Abstract: Ten years after its enthusiastic adoption in 2000, the Race Equality Directive (RED) - a deeply innovative and indeed overall far-reaching piece of equal treatment legislation – seems to be still little enforced at the level of European courts. Why? Neither a sudden retrenchment of race discrimination in Europe, nor the inaptitude of the policy to generate European Union (EU)-law litigation, can easily explain the scarce signs of the extensive judicial enforcement that characterise other EU equal treatment policies, such as those on EU-nationality, gender and age. This study zooms in on the realm of domestic politics and judicial enforcement to inquire into cross-sectional and cross-national variations in the implementation of EU equal treatment policy. To do so, I rely upon analytical tools developed by three branches of EU studies scholarship — Europeanization, compliance and judicial politics literature — and I apply them to the yet unexplored domain of race equality policy. Tracing the process of transposition, in the first place, and analysing case law databases and expert interviews with legal practitioners, in the second place, I inquire into compliance and judicial enforcement in three EU countries: France, Germany and Italy. The findings of this comparative study confirm a very limited judicial enforcement of the RED, especially as domestic patterns of adversarial litigation in the domain of race equality are concerned.

I explain this divergence looking at the ‘containment’ action that domestic policy-makers may exert on directives at the moment of transposition. In the case of the RED, this action crucially impinged on aspects likely to determine enforcement dynamics, such as those elements of the process regulating access to judicial redress. This work shows that in the case of a policy measure such as the RED, focused on individual judicial redress and mainly targeted towards disadvantaged end-users, the harmonization of some process elements is crucial to determining converging implementation dynamics. If Europeanization is contained at the moment of transposition, judicial enforcement can be seriously hindered at the national as well as the supranational levels even in presence of domestic legal mobilization. In addition to that, the thesis shows how limited race-consciousness is to be found in contemporary European jurisprudence as well as in the claims filed by antidiscrimination law applicants.
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