

Multiple Meanings  
of Gender Equality  
A Critical Frame Analysis  
of Gender Policies in Europe

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# European Union Gender Policy Since Beijing: Shifting Concepts and Agendas

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## 1. Introduction

Increasingly, the European Union (EU) plays an important role in affecting gender equality policies across Europe through the process known as “Europeanization” (see Andersen and Eliassen 1993; Hoskyns 1996; Lombardo 2004). Since 1995, the gender mainstreaming strategy of the EU pretends to widen the spectrum of EU gender issues beyond the area of the labor market that is still the main competence of the EU. Therefore, this chapter focuses on the analysis of issues related to citizenship and the private life of citizens, rather than those in direct relation to the labor market. In the last decade, these issues have acquired progressively greater relevance in the EU policy agenda. This chapter thus aims at providing an account of the evolution of the EU gender policy with respect to both the main concepts adopted, i.e., equal opportunities, positive actions, and gender mainstreaming, and new agendas developed in the period from 1995 to 2004, in particular concerning the issues of family policies, domestic violence, and gender inequality in politics.

The chapter will reflect on the following research questions: what is the evolution of EU strategies in the area of gender equality? When do new issues, as opposed to the usual labor-related areas of EU gender policy, appear? Who are the main actors initiating and developing policies on these issues? How do the issues of gender inequality in family policies, domestic violence, and politics evolve over time? What is the main focus or objective of these new issues? How are they related to gender equality or are they embedded in other goals? What legal instruments does the EU have to act in the selected issues? How does the main EU competence on employment and labor market issues affect the development of the three issues here?

The chapter first will provide an account of the EU evolution of gender equality strategies from equal opportunities to positive actions and mainstreaming, according to the different concepts of equality that have been developed over time. Then it will discuss the progressive development of EU gender policy from a labor market focus towards a broader approach that includes issues of family policy, violence against women, and gender inequality in politics. Reference will be made to the EU’s main

policy documents and events that were milestones in this process through a reconstruction of a short history on the three selected issues.

## 2. Shifting Concepts: From Equal Opportunities to Positive Actions and Gender Mainstreaming

From its beginnings in 1957, EU gender policy has been based predominantly on the concept of equal opportunities, in particular in the labor market. It is mostly in the nineties, and partially in the eighties, that other types of political strategies such as positive action measures and gender mainstreaming have emerged to complement the equal opportunities approach.<sup>1</sup> At the time of the Treaty of Rome in 1957, the rationale for introducing Article 141 (ex 119) on equal pay for equal work was ensure equal opportunities between women and men within the labor market in order to establish a fair level of competition among member states (Hoskyns 1996). Establishing the principle that individuals must be granted the same opportunities with regard to their access to certain fundamental goods (freedoms, income, welfare, employment, etc.), the concept of equal opportunities has set the legal basis for the elimination of discrimination against women in the field of employment in the EU and its member states.

Article 141 EC sets the “principle of equal pay for male and female workers for equal work or work of equal value,”<sup>2</sup> and in paragraph 141.3 encourages the Council of Ministers<sup>3</sup> to “adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation...” A variety of reasons—ranging from women’s political activism inside and outside European institutions (Hoskyns 1996 and Reinalda 1997) to supranational and domestic “pincers” that pressure unwilling member states to legislate on gender equality (van der Vleuten 2007)—may explain both the introduction of Article 141 EC and the adoption of legally binding measures such as Community Directives in the areas of equal pay, equal treatment in employment and working

1. The equal opportunities approach was reflected in the denomination of the policy itself that was known as “equal opportunities” policy, while the current name employed in the EU official language is “gender equality” policy. This change of name could be read as a shift towards a broader concept of equality between women and men, open to new policy approaches and areas.

2. Article 141 EC is “directly effective.”

3. The Council of Ministers represents the member states of the EU. It is the main decision-making institution of the European Union and legislative power that it shares with the European Parliament under the “co-decision” procedure.

conditions, and equal treatment in social security.<sup>4</sup> This has guaranteed the creation of a legal framework on equality at work that member states must implement and to which European women can refer to in case of violation of their rights.

The equal opportunities approach, however, reveals limitations embedded in a perspective that adopts the logic of the individual, rather than paying attention to the gender-biased structural conditions under which opportunities are offered. The strict application of an equal opportunities approach by the EU could generate further inequalities for women. This approach fails to consider the existence of material conditions, determined by the patriarchal social contexts in which women and men live, that prevent women from exercising their rights and having equal access to the opportunities they are offered on a fair ground with men (such as women's role as caretakers, gender violence, sexist education, and gender bias in selection criteria). The debate on the limits of the concept of equal opportunities in bringing about an equality of outcomes entered the EU arena as a result of litigation in the European Court of Justice on the principle of equal treatment between men and women in employment and working conditions established in Directive 76/207/EEC. In particular, it was through the *Kalanke*<sup>5</sup> (1995) and the *Marschall*<sup>6</sup> (1997) cases that the EU initiated a debate over the legitimacy of positive action<sup>7</sup> measures as a means to address the disadvantages women face in accessing the equal opportunities formally offered to them. Both cases questioned the lack of legal clarity on issues of equal opportunities and expressed the need to introduce new political strategies to overcome women's structural discrimination.

Feminists both in EU institutions and nongovernmental organizations took part in the debates that followed the restrictive *Kalanke* sentence and the more benign European Court of Justice interpretation of positive actions in the *Marschall* case. The result of the debates on positive actions activated by the *Kalanke* and *Marschall* cases

4. See Council Directive 75/117/EEC, OJ L 45, 19.02.1975; Council Directive 76/207/EEC, OJ L 39, 14.02.1976 amended by the recent Directive 2002/73/EC, OJ L 269/15, 05.10.2002; Council Directive 79/7/EEC, OJ L 6, 10.01.1979; Council Directive 86/613/EEC, OJ L 359, 19.12.1986; Council Directive 86/378/EEC, OJ L 225, 12.08.1986 amended by Council Directive 96/97/EC, OJ L 46, 17.02.1997; Council Directive 92/85/EEC, OJ L 348, 28.11.1992; Council Directive 96/34/EC, OJ L 145, 19.06.1996; Council Directive 97/80/EEC, OJ L 14, 20.01.1998; Council Directive 97/81/EC, OJ L 14, 20.01.1998.

5. Case C-450/93 *Eckhard Kalanke v. Freie Hansestadt Bremen* [1995] ECR 1995.

6. Case C-409/95 *Hellmut Marschall v. Land Nordrhein-Westfalen* [1997] ECR I-6363.

7. Positive actions try to correct the initial disadvantage of women, taking gender into account in establishing the criteria for employment, promotions, and participation in decision-making institutions. In all of these situations, the application of a compensatory measure means favoring, in cases of equal merit, a woman over a man.

was the approval of a Communication on positive actions,<sup>8</sup> a Commission proposal for amending Directive 76/207/CEE,<sup>9</sup> and, most importantly, for including a new provision in the Treaty of Amsterdam, i.e., Article 141.4. The latter allows member states to introduce positive actions, defined as “specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.” The aim of these measures is that of “ensuring full equality in practice between men and women in working life.” The article sets the goal of equality of outcome and allows positive actions not only when one sex is underrepresented but also as a compensatory or preventive measure, thus recognizing the discrimination women must face as a collective in the labor market. However, Article 141.4 leaves a certain legal uncertainty as it does not mention the term “positive action,” it does not prescribe the elimination of all constitutional and judicial obstacles to the introduction of positive actions and quotas existing in the member states, and it does not specify the criteria to judge concrete cases by establishing in a clearer way a preference in favor of the female collective (Otero García-Castrillón 2002). Moreover, as Vogel-Polsky points out, the article only refers to the area of employment, leaving untouched the area of politics.<sup>10</sup> Further reference to positive actions is found in the EU Charter of Fundamental Rights, though with a weaker formulation than that of Article 141.4.

Unlike the principle of equal opportunities, positive actions have not been given the legally binding form of a directive yet, a fact that reveals the uneven evolution of EU equality concepts as far as legal instruments are concerned. The trend towards the adoption on the part of the EU of “soft” measures to address the problem of gender inequality increases even more with gender mainstreaming. This refers to the introduction by governments and EU institutional actors of a gender perspective into all policies and programs, in order not only to analyze their effects on women and men before decisions are taken, but also to implement, evaluate, and review policies and political processes taking gender into account. It was introduced in the new Articles 2 and 3.2 of the Treaty of Amsterdam, the latter stating that in *all* its activities “the Community shall aim to eliminate inequalities, and to promote equality, between men and women.” This shift towards an EU competence on gender equality in “all areas” also can be found in the Charter of Fundamental Rights of the EU, where Article II-23 states: “equality between women and men must be ensured in *all areas*, including employment, work and pay.”

8. COM (96) 88 final.

9. OJ C 179, 22.06.1996, p. 8.

10. Eliane Vogel-Polsky, Public audition on *Marschall* sentence organized by the Committee on Women's Rights and Gender Equality of the European Parliament, January 22, 1998.

The EU discourse on broadening gender equality to all areas represents progress compared to an *acquis communautaire* mainly centered on equality at work, as it may enable EU action on areas of inequality that go beyond employment and the labor market. However, the rhetoric on gender mainstreaming has not been supported by legally binding measures such as directives; it has rather privileged soft law instruments such as the Commission's Action Programmes for Equal Opportunities between women and men (Third 1991–1995, Fourth 1996–2000, and Fifth 2001–2005), and the Commission Communication 96/67 on “Incorporating equal opportunities for women and men into all Community policies and activities” (COM [96] 67 final). In spite of the general claims included in these documents, there are no concrete objectives, no allocation of economic and human resources (Stratigaki 2005), no timetable for action, and no specific measures for implementing gender mainstreaming, monitoring its application, or sanctioning noncompliant actors. The Open Method of Coordination, through which the EU sets targets to achieve, and after which the member states are left to implement the policies and report annually on their developments, is the main instrument employed to monitor the implementation of gender mainstreaming. Scholars agree in denouncing the lack of effective implementation of gender mainstreaming in the EU policymaking process (Behning and Serrano Pascual 2001; Verloo 2001, 2005; Walby 2005; and Lombardo 2005).

Even more problematic than ineffective implementation is the “misinterpretation” of gender mainstreaming as a replacement for positive actions. Catherine Hoskyns warned already in 1999 that gender mainstreaming could run the risk of making EU gender policy “broad and shallow” instead of “narrow and deep” (Hoskyns 1999). The risk that she feared was that mainstreaming could be taken as a good excuse for diluting gender expertise and dismantling the infrastructures created to support women's policies in the EU. The formal inclusion of gender equality in mainstream policy led some people in the EU to the wrong assumption that special funds and specific programs for women should now disappear.<sup>11</sup> Some years later, Maria Stratigaki (2005) provided a lucid and experienced account that gender mainstreaming in fact had been employed in the EU patriarchal policy environment to attack positive actions and downplay the overall objective of gender equality. She argues that though the rhetoric of gender mainstreaming was accepted by EU policymakers, its implementation was manipulated against women's demands for binding positive action measures

11. Both in 1998 and 2000 proposals for abolition of the Committee on Women's Rights were put forward in the name of mainstreaming. The replacement of the NOW (New Opportunities for Women, a specific program for promoting women's employment) with the EQUAL program (a general initiative to combat discrimination that does not make any specific reference to women as a discriminated-against group) can be interpreted as part of the same trend.

in political decision-making bodies, in order to maintain the current gender distribution of political power.

The evolution of EU gender policy concepts reveals a shift from equal opportunities to positive actions and gender mainstreaming. The EU approach to gender inequality has broadened to incorporate not only new strategies but also new areas of policymaking. This has enabled the EU to extend the range of legal and political instruments to face the challenges of gender inequality. However, both the broadening of the policy areas beyond the labor market in which the EU could intervene, through gender mainstreaming, and the deepening of focus in order to tackle the structural conditions of gender inequality and to challenge the gender dimension of political power, through positive actions, have been inversely proportional to the binding nature of the measures adopted. If the principle of equal opportunities in the area of the labor market has been endorsed through a series of directives on equal pay, equal treatment at work and in social security, no directives have been approved on positive actions and gender mainstreaming, in spite of the incorporation of these two concepts in the 1997 Amsterdam Treaty and the 2004 Constitutional Treaty. Furthermore, the concept of positive actions seems in need of further clarification, as the existing definition leaves legal uncertainty over a number of issues. Finally, as the use of gender mainstreaming versus positive actions discussed by Stratigaki suggests, the shifts in concepts of the EU gender policy are not accidental, but rather part of ongoing political struggles over the meaning of gender (in)equality in which political actors are involved.

### 3. Shifting Agendas: From Labor Market to ‘All Areas’

“In *all the activities* referred to in this Article [*that is, in all the EC activities*] the Community shall aim to eliminate inequalities, and to promote equality, between men and women.”

—Article 3.2, Treaty of Amsterdam (1997).

“Equality between women and men must be ensured in *all areas*, including employment, work and pay.”

—Article II-23, Charter of Fundamental Rights of the EU (2000).

The above-mentioned articles of the Treaty of Amsterdam and the Charter of Fundamental Rights reflect a shift in EU gender equality policy from the usual labor-related agenda to all other areas, at least at the rhetorical level. This shift, fostered by the strategy of gender mainstreaming, could mean that the EU concept of gender



equality has broadened to include not only employment but also family, politics, sexuality, culture, and violence, all areas of patriarchy in which we encounter gender inequality and discrimination (Walby 1990). In practice, it means that the concept of equality can apply to all EU activities, which, as stated in the Article 3 of the Treaty of Amsterdam, are predominantly market and employment-related. The emerging of new issues such as family policies, domestic violence (Walby 2004), and gender inequality in politics must then be understood in the context of a shifting EU agenda in this area, but with the limitation of an EU competence that is still essentially market related. None of the three mentioned policy areas specifically falls under the EU remit, although the EU has more powers in those aspects of family policies that are clearly employment related, such as issues of maternity and parental leave. This section will explore the broadening of the EU agenda to the areas of family policies, gender inequality in politics, and domestic violence, the timeline following the evolution of these three issues from 1995 to 2004.

### *Family Policies*

Europe has a tradition in paying attention to families. Family provisions and support are largely well developed when compared to other regions of the world. Policymakers tend to focus on three issues with respect to families: demographic concerns or the need to replace the population, moral issues or the need to maintain a certain set of norms and values, and questions of employment and of economic growth or competitiveness (Daly 2004). EU policy documents mainly reflect the first and last concerns. Stratigaki (2004) underlines that family-related matters are interwoven with labor market issues. The initial concern was to promote gender equality. Discussions on work were preceded by mentions of the unequal sharing of tasks within the family, and the need to share was a condition to create equal opportunities for women in the labor market. These later became incorporated in the European employment strategies of the 1990s, and here they shifted meaning gradually. The gender equality perspective was overruled by economic concerns (also see Daly 2005 and Perrons 1999).

According to Simon Duncan (2002), EU policy on “the reconciliation of work and family life” has never been the outcome of concerns for gender equality only. Rather, the central theme has been demography. Duncan argues that in the 1990s the “increasing influence of a parallel policy discourse that had been bubbling along during the 1980s—the demographic time bomb—politically exposed the limitations of equal opportunities at work policy” (Duncan 2002: 309). Various policy problems such as an aging population, low fertility, and the need for a flexible work force could be

addressed by reconciliation. The gender (equality) discourse could then fit into and exploit this agenda, given further impetus in the mid-1990s by the accession of Finland and Sweden that had to deliver to their home constituencies. Even if the dominant theme in the EU is not gender equality but a competitive economy, the debates on the demographic time bomb and on flexible labor have moved gender equality center stage, if only because gender equality is seen as necessary to achieve success in these fields. Notwithstanding their differences, both Stratigaki and Duncan set the tone of EU documents on family matters: in many cases they focus on the relation between care and work, be it from a labor market perspective or from the perspective of demographics.

This intermediary perspective can be explained partly by the fact that the EU as such has no authority in family policies: it is a competence of the member states. This shows clearly that EU documents on families and family policies are rare. The most explicit document to be found on the issue since the mid-1990s is the 1999 Resolution of the European Parliament on the protection of families and children (A4-0004/1999). It underlined that families perform an important function in rising the next generation. They should be well equipped regarding the changes society is facing and that affect family structure and life as well as society: the size of families, the cohesion of social ties, material well-being, problems of violence, and criminality. The resolution tackles a wide range of topics, without setting clear goals except for the need to assist families in their performance to raise future generations. The resolution is not the first of its sort: in 1983, the European Parliament<sup>12</sup> issued its first resolution on family policies in the European Community (June 9, 1983), and another resolution was issued on the protection of families and family units on December 14, 1994.

In June 2002 the European Commission<sup>13</sup> issued a report providing for state-of-the-art family benefits and policies across the EU. In particular, it addresses demographic concerns, different concepts of the family and household across Europe, and benefits and provisions for families in the fields of labor legislation, social security,

12. The European Parliament is the elected institution that represents the citizens of the EU. Members of the European Parliament are elected every five years. The Parliament shares legislative power with the Council of Ministers under the “co-decision” procedure.

13. The European Commission is the supranational body of the EU. Its main functions are proposing legislation, implementing EU decisions in a number of policy areas, monitoring the implementation of EU directives and regulations in member states, and representing the Union in the world. Commission members are appointed for a five-year mandate by agreement within the member states and are subject to approval by the European Parliament. Civil servants of the Commission carry out their work within thirty-six directorates-general (DGs).

and fiscal policies. The European Commission also mandated other actors to pay attention to family matters. In 1989, it established the European Observatory on National Family Policies, on the basis of the conclusions of the Council of Ministers responsible for Family Affairs, meeting within the Council on September 29, 1989, as well as on the basis of Communication from the Commission on Family Policies (COM [89] 363 final), adopted by the European Commission. The Observatory's name was changed to European Observatory on Family Matters and in 2001 it became the European Observatory on the Social Situation, Demography and Family. The Observatory served until 2004 and was meant to monitor demographic, socio-economic, and political changes that had an impact on families and to analyze the impact of family policies. It organized annual seminars subsequently focusing on family issues in relation to gender and generations (1999); low fertility, families, and public policies (Sevilla, 2000); family forms and the young generation in Europe (Milan, 2001); immigration and family (Helsinki, 2002); the family in the health system (Tutzing, 2003); and demographic trends and social change (Brussels, 2004). The Observatory paid but little attention to gender issues. Though the 1999 annual experts' seminar was on the intersection of gender and generation, only 13 of the 92 pages of the concluding report were on gender, and these debates focused solely on women's participation in the labor market and the gendered division of unpaid care work in the intimate sphere.

Conferences were a major instrument to tackle family-related matters. In 2004 the Irish EU Presidency held another conference in Dublin on May 13–14. At this European Conference on Family, Change and Policy in Europe, Hubert Krieger from the European Foundation gave an overview of important underlying issues for family policies with an eye on the expanded EU of 25 member states. The European Foundation is a European agency set up by the Council in 1975, with the aim of contributing to the planning and design of better living and working conditions. The fact that its members contribute to the thinking on family matters in the EU is illustrative of how family policies are framed. While the Observatory studied family matters very much from a demographic perspective, including a focus on youth, on future generations, on the graying of society, and on immigration, family matters are also approached from an economic perspective in the EU. Texts deal with the intersection of work and family life, thereby linking this issue to a field where the EU has competence, namely labor and employment issues. Discussions on work are preceded by mentions of the family and the equal sharing of family or caring responsibilities, relabeled as the reconciliation of care and work, from an initial concern to further equal treatment or opportunities for women in the labor market. Whereas in the EU member states policies to support working parents were introduced as family policies, at the EU level this was done through labor market policies (Stratigaki 2004).

A number of policy texts illustrate this. The Community Charter of the Fundamental Social Rights of Workers, a nonbinding but official document issued in 1989, already contained a chapter on equal treatment for men and women, including the development of measures to enable them to reconcile occupational and family obligations. The 1993 White Paper on Growth, Competitiveness and Employment tackled the issue of reconciliation, the 1994 White Paper on Social Policy paid attention to child care, and in the second half of the 1990s the topic gradually was included in all major EU policy texts on employment and the organization of work, such as the 1996 Green Paper on Living and Working in the Information Society: People First, or the 1997 Green Paper on Partnership for a New Organisation of Work. The European Employment Strategy launched after the Treaty of Amsterdam introduced measures of reconciliation, and they also reappeared in the priorities of the European Structural Fund and especially the Social Fund. For the period 2000–2006, for instance, equal opportunities include the issue of reconciliation. There is also the Resolution of the Council and of the Ministers for Employment and Social Policy, meeting within the Council on June 29, 2000 on the balanced participation of women and men in family and working life. Moreover, the sharing of work and family responsibilities between the sexes has been addressed in the Charter of Fundamental Rights (Article II-93.2 of the Constitutional Treaty). Nonetheless, whereas family issues are addressed through the issue of reconciling work and care, and whereas child care is considered to play an important role in this context, the concept of families is not always mentioned. At the European Council held in Lisbon in 2000, the idea to benchmark child care provisions was introduced, but the notion of “family life” was replaced by that of “personal life” (Stratigaki 2004).

In 1996 and 1997, European social partners succeeded in what the national governments had not managed to achieve before: UNICE (Union of Industrial Employers’ Confederations of Europe), CEEP (European Centre of Enterprises with Public Participation), and ETUC (European Trade Union Confederation) concluded framework agreements on parental leave and on part-time work.<sup>14</sup> After endorsement by the Council of Ministers these framework agreements became EU directives. A first Proposal for a Council Directive on Parental Leave and Leave for Family Reasons had already been issued in 1983,<sup>15</sup> but the national governments of the member states had never managed to come to an agreement. In 1992 the Council already had issued a Recommendation on Child Care.<sup>16</sup> While the measures in some member states went

14. Council Directive 96/34/EC, OJ L 145, 19.06.1996; Council Directive 97/81/EC, OJ L 14, 20.01.1998.

15. COM (83) 686 final of November 24, 1983.

16. Council Recommendation 92/241/EEC, OJ L 123, 08.05.1992.

beyond these directives, which did little but confirm the bottom line of a new standard, for some, like the UK, it represented a significant step ahead (Duncan 2002).

On the whole, policies regarding family matters rely on soft measures. In 2001, the French Presidency presented a report and a series of indicators on the reconciliation of work and family, including indicators on the provision of care for children and other dependants. In 2002, the Barcelona European Council identified targets for child-care services: by 2010 the member states should provide child care for at least 90 percent of children between three years of age and school age and for 33 percent of children under the age of three. There are no up-to-date structural indicators and data are not comparable across the EU. The indicators on child care and care for other dependents rely on national administrative statistics. Substantial progress still has to be made in the provision of data to support the indicators and targets, and the development of child-care facilities and the traditional division of work and care between men and women remain a challenge within many member states.

Family matters, be it indirectly through care responsibilities and their interaction with women's position on the labor market, have also been the focus of gender equality policies. The various medium-term Community Action Programmes on Equal Opportunities (1982–1985; 1986–1990; 1991–1995; 1996–2000) all addressed parental responsibilities—sometimes but not necessarily reduced to mothers' responsibilities—and reconciliation issues—sometimes but not necessarily reduced to the need for sufficient child-care provisions. The subsequent Community Framework Strategy on Gender Equality (2001–2005) did the same. Femocrats within the European Commission made efforts to keep the issue on the agenda, such as the then still functioning Women's Bureau of the Commission that initiated a network on child care and other measures to reconcile employment and family responsibilities during the first half of the 1990s. In 1999 the European Commission published a report that gathered together existing research on reconciliation of work and family life and the quality of care infrastructure.

Looking at the evolution of EU activities on family policies, we can conclude, first of all, that the EU has shown some interest in—certain aspects of—family-related issues, notwithstanding the lack of direct competence in family matters. Secondly, the initial scope on family matters was not labor market related. Family issues were equal to questions of fertility, relations between generations, the impact of immigration, the health system, and social change. Thirdly, when family-related matters were interwoven with labor market issues, the initial concern was to promote gender equality while it shifted towards economic concerns in the 1990s. Fourthly, family matters usually are dealt with superficially and generally lack a focus on gender. Families are mainly conceived along the lines of the classic heterosexual model and policy measures refer to traditional gender roles. Fifthly, mainly femocrats tried to further a feminist

reading of family-related matters but they were marginal actors. Formally important players were the European Parliament and European Commission, but in the end it has been the social partners who negotiated the directives on parental leave and part-time work and not the member states, which fear a loss of sovereignty. Finally, except for the Council directives on parental leave and part-time work, the policy tools employed are soft ones: resolutions, communications, and research reports. Founding documents such as the Charter of Fundamental Rights refer to the issue of reconciliation but in vague terms. It is noteworthy that the most binding policy tools can be found in the labor market sphere, which falls under the EU remit, and not in the field of demographic concerns (parental leave and part-time work have the potential for solving demographic concerns, but the effects are neither direct nor guaranteed) (Rubery et al. 2001).

### *Gender Inequality in Politics*<sup>17</sup>

Although the EC treaties do not confer powers to the Union to initiate legislation on gender inequality in politics, debates on the issue emerged in the European arena towards the end of the 1980s. The need to comply with the EU objective of achieving gender equality established in the Treaty of Rome and general appeals to democratic principles are among the arguments that support advocates' demands of a greater political equality for women. The latter is often depicted in the EU documents as an increase in the representation of women in the political institutions and in a more gender-balanced division of decision-making powers. The EU activities on gender inequality in politics intensified from the 1990s onwards, and experienced a number of peaks both before and after the dates of the European Parliament elections (1999 and 2004) and in correspondence with certain initiatives by the Committee of Women's Rights of the European Parliament, the Commission, or the European Network of Experts "Women in Decision-making" (particularly in 1994 and 1996). Prior to the 1990s, on August 2, 1988, the European Parliament's Committee of Women's Rights had presented a first report on the position of women in political decision-making. This covered most of the issues that were addressed from the second half of the nineties onwards, such as the impact of electoral systems on the position of women in political decision-making or the influence of the existing perception of gender roles on the political measures adopted to promote women in politics. An outcome of the report was the European Parliament's first resolution on women in decision-making on September 16, 1988.

17. This section draws extensively on the MAGEEQ research report by Meier and Paantjens 2004.

If the European Parliament's resolution was centered specifically on women's political decision-making, the Third medium-term Community Action Programme on equal opportunities for men and women (1991–1995) was the first policy initiative to pay attention to the promotion of women in political, economic, and social decision-making. Its rationale is that since women's underrepresentation in politics is an obstacle to gender equality, a fundamental EU objective established in the Treaty of Rome, it is therefore necessary to improve women's status in society in order to achieve EU objectives. This legitimates the Council in its resolution of May 21, 1991 on the Third Medium-term Community Action Programme to ask the member states to introduce measures that promote women in decision-making, including the political sphere.

As a result of the Third Community Action Programme, a number of expert networks to assist the European Commission in implementing the program were established, one of which was the European Expert Network "Women in Decision-Making." In the first half of the 1990s, the Network dedicated its efforts to the collection, analysis, and dissemination of comparative data on the position of women in political decision-making in the member states and at the EU level. It developed material to promote women candidates during the 1994 European Parliament elections and organized events such as the first European conference on women in decision-making held in Athens in November 1992, in collaboration with the European Women's Lobby (European Expert Network Women in Decision-making 1996). The official document that resulted from this conference was the Declaration of Athens of November 3, 1992, which demanded an equal sharing of power between the sexes. The declaration was signed by women ministers of the member states, female members of the European and national parliaments, and other women holding decision-making positions.

Four years later, the women ministers of the EU member states signed the Charter of Rome (May 17, 1996), stating not only that the equality of men and women had to be recognized as a priority of the EU but also that there was a need to take concrete measures at all levels in order to promote an equal participation of men and women in decision-making. The European conference of Rome, that elaborated the Charter and centered the issue on "women for the renewal of politics and society," was yet another event organized by the Network, under the Italian Presidency and the European Commission.<sup>18</sup>

18. The Rome conference was one of the last activities of the European Expert Network "Women in Decision-Making." Its work was continued by the project "European Database: Women in Decision-making," led by the FrauenComputerZentrum in Berlin, which continued the collection and dissemination of data on women in decision-making and developed an online database (Meier and Paantjens 2004). Available online <http://www.fczb.de>.

In the evolution of the EU debate on gender inequality in politics—from the acknowledgment of women’s political representation as an EU priority to the first references to more comprehensive strategies for achieving that goal—the European Parliament’s Committee on Women’s Rights continued to play a leading role during the first half of the 1990s. The demand for an integrated approach to increase the number of women in decision-making positions, proposed in the Committee’s Larive Report, was incorporated in the 1995 Council resolution which invites the member states to develop a comprehensive and integrated approach to promote a balanced participation of women and men in decision-making.

The Council resolution was crucial both because it set the basis for the Fourth medium-term Community Action Programme on equal opportunities for men and women (1996–2000), that includes measures for the promotion of balanced participation of men and women in (political) decision-making, and because it led to the Council Recommendation of December 2, 1996 on the balanced participation of women and men in the decision-making process. The rationale for the Recommendation is that women’s participation in decision-making is a democratic prerequisite. The document recommends the development of an integrated approach for promoting the balanced participation of women and men in decision-making by targeting a wide range of policy actors: member states, EU institutions and bodies such as the Council, the Commission, the European Parliament, the European Court of Justice, the Economic and Social Committee, the Committee of the Regions, and the European Investment Bank.

In the second half of the 1990s, the EU debate on the issue tackled some of the causes of and solutions to women’s underrepresentation, particularly those related to the gender-biased role of electoral systems. In 1997, while the European Parliament’s Committee on Women’s Rights published a working document investigating the differential impact of electoral systems on women’s political participation, further reflection on gender inequality in politics was developed by gender experts employed by the Commission. In 1994 the leading Belgian lawyer on women’s rights, Eliane Vogel-Polsky, conducted a study on the conceptualization of a gender-conscious European citizenship on behalf of the Directorate General on Employment and Social Affairs of the Commission. The study set out the broad lines for integrating the concept of “parity democracy” in future European documents on the issue. In 1997 Monique Leyenaar, a Dutch political scientist, conducted a study for the same Directorate General on how to create a gender balance in political decision-making. Focusing on the member states, the brochure, in summarizing the main findings, analyzed why women are underrepresented in political decision-making and which actors could undertake what type of actions to increase women’s numbers. Finally, in 1999 a team of four European political scientists, Michael Laver, Monique Leyenaar,



Kees Niemöller, and Yvonne Galligan, carried out a gender-impact assessment of the different electoral systems in Europe and developed guidelines for a European electoral system allowing for a “genuinely gender-balanced” European Parliament.

An increase in EU activities to promote women’s higher representation, particularly in the EU institutions, can be registered around the European electoral date. In the run-up to the 1999 European Parliamentary elections, the Commission, in cooperation with the European Parliament’s Women’s Rights Committee, published a brochure “Europe for Women, Women for Europe.” The European Women’s Lobby launched a shared electoral strategy for women by publishing a special edition of its newsletter about the extent to which women would benefit from the new European Parliament and Commission. In the same year, EU ministers signed a declaration at the Paris conference on “Women and Men in Power—A Caring Society, A Dynamic Economy and a Vision for Europe” (April 17, 1999). This declaration aimed at ensuring a balanced participation of women and men and recommended that European institutions, governments, and political parties should take the necessary measures both when it comes to elections and the appointment of members to advisory bodies. At the end of 1999 the Finnish Presidency presented a report to the Council on the position of women in the decision-making process in the member states and in European institutions. The main aim of the report was to develop indicators in order to measure and monitor the follow-up to the Beijing Platform for Action by the member states.

The year 2000 followed the trend of the previous year, the adoption of EU soft law measures on the promotion of equal representation of women and men, and gender balance in political decision-making. In March, the European Parliament adopted a resolution that repeated its recommendations to the member states on the participation of women in decision-making, mainly in light of a special session of the UN General Assembly in September 2000 that marked the five-year anniversary of the landmark Fourth World Conference on Women held in Beijing in 1995, and urged the Commission to present a report on the measures taken. The resolution suggested quotas as a transitional measure to bring more women into the decision-making process. The European Women’s Lobby also produced a recommendation (May 22, 2000) on the position of women in decision-making.

Gender balance within the committees and expert groups of the Commission was the objective of two Commission documents, a Commission decision (June 19, 2000), and a communication addressed to the member states (July 7, 2000). In the same year, the Commission also presented a report to the Council, the European Parliament, and the Economic and Social Committee on the implementation of Council Recommendation 96/694 of December 2, 1996 on the balanced participation of women and men in the decision-making process. The report showed that,

notwithstanding the number of measures adopted, no fundamental change had occurred in the underrepresentation of women in political (and other areas of) decision-making. In December 2000, the Council approved a decision on the Fifth Community Framework Strategy on Gender Equality (2001–2005), which, like previous Commission programs on equal opportunities between women and men, included a section on the promotion of equal participation and representation of women and men and a gender balance in political decision-making in the European Commission.

The year 2001 started with a general focus on possible actions concerning the balanced participation of women and men in decision-making, including political decision-making, urged by the European Parliament's resolution on the Commission report on the implementation of Council Recommendation 96/694. The emphasis then shifted to the need for statistical data and targets to measure progress in women's representation. In October of the same year, the French EU Presidency organized a conference of member state ministers in charge of gender equality that covered, among other topics, the access of women to decision-making positions. At the conference, the ministers underlined the need for adapting statistical systems and for exchanging experience and knowledge on the issue. They also emphasized the importance of setting goals or time-bound targets for the progress of women in decision-making positions. In the same line, the project "European Database: Women in Decision-making" (see footnote 15) published a brochure with facts and figures on women in political decision-making positions in order to reach members of the public without access to the Internet database.

In 2003, the 2004 European Parliament elections catalyzed most of the attention of policy actors involved in the debate on gender inequality in politics. The European Parliament's Committee on Women's Rights presented a report on how to ensure a balanced representation of women and men in the setting of the upcoming elections. The European Parliament itself organized a debate on the Committee's report and a public hearing. Lobbying initiatives included a letter by the Committee on Women's Rights addressed to the party leaders of the countries participating in the 2004 European Parliament elections, inviting them to agree on no less than 30 percent of women among the candidates. The European Women's Lobby joined the lobbying efforts by publishing a resource paper on women in decision-making and a declaration that "women demand an equal share," preparing a lobbying kit for the elections, and writing a follow-up report on the number of women commissioners after the 2004 European elections.

Considering the timeline of EU activities on the issue of gender inequality in politics, we can draw a number of conclusions. First of all, there is evidence that from the 1990s onwards the predominantly market-oriented focus of gender equality in

the EU has widened to incorporate activities promoting gender equality in politics. Secondly, initiatives in this field have tended to focus on the questions of women's underrepresentation in political decision-making (sometimes extending to areas other than politics) and the achievement of a gender balance. Thirdly, the main actors initiating policies on the issue appear to be members of the European Parliament from the Committee of Women's Rights, women politicians, women ministers, the European Commission's Directorate General on Employment and Social Affairs, the European Expert Network Women in Decision-making, and the European Women's Lobby. Finally, in spite of the broadening of the EU equality agenda to tackle the question of gender inequality in politics, the proposed measures are general rather than concrete and the legal instruments that the EU has provided to act in the field are merely "soft laws." It is true that throughout the 1990s the labor market approach of the Union has "widened to the progressive recognition of equality between women and men as a fundamental principle of democracy for the whole European Union." (Hubert 2001: 145), and the principle of equality has been enshrined as "a general competence" in recent basic documents of the EU (Vogel-Polsky 2000). However, even though this shift implies the promotion of gender equality in political decision-making as a matter of democracy, to date the principle of gender equality in politics is neither explicitly stated nor supported in the EU by any concrete and legally binding provision (Meier and Paantjens 2004). This shows that, in spite of emerging rationales to legitimize the EU action in the area of gender inequality in politics, e.g., the need to comply with the objective of gender equality or to respect the principle of democracy, the EU gender equality agenda does not follow.

### *Domestic Violence*<sup>19</sup>

The issue of domestic violence and violence against women frequently has been overshadowed in EU policymaking by the issue of trafficking in women, in particular in fighting the criminal and migration aspects of the problem, which fall more clearly under the EU competence for developing an Area of Freedom, Security, and Justice (Askola 2006). However, the issue of domestic violence slowly has made its way through the EU policy agenda, though both the labor market orientation of the EU and the lack of a clear legal basis for violence against women have hindered the emergence of the issue.

19. This section draws extensively on the MAGEEQ research report by Paantjens 2004.

The EU labor market legacy appears to have limited the debate on domestic violence until 1999. Prior to that date, the EU had avoided addressing the issue of violence against women and preferred to focus on the labor market competence of “sexual harassment in the workplace.” This is reflected in a resolution on sexual harassment in the workplace in 1990, a Commission recommendation on protecting the dignity of women and men at work, and a code of practice, both from 1991 (European Commission 2000). The only official EU document on violence against women dating from before 1995 was a resolution on violence against women (1986)<sup>20</sup> that followed on the 1984 report by the Committee of Women’s Rights. The latter also was linked to labor market policy as it presented violence against women as a structural problem that hindered the potential benefits of employment policy for women (Hoskyns 1996: 155). In the period from 1995 until 1999, there were a few EU activities on domestic violence such as, in 1997, the launch of the Daphne initiative and the adoption of an European Parliament resolution on the need to establish an EU-wide campaign for “zero-tolerance” of violence against women. Reference to domestic violence was included in the Third and Fourth Community Action Programmes on equal opportunities between women and men, while in 1997, the European Women’s Lobby established a Policy Action Centre and Observatory on violence against women.

The lack of an EU-specific competence in violence against women has been an obstacle to the inclusion of the latter in the EU agenda. The difficulty in finding a legal basis for addressing the problem of violence against women persisted even after the Treaty of Amsterdam strengthened the principle of equality between women and men in the *acquis communautaire*. The European Parliament debate on the Daphne program in March 1999 exemplifies this difficulty. In the absence of a legal basis to address the problem of violence against women in the EU, Article 235 EC<sup>21</sup> (that can be employed to create a legal basis when there is none to attain one of the objectives of the Community) was suggested to enable the adoption of the program. However, this suggestion did not gather consensus among member states and, as a result, Article 152 of the Treaty of Amsterdam (ex Article 129 EC), which deals with the improvement of public health, was finally employed as a legal basis for approving the Daphne program. The 2000 World Health Organization’s definition of health

20. European Parliament, *Resolution on Violence against Women*, OJ.C. 176, 14.07.1986 (doc. A2-44/86)

21. Article 235 EC states that: “If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.”

as a “state of complete physical, mental and social well-being and not merely the absence of disease or infirmity” was included in the Daphne program to legitimize the EU action on violence against women. The public health approach left a number of female members of the European Parliament unhappy and concerned that the definition of violence against women as a health problem would be excessively narrow for tackling an issue that is rather considered a violation of human rights.<sup>22</sup>

1999 was a particularly “hot” year in terms of the EU attention to violence against women mainly due to preparation for the Daphne program (started in 2000) and the launch of the European campaign of “zero-tolerance” against domestic violence in January.<sup>23</sup> As part of the campaign, the EU held a ministerial conference in Cologne in March 1999. Daphne drew much attention to the problem at stake: it was not only the first European program to address violence against women on a larger scale but also required the production of a great number of documents. These included the Commission proposal for the Daphne program, the European Parliament debate on “Violence against Women and Daphne” in March, the European Parliament Amended Proposal for the program in April of that year, the European Parliament position paper, and reactions to the amended proposal expressed by the Economic and Social Committee and the Committee of the Regions.

An analysis of the EU official documents on violence detects a shift in the political debate from the “human rights” approach adopted in the “zero-tolerance” campaign to the “public health” perspective of the Daphne program (Paantjens 2004). The aforementioned European Parliament debate on the legal basis to approve the Daphne program is emblematic of this tension. The rationale for the “zero-tolerance” campaign is that violence against women is a human rights violation. The message is supported by reference to a number of human rights treaties, UN declarations, and conventions such as CEDAW (Convention on All Forms of Discrimination against Women), according to which violence against women is considered a “crime.” The campaign is based on the idea that violence against women, which is seen as violence exercised by male perpetrators towards female victims, “not only reflects unequal gender power relations in our society, but also forms a formidable barrier to efforts to overcome inequality between women and men” (Resolution A4-0250/1997). A whole set of causes underlying the problem are discussed in the documents for the

22. Since there was a real chance that the Daphne program would be blocked on the basis of Article 235 EC, even the most critical MEPs had to accept the change to public health through Article 152 ToA (ex 129 EC).

23. A Eurobarometer Survey on violence against women was conducted in October 1999 in the context of the campaign against violence.

campaign, including gender stereotypes, while the lack of legal and socio-economic measures to protect victims is considered to be part of the problem.

In the Daphne program, the gender-sensitive analysis of domestic violence and the treatment of the latter as a violation of human rights gave way to a different interpretation in which violence is deemed problematic because it is “a major health scourge” and because of the “high social and economic costs to society as a whole” (A4-0250/1997). Unlike the “zero-tolerance” campaign, the Daphne program leaves untouched the causes of violence and the unequal distribution of power between the sexes. Equality is said to be part of the problem only because the health implications for the victims of violence affect the “equal opportunities of those concerned.” Moreover, the problem definition shifts from addressing “violence against women” in the “zero-tolerance” campaign to addressing “violence against children, young persons and women” in the Daphne program. Marjolein Paantjens (2004) suggests that the framing of violence as a health issue, in combination with the extended problem definition that includes children and young persons apart from women, shows a “de-gendered” approach to the problem in the Daphne program.

A similar level of activity on the issue of violence against women in the EU was apparent in 2000. The publication of a special issue on domestic violence in the Women of Europe Newsletter reflects the relevance of the problem in the debate at the time. The year started with the launch of the Daphne program after the Council and Parliament’s had decided to adopt it. The “zero-tolerance” campaign continued with the publication of the brochure “Breaking the Silence,” aimed at raising public awareness about the problem of violence against women by uncovering existing taboos on the matter and calling upon male perpetrators to seek help and upon victims to break the wall of silence. Preparations for the UN’s Beijing+5 conference provided an opportunity for revising the EU’s implementation of the objectives of the Beijing Platform for Action of 1995, including the part on violence against women. Moreover, throughout the year EU officials, such as Anna Diamantopoulou, Commissioner for Employment and Social Affairs, and May Britt Theorin, Chairperson of the Committee on Women’s Rights of the European Parliament, gave several speeches that discussed violence as a structural problem caused by the unequal gender balance of power. European-level NGOs also seemed to focus their activities on this issue. The European Women’s Lobby published an observatory about the hidden data of domestic violence and a guide for young women that presents data on different issues among which violence. The network Women Against Violence Europe prepared a training program for people working with domestic violence, proposing a variety of measures to prevent and fight the problem.

In the period from 1998 to 2003, the problem of violence against women also was discussed at expert meetings held under different EU presidencies that focused

on different aspects of the problem: in 1998 under the Austrian Presidency on “police combating violence against women,” in 1999 under the German Presidency on “measures towards combating (domestic) violence against women,” in 2000 under the Finnish it was named “EU expert meeting on violence against women,” in 2001 under the Portuguese on “violence against women zero-tolerance,” in 2002 under the Spanish it was focused on “violence against women (domestic, in school, sexual harassment),” and in 2003 under the Greeks the expert meeting was centered both on “domestic violence and trafficking.”

The level of activity on the issue decreased in 2001, the most notable document being the previously mentioned Fifth Community Framework strategy on gender equality (2001–2005), that refers to the “need to strengthen the fight against gender related violence” as part of actions in the area of “civil life,” which, as the program states, “covers the enforcement of the human rights of women.” In 2002 and 2003 there was greater activity again, related to the revision of Daphne I and the proposal for a second phase, Daphne II. In 2002 this included the annual work plan of Daphne for 2003, a midterm review of the program by the Committee on Women’s Rights of the European Parliament, and an external evaluation report on Daphne. In 2003 initiatives grew around the Commission’s proposal of a second phase of the Daphne program, after which followed an European Parliament report on the proposal through the voice of the Committee on Women’s Rights and Equal Opportunities. In 2003 the European Women’s Lobby published a resource paper on domestic violence. Both years saw Commissioner Anna Diamantopoulou making speeches on the issue of domestic violence, where she referred to the structural causes of violence and to the latter as a form of male control and domination over women. While violence against women has not been addressed explicitly in the European Constitutional Treaty (IGC 87/2/04 REV 2), a non-binding declaration on the Union’s aim to combat “all kinds of domestic violence” (13 re Article III-116) was introduced in the June 2004 Intergovernmental Conference at the request of the Spanish government.

Regarding the timeline we can conclude that, in spite of a slow start of the EU activities on the issue, from 1999 onwards, domestic violence has progressively been legitimized as a public policy concern of the EU. Secondly, it has entered the EU policy agenda sometimes as a human rights problem and sometimes as a public health problem. Thirdly, the lack of legal basis has been determinant in shifting the focus from human rights to public health, thus hindering a broader approach to the problem. Fourthly, among the main actors initiating and developing policies on violence against women in the EU are the European Commission through the Daphne programs, the European Parliament (particularly through the Committee on Women’s Rights’ reports and declarations), the Council through expert meetings held by the different EU presidencies, individual EU officers from the Commission and

the Parliament, and European level NGOs such as the European Women's Lobby and Woman Against Violence Europe. Finally, as for family policies, and gender inequality in politics, the legal instruments the EU has to act in the area of domestic violence are only soft law measures. Thus, the EU gender equality agenda has broadened but has not provided the binding measures necessary for a more effective enforcement of the policy on domestic violence in member states. Moreover, the lack in the *acquis* of a proper legal basis on gender equality in all areas beyond employment blocks the establishment of gender equality as a goal in its own right, and only opens opportunities for action when the goal of gender equality coincides with other goals (e.g., public health).

#### 4. Conclusions

This chapter discussed the progressive development of the EU gender policy from a close focus on labor market towards a broader approach that includes issues of family policy, violence against women, and gender inequality in politics. Throughout the last decade we can see that the EU broadened its agenda on gender equality issues, although fragmentary and nonbinding, as the issues of gender inequality in politics or of domestic violence illustrate very well. However, in the case of family policies we have to conclude that initiatives to promote gender equality preceded the general adoption of a gender mainstreaming strategy, whereas more recent policies reflect a domination of economic concerns over far-reaching gender equality objectives. In the other two policy areas the predominance of the main EU competence on employment and labor market issues does not show that directly. It nonetheless hindered the development of a consistent mainstreaming of gender equality objectives across the various policy areas.

All three policy areas reflect a lack of competence and the subsequent need to adopt measures in these areas that are linked to policy matters for which the EU has legislating power, which facilitates the co-optation of gender equality concepts and principles by other concerns. The emerging rationale for a broader approach to gender equality issues through gender mainstreaming is undermined by a lack of competence in most policymaking areas. This lack of a proper legal basis on gender equality in all areas beyond employment can steer the focus of the policy towards goals that do not necessarily coincide with the policy area itself nor with the achievement of gender equality. The issue of gender inequality in politics seems to be less attained by this redirection of gender equality issues to other policy priorities, but it certainly goes for the issue of family policies, that is reoriented to labor-related matters, and it partially goes for domestic violence, that oscillates between the human rights and the



public health approaches. This lack of direct competence involves a move away from a gender perspective. Families become the sphere of personal life; issues of family policies and of domestic violence focus on children more than on gender.

The lack of competence also explains partly the soft character of measures taken to promote gender equality. However, it does not explain all of it since one of the issues where the EU was entitled to act, the issue of reconciliation and of part-time work, was settled by the social partners and not by the member states. This example reflects a cleavage between formal and concrete power. On the whole, the broadening of the gender equality agenda went together with the use of soft policy tools. The case of reconciliation reflects the difficulty of translating targets into practice, since the collection of comparable data becomes a goal in itself before the goal of reaching the targets set in Barcelona in 2002.

The presence of femocrats or of particular events allows re-inserting appeals to gender equality from time to time. It also should be noted that the concern for gender equality issues in the various policy fields is related to events rather than the consequence of a coherent policy plan. The case of gender inequality in politics is a perfect illustration of the stimulating effect of events such as the European elections. The issue of domestic violence reflects the similar impact of feminist actors, which is much less visible in the case of family policies, but here, too, conferences also play a major stimulating role. Official policymakers are important actors given that a large share of the initiatives are provided by them, but feminist frames can mainly be found in the discourse of individual actors such as members of the European Parliament or initiatives stimulated by feminists, such as the European Expert Network “Women in Decision-Making.”

On the whole, although the scope of gender equality policies certainly has broadened beyond the labor market focus, this did not lead to a coherent and far-reaching agenda of EU gender equality policies. The findings suggest that, for this to happen, the broadening of the EU gender equality agenda should be accompanied by a proper competence of the EU in the various policy areas concerned so as to come to a successful implementation of a gender mainstreaming strategy at the EU level.

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