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## Equality in the European Union

**Abstract:** Gender equality is a vital aspect of the European integration process. Although specific legislation concerning gender issues was included in the establishing Treaties, in the *Charter of fundamental rights* and in a dozen other directives, non-discriminatory principle has also been strengthened by the jurisdiction of the Court of Justice of the European Union which formed a judgment in more than 200 cases. Nowadays, the EU equality legislation has moved far beyond basic gender issues, and this is also discussed in the article. It focuses not only on the fundamentals of EU legislation concerning gender equality but also on the level of its implementation and its most important limitations. Such considerations are broadened by a discussion on the EU actions which may be also treated as the implementation of non-discriminatory legislation.

**Keywords:** gender, equality, the European Union, gender mainstreaming, women's rights

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### I. Introduction

The people of Europe, in creating an ever closer union, are resolved to „share a peaceful future based on common values.”<sup>1</sup> It is not exception that the first phrase of an important European act refers to “values” as a vital aspect of the integration process. It is justified to define those values as a binder of all ideas that were created and implemented during a long-drawn-out integration period. Without common values, it would not be possible to persuade politicians and societies that it is necessary to make difficult decisions. Terms like freedom, solidarity, dignity and respect of every single being, together with a will of undisturbed and stable growth of the European nations were sufficient reasons to surmount difficulties and settle a new era of the European dialogue.<sup>2</sup>

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<sup>1</sup> *Charter of the fundamental rights of the European Union, Preamble*, Official Journal of the European Communities C 364/01, [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).

<sup>2</sup> The values mentioned were also guaranteed on a much wider scale by the *European Convention for the Protection of Human Rights and Fundamental Freedoms*.

Obviously we will not achieve democracy and lasting peace in the world unless women have the same opportunities as men to influence developments at all levels of society (Amanpour, 2012, Foreword). Therefore, for purposes of this essay, I have decided to reflect on equality, a value which, at the beginning of the integration process in Europe, was not often discussed. However, evolution of European reality has effected equality issues which have slowly become an important part of the present European debate. Ensuring a full preservation of women rights, equality is one of the priorities of the EU. Accurate legislation<sup>3</sup> concerning gender issues was included in establishing Treaties, in *Charter of fundamental rights* and in dozen of directives. Additionally, non-discrimination principle has also been applied by jurisdiction of the Court of Justice of the European Union which formed judgments in more than 200 cases. Nowadays, the EU equality legislation has moved far beyond the basic gender issues.

## II. Feminism, gender and the EU

Notions like gender and feminism are an arena in which we face difficult practical issues about justice, identity and even survival. There is a great deal of prejudice, myth and outright falsehood. Many people believe that woman and men are psychological opposites, that men are more intelligent than women and are naturally violent, or that gender patterns never change. Such beliefs are factually wrong. Many people think of masculinity, femininity and gender relations only in terms of their own local gender system. They miss the vast diversity of gender patterns across cultures and down in history. The costs of privilege may be high. Even the definitions of who is a man and who is a woman can be contested (Connell, 2009, preface).

The process of making and implementing EU gender policies is fascinating. In spite of feminist critiques of “European construction” which

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However in times when permanent and intense changes in societies (together with scientific and technological developments) are in progress, it has been decided to make those rights more visible. This is why within the EU they are also guaranteed by the Treaty, Directives and the *Charter of the Fundamental Rights of the EU*.

<sup>3</sup> [http://europa.eu/legislation\\_summaries/human\\_rights/fundamental\\_rights\\_within\\_european\\_union/index\\_en.htm](http://europa.eu/legislation_summaries/human_rights/fundamental_rights_within_european_union/index_en.htm).

supports a neoliberal slim-down of the welfare state and reduces gender issues to mere equality in the labour market, fifty years of EU gender policies have significantly influenced European reality. Over the years, EU legislation and jurisprudence have spilled over beyond the realm of equal rights to include issues such as parental leave, pregnancy, positive action and sexual harassment (van der Vleuten, 2007, p. 1).

In this context, the relations of feminist political activity with national and EU political institutions is critically important (Walby, 2004, p. 14). What is more, the development of feminist practices in the EU needs to be perceived within a wider context of international feminism from which the EU draws and to which it contributes (see Ford, 2011, p. 19–28). In order to understand feminist interventions, it is vital to distinguish policies where the EU has legal and political supremacy, from those where it does not. In the latter, the political dynamic continues to focus on national states. But in the former sphere, on employment-related issues where the EU has been legally superior since 1993,<sup>4</sup> EU-wide feminism has developed most effectively. There are three kinds of political pressure for advancing women's political interests: feminist movements in civil society, elected female representatives in parliaments and the gender machinery (women's bodies) in government administrative bureaucracies (Walby, 2004, p. 15).

### **III. The EU legislation concerning gender equality**

Although the issue of the status of women and men in the European Community had appeared already in Roma Treaties in the late fifties, it was not treated with appropriate attention until the 1970s. Regulations at that time only concerned the sphere of employment and reflected the presumption that, with adequate legal protection, women can successfully compete with men on equal terms. In the nineties, the EU began to treat equality issues in a special way by implementing legislation protecting pregnant women and by regulating parental leave. Nevertheless, the European Union required only minimal standards to be obeyed by the Member States. This practice allowed states with lower standards to catch up lead-

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<sup>4</sup> It means that the EU has responsibility for the provision of regulation, according to which Member States must carry out a coordinated policy.

ers, while, at the same time, minimal standards do not prevent those leaders from implementing higher, more sophisticated ways of resolving equality dilemmas.

Equality in the European Union refers to the principle underlying all European constitutions “everyone is equal before the law.”<sup>5</sup> Such rules are non-discriminative statements which claim that “any discrimination based on any ground such shall be prohibited.”<sup>6</sup> Although protection against discrimination based on sex was generally settled in the earlier article no. 21, *Charter of the fundamental rights of the European Union* broadens it again, and states that “equality between women and men must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex.”<sup>7</sup> The implementation of this principle means provision of the same access to vocational training, promotion and equal and fair competition between sexes in the same working conditions.

To strengthen statements included in *The Charter of the Fundamental Rights of the European Union*, there are few points in the *Treaty on the Functioning of the European Union* which are vital for implementation of equality regime within the EU. It is said that “the EU shall support and complement the activities of the Member States in the field of equality between men and women with regard to labour market opportunities and treatment at work.”<sup>8</sup> However, a more significant part of the *Treaty* is presented in article 19 indicating the exact regulation on equality issues. It decides that “without prejudice to the other provisions of this Treaty, [...] the EU institutions may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”<sup>9</sup>

However, equality between men and women has its significant misconception especially with respect to the background of occupation. Therefore, the *Treaty on the Functioning of the European Union* states

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<sup>5</sup> *Charter of the fundamental rights of the European Union...*, Art. 20.

<sup>6</sup> *Ibidem*, Art. 21.

<sup>7</sup> *Ibidem*.

<sup>8</sup> *Treaty on the Functioning of the European Union*, Official Journal of the European Communities C 115/47, Art. 153, paragraph ‘i’, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:en:PDF>.

<sup>9</sup> *Ibidem*, Art. 19.

firmly that “each Member State shall ensure that the principle of equal pay<sup>10</sup> for male and female workers for equal work or work of equal value is applied.”<sup>11</sup> This article also ensures that “full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for women to pursue a vocation or to prevent or compensate for disadvantages in professional careers.”<sup>12</sup> The Court of Justice of the European Union adjudged equal pay for male and female workers for equal work as one of the European fundamental concerns (Brodecki, 2006, pp. 494–496), which means that article 157 of the *Treaty on the Functioning of the European Union* has not just a normative character but it is also a guideline for both national and European legislations.

It is also worth to noting that the Court of Justice of the European Union divides discrimination into two kinds: direct and intermediary. Direct appears when a man and a woman employed on the same positions have different salaries. Intermediary discrimination may apply to neutral legal acts which, on first sight, do not discriminate people on the basis of sex (See more: Maliszewska-Nienartowicz, 2012, p. 14–28). There are two criteria of discovering intermediary discrimination. The collectivity criterion reveals which group is particularly affected by this act. The second criterion aims at the final result of such legal act, testing how it influences the exact chosen group (Walby, 2004, p. 18).

Nowadays, employment and other key aspects of equality policy in the EU law become a subject of the “Open Method of Coordination” (See more: Troubek, 2005, p. 344–360). This approach replaces the “harder” Directives with “softer” pressures on the member states to reform by setting common objectives and then monitoring the progress of the member states toward their realization by means of peer review (Lewis, 2006, p. 422).

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<sup>10</sup> *Treaty on the Functioning of the European Union*, Art. 157.

<sup>11</sup> For the purpose of this article, ‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly from his/her employer in respect of his/her employment, [http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/employment\\_rights\\_and\\_work\\_organisation/c10905\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/employment_rights_and_work_organisation/c10905_en.htm).

<sup>12</sup> *Treaty on the Functioning of the European Union*, Art. 157.

#### IV. The EU actions, programs and pacts as an implementation of non-discrimination legislature

An example of action undertaken on the basis of article no. 19 was the Council Decision of 27 November 2000, establishing the *Community Action Programme to combat discrimination*.<sup>13</sup> The aim of this programme was to encourage specific measures to combat discrimination and to supplement the (mainly legislative) activities of the European Union and the Member States.<sup>14</sup> However, legislative measures alone are not enough to combat discrimination effectively. Experience shows that legislation must be backed up by specific action. Therefore, following the European directives on racial equality and equal treatment in employment, the EU Council launched an action programme to make the European anti-discrimination policy a reality.

By implementing this programme, the EU wanted to achieve specific aims. Firstly, it was important to improve the understanding of all issues related to discrimination and to increase general awareness. Secondly, it was crucial to evaluate and measure the effectiveness of previous practices. Finally, for making efforts for combating discrimination more effective, it was necessary to create European networks to exchange information among local authorities, NGOs and social partners.<sup>15</sup>

In previous years, activities promoting equality has been defined as a *gender mainstreaming*, which means including a gender cultural dimension into every sphere of social and economic activity (Maliszewska-Niernartowicz, 2012, p. 49–50). Mainstreaming is a commitment which guarantees that every part of an organisation assumes responsibility to ensure that policies impact woman and man equally. The move to mainstreaming has been driven, at least in part, by frustration with the fact that efforts on behalf of women have tended to be located in separate insti-

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<sup>13</sup> *Community Action Programme to Combat Discrimination (2001 to 2006)*, Official Journal of the European Communities L, 2000/750/EC; [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!DocNumber&lg=en&type\\_doc=Decision&an\\_doc=2000&nu\\_doc=750](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Decision&an_doc=2000&nu_doc=750).

<sup>14</sup> [http://www.youth-against-racism.net/files/youth/EU\\_Action\\_Programme\\_Combat\\_Discrimination.pdf](http://www.youth-against-racism.net/files/youth/EU_Action_Programme_Combat_Discrimination.pdf).

<sup>15</sup> *Community Action Programme to combat discrimination* lasted six years (from December 2000 to December 2006) with total budget of EUR 98.4 million. For more visit: [http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/anti-discrimination\\_relations\\_with\\_civil\\_society/133113\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/anti-discrimination_relations_with_civil_society/133113_en.htm).

tutional units, away from seats of power. Hence, the directives of those units, it is argued, could easily be ignored (Bacchi, 2010, p. 20–21).

It is important that the European Union successfully realizes this idea which seems to be a globally established strategy (See more: True, 2010, p. 194–195). However, it is important to notice that mainstreaming is not an aim in itself but a means of achieving gender equality. It involves ensuring that gender perspective is central to all activities.<sup>16</sup> In practice, it determines that the Member States should analyze how their decisions result in meeting the commitments referring to men and women equality.<sup>17</sup> However, evaluations of gender mainstreaming reveal that there has been limited change to gender equality and it has been very fragmented across EU countries (Bendl, Schmidt, 2013, p. 364–381).

What is important, as a part of the political process, mainstreaming might be in danger; of not being “considered” and of being used instrumentally to serve the dominant policy frame thus losing purchase on specific gender equality issues relating to the evaluation of difference and redistribution of goods, privileges and powers and of losing a possibility of becoming a policy priority, because it treats gender equality as a “horizontal principle” (Lewis, 2006, p. 433).

The EU structures which fluently implement *gender mainstreaming* ideas into practice are *Women's Right and Gender Equality Commission* (FEMM)<sup>18</sup> in the European Parliament and *Employment, Social Affairs & Inclusion* (EMPL) Directorate-General of The European Commission.<sup>19</sup>

FEMM was created in the European Parliament back in 1984 and; since then, it is seen as a parliamentary engine in defining, promoting and securing gender equality within the EU. What is more, FEMM verifies whether the law stated by the European Union institutions respects the principle of equal opportunities. FEMM's opinions are presented during the preparation of directives referring to the internal market, public health

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<sup>16</sup> <http://www.un.org/womenwatch/osagi/gendermainstreaming.htm>, 22.05.2013.

<sup>17</sup> For more: *Manual for gender mainstreaming*, Directorate-General for Employment, Social Affairs and Equal Opportunities, Brussels 2008, p. 10.

<sup>18</sup> For more: <http://www.europarl.europa.eu/committees/en/femm/home.html>.

<sup>19</sup> It ensures the effective transposition and implementation of Community legislation and initiates new legislative proposals if necessary. Awareness raising is an important aspect of the effective implementation of gender equality legislation. Legislation currently covers 13 Directives in the area of employment, social security and goods and services.

and the economy. FEMM gathers to prepare reports which are the basis for European Parliament resolutions.<sup>20</sup>

While considering enactment of gender policies on the Commission's level, it is interesting to notice *Employment, Social Affairs & Inclusion Directorate-General of the European Commission* groups' experts, who monitor the development of legislation, analyze obstacles, problems and challenges which women have to face in the open market. In support of the EU family policy, they also search for different family structures, gather and process data on demographic changes, and prepare conclusions to influence various political programmes.<sup>21</sup> What is more, the European Commission in every sphere of its concerns, stimulates debate and activity of partners, creating a multiplicity of committees (thus realizing the idea of comitology). Those committees are consultative and advisory bodies also in relation to gender issues. As an example, the Advisory Committee on Equal Opportunities for Women and Men<sup>22</sup> ensures a flow of information on actions which were already undertake concerning the idea of equality. It consists of representatives of various institutions established by every Member State to verify the adoption of anti-discriminatory law.<sup>23</sup>

Nevertheless, overall coordination of gender mainstreaming and specific action measures is necessary to promote the objective of gender equality (see: Joannine, 2012, p. 163–170). This is why a *Roadmap for equality between women and men* for 2006–2010 was adopted by the Commission on 1 March 2006.<sup>24</sup> The Roadmap examines the Commission's commitment to driving the gender equality agenda forward. The activities projected in the Roadmap constitute the driving force in achieving gender equality.<sup>25</sup> Hence, the *map* referred to all aspects of European gender policy. It is fair to claim, that the map was an important part of gender policy because it supported full implementation of already standing law

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<sup>20</sup> For more: [http://www.europarl.europa.eu/comparl/femm/opinions/default\\_en.htm](http://www.europarl.europa.eu/comparl/femm/opinions/default_en.htm).

<sup>21</sup> For more: <http://ec.europa.eu/social/main.jsp?langId=en&catId=1>.

<sup>22</sup> For more: [http://ec.europa.eu/justice/gender-equality/other-institutions/advisory-committee/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/other-institutions/advisory-committee/index_en.htm).

<sup>23</sup> As a support there are also active *European Women's Lobby* and *European Network of Women* whose aim is to influence the EU institutions and deciding bodies for awareness of preservation of woman rights.

<sup>24</sup> *A Roadmap for equality between women and men 2006–2010*, COM/2006/0092 final, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0092:EN:NOT>.

<sup>25</sup> For more: [http://www.ludenet.org/membersservices/Library/equality\\_en.htm](http://www.ludenet.org/membersservices/Library/equality_en.htm).



concerning non-discrimination issues and was also focused on monitoring all actions planned by the *map* itself. *Roadmap for Equality between Women and Men* defined six priority fields for European gender equality actions for upcoming years:

- Equal economic independence for women and men;
- Balance of work, private and family life;
- Equal participation of women and men in decision-making;
- Elimination of gender stereotypes;
- Eradication of gender-based violence and trafficking;
- Promotion of gender equality outside the EU.<sup>26</sup>

As a result of the Roadmap, the *European Pact for Gender Equality* was approved by the Member States at the European Council on 23 and 24 March 2006, and it reflected the Member States' determination to implement policies aimed at promoting equality. What was original in comparison to previous arrangements in gender sphere, was the fact that the *Pact* attempted to make full use of the productive potential of the European labour force. To reduce gender gaps in employment, it aimed at creating higher standards for social protection by facing demographic challenges and promoting a better work-life balance for women and men. Another important aspect of the *Pact for Gender Equality* was its commitment to eradicate gender stereotypes in the labour market.<sup>27</sup>

In the programming period of 2007–2013, the Commission decided to continue its efforts and proposed the establishment of a new integrated programme known as *Programme for Employment and Social Solidarity* (PROGRESS).<sup>28</sup> Its section IV, entitled *Anti-discrimination and diversity*, aims at supporting effective implementation of non-discrimination and promotion of its mainstreaming in all EU policies by improving understanding in discrimination issues, mostly through studies and technical analyses, supporting implementation of EU anti-discriminatory legislation, and monitoring and organizing seminars.<sup>29</sup> Non-discrimination is

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<sup>26</sup> *A Roadmap for equality between women and men 2006–2010...*

<sup>27</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lsa/119628.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/119628.pdf).

<sup>28</sup> With a budget of EUR 743.2 million, PROGRESS is open to all EU Member States, EU candidates and EFTA/EEA countries. It targets national governments, local and regional authorities, public employment services and national statistics offices. However, specialized bodies, universities and research institutes, as well as the social partners and NGOs can also participate.

<sup>29</sup> For more: <http://ec.europa.eu/social/main.jsp?langId=en&catId=987>.

only one strand of the programme which supports the work of national governments in promoting more and better jobs and equal opportunities for all in the EU. PROGRESS also funds activities connected with employment, social inclusion and protection, working conditions and gender equality.

It is worth mentioning that in 2006, the European Union settled and financed the European Institute for Gender Equality<sup>30</sup>. It acts as a center of excellence and it is focused mostly on raising awareness of EU gender policy as well as gathering, analyzing data and developing new methodological tools for resolving these dilemmas.<sup>31</sup>

Even though EU special actions have lasted for three decades, the effectiveness in implementing equality policy still needs the support of special funds and programmes. So, on 20 June 2007, the European Parliament and the Council adopted Decision no. 779/2007/EC establishing for the period 2007–2013 a special programme aimed at preventing and combating violence against children, young people and women and protecting victims and groups at risk.<sup>32</sup> *Daphne III programme*<sup>33</sup> is a part of the General Programme *Fundamental Rights and Justice*.<sup>34</sup> The general objective of the *Daphne III* is to contribute to the protection of children, young people and women against all forms of violence and to attain a high level of health protection, wellbeing and social cohesion. The programme shall contribute to the development of the EU policies, particularly those related to public health, human rights and gender equality as well as actions aimed at protecting children's rights, countering human trafficking and sexual exploitation.<sup>35</sup> *Daphne* aimed at all non-governmental organizations and private and public institutions who were keen to lead projects fitting

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<sup>30</sup> <http://eige.europa.eu>.

<sup>31</sup> For more: [http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/equality\\_between\\_men\\_and\\_women/c10938\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/c10938_en.htm).

<sup>32</sup> *Decision 779/2007*, Official Journal of the European Communities L 173/19, p. 1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:173:0019:0026:EN:PDF>.

<sup>33</sup> The DAPHNE III PROGRAMME is the follow-up of the Daphne II Programme (2004–2008), the Daphne Programme (2000–2003) and the Daphne Initiative (1997–1999). These community actions and programmes funded 460 projects in all areas of violence for a total amount of EUR 56.7 million; [http://ec.europa.eu/justice/funding/daphne3/awp\\_daphne3\\_2007\\_en.pdf](http://ec.europa.eu/justice/funding/daphne3/awp_daphne3_2007_en.pdf).

<sup>34</sup> [http://ec.europa.eu/justice/gender-equality/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/index_en.htm); <http://ec.europa.eu/justice/fundamental-rights/>.

<sup>35</sup> For more: <http://ec.europa.eu/justice/grants/programmes/daphne/>.

into general framework. After fulfilling all necessary legal requirements they can be granted.

The fund which also significantly contributes to the realization of the European Union gender strategy is EQUAL.<sup>36</sup> It is based on *European Employment Strategy*<sup>37</sup> and refers to the social inclusion process. It aims at promoting a better model of working life by countering discrimination and exclusion.

In the UE institutional sphere, the Commission seems to be the main institution standing for equality and launching new priorities. This approach will contribute to improving the place of women in the labour market, in society and in decision-making in the European Union and elsewhere. This is the main reason for recognizing the importance of the *Strategy for equality between women and men 2010–2015*.<sup>38</sup>

This strategy is a follow-up to the roadmap 2006–2010 for gender equality. It adopts the priorities defined by the women's charter and it forms the Commission's work programme. It also outlines the crucial action-plan for the period 2010–2015 and serves as a basis for cooperation between the Commission and other European institutions, Member States and stakeholders, as a part of the *European Pact for gender equality between women and men*.

Main fields of interest of the Strategy are:

- Economic independence of women;
- Equal pay;
- Equality in decision-making;
- Dignity, integrity and an end to gender-based violence;
- Gender equality in external actions.<sup>39</sup>

As to the economic aspect of women independence, the increase in the female employment rate over the past decade may be hailed a success. However it has to be continued if the objective of 75% employment rate, as set by the *Europe 2020* strategy<sup>40</sup>, is to be met. It also needs to be ex-

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<sup>36</sup> <http://www.equal.org.pl/index.php?lang=en>.

<sup>37</sup> [http://europa.eu/legislation\\_summaries/glossary/european\\_employment\\_strategy\\_en.htm](http://europa.eu/legislation_summaries/glossary/european_employment_strategy_en.htm).

<sup>38</sup> COM (2010) 491 final, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0491:EN:NOT>.

<sup>39</sup> *Strategy for equality between women and men*, p. 7, <http://ec.europa.eu/social/BlobServlet?docId=6568&langId=en>.

<sup>40</sup> COM (2010) 2020 final, *Europe 2020 – A strategy for smart, sustainable and inclusive growth*, p. 19, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>.

tended to groups of women with the lowest employment rates. Progress is needed in order to improve the quality of jobs and work/life reconciliation policies.

To fulfill this expectation, the Commission is going to undertake initiatives aimed at promoting equality as a part of the *Europe 2020* strategy and through EU funding, as well as promoting female entrepreneurship and self-employment. It also involves the assessment of workers' rights with regard to leave for family reasons and assessing Member States' performance with regard to childcare facilities and the important aspect of supporting gender equality in matters of immigration and the integration of migrants.<sup>41</sup>

While referring to equal pay as the second objective of this Strategy, the Commission highlights that the gender pay gap still exists,<sup>42</sup> both for equal work and work of equal value. There are many reasons for this pay gap, in particular, disparity in education and in the labour market. To help eliminate unequal pay, the Commission together with social partners will explore possible ways to improve the transparency of pay and support equal pay initiatives in the workplace such as equality labels, 'charters' and awards. To draw attention to this, the Commission established the European Equal Pay Day.<sup>43</sup> It is worth mentioning that it is important to make efforts to encourage women to enter non-traditional professions, for example in the 'green' and innovative sectors.<sup>44</sup>

The third objective of this Strategy is equality in decision-making. Women are still under-represented in the decision-making processes, in parliaments and national governments and on the management boards of large companies, despite making up half of the workforce and more than half of new university graduates in the EU. This problem has its background deep in European societies, being rooted in the process of socialization. Standing forward to progressive expectation, the Commission is going to propose targeted initiatives to improve the situation and it will monitor progress made towards achieving the 25% top-level decision-making positions in research for women. It is also important to increase the number of women in the committees and expert groups established by the

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<sup>41</sup> *Strategy for equality...*

<sup>42</sup> *Woman in economic decision-making in the EU: Progress report – A Europe 2020 initiative*, [http://ec.europa.eu/justice/gender-equality/files/women-on-boards\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/women-on-boards_en.pdf).

<sup>43</sup> [http://europa.eu/rapid/press-release\\_IP-13-165\\_en.htm](http://europa.eu/rapid/press-release_IP-13-165_en.htm).

<sup>44</sup> *Strategy for equality...*

Commission, to at least 40%. Since the European Parliament is one of the EU core institutions, it is vital to promote greater participation of women in the EP elections.<sup>45</sup>

Other objectives concern issues of dignity, integrity and violence. According to estimates, 20% to 25% women living in the EU have suffered physical violence at least once in their lifetime and up to half a million have been subjected to genital mutilation. Such statistics are a threat to a stable, positive evolution of European society. To deal with such problems, the Commission is going to propose an EU-wide strategy on combating violence, ensuring that EU asylum legislation takes account of gender equality considerations and also monitor gender issues in the field of health.<sup>46</sup>

Since the EU acts as a unit in many international trade and political agreements, it has been decided that the EU's external policy will include gender equality and women's empowerment in external actions. To fulfill this, the Commission is going to intensify its actions aimed at equal gender treatment in candidate and potential candidate countries and is going to implement the EU Plan of Action on Gender Equality and Women's Empowerment in Development (2010–2015). To promote gender equality, the EU will also conduct regular dialogues and exchanges of experience with neighboring European countries and integrate equal treatment considerations into humanitarian aid operations.<sup>47</sup> Such an approach might result in acceleration of the process of implementing European standards of equality in countries which cooperate with the EU and don't have themselves sophisticated solutions dealing with equality dilemmas.

And finally, according to horizontal issues, the Commission is committed to progressing equal treatment between women and men, paying particular attention to the role of men in introducing gender equality by disseminating good practices on redefining gender roles in youth, education, culture and sport. In this aspect, it is important to monitor the proper implementation of European legislation, particularly Directive 2004/113/EC<sup>48</sup> on equal treatment in the access to and supply of goods and services and

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<sup>45</sup> *Ibidem*, p. 20.

<sup>46</sup> *Ibidem*, p. 24.

<sup>47</sup> *Ibidem*, p. 30.

<sup>48</sup> Directive 2004/113/EC, Official Journal L 373/37, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:373:0037:0043:en:PDF>.

Directive 2006/54/EC<sup>49</sup> on equal opportunities. The Commission is also committed to progressing the governance and tools of gender equality, particularly through the drafting of an annual report on gender equality<sup>50</sup> in order to contribute to a yearly top-level Gender Equality Dialogue involving the European Parliament, the Commission, Member States and key stakeholders.<sup>51</sup>

*The Strategy for equality between women and men 2010–2015*, which is described above, should be considered together with a new European *Pact for gender equality for the period 2011–2020* which was adopted in March 2011 by the Council. The new Pact, annexed to Council conclusions (7166/11), reaffirms the EU's commitments to closing gender gaps in employment, education and social protection, promoting better work-life balance for women and men, and combatting all forms of violence against women. It urges action by the Member States and the Union, to take measures to eliminate gender stereotypes, ensure equal pay for equal work and promote equal participation of women in decision-making. It is also focused on improving the supply of affordable and high-quality childcare services and promoting flexible working arrangements. It also aims to prevent violence against women and the protection of victims, and focuses on the role of men and boys in order to eradicate violence.<sup>52</sup> This approach also reaffirms the importance of integrating the gender perspective into all policies including external actions of the EU.

## V. Threats to the EU gender acts and programs

The precise nature of links in the policymaking processes is the extensive discussion as to whether the same tools can be used to address much different types of inequality. A broad definition of equality has been implied in Treaty objectives. However, a right-based anti-discriminatory approach necessarily involves an individualist approach in the EU context, which raises the question as to how far civil rights are linked to social

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<sup>49</sup> Directive 2006/54/EC, Official Journal L 204/23, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:0036:en:PDF>.

<sup>50</sup> *Progress on equality between women and men in 2012*, [http://ec.europa.eu/justice/gender-equality/files/documents/130530\\_annual\\_report\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/documents/130530_annual_report_en.pdf).

<sup>51</sup> For more: [http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/equality\\_between\\_men\\_and\\_women/em0037\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/em0037_en.htm).

<sup>52</sup> *Strategy for equality...*

rights and social citizenship entitlements, and how far they may be convergent. There is also the issue of how far these anti-discriminatory rights are seen as means of promoting diverse equalities in all spheres of life, and how far they are intended primarily to serve the dominant policy frame of access to the market and employability (Lewis, 2006, p. 434).

There are many opinions about the extent to which social and political development in the EU is associated with the reduction of gender inequality, varying from very considerable to very limited (for more: Pascall, 2012, p. 6–7). Typically, scholars recognize that the EU influenced gender equality mostly because of its binding legal directives on equal treatment in employment (see: Maliszewska-Nienartowicz, 2013, p. 10–40). Even so, they see significant limitations on EU potential for further reductions of gender inequality. There are a few identified major limitations.

First of all, EU actions are limited by its primary concern with standard employment. Women are more employed in part-time and temporary employment, and so do not benefit from its regulations. Moreover, implementation of the EU equality directives and other policies is uneven as a result of national differences in a variety of institutions, including legal machinery, political will and differences in the transposition of EU law. This is important, because the present EU strategy for taking forward gender equality project, gender mainstreaming, is supported by “soft” law interventions, that is they are advisory rather than judicially enforceable, such as the new open method of policy coordination (Walby, 2004, p. 6–7).

## **VI. Summary**

In the last 20 years gender equality has become more firmly embedded in the EU. However, the wider policy context also signals a more instrumental approach to it. In addition, when changes in equality policies, work/family reconciliation and social policies are taken together, it seems that the commitment to equality as same treatment according to the male mainstream model remains predominant. At the same time, work/family reconciliation policies have moved away from their clear association with equal opportunity policies in the early and mid-1990s, to a much more unequivocal instrumental link to employment policies. So we have evidence of gender equality defined primarily in terms of the labour market, with less attention to promoting the equal sharing of unpaid care work between men and women and in changing the behavior of men (Lewis, 2006, p. 436).

Equality is one of the core values of the European Union. Through the combined efforts of the European Union and its Member States, the situation of men and women in Europe has been genuinely transformed in many areas. For example, female participation in employment has steadily increased and women today have a higher level of education than men.<sup>53</sup> Nevertheless, stereotypes in the economic sphere are still not as pleasant for woman as they should be. So the preservation of women rights increases and it is supported by various programmes, pacts, funds and actions.

However, a lot still needs to be done. Reports shows that even if the European Union's efforts to increase women's participation in decision-making processes have been consistent and certain progress has been achieved, women are still under-represented in most spheres of power in most Member States and in the EU Institutions.<sup>54</sup> Generally, this conclusion can be adopted to every sphere of life in European reality. But it needs to be underlined that European Union gender policy is just a starting-point and not a final solution of the problem of gender inequality. Therefore, all Member States have an important role and should make unavoidable and coordinated decisions in the name of equality.

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<sup>53</sup> *Report on progress on equality between woman and man – 2011*, [http://ec.europa.eu/justice/gender-equality/files/progress\\_on\\_equality\\_between\\_women\\_and\\_men\\_in\\_2011.pdf](http://ec.europa.eu/justice/gender-equality/files/progress_on_equality_between_women_and_men_in_2011.pdf).

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**Równość w Unii Europejskiej****Streszczenie**

Równość płci stanowi kluczowy aspekt procesu integracji europejskiej. Szczegółowe przepisy regulujące kwestie płci zawarto w traktatach założycielskich, Karcie praw podstawowych i kilkunastu innych dyrektywach, ale zasada niedyskryminacji została dodatkowo wzmocniona decyzjami Trybunału Sprawiedliwości Unii Europejskiej, który wydał decyzje w ponad dwustu sprawach. Obecnie przepisy unijne dotyczące równości wychodzą daleko poza podstawowe kwestie płci, o czym mowa jest w niniejszym artykule. Koncentruje się on nie tylko na podstawowych przepisach UE dotyczących równości płci, ale także na kwestiach dotyczących poziomu ich realizacji i najważniejszych jej ograniczeniach. Rozważania te poszerzono o dyskusję na temat tych działań UE, które można również traktować jako element wdrażania prawodawstwa niedyskryminacyjnego.

**Słowa kluczowe:** płeć, równość, Unia Europejska, polityka równości płci (*gender mainstreaming*), prawa kobiet

