

Professor Dr. h.c. Christa Randzio-Plath

Gender Equality in the EU

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The experience of more than 100 years of women`s movements demonstrates that it takes a long persistence, energy, discipline and stubbornness but also a lot of support to struggle for the rights of women. Next year the 100th anniversary of the International Women Day will be celebrated worldwide. But the discrimination of women and the reality of inequality are a fact. The gender gaps are numerous:

- No region and country of the world has overcome gender inequality
- Gender power gap: Political power is in the hands of men- only 12 heads of states and governments are women, in Europe three heads of government and two heads of state, and only 18.6 % of the parliamentarians worldwide are women. Not even 10 % of the mayors are women
- Gender economic power gap: not even 5 % of the CEOs of the biggest companies are women. In the 50 biggest European companies 11% of the board members are women.
- Gender Employment Gap: 15%
- Gender Pay gap: 15%
- Gender worklife gap: 1/3 of women work part time, only 7% of men
- 80% of the low wage sector employment is in the hands of women
- Childcare or care for elderly is commonly agreed the duty of women
- Poverty risk is biggest with single mothers and elderly women

Gender Equality in the European Union

Gender equality has made progress in the European Union according to the EU Commissions 2009 Report. But gender gaps are still there.

Gender balance in Decision-Making

Promoting equal participation of women and men in decision-making has been one of the priorities of the European Commission's Roadmap for equality between women and men (2006-2010). Women of all walks of life continue to be under-represented at all levels of the decision-making process in most EU Member States, despite the progress already achieved. On average, only one out of four members of national parliaments and senior ministers in national governments is a woman. After the 2009 elections to the European Parliament, the share of women rose from 31 % to 35 %.

In 2009, the top two levels of the civil service in each of the EU Member States comprised 68% men and 32% women. Women account for nearly one in three (31%) judges of supreme courts at national level and preside over the courts of Luxembourg, the Czech Republic, Austria, Romania and Finland. The central bank of each country across Europe is led by a male governor. Only in Hungary (33%), Sweden (41%) and Serbia (38%) women account for at least one in three members of the key-decision-making bodies.

In business, women account for an average of just 3% of the presidents of the largest quoted companies in each of the EU Member States in 2009 and less than 11% of board members. Sweden (27%) and Finland (24%) are the only EU countries with more than 20% women on boards. Norway stands out as being the only European country where large companies have boards almost approaching gender equality (42% women and 58% men).

Gender gaps and the labour market

Combating persisting gender inequalities in all spheres of society is a longer-term challenge, since it entails structural and behavioural changes and a redefinition of the roles of women and men. Progress is slow, and gender gaps persist as regards employment rates, pay, working hours, positions of responsibility, share of care and household duties, and risk of poverty. The increasing participation of women in the labour market is a positive development, representing an important contribution to economic growth in the EU.

The female employment rate increased by 7.1 percentage points over the last decade and reached 59.1 % in 2008. This is close to the Lisbon target of 60 % in 2010. This rate varies between Member States from below 40 % to above 70 %. The average gap between female and male employment rates fell to 13.7 percentage points in 2008 from 18.2 points in 1998. Concerning unemployment for the first time women are less hit by unemployment than men. Between May 2008 and September 2009, the unemployment rate at EU level rose more rapidly for men (from 6.4% to 9.3%) than for women (7.4% to 9%). The male dominated sectors of industry and construction have been hit hard. The main reason seems to be that women are already having flexible, low-paid and unsecure jobs. However, in a dozen Member States, unemployment remains higher among women. As women's jobs are concentrated in the public sector, they could be affected by job losses due to budget cuts. The experience from past crises shows that men's employment generally recovers more quickly than women's. For women who became unemployed, the risk of not being re-employed at all is higher. Women are more likely to have a disadvantaged position on the labour market due

to higher incidence of precarious contracts, involuntary part-time and a persistent unfavourable pay gap (17.6% on average in the EU in 2007), with repercussions on their lifetime earnings, social security protection and pensions, resulting in higher at-risk-of-poverty rates, especially once in retirement.

In 2007, the at-risk-of-poverty rate was higher for women (17%) than for men (15%) and this gap was especially high for older persons (22% for women compared to 17% for men) and single parents (34%). The situation of those facing multiple disadvantages is particularly difficult. Finally, households will be more severely affected by a loss of income (due to job losses) in those countries where a male-breadwinner model still predominates.

Beyond the current economic crisis and its effects on women and men, it is necessary to consider the longer-term challenges affecting gender equality in the labour market. The level of education among women has increased considerably, and women outnumber men among university graduates with 59% of graduates in the EU(2006). Yet, Women continue to be concentrated in traditionally feminised and often lower-paid sectors (health and care services, education) and occupy fewer positions of responsibility.

A lack of access to care services for dependent persons (children, disabled, elderly), adequate leave schemes and flexible working arrangements for both parents often hinder women from participating in the labour market or from working full-time. In 2008 31.1 % of women worked part-time compared to 7.9 % of men. Women with children work less (-11.5) than women without children, while men with children work more than men without children (+6.8 points). This strong influence of parenthood on employment participation is linked to traditional gender roles and the lack of childcare facilities in many Member States. Despite an increase in the provision of childcare over the last few years, the coverage rates remain below these targets in many countries, especially for children under 3 years of age.

Caring for other dependants also has a strong influence on the possibility of women and men to remain on the labour market, a challenge aggravated by the ageing of the population. In 2005, more than 20 million Europeans aged 15-64 (12.8 million women and 7.6 million men) had care responsibilities for adult dependent persons. This care responsibility plays a role in the low employment rate of women aged 55- 64 (36.8 % in 2008, 18.2 % lower than men's rate). The lack of adequate worklife balance measures may also influence women's and men's decision not to have children. In countries with favourable conditions for childcare, parental leave and flexible working arrangements, both female employment rates and birth rates are higher.

Perspectives

2009 was marked by the impact of the global economic and financial crisis on the real economy and labour markets. The EU adopted a recovery plan including measures for maintaining women and men in employment. The Commission proposed 'A shared commitment for employment' which aimed to limit the social impact of the crisis, and recognised the need to reinforce gender equality in the responses to the crisis. Recent analysis of national responses to the crisis confirms the risk of downgrading the status of equality policies or reducing budgets allocated to these policies. The EU new 2020 strategy stresses equality of women in the labour market as the Lisbon strategy for growth and jobs (2000) did.

In order to achieve full equality, women need legal, political and economic empowerment as well as solidarity and networking. Political and economic empowerment of women is needed. Legal empowerment is necessary and useful but not sufficient. Women have to organise and network on the local, regional and national level. They have to support each other. In order to achieve equality, women have to choose pragmatic ways and means by using international agreements and courts for changing their future options.

Legal Equality in the European Union

The Treaty of Rome in 1957 on the European Union has enshrined the principle of equal treatment for women and men in its treaties. The European Court of Justice but also the secondary legislation with legally binding directives, recommendations and action programmes underlined the importance of gender equality. The European Parliament after the first direct elections 1979 contributed by establishing a women ' s committee, equality action plans and annual reports. The European Parliament and the Council legislate on the basis of co-decision making when it comes to equality directives. Despite all legal empowerment to change legislation in favour of more gender equality in the labour market, it has to be recognized, that the issue of gender equality meets different forms of objection. The reasons date back to the patriarchal system in Europe that defines the role of the woman to be mother and housewife and this breadwinner modell still exist especially in social environments where religion plays an important role. This cultural reason is reflected in corporate culture which remains male-dominated and this is reflected in companies.. A lot of companies participated in programmes like "Opportunity Now". Unfortunately not always trade unions have been helpful to promote equality. The gender pay gap illustrates the sad situation. At the same time very few major unions are led by women. But nevertheless unions introduced gender mainstreaming into their policies and actions and quotas for a better participation of women in the decision-making ranks of unions and negotiating tables. Additionally women are negatively addressed because they are not seen having the right to work like men having a human right to work but as objects of a smart economy. Lately the economic and social consequences have been discovered which hinder growth because of the discrimination of women.

Therefore the Lisbon strategy of the EU and the new EU 2020 strategy both count on a higher participation rate of women in the labour market. Finally childcare became an important issue to improve employment rates but also the chances for children in a lot of countries, childcare is not appreciated as an important public service and strategies to conciliate professional and family life are far from being perfect for the equal participation of women in the labour market. There is broad agreement in the EU and among the Member States in favour of continuing joint cooperation on sustainable growth after 2010. In connection with the review, it is also important to strengthen gender equality initiatives as gender equality should be viewed as an important factor in achieving long-term sustainable economic growth in the EU.

The Lisbon Strategy has been the EU's common framework for promoting sustainable growth and full employment in Europe. Within the framework of the Lisbon Strategy, EU Member States have agreed on a number of common goals for 2010. In the area of employment, one goal for 2010 is to increase the number of women in work to 60 % and men to 70 %. Implementation of the strategy is reported every year in national action plans.

The national reports are governed by guidelines establishing that gender equality must be integrated into the strategy and that gender equality is an important prerequisite for increased growth and full employment. At a meeting of EU heads of state and government in March 2006, a further initiative was adopted to strengthen gender equality work within the framework of the Lisbon Strategy: the European Pact for Gender Equality. The Pact underscored the importance of fully utilising women's often under-used potential in the labour market, closing gender gaps, combating gender stereotypes and promoting better work-life balance. It is well known that a link exists in many countries between high levels of economic activity (GDP per capita) and higher labour market participation by women and men. But as greater participation by women in the labour market generates higher employment in general, gender equality consequently also contributes to creating virtuous circles in the economy.

Article 157 of the Treaty on the Functioning of the European Union (former Article 119 of the 1957 Treaty of Rome, then Article 141 of the Treaty of the European Communities) guarantees equal pay for women and men but became the legal base for gender equality in view to employment.. Only 40 years later in 1997 the Treaty of Amsterdam made equality one of the fundamental principles of community law by adding occupational equality to Article 2 and introducing anti-discrimination and gender mainstreaming. Article 21 of the December 18th 2000 Charter of Fundamental Rights reaffirms the ban on all forms of discrimination based on gender and compels all states to achieve gender equality. The Lisbon Treaty (2009) confirms that gender equality is part of the European values but at the same time figures among the objectives of EU policies.

The Directives

14 directives have helped on occupational equality since the 1970s. Directives are secondary law and oblige the institutions of the EU but also Member States after having transposed directives in their national legislation.

Directive 75/117EEC broadens the scope of article 119 and establishes the principle of equal pay between women and men for equal work and work of equal value.

Directive 76/207/EEC calls for the implementation of the principle of equal treatment between men and women in view to the access to jobs, occupational training, career and working conditions.

Directive 79/7/EEC of December 19th 1978 specifies the gradual implementation of the principle of equal treatment between women and men related to social security.

Directive 86/378/EEC of 24 July 1986 introduces the principle of equal treatment for men and women in view to occupational social security schemes

Directive 86/613/EEC of 11 December 1986 applies the principle of equal treatment to men and women engaged in a professional activity, including agriculture, or a self-employed capacity and protects self-employed women during pregnancy and motherhood

Directive 92-85-EEC aims to provide better protection for pregnant women in employment.

The two 1996 directives, (96/34/EC and 96/97/EC) deal with gender equality in social security and the protection of self-employed women during pregnancy and maternity leave.

Directive 97/75/EEC of 15 December 1997 amends and extends Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC to the United Kingdom of Great Britain and Northern Ireland,

Directive 97/80/EEC, December 15th 1997 defines the burden of proof in cases of gender discrimination. Directive 98/52/EC of July 13th 1998 extends the applicability of Directive 97/80/EC to the United Kingdom of Great Britain and Northern Ireland

Directive 2002/73/EC from September 23rd 2002 amended directive 76/207/EEC in view to equal treatment in the labour market and introduces the concept of indirect gender-based discrimination. This directive also tackles the issue of sexual harassment in the workplace. It is estimated that in the EU between 30% and 50% of women are victims of sexual harassment in the workplace. The directive stipulates that “harassment and sexual harassment within the meaning of this Directive shall be deemed to be discrimination on the grounds of sex and therefore prohibited. They are contrary to the principle of equal treatment between men and women... in the framework of national legislation, collective agreements or national practices, member States shall encourage employers and those responsible for access to vocational training to take all measures necessary to prevent all forms of discrimination based on gender and, in particular, harassment and sexual harassment in the workplace” Harassment is any unwanted conduct related to the sex of a person with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading,

humiliating or offensive environment. Sexual harassment is any form of unwanted physical, verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Directive 2004/113/EEC of 13 December 2004 implements the principle of equal treatment between men and women in the access to and supply of goods and services

Directive 2006/54 from July 26th 2006 includes seven directives based on article 119 which deal with occupational equality between women and men.

New directives under negotiation are a new Anti-Discrimination Directive, a Directive on Equality in Self-Employment and a Maternity Leave Directive.

The Anti-Discrimination Directive: In July 2008 the EU Commission presented a proposal for a directive to implement the principle of equal treatment for individuals regardless of religion or belief, disability, age or sexual orientation. The purpose is to counteract discrimination outside the field of employment by providing the same level of protection regardless of the ground of discrimination. The current EU legislation against discrimination on the ground of sex, race or ethnic origin is today more far-reaching than the equivalent protection against discrimination on the grounds of religion or belief, disability, age or sexual orientation.

The Directive on equal treatment of men and women who are self-employed: In October 2008, the EU Commission presented a recommendation on equal treatment of men and women who are self-employed and assisting spouses. The Commission's goal is to make it easier for women to start and run businesses and to improve the situation for assisting spouses. The background of the proposal is that the Commission has concluded that the current Directive (86/613/EEC) on the equal treatment of men and women engaged in an activity in a self-employed capacity (including agriculture) and on the protection of self-employed women during pregnancy and motherhood, has had no significant impact. For example, the position of assisting spouses has not improved to any great extent. The EU Parliament has therefore asked the Commission to review the current Directive. The proposal is a part of the measures identified by the Commission to make it easier to reconcile professional life, personal life and family life.

The Maternity Leave Directive: At the same time, there are also ongoing negotiations to amend the Maternity Leave Directive (92/85/EEC), which addresses measures to improve security and health at the workplace for women who are pregnant, have recently given birth or who are breastfeeding. One part of the recommendation is an extended maternity leave from

14 weeks to 18 weeks, of which six are obligatory. The proposal is a part of the measures recommended by the Commission to make it easier to reconcile professional life, personal life and family life.

Transposition of the directives

All “community acquis (acquired rights)” must be transposed into national legislation by specific deadlines. If member states fail to do so, infringement proceedings start against member states, which have not yet transposed directives or done it wrongfully. Sanctions and fines by the European Court of Justice are possible.

The Court of Justice

The European Court of Justice since its establishment became a motor of the legal equality of women in the EU. Since the establishment of the Court of Justice of the European Union in 1952, its mission has been to ensure that "the law is observed" "in the interpretation and application" of the Treaties. As part of that mission, the Court reviews the legality of the acts of the EU institutions, ensures that the Member States comply with obligations under the Treaties, and interprets EU law at the request of the national courts and tribunals.

The Court thus constitutes the judicial authority of the European Union and, in cooperation with the courts and tribunals of the Member States, it ensures the uniform application and interpretation of European Union law. The Court of Justice of the European Union has delivered approximately 15 000 judgments.

Article 267(ex 234) of the treaty states that the Court is responsible for

(a) the interpretation of the Treaties;

b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union;

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.

The Court of Justice has decided numerous rulings on gender equality. Most importantly it has defined the legal framework of direct and indirect gender-based discrimination and has helped victims by changing the burden of proof. The ECJ thus has played an important role in the promotion of equality for men and women. The most notable judgments have been:

In the Defrenne II judgment of 8 April 1976 (Case 43/75), the Court recognised the direct effect of the principle of equal pay for men and women and ruled that that principle not only applied to the action of public authorities but also extended to all agreements which are intended to regulate paid labour collectively; this means it also covers the private sector.

In the Bilka judgment of 13 May 1986 (Case 170/84), the Court felt that a measure excluding part-time employees from an occupational pension scheme constituted ‘indirect discrimination’ and was therefore contrary to Article 119 if it affected a far greater number of women than men, unless it could be shown that the exclusion was based on objectively justified factors unrelated to any discrimination on grounds of sex.

In the Barber judgment of 17 May 1990 (Case 262/88), the Court decided that all forms of occupational pension constituted pay for the purposes of Article 119 and the principle of equal treatment therefore applied to them. The Court ruled that men should be able to exercise their pension rights or survivor’s pension rights at the same age as their female colleagues.

In the Marschall judgment of 11 November 1997 (Case C-409/95), the Court declared that a national rule which, in a case where there were fewer women than men in a sector, required that priority be given to the promotion of female candidates (‘positive discrimination’) was not precluded by Community legislation, provided that that advantage were not automatic and that male applicants were guaranteed consideration and not excluded a priori from applying.

Gender Mainstreaming – an integrated approach to gender equality

The Amsterdam EU Treaty in 1997 (Article 2 and 3) introduced the strategy of Gender Mainstreaming by striving to eliminate inequality and to promote gender equality as a consequence of the fourth UN Women’s Conference in Beijing 1995 and under pressure of the European Parliament. It aims to include gender equality in all policies and programmes and analyses the consequences for men and women respectively before any decision is taken. The Lisbon Treaty counts gender equality among the values and the objectives of the Union. In 1990 the EU put gender streaming into a “community acquired right” (acquis communautaire). The 1991 resolution of the European Parliament already claimed: “it is essential to continue and to actively coordinate the integration of equity and equal opportunity

policies and that all policies, programmes and structures, especially those in the legislative framework, are envisaged with a view to them being applied to the feminine sex”.

The European Commission defined gender mainstreaming as “not limiting efforts to promote gender equality only to the implementation of specific measures to help women but using all actions and general policies to strive to achieve equality by actively and visibly pay attention into their design to the possible effects they might have on the respective situation of women and men”.

Since then, the gender equality dimension has to be taken into account in all policies, funds and budgets as well as any activity from planning and implementation to monitoring and assessment. This also applies to all Member States. Actually only Romania has not introduced gender mainstreaming.

Gender mainstreaming in the EU is defined as “the integration of the gender perspective into every stage of policy process – design, implementation, monitoring and evaluation – with a view to promoting equality between women and men. It means assessing how policies impact on the life and position of both women and men – and taking responsibility to re-address them if necessary. This is the way to make gender equality a concrete reality in the lives of women and men creating space for everyone within the organisations as well as in communities – to contribute to the process of articulating a shared vision of sustainable human development and translating it into reality”.

Both theoretical discussions of the concept of gender mainstreaming and empirical studies on how gender mainstreaming has been implemented in different policy areas have been growing fields of research since the late 1990s. Nevertheless, results are mixed. A full inclusion of a gender perspective in all policy-making is seen as a profound, structural change. Yet given that society is seen as pervaded by dimensions of power, of which gender is one, the difficulties of implementing gender mainstreaming are enormous. Mainstreaming has the potential to transform organisations in “a gender equal way”, also political institutions. But gender mainstreaming may also prevent gender empowerment. The implementation of gender mainstreaming does not necessarily imply a challenge to institutional norms and can go hand in hand with traditional understandings of gender because it does not address structural inequalities between women and men.

In the EU publication 100 words of Gender Equality, a dictionary of Equality terms (1998), gender equality is defined as: “... equal visibility, empowerment and participation of both sexes in all spheres of public and private life. Gender equality is the opposite of gender

inequality, not of gender difference, and aims to promote the full participation of women and men in society.” Gender mainstreaming is defined as: “the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by actors normally involved in policy-making.” Gender equality is defined as a political goal that could be met via a variety of normative understandings and policy initiatives but with the main ambition of creating equal conditions for men and women. The Beijing Action Plan made it clear that gender mainstreaming is one of several strategies for implementing gender equality goals, and has to be looked upon as being complementary. Another form of gender mainstreaming is gender budgeting in fiscal and budgetary policy. Gender budgeting does not exist on the European level despite the fact that gender mainstreaming has been introduced to the Structural funds policies with budgetary implications. But gender budgeting in the EU has found regions and municipalities to dare such an innovative strategy for equality. In relation to gender equality, the concept of equal opportunities implies a more narrow and also individualised understanding of the policy task at hand as a concept that does not necessarily include structural change. On the other hand, the concept of women’s rights connotes a collective and structural understanding of the policy task, related to demands articulated outside formal politics by the women’s movements in the EU. And this means change.

There are different methods or techniques that can be used in implementing gender mainstreaming. Sex-disaggregated statistics are a necessary prerequisite for using some of the other techniques. Gender impact assessment, gender analysis and gender equality analysis all refer to techniques for analysing bills, proposals, programmes and other decision-making materials. An overall conclusion is that gender mainstreaming finds expression in some form in almost all Member States. Some Member States highlight the strategy of gender mainstreaming as fundamental for implementing gender equality policies and/or creating equal opportunities for women and men, while others do not stress this as an overall strategy. In ten Member States gender mainstreaming is legally binding (BE, BG, DE, DK, EE, FI, ES, LV, SI and UK) while nine MS have gender mainstreaming as a de facto binding decision. Although gender mainstreaming is not regulated by law it is clearly stated as governmental practice, for example through governmental communications on gender equality.

In five Member States gender mainstreaming is only a recommendation. Although gender mainstreaming is adopted as a strategy by most Member States, there are differences in both how gender mainstreaming is structured and how the strategy is implemented. The main division concerning strategies is between Member States that have adopted an inter-

ministerial coordination structure and those Member States that have contact persons in different ministries who are responsible for ensuring that gender mainstreaming is implemented in that specific ministry. One tentative conclusion is that gender mainstreaming is carried out in a more comprehensive manner in Member States with both intra- and inter-ministerial structures. But therefore there is a need for a more qualitative analysis of the practical implementation of gender mainstreaming in different policy areas, including both the content and the form of gender mainstreaming. It is important to note the lack of implementation of gender mainstreaming in finance policies, i.e. gender budgeting.

Only four Member States, namely Austria, Finland France and Spain have an explicit statement on gender budgeting. This highlights the fact that gender mainstreaming remains a strategy that is not implemented in all policy areas.. There seems to be a difference between those Member States with the objective of equality. So men and women should have equal rights, obligations and opportunities in the society, Equal opportunities therefore are not enough .Active incentives or programmes are needed to promote the status of women and enrich the society. Some Member States implement gender mainstreaming in law drafting, others in the drafting of programs and projects, and others implement it throughout the whole policy-making process. Depending on how gender equality is defined the implementation of gender mainstreaming will mean different results in relation to the goal of increasing women's rights. If gender equality is built on an understanding of gender as a natural difference between men and women, there is a risk that the implementation of gender mainstreaming will not challenge prevailing gender relations in society. Therefore the Nordic countries with their welfare society model have been more successful than other countries to use gender mainstreaming as a strategy to achieve gender equality.

Other strategies implemented in the Member States

While gender mainstreaming is the main strategy when implementing gender equality in the EU and the Member States, the EU also adopts a so-called dual strategy pointing to the importance of working with specific actions in order to reach gender equality. A majority of Member States have adopted gender mainstreaming as their main strategy, although a majority also clearly states the need to combine gender mainstreaming with specific actions. These measures are mainly directed towards women, or different groups of women like immigrant women and women who suffer violence (for example trafficking for sexual exploitation).. In relation to institutional mechanisms, some governmental bodies handle the funding of these special efforts. I

It is very common for governmental bodies to be involved in different projects (for example projects funded within the EU structural funds) that target specific groups of women, for example immigrant women. Almost all Member States reported on active involvement by civil society actors – such as women’s NGOs, other non-governmental organisations and social partners – in the work for the promotion of gender equality at national and/or federal level. The most common ways of cooperation and involvement are dissemination of information and publications, arranging conferences and seminars and consulting civil society actors on a regular basis in the preparatory process of gender equality reforms. Civil society actors are also invited to participate in various kinds of temporary bodies, committees, commissions and working groups. In addition, meetings and hearings are arranged in many Member States on a regular basis to allow discussion and deliberation with the civil society actors on the government’s efforts and policies on gender equality. The civil society actors are represented in an advisory body attached to the ministry responsible for gender equality in about half of the Member States. Especially in some of the Member States in Central and Eastern Europe (CZ, HU, LT and SK), women’s NGOs play a prominent role in both policy making and policy implementation, i.e. take part in both advisory bodies and act as consultants in preparatory processes of gender equality reforms on a regular basis. In some Member States (DE, DK, FI, PT and UK) there seems to be a tradition of cooperating with women’s NGOs in order to develop gender equality policies. In Estonia (project-based) and Finland these processes also include supporting institutions for gender research. Support to women’s NGOs is thus part of the practice of some Member States while others draw the line quite clearly between institutionalised policies and NGO activism. Going back to the Platform for Action in Beijing 1995 the involvement and support of women’s NGO is underlined as important in the work of improving women’s rights. Thus, this is still a goal to be reached by a majority of the Member States.

Equality Actions

The Lisbon Strategy for growth and employment took on board gender equality as a part of the employment strategy, renewed at the Lisbon Summit in 2000, and underlined that a higher female employment is crucial for Europe becoming more competitive. The European Council set a target of 60% for women’s employment rates by 2010 and promoted female entrepreneurship and more measures for the reconciliation of professional and private life. So childcare became an issue for the European Union. 90 % of children from 3- 6 and 33 %

children under 3 years should have access to child care facilities. Member countries did a lot of progress because of these objectives to marry work and family life.

Reports on Gender Equality

Gender equality assessments in the different sectors of EU policies have been a mission for the European Commission. The first report (2004) underlined progress achieved in gender equality but also pinpointed persistent inequalities particularly in the labour market. The second report (2005) mainly examined the plight of immigrant women. The third report (2006) encouraged member states to take measures to combat occupational inequalities and thereby achieve a better balance between work and private life. The fourth report (2007) recommended the elimination of differences on the labour market, encouraged a better balance between professional and family responsibilities, guaranteed the support of cohesion and rural development policies and called on effective implementation of the legislative framework. The sixth report (2008) was the first to cover all 27 member states of the EU. It stressed increased differences amongst EU countries when it comes to equality and explained the “equality culture” for women in former communist countries. However, what unites all these women is far more powerful than what divides them. The 2009 and 2010 reports were adopted against a backdrop of a general economic slowdown, which has had negative consequences on growth and employment throughout the Union. The reports reconfirm “the essential character of gender equality for the success of the European growth strategy...employment of women being one of the driving forces of the European labour market since the launch of the Lisbon Strategy”. The most important challenge is to “encourage an equal sharing of private and family responsibilities between women and men”.

The European Gender Institute

The European Institute for Gender Equality is a European agency to support the Member States and the European institutions (in particular the Commission) in their efforts to promote gender equality, to fight discrimination based on sex and to raise awareness of gender issues. The European Parliament proposed this institute and decided a budget for it.

The tasks of the institute are to collect and analyse comparable data on gender issues, to develop methodological tools, in particular for the integration of the gender dimension in all policy areas, to facilitate the exchange of best practices and dialogue among stakeholders, and to raise awareness among EU citizens. The Institute has its seat in Vilnius and has been inaugurated in December 2009.

The bodies of the Institute are a Management Board (decision-making body), an Experts' Forum (consultative body) and a Director (executive body) and his/her staff. The Management Board adopts the annual work programme, the medium-term work programme as well as the Institute's budget. The Experts' Forum supports the Director in ensuring the excellence and independence of the Institute. The Director, who is the legal representative of the Institute, is responsible for the daily management of the Institute and the implementation of the work programme. Funding for the European Institute for Gender Equality is currently secured for the period 2007–2013 and the objective of the Institute is to assist EU institutions and member states in promoting gender equality and in preventing discrimination. In addition, one of the tasks of the Institute is to co-operate with organisations and experts in the member states, such as gender equality units, research centres, universities, NGOs and other relevant institutions.

Action programs

Following the equality action programmes since the first direct election of the European Parliament, the Commission programs and action plans promote gender equality in the EU. Now the roadmap for gender equality has been redesigned for the years 2010-2014 giving priority to economic equality and overcoming violence against women.

The 2006-2010 roadmap for gender equality was a follow-up to the framework strategy for gender equality 2001-2005. It established priorities for the Commission for that period and identified six priority areas – equal economic independence for women and men, reconciliation of private and work life, equal representation in decision-making, eradication of all forms of gender-based violence, elimination of gender stereotypes and promotion of gender equality in foreign and development policies. Targets and key actions to facilitate realisation were cited for each area. The roadmap also combined specific actions and the incorporation of gender equality into all EU policies and activities (gender mainstreaming). Roadmap progress reports were published in 2008 and 2010 and pointed out that most member states would not reach the Barcelona targets for childcare facilities by 2010.

The follow-up proposal for the years 2010-2014 is now under consideration by the European institutions, especially in view to the contribution of women to growth and employment and the new strategy “Europe 2020” as a follow-up to the Lisbon strategy for growth and development. The new roadmap will be a move forward with the gender equality agenda by strengthening partnerships with member states and other players.

The European Pact for Gender

The European Pact for Gender Equality has been adopted by the European Council in March 2006 and invites all Member States to close the gender gaps in all sectors and overcome discrimination and inequality, especially the employment and the segregation of the labour market, the stereotypes, the unequal pay are addressed. The Pact encourages more active measures to promote gender equality.

The European Women's Lobby

The European Women's Lobby (EWL) is the largest umbrella organisations of women's associations in the European Union (EU). The EWL Secretariat is based in Brussels, but EWL has member organisations in all 27 Member States of the EU and in 3 candidate countries.

The European Women's Lobby aims at promoting women's rights and equality between women and men in the European Union. EWL is active in different areas such as women's economic and social position, women in decision-making, violence against women, women's diversity, etc. EWL works mainly with the institutions of the European Union: the European Parliament, the European Commission and the EU Council of Ministers. The European Women's Lobby gets its funds mainly from the EU

Gender equality and trade unions

Gender discrimination is deeply rooted in all societies. The world-wide feminisation of the work force will continue. Priority areas for action for trade unions are: more and better jobs for women; gender issues in collective bargaining; equal pay for work of equal value; access for women to promotion; gender awareness for men and women union members and employers; combating violence against women at work; life-long education for women, in particular vocational training. Unions need women as much as women need unions. Organising women workers in both the formal and informal sectors is a high priority for trade unions and to promote gender parity in activities and decision-making at all levels is one of the constitutional aims of the International and European Trade Unions.

Trade unions have a history in the struggle for social and economic rights, equal opportunities and human dignity. Thus the European Trade Unions believe in parity between women and men in every workplace, at all levels of society, and in trade unions themselves. Since its establishment, the global trade union movement has achieved huge progress in developing standards for gender equality. But there is still much to be done to ensure stronger

mainstreaming of gender issues, greater consistency across policy areas, improved awareness of gender perspectives, and fairer distribution of resources.

The European Trade Union Confederation (ETUC) is strongly committed achieving equality between women and men. Women make up more than 50% of Europe's population, and equal opportunities are a fundamental principle of a fair society. ETUC works to promote women's rights, as well as equality between women and men in the labour market and society in general. ETUC tackles issues such as equal pay, job quality, women in decision making, reconciliation of private, family and professional life and working conditions in the home, in society and the trade unions themselves. According to the ETUC survey "Women in trade unions in Europe: Bridging the gap" from 2006, women made up about 42% of trade union members, totalling 25 million female trade unionists across Europe.

Achieving gender equality entails changing Europe's long-hour work ethos and offering a better work-life balance for both men and women within a framework of comprehensive care provision. In 2005, the European social partners – namely, ETUC, the Confederation of European Business (BUSINESSEUROPE, previously UNICE), the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) and the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP) – signed a Framework of actions on gender equality; its implementation is monitored through the adoption of annual follow-up reports. ETUC also adopted several resolutions and action plans in order to promote effective gender equality in the society.

Since 1975, a Women's Committee has been in place and actively pursues these aims. This body adopts positions on issues relating to equality between women and men and monitors the implementation of gender mainstreaming in ETUC's policies, including its Charter on gender mainstreaming adopted at the Seville Congress in May 2007.

European structures for the implementation of gender equality

The European Union has developed several structures to ensure the advancement of gender equality.

The Group of Commissioners on Fundamental Rights, Anti-discrimination and Equal Opportunities drives policy and ensures the coherence of Commission action and that gender equality is taken into account.

The Inter-service Group on Gender Equality brings together representatives from all Commission Directorates General in order to develop a gender mainstreaming approach in all policies and programmes and to coordinate activities.

The Unit “Equality between Men and Women” contributes to eliminate inequalities and promotes an integrated approach to gender equality. The Advisory Committee on Equal Opportunities for Women and Men assists the Commission in formulating and implementing activities aimed at promoting equal opportunities. It is composed of representatives of the Member States (MS), members representing employers’ and workers’ organisations, and of representatives of NGOs and international organisations as observers. The High Level Group on Gender Mainstreaming is an informal group of high-level Memberstate representatives responsible for gender mainstreaming.

The Unit “Equality, Action against Discrimination: Legal Questions”, ensures compliance with the existing Directives. A network of equality bodies promotes the uniform implementation of Community law and the exchange of best practices (EQUINET).

The Committee on Women’s rights and gender equality of the European Parliament *inter alia* defines, promotes and protects women’s rights and is responsible for equal opportunities policy, the removal of discrimination based on sex, the implementation and development of gender mainstreaming and the follow-up and implementation of international agreements and conventions.

The European Parliament High Level Group on Gender Equality ensures that the European Parliament takes into account gender mainstreaming and equality in all the policy areas.

Member States’ ministers responsible for Gender Equality meet in the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO).

The European Pact for Gender Equality reflects the Member States’ commitment and determination to implement policies aimed at promoting gender equality.

At the request of the European Council, the European Commission reports each year on progress towards gender equality and presents challenges and priorities for the future.

Non-governmental organisations (NGOs) and the social partners play an essential role in promoting gender equality by initiating debate and giving input to the EU institutions.

Financial support

There is yet no gender budgeting (gender mainstreaming) in the set up and implementation of the budget of the European Union. Only some regional or local governments apply this gender friendly approach.

But there are some EU funds (structural funds and cohesion fund) which help to promote gender equality. To help realise its call for equality, the Union has implemented financial programmes such as PROGRESS (2007-2013). Earmarked with a budget of 743 million Euros, the programme aims to support concrete implementation of the principle of gender equality and encourage the incorporation of the issue in all EU policies.

The European Network of Women in Decision-Making in Politics and the Economy

This network was launched in June 2008 and represents a European-wide platform for the exchange of good practices and effective strategies to improve the gender balance in decision-making posts. Since its creation, the European Union has become visibly far more women-oriented than the vast majority of individual member states. Indeed women's rights are recognised and affirmed nowhere in the world more than in the EU, in particular thanks to the large body of law which it has assembled and the action programmes and corresponding funding earmarked for encouraging member states to implement equal opportunities between women and men. The legal instruments exist. What remains to be done is to ensure that they are used to their full extent by the member states.

National Legislation on occupational equality in some EU member states

As a result of equality legislation in Europe, most member states have drafted laws and regulations which impose occupational equality. But true equality has not been fully achieved.

The new member states, the former communist countries of Central and Eastern Europe, have difficulties to adapt to equality legislation and equality machineries foreseen by EU legislation. With them becoming members of the EU they have been obliged to transpose all EU legislation including gender equality legislation. This was not easy despite the fact that those countries had a very different history of occupational equality compared to that in the countries of Western Europe. The communist regime introduced gender equality based on the concept of “working mothers” and full employment. But the gender pay gap existed also at that time. After the velvet revolution all countries put gender equality in their constitution but especially in the labour market there was clear discrimination and women were the first employees to be fired. At the same time in most of these countries also the patriarchal family model and thinking got reintroduced. Poland has even been referred to the European Court of Justice (ECJ) for not having transposed European regulations banning discrimination.

The Nordic countries, UK, France, and more recently Spain have done much from a legislative point of view. Therefore the examples for national legislation are chosen from the “old” EU member states.

Nordic countries

The Nordic countries with their welfare system and strong competitiveness confirm that social policies are productive factors and that social security and competitiveness are no contradictions, but preconditions. Thus gender equality has since long top on the agenda leading to the highest employment rates of women and leading positions in the rankings of the Human Development Index as well as the gender Index of the UNDP. Care facilities and other social policies allowing for both parents to get a positive work life balance. The Nordic countries used legislation as a tool to promote gender equality also in reality. Helpful have been the awareness campaigns, education and political commitment of all political parties in the Nordic countries.

Sweden

Sweden has always been a frontrunner in view to gender equality since Olaf Palme governed in the 70's and even before. Like France, Sweden has signed the international conventions drafted by the United Nations and the ILO calling for the elimination of all forms of discrimination against women. But unlike other European countries, as early as the 1930s the norm in the "Swedish social model" was a two-income household. Elsewhere the traditional division of roles into male and female ones still dominated. Indeed Sweden is considered to be the world's most progressive country in terms of gender equality. In the early years of the 20th century Sweden granted several rights to women – the right to vote in 1921, the right to contraception in 1938, a ban on firing a woman because of pregnancy, the birth of a child or marriage in 1939 and separate taxation in 1971. In 1974 a law made it possible for Swedish couples to divide up paid parental leave at the birth of a child.

It was only much later that anti- discrimination laws were introduced – in particular when European directives were transposed into Swedish law. The 1980 law on equal opportunities, revised in 1991 was the first law in Sweden to explicitly ban sexual discrimination. In 2009 it was superseded by the comprehensive Discrimination Act, which also combats discrimination based on other criteria. The 1999 laws, amended in 2003 were inspired by directive 97/80/EC on the burden of proof in cases of sexual discrimination.

Parental leave has existed in Sweden since 1974 and is in a sense the trademark of the Swedish approach to promoting gender equality since it obliges both women and men to be involved in household chores and family responsibilities. At the moment parental leave is 16 months of paid leave – the amount depends on the salary at the time of leave. Theoretically open to both parents it is in fact usually the mothers who opt for the leave except for 60 days which are exclusively reserved for fathers and are lost if not used by them. A wide range of childcare facilities represents the second pillar of this incentive scheme.

Despite a long history of ever-increasing gender equality, Swedish women remain stuck in a limited number of jobs and industries, and very often have insecure jobs. They are not well represented in decision-making bodies, their pay remains lower than that of men although it is true that the rate of employment of women is almost equal to that of men (77% compared to 83%) and 86% of children between the ages of 1 and 5 benefit from childcare facilities. However, most Swedish women work part-time and women only represent 27% of those sitting on boards of large companies. The small numbers of women in the top ranks of companies in Sweden is a subject of considerable debate in the country. The Norwegian

example on the compulsory and sanctioned introduction of a 40% quota on the company boards. The possibility of quotas is being debated and has provoked considerable hostility from employer organisations and large companies. The actual situation in Swedish companies: 46 % women, 54 percent men in all state owned enterprises (SOEs) compared to listed companies with only 18 % women; 48 % women, 52 percent men in the wholly owned SOEs ; 33 % female chairs (compared to listed companies 3 percent) The boards should have gender equality with at least 40 percent of each sex. Gender equality in regard to chairs should increase.

Work to promote equal rights and opportunities is a priority area for Sweden. Effective, comprehensive anti-discrimination legislation is necessary to enable Sweden to combat actions that directly or indirectly violate the principle of the equal worth of all people.

On 1 January 2009 the new Discrimination Act (Swedish Code of Statutes 2008:567) entered into force. At the same time a new agency, the Equality Ombudsman, has been established to supervise compliance with the Act. Seven Acts became one. The new Act replaces also the Equal Opportunities Act from 1991.

The new Act contains prohibitions of discrimination that apply to working life labour market policy activities and employment services not under public contract national military service and civilian service public employment A new penalty, compensation for discrimination, has been introduced for infringements of the Discrimination Act. The aim is to avoid a link to the Tort Liability Act and thereby create better conditions for higher levels of compensation for victims of discrimination. Compensation for discrimination is designed to both compensate for the violation represented by an infringement and act as a deterrent against discrimination.

The new Act introduces a right for non-profit organisations whose statutes state that they are to look after the interests of their members to bring an action on behalf of an individual. This right to bring an action as a party is to be equivalent to the right currently enjoyed by employees' organisations. In order to bring an action, the non-profit organization must have an interest in the matter and the financial ability to bring the action and be a suitable representative in all other respects. There will be also changes in the area of working life when it comes to drawing up action plans for equal pay and gender equality plans, and requirements for pay reviews. Plans and pay reviews will be required every three years instead of every year. An inquiry chair has been tasked with investigating the effects of the provisions on active measures in anti-discrimination legislation.

Germany

Ranked 12th in the World Economic Forum's Global Gender Gap Report 2009, Germany's record on gender equality is mixed. While political participation of women remains high on the federal level and public commitment to gender equality is evident through gender mainstreaming programmes at all levels of government, salary gaps between men and women are among the worst in Europe (23 %). While there is parity of educational attainment with even more women than men at secondary and tertiary level, the segregated professional training, studies and labour market are a challenge for gender equality despite the fact that gender inequality and discrimination are prohibited by the Basic Law.

Article 3 [Equality before the law]

- (1) “All persons shall be equal before the law.”
- (3) “No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavoured because of disability.”
- Art. 3 (2) of the Basic Law provides, following the 1994 reform, not just that “Men and women shall have equal rights”, but now obliges the state expressly to “promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist.”

The Federal Constitutional Court has made it clear in its rulings on Article 3 paragraph 2 of the Basic Law that gender equality between women and men should not be understood as a formal requirement for gender equality, but as covering social reality (Federal Constitutional Court Ruling 92, 80). It therefore involves the implementation of actual gender equality. To achieve this goal, preferential regulations are admissible, as they contribute to substantial equality of opportunities and compensate for de facto disadvantages. In this sense, the German understanding of actual gender equality is in line with the use of the term substantial equality of opportunities.

The EC directives obliged the governments to pass equality law for the public sector. In contrast to other EU countries employment legislation for the private sector is within the competence of the federal level like legislation for the federal public services. So the states (Länder) passed laws in the 80ies in order to improve gender equality and introduced quota systems. The decisions of the European Court of Justice (ECJ) allow for quota regulations, but judge any automatism as unlawful. This means on the one hand that promotion procedures must respect the principle of substantial equality of opportunities for all and thus could have

quota provisions. But regarding German quota regulations the ECJ has underlined that a purely formal understanding falls short: “Article 2(1) and (4) of Council Directive 76/207 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 precludes national rules which, where candidates of different sexes shortlisted for promotion are equally qualified, automatically give priority to women in sectors where they are under-represented, under-representation being deemed to exist when women do not make up at least half of the staff in the individual pay brackets in the relevant personnel group or in the function levels provided for in the organization chart.

Article 2(4) of that directive, which must be interpreted strictly and which provides that the directive is to be without prejudice to measures to promote equal opportunity for men and women, in particular by removing existing inequalities which affect women's opportunities, is specifically and exclusively designed to allow measures which, although apparently giving rise to discrimination on grounds of sex, are in fact intended to eliminate or reduce actual instances of inequality between men and women which may exist in the reality of social life. It thus permits national measures relating to access to employment, including promotion, which give a specific advantage to women with a view to improving their ability to compete on the labour market and to pursue a career on an equal footing with men. A national rule which guarantees women absolute and unconditional priority for appointment or promotion is not a measure of that kind, since it goes beyond promoting equal opportunities and substitutes for it the result of equality of representation which is only to be arrived at by providing such equality.”

So in the Marschall ruling the court decided that quota regulations for women are admissible if, in the course of a review of the individual case, the criteria in favour of the male candidate with the same qualifications are also taken into account. These criteria may not, however, be discriminatory in relation to the female candidates, if the male candidate e.g. has served for a very long period of time or has to care for children. This clarification is intended to prevent indirect discrimination and achieve substantial equality of opportunities.

Preferential treatment of the under-represented gender as provided for in the Federal Equal Treatment Act as well as in the Employee Representation Act is in conformity with EU law, taking into account the conditions established by the ECJ.

Formal equality of opportunities aims at enabling the same starting conditions for all persons. It involves eliminating legal obstacles to access and ensuring fair (procedural) rules for all.

Formal equality of opportunities is realized when, for example, the same access conditions exist for all for access to educational institutions or for appointments to jobs. In the area of universities this means, for example, that equality of opportunities is achieved in a formal sense when the same conditions, such as matriculation requirements, apply for all applicants, male and female, for a study place. Formal equality of opportunities does not mean that the same starting conditions must necessarily be reflected in actual success for all. If it is observed, however, in the long term that one group of persons enjoys disproportionately little success despite all the provisions supporting equality of opportunities, the selection procedures must be reviewed and improved. Selection procedures must be designed in such a way that they do not disadvantage persons in specific life situations, such as persons with an immigrant background.

Substantial equality of opportunities demands equal distribution of chances for success for all social groups. Substantial equality of opportunity is achieved when, for example, different men and women, e.g. from different ethnic groups or of different ages, enjoy a comparable rate of success. In this substantial reading, equality of opportunities cannot be limited to removing access barriers and creating the same starting conditions for all. It must also open up new opportunities over and above this for disadvantaged people and groups to achieve real equality. Therefore, supporting measures such as quota regulations for specific groups are used here to counter actively the disadvantages suffered by certain groups.

The decisions of the European Court of Justice (ECJ) regarding German quota regulations show that the court assumes the application of substantial equality of opportunities. According to the Marschall Ruling, a purely formal understanding of equal opportunities is insufficient. The fact that two persons may have the same qualifications, thus fulfilling the same conditions for the promotion in question, does not, according to the court, mean that they both have the same chances of promotion. The court decided that quota regulations for women are admissible if, in the course of a review of the individual case, the criteria in favor of the male candidate with the same qualifications are also taken into account. These criteria may not, however, be discriminatory in relation to the female candidates, e.g. length of service or obligations to support dependants. This is intended to prevent indirect discrimination and achieve substantial equality of opportunities.

Preferential treatment of the under-represented gender as provided for in the Federal Equal Treatment Act or the Works Constitution Act or Employee Representation Act is conform with EU law, taking into account the conditions established by the ECJ. The European

Commission uses the term equal opportunities as an umbrella term for anti-discrimination and equal treatment or gender equality. The Commission understands this term in the substantial sense, as the ECJ does.

In the German private sector, the term mostly referred to is equality of opportunities. Until now no law has been passed on equality of women in the private sector. The opposition by business is very firm. Business rejects any regulations, laws and/or quotas in order to achieve gender equality. This is harmful because the majority of women are employed in the private sector. The resistance remains strong. So only an Agreement between the Federal Government and the German Private Sector Industry Associations for the Promotion of Equal Opportunities for Women and Men in the Private Sector has been signed instead of a relevant law applying to the private sector. As the agreement is not obligatory the German women lack access to leading positions in comparison to women in other EU countries.

Despite the fact that women`s employment rate is at 64% there is no progress in gender equality in the private sector. No woman is president of a big company being at the stock market and manager positions are mainly in the hands of men. Therefore women`s organisations call for a new law on equality for the private sector and want to get a binding 40-percent- quota for board members and supervisory posts of private companies. Sanctions are discussed to deprive those companies of the right to be noted at the stock exchange if they do not fulfill the quota regulation.

France

Thanks to EU directives and the French Constitution, France since the 80`s has a broad legal and regulatory framework in the area of occupational equality. The preamble to the 1946 Constitution states that “the law guarantees women equal rights to those of men in all domains” including the right to employment. Article 1 of the 1958 Constitution, amended by the constitutional act of July 23rd 2008 stipulates that “the law encourages equal access of women and men to elected positions and elective functions and occupational and social responsibilities”. These provisions paved the way for equality in the economic and social spheres of life also in transposition of the EU directives on equal pay and equal access to employment. The July 13th 1983 law on occupational equality helped a lot. The minister for women`s rights of that time, Yvette Roudy, incorporated and made more explicit all of the previous provisions. Legal proceedings could now be undertaken by representative trade unions in a company. A new chapter on occupational equality was added to the Labour Code, making sanctions possible. Its effect was to change French law`s approach to women from

“protective” to an equality-based approach. The initiatives of the first minister for women equality to promote women in so-called male jobs or at top positions were numerous. The Law introduced to France “positive” measures in a country not being familiar with the anti-discrimination provisions of anglo-saxon countries.

The law called upon comparative situation reports and equality plans. The comparative situation report, drawn up every year by the head of every company employing more than 50 people, takes stock of the comparative situation in the company regarding general employment conditions and promotion for men and women. It spells out measures taken to achieve greater equality.

The very ambitious equality plan is the instrument which makes it possible to implement the positive action principle and follows experiences especially from the US. Temporary catch-up measures for women employees in a company in areas such as vocational training, promotion, pay were subject. Its content is negotiated between the management and the unions. The company may win state financial aid if the measures are considered to be exemplary. It has to be admitted that the equality plans have not been successful and only affected some 5000 women.

In 1987 the contracts for employment gender equality (*mixité*) were an addition to the French legislative arsenal. They are more flexible than equality plans since they are drawn up individually rather than collectively. Their aim is to encourage the diversification of jobs occupied by women and make it easier for women to work in small and medium companies.

The May 9th 2001 law introduced many new measures such as the obligation to negotiate occupational equality every year in all companies with more than 50 employees and every three years at the industry level. It also removed the ban on night shifts for women as the consequence of a judgement by the European Court of Justice and made it compulsory for companies of over 50 employees to draft regular comparative situation reports. The March 23rd 2006 law compels companies with at least 50 employees to negotiate measures for closing the gender wage gap by December 2010. These negotiations are held on the basis of the comparative situation reports. Given the limited effects of previous legislation this new law concentrates on bargaining between the social partners not only in order to achieve wage equality but also to implement measures to allow reconciliation of private and professional lives and to help larger numbers of women win decision-making jobs in companies.

The May 27th 2008 law includes provisions transposing into French law Community directives on gender discrimination namely three specific directives – 2000/43, 2000/78 and

2002/73 and put an end to sexual harassment which has been the subject of several laws since 1992. In that year two acts were promulgated. One introduced the concept of sexual harassment into the Criminal Code and the other into the Labour Code. They were revised by changing the burden of proof and introducing the concept of moral or psychological harassment. The May 27th 2007 law no longer considers sexual or moral harassment as a form of violence, but instead considers it as elsewhere in Europe as a form of discrimination.

In France, gender equality still is an issue. France has labour equality laws for the public and private sector. There is some progress in the public sector. Even in political positions and the management of public companies there are more women in leading positions than in Germany or the UK. In the private sector gender equality is missing in the boardrooms. According to a bill which was passed by the French Parliament in January 2010, all companies listed in the Paris stock exchange, would have to ensure that female employees make up 50% of their board members by 2015. (20% within 18 months, 40% within 4 years) The French corporate world is a bastion reserved for the male elite. Only 10,5 % of board members in CAC 40 (French stock market index) companies are female. So France followed the example of Norway and calls for change in favour of gender equality in leading positions.

Spain

Spain during decades did not only mean political dictatorship but also a macho culture under the influence of the Catholic Church and a completely patriarchal society on all levels. Only with the end of the Franco dictatorship and the membership in the European Union Spain lived through revolutionary periods with women`s rights on the agenda which changed completely the legal provisions for marriage, family and custody for children. The transposition of the EU legislation guaranteed the principle of equal treatment of women and men in employment. More and more women called for emancipation.

Article 35 of the new democratic Spanish constitution says that “All Spaniards have a duty and a right to work, to a free choice of professions and functions, to promotion through work and to sufficient pay to meet their needs and those of their family without being victim in any case whatsoever to gender-based discrimination.” When Spain joined the European Union in 1984 it transposed into national legislation the Community directives on this gender equality and guaranteed equal treatment of men and women in employment. Maternity leave was extended to 16 weeks and childcare became an issue.

The March 15th 2007 Law changed Spanish equality legislation. This was a particularly “proactive” law the aim of which was to put an end to discrimination that Spanish women

suffered in the labour market. The women employment rate is 53,2 % and 80 % of the part-time workers are women. The 2007 law forced companies with over 250 employees to negotiate “equality” plans which include measures to improve access to jobs, qualifications, promotion, training, pay and the possibility of organising working hours. In case of disputes the burden of proof is on the employer. This law also dictated that from 2015 onwards all boards of directors or “large companies” must have at least 40% women on them. The law also grants the introduction of two weeks of paternity leave –to be extended to four months by 2013. So the Spanish became the most progressive law in the European Union.

UK

Since the Sex discrimination Act 1975, the United Kingdom has been a frontrunner for gender equality because of its anti-discrimination approach in legislation and society. The UK equality commission has been very successful in gaining court cases for equality of women in the labour market especially in view to pay and labour conditions or job promotion. The new Equality Bill which is dealt with in Parliament now wants to end discrimination and inequality in general, but also in view to gender equality.

The UK introduces an Equality Bill despite its progressive antidiscrimination laws in order to achieve gender equality. The bill is needed to streamline the law, helping people to understand their rights and help the businesses to comply with the law. Though the discrimination laws helped to make progress on equality this is necessary because over 40 years of development they have become very complex and difficult for people to understand and navigate.

The Equality Bill will place a new duty on Government Ministers, department and key public bodies such as local authorities and NHS bodies to consider what action they can take to reduce the socio-economic inequalities people face.

Nearly forty years after the Equal Pay Act the gender gap remains at 22, 6%. It is higher in the private sector where around 80% of all employees work. The Equality and Human Rights Commission`s inquiry into the financial sector reveals large differences in pay and job promotion for women as well as sexual harassment in the work place.

Development of institutional mechanisms in the Member States

There is a lot of legislation in favour of equality. Good governance in equality is missing. There is lack of coherence. Effective enforcement mechanisms, specialised bodies and machineries, and institutional setups which can counter gender discrimination could be improved. Comprehensive policies and positive actions are visible in the Scandinavian countries or on a case by case basis in the UK and Ireland.

The 1970s and 1980s saw in Europe the birth of a sort of state feminism integrating gender equality and women into all levels of political institutions and public administration. Later the national equality legislation introduced not only the ban on discrimination but also special equality bodies. Besides legal procedures and appeals to the courts special ombudspersons were set up for example in the Scandinavian countries in order to deal efficiently with discrimination cases

In France and Germany there were also various governmental bodies to promote equality. Ministries for women affairs have been started but failed to really change the agenda because of their marginal position in the government structure and because of lack of financial means and human resources, gender specific data and research. Ireland and the UK had another approach starting from an early sex discrimination act and the establishment of the Equal Opportunities Commission overseeing the implementation of the law. This Commission was formally independent of the government but totally dependent of government financing its function.

The UN Convention on the elimination of all form of discrimination against women (CEDAW), the Nairobi Forward Looking Strategies for the Advancement of women and the Beijing Platform of Action were calling for national machineries for the advancement of women.

CEDAW

Article 1: For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;

A gender equality machinery can be an institutional governmental and a parliamentary structure which ensures equality and human rights as well as the advancement of women. Its main function is to monitor and oversee the implementation of the law, the principle non-discrimination and equality between women and men. The success of such a machinery does not only depend on the institutional set up and solid financing but it also on the support of civil society especially the women's movement in its various forms but also women studies and research. Networking is part of implementing equality policies.

Institutions for Equality

Ministers

Women Ministers

Secretaries of State

Committees

Commissions

Ombudspersons

Overview

All EU Member States have a governmental gender equality body (sometimes called equal opportunities body or women's bureau) and this body often has an overarching responsibility, i.e. deals with several or all parts of the policy processes. In federal states there are several

ministers and several governmental gender equality bodies. The agencies are placed at the highest level in a ministry in almost all of the Member States (with the exception of IT, HU, RO and SI). Greece only has a governmental council with quite small resources and an unclear status compared to a governmental body, although this council is the first permanent governmental body on gender equality and was launched in 2006.

The main tasks of the governmental gender equality bodies are policy analysis and policy formulation for the government, promotion of the implementation of government decisions and monitoring reforms, reviewing and drafting legislation and handling EU affairs and international affairs. These bodies also often coordinate and develop the implementation of gender mainstreaming if the Member State regards gender mainstreaming as a main strategy when addressing gender equality. Information, publishing and training are also common tasks for the gender equality bodies while involvement in research is uncommon. Cyprus, France, Ireland, Portugal and Spain explicitly state this as a task for their gender equality body. One major division line seems to be between those Member States where the gender equality body both takes law and policy initiatives and is responsible for the implementation of these, and those Member States where the gender equality body mainly deals with implementation and dissemination.

Member States with a more recent institutionalisation of gender equality issues at the governmental level (for example BG, PL, RU) have a fairly small unit that formally deals with all tasks in the policy process but where the main focus lies on initiating training and providing information on gender equality issues and gender mainstreaming. Here, EU-funded projects seem to play an important role in developing both knowledge and tools for implementing gender equality in these Member States. Some of the Member States also have both a governmental body and a governmental council, and the council is often comprised of both high-level civil servants and representatives from different NGOs and sometimes also members of parliament (CZ, FI, FR, HU, LU, PL, PT, SI and UK). The relationship between the governmental bodies and the parliaments differs, but for a majority of the Member States there is a system of reporting regularly to the national or federal legislative bodies on the progress of gender equality efforts (BE, DE, DK, ES, GR, FR, IE, CY, LT, LU, MT, NL, AT, PT, SK, SE, UK).

All Member States also have some form of action plan for gender equality, although there are still eight countries (AT, EE, DE, GR, IT, HU, MT and PL) that lack an overall policy document for the national gender equality policies. Cyprus and Luxemburg have since 2006

launched their first comprehensive action plans on gender equality. Most action plans deal with a broad range of questions but issues concerning education, employment, decision-making, social rights and violence against women are priorities for most Member States.

A majority of the Member States have a Cabinet Minister who is responsible for gender equality issues but Greece, Poland and Slovenia do not have a Minister responsible for this policy area and in several Member States the responsible Minister does not have “gender equality” or “women” in the title. In some Member States this task is framed in terms of Women’s Rights, i.e. a Minister for Women’s Rights or a Minister for Women and Equality (c.f. UK). There is no Member State where the Cabinet Minister only has gender equality/women’s rights as her or his responsibility. The portfolio is most often combined with a responsibility for family, social justice and labour market questions.

The main tasks of the governmental gender equality bodies are policy analysis and policy formulation for the government, promotion of the implementation of government decisions and monitoring reforms, reviewing and drafting legislation and handling EU affairs and international affairs. These bodies also often coordinate and develop the implementation of gender mainstreaming if the Member State regards gender mainstreaming as a main strategy when addressing gender equality. Information, publishing and training are also common tasks for the gender equality bodies while involvement in research is uncommon. Cyprus, France, Ireland, Portugal and Spain explicitly state this as a task for their gender equality body. One major division line seems to be between those Member States where the gender equality body both takes law and policy initiatives and is responsible for the implementation of these, and those Member States where the gender equality body mainly deals with implementation and dissemination. Member States with a more recent institutionalisation of gender equality issues at the governmental level (for example BG, PL, RU) have a fairly small unit that formally deals with all tasks in the policy process but where the main focus lies on initiating training and providing information on gender equality issues and gender mainstreaming. Here, EU-funded projects seem to play an important role in developing both knowledge and tools for implementing gender equality in these Member States. Some of the Member States also have both a governmental body and a governmental council, and the council is often comprised of both high-level civil servants and representatives from different NGOs and sometimes also members of parliament (CZ, FI, FR, HU, LU, PL, PT, SI and UK). The relationship between the governmental bodies and the parliaments differs, but for a majority of the Member States there is a system of reporting regularly to the national or federal legislative bodies on the

progress of gender equality efforts (BE, DE, DK, ES, GR, FR, IE, CY, LT, LU, MT, NL, AT, PT, SK, SE, UK).

All Member States also have some form of action plan for gender equality, although there are still eight countries (AT, EE, DE, GR, IT, HU, MT and PL) that lack an overall policy document for the national gender equality policies. Cyprus and Luxemburg have since 2006 launched their first comprehensive action plans on gender equality. Most action plans deal with a broad range of questions but issues concerning education, employment, decision-making, social rights and violence against women are priorities for most Member States.

All Member States have legislation that addresses the importance of the equal value of all citizens and non-discrimination laws, and in addition to this they have an independent body for the protection of equal treatment. There is an increasing tendency for this independent body to handle protection against discrimination on several grounds, not only on the grounds of sex. Today 16 of the Member States have implemented a multiple discrimination approach, i.e. have non-discrimination laws on several grounds and an independent body for protection against discrimination on several grounds.

The Nordic countries Denmark, Finland and Sweden have since 2006 launched bodies for the protection against multiple discrimination, as well as Belgium, Estonia, Luxembourg, the Netherlands and Poland. Other Member States has launched new laws on gender equality since 2005 (HU, UK) and there are also Member States that have an act which enforces gender mainstreaming (BG, DE, DK, EE, FI, ES, HU, SI and UK).

Scandinavian Ombudsman Models

Today, all Scandinavian countries have ombudsmen institutions according to constitutional provisions. The Swedish ombudsman is the oldest in the world dating back to 1809. Finland created an ombudsman institution in 1920 followed by Denmark in 1955 and Norway in 1962.

In all countries the ombudsman has little formal power towards public authorities other than the rights to investigate, inspect and to demand adequate information. Another similarity of all Scandinavian ombudsman models is the development towards minimizing the confrontational and disciplinary. Still, the role of the ombudsman in the national context varies.

In the disciplinary authority model (Swedish-Finnish model) the ombudsman acts as a prosecutor to bring criminal charges or disciplinary procedures against individual public officials for malfeasance or other irregularities. His focus is the correct behaviour of the

public employees, not the decisions of public authorities. In practice, the ombudsmen have an inclination to expressing criticism or putting forward recommendation and not exercising their criminal law and disciplinary powers. Sweden and Finland have established a number of ombudsman institutions specialised on subjects like Data Protection, Equality, Minorities or Children. Their powers also apply to the private sector.

The Danish-Norwegian ombudsman model basically functions as an administrative quasi-court reviewing public authorities as such and assessing general administrative law principles. The ombudsman is primarily concerned with the rule of law.

The Danish Ombudsman

The Danish ombudsman can deal with almost all aspects of administrative law. This has to be seen on the background that there are no administrative courts in Denmark and the ordinary courts until recently rarely reviewed public law cases. The ombudsman thus has a central position and much normative space to develop general legal principles.

After the citizens have exhausted administrative redress, there is only a minimum of legal barriers to access to the ombudsman, but not all complaints are handled. The ombudsman is largely independent in selecting complaints and generally admits complaints that deal with general principles or with issues of general interest.

The Danish ombudsman performs his task as the official and trusted representative of the Parliament. He is elected by the Parliament after each general election in a majority vote and can be dismissed by the Parliament. As to the qualifications of the ombudsman, it is particularly important that the candidate is regarded as politically neutral and that he is likely to have the support of at least a broad majority of the political parties. There is no fixed ombudsman term in Danish law, so the ombudsman is highly dependant on the Parliament.

The minister and department for Gender Equality are responsible for policies on Gender Equality. The legal base are the equal treatment Act and the Act on Gender Equality.

The Swedish Equality Ombudsman

The duties of the Swedish Equality Ombudsman are described in the Act concerning the Equality Ombudsman and the Discrimination Act, both issued on 5 June 2008.

The Ombudsman can be reported by everyone who feels being discriminated against because of sex, transgender identity or expression, ethnic origin, religion or other belief, disability, sexual orientation or age. Discrimination can be related to several of these grounds at the

same time. Discrimination can also be family-related, for example against background of homosexual parents or a disabled sibling. The Ombudsman can also be reported if someone has been treated unfairly in connection with parental leave.

The Equality Ombudsman helps by receiving and investigating discrimination complaints and can represent a person in court. The institution provides information on the rights protected by anti-discrimination legislation and education on protection against discrimination. The Ombudsman also gives advice on how to assert ones rights and on how to promote equal rights and prevent discrimination.

Complaints should be written and made promptly, because otherwise the right to bring legal action may expire and the complaint cannot be investigated. After receiving a complaint it will often be investigated. The organization that has been reported is given the opportunity to give their version of the events. The Equality Ombudsman will then assess if and how the case should be pursued.

According to the Discrimination Act, the person or entity reported has to provide the Ombudsman certain information, give access to the workplace and attend discussions. If such requests are not complied with, the Ombudsman can impose a financial penalty.

Swedish employers, schools and universities have a responsibility to ensure that everyone has equal opportunities and that no one is discriminated against or harassed. According to the law, employers with 25 or more employees must have an equality plan which is updated at least every three years. They also must systematically promote equal rights and opportunities in working life regardless of ethnicity, religion or other beliefs. Schools and universities must produce equality plans that are followed up every year. The Equality Ombudsman also supervises how employers, universities and schools live up to these provisions, mostly by reviewing gender equality plans and equal treatment plans.

The Finnish Ombudsman

In Finland, discrimination is also prohibited under several legal acts. The Finnish Constitution states that nobody shall be discriminated against on the grounds of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns her/his person. The Non-Discrimination Act bans discrimination on the basis of age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics. There are also bans on discrimination in the acts on employment

relationships, and the Finnish Penal Code contains provisions on work discrimination and discrimination in areas such as trade and the exercise of official authority.

The Finnish Ombudsman for Equality visits workplaces in order to promote equality planning and equality work. Educational institutions are visited on the purpose of collecting data on how the equality plans are drafted in practice and to enhance the drafting of plans.

The Ombudsman also monitors discrimination bans. Most of the contacts to the Ombudsman concern working life. Especially suspicions of pay discrimination are common. Though pay surveys are carried they are superficial. Employees request advice and opinion if they suspect pay discrimination. This can concern the basic pay as well as different kinds of benefits.

Suspicious of discrimination in relation to pregnancy and family leaves are an issue that generates a lot of contacts to the Ombudsman for Equality. Concerns include the right of fixed-term employees to family leave and the status of persons on family leave in organisation reforms.

The Ombudsman for Equality comments primarily on legislative issues concerning the interpretation of the Gender Equality Act. The Ombudsman for Equality does not carry out any job evaluations, which is done by courts of law.

At times the Ombudsman for Equality is criticised for only advancing women's rights. The promotion of gender equality requires, however, also intervention in men's problems and improving the position of men. The Ombudsman for Equality has several times remarked that different retirement ages for women and men are against the Gender Equality Act. Also supplementary pension schemes are illegal if the grounds for pension accrual are different for women and men. The Ombudsman for Equality has taken a stand also regarding, for example, discrimination against men in the housing market and placing men at a disadvantage compared to women when it comes to family-leave related benefits.

The Equality and Human Rights Commission (United Kingdom)

The Equality and Human Rights Commission was launched in October 2007, taking over amongst others the role and functions of the Equal Opportunities Commission (EOC) and assuming new responsibilities for sexual orientation, age, religion and belief, and human rights. The Commission is a Non Departmental Public Body (NDPB), established under the Equality Act 2006 as a corporate body. It is sponsored by the Government Equalities Office and its work and direction is steered by a board of commissioners.

The Equality and Human Rights Commission has extensive legal powers and a directorate of expert lawyers who are specialists in equality law. The commission thus is well equipped to take legal action on behalf of individuals, especially where there are strategic opportunities to push the boundaries of the law. The commission seeks to create legal precedents and to clarify and improve the law. To those whose cases cannot be taken, the commission offers advice through a helpline and online resources. The commission also contributes funds to external organisations that can provide legal help and advice. The commission has significant powers to enforce the equalities duties of organisations and authorities, including, ultimately, launching official inquiries and formal investigations.

The Equality and Human Rights Commission works with the government as it moves towards single equality legislation. It seeks to help the government to create effective legislation that protects people's rights. The commission monitors the performance of the government in relation to its commitments to promoting a fair and equal society. It also seeks to influence the development and amending of all government policy, making sure that policy takes into consideration the importance of equality, diversity and human rights.

The Equality and Human Rights Commission ensures that equality is given priority, not only in policy but in plans and departmental strategies across government. It also defines understanding with public service inspectorates to make sure that equality is effectively promoted.

The Equality and Human Rights Commission works with organisations in the public, private and voluntary sectors to reduce discrimination and promote equal opportunities for all employees, customers and the users of services. It provides help and advice on equal opportunities policy and practice to many organisations and companies and liaises with government departments and representative organisations from all sectors. Almost all public authorities in England, Wales and Scotland are bound by statutory duties to promote race and sex equality and eliminate discrimination. The commission provides information about these duties and guidance on the best ways to meet these requirements.

The commission's campaigns take particular issues in order to spark debate and encourage people to think about the kind of Britain they want to live in. The commission tries to expand the scope of knowledge and understanding of equality and human rights by educating and enthusing the public. Through its campaigns, the commission seeks to become a recognisable, influential and inspiring voice in the public sphere. The commission also produces 'state of the nation' reports every three years.

The Equality and Human Rights Commission helps employers to gain hands-on, practical experience of equality good practice. Where an individual alleges they have been a victim of unlawful discrimination or harassment, the Equality and Human Rights Commission's conciliation service can offer an effective alternative route to court action. The conciliation service uses a rights-based approach that ensures settlements are quick and effective. The focus is on changes to practices, policies and procedures.

The French Equal Opportunities and Anti-Discrimination Commission - HALDE

France is among those countries that in the 70ies were very progressive concerning women's employment and had a very powerful ministry for women's affairs. Only in 2004 HALDE has been established as an independent statutory authority. Its powers are limited to forms of discrimination prohibited by law. The HALDE supports and implements action to prevent discrimination and promote equality towards administrations, enterprises, associations, industrial partners, etc. Its action is intended to improve individual knowledge of discrimination in order to bring about changes in practices and mindsets. It reports on its action through an annual report addressed to the President of the French Republic, the Prime Minister and the Parliament. The HALDE provides advice on legal options and helps to prove discrimination. It has the power to refer cases to the court system. It holds investigative powers such as the right to demand documents and proof which the victim was unable to obtain, ascertain facts on site and hear witnesses. The HALDE helps to identify the procedure best-suited to the situation: Mediation can be arranged in order to reach an agreement. If discrimination has been ascertained, the national prosecutor may be called upon.

The HALDE takes decisions on individual cases in form of deliberations. Each case is investigated. The deliberation proceedings include the results of the case investigation and recommendations: validity of the claim, verification measures on-site, proposed settlement, mediation, referral to court, observations, etc. It may secure compensation, suggest payment of damages to the party discriminated against and trigger proceedings if damages are refused (settlement with compensation), speak before the judge if the victim decides to go to court or disclose a discriminatory practice publicly.

As the complaints reveal inadequacies in the legislation leading to discrimination, the HALDE can issue recommendations in order to promote the legislative and regulatory changes necessary to improve the situation. The HALDE issues opinions and recommendations to the Government, the Parliament and the public authorities to counter discrimination, improve legal texts, and bring about progress in French law.

The HALDE performs information-sharing and awareness-raising, addressing both victims and those exposed to the risk of being discriminated against, in order to foster the understanding of discriminatory practices and cooperation to remedy them. In order to challenge stereotypes and bias, the HALDE encourages its partners to develop best practices and to ensure that their practices are discrimination-free. The HALDE conducts action to promote equal opportunities. It holds awareness-raising and training initiatives. The 2009 report reveals that like in the past most cases brought to the attention to HALDE dealt with discrimination in employment. It is alarming that pregnancy of women still contributes to discrimination of women. A lot of companies have been fined also with the help of HALDE to compensate for gender discrimination because of pregnancy. The fines to be paid have been between 15 000 and 203 000 €.

Ways and means for gender equality

Women must be aware of the fact that the international binding conventions give them rights especially if their states have ratified the conventions like Russia in view to the European Social Charter and the CEDAW, the Convention on the Elimination of All Forms of Discrimination against Women

The European Social Charter

The European Social Charter of 1961 is the counterpart of the European Convention on Human Rights in the sphere of economic and social rights. The Charter of 1961 guarantees the enjoyment, without discrimination, of fundamental social and economic rights defined in the framework of a social policy that Parties undertake to pursue, by all appropriate means (Part I).

The right of women and men to employment and workplace equality must be enshrined in national law. The Charter requires States "not only to provide for equal treatment but also to protect women and men from discrimination in employment and training. This means that they are obliged to enact legislation explicitly imposing equal treatment in all aspects. It is not sufficient merely to state the principle in the Constitution. Any legislation, regulation, administrative or other measure that fails to comply with the equality principle must be repealed or revoked.

National legislation must provide for appropriate and effective remedies in the event of alleged discrimination. Employees who consider that they have suffered employment discrimination must be able to take their case to an independent body.

The burden of proof must be alleviated: while applicants may be required to establish before the relevant body that discrimination might have taken place, respondents must demonstrate that this apparent discrimination was the result of objective factors unrelated to sex. Employees who suffer discrimination must be eligible for compensation proportionate to the damage suffered, in all other cases, an end to the discrimination and compensation

The Social Charter grants women and men the right to "equal pay for work of equal value". The equal pay principle applies to the same work and to "mixed jobs", that is ones performed by both women and men, but also to work of the same value. This requires States to develop classification methods that enable them to compare the respective values of different jobs and carry out objective job appraisals in the various sectors of the economy, including those with

a predominantly female labour force. The principle of equality should cover all the elements of remuneration, that is basic or minimum wages or salary plus all other benefits paid directly or indirectly in cash or other kind by the employer to the worker by reason of the latter's employment. The principle of equal pay, including the calculation of the hourly wage, pay increases and the components of pay, must also apply between full-time and part-time workers.

The social Charter guarantees the right to maternity leave and benefits. Article 8 grants female employees entitlement to paid maternity leave. This must last at least fourteen weeks under the revised Charter, six of which must be taken after birth. Maternity leave must be accompanied by the continued payment of the individual's wage or salary, or payment of benefit equal or close to the value of that wage or salary. Periods of unemployment must be included in the calculation of work time needed to qualify for maternity leave. Article 8 makes it unlawful to dismiss female employees from the time they notify their employer of their pregnancy to the end of their maternity leave. Unlawfully dismissed employees must be offered the same protection as those suffering discriminatory dismissal. Under Article 8 employed mothers who breastfeed their babies must be granted time off for that purpose – to be treated as normal working time and remunerated as such – or offered part-time work with compensation for loss of earnings. Such time off must be granted at least until the child reaches the age of nine months.

The social Charter regulates on night work and prohibition of employment in dangerous work. Women may not be prohibited from performing night work. According to the ECSR, "exceptions to the equality principle on behalf of women must be objectively justified by their particular needs. The underlying principle is that if night work is harmful, it is just as detrimental to men as to women". Article 8 does require states to regulate night work in industrial occupations for pregnant women, women who have recently given birth and women nursing their infants

Since "the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact" states must take practical steps to promote equal opportunities by correcting de facto inequalities between men and women that affect women's opportunities. Moreover, the Appendix to Article 20 makes it clear that positive measures on behalf of women are permitted.

CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is rightly described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." By accepting the Convention, states commit themselves to undertake a series of measures to end discrimination against women in all forms, including: to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

The 30 years old Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.

The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It affirms women's rights to acquire, change or retain their nationality and the nationality of their children. States parties also agree to take appropriate measures against all forms of traffic in women and exploitation of women. Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations. In the meantime so called shadow reports are welcome by the civil society and taken into account by the UN bodies in their judgements concerning the implementation of CEDAW. In its preamble, the Convention explicitly acknowledges that

"extensive discrimination against women continues to exist", and emphasises that such discrimination "violates the principles of equality of rights and respect for human dignity". As defined in article 1, discrimination is understood as "any distinction, exclusion or restriction made on the basis of sex...in the political, economic, social, cultural, civil or any other field". The Convention gives positive affirmation to the principle of equality by requiring States parties to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men"(article 3).

The agenda for equality is specified in fourteen subsequent articles. In its approach, the Convention covers three dimensions of the situation of women. Civil rights and the legal status of women are dealt with in great detail. In addition, and unlike other human rights treaties, the Convention is also concerned with the dimension of human reproduction as well as with the impact of cultural factors on gender relations.

The legal status of women receives the broadest attention. Concern over the basic rights of political participation has not diminished since the adoption of the Convention on the Political Rights of Women in 1952. Its provisions, therefore, are restated in article 7 of the present document, whereby women are guaranteed the rights to vote, to hold public office and to exercise public functions. This includes equal rights for women to represent their countries at the international level (article 8). The Convention on the Nationality of Married Women - adopted in 1957 - is integrated under article 9 providing for the statehood of women, irrespective of their marital status. The Convention, thereby, draws attention to the fact that often women's legal status has been linked to marriage, making them dependent on their husband's nationality rather than individuals in their own right. Articles 10, 11 and 13, respectively, affirm women's rights to non-discrimination in education, employment and economic and social activities. These demands are given special emphasis with regard to the situation of rural women, whose particular struggles and vital economic contributions, as noted in article 14, warrant more attention in policy planning. Article 15 asserts the full equality of women in civil and business matters, demanding that all instruments directed at restricting women's legal capacity "shall be deemed null and void". Finally, in article 16, the Convention returns to the issue of marriage and family relations, asserting the equal rights and obligations of women and men with regard to choice of spouse, parenthood, personal rights and command over property.

Aside from civil rights issues, the Convention also devotes major attention to a most vital concern of women, namely their reproductive rights. The preamble sets the tone by stating that "the role of women in procreation should not be a basis for discrimination". The link between discrimination and women's reproductive role is a matter of recurrent concern in the Convention. For example, it advocates, in article 5, "a proper understanding of maternity as a social function", demanding fully shared responsibility for child-rearing by both sexes. Accordingly, provisions for maternity protection and childcare are proclaimed as essential rights and are incorporated into all areas of the Convention, whether dealing with employment, family law, health care or education. Society's obligation extends to offering social services, especially childcare facilities that allow individuals to combine family responsibilities with work and participation in public life. Special measures for maternity protection are recommended and "shall not be considered discriminatory". (Article 4). "The Convention also affirms women's right to reproductive choice. Notably, it is the only human rights treaty to mention family planning. States parties are obliged to include advice on family planning in the education process (article 10.h) and to develop family codes that guarantee women's rights "to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (article 16.e).

The Convention aims at enlarging the understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on restricting women's enjoyment of their fundamental rights. These forces take shape in stereotypes, customs and norms which give rise to the multitude of legal, political and economic constraints on the advancement of women. Noting this interrelationship, the preamble of the Convention stresses "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women". States parties are therefore obliged to work towards the modification of social and cultural patterns of individual conduct in order to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (article 5).

The Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based upon sex. This can be proven in the application of Cedaw in the national domain. In its famous ruling on Vishaka against the State of Rajasthan in 1997, the Supreme Court of India found that by ratifying CEDAW and by making official commitments at the 1995 Beijing World Conference on Women, India had

endorsed the international standard of women's human rights, which requires protection from sexual harassment. With regard to the Indian Parliament's inaction the Court drew up a set of guidelines and norms, including detailed requirements for processing sexual harassment complaints that will bind private and public employers until the Government passes suitable legislation. This judgement is a victory for the rule of law and the courage of women and institutions and invites UN member states to make gender equality a reality.

Perspectives and Challenges

Equality between women and men is a fundamental right and a common principle of the European Union. The EU has made a major contribution to the advancement of women and the of women's and men's lives through a substantial body of equal treatment legislation and the explicit integration of the gender dimension into EU policies and instruments.

There is a positive trend towards a more gender-equal society and labour market, yet gender inequalities persist, mainly to the disadvantage of women. The current economic crisis has raised concerns that the achievements in gender equality are at risk and that the effects of the recession will put greater pressure on women. The downturn could be used as a reason to limit or cut gender equality measures, and analysis of national responses to the crisis confirms this risk. However, these times of crisis offer a unique opportunity for change, given that gender equality is a precondition for sustainable growth, employment, competitiveness and social cohesion. Policy makers have the opportunity to implement policies to make the labour market and society more gender-equal in the future.

2009 was a difficult year for job security because of the impact of the global economic and financial crisis on the real economy and labour markets. The EU adopted at the end of 2008 a European recovery plan including measures for maintaining women and men in employment. In May 2009, a Jobs Summit discussed the impact of the crisis and adequate policy responses. The Commission proposed 'A shared commitment for employment' which aimed to limit the social impact of the crisis, and recognised the need to reinforce gender equality in the responses to the crisis. Recent analysis of national responses to the crisis confirms the risk of downgrading the status of equality policies or reducing budgets allocated to these purposes. Future delayed and possible future cuts in public budgets may have a negative effect on female employment and on the promotion of equality. The Gender Road Map follows this approach.

The European Commission renews its commitment to promoting gender equality by adopting a gender equality strategy to follow up the current Roadmap for equality between women and

men. The Lisbon Strategy for Growth and Jobs will to be consolidated in the EU 2020 strategy. 2010 is also the European Year dedicated to combating poverty and social exclusion, which will highlight the need for effective measures to include vulnerable groups and overcoming poverty. It is furthermore the 15th anniversary of the Beijing Platform of Action when progress under the different areas for action will be assessed. This opens up the possibility to create stronger synergies between the different strategies to be revised in 2010.

Gender equality is not only a question of diversity and social fairness, it is also a precondition for meeting the objectives of sustainable growth, employment, competitiveness and social cohesion. Investing in gender equality policies pays off in terms of higher female employment rates, women's contribution to GDP, tax revenues and sustainable fertility rates. It is important that gender equality continues to be a core element of the EU 2020 strategy, because equality between women and men has proven to be a sustainable solution to old and new challenges. Gender equality policies should therefore be considered as a long-term investment and not as a short-term cost. Efficient gender equality policies must be considered as part of an exit solution out of the crisis, building a stronger economy for the future. The basis for a sustainable recovery and for sound public finances is structural reforms aimed at ensuring increased labour force participation. Investing in women's employment and economic independence and in work-life balance measures for both women and men has shown to pay off in terms of economic and social development.

Removing persisting inequalities between women and men through gender equality policies should be seen as a factor for driving growth and not as a cost for society. Efforts to eliminate gender inequalities in employment must be continued and intensified as part of the new European strategy for growth and jobs to be adopted in 2010, so as to significantly narrow the gaps in terms of employment, pay and decision-making, providing better jobs, as well as reducing labour market segregation and poverty risk.

Reducing the gender pay gap and tackling the underlying causes should remain a priority. Action in this area should involve all parties concerned and combine all available instruments, including the effective implementation of existing legislation, transparent evaluation of pay systems, raising awareness and combating stereotypes and reviewing job classifications. Tax and benefit systems should provide financial incentives for women and men to take up, remain in and return to work may thus be ensured. Investments in social infrastructure can be a productive factor and transform economies in recovery. Supporting reconciliation between work and private and family life for both women and men could improve their work-life

balance. The potential of the EU Structural Funds and the EAFRD20 for the financing of quality services should be fully utilised. The economic downturn should not be used as a reason to slow down progress on reconciliation policies and to cut budgets allocated to care services and leave arrangements, affecting labour market access by women in particular. As gender equality contributes to sustainable growth, employment, competitiveness and social cohesion, the gender dimension should be strengthened in all parts of the post-Lisbon strategy and the EU 2020 strategy.

Appendix

European Parliament resolution of 25 February 2010 on Beijing +15 – UN Platform for Action for Gender Equality

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0037+0+DOC+XML+V0//EN>

Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Equality between women and men — 2010 {SEC(2009)1706}

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0694:FIN:EN:PDF>

Roadmap for Equality between women and men for the period 2006-2010

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0092:FIN:EN:PDF>

European Pact for Gender Equality

<http://www.un-eu.org/images/stories/pdf/8%20March/European%20Pact%20for%20Gender%20Equality%202006.pdf>

European Network of Women in Decision-making in Politics and the Economy

<http://ec.europa.eu/social/main.jsp?langId=en&catId=418&newsId=133&furtherNews=yes>

European Institute for Gender Equality

<http://ec.europa.eu/social/main.jsp?catId=732&langId=en>

PROGRESS programme

<http://ec.europa.eu/social/main.jsp?catId=327&langId=en>

Gender balance in decision-making - Facts & figures

<http://ec.europa.eu/social/main.jsp?catId=764&langId=en>

Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31975L0117:EN:HTML>

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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31976L0207:EN:HTML>

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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31979L0007:EN:HTML>

Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986L0378:EN:HTML>

Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986L0613:EN:HTML>

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992L0085:EN:HTML>

COUNCIL DIRECTIVE 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0034:EN:HTML>

Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0097:EN:HTML>

Council Directive 97/75/EC of 15 December 1997 amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997L0075:EN:HTML>

Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997L0080:EN:HTML>

Council Directive 98/52/EC of 13 July 1998 on the extension of Directive 97/80/EC on the burden of proof in cases of discrimination based on sex to the United Kingdom of Great Britain and Northern Ireland

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998L0052:EN:NOT>

Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC 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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0073:EN:HTML>

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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0113:EN:HTML>

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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:01:EN:HTML>