

BRIEF CONSIDERATIONS WITH RESPECT TO THE GENDER EQUALITY PRINCIPLE AT THE NATIONAL AND EUROPEAN LEVELS

Elisabeta SLABU¹

Abstract: *Respecting the principle of equal opportunities and treatment between women and men is essential for the rule of law. This principle must be integrated into all aspects of social and economic life, and combating gender discrimination must be a priority for governments and public or private organizations. Gender equality is a core value of the European Union, a fundamental right, and a key principle of the European Pillar of Social Rights. Romania has developed and approved a series of legal measures to create the necessary framework for respecting this principle, but the implementation and enforcement of legislation in this area remain a challenge for both public authorities and private organizations.*

Key words: *equality, gender, strategy*

1. Introduction

Gender equality is a core value of the EU, a fundamental right (see art. 2 and art. 3 para. (3) of the TEU, articles 8, 10, 19 and 157 of the TFEU and art. 21 and 23 of the EU Charter of Fundamental Rights) and a key principle of the European Pillar of Social Rights. Respecting the principle of gender equality in the European Union requires actions both within EU institutions and within member states. The European Parliament and the Council have demonstrated their commitment to gender equality through several resolutions and conclusions, urging the Commission to adopt a European strategy on gender equality.

This study will analyze the extent to which Romanian legislation transposes European legislation in the field of gender equality, and particularly how the Romanian legislator has encouraged women to remain in the labor market when their family members needed care due to age or illness.

¹ *Dunărea de Jos* University of Galati, Faculty of Law and Administrative Sciences, Legal and Administrative Research Center, slabuelisabeta@yahoo.com.

2. European Legislative Provisions in the Field of Gender Equality

The fundamental principle of gender equality has been transposed into EU legislation over time through a series of particularly important documents:

- ♦ Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;
- ♦ Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security;
- ♦ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in safety and health at work for pregnant workers and workers who have recently given birth or are breastfeeding;
- ♦ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;
- ♦ Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;
- ♦ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation;
- ♦ Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC;
- ♦ Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC;
- ♦ Directive 2024/1500/EU of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU.

The European Parliament also adopted a series of resolutions related to gender equality:

- European Parliament resolution on the equality between women and men in the European Union in 2014-2015. (2016/2249 (INI));
- European Parliament resolution of 21 January 2021 on the EU Strategy for Gender Equality (2019/2169(INI));
- European Parliament resolution of 30 January 2020 on the gender pay gap (2019/2870(RSP));
- European Parliament resolution of 28 November 2019 on the EU's accession to the Istanbul Convention and other measures to combat gender-based violence (2019/2855(RSP));
- European Parliament resolution of 13 February 2020 on the EU priorities for the 64th session of the UN Commission on the Status of Women (2019/2967(RSP)).

- The Council of the European Union adopted a series of conclusions on gender equality:
- Council Conclusions of 10 December 2019 on Gender-Equal Economies in the EU: The Way Forward - the review of the implementation of the Beijing Platform for Action;
 - Council conclusions of 24 October 2019 on the Economy of Wellbeing;
 - Council conclusions of 13 June 2019 on closing the gender pay gap: main policies and measures.

In 2020, the European Commission adopted the communication titled “A Union of Equality: Gender Equality Strategy 2020-2025” (COM(2020)152 final), which outlines policy objectives and actions through which, by 2025, Europe could move closer to the goal of becoming a continent where women are equal to men. The key objectives of this strategy are: ending violence against women; combating gender stereotypes; eliminating gender disparities in the labor market; ensuring equal participation of women and men in various sectors of the economy; **eliminating the gender pay gap and pension disparities; addressing gender imbalances in family responsibilities; and achieving gender balance in decision-making and politics.**

One of the most important European documents that requires improving the balance between professional life and family life, combating violence against women, increasing the employment rate of women and their economic independence is **Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.**

According to this directive, improving work-life balance is one of the ways to eliminate gender disparities in the labor market. Both parents must have rights regarding the care of the family and feel responsible for the care of the children.

The directive introduces minimum standards on family leave and flexible working arrangements for workers, while promoting the fair sharing of care responsibilities between parents. The Commission has an obligation to ensure that Member States correctly transpose and apply this directive, in order to give men and women equal opportunities for personal and professional development. Member States should ensure quality childcare solutions.

Article 33 of the EU Charter of Fundamental Rights provides for the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child, to reconcile family and professional life. However, work-life balance remains a considerable challenge for many parents and workers, particularly due to working hours, which have a negative impact on female employment.

A major factor contributing to the underrepresentation of women in the labor market is the difficulty of finding a balance between professional and family obligations. When they have children, women typically work fewer hours in paid employment and spend more time performing unpaid caregiving responsibilities. Caring for a sick relative has also been shown to have a negative impact on women's employment, with some women dropping out of the labor market altogether.

The Union's current legal framework offers few incentives to encourage men to take on an equal share of childcare responsibilities. Fathers' use of work-life balance schemes, such as leave or flexible working arrangements, have been shown to have a

positive impact, reducing the relative amount of unpaid family work performed by women and giving them more time to perform a remunerated job.

The Directive sets minimum requirements aimed at ensuring equality between women and men in terms of labor market opportunities and treatment at work, facilitating the reconciliation of work and family life for workers who are parents or carers.

The directive provides for individual rights related to the following aspects: paternity leave, parental leave and carer's leave; flexible working arrangements for workers who are parents or carers. By facilitating the reconciliation of work and family life for such parents and carers, this Directive should contribute to the achievement of the objectives of equality between men and women in terms of opportunities on the labor market, equal treatment at work and promoting a high level of employment in the Union.

The directive extends from one to two months the minimum period of non-transferable parental leave to encourage fathers to take parental leave, while maintaining each parent's right to at least four months of parental leave.

Also, to give men and women with caring responsibilities a better chance of staying in work, every worker should be entitled to a five-working day carer's leave a year.

In addition to the right to a carer's leave provided for in the Directive, all workers should retain the right to be absent from work, without the loss of employment rights already acquired or in the process of being acquired, for reasons of force majeure in unforeseen family emergencies.

In order to encourage workers who are parents and carers to remain at work, these workers should be able to adapt their working hours to personal needs and preferences.

Taking into account the needs of workers, they have the right to request flexible working arrangements in order to adapt their working methods, including through the use, where possible, of remote working arrangements, flexible work schedules or a reduction in working time for caregiving.

Workers who exercise their right to take leave or request flexible working arrangements as set out in the Directive should be protected against discrimination or any less favorable treatment on that ground.

The effective implementation of the principles of equal treatment and equal opportunities requires adequate judicial protection of workers against unfavorable treatment or adverse consequences resulting from a complaint or proceedings relating to the rights arising from the Directive.

Member States may introduce or maintain provisions that are more favorable to workers than those laid down in the Directive.

3. Romanian Legislative Updates in the Field of Gender Equality

Equal treatment and the prohibition of discrimination are principle values in the Romanian Constitution and national legislation. However, according to the 2023 Gender Equality Index compiled by EIGE (European Institute for Gender Equality), Romania ranks last in the EU regarding the gender equality index, with a score of 56.1 out of 100. This score is 14.1 points lower than the EU average.

In Romania, the framework law on gender equality is Law no. 202/2002 on Equal

Opportunities and Treatment between Women and Men. This law regulates measures for promoting and implementing the principle of equal opportunities and treatment between women and men, as well as for eliminating all forms of discrimination based on sex in all areas of social life, both in the public and private sectors. The law includes provisions regarding the assurance of equal opportunities and treatment between women and men in the fields of employment, access to education, health, culture, and information, as well as in the area of participation in decision-making and the integration of gender perspectives in national policies. Additionally, the framework law provides mechanisms for sanctioning violations of its provisions, which may result in disciplinary, material, civil, contravention, or criminal liability, as applicable, for the guilty parties.

The Romanian legislator approved a series of normative acts in 2022 that contribute to strengthening the principle of gender equality, as follows:

- The National Strategy 2022 on promoting equal opportunities and treatment between women and men and preventing and combating domestic violence for the period 2022-2027;
- Emergency Ordinance no. 164/2022 for amending and supplementing the Government Emergency Ordinance no. 111/2010 on leave and the monthly allowance for child raising;
- Law no. 283/2022 for amending and supplementing Law no. 53/2003 - Labor Code, as well as the Government Emergency Ordinance no. 57/2019 on the Administrative Code;
- Emergency Ordinance no. 117/2022 for amending and supplementing the Paternity Leave Law no. 210/1999;
- Emergency Ordinance no. 57/2022 for amending and supplementing Law no. 202/2002 on equal opportunities and treatment between women and men and for amending Article 3 paragraph (2¹) of the Government Emergency Ordinance no. 121/2021 on establishing measures at the level of central public administration and for amending and supplementing certain normative acts.

One of the most important normative acts in this field is Law no. 283/2022, which amends and supplements the Labor Code and the Administrative Code of Romania, transposing the provisions of Directive 2019/1158/EU, specifying, among other things, the following:

- Employees cannot be dismissed during the periods of paternity leave and caregiver leave;
- The employer may establish individualized work programs for all employees, including those who benefit from caregiver leave, with their agreement or at their request, which may be of limited duration;
- Any refusal of a request to establish individualized work programs must be justified in writing by the employer within 5 working days of receiving the request.
- When the individualized work program has a limited duration, the employee has the right to return to their initial work schedule at the end of the agreed period. The employee has the right to return to their initial program before the end of the agreed period if the circumstances leading to the individualized schedule change.

- Flexible working arrangements include the possibility for employees to adjust their work schedule, including through remote work, flexible work schedules, individualized work schedules, or reduced working hours.

- In determining the duration of the annual leave, periods of maternity leave, paternity leave, risk maternity leave, leave for caring for a sick child, and caregiver leave are considered periods of activity performed;

- Employers are required to grant caregiver leave to the employee in order to provide care or personal support to a relative or a person living in the same household as the employee who requires care or support due to a serious medical issue, with a duration of 5 working days within a calendar year, upon the written request of the employee;

- Special laws or the applicable collective labor agreement may establish a duration greater than 5 days for caregiver leave;

- Employees who benefit from caregiver leave are insured during this period under the health social insurance system without having to pay contributions;

- Employees have the right to be absent from work in unforeseen situations caused by a family emergency due to illness or accident, which make the employee's immediate presence indispensable, provided that the employer is informed in advance, and the absence period is recovered until the employee's normal working hours are fully covered;

- Absences from work cannot exceed 10 working days within a calendar year;

- Employers and employees must agree on how to make up for the missed time;

- Employers are required to grant paternal leave upon the written request of the employee;

- Granting paternity leave is not conditioned by the duration of employment or the employee's seniority.

Analyzing the provisions of this law, we observe that Romanian legislation has been amended to comply with European provisions and to uphold the principle of gender equality. Current Romanian legislation aligns with the directions established at the European level and introduces benefits that were not foreseeable a few years ago, which support not only women but also individuals facing special family situations (illness, accidents, etc.).

4. Conclusions

The EU is a global leader in gender equality: 14 out of the 20 countries worldwide with the best performance in gender equality are EU member states. Due to solid legislation and jurisprudence regarding equal treatment, efforts to integrate the gender perspective into various policy areas, and legislative acts aimed at addressing specific inequalities, the EU has made significant progress in gender equality over the past decades. The Gender Equality Index for the European Union (EU) in 2023 exceeded 70 points for the first time, reflecting an increase of 1.6 points from 2022.

In conclusion, although some significant progress has been made in promoting the rights of women and girls, no country in the world has advanced far enough to achieve the goal of gender equality and the empowerment of all women and girls by 2030. To

address this issue, the new Action Plan on Gender Equality and the Empowerment of Women in External Actions 2021-2025 (PAEG III) has been approved at the EU level.

This aims to accelerate progress towards the empowerment of women and girls, based on five pillars of action:

1) 85% of all new actions throughout external relations will contribute to gender equality and women's empowerment by 2025. GAP III introduces stringent rules for applying and monitoring gender mainstreaming across sectors. All external assistance across all sectors, including infrastructure, digital, energy, agriculture and blended funds, etc., should integrate a gender perspective and support gender equality.

2) Shared strategic vision and close cooperation with Member States and partners at multilateral, regional and country levels. GAP III makes the case for developing a common approach for all EU actors at country-level and for focusing on selected strategic issues. Careful gender analysis and close consultation with Member States, civil society organisations, women's rights activists, and the youth, will provide a firm foundation for actions in this respect.

3) GAP III calls for accelerating progress, focusing on the key thematic areas of engagement, including fighting against gender-based violence and promoting the economic, social and political empowerment of women and girls. It puts a renewed emphasis on the universal access to healthcare, sexual and reproductive health and rights, and gender equality in education, as well as on promoting equal participation and leadership. It also fully integrates the EU policy framework on Women, Peace and Security, and brings the gender perspective to new policy areas, such as the green transition and the digital transformation.

4) Leading by example. The action plan calls for the European Union to lead by example, including by establishing gender-responsive and gender-balanced leadership at top political and management levels.

5) Measuring results. GAP III adopts a new approach to monitoring, evaluation and learning, with a stronger focus on measuring results. The EU will set up a quantitative, qualitative and inclusive monitoring system to increase public accountability, ensure transparency and access to information on its assistance to gender equality worldwide. The Commission, in cooperation with the EEAS, will monitor progress each year on the implementation of GAP III.

A key objective of the new action plan is to contribute to the empowerment of women, girls, and young people, enabling them to fully exercise their rights and participate more in political, economic, social, and cultural life. PAEG III firmly supports the participation of girls and women and their assumption of leadership roles, promoting them, for example, through governance programs and public administration reforms.

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