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From individual IPV empowerment to community activation

Booklet on women's labour rights

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INTRODUCTION

According to CEDAW¹ (1992) violence against women is recognised as a form of discrimination that seriously inhibits the ability of women to enjoy rights and freedoms on an equal basis with men. Important international regulatory acts (such as the UN General Assembly Declaration on the Elimination of Violence Against Women in 1993) define it '*as a manifestation of historically unequal power relationships between men and women*'. It is therefore key that not only does violence contribute to inequality between women and men, but inequality is the real foundation of violence.

On this basis, it is necessary to counter discrimination that affects women in all spheres of life, guaranteeing them social and economic rights and equal opportunities, especially at work to support their economic independence and empowerment, and to counter gender violence. Implementing equal opportunities in work settings also means introducing an overall improvement of quality of work and the entire organisational structure and productivity.

Despite the progress made in recent years, discrimination against women and the gender gap in the world of work still persist in many countries around the world. Women are still a long way from achieving gender equality in the world of work and, in many parts of the world, are trapped in low-skilled and lower-paid jobs than men. Discrimination, in particular, involves significant economic and social consequences, stifles opportunities and wastes the human talent needed for economic progress.

Women's labour rights mainly concern job access and working conditions.

This booklet contains specific information at European and national level (for Bulgaria, France, Greece and Italy) about labour rights and current specific policies/measures and instruments to support socio-economic independence of women, best practices and main effects of measures.

Labour rights and the policies/ measures will be presented by specific areas/sections of concern:

- » go gender equality in job access,
- » gender pay gap,
- » women's access to vocational training,
- » women's career paths and leadership positions,
- » support to self-employed women,
- » maternity protection and work-life balance for both parents (flexibility of working hours and work organisation, parental leave),
- » occupational social security, health and safety in working conditions.

Finally, a glossary will be provided to explain terms used.

¹ CEDAW General Resolution no 19, 1992, par. 1 and par. 11.

GLOSSARY

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

EU CFR: European Union Charter of Fundamental Rights

EC: European Commission

EP: European Parliament

ESF: European Social Fund

EWoB: European Women on Boards

ILO: International Labour Organization

Pay or remuneration: the ordinary basic or minimum wage or salary and any other additional emoluments, whether in cash or in kind, which the worker receives directly or indirectly, in respect of their employment from their employer

SMEs: small and medium-sized enterprises

STEM: a broad term used to group together the following academic disciplines: science, technology, engineering, and mathematics (STEM)

TEU: Treaty on European Union

TFEU: Treaty on the Functioning of the European Union

WELP programme: Women's empowerment in leadership position programme

1. Gender equality at work: the principles of non-discrimination and equal treatment of men and women at international and European levels

Over the years, relevant international and European legislative and policy documents have recognised the non-discrimination principle and the principle of equal treatment of men and women in all life domains, and especially at work.

At international level, the **UN Convention on the Elimination of All Forms of Discrimination Against Women** (CEDAW, 1979), the main binding text on women's rights, has been instrumental in bringing to light all the areas in which women are denied equality with men and in defining an agenda for action by countries to eliminate discrimination and guarantee women's enjoyment of political, economic, social, civil and cultural rights on a basis of equality with men. The convention devotes specific attention to the field of employment, calling for States Parties to take all appropriate measures to eliminate discrimination against women in order to ensure, on a basis of equality of men and women, the same rights in this area, underlining that *'the right to work is an inalienable right of all human beings'* (Article 11, 1a).

Crucial for the definition of women's rights was also the **Beijing Platform for Action** adopted during the Fourth World Conference in Beijing (1995), which firmly established that women's rights are human rights and identified twelve critical areas with an indication of the strategic objectives to be pursued. In this framework, particular attention is paid to the economic and social rights of women through the **Objective F – Women and the economy** and specifically **Strategic Objective F.1: *Promote the rights and economic independence of women, in particular access employment and adequate working conditions, and access to economic resources.***

Also, the **2030 Agenda for Sustainable Development**, adopted by all United Nations Member States in 2015, within a specific gender equality goal (**Goal 5 'Achieve gender equality and empower all women and girls'**), affirmed the commitment for a significant increase in investments to close the gender gap and to strengthen the empowerment of women at all levels. As for the work field, Goal 5 recognises and values unpaid care and domestic work through the provision of public services and social protection policies, as well as the promotion of shared responsibility within the family (5.4). It also ensures women's full and effective participation and equal opportunities for leadership at all levels of decision-making, not only in political but also in economic and public life. The European Union is committed to implementing the sustainable development goals (SDGs) in all policies and encourages EU Member States to do the same.

Since 1919, also the **International Labour Organization (ILO)** has developed international labour standards (through conventions and recommendations) aimed at promoting equal opportunities for women and men to obtain decent work, in conditions of freedom, equity, security and dignity. The ILO policy on gender equality addressed the specific needs of women in ILO initiatives/programmes and promoted targeted interventions/measures to allow women to participate equally in the labour market. For this last purpose, the ILO policy on gender equality has been operationalised since 1999 and it developed comprehensive action plans for gender equality, which aim to facilitate the adoption of gender policies and strategies adapted to the regional and national contexts of the ILO member countries.

Equality between women and men is a fundamental value of the **European Union**, dating back to the 1957 Treaty of Rome (today: TFEU, Article 157), which established the **principle of equal pay for male and female workers for equal work or work of equal value**.

Since then, the EU has continued to tackle gender-based discrimination and the principle of equality between women and men, promoted by the Treaty on European Union (TEU, Articles 2 and 3 (3)), which has become the basis for European integration and currently it underpins all European policies².

The European Union has also committed itself to specifically supporting and complementing the activities of the Member States in the field of **equality between men and women regarding labour market opportunities and treatment at work** (TFEU, Article 153). In particular, the European Parliament and the Council 'shall 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, including the principle of equal pay for equal work or work of equal value' (Article 157, 3 TFEU).

On this basis, many **European Directives on equal treatment at work** have been issued over the years that have covered several fields such as employment and working conditions, self-employment, access to goods and services, occupational social security, pregnancy, maternity as well as family-related leave and flexible working arrangements for parents and carers. These provisions have progressively set a legal standard across all EU Member States ensuring a broad protection for women from discrimination, and equal opportunities. Currently, the **Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation³ (recast)**, represents the main legislation on the subject having repealed and replaced a number of former directives⁴.

Overall, all European legislation – treaty provisions, and the **European Directives from the mid-1970s** – have therefore contributed to establishing the principle of equal treatment for men and women at work, overcoming the principle of non-discrimination (formal equality) towards equality in practice especially through the introduction of **key concepts and approaches as direct and indirect discrimination and the positive actions** (Box 1). In addition to the European legislation, jurisprudence and in particular numerous cases brought to the European Court of Justice, have also further strengthened the principle of equality between women and men, and contributed to better defining the principle of equal treatment as well as delivered justice for victims.

² With the entry into force of the new Lisbon Treaty amending the Treaty of the European Union (2009), equality between women and men has been upgraded to the status of 'fundamental value' (Art. 2 TEU) and objective (Art. 3 TEU) of the EU.

³ This directive contains provisions to implement the principle of equal treatment in relation to access to employment, including promotion and vocational training; working conditions, including pay; occupational social security schemes.

⁴ Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes; Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women; and Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex.

BOX 1 – DIRECT AND INDIRECT GENDER DISCRIMINATION AND POSITIVE ACTIONS

What is direct discrimination?

Direct discrimination is when one person is/has been or would be treated less favourably on grounds of sex than another in a comparable situation (Directive 54/200 a). It is unlawful to subject an employee to a detriment because of one characteristic. Detriment to an employee could arise where an employer discriminates against them in terms of employment, promotion, training or any other benefit offered to the employee.

Examples of direct discrimination on the grounds of sex: the failure to hire, to renew a contract, to promote a worker, dismissal, due to pregnancy/maternity reasons or because she is a woman; the provision of insurance with different premiums for men and women (use of sex as a risk factor), use of different calculation systems to calculate allowances and benefits.

What is indirect discrimination?

Indirect discrimination is when an apparently neutral provision, criterion or practice would put people of one sex at a particular disadvantage compared with people of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary (Directive 54/200 b).

Examples of indirect discrimination on grounds of sex are the case of the minimum height required for participation in a competition and calibrated on male averages: adopting a similar selection criterion undoubtedly benefits more men than women. Another example is the provision of a particular allowance only for full-time employees as women who most often use part-time work to work–family balance needs would be almost excluded.

What is a positive action?

The positive action concept was first introduced at international level. It was defined as '*a temporary special measure adopted by States that aimed at accelerating de facto equality between men and women until the objectives of equality of opportunity and treatment have been achieved, without considering it discrimination*' (CEDAW, Article 4).

Also, the European Union authorised the Member States to implement positive actions. In particular, it specified that '*with a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers*' (TFEU, Article 157 (4)). The same concept is enshrined by the EU Charter of Fundamental Rights of the European Union (Article 23 (2) and in several directives, in particular EU Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, which in this field affirms that Member States may maintain or adopt measures with a view to ensuring full equality in practice between men and women in working life.

Examples of positive actions at work can be the adoption of nationwide mandatory targets on gender balance on company boards to improve the access to work or the balance between women and men in decision-making positions or the targeted support to female entrepreneurship through specific entrepreneurial training and measures of credit access. The European Court of Justice, after alternating judgements, also legitimised positive actions. Particularly famous is the pronouncement which states that the principle of equal treatment does not contrast with the precedence in the promotion to candidates (women), with equal qualifications with male colleagues in the public activities in which, with reference to the level considered, women are less numerous than men ('positive discrimination'), if the advantage is not automatic and an examination without a priori exclusion is guaranteed to male candidates (Marschall v. Land Nordrhein Westfalen, 1997).

In 1997, the Treaty of Amsterdam has also introduced the principle of **gender mainstreaming**, (currently provided by Article 8 of TFEU)⁵, according to which the European Union shall aim to eliminate inequalities and to promote equality between men and women in all its activities.

The EU Directive 54/2006 (Article 29) in particular, specifies that Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to **employment and occupation**.

⁵ The principle of gender mainstreaming was originally introduced by the Treaty of Amsterdam (1997) that modified Article 3 TEU to include a new paragraph expressly stating: 'In all the other activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality between men and women.'

The adoption of this approach, first adopted in the Beijing Platform for Action (1995), marked an important change from the previous EU action on equal opportunities for women and men, which was mainly based on compartmentalised activities and programmes for women funded under specific budgetary headings (see Box 2). Within this framework, the European Union promoted the so-called dual approach that requires the implementation of both the ‘gender mainstreaming approach’ and specific/direct gender-equality policies/measures (including so-called positive actions) to empower women in a complementary way to achieve a real equality between men and women.

BOX 2 – GENDER MAINSTREAMING APPROACH

What is ‘gender mainstreaming’?

Gender mainstreaming means integrating a gender equality perspective into all EU policies at all levels and stages of policymaking as well as into EU funding programmes across different sectors.

Overall, the gender mainstreaming approach involves not only taking steps to promote equality with specific measures in support of women, but also mobilising all general policies and measures specifically for the purpose of achieving equality. This means actively taking into account at the planning stage the effects of possible measures on the respective situation of men and women (gender perspective). This involves systematic consideration of the differences between the conditions, situations and needs of women and men in all European policies and actions, and systematically examining all measures and policies to take into account their possible effects when defining, implementing and monitoring them.

Moreover, the adoption of a mainstreaming approach implies capacity building among all policymakers and requires adapting programme management tools and instruments, and mobilising political support and resources.

Even if greatly improved in recent years, gender mainstreaming is however still lacking in implementation. Gender equality is declared a horizontal objective in almost all EU programmes, but often not translated into concrete goals, actions and earmarked funding. A gender equality perspective is hardly ever adopted, particularly in those policy domains that are not seen as immediately related to women and gender equality. However, these domains such as ICT, transport and social infrastructures, competition and regional development policies, and environmental and macroeconomic policies can potentially have significant indirect gender effects. Moreover, several programmes do not incorporate gender indicators and do not require the collection of gender-disaggregated or gender-relevant data to monitor and evaluate the actions funded from the EU budget.

Finally, gender mainstreaming should be more institutionalised in the EU decision-making process. Gender equality units in the European Commission still have limited power to interact on the same level with other decision-making bodies and with Member States.

Examples of gender mainstreaming implementation are provided by the **EU Gender Equality Strategy 2020–2025** which affirms that specific needs, challenges and opportunities in different sectors, such as transport, energy and agriculture, will be addressed within the Commission’s gender mainstreaming actions. The Commission will also address the gender dimension in its major initiatives responding to European challenges such as climate change and digitalisation – the digital gender gap will be addressed in the Digital Education Action Plan. The systematic mainstreaming of a gender perspective is also considered crucial in the implementation of the UN 2030 Agenda for Sustainable Development.

Gender mainstreaming and positive action approaches are also enshrined in the **EU Charter of Fundamental Rights of the European Union** (EU CFR)⁶, which came into force in 2009, that protects human rights and affirms the right to be free from discrimination including on the basis of sex (Article 21).

Finally, over the years many relevant policy documents (strategies, road maps, plans) from the European Commission and the European Parliament drafted the framework for the European Union’s work towards full gender equality in all spheres of life including at work.

⁶ The EU Charter affirms that ‘Equality between women and men must be ensured in all areas, including employment, work and pay’ (Art. 23, par. 1) and that ‘the principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex’ (Art. 23, par. 2).

Currently, the **EU Gender Equality Strategy 2020–2025** presents policy objectives and actions to make significant progress by 2025 towards a gender-equal Europe. Among the key objectives are:

- » closing gender gaps in the labour market and achieving equal participation across different sectors of the economy;
- » addressing the gender pay and pension gaps;
- » closing the gender care gap;
- » achieving gender balance in decision-making, in politics and at work;
- » challenging gender stereotypes and ending gender-based violence.

The strategy reaffirms the need to pursue a dual approach in the implementation of policies combining a gender mainstreaming perspective with actions targeted to women.

Intersectionality is assumed as a horizontal principle for the implementation of these activities on the basis that all women are different and may face discrimination based on several personal characteristics. For instance, a migrant woman with a disability may face discrimination on three grounds. The intersectionality of gender with other grounds of discrimination will be therefore addressed across all EU policies.

Gender equality-related projects and policies will be supported and funded in the EU budget (2021–2027) through a number of EU programmes: from dedicated grants under the **Citizens, Equality, Rights and Values Programme** to the larger structural, social and cohesive EU funds. Finally, gender equality and women's empowerment will also be promoted according to a mainstreaming approach through **NextGenerationEU**, a temporary recovery instrument to help repair the economic and social damage brought about by the coronavirus pandemic. In particular, the Recovery and Resilience Facility should support reforms and investments undertaken by Member States which could positively affect women in the field of work.

2. Gender equality in job access

Although the gender gap in labour market participation has narrowed over the years, it still persists and reflects numerous structural barriers inhibiting women's labour market participation. In particular, gender stereotypes strongly contribute to the gender segregation in the labour market sectors, which restricts employment options of women determining the status of their jobs. In addition, selection criteria for recruitment often take into account the family status of women. Finally, some women are under-represented in the labour market, often resulting from the intersection of gender with additional conditions of vulnerability or marginalisation, such as belonging to an ethnic or religious minority, or having a migrant background.

Regulatory treatment and main legislative references

At international level, according to **CEDAW** (Article 11), States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the right for women to work recognised as an inalienable right of all human beings (a), the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment (b) as well as the right to free choice of profession and employment (c).

Also, the **ILO Discrimination (Employment and Occupation) Convention No 111**, 1958 provides the commitment of Member States' signatories to pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination on the basis of sex. The terms employment and occupation include access to employment and to particular occupations (Article 2).

In addition, the **ILO Maternity Protection Convention, 2000 (No 183)** requires that each Member State adopts appropriate measures to ensure that maternity does not constitute a source of discrimination for access to employment, throughout measures such as: a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required in respect of work that is prohibited or restricted for pregnant or nursing women or where there is a significant risk to the health of the woman and child (Article 9).

At European level, the **Directive 2006/54/EC** affirms that the principle of equal treatment of men and women has to be implemented in relation to access to employment (Article 1, a). Prohibition of direct or indirect discrimination on grounds of sex in the public or private sectors was stated in relation to conditions for access to employment, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy (Article 14 (1a)) and in relation to employment and working conditions, including dismissals (Article 14 (1c)).

Member States may provide, as regards access to employment, that a difference of treatment which is based on a characteristic related to sex shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned, or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that its objective is legitimate and the requirement is proportionate (Article 14 (2)).

Finally, according to this Directive (Article 3) in matters of employment and occupation Member States may maintain or adopt measures with a view to ensuring full equality in practice between men and women in working life, hence also including access to work (positive actions).

Current and future European policies and relevant examples of instruments adopted

The European Union takes the specific needs of women into account across its different spending programmes and policies, and every year the ESF helps millions of women to improve their access to jobs. The Commission, in particular, supports platforms promoting women's participation and countering the gender stereotypes that are engrained in male-dominated sectors. For example, the European Union is taking action to improve women's employment in the transport sector. Since its launch in 2017, the EU-funded **Women in Transport – EU Platform for Change**⁷ has been the network enabling organisations to commit to increasing female employment and share best practices in this sector.

The European Union is also committed to closing gender gaps in research and innovation. For example, the **Horizon 2020** programme helps research organisations and universities to implement gender equality plans. In addition, the Commission set up an **expert group** in November 2020 to formulate concrete measures to improve women's participation in the sport sector and start the Renewed Strategic Framework for gender equality in sport⁸.

Currently, the European Union is taking action to boost women's participation in the digital sector. In particular, the Commission monitors women's participation in the digital economy through the annual **Women in Digital Scoreboard**⁹ and implementing the Ministerial Declaration of Commitment on **Women in Digital (2019)**¹⁰. Finally, the **European Network for Women in Digital** was launched in 2018 so that girls and women in the digital sector can collaborate on ideas and experience in this field.

⁷ For more information, see: https://ec.europa.eu/transport/themes/social/women-transport-eu-platform-change_en

⁸ See: https://ec.europa.eu/sport/news/high-level-group-gender-equality-sport_en

⁹ European Commission, *Women in Digital Scoreboard*, 2020, available at: <https://ec.europa.eu/digital-single-market/en/women-digital-scoreboard>

¹⁰ Available at: https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=58562

BOX 3 – MINISTERIAL DECLARATION OF COMMITMENT ON WOMEN IN DIGITAL, AND WOMEN IN DIGITAL SCOREBOARD

The European Commission's initiatives encourage and empower women to play a more active role in the digital sector as increased participation of women in this sector will boost the economy and allow their full participation in society. In particular, twenty-seven EU ministers and Member State representatives signed the **Declaration of Commitment on Women in Digital** at *Digital Day* on 9 April 2019, with the aim of raising the political priority of women's under-representation in the digital economy. The declaration establishes that every Member State has to create a national strategy and have a cross-sectoral national plan on women in digital (standalone or integrated in their existing digital agenda) as well as celebrate 'Girls and Women in ICT Day' on the same day across the EU to raise awareness of the contribution women can make to the digital economy. The signatories have to take action at national level to encourage broadcasters to promote a positive public image of women in digital, stimulate companies to combat gender discrimination at work and improve monitoring mechanisms and data collection to set improved national targets aligned with the scoreboard indicators.

The **Women in Digital Scoreboard** is a tool created by the European Commission to monitor and assess women's participation in the digital economy. It is part of the Digital Economy and Society Index (DESI) and presents Member States' performance annually. The scoreboard brings together 12 indicators under three areas: Internet use, Internet user skills, and specialist skills and employment. It provides the Commission and EU countries with fact-based information that allows four main types of analysis:

1. assessing general performance of individual Member States through their overall index score and the scores of the main index dimensions,
2. identifying the areas where Member State performance could be improved by analysing individual indicators,
3. assessing progress over time,
4. comparing countries at similar levels of digital development.

According to the **European Commission's 2020 Women in Digital Scoreboard**, the gender gap is present in all 12 indicators measured. Women are still less likely to have specialist digital skills and work in this field compared to men, as only 18% of ICT specialists in the EU are women. The gap in basic digital skills has narrowed from 10.5% in 2015 to 7.7% in 2019 but in Bulgaria, Romania, Greece and Italy women are the least likely to be taking part in the digital economy, either through employment, use of the internet or skills.

3. Gender pay gap

Despite the principle of equal pay for equal work or work of equal value being enshrined in the Treaties since 1957 and translated into EU law, ensuring that there are legal remedies in case of discrimination, women in the EU still earn on average less than men (16% less than men per hour).

While there are more women university graduates in Europe than men graduates, women remain under-represented in higher paid professions. More women than men work in low-paid jobs and sectors, and in lower positions. Discriminatory social norms and stereotypes about women's and men's skills, and the undervaluation of women's work are some of the contributing factors.

Eliminating the gender pay gap therefore requires addressing all its root causes, including women's lower participation in the labour market, but also invisible and unpaid work (women carry a disproportionate burden of unpaid work and domestic work, which constitutes a significant share of economic activity), their higher use of part-time work and career breaks.

Finally, horizontal segregation and pay gaps result in an even wider pension gap and consequently older women are more at risk of poverty than men. On average, women's pensions are 30.1% lower than men's pensions

The Covid-19 pandemic and its economic and social consequences makes it even more pressing to tackle this issue, given that the crisis has hit female workers especially hard.

Regulatory treatment and main legislative references

At international level, according to **CEDAW**, States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment to ensure, on a basis of equality of men and women, the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work (Article 11, d).

The application to all workers of the principle of equal remuneration for men and women workers for work of equal value is also affirmed by the **ILO Equal Remuneration Convention**, 1951 No. 100 (Article 2).

At European level, as already said, the principle of equal pay for male and female workers for equal work or work of equal value was established by **TFEU**, Article 157.

Also, the **Directive 2006/54/EC** affirms that the principle of equal treatment of men and women has to be implemented in relation to working conditions, including pay (Article 1, b). It also specifies that for the same work or for work to which equal value is attributed, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration shall be eliminated. In particular, where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and drawn up to exclude any discrimination on grounds of sex (Article 4). Prohibition of discrimination in relation to pay is also affirmed, by Article 14, c)

Finally, in accordance with this Directive (Article 3) in matters of employment and occupation, Member States may maintain or adopt measures with a view to ensuring full equality in practice between men and women in working life, hence also including pay (positive actions).

Current and future European policies and relevant examples of instruments adopted

The principle of equal pay for work of equal value was reiterated in the 2017 European Pillar of Social Rights and made a priority for the European Commission to action. In its 2017–2019 action plan on tackling the gender pay gap¹¹, the Commission assessed the need for further legal measures to improve the enforcement of the principle of equal pay and opportunities for improving pay transparency. The European Commission undertook a thorough evaluation of the existing framework on equal pay for equal work or work of equal value¹² and launched a public consultation to assess the impact of both existing EU legislation and pay transparency recommendations, to reinforce the application of the equal pay principle and to fight occupational segregation. Because of a lack of transparency, many women do not know or cannot prove that they are being underpaid, so when information about pay levels is available it is easier to detect gaps and discrimination. For this purpose, the Commission recently tabled a **proposal for a directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms** (COM/2021/93). Such an initiative strengthens the rights of employees to have access to more information about pay levels. The proposed directive is based on Article 157(3) (TFEU), which provides for the EU 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, including the principle of equal pay for equal work or work of equal value’.

¹¹ See COM (2017) 678 and the related implementation report (COM (2020) 101)

¹² Evaluation of the relevant provision in Directive 2006/54/EC implementing the Treaty principle on ‘equal pay for equal work or work of equal value’, SWD (2020)50; Report on the implementation of the EU Action Plan 2017–2019 on tackling the gender pay gap, COM (2020)101.

BOX 4 – EUROPEAN COMMISSION PROPOSAL ON BINDING PAY TRANSPARENCY MEASURES (COM/2021/93)

This initiative follows the Commission's evaluations of the relevant legal provisions. The assessments concluded that the right to equal pay is not adequately applied nor enforced in practice, and that pay transparency is lacking in many Member States. This Commission proposal therefore aims to tackle the persisting inadequate enforcement of the fundamental right to equal pay and ensuring that this right is upheld across the EU, by establishing pay transparency standards to empower workers to claim their right to equal pay.

This proposed directive is part of a broader package of measures and initiatives addressing the root causes of the gender pay gap and economic empowerment of women. Pay discrimination and bias in pay structures are only one of the root causes of the gender pay gap, besides other causes and factors, such as horizontal and vertical labour market segregation, full-time versus part-time work, as well as unpaid care-related constraints. Even without these causes and factors, there is still a so-called unexplained gender pay gap, which accounts for two-thirds of the gender pay gap in the EU Member States, and which this initiative aims to tackle.

The proposed directive therefore introduces new and more detailed rules to ensure compliance with the principle of equal pay between men and women for equal work or work of equal value and it pursues this objective by:

- » establishing pay transparency within organisations;
- » facilitating the application of the key concepts relating to equal pay, including 'pay' and 'work of equal value';
- » strengthening enforcement mechanisms.

In particular, the proposal requires employers to have pay structures ensuring that women and men are paid equally for the same work or work of equal value. To allow workers and employers to assess what constitutes work of equal value, Member States are required to establish tools or methodologies to assess and compare the value of work in line with a set of objective criteria which include educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved. This provides the basis to assess whether workers are considered to be in a comparable situation performing work of equal value by helping employers to better categorise and remunerate job positions based on objective, gender-neutral criteria, and workers to assess whether they are treated less favourably than the comparator performing the same work or work of equal value.

Furthermore, the proposal requires that employers indicate the initial pay level or its range (based on objective and gender-neutral criteria) to be paid to the future worker for a specific position or job. Such information may be provided in a job vacancy notice or otherwise prior to the job interview without the applicant having to request it. In addition, it prohibits employers from asking prospective workers about their pay history of their former employment relationship. The aim of this provision is to ensure that workers have the necessary information to engage in balanced and fair negotiations regarding their salaries when they enter an employment relationship. It would also ensure that existing pay discrimination and bias is not perpetuated over time, especially when workers change jobs. To ensure the gender-neutrality of pay setting and career progression, the proposal also requires employers to make accessible to workers a description of the gender-neutral criteria used to define their pay and career progression.

Overall, as underlined by the EC proposal, pay transparency may allow workers to detect and prove possible discrimination based on sex. It also shines a light on gender bias in pay systems and job grading that do not value the work of women and men equally and in a gender-neutral way, or that fail to value certain occupational skills that are mostly seen as female qualities. Since such bias is often unconscious, pay transparency can help raise awareness of the issue among employers and help them identify discriminatory gender-based pay differences. Pay transparency can also foster change in attitudes towards women's pay by raising awareness and stimulating debate around the reasons for structural gender pay differences. Finally, beyond the compliance with the principle of equal pay, pay transparency may also constitute a trigger for reviewing gender equality policies more generally at company level, and promote closer cooperation between employers and workers' representatives.

4. Women's access to education and vocational training

Education is a powerful driver of more gender-equal and inclusive societies and it is also a tool to raise awareness of the key principles of equality between women and men.

According the EIGE Gender Equality Index (2019), women's educational attainment is rising, but overall positive development is being held back by strong gender segregation and low engagement in lifelong learning.

Women and men, in all their diversity, should be free to pursue their chosen educational and professional paths without the constraints of stereotypical gender norms. Instead, women represent only 36% of STEM graduates (EIGE, 2018) even though girls outperform boys in digital literacy¹³.

Such a divide is mirrored by the gender segregation in the equivalent labour market, determining women's and men's earnings, career prospects and working conditions.

As regards the participation in lifelong learning, women are more likely to engage in adult learning than men in the majority of Member States, but participation is often low among those who would benefit the most from education and training, for example women with low levels of qualification or women engaged in precarious employment.¹⁴

Regulatory treatment and main legislative references

At international level, according to **CEDAW** States Parties shall take all appropriate measures to eliminate discrimination and ensure, on a basis of equality of men and women, the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training (Article 11, c).

Appropriate measures shall be taken by States Parties in order to ensure to women equal rights with men also in the field of education and in particular: the same conditions for vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories (this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training); the access to the same curricula, the same examinations, teaching staff with qualifications of the same standard; the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education, also by the revision of textbooks and school programmes; the same opportunities to benefit from scholarships and other study grants; the same opportunities for access to programmes of continuing education, including adult and functional literacy programmes; the organisation of programmes for girls and women who have left school prematurely (Article 10, a) b) c) d) e) f).

Also, the **ILO Discrimination Convention No 111**, 1958 provides the commitment of Member States' signatories to pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination, including on the basis of sex. The terms *employment* and *occupation* include access to vocational training (Article 2).

At European level, according to **Directive 54/2006/CE**, the principle of equal opportunities and equal treatment of men and women has to be implemented in relation to access to vocational training (Article

¹³ International Computer and Information Literacy Study (ICILS), 2018

¹⁴ Eurostat, EU LFS, 2018

1, a). Prohibition of direct or indirect discrimination on grounds of sex in the public or private sectors in relation to access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience is affirmed (Article 14, par. 1, b).

Finally, to prevent discrimination, this directive calls for Member States to encourage employers and people responsible for access to vocational training to take effective measures to prevent all forms of discrimination on grounds of sex including in vocational training (Article 26).

Current and future European policies and relevant examples of instruments adopted

The first principle of the European Pillar of Social Rights states that everybody in the EU has the right to quality and inclusive education, training and lifelong learning to acquire and maintain skills that enable women and men to participate fully in society and successfully manage transitions in the labour market.

The **Updated Skills Agenda for Europe**¹⁵ delivers on this principle by helping people to develop and widen their skills throughout their life, also helping to address horizontal segregation, **stereotyping and gender gaps** in education and training. In addition, in the Agenda the Commission commits to raising the attractiveness of STEM studies and careers, with focused actions to attract girls and women, and by encouraging a cross-disciplinary and innovative teaching and learning approach in schools, VET and higher education. Also, the **Commission Proposal for a Council recommendation on vocational education and training** of 24 November 2020¹⁶ supports targeted measures to improve gender balance in traditionally male or female-dominated professions and addresses gender stereotypes. In the new **Commission Communication on Achieving the European Education Area by 2025** of 30 September 2020 (COM (2020) 625)¹⁷ gender equality is put forward as one of the key elements. In particular, the Communication requires making education and training more inclusive and gender-sensitive.

Finally, in the current framework of digitisation of the economy and the labour market, which sees women under-represented, the updated **Digital Education Action Plan** (COM(2020) 624)¹⁸ and the implementation of the **Ministerial Declaration of Commitment on 'Women in Digital'** (2019) contribute to addressing this gap also from an education and training perspective.

¹⁵ <https://ec.europa.eu/social/main.jsp?catId=1223&langId=en>

¹⁶ <https://op.europa.eu/it/publication-detail/-/publication/8e89305c-bc37-11ea-811c-01aa75ed71a1/language-en>

¹⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0625>

¹⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0624&from=EN>

BOX 5 – EUROPEAN DIGITAL EDUCATION PLAN

The Digital Education Plan was recently (30 September 2020) presented by European Commission. It covers the next programming period (2021-2027) and sets out measures for high-quality and inclusive digital education and training.

The Commission organised a wide range of stakeholder consultations to inform and gather evidence for this initiative. Consultations involved public - and private-sector organisations, education and training organisations and a wide variety of additional stakeholders, including research institutions and civil society.

Raising the quality and inclusiveness of education and training systems and the provision of digital skills for all is a strategic challenge for the European Union in view of the digital and green transitions. In this context, the Plan focuses on the longer-term digital change in education and training and in this perspective it presents a vision for improving digital literacy, skills and capacity at all levels of education and training and for all levels of digital skills (from basic to advanced). The deployment of technologies is affecting in particular a lot of jobs. People with advanced digital skills are therefore needed to support competitiveness. This makes it even more important to invest in lifelong learning by promotion, provision and recognition of upskilling and re-skilling for the digital economy.

Under the specific strategic priority 2: Enhancing digital skills and competences for the digital transformation, the Plan underlines that introducing pupils to computing from an early age, through innovative and motivating approaches to teaching, in both formal and non-formal settings, **can help foster interest in STEM-related studies and future careers while also tackling gender stereotypes**. Actions to promote **high quality and inclusive computing education can also impact positively on the number of girls pursuing IT- related studies** in higher education and, further on, working in the digital sector or digital jobs in other economic sectors. Because only one in three STEM graduates is a woman, teachers, parents, and **STEM professionals need to engage, motivate and inspire female students**. Strategies have to be implemented to make the STEM curricula and careers more attractive to girls and women.

5. Women's career paths and leadership positions

Despite some progress in recent years, women's under-representation in decision-making positions in Europe's businesses and industry persists (vertical segregation).

Thriving at work while managing caring responsibilities is a great challenge for women, which often may depend on their choice to work and how to work on their caring responsibilities, and on whether and how much these family duties are shared with their partner.

Furthermore, the fact that top positions have been held exclusively by men for a long time shapes no gender-sensitive recruitment pattern for successors, sometimes only due to unconscious bias. In addition, career paths and organisational practices are mostly based on male work patterns (for example, presence in the office versus job evaluation based on results).

Having both women and men well represented is instead crucial for successful leadership and to solve the most complex challenges. In particular, many benefits can result from a greater female leadership: e.g. a larger talent portfolio to draw from, a better response to market needs, more meritocracy and less co-option as recruiting tools, more female employment (having more career prospects can also result in 'a retention effect' for women in the labour market).

Closing the gender gap for women in leadership positions therefore requires the removal of obstacles in career advancement through a mix of legislative measures and policies aimed to support women's career paths. This may include legislative and non-legislative measures to improve gender balance on corporate boards, measures to support equal sharing of care responsibilities at home and to increase the availability of childcare, and mentorship programmes.

Regulatory treatment and main legislative references

At international level, according to **CEDAW** appropriate measures shall be taken by States Parties to ensure women have the right to promotion in the field of employment (Article 11, c).

Also, the **ILO Discrimination Convention No 111** (1958) provides the commitment of Member States' signatories to pursue a national policy designed to promote equality of opportunity and treatment in respect of *employment* and *occupation*, with a view to eliminating any discrimination, including on the basis of sex. The terms employment and occupation include terms and conditions of employment (Article 2), hence also the career. The **ILO Maternity Protection Convention, 2000 (No 183)** requires instead that a woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave (Article 8).

At European level, according to **Directive 54/2006/CE**, the principle of equal opportunities and equal treatment of men and women has to be implemented in relation to access to employment, including promotion (Article 1, a). Prohibition of direct or indirect discrimination on grounds of sex in the public or private sectors was stated in relation to promotion (Article 14, a).

Finally, to prevent discrimination, the directive calls for Member States to encourage employers and those responsible for access to vocational training to take effective measures to prevent all forms of discrimination on grounds of sex, also in promotions (Article 26).

Current and future European policies and relevant examples of instruments adopted

To help break the glass ceiling, in 2012 the Commission tabled a proposal for a **directive on improving the gender balance on corporate boards**¹⁹ which set the aim of a minimum of 40% of non-executive members of the under-represented sex on company boards. Its adoption is one the European Commission commitments indicated in the EU Gender Equality Strategy 2020–2025. In parallel, the Commission facilitates the exchange of good practices addressing gender balance on executive boards and managerial positions, bringing in the examples of national or regional projects run by governments, civil society or the private sector²⁰.

The European Commission is also broadening women's career opportunities by encouraging companies to sign specific commitments to provide an **inclusive and gender-balanced work culture and environment**. This means implementing recruitment and human resources business policies that are fully aware of the importance of investing in women and identifying potential female leaders, and training them to develop their strengths and play high-level roles in the company²¹.

In addition, the European Commission supports Member States in developing and implementing more effective strategies to increase the number of women in decision-making positions. This is through the **Mutual Learning Programme in Gender Equality**²² and cooperating with EU-wide projects, such as **European Women on Boards** (EWoB)²³. This has developed the **WELP programme** (Women empowerment in leadership positions) to facilitate the change towards gender equality in decision-making. It also introduced **EWoB's Gender Diversity Index**, measuring the attainment of various diversity and inclusion indexes on the company and sector level, across the European Union. Finally, other European initiatives also contribute to reaching gender balance in the decision-making process. For example, the **Declaration of Commitment on Women in Digital** (2019) provides a gender-balanced composition of boards, committees and bodies dealing with digital matters, while the **'No Women No Panel Campaign'**²⁴ was carried out with a goal to raise awareness on having gender balance in panels and public events.

¹⁹ COM (2012)614 final.

²⁰ The EU Platform of Diversity Charters will serve as a platform for exchange https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/tackling-discrimination/diversity-management/eu-platform-diversity-charters_en

²¹ See: European Declaration on an inclusive company culture, <https://ec.europa.eu/digital-single-market/en/women-digital-0>

²² https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/who-we-work-gender-equality/mutual-learning-programme-gender-equality_en

²³ Relevant projects include European Women on Boards (EWOB): <https://europeanwomenonboards.eu/>.

²⁴ This campaign was initiated by Commissioner Mariya Gabriel and reiterated by several of her colleagues from the European Commission.

BOX 6 – EUROPEAN WOMEN ON BOARDS (EWOB), WELP PROGRAM AND THE EWOB GENDER DIVERSITY INDEX

EWoB is a network of European networks founded in 2013 and is continuously growing. It directly supports the European Commission in achieving the targets set by the new EU Gender Equality Strategy 2020–2025. In particular, the commitment of EWoB is to help corporations make the change by developing talents and skills of senior businesswomen, and to support their decision-making positions with international visibility, also by mediating the sharing of best practices at European level. To facilitate the change towards gender equality in decision-making, EWoB has developed the WELP programme, which offers educational content focusing on leadership and addressing the most significant gaps in enabling female professionals to reach the top of their careers.

EWoB also launched the Gender Diversity Index (GDI) in 2018 to allow companies to benchmark themselves against other companies in their country or sector with regard to the diversity of their boards and other key positions, across the European Union. The aim is to create a study that provides an objective European benchmark on gender equality. EWoB GDI benchmarked 600+ European corporations in different diversity and inclusion key performance indicators (D&I KPIs) and the goal is to extend the index to the majority of large European companies to put a spotlight on the companies and current countries in different corporate sectors which are an example of best practice in Europe.

The results of the 2020 index compared to the 2019 index shows that in 60% of the companies for which data is available, for both years there was an improvement in their GDI.

Some 13% of the 669 companies involved are close to gender equality at board and executive level. Moreover, there are 87 companies where the absolute share of women in leadership is 40% or more, which is a significant improvement.

6. Support to self-employed women

Empowering women in the labour market and improving their access also means giving them the possibility to thrive as entrepreneurs and investors. The EU cohesion policy supports women's entrepreneurship, their (re)integration into the labour market and gender equality in specific, traditionally male, sectors.

To facilitate the creation of female enterprises, the obstacles to women's participation in economic life must be removed and the use of goods, financial services and access to financing must be guaranteed for women on a basis of equality of men and women.

In addition, it is crucial to support women entrepreneurs/the self-employed to focus on new opportunities in the digital and green economy through targeted tools, networks and entrepreneurial training.

Regulatory treatment and main legislative references

At international level, according to **CEDAW**, States Parties shall take all appropriate measures to eliminate discrimination against women to ensure, on a basis of equality of men and women, the right to bank loans, mortgages and other forms of financial credit (Article 13). This provision requires States to have a duty to regulate the activity of third parties which, in many cases, are not public bodies.

At European level, **European Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity** (repealing Council Directive 86/613/EEC) lays down a framework for putting into effect in the Member States the principle of equal treatment between men and women engaged in a self-employed activity, or contributing to the pursuit of such an activity (Article 1). This directive therefore also covers the spouses of self-employed workers or the life partners of self-employed workers, not being employees or business partners, where they habitually participate in the activities of the self-employed worker and perform the same tasks or ancillary tasks (Article 2).

The principle of equal treatment laid down by the directive prohibits, directly or indirectly, discrimination on grounds of sex, in the public or private sectors, in relation to the establishment, equipment or extension of a business or self-employed activity (Article 4). The prohibition of direct or indirect discrimination on grounds of sex in relation to conditions for access to self-employment was also stated by the **Directive 2006/54/EC** (Article 14, 1c).

According to the EU Directive 2010/41/EU, Member States may maintain or adopt measures (positive actions), for instance aimed at promoting women's entrepreneurship initiatives, with a view to ensuring full equality in practice between men and women in working life (Article 5). According to this directive, Member States shall also ensure maternity benefits to female self-employed workers and female spouses and life partners (Article 8) to grant a sufficient maternity allowance enabling interruptions in their occupational activity in case of pregnancy or motherhood for at least 14 weeks. Spouses and life partners were also ensured social protection (Article 7).

Judicial or administrative proceedings should be available to all people who consider they have sustained loss or damage as a result of a failure to apply the principle of equal treatment (Article 9) and compensation or reparation measures shall be introduced by the Member States for the loss or damage sustained by a person as a result of discrimination on the grounds of sex (Article 10).

In addition, according to **Directive 2004/113/EC implementing the principle of equal treatment**

between men and women in the access and supply of goods and services, there shall be no indirect discrimination or direct discrimination based on sex, including less favourable treatment of women for reasons of pregnancy and maternity (Article 4, 1a, 1b). This provision shall be without prejudice to more favourable provisions concerning the protection of women as regards pregnancy and maternity (Article 4, 2). In addition, differences in treatment are allowed if the provision of the goods and services exclusively or primarily to members of one sex is justified by a legitimate aim and the means of achieving that aim are appropriate and necessary (Article 4, 5). Also, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures (positive actions) to prevent or compensate for disadvantages linked to sex (Article 6) with a view to ensuring full equality in practice between men and women. Finally, the directive specified that in all new contracts the use of sex as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services shall not result in differences in individuals' premiums and benefits (Article 5).

Current and future European policies and relevant examples of instruments adopted

The European Social Fund (ESF) promotes entrepreneurship through financial and business support services. In this framework, targeted support is provided to under-represented and disadvantaged groups, including women entrepreneurs. The ESF also encourages entrepreneurship as a way into working life²⁵. Women in rural areas, in particular, are supported in setting up tourist activities as well as people (especially women) with children being offered IT skills to set up online and home-based businesses.

Targeted measures promoting the participation of women in innovation will be developed under the **Horizon Europe 2021 – European Innovation Council** (EU's key funding programme for research and innovation). Under these calls women candidates are particularly encouraged to apply, while the EU Prize for Women Innovators celebrates the women entrepreneurs behind game-changing innovations. In doing so, the EU seeks to raise awareness of the need for more women innovators, and create role models for women and girls everywhere²⁶.

In the frame of the European Strategy 2020–2025, the Commission also promotes the presence of women in decision-making positions in private equity and venture capital funds, and it supports funds investing with gender-diversified portfolios. A **gender-smart finance initiative under the InvestEU programme** is going to be launched by the European Commission to stimulate funding for female-led companies.

In addition, the **Update Skills Agenda for Europe** underlines that the European Commission will launch a **European action on entrepreneurship skills**, which includes connecting existing networks to provide a European entrepreneurial support for aspiring entrepreneurs, focusing on **young women entrepreneurs** and self-employment opportunities in the digital and green economy. This will incorporate a knowledge platform of online resources on entrepreneurial skills and opportunities for collaboration. For this purpose, the support will be provided by EU cohesion policy.

Finally, over the years a lot of relevant European tools and networks to support women's entrepreneurship

²⁵ <https://ec.europa.eu/esf/main.jsp?catId=457&langId=en>

²⁶ <https://ec.europa.eu/research/eic/index.cfm>

are provided, for example the **European network to promote women's entrepreneurship (WES)**²⁷, the **European Network of Female Entrepreneurship Ambassadors**²⁸ and the **European Network of Mentors for Women Entrepreneurs**²⁹. More recently there has been the Europe-wide online platform WEgate launched in September 2016 to provide information and links on access to training, mentoring, advice and business networking opportunities, and the **Enterprise Europe Network (EEN)** which has a women's entrepreneurship group on Facebook that gathers 21 partner organisations in 14 countries. The group connects women entrepreneurs to the network's business and innovation support activities and provides concrete services, such as business partnering and access to foreign markets. Also, the **European community of women business angels and women entrepreneurs** was created in 2017 by means of four projects covering 14 EU countries. It is funded by the European Parliament to support women entrepreneurs in accessing alternative sources of funding.

BOX 7 - EUROPE-WIDE ONLINE PLATFORM WEGATE - THE EUROPEAN GATEWAY FOR WOMEN'S ENTREPRENEURSHIP (2016-ONGOING)

WEgate is an online platform launched by the European Commission (DG GROW) with the contribution of the EU COSME Programme to support a network composed of a growing and diverse number of stakeholders, which are engaging to support women entrepreneurs across Europe. The platform is managed by a consortium led by the European Small Business Alliance (ESBA) and composed of Business Angels Europe (BAE), MIR Foundation (Foundation for Management and Industrial Research) and GYB International.

When establishing and running a business, women in particular face challenges such as access to finance, information, business networks and training, and many work-life balance problems. They therefore need to have all the possible support tools at their disposal. On this basis, WEgate unites all initiatives supporting women entrepreneurship into one platform dedicated to women entrepreneurs and their needs related to starting, financing and managing their businesses. The intention is to create a hub for connecting women entrepreneurs with support organisations at local, regional, national and European level, thus facilitating their access to mentoring and business networks across Europe. Networking is key not only when starting a business to exchange knowledge and increase your confidence, but also to gain visibility at all stages of running a business.

The platform does not provide support services or advice (it has no commercial purposes). WEgate's content and resources aim instead to direct women to other sources of information or contacts (other support organisations and female entrepreneurs) that can support them and answer their individual questions, for example on how to find information on doing business in Europe, such as how to start or grow, or access to finance (a section of the platform is specifically related to financing and funding). The platform includes the possibility to filter for European countries on many of its pages and an international perspective whenever possible to help women to expand their network even outside Europe.

Success stories, challenges, lessons learnt, news and events related to women's entrepreneurship are published regularly on WEgate. The content is also shared via the European Commission and the EASME-owned³⁰ social media channel. In addition, registering on the platform allows women entrepreneurs to enter the community, to share knowledge and good practices collected on the platform as well as to be identified as a resource person for other women entrepreneurs or organisations in this field.

Recently, WEgate has opened the WEbarometer 2021. This year's edition is dedicated to finding out the best way to support the growth of businesses driven by women entrepreneurs in Europe.

The data that will be collected from the survey will inform the platform planning and actions in the months to come, as well as inform the decision-making process of European policymakers.

²⁷ It is a policy network with members from 31 European nations (the EU countries, Iceland, Norway and Turkey), whose delegates represent national governments and institutions.

²⁸ Launched in 2009, it is made up of around 270 entrepreneurs from 22 European countries, with the aim of acting as role models by telling their story to raise awareness and encourage entrepreneurship as a career option for women of all ages.

²⁹ The Mentors Network was inaugurated in 2011 (70 European countries are part of it). This network provides advice and support to women entrepreneurs on the start-up, management and growth of their businesses in the early phases.

³⁰ The Executive Agency for Small and Medium-sized Enterprises (EASME) has been set up by the European Commission to manage several EU programmes in the fields of SME support and innovation, environment, climate action, energy and maritime affairs on its behalf.

7. Maternity protection and work-life balance for both parents

Over the years a protection system has been drafted for pregnant workers, workers who have recently given birth or who are breastfeeding, based on the fact that they need specific measures regarding their safety and health, and to avoid some types of activities which may pose a specific risk to them. The protection system also provides for pregnant workers the right to maternity leave and the prohibition of dismissal on grounds of pregnancy or maternity leave. This protection system does not conflict with the directives concerning equal treatment for men and women.

Work-life balance remains a considerable challenge for parents and workers with caring responsibilities, in particular because of the increasing prevalence of extended working hours and changing work schedules, with a negative impact especially on women's employment.

The care-giving responsibilities are some of the main reasons why women tend to work less than men and in lower-paid sectors, take more career breaks and have fewer and slower promotions.

Improving the work-life balance of all workers (women and men) and promoting equal care responsibilities between parents are therefore crucial for addressing the gender gaps in the labour market. Both parents need to feel responsible and entitled when it comes to family care.

Currently the lack of paid paternity and parental leave in many Member States contributes instead to the low take-up of leave by fathers.

In addition to parental leave, flexible working arrangements for all workers are among the most effective measures to promote work-life balance and equal sharing of caring responsibilities between parents.

Regulatory treatment and main legislative references

At international level, according to **CEDAW** (Article 11, 2a, b, c and d), in order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures to prohibit dismissal on the grounds of pregnancy or maternity leave and discrimination in dismissals on the basis of marital status, to introduce maternity leave with pay without loss of former employment, to encourage the provision of a network of childcare facilities to enable parents to combine family and work responsibilities, as well as to provide special protection to women during pregnancy in types of work harmful to them.

The **ILO Maternity Protection Convention, 2000 (No 183)** establishes that each Member State shall adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to them (Article 3). Women shall be entitled to a period of maternity leave of not less than 14 weeks (including a compulsory period of six weeks after childbirth, unless otherwise agreed at the national level (Article 4), as well as being entitled to leave in case of illness or complications (Article 5).

In both cases, according to Article 6, cash benefits shall be provided to women and the amount of such benefits for maternity leave shall not be less than two-thirds of the woman's previous earnings. Cash benefits shall also ensure that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. Where a woman does not meet the conditions to qualify for cash benefits under national laws, she shall be entitled to adequate benefits out of social assistance funds. Finally, medical benefits shall be provided for the woman and her child that include

prenatal, childbirth and postnatal care, as well as hospitalisation care when necessary. A woman shall be provided also with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child and these breaks or reductions shall be counted as working time and remunerated accordingly (Article 10).

The convention also considers unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave or during a period following her return to work, except on grounds unrelated to the pregnancy or birth of the child and its consequences, or nursing. The burden of proving the reasons for dismissal shall rest on the employer (Article 8).

The provisions about maternity as a factor of discrimination for access to employment (Article 9) and the protection of working conditions, especially the right to return to the same position after maternity (Article 8), are illustrated in the previous fiches on gender equality in job access and on women's career paths and leadership positions.

At European level, the **Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding**, provides for the employer an obligation to assess any work activity risks to the worker's safety or health and whether it is necessary to temporarily modify the working conditions and/or the working hours of the worker or to move her to other job (Articles 4 and 5). The directive also provides cases where exposure is prohibited (Article 6), the prohibition of night work (Article 7), the right of maternity leave for at least 14 weeks (Article 8), the prohibition of dismissal during the period from the beginning of the pregnancy to the end of the maternity leave (Article 10) and specific employment rights relating to the employment contract, including the maintenance of a payment and/or the entitlement to an adequate allowance (Article 11).

Directive 2006/54/EC regulates the return from maternity leave (Article 15). It specifies that a woman on maternity leave shall be entitled, after the end of her period of maternity leave, to return to her job or to an equivalent workplace on terms and conditions which are no less favourable to her and to benefit from any improvement in working conditions to which she would have been entitled during her absence.

The directive also provides the right of Member States to recognise paternity and adoption leave, specifying that they shall take the necessary measures to protect working men and women against dismissal due to exercising of those rights and ensure that, at the end of such leave, they are entitled to return to their jobs or to equivalent workplaces on terms and conditions which are no less favourable to them, and to benefit from any improvement in working conditions to which they would have been entitled during their absence (Article 16).

Finally, the recent **European Directive 2019/1158 on work-life balance for parents and carers** (repealing Council Directive 2010/18/EU)³¹ lays down minimum requirements related to paternity leave, providing for 10 working days on the occasion of the birth of the worker's child (Article 4). Parental leave – the individual right is quantified as four months for each parent of which two months are not transferable – can be requested in flexible ways (Article 5), carers' leave is provided for five working days per year (Article 6), and the right to time off from work on grounds of force majeure for urgent family reasons (Article 7). This directive also provides the right to payment or allowance for workers who exercise their right to leave (Article 8) and the right to request flexible working arrangements for caring purposes for workers with children over 8 years old, and carers (Article 9).

³¹ It builds on the rules laid down in Directive 2010/18/EU and complements them by strengthening existing rights and by introducing new rights.

All employment rights shall be maintained during the leave or time off from work and at the end of leave workers are entitled to return to their jobs or to equivalent posts on conditions which are no less favourable and to benefit from any improvement in working conditions (Article 10). Any discrimination on the grounds that they have taken leave or time off from work should be prohibited (Article 11) as well as the dismissal of workers for the same reasons (Article 12).

Current and future European policies and relevant examples of instruments adopted

The insufficient access to quality and affordable care services and the unequal sharing of care responsibilities between parents are two of the key drivers of gender inequality in the labour market.

The **Barcelona targets for high quality and affordable childcare** set in 2002 by the European Council formed a crucial part of the European Commission's strategy over the years to ensure women can participate fully in the labour market. These targets are today mostly met but some Member States are significantly lagging behind³². For these reasons, the Commission will revise the Barcelona targets in 2022 to ensure further upwards convergence among Member States of early childhood education and care. In addition, the Commission continues to support Member States' work on improving the availability and affordability of quality care services for children and other dependents through investments from the European Social Fund Plus, the European Regional Development Fund, the InvestEU programme and the European Agricultural Fund for Rural Development.

The principles of gender equality and work-life balance are currently reaffirmed in the **European Pillar of Social Rights**, proclaimed by the European Parliament, the Council and the Commission on 17 November 2017 and in the most recent **European Pillar of Social Rights Action Plan** (COM (2021) 102 final)³³ tabled by the European Commission in 2021.

More recently (December 2020), moving on from the Work-life Balance Directive (EU/2019/1158), the Council of the European Union³⁴ stressed the importance of narrowing the gender pay gap, considering both paid and **unpaid work** and inviting Member States to take steps to ensure equal professional opportunities and to fulfil what is established in the Work-life Balance Directive.

In addition, given the introduction of mandatory telecommuting in most of the economic sectors, the European Parliament underlined the need for setting more solid boundaries between working and personal life time, without consequences for the workers. In January 2021 it called on the Commission to put forward a **proposal for a directive³⁵ on minimum standards and conditions to ensure that workers are able to exercise their right to disconnect**, stressing the importance of focusing on quality of life at work.

³² https://ec.europa.eu/info/sites/info/files/bcn_objectives-report2018_web_en.pdf

³³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The European Pillar of Social Rights Action Plan, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A102%3AFIN&qid=1614928358298>

³⁴ <https://www.consilium.europa.eu/media/47063/st13584-en20.pdf>

³⁵ <https://www.europarl.europa.eu/news/en/press-room/20210114IPR95618/right-to-disconnect-should-be-an-eu-wide-fundamental-right-meps-say>

BOX 8 – COUNCIL CONCLUSIONS ON TACKLING THE GENDER PAY GAP: VALUATION AND DISTRIBUTION OF PAID WORK AND UNPAID CARE WORK (DECEMBER 2020)

The Council invites the Member States in its conclusions to take steps to encourage and facilitate an equal distribution of paid work and unpaid care work between women and men, and to facilitate the equal take-up of parental leave by them, in accordance with the Directive on Work–Life Balance for Parents and Carers. The Council also invites Member States to ensure that unpaid care work is recognised and valued, including by improving the understanding of its social and economic significance and impact, drawing on valid data. The Council Conclusions, in particular, underline the need to improve public infrastructures and the availability of external services to support women and men in the sharing of paid work and unpaid care work on an equal basis. It also promotes the externalisation of direct and indirect unpaid care work, for example by examining the possibility to financially support working parents, single parents or caring relatives in using personal and household services. The public infrastructures and external services that provide direct care have to be flexibly designed in such a way as to be available, accessible and affordable for all households or people in both rural and urban areas, including in terms of public transport. The improvement of the quality of care also has to be pursued by offering qualifications and training to employees.

8. Occupational social security, health protection and safety in working conditions

*The principle of equal treatment for men and women in matters of social security refers to the **statutory social schemes** which provide protection against the risks of sickness, invalidity, old age, accidents at work, occupational diseases and unemployment, **social assistance** as well as **occupational social security schemes** in so far as it is intended to supplement or replace the abovementioned statutory social schemes.*

*The right to safety in working conditions also includes the **prevention and the protection from harassment and sexual harassment**. They both are considered discriminations on basis of sex and contrary to the European rules on equal treatment between men and women at work. These forms of discrimination occur not only in the workplace, but also when accessing to employment, vocational training and promotion. Harassment and violence can potentially affect any workplace irrespective of the size of the company, field of activity or form of the employment contract.*

Regulatory treatment and main legislative references

At international level, according to **CEDAW** (Article 11), States Parties shall take all appropriate measures to eliminate discrimination and ensure, on a basis of equality of men and women, **the right to social security**, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave (e); and **the right to protection of health and safety in working conditions**, including the safeguarding of the function of reproduction (f).

The recent **ILO Convention No 190 concerning the elimination of violence and harassment in the world of work** (2019) considers ‘violence and harassment’ as ‘a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in or are likely to result in physical, psychological, sexual or economic harm, and include gender-based violence and harassment’.

The ILO definition of ‘gender-based violence and harassment’ is ‘violence and harassment against people because of their **sex or gender**, or which disproportionately affects people of a particular **sex or gender**, and includes sexual harassment’.

The convention also recognises that violence and harassment may prevent people – particularly women – from accessing, remaining and advancing in the labour market. It calls for Member States to establish specific rights to protect workers (sanctions, effective complaint mechanisms, support and remedies, etc.) and to adopt laws and regulations also requiring employers to take appropriate steps to prevent violence and harassment in the world of work.

At European level, the **Council Directive 79/7/EEC** is the first European legislation **in matters of social security** that affirmed the principle of equal treatment, that is the prohibition of discrimination on grounds of sex, either directly or indirectly, by reference in particular to marital or family status, with reference to **statutory schemes** which provide protection against sickness, invalidity, old age, accidents at work and occupational diseases, and unemployment as well as **social assistance**, insofar as it is intended to supplement or replace the former (Article 3). This directive specifies that the principle of equal treatment shall be without prejudice to the provisions relating to the protection of women on the grounds of maternity (Article 4, par 2). Moreover, **a number of other exceptions to the principle have been introduced to allow for ‘positive discrimination’ for women** who

interrupted their careers for childcare: determination of pension age, acquisition of benefit entitlements after career breaks for childcare, increases of pensions for a dependent wife and the granting survivor's pensions.

The **Directive 2006/54/EC**³⁶ completes the previous legislation affirming the **principle of equal treatment in occupational social security schemes, benefits to supplement those provided by statutory social security schemes or to replace them**, which providing protection against sickness, invalidity, old age including early retirement, industrial accidents and occupational diseases, and unemployment. They can refer to other social benefits, such as survivors' benefits and family allowances, if such benefits are paid by the employer to the worker by reason of the latter's employment (Article 8). These provisions are without prejudice to the possibility of adopting positive actions with a view to ensuring full equality in practice between men and women in working life (Article 4).

Both European Directives mentioned above prohibit direct or indirect discrimination on grounds of sex as regards the scope of such schemes and the conditions of access to them, the obligation to contribute and the calculation of contributions, the calculation of benefits, and the conditions governing the duration and retention of entitlement to benefits.

The right to safety in working conditions also includes the **prevention and the protection from harassment and sexual harassment**. Directive 2006/54/EC specifies that harassment and sexual harassment are contrary to the principle of equal treatment between men and women and constitute discrimination on grounds of sex. Member States shall encourage employers and those responsible for access to vocational training to take effective measures to prevent all forms of **discrimination on grounds of sex**, in particular harassment and sexual harassment in the workplace, in access to employment, vocational training and promotion (Article 26).

For the EU definition, **'harassment'** refers to when unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment, while **sexual harassment** when any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating a person's dignity, particularly when it creates an intimidating, hostile atmosphere degrading, humiliating or offensive environment.

Current and future European policies and relevant examples of instruments adopted

In the framework of safety in working conditions, to address harassment in work contexts international and European policies promote an inclusive and gender-responsive approach, which tackles causes, including gender stereotypes, multiple and intersecting forms of discrimination and unequal gender-based power relations.

The European Parliament (EP) strongly condemns cases of sexual harassment and stresses that it is crucial for the EU institutions to firmly stand against any form of gender discrimination. In this context two EP Resolutions have recently been issued (EP Resolution 2897/2017 *on combating sexual harassment and abuse in the EU* and EP Resolution 2018/2055 *on measures to prevent and combat mobbing and sexual harassment at the workplace, in public spaces and in political life in the EU*) on this subject. To

³⁶ This Directive recast the main provisions of the Council Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes.

push an institutional change, a group of EP workers started the #MeTooEP campaign (2018)³⁷, which acts in close interaction with the formal and informal institutions of the EP.

According to the Gender Equality Strategy 2020–2025, also the European Commission (as an employer) will soon adopt a new comprehensive legal framework with a set of both preventive and reactive measures against harassment in the workplace.

BOX 9 - EUROPEAN RESOLUTIONS AND #METOOEP - AWARENESS-RAISING CAMPAIGN AND BLOG

The #MeTooEU initiative is a movement launched in March 2018 and led by parliamentary assistants (accredited personal assistants (APAs) working with MEPs) to combat sexual harassment and call for exemplary working conditions within the European Parliament. #MeTooEP allows victims of sexual harassment to speak freely about the violence they have encountered and to denounce all kinds of abuse, power imbalance and violence through a blog on which stories of sexual harassment within the institution are anonymously published.

The blog wants to help put better rules in place, in line with the provisions established by the EP Resolution 2897/2017 on combating sexual harassment and abuse in the EU (October 2017), which still have to be implemented.

The text called on the European Parliament to set up a 'committee of independent experts' to examine the issue, launch an 'impartial' investigation into reported cases and 'implement the most severe sanctions where necessary, while supporting and providing legal advice to the victims, if the cases potentially involve punishable behaviour.' The resolution also focused on another crucial element that needs to be used as guidelines in every workplace to guarantee minimum standards of protection to all workers when it comes to situations of harassment: mandatory training against sexual harassment for all employees, including those in high positions, as sexual harassment occurs mostly due to the abuse of power.

These demands were reiterated in the EP Resolution 2018/2055 of November 2019, also confirming the support of newly elected members of the EP (RSP) to the goals of #MeTooEP.

³⁷ More detail can be found on: <https://metooep.com/>

Partnership

ActionAid Italia, Italia

Istituto per la Ricerca Sociale (IRS), Italia

Rel.Azioni Positive Società Cooperativa Sociale, Italia

Center for Sustainable Communities Development, Bulgaria

Fondation Agir Contre l'Exclusion (FACE), Francia

Women's Center Of Karditsa (WCK), Grecia



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