

## **Gender Equality Policies in the European Union: Economic Integration and Feminist Transnational Advocacy**

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### **Abstract**

In the course of history an interesting evolution has taken place in European gender equality policies. This story started in 1957 when the European Economic Community was founded and the principle of equal pay for equal work for men and women was included in the Treaty of Rome to avoid unfair competition and distortions in the free European market. Soon the Treaty article would evolve into a broader demand for equal rights related to work and result in a series of binding directives. In the eighties and nineties gender equality would increasingly enter other policy domains by means of non-binding soft law and gender mainstreaming. More recently, the EU has turned towards an approach of multiple discrimination which involves other grounds of discrimination, such as race and sexuality. The aim of this article is to review the history of gender equality policy in the EU while distinguishing some general trends, and discuss the implications of the most recent turn towards an anti-discrimination framework. I conclude that despite a continuous broadening of policies and strategies, economic motives continue to be the leitmotiv throughout this history. Also the

broadening of EU equality policies with regard to the inclusion of multiple inequalities risks being trapped in the same economic logic. Nevertheless, despite the economic framing of EU equality policies, the pluralist and open nature of the EU's decision-making process still provides gender activists with multiple access points to attempt to re-frame the way in which gender issues are addressed, as the struggle for a gender-just Europe continues.

**Keywords:** gender equality, European Union, social policy, women's rights, feminism.

## **Introduction**

Since the establishment of the European Economic Community an interesting «thematic spill over» has occurred in the field of gender equality (van der Vleuten 2007a, 178). The aim of this article is to review this history from its very beginning until present day and to distinguish some general trends. First, I will give an overview of the history of gender equality policy in the EU starting from its very creation. Then I will elaborate on how feminist academics have interpreted this history theoretically as an evolution in three phases. Next, I will discuss the more recent turn at the EU level towards an approach of multiple discrimination and examine the implications of this fourth phase. Lastly, I will discuss three broad criticisms on EU gender equality policies that have been distinguished in the literature.

### **1. European integration, economic motives and gender equality**

The fundamentals for the development of women's rights in the European Union (EU) were established from the very beginning of the community's history. In 1957, the European Economic Community – which would later become the EU – was established by the Treaty of Rome signed by the then six member states: Belgium, France, Italy, Luxembourg, the Netherlands and West-Germany. The main purpose of the Treaty was to create the framework for a common European market and lay out its central

principles. Not surprisingly, the most important objectives of the Treaty were economic. Negotiations on social policy were limited to the question whether a degree of harmonisation was required in the interest of fair competition. One of the hypothetical market distortions that was discussed was the extent to which member states applied equal pay between men and women (Hoskyns 1996). It was against this backdrop that article 119 of the Treaty introduced «the principle that men and women should receive equal pay for equal work» (European Economic Community 1957). Although this article seemed only a detail at that time, later in history it would give the impetus to more social justice and gender equality in Europe. At the time the Treaty was signed it was widespread in most European countries for women workers to earn less than their male colleagues doing the same work. In the Netherlands for example, women earned 25 to 40 per cent less for the same job than their male counterparts. The Dutch government, trade unions and employers reasoned that, since a man was the head of the family and the bread winner, a woman's income only needed to be a supplement to the family income. More importantly, higher incomes for women would be disastrous for Dutch textile exports (van der Vleuten 2007b).

Notwithstanding the significance of article 119, the motives of Europe's founding fathers – they were literally all men – were in essence economic. The interests of women or the broader issue of social justice were not discussed as such (Hoskyns 1996). France had only insisted on the clause, because it was concerned that the equal pay statute in the French constitution would hamper French competitiveness once the European open market came into existence (Mazur 1995). These economic motives in combination with the fact that equal pay had recently become a legitimate international issue at the level of the United Nations and the International Labour Organisation<sup>1</sup> explain the introduction of article 119 on equal pay. It was thus in 1957 that the fundamentals for greater gender equality were laid down and a first institutionalised link was made between women's rights and employment rights at the European level. About ten years later activist women would come to realise its possibilities and «switch the debate from one of economic rationality to a demand for rights» (Hoskyns 1996, 57).

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<sup>1</sup> Equal pay was included in the UN's 1948 Universal Declaration of Human Rights and the 1951 ILO Convention and Recommendation on equal remuneration between male and female workers for work of equal value.

## 2. The battle for economic equality

Since article 119 was added for tactical reasons that were not immediately relevant in economic practice – the common market was not yet realised – it was not surprising that the member states were in no rush to apply the clause or act upon it. However, the general social context of the mid-to-late 1960s combined with two specific kinds of activism by Belgian women would rescue article 119 from being a dead letter. The first legendary event took place in 1966, when more than 3,000 female workers from a Belgian arms factory in Herstal went on strike to protest against unequal pay. In 1965 women at the *Fabrique Nationale d'Armes de Guerre* earned on average 25 per cent less than male workers doing exactly the same job. What started as a spontaneous walkout for better conditions would soon become a broad protest against the unequal position of women in general. The strike was supported by several factories in the area and was immediately backed by feminist organisations and labour unions outside of Belgium. From the very beginning equal pay and the application of article 119 were put forward as key demands in their campaign. The strike would last three months and would only bring partial success. Nevertheless, the women's protest and partial victory had a significant symbolic value and inspired many European men and women. One of these inspired minds was academic lawyer Éliane Vogel-Polsky, who had followed the developments in the Herstal factory closely and was fascinated by the idea that women might be able to claim rights directly under European law. In 1967 she wrote an important article in *Journal des Tribunaux* questioning the fact that article 119 was not considered self-executing. After all, the European Court of Justice had ruled in the Lütticke case in the same year, that article 95 on discriminatory taxes on goods was indeed self-executing (van der Vleuten 2001). Her claims however, were not taken seriously by her colleagues and soon she realised that the only way to prove her point would be to bring a case on unequal pay before the European Court. Finding a test case did not prove easy. Labour unions in Belgium were not particularly interested in women's rights as women were largely underrepresented among their ranks. In 1965 women made up only one fifth of its members, while the union's leadership was firmly in the hands of men. Although labour unions officially recognised the principle of equal

pay for equal work, in practice it remained a dead letter, as the unions had previously agreed on collective agreements with employers containing unequal pay provisions. Labour unions feared they would get into a tight corner with their liability and thus refused to get involved with Vogel-Polsky. Individual workwomen also drew back from starting a case because they feared they would be fired as a reprisal (Gubin 2007). Finally, Vogel-Polsky was brought into contact with Gabrielle Defrenne, a former Sabena air hostess. In accordance with company policy, Defrenne's employment contract was terminated on her 40<sup>th</sup> birthday, while male stewards could continue working until the age of 55. This policy gave male stewards – after 23 years of service – the opportunity to benefit from an additional company pension reserved for air personnel. Because of their earlier retirement women were excluded from this regime. During a ten year period, Vogel-Polsky and her colleague Marie-Térèse Cuvelliez would prepare three separate Defrenne-cases each pursuing different aspects of unequal pay. The first case challenged the unequal pensions (Case 80-70, Defrenne vs. The Belgian State, 1971, ECR 445), the second concerned lower wages for women as a result of discriminatory pay scales in operation before 1966 (Case 43-75, Defrenne vs. Sabena, 1976, ECR 455) and the third confronted the discriminating working conditions and pension age (Case 149/77, Defrenne vs. Sabena, 1978, ECR 1365). Vogel-Polsky and Cuvelliez lost the first and third case because at the time there was no explicit law prohibiting these kinds of unequal treatment of men and women. The European Court refused to interpret equal pay as equal pension or as applicable to other working conditions for men and women (such as being forced to resign at a younger age causing significant income loss). Nonetheless, they won the second case challenging unequal wages for men and women. It was in this landmark decision of the European Court of Justice that the direct effect of article 119 was established. From that moment on article 119 on equal pay for equal work could be directly invoked by individuals against the State as well as against individuals (Chrystalla 2003).

### **3. Lift-off and stalemate**

The Defrenne-cases combined with an ever increasing transnational feminist advocacy had an enormous impact and pushed Europe to take action. The Commission promptly

prepared three directives: the 1975 Directive on equal pay which expanded article 119 to equal pay for work of equal value (75/117/EEC), the 1976 Directive on equal treatment in access to the labour market and working conditions (76/207/EEC) and the 1979 Directive on equality in the statutory systems of social insurance (79/7/EEC). Notwithstanding the fact that the directives came with a price tag and involved significant changes to the laws of the member states, the Council of Ministers unanimously agreed on them. Not a single member state used its veto right because of «pressure from “below” (including the women’s movement, women in trade unions and political parties), from “inside” (including women in governments and ministries) and from “above” (the Commission, the Court, the UN International Women’s Year)» (van der Vleuten 2007a, 105). The calling into question of established norms and the social unrest among young people in the second half of the sixties soon got a gender specific dimension. The elevation of women’s education level as well as their massive entrance on the labour market, cultivated a higher political consciousness. At the same time, the shift in women’s voting behaviour weakened the position of conservative governments and brought governments to power that were more supportive of equality policies. This period also witnessed the rise and consolidation of the women’s movement across Europe, including more radical forms of feminism and public activism involving the young generation (Woodward 2012). By the early 1970s the situation of women had been put high on the political agenda by women’s organisations and other social organisations. Moreover, the UN had declared 1975 as International Women’s Year and had urged its members in 1973 to take concrete actions to improve the position of women in the run-up to 1975. Since all European member states were facing this task, a common European response was welcome. Despite the relatively high estimated costs of a European equality policy, all member states agreed upon the three proposed directives. The ideological and political desirability of such a policy was very high and the introduction of different systems of equal pay and treatment at the national level would create unfair competition in the European internal market (van der Vleuten 2001).

Later during the 1980s it became more difficult to pass gender equality legislation, because the costly implementation of the previously agreed directives had made member states more reluctant to agree on new policies. The oil crisis of 1979 had

fostered a worldwide economic recession and more conservative governments were brought to power. As the Keynesian recipe of an active government policy had not been successful in preventing the crisis, global thinking shifted towards a neoliberal consensus that emphasised a strict monetary policy and a minimal state. The crisis measures included drastic cutbacks on social services which mostly affected women. Due to the neoliberal crisis climate only two new directives were approved between 1979 and 1992: one on self-employment (86/631/EEC) and a second on occupational social security schemes (86/378/EEC). The two directives resulted from commitments made in the previous period and were so much weakened in the course of the policy-making process that they barely contained new binding rights. Despite the enduring national and supranational pressure for more gender equality, all other proposals for binding regulations launched in that period were blocked by British vetoes. Internally the conservative British government of prime minister Margaret Thatcher was deploying a strategy of deregulation and a minimal state and wanted the Community's role to be limited to the promotion of the free European market. In this period, democrats in the European Commission increasingly made use of soft law measures (such as non-binding regulations, recommendations for the member states and action programmes) to increase the impact of EU equality directives, raise public awareness of women's issues and promote equal opportunities for women and men beyond the workplace (van der Vleuten 2001). Furthermore, the Commission and the Parliament acquired gender-specific institutional structures, while the Commission encouraged and funded the growth of a transnational European women's lobby<sup>2</sup> to support and legitimise Commission initiatives (Mazey 1998). While at the national level, feminist groups had entered a phase of a more latent and non-visible action, some feminists and women's organisations seized the opportunities for supranational influence and joined the emerging EU wide transnational advocacy network (Zippel 2004). This network, including nationally-based organisations, sympathetic European Parliament and Commission members, newly founded European organisations and institutional

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<sup>2</sup> For instance, in 1976 the Commission established the Women's Information Service to publicise its equality policies in the member states and to organise international conferences for women. In 1990, the European Women's Lobby was set up, also funded by the European Commission, to represent women's concerns with a centralised voice in EU level policy making.

structures, managed to maintain a steady level of attention to gender equality policy during the «cold climate» of the eighties (Hoskyns 1996, 140).

#### **4. 1992: a new beginning**

The stalemate in terms of hard law would continue until 1992, when the scope of EU policies was broadened and new procedures were introduced by the Maastricht Treaty. Two particular treaty changes were of importance. First, the European Parliament was put forward as a full-fledged decision maker next to the Council of Ministers, which increased the chances for a more progressive EU gender policy.<sup>3</sup> Second, a Social Protocol<sup>4</sup> was attached to the EU Treaty – with a British opt-out – which created space for a social dimension of European integration (van der Vleuten 2007a). The modification of the Treaty had become possible against the background of the collapse of the Soviet state and the fall of the Berlin wall. Due to the suddenly instable external structure, the member states promptly agreed to deepen the process of European integration (including social policy) with the aim of embedding the reunited Germany in the economic and monetary union. The member states accepted the British opt-out as a compromise to avoid the restoration of the power balance in Europe failing (van der Vleuten 2001). The 1997 Amsterdam Treaty further strengthened the role of the European Parliament and made equality between men and women among the EU's explicit objectives in all its activities, which entrenched the principle of gender mainstreaming in the EU Treaty. These institutional and policy-broadening changes of 1992 and 1997 would end the blockade of binding hard law on gender equality. The result was a flux of directives on pregnant women and breast-feeding mothers in the workplace (92/85/EEC), on parental leave (97/75/EC), the burden of proof (97/80/EC), on part-time work (97/81/EC) and on equal treatment in employment and occupation

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<sup>3</sup> Through the years the European Parliament and more specifically its Committee on Women's Rights and Gender Equality have considerably strengthened several Commission proposals with numerous far-reaching amendments.

<sup>4</sup> The Social Protocol meant a deepening of the scope of EU policy and introduced a new decision making procedure that gave the European social partners an official role in EU policy making. The directives on parental leave and part-time work stem from this new procedure. However the concrete content of these directives is a 'minimum common denominator outcome' which does not require any significant policy changes in the member states.



(2000/78/EC). In 2002, the 1976 Directive on equal treatment in access to the labour market and working conditions was replaced by Directive 2002/73/EC which considerably strengthened the original version by adding clear definitions of indirect discrimination and (sexual) harassment and by requiring Member States to set up equality bodies to promote, analyse, monitor and support equal treatment between women and men. Also in 2004 a Directive (2004/113/EC) was agreed which applies the principle of equal treatment between women and men to access goods and services available to the public, and the 2006/54/EC Directive of 2006 puts the existing provisions on equal pay, occupational schemes and the burden of proof into a single text. Finally, a Directive was adopted in 2010 which replaces the previous Directive on parental leave from 1997. The two most important novelties in the 2010 Directive are the extension of parental leave to a larger group of employees (now also available for temporary, part-time and interim workers) and the increase of parental leave for male and female employees from three to four months with at least one month being non-transferable to the other parent.<sup>5</sup> In October 2008, the Commission proposed a review of the current legislation on maternity leave (Directive 92/85). The Commission's draft directive proposed an increase of pregnancy leave from 14 to 18 weeks, in accordance with the recommendations of the International Labour Organisation. The proposal was subsequently amended in the European Parliament which proposed an increase of pregnancy leave to 20 weeks for mothers and to 2 weeks for fathers. The draft directive, adopted in first reading by the European Parliament in 2010, has been stuck with the Council of Ministers ever since, as it does not accept the Parliament's amendments and considers the proposal too far-reaching.

## **5. Evolution in three phases**

The historical evolution of EU gender equality policy can be characterised ideologically as a three-phase evolution, starting with equal treatment in the seventies, over

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<sup>5</sup> In principle, the right to parental leave is an individual right for every parent with a child no older than 8 years. However, many member states have allowed parents to transfer their rights from one parent to another. In practice this has created a situation where mothers are taking more parental leave than men. It remains to be seen whether the non-transferability of one of the four months will result in more fathers taking parental leave.

positive action in the eighties to gender mainstreaming in the nineties (Rees 1998)<sup>6</sup>. Firstly, the equal treatment approach – connected to the liberal feminist tradition – «implies that no individual should have fewer rights or opportunities than any other» and implies a «legal redress to treat men and women the same» (Rees 1998, 29 and 2002, 46). The approach is embodied by the legendary article 119 and the series of directives on equal pay and equal treatment in the workplace that followed. Over the years, the EU has supplemented its equal treatment legislation with positive action initiatives as it has become clear that equal treatment does not automatically lead to equal outcome.

Positive action is related to the tradition of cultural feminism and shifts the goal from equal access to equal outcomes by creating the conditions that will more likely lead to equalising starting positions (Rees 1998; Verloo and Lombardo 2007). In 1984 for instance the Council issued a Recommendation on the promotion of positive action for women which recommended the Member States to «adopt a positive action policy designed to eliminate existing inequalities affecting women in working life and to promote a better balance between the sexes in employment» (Council of the European Communities 1984). Putting in place positive action in the EU has been a difficult process, as positive action measures were originally introduced by non-binding soft law, which led to legal confusion (Kantola 2010). In the 1995 Kalanke case the European Court argued that positive action measures were in contradiction with the principle of equal treatment of the 1976 Directive. After a technical revision of the law, the Court ruled in the 1997 Marshall case that preferential treatment was indeed acceptable in the EU. The controversial Kalanke case illustrates the importance of strong binding instruments that leave little room for interpretations that might adversely affect the objective of gender equality and the empowerment of women (Kantola 2010).

The third phase, embodied by the gender mainstreaming approach, is linked to postmodern feminism and the concept of transformation (Verloo and Lombardo 2007). Gender mainstreaming should ideally involve analysis of how current systems advantage men or cause indirect discrimination and find ways to redesign these systems

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<sup>6</sup> Most authors see the three ideal typical strategies to realise gender equality not as competing or mutually incompatible, but as complementary methods that strengthen each other. See for instance Rees 1998 and 2002; Squires 2005.

and structures so that they bring substantial equality for men and women (Rees 2002). Because gender mainstreaming takes a system approach it is believed to be able to change discriminating gender norms, structures and relations and have a «more transformative potential than previous equality policies» (Squires 2005, 370). Gender mainstreaming thus enables us to transcend the classical Wollstonecraft dilemma<sup>7</sup>, because it goes beyond the opposition between equality of opportunity and equality of outcome, as embodied by equal treatment and positive action. Instead, gender mainstreaming «focuses on the structural reproduction of gender inequality and aims to transform policy processes» so that gender bias is eliminated (Squires 2005, 370). The gender mainstreaming approach was officially adopted by the EU – in the aftermath of the 1995 UN Beijing Conference on Women – when the Council adopted the fourth Action Programme (1996-2000) that put mainstreaming to the forefront as key strategy for gender equality next to specific actions. Gender mainstreaming is defined by the EU as «the integration of a gender perspective into every stage of policy processes – design, implementation, monitoring and evaluation – with a view to promoting equality between women and men» (European Commission 2011). The European interpretation of gender mainstreaming is however rather technical as the focus is on the existing policy actors and processes and to a lesser extent on rethinking processes or on involving excluded groups in policy making.

## **6. Phase four: diversity, multiple discrimination and intersectionality?**

Since the Treaty of Amsterdam was signed in 1997 ideas about multiple discrimination have been gaining terrain in the EU. Article 13 of the Treaty of Amsterdam states that «the Council may take appropriate action to combat discrimination based on sex, racial or ethnic origin, age, religion or belief, disability and sexual orientation». Over a decade later the article has turned out to be a powerful stimulus for new anti-discrimination legislation. Since Article 13 the EU has approved two directives. The first one is the

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<sup>7</sup> The Wollstonecraft dilemma refers to the tension between strategies of ‘equality’ and strategies of ‘difference’. The dilemma is whether women should «ask for equal rights, if, in a patriarchal society, equality means assimilation to the rights of men» or whether they should «fight for a differentiated citizenship, “as women”, with the risk of stigmatising their condition of difference as deviant from the male norm?» (Lombardo 2003, 160).

2000 Racial Equality Directive which stipulates that the principle of equal treatment should be applied irrespective of racial or ethnic origin in employment and training, education, social security, healthcare, and access to goods and services. In the same period the EU approved an Employment Equality Directive which applies the principle of equal treatment in employment and training, irrespective of religion or belief, sexual orientation, and age – thus including all non-discrimination grounds of Article 13 except race/ethnicity and gender. Also, since 2008 there has been an anti-discrimination directive in the running proposed by the Commission which wants to extend the protection of the Race Directive (with regard to education, social security, healthcare, and access to goods and services) to the four categories from the Employment directive (religion or belief, disability, age and sexual orientation).

Critics of the anti-discrimination framework point out that it «is similar to the equal treatment approach characterising the early years of equality work» and argue that – in comparison with gender mainstreaming – it seems like a step backward for gender equality (Woodward 2012, 100). Furthermore, in reality several grounds of inequality operate and interact with each other at the same time in such a way that they are inseparable which has been hard to include in the framework (Kantola 2010). The EU approach of multiple discrimination treats the different axes of inequality as separate strands that are similar to one another and can be treated within the same anti-discrimination framework. Feminist scholars however have shown that the different sources of inequality are in essence dissimilar so that a framework used to address one form of inequality cannot be used unequivocally to tackle other inequalities (Verloo 2006). Furthermore, since 2011, multiple equality issues have moved away from their old home in the Commission's DG for Employment, Social Affairs and Inclusion to the more judicially focussed DG Justice, Fundamental Rights and Citizenship (Woodward 2012). The question remains whether this shift will imply a growing focus on addressing equalities from a legal or judicial perspective, which protects rights on an individual basis and downplays the possibilities of addressing structural inequalities and discrimination at the societal level – in other words equality 'de jure' rather than 'de facto' (Debusscher 2015).

## 7. Feminist critiques

Feminist academics roughly distinguish three broad problems with EU gender equality policies. A first criticism concerns the *focus* of European gender policy, which is largely concentrated on the labour market and does not contain any binding regulations concerning other issue areas. This focus can be explained by the initial *raison d'être* of the EU, which was essentially developed to promote economic integration among the member states and – until the 1992 Maastricht Treaty – «treated its people as workers rather than as citizens» (Kantola 2010, 46). The EU's main competences and correspondingly its internal expertise and mode of thought are situated mainly within the economic logic. Such a limited focus is inadequate, as gender inequality is not limited to the labour market, but manifests itself in different spheres, thus requiring a holistic approach. Also the changes in the 2008 Treaty of Lisbon do not seem to genuinely alter this situation. Apart from a few new provisions addressing women rights, the Treaty lacks a comprehensive gender perspective as fundamental women's rights issues, such as the right to contraception and abortion, are not mentioned at all in the Chart of Fundamental Rights and provisions related to gender equality in the labour market have not been improved from the previous Treaty (Bisio and Cataldi 2008). Although the strengthened role of the typically gender friendly Parliament offers opportunities for a more social focus in EU gender policies, some stakeholders fear that «European social policy will remain subordinate to the economy» and that «the Lisbon Treaty will have only a minor impact on social Europe» (Schömann 2010, 5). Especially in a (post)economic and financial crisis context where several EU member states have taken austerity measures implying significant reductions in investments in social sectors which have impacted women and girls negatively.

A second problem is related to the *tools* that are used to promote gender equality (Kantola 2010). Despite the fact that the EU has issued several binding regulations concerning the labour market, the effect of these regulations has been limited to individual cases on sex discrimination brought to court, and has not had any broader impact. For decades the horizontal and vertical sex segregation on the European labour market as well as the gender pay gap – in 2015 still at a high 16 per cent across EU

Member States – have stayed largely intact due to socio-structural causes of discrimination, including the unequal division of unpaid care work and discriminating gender stereotypes, which have not been tackled by EU directives (Debusscher 2015; Kantola 2010). Although in theory, the strategy of gender mainstreaming has the potential to tackle these deeply rooted socio-structural causes of gender inequality and transform policy processes and its outcomes, in practice this has not been the case, as gender mainstreaming has been implemented in a rather technical and apolitical manner: the focus is on the existing policy actors and processes and not on rethinking these processes or on integrating excluded groups into policymaking. Moreover, gender mainstreaming in the EU is realised mainly through ‘soft law’ (such as non-binding communications, guidelines for the member states and the exchange of best practices), which implies that results are not enforceable and depend largely on the goodwill and interpretation of the member states and the actors involved. Despite its transformative potential, EU gender policies thus tend to be lost in translation and are interpreted in a rather noncommittal manner.

A third strand of criticism is related to the underlying EU *ideology* that forms the basis for its gender policies. This ideology would place too much emphasis on the internal market and economic growth (Kantola 2010). This is not surprising as several of the directives were established in a political climate where there was a great need for a more flexible and restructured labour market. Indeed, since the 1993 Delors Commission White Paper on Growth, Competitiveness and Employment, the EU has had a strong focus on competitiveness and economic growth. In line with these goals, all subsequent high-level EU policy documents, including the European Employment Strategy, the Lisbon goals as well as the Europe 2020 Strategy are focussed on getting as many people as possible – read women – out of economic ‘inactivity’. The main target is to create a competitive economy which induces yearly growth and with an affordable social security model. Several authors have therefore argued that the integration of gender equality in several policy areas has little to do with social justice or democracy (for instance Braithwaite 2000; Strategaki 2004; Hoskyns 2008; True 2009; Debusscher 2011). Europe seems to invest in the equal participation of men and women in employment and education as long as this is instrumentally necessary. For example, ‘balancing work and family life’ is approached as a necessary step to achieve

a more active participation of women on the labour market, but not as a goal in itself – to achieve a fairer division of unpaid care work (Braithwaite 2000). While gender activists have strategically used the EU’s existing goals to achieve a more gender equal Europe, a truly transformative policy is hampered by the underlying economic rationale. The role of fathers in rearing children or a more equal distribution of family responsibilities are not high on the agenda. In 2008, the Commission recommended reviewing the current legislation on maternity leave and proposed increasing maternity leave by four weeks «allowing women to better reconcile their professional and family obligations» and «to create a solid relationship with the child» (European Commission 2008, 6). While the Commission’s draft directive strengthens women’s rights and offers greater protection for working mothers in several member states, the role of fathers is not mentioned and «men and women’s concerns continue to be portrayed as distinct, whereby women continue to be the primary carers» (Guerrina 2002, 63). The more progressive Parliament, by contrast, added the entitlement to paid paternity leave of at least two weeks. Unfortunately, in the (post)crisis context the time does not seem ripe for the EU to address critical issues such as the more equal distribution of family responsibilities, as the EU Council of Ministers has blocked the proposal for almost five years now.

## **8. Conclusion**

Despite a gradual broadening of European gender equality policy, economic motives have been omnipresent throughout this history as the main focus is on regulating employment and the underlying ideology continues to be «based on valuing the market» (Kantola 2010, 46). While more recent directives on the regulation of working time «have begun to embed the concept of the worker-parent», this worker-parent is still predominantly female (Walby 2004, 6). These ideological tendencies are strengthened by the tools that are used to promote gender equality. As gender mainstreaming is relying upon soft law and the meaning of gender equality is contested, it is open to an «a la carte» interpretation and policy outcomes are often noncommittal (Daly 2005, 436). Especially in a context of successive economic and financial crises, economic

motives prominently come to the fore and Member States are weary to accept 'expensive' new laws on (gender) equality. Against this background the approval of hard equality law has become very difficult and several draft directives have been stuck with the Council for years (notably the 2008 proposal on maternity leave, the 2008 proposal on equal treatment irrespective of religion or belief, disability, age or sexual orientation and the 2012 proposal on improving the gender balance in non-executive board-member positions). In many respects the current political and economic climate is similar to the 'hard times' and 'cold climate' of the eighties.

This limited instrumental focus leads to the inability to tackle deeply rooted socio-structural causes of gender inequality and results in an EU gender policy that remains trapped in the 'Wollstonecraft dilemma' (Lombardo 2003). While the earlier directives have ensured equal pay and equal treatment in employment and working conditions (equal opportunities strategy), and the newer directives as well as the Action Programmes have extended the rights of women workers as mothers (positive action), the approach to achieve gender equality remains neoliberal, minimalist and does not significantly question patriarchy. Because EU policy leaves these fundamental power relations and systems intact and shies away from changing discriminatory gender relations, a truly transformative policy is still far away. Also the broadening of EU equality policies with regard to the inclusion of multiple inequalities, risks being trapped in the same economic logic. Indeed, effective competition requires the elimination of discrimination that distorts the operation of the free market and in this respect the EU's anti-discrimination framework nicely fits with «the embedded neoliberalism of the EU social model» which does not really address the structural causes of inequality (Kantola 2010, 170). Nevertheless, despite the economic framing of EU equality policies, the pluralist and open nature of the EU's decision-making process still provides gender activists with multiple access points to attempt to re-frame the way in which policy issues and problems which affect women are addressed at European and national level (Mazey 1998). The strong linkages between women's groups, democrats, feminist MEPs and academics, established as early as the 1960s, will continue to be extremely valuable in keeping women's rights high on the EU policy agenda as the struggle for a gender-just Europe goes on.



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