

Equal Treatment of Shareholders Following the Audiolux Case

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Abstract: *This paper analyses the development of equal treatment of shareholders in EU law and argues that the Audiolux case does not end the discussion whether equal treatment of shareholders is a general principle of corporate law. EU secondary law and national statutes regulate aspects of equal treatment of shareholders. However, it is not always required to treat shareholders in the same way. They may be treated unequally, if necessary, as long as such treatment is proportionate, and justified by legitimate corporate purposes. In addition, decisions formally applied to all shareholders may be inadmissible if they unfairly discriminate while preserving the appearance of equality. Corporate law thus emphasizes fair treatment over strict equality, a position also supported by economic reasoning.*

Keywords: *corporate law, equality, equal treatment of shareholders, EU law, fairness, fair treatment, good faith, principles of law.*

JEL Classification: K22, K33

DOI: <https://doi.org/10.62768/ADJURIS/2025/5/04>

Please cite this article as:

Mazur, Paweł, „Equal Treatment of Shareholders Following the Audiolux Case”, in Grmelová, Nicole & Anna Kretková (eds.), *Prospects of Law in Business*, ADJURIS – International Academic Publisher, Bucharest, Paris, Calgary, 2025, p. 54-64, <https://doi.org/10.62768/ADJURIS/2025/5/04>.

1. INTRODUCTION

In the landmark decision in the *Audiolux*¹ case the Court of Justice of the EU (CJEU) did not refute the thesis that equal treatment of shareholders is a general principle of law. The secondary EU law governs various aspects of equal treatment of shareholders in both private and public companies. Thus, equal treatment of shareholders is an important part of the corporate law in the EU. It is also

¹ Judgment of the Court (Fourth Chamber) of 15 October 2009. *Audiolux SA e.a v Groupe Bruxelles Lambert SA (GBL) and Others and Bertelsmann AG and Others*, ECLI:EU:C:2009:626.

confirmed by statutes in several EU member states².

However, in typical cases, EU law and the law of the EU member states does not require that all shareholders be treated identically; rather, it prohibits unfair discrimination among them³. This means that, in certain situations, a company may grant specific rights or benefits to selected shareholders while denying them to others.

Thus, this paper argues that EU law and law of the EU member states emphasizes the duty to act in good faith in corporate relations rather than strict equality of treatment of shareholders⁴. A prohibition of unfair discrimination of shareholders by the company and by controlling shareholders is part of the corporate duty of loyalty. The latter is derived from the general obligation to act in good faith⁵. In this vein, this paper aims to demonstrate that company law in Europe is based on the principle of “fair treatment of shareholders” rather than strict equality of treatment.

This paper focuses on corporate law issues connected with an obligation to treat shareholders equally. Certain aspects of equal treatment investors were also codified in the EU-securities law⁶. This paper does not analyse them, and in particular equal access to inside information based on the Market Abuse Regulation⁷. It does not discuss equal treatment in the case of a change of control under

² E.g. Article 53a of the German Joint Stock Companies Act, Article 47a of the Austrian Joint Stock Companies Act and Article 20 of the Polish Commercial Companies Code.

³ See MAZUR, Paweł. Equal Treatment of Shareholders and General Principles of Law. In: Book of Proceedings of the 2nd International Doctoral and Postdoctoral Conference in the Law and Law Related Fields – SPLITLAW 2025. Split: Faculty of Law, University of Split, 2025, p. 11. See also MERKT, Hanno. Der Gleichbehandlungsgrundsatz im Gesellschaftsrecht – Generalbericht. In: JUNG, Peter (Hrsg.). Der Gleichbehandlungsgrundsatz im Gesellschaftsrecht: Verhandlungen der Fachgruppe für vergleichendes Handels- und Wirtschaftsrecht anlässlich der 37. Tagung für Rechtsvergleichung, 19.–21. September 2019, Greifswald. Tübingen: Mohr Siebeck, 2021, p. 113 and the comparative review of the principle of equal treatment of shareholders in several civil law and common law countries.

⁴ MAZUR, *op.cit.*

⁵ In Germany it is argued that the obligation to treat shareholders equally is linked to the duty of loyalty in corporate relations (*Treuepflicht*). The latter is derived from the general duty to act in good faith (*Treu und Glauben*) – see VERSE, Dirk A. Der Gleichbehandlungsgrundsatz im Recht der Kapitalgesellschaften [online]. Mohr Siebeck, 2019 [viewed 24 September 2025]. Available from: doi:10.1628/978-3-16-157963-9, p. 87. Similar approach has been adopted in Austria (see DORALT, Peter, and Martin WINNER. *Aktiengesetz. Kommentar*. 3rd ed. Peter DORALT, Christian NOWOTNY, and Susanne KALSS (eds). Wien: Linde Verlag Ges.m.b.H., 2021. p. 593) and in Poland (see OPALSKI, Adam. *Zasada jednakowego traktowania wspólników i akcjonariuszy, Przegląd Prawa Handlowego*, 2012, no. 6, p. 5).

⁶ See MATTIG, Daniel. *Gleichbehandlung im europäischen Kapitalmarktrecht*. Tübingen: Mohr Siebeck, 2019, p. 19 and a comprehensive analysis of equal treatment of shareholders in the capital market law.

⁷ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, OJ L 173, 12.6.2014, pp. 1–61 – the ‘Market Abuse Regulation’.

the EU Takeover Directive either⁸.

This paper is divided into seven parts. Part two clarifies what is understood by ‘equal treatment of shareholders’. In the paper this notion will be referred to a standard of verification of corporate decisions during the company’s operation and not to the requirement that all shareholders are granted the same rights. Part 3 discusses the statutory basis of the equal treatment of shareholders in the secondary law of the EU. Part 4 argues that even though in *Audiolux* the CJEU refused to recognize the principle of equal treatment of shareholders as a general principle of EU law, it does not provide arguments in favour of the thesis that equal treatment of shareholders is not a general principle of corporate law. This is because the decision of the ECJEU was based on constitutional arguments and balance of powers between institutions of the EU and not the negation of the role of equal treatment of shareholders. Part 5 considers whether equal treatment may be viewed as a general principle of corporate law and argues that such an approach would not be correct because shareholders may be treated differently if the decision to differentiate them is based on clear and verifiable criteria. At the same time, some decisions that apply to all shareholders in the same manner are not admissible. Thus, one could argue that shareholders should be treated fairly rather than equally. Part 6 makes the point that the obligation to treat shareholders fairly (and not necessarily equally) is economically justified. Part 7 offers a conclusion.

2. EQUALITY VS EQUAL TREATMENT OF SHAREHOLDERS

At the outset, it is necessary to explain the meaning of ‘equal treatment’. The concept can refer either to the allocation of rights and obligations among shareholders or to procedural fairness, which requires that corporate decisions be applied consistently to all shareholders⁹.

Referring to the notion of ‘equal treatment’ in the context of the allocation of rights and obligations among shareholders implies that any deviations from the proportional relationship between the number of shares held and the corresponding corporate powers should be regarded as exceptions to the principle of equal treatment of shareholders¹⁰. The practical utility of such principle would be limited as it would be subject to many exceptions. The implementation of Directive 2024/2810¹¹ confirms that pursuing complete equality among shareholders may be futile.

⁸ Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, OJ L 142, 30.4.2004, pp. 12–23 – the ‘Takeover Directive’.

⁹ HUECK, Götz. *Der Grundsatz der gleichmäßigen Behandlung im Privatrecht*. München: Beck, 1958, p. 278.

¹⁰ Such an approach is frequent in Poland – see for instance 15. POPIOŁEK, Wojciech. *Akcja – prawo podmiotowe*. Warszawa: C. H. Beck, 2010, p. 51.

¹¹ Directive (EU) 2024/2810 of the European Parliament and of the Council of 23 October 2024 on

In contrast, understanding equal treatment as a procedural norm — requiring that corporate decisions be applied consistently to all shareholders — does not imply that all shareholders must have identical rights. Accordingly, the shareholders may structure corporate governance as they see fit in the original articles of association¹². Equal treatment of shareholders serves primarily as a standard for assessing corporate decisions made during the company's existence. Such decisions should be applied uniformly to all shareholders unless a justified exception to the obligation of equal treatment exists.

This distinction is not always clear, and some jurisdictions apply both approaches interchangeably. In Poland, case law frequently links the principle of equal treatment of shareholders to the proportionality relation between shareholder's holdings and the scope of their corporate rights¹³. Swiss scholars adopt a similar approach, emphasizing that equal treatment is relative (relative *Gleichbehandlung*) and proportional to shareholding (*Proportionalitätsprinzip*)¹⁴.

By contrast, in Germany¹⁵ and Austria¹⁶, equal treatment is applied only to corporate decisions during the company's operation, not to the initial allocation of rights in the articles of association. Italian literature draws a comparable distinction between equal rights (*parità di diritti*) and equal treatment (*parità di trattamento*)¹⁷.

This paper will focus exclusively on the latter approach and will not address recent legislative changes concerning deviations from the one-share, one-vote principle.

3. MANIFESTATION OF EQUAL TREATMENT OF SHAREHOLDERS IN THE SECONDARY EU LAW

The principle of equal treatment in the corporate context has not been included in the primary law of the EU. Whereas the EU's Charter of Fundamental

multiple-vote share structures in companies that seek admission to trading of their shares on a multilateral trading facility, OJ L, 2024/2810, 14.11.2024 – 'Directive 2024/2810'.

¹² OPALSKI, Adam. In: OPALSKI, Adam (ed.). *Kodeks spółek handlowych. Tom IA. Spółki o-sobowe. Komentarz. Art. 1–36*. Warszawa: C. H. Beck, 2024, commentary to Article 20, marginal number 16.

¹³ See: Judgement of the Appellate Court in Katowice of 3 September 2021, V Aga 266/21, Legalis nr 2887446; judgment of the Polish Supreme Court of 30 September 2004, IV CK 713/03, OSNC 2005/9/160.

¹⁴ KUNZ, Peter; JUNG, Peter. Der Gleichbehandlungsgrundsatz im schweizerischen Gesellschaftsrecht. In: JUNG, Peter. *Der Gleichbehandlungsgrundsatz im Gesellschaftsrecht*. Tübingen: Mohr Siebeck, 2021, p. 84.

¹⁵ VERSE, *op. cit.*, p. 5.

¹⁶ GEIST, Reinhard. In: JABORNEGG, Peter.; STRASSER, Rudolf. *Kommentar zum Aktiengesetz*. Wien: LexisNexis, 2011, p. 597.

¹⁷ PASETTI, Giulio. *Parità di trattamento e autonomia privata*. Padova: Cedam, 1970, p. 70.

Rights invokes a requirement of equal treatment in several fields, it is only addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law (Article 51). It therefore has no direct impact consequences for the relations between individuals.

Moreover, EU law does not impose a general obligation to treat shareholders equally like Article 53a of the German Joint Stock Companies Act, Article 47a of the Austrian Joint Stock Companies Act or Article 20 of the Polish Commercial Companies Code. Interestingly, all those provisions were enacted to implement Article 42 of the Directive 77/91/EEC¹⁸, that requires that Member States ensure equal treatment of all shareholders who are in the same position in connection with the matters governed by the directive, i.e. amendments of the share capital. National legislators went beyond the scope of application of the directive by extending the duty to treat shareholders equally to all actions of the company, and not just to those falling within the scope of the said directive.

The obligation to treat shareholders equally laid down in Article 42 of the Directive 77/91/EEC was extended to share buybacks by the Directive 2006/68/EC¹⁹. Currently those issues are addressed by Directive 2017/1132²⁰ but the scope of application of the requirement to treat shareholders equally did not change and it continues to be limited to amendments of the share capital (Article 85) and to the share buyback (Article 60).

Secondary law of the EU regulates also certain aspects of equal access of shareholders of listed companies to corporate information. In this context one could invoke Article 17(1) of the Transparency Directive²¹ which imposes an obligation on issuers to make available certain information and documents relevant

¹⁸ Second Council Directive 77/91/EEC of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent. OJ L 026, 31.01.1977, pp. 1-13 (Directive 77/91/EEC of 13 December 1976).

¹⁹ Directive 2006/68/EC of the European Parliament and of the Council of 6 September 2006 amending Council Directive 77/91/EEC as regards the formation of public limited liability companies and the maintenance and alteration of their capital. OJ L 264, 25.9.2006, pp. 32–36.

²⁰ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law. OJ L 169, 30.6.2017, pp. 46–127. Also, see POPA TACHE, Cristina Elena & Elise Nicoleta VĂLCU. Artificial Intelligence and Corporate Liability. Towards a New Legal-Ethical Contract in the Dynamics of Emerging Global Human Rights Convergences. *Juridical Tribune – Review of Comparative and International Law*, 2025/2, pp. 281–305, p. 281.

²¹ Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC. OJ L 390, 31.12.2004, pp. 38–57 (“Transparency Directive”). See some details in HOHMANN, Balázs, Adrián FÁBIÁN & Gergely László SZŐKE. The Shades of the Concept of Transparency on the Horizon of European Technology Law and Platform Regulation. *Juridical Tribune – Review of Comparative and International Law*, 2025/1, pp. 44–62, p. 44.

to general meetings to all shareholders. The obligation to treat all shareholders who are in the same position about participation and the exercise of voting rights at the general meeting has been strengthened by the Shareholder Rights Directive (SDR)²². It proclaimed the principle of equal treatment for all shareholders who are in the same position with regard to the participation and the exercise of voting rights in the general meeting (Article 4 of the SRD).

4. THE AUDIOLUX CASE

In the absence of an express basis in secondary law, the CJEU, in its landmark decision in the *Audiolux* case, denied the existence of a general principle of equal treatment of shareholders in EU law. In her opinion preceding the judgement of the CJEU, the Advocate General Trstenjak emphasized that such a general principle cannot be derived directly from primary law in the absence of explicit provisions in the founding treaties²³. Moreover, given the limited scope of the duty of equal treatment of shareholders under Article 42 of Directive 77/91/EEC, the principle could not be inferred from that directive or from any other act of secondary EU law. Consequently, the Advocate General concluded that recognizing a general principle of equal treatment of shareholders would risk upsetting the institutional balance and encroaching upon the legislator's competences. The CJEU shared this view, holding that EU law does not recognize such a general principle.

The *Audiolux* judgment should not be read as diminishing the importance of equal treatment of shareholders in Europe. What the CJEU clarified was narrower: equal treatment is not a general principle of EU law that, on its own, could create an obligation to share a control premium equally among all shareholders in a change-of-control transaction. For such an obligation to exist, a specific legal basis is required²⁴. This basis was later introduced by the Takeover Directive, which, however, did not yet apply to the transaction at issue in *Audiolux*.

The CJEU's reasoning in *Audiolux* was primarily concerned with the division of powers between the EU and its Member States. Because EU competences in company law are not exclusive, any areas not harmonised at EU level remain within the jurisdiction of national legislatures. The CJEU therefore refused to construct unwritten principles of EU corporate law that might limit national autonomy, and it avoided stepping into the role of the legislator itself.

²² Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies. OJ L 184, 14.7.2007, pp. 17–24 (“SRD” or “Shareholders Rights Directive”).

²³ Opinion of the Advocate General Trestenjak delivered on 30 June 2009, Case C-101/08 *Audiolux and Others*, ECLI:EU:C:2009:410, para 75.

²⁴ See: MUCCIARELLI, Francesco. Equal treatment of shareholders and European Union law. Case note on the Decision “*Audiolux*” of the European Court of Justice. *European Company and Financial Law Review*, 2010/1, pp. 158-167. Available from: doi:10.1515/ecfr.2010.158, p. 166.

Accordingly, the fact that the CJEU rejected equal treatment of shareholders as a general EU law principle does not mean that the concept lacks importance within European company law more broadly. To assess whether equal treatment functions as a foundational principle, one must instead look to the laws of individual Member States, which continue to hold primary authority in this field.

5. FAIR TREATMENT VS EQUAL TREATMENT

The frequent invocation of the obligation to treat shareholders equally in secondary EU law and in national legal orders, along with the inconclusive character of the *Audiolux* case, allows one to consider whether the equal treatment of shareholders may be regarded as a general principle of corporate law.

While the principle of equal treatment of shareholders is frequently invoked in the secondary EU law (with a narrow scope of application) and in national legal orders, case law from multiple jurisdictions demonstrates that strict equal treatment is neither absolute nor always required, and that unequal treatment may be legally permissible when it serves legitimate corporate objectives.

The Directive 2017/1132 limits the scope of application of the principle of equal treatment of shareholders with reference to amendments of the share capital share buybacks to shareholders ‘who are in the same position’ (Article 60 and Article 85). It means that some shareholders may be treated preferentially, if one could demonstrate that their position differs from the one applying to other shareholders. Some jurisdictions further elaborate this principle through doctrines of objective justification and proportionality. Germany requires that unequal treatment have a ‘substantive reason’ (*Sachlicher Grund*) and satisfy suitability, necessity, and proportionality tests²⁵, while Austria permits unequal treatment if it serves a ‘legitimate purpose’ (*Schutzwürdiges Interesse*) and is proportionate. Similar approach has been developed in the Netherlands, where it is argued that unequal treatment of shareholders is permissible if it is intended to achieve a legitimate purpose and is proportionate to the means used to do so²⁶.

²⁵ The doctrine of substantive reason was shaped by the Kali und Salz judgment (i.e. judgment of the German Federal Court of Justice of 21 March 1978, BGHZ 71, 40). It allows unequal treatment of shareholders if such diversified approach to holders of shares serves a purpose justified by the company’s legitimate interest, is necessary to achieve that purpose, and is not disproportionate to the interests of the shareholders treated unequally. The application of such proportionality test leads to the conclusion that the mere fact that differentiated treatment of shareholders situated in comparable circumstances serves the interests of the company does not, in itself, justify a departure from the principle of equal treatment of shareholders. Such differentiation would result in the subordination of the individual shareholder’s interest to that of the company - see also VERSE, *op.cit.*, pp. 287-295.

²⁶ See DE KLUIVER, Harm-Jan, and Joti ROEST. Deviations from the ‘one share, one vote’ principle in the Netherlands. Legal and empirical considerations. *European Company Law* [online]. 2025, 22(3), pp. 94–100 [viewed 12 October 2025]. Available from: doi:10.54648/eucl2025018, p.

Thus, jurisdictions in which the doctrine of equal treatment of shareholders is well developed (such as Germany, Austria and the Netherlands²⁷) agree that a divergent approach to different groups of shareholders is admissible, provided that it satisfies the proportionality test. The practical application of this approach is the cross-border merger case involving Mediaset - an international media group²⁸. In course of the cross-border merger with its subsidiaries Mediaset adopted a loyalty voting scheme. The court found that granting loyalty shares to selected shareholders may be tolerated if intended to promote long-term shareholder engagement. However, in the Mediaset case the court struck down the scheme because it was neither necessary nor proportionate, finding that its primary purpose was to consolidate absolute control of the shareholder who benefited from the scheme (Berlusconi family) and marginalize the second-largest shareholder (Vivendi S.A. controlled by the Bolloré family)²⁹. In conclusion, equal treatment is context-dependent: while formal equality is a guiding principle, unequal treatment may be admissible when objectively justified, proportionate, and aligned with legitimate corporate purposes.

As already mentioned, equal treatment is not always required. In addition, it is not a safe harbour for corporate decisions. A decision that ostensibly applies equally to all shareholders but in practice grants disproportionate benefits to one shareholder or is intended to discriminate against a group of shareholders, may be deemed inadmissible. German law distinguishes between open discrimination, where a given decision applies differently to various groups of shareholders (*formale Ungleichbehandlung*), and substantive discrimination (*materielle Ungleichbehandlung*), that is, an action which ostensibly applies to all shareholders but, in practice, discriminates against some of them³⁰. A practical example of the latter is a rights issue, structured specifically to dilute that shareholder's stake (where it is known that a particular shareholder lacked the funds to participate in a rights issue)³¹. Similarly, repeated decisions not to distribute dividends (i.e., decisions that ostensibly apply equally to all shareholders) may be deemed inadmissible if, at the same time, the company grants abnormally high bonuses to managers who are also controlling shareholders³². These examples illustrate that

97.

²⁷ Similar approach is advocated by some Polish scholars – see OPALSKI, Adam. In: OPALSKI, Adam (ed.). *Kodeks spółek handlowych. Tom IA. Spółki osobowe. Komentarz. Art. 1–36*. Warszawa: C. H. Beck, 2024, commentary to Article 20, marginal number 8.

²⁸ DE KLUIVER, *op. cit.*

²⁹ Judgment of the Court of Appeal in Amsterdam of 1 September 2020, ECLI:NL:GHAMS:2020:2379, JOR 2020/279.

³⁰ VERSE, *op. cit.*, p. 93.

³¹ See the judgement of the Polish Supreme Court of 15 March 2002, case no. II CKN 677/00, Legalis; *Re a Company* (No 007623 of 1984), [1986] BCL 362.

³² See the judgement of the Polish Supreme Court of 30 April 2021, case no. V CSK 25/21, V CSK 25/21, Legalis nr 2577480; judgment of the French Court of Cassation of 30 August 2023, n° 22-13.851 (n° 722 F-B); judgment of the High Court of England and Wales of 2019, [2019] 1 BCLC

the principle of equal treatment is context-dependent, and that the mere fact a corporate decision applies uniformly to all shareholders does not suffice to shield it from judicial scrutiny.

Thus, the obligation to treat shareholders equally is neither absolute nor is it a safe harbour for corporate decisions. Its role is to protect shareholders from arbitrary discrimination contrary to the requirements of good faith. Thus, the notion ‘equal treatment of shareholders’ could be well substituted with ‘fair treatment of shareholders’³³.

6. LAW AND ECONOMICS OF EQUAL TREATMENT OF SHAREHOLDERS

Protecting shareholders against arbitrary discrimination by imposing an obligation of fair treatment of shareholders is economically justified as it reduces cost of capital. If majority shareholders were able to make arbitrary decisions, uncertainty about potential returns — and thus investment risk borne by shareholders — would be substantially higher. Investors would consequently demand a higher risk premium, reducing the value of their contributions to subscribe for company shares and increasing the cost of equity financing³⁴.

At the same time the requirement of absolute equal treatment would not be economically efficient. From an economic perspective, departures from equality may be justified when granting disproportionate benefits to a particular shareholder enhances the company’s overall performance or optimizes asset utilization, rather than merely reflecting the controlling shareholder’s ability to impose their will on minority investors³⁵. Such situations may occur, for instance, when additional benefits are necessary to secure a shareholder’s talent and commitment. In each case, it is essential to assess whether the resulting advantages outweigh associated costs, including higher financing costs for other shareholders due to a discount arising from the reduction of rights attached to their shares.

Therefore, from the economic point of view equal treatment of shareholders is not a moral imperative, but rather an instrument enabling the achievement of economically rational outcomes. Unequal treatment of shareholders may be fair if it is motivated by the goal of maximizing value, rather than by the particular interests of managers or majority shareholders³⁶. Economically optimal

171 (Re Edwardian Group Ltd, Estera Trust Ltd v Singh).

³³ Interestingly, in the recitals of Directive 2024/2810, the EU legislator explains that it intends to provide fair treatment of shareholders (see recitals 11 and 14 of Directive 2024/2810).

³⁴ BRUDNEY, Victor. Equal treatment of shareholders in corporate distributions and reorganizations. *California Law Review* [online]. 1983, 71(4), 1072 [viewed 12 October 2025]. Available from: doi:10.2307/3480195, p. 1078.

³⁵ See EASTERBROOK, Frank, FISCHER, Daniel. *The Economic Structure of Corporate Law*. Cambridge: Harvard University Press, 1991, p. 110.

³⁶ *Ibid.*

results, depending on the circumstances, may be achieved either through uniform or differentiated treatment of shareholders. Equality, therefore, is not an autonomous value in corporate law. What matters is fair conduct aimed at maximizing the value generated by the corporation, rather than at fulfilling the demands of particular interest groups.

7. CONCLUSIONS

In *Audiolux*, the CJEU did not reject the thesis that equal treatment of shareholders is a general principle of law. This principle is also frequently invoked in EU secondary law and in the legal orders of the EU member states. However, equal treatment of shareholders is not always required. Shareholders may be treated unequally if it is necessary and proportionate to achieve a legitimate purpose and justified by the interests of the company. At the same time, in some cases, a decision applied in the same manner to all shareholders may be deemed inadmissible if it, in practice, unfairly discriminates against certain shareholders while merely preserving the façade of equal treatment. Thus, one could argue that company law is based on the principle of “fair treatment of shareholders” rather than strict equality of treatment. Such an approach is also supported from an economic standpoint.

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