

TRANSFORMING EUROPE: EU'S GENDER POLICY

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Abstract: *The essay is a rather descriptive one, focused upon EU's gender policy, and especially upon the European Commission's Strategy for equality between men and women (2010-2015). The goals of European Commission are rather optimistic and they focus on the economic challenges and growth. It will be interesting to have a future research on the implementation of the Strategy at the member states level, to see if the Commission's goals would be achieved.*

Key words: *European Union, gender, strategy, policy.*

1. Introduction

The history of EU gender equality legislation goes back to the 1957 Treaty of Rome, which provided the principle of equal pay for men and women (Article 119 amended by Treaty of Amsterdam and renumbered as Article 141 EC). Later, the principles of gender equality was anchored in the EC Treaty and amending Treaties, as well as in the most recent Lisbon Treaty and further strengthened with the adoption of binding EC secondary legislation (i.e. the directives), and with the 'soft' law measures (for example strategies and recommendations), not to ignore the relevance of the case law of the European Court of Justice (ECJ). Despite the actions taken at European level to eliminate gender discrimination much remains to be done, as stated in European Commission's *Strategy for equality between men and women, 2010-2015*, or in *Europe 2020 Strategy*.

2. EU's gender equality policy

Gender equality occupies an important place in the EU which has served as an invaluable platform for the pursuit of gender equality and the fight against discrimination in this particular area.

There is a wide range of views about the extent to which the development of EU has been associated with the reduction of gender inequalities, varying from very considerable [1], to very limited [2]. Still, the promotion and strengthening of gender equality has been established as a priority policy of the Community agenda and has been held on numerous occasions by the ECJ to be a fundamental right and a general law principle under Community legal order [3].

The importance of gender equality was given new impetus by the insertion of Article 13 EC into the EC Treaty, which gives the Community further competence to adopt anti-discrimination legislation. In particular, the Council has the power to adopt legislation aimed at fighting discrimination on grounds of sex, racial or

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ethnic origin, religion or belief, age, disability and sexual orientation. In addition and significantly, Article 13 EC has brought the concept of gender equality beyond the area of employment providing the legal basis for broadening the scope of the principle of equality.

At the same time, parallel changes in the typology of tools and techniques have been introduced in EU policy, with the aim of complementing the legislative measures. In particular, the main soft law tool to reduce discrimination based on gender has been gender mainstreaming, which has been defined as: “the systematic consideration of the differences between the conditions, situations and needs of women and men in all European Union policies, at the point of planning, implementing and evaluation”[4]. A gender mainstreaming requires the EU bodies to seek to eliminate inequality and promote equality between women and men in all activities. Meanwhile, Commission equality policy is extended to issues such as domestic violence and healthcare, previously the exclusive domain of Member States [5].

Furthermore, the developments that have taken place in recent years such as the setting-up of a Community Framework Strategy on Gender Equality [6], which combines traditional forms of legislation with the so-called reactive measures; the creation of an *ad hoc* and independent body, called European Institute for Gender Equality [7] entrusted *inter alia* with the tasks of gathering and disseminating information and best practices, promoting dialogue and partnerships and raising awareness are evidences of the EU’s ongoing commitment to gender equality.

Although from a legal point of view, neither women nor men suffer from discrimination within the European Union, in reality equality has yet to be achieved. There are gender gaps in employment: women are under-represented in several

fields, such as sciences and decision making. In addition, they are generally paid lower wages than men. Women also do more “unpaid” jobs: domestic chores as well as caring for the elderly and children. Conversely, men are also exposed to discrimination in a variety of activities or positions, where their aptitude is not taken for granted – raising children is an example. The gender equality policy also tries to find solutions for discrimination against men as well.

Due to this aspect underlined above, in March 2010, in order to mark the 15th anniversary of the declaration and platform for action adopted at the Beijing UN World Conference on Women and the 30th anniversary of the UN Convention on the Elimination of All Forms of Discrimination against Women, the European Commission adopted the Women’s Charter [8], in which the Commission renewed its commitment to gender equality and to strengthening the gender perspective in all its policies. The Commission also identifies five principles to be followed in achieving one’s goals related to the topic, namely: equal economic independence, equal pay for equal work and work of equal value, equality in decision-making, dignity, integrity and an end to gender-based violence, and finally, gender equality beyond the Union, the last principle being a transcript of the Commission’s ambition to incorporate gender equality into EU external policies.

In the same year, on the ground of two important documents, namely, *Roadmap for equality between women and men 2006-2010* [9] and the *European Pact for Gender Equality*, the European Commission adopted the *Strategy for equality between men and women, 2010-2015* [10], the strategy spells out actions under five priority areas defined in the Women’s Charter, and one area addressing

cross-cutting issues. For each priority area, key actions to stimulate change and achieve progress are described and more detailed proposals are to be found in the accompanying staff working paper. The actions proposed follow the dual approach of gender mainstreaming (meaning the integration of the gender dimension in all policy areas) and specific measures. The Strategy represents the work programme of the European Commission on gender equality, aiming additionally to stimulate developments at national level and to provide the basis for cooperation with the other European institutions and with stakeholders.

The *Europe 2020 Strategy* [11] proposed by the Commission in March 2010 presents a vision for the EU in 10 years time: a smart, sustainable and inclusive economy that delivers high employment, productivity and social cohesion. One of the issues underlined in this strategy is the current gap between male and female employment rates, which shows clearly the need to foster women's greater involvement. Indeed, the overall employment rate of women in Europe is at 62.5 % and some specific groups of women are particularly far from the *Europe 2020* targets. The rates for women from non-EU countries, for instance, are below 50 %, while Roma women are four times more often unemployed than the general female population.

As we can see, the gender equality regime is a relatively complex one, due to the combined use of the traditional legal measures and of the political instruments, all playing an important role in shaping the overall picture. In addition, the development of a gender mainstreaming strategy has provided an over arching framework within the EU to address the deeper problems and causes of gender inequality.

2.1. European Commission's Strategy for equality between men and women

The Strategy describes the remaining challenges to achieving real gender equality and sets out key actions to be taken under each of the principles of equality in the Women's Charter. The Commission says that Union action will be based on a dual approach, promoting gender mainstreaming (by considering the gender dimension in all Union policies) as well as the adoption of specific measures to combat inequality. The key actions proposed under each principle of equality are summarised below.

Actions to promote **equal economic independence** include: promoting gender equality in the implementation of all aspects of the Europe 2020 Strategy for Jobs and Growth, particularly with a view to increasing women's participation in the labour market; promoting female entrepreneurship and self-employment; assessing any remaining gaps in entitlement to family-related leave, such as paternity or carers' leave; reporting on Member States' performance in providing childcare facilities, to help reduce the impact of parenthood on rates of female employment and promoting gender equality in EU initiatives concerning immigration and the integration of migrants, to help improve the employment rate of migrant women.

Actions to secure **equal pay for equal work and work of equal value** include: exploring ways to improve the transparency of pay and the impact of atypical working arrangements, such as part-time work or fixed-term contracts, on equal pay, career development and promotion, and pensions; supporting equal pay initiatives within the workplace, such as the use of analytical tools to identify gender pay gaps—the Commission cites Eurostat figures indicating an aggregated gender pay gap of 17.8% across the EU in

2008; introducing an annual European Equal Pay Day to raise awareness about how much longer women need to work than men to earn the same; and encouraging women to pursue non-traditional career paths.

Actions to improve **equality in decision-making** include: setting and monitoring targets to improve the gender balance in decision-making, such as the 25% target for women occupying leading positions in academic research; monitoring progress towards attaining 40% female participation in Commission committees and expert groups; and supporting efforts to increase the participation of women in EP elections, including as candidates.

Actions to promote **dignity, integrity and an end to gender-based violence** include: adoption of a new EU-wide strategy to combat violence against women, including the possibility of criminal measures to tackle female genital mutilation; possible legislative action on victims' rights; launch of an EU-wide awareness-raising campaign on gender-based violence; ensuring that EU asylum legislation and practice takes account of gender equality, including gender-specific training within the European Asylum Support Office; and drawing up a report on Men's Health which identifies gender-specific health risks and diseases for men.

Actions on **gender equality beyond the Union** include: ensuring that EU conditionality on equal treatment between women and men is adhered to in countries seeking to accede to the EU; implementing the EU Plan of Action on Gender Equality and Women's Empowerment in Development (2010-2015); encouraging partner countries within the EU's European Neighbourhood Policy to promote gender equality; and ensuring that consideration of gender issues is an integral part of EU humanitarian aid.

The concluding part of the Commission's Strategy considers a number of cross-cutting issues affecting all five "principles of equality". These include the need for effective monitoring, enforcement, evaluation and updating of EU equal treatment legislation; using the newly-established European Institute for Gender Equality to monitor existing EU equality indicators and consider the need for new ones; considering gender-related inequalities affecting boys and men as well as the contribution that men can make to achieving gender equality; and producing an Annual Report on Gender Equality to inform an annual Gender Equality Dialogue involving the European Parliament, Council Presidencies, European social partners and civil society representatives.

We note that the Strategy seeks to give effect to the new Commission's commitment to make equality between women and men a reality by implementing the principles of equality set out in the Women's Charter adopted in March. Most of the actions proposed concern measures to be taken by the Commission, in the first instance, and so there are no direct policy, legal or financial implications for Member States resulting from the Strategy. The Strategy and accompanying Commission working documents provide a useful comparative overview of progress towards achieving gender equality across the EU, as well as a helpful indication of future EU action. The Strategy highlights two areas in which legislation is likely to be proposed. The first concerns criminal measures to tackle female genital mutilation; and the second, further measures to enhance victims' rights. Any proposed legislation will be subject to separate scrutiny, at which point we will examine carefully the Commission's reasons for considering that EU legislation is needed in these areas and whether it

would be more effective than national legislation.

3. Conclusions

In order for the member states to make EU's gender equality agenda a political matter, the representations of the problem in the policies need to be tailored to fit the overall agenda of the EU and the main political priorities of the member states.

The red thread in the strategy is the economic perspective and the goal of overcoming economic challenges. The current political agenda and main priority of the EU today, is to achieve the objectives of the EU 2020 strategy: smart, sustainable and inclusive growth. The EU 2020 strategy is being referred to several times in the strategy, and its economic or labour market related objectives are being pinpointed when found relevant. EU's gender policies are tailored to fit the political priorities of the union. This hypothesis is confirmed by the comparison with the Roadmap for Equality between Women and Men, 2006-2010. By briefly comparing the two documents, it is clear that EU's current strategy has a much stronger focus on economic challenges and growth, which in turn reflects the general move within EU's political agenda.

An interesting follow-up would be to make a research on the implementation of EU's Strategy for Equality between Women and Men, at the member states level, and explore how the problems and the solutions that are represented in the strategy are interpreted and put into practice. An immediate problem that I see is however, that the member states are not obliged to report on their activities or progress in relation to the strategy in any ways, so it would be extremely difficult to find sufficient data, especially for a comparative research on the member states.

Still, we should not abandon any research in this area, for otherwise the Strategy will remain another European Commission document full of hopes and hypothetic goals with no pragmatical application.

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This short section will be written right before *Bibliography* and will have the format as the title of the chapter without being allotted a number. The acknowledgements may be addressed to the persons or to the institutions that are not being mentioned elsewhere in the text and that played an important role in obtaining the results submitted within the paper.

References

1. Elman, A.: *Sexual Politics and European Union*. Oxford Berghahn Books, 1996; Rossilli, M.: *Gender Politics in European Union*, New York. Peter Lang, 2000.
2. See, as examples, ECJ Case 149/77, *Defrenne v. Soci te' Anonyme Belge de Navigation Ae'rienne Sabena* (III) [1978] ECR1378; Case C-13/94, *P v. S and Cornwall County Council* [1996] ECR I-02143.
3. European Commission (1996), Annual Report from the Commission Equal Opportunities for Women and Men in the European Union 1996, COM (96)650.
4. European Commission (2006), *Roadmap for Equality between Women and Men for the Period 2006-2010* COM (2006) 92 final of 1 March 2006.
5. European Commission (2000), Communication, *Towards A Community Framework Strategy on Gender Equality (2001-2005)* COM (2000) 335 final.

6. Regulation (EC) No 1922/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a European Institute for Gender Equality, OJ 2006 L403/9.
7. European Commission (2010), Communication from the Commission, *A Strengthened Commitment to Equality between Women and Men. A Women's Charter*, Brussels COM (2010) final.
8. European Commission (2010), Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - *A Roadmap for equality between women and men 2006-2010*, COM(2006) 92 final.
9. European Commission (2010), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for equality between women and men 2010-2015*, Brussels, 21.09.2010, COM (2010) 491 final.
10. Wigdén, I.: *To Install Automation Equipment in an Underground Mine*. In: Proceedings of the 6th ISMMA Symposium, Sandton. 2001, p. 267.
11. <http://but.unitbv.ro/BU2008/index.htm> Accessed: 06-01-2009.
12. *Homogeneous Charge Compression Ignition*. Available at: <http://en.wikipedia.org/wiki/HCCI>. Accessed: 22-06-2008.
13. SR EN 1050-96: *Regarding the Evaluation of Professional Risks*. Accessed: 26.12.1996.