unordered, categorical
 Values: 1 – 10 = Chamber number
 0 = No Chamber named
 11 = Grand Chamber judgment

Name: AG OPINION
Description: Case in which AG Opinion was published
Level of Measurement: Nominal; unordered, categorical, binary
Values: 1 = present; 0 = not present

Name: JUDGMENT
Description: Case in which CJEU judgment was issued
Level of Measurement: Nominal; unordered, categorical, binary
Values: 1 = present; 0 = not present

Name: ORDER
Description: Case in which CJEU order was issued
Level of Measurement: Nominal; unordered, categorical, binary
Values: 1 = present; 0 = not present

Name: COLLECTIVE ACTOR
Description: Case in which name of collective actor mentioned in CJEU
judgment or Order as a party
Level of Measurement: Nominal; unordered, categorical, binary
Values: 1 = present; 0 = not present

Name: ACTOR NAME
Description: Name of collective actor mentioned in CJEU judgment or Order
as a party (if present)
Level of Measurement: Nominal; unordered

Name: SUMMARY
Description: Description of case (optional)
Level of Measurement: Nominal; unordered