



EQUALITY BETWEEN MEN AND WOMEN

Equality between women and men is one of the objectives of the European Union. Over time, legislation, case law and changes to the Treaties have helped shore up this principle and its implementation in the EU. The European Parliament has always been a fervent defender of the principle of equality between men and women.

LEGAL BASIS

The principle that men and women should receive equal pay for equal work has been enshrined in the European Treaties since 1957 (today: Article 157 of the Treaty on the Functioning of the European Union (TFEU)). Article 153 TFEU allows the EU to act in the wider area of equal opportunities and equal treatment in matters of employment and occupation, and within this framework Article 157 TFEU authorises positive action to empower women. In addition, Article 19 TFEU enables the adoption of legislation to combat all forms of discrimination, including on the basis of sex. Legislation against trafficking in human beings, in particular women and children, has been adopted on the basis of Articles 79 and 83 TFEU, and the Rights, Equality and Citizenship programme finances, among others, measures contributing to the eradication of violence against women, based on Article 168 TFEU.

OBJECTIVES

The European Union is founded on a set of values, including equality, and promotes equality between men and women (Articles 2 and 3(3) of the Treaty on European Union (TEU)). These objectives are also enshrined in Article 21 of the Charter of Fundamental Rights. In addition, Article 8 TFEU gives the Union the task of eliminating inequalities and promoting equality between men and women through all its activities (this concept is also known as ‘gender mainstreaming’). The Union and the Member States have committed themselves, in Declaration No 19 annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, ‘to combat all kinds of domestic violence [...], to prevent and punish these criminal acts and to support and protect the victims’.

ACHIEVEMENTS

A. Main legislation

EU legislation, mostly adopted by the ordinary legislative procedure, includes:



- Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security;
- Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding;
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;
- In 2006, a number of former legislative acts were repealed and replaced by Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006^[1] on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). This directive defines direct and indirect discrimination, harassment and sexual harassment. It also encourages employers to take preventive measures to combat sexual harassment, reinforces the sanctions for discrimination, and provides for the setting-up within the Member States of bodies responsible for promoting equal treatment between women and men. At present, Parliament is seeking the revision of this directive as regards provisions on equal pay^[2] and has adopted an implementation report on the basis of several studies commissioned by the European Parliamentary Research Service (EPRS);
- Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC;
- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC;
- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. This directive provides for the approximation of sanctions for trafficking in human beings across Member States and of support measures for victims, and calls upon the Member States to 'consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation [...] with the knowledge that the person is a victim [of trafficking]' in order to discourage demand; it also establishes the office of the European anti-trafficking coordinator;
- Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 establishing the European Protection Order with the aim of

[1]The recast directive also repeals Directive 76/207/EEC, which had been amended by Directive 2002/73/EC.

[2]See European Parliament resolution of 24 May 2012 with recommendations to the Commission on application of the principle of equal pay for male and female workers for equal work or work of equal value — OJ C 264E, 13.9.2013, p. 75.



protecting a person ‘against a criminal act by another person which may endanger his [or her] life, physical or psychological integrity, dignity, personal liberty or sexual integrity’ and enabling a competent authority in another Member State to continue the protection of the person in the territory of that other Member State; this directive is reinforced by Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters, which ensures that civil protection measures are recognised all over the EU;

- Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

B. Progress in case law of the Court of Justice of the European Union (CJEU)

The CJEU has played an important role in promoting equality between men and women. The most notable judgments have been:

- Defrenne II judgment of 8 April 1976 (Case 43/75): the Court recognised the direct effect of the principle of equal pay for men and women and ruled that the principle not only applied to the action of public authorities but also extended to all agreements which are intended to regulate paid labour collectively;
- Bilka judgment of 13 May 1986 (Case C-170/84): the Court ruled that a measure excluding part-time employees from an occupational pension scheme constituted ‘indirect discrimination’ and was therefore contrary to former Article 119 of the EEC Treaty if it affected a far greater number of women than men, unless it could be shown that the exclusion was based on objectively justified factors unrelated to any discrimination on grounds of sex;
- Barber judgment of 17 May 1990 (Case C-262/88): the Court decided that all forms of occupational pension constituted pay for the purposes of former Article 119 and the principle of equal treatment therefore applied to them. The Court ruled that men should be able to exercise their pension rights or survivor’s pension rights at the same age as their female colleagues;
- Marschall judgment of 11 November 1997 (Case C-409/95): the Court declared that a national rule which, in a case where there were fewer women than men in a sector, required that priority be given to the promotion of female candidates (‘positive discrimination’) was not precluded by Community legislation, provided that the advantage was not automatic and that male applicants were guaranteed consideration and not excluded a priori from applying;
- Test Achats judgment of 1 March 2011 (Case C-236/09): the Court declared the invalidity of Article 5(2) of Council Directive 2004/113/EC as being contrary to the principle of equal treatment between men and women in the access to and supply of goods and services. Consequently, for men and women, the same system of actuarial calculation has to be applied to determine premiums and benefits for the purposes of insurance.



- Korwin-Mikke judgment of 31 May 2018 (Cases T-770/16 and T-352/17): the Court ruled in favour of annulling the penalties imposed on Polish far-right MEP [Janusz Korwin-Mikke](#) by the European Parliament over a series of controversial comments made in plenary. In its ruling, the Court stated that, while freedom of expression constituted a fundamental right that had to be protected, under Parliament's Rules of Procedure the institution could only penalise MEPs if their comments 'undermine[d] its proceedings or pose[d] a serious threat to society, such as incitement to violence or racial hatred'. In this context, the Rules of Procedure have recently been modified. The Code of Appropriate Behaviour for Members of the European Parliament in Exercising their Duties was adopted by the Bureau on 2 July 2018 as an annex to the new Rules of Procedure.

C. Latest developments

Below is an overview of the most recent action taken by the EU in the field of equality between men and women.

1. The multiannual financial framework (MFF 2014-2020) and the Rights, Equality and Citizenship programme

The Rights, Equality and Citizenship programme finances projects aimed at achieving gender equality and ending violence against women (Regulation (EU) No 1381/2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020). Together with the Justice Programme (Regulation (EU) No 1382/2013), it has been attributed EUR 15 686 million until 2020 (MFF Regulation 1311/2013) and consolidates six programmes of the 2007-2013 funding period, among them the [Daphne III Programme](#) (Decision No 779/2007/EC) and both the 'Anti-discrimination and Diversity' and 'Gender Equality' sections of the [Programme for Employment and Social Solidarity](#) (PROGRESS) (Decision No 1672/2006/EC).

The annex to Regulation (EU) No 1381/2013 specifies that the promotion of gender equality will be funded together with other anti-discrimination measures under Group 1, to which a share of 57% of the financial allocations is attributed. Combating violence against women is included in Group 2, which has received 43% of the programme's overall financial envelope.

For 2019, budget line 33 02 02 (promoting non-discrimination and equality) has been allocated EUR 37 262 000 in commitment appropriations, which represents an increase in payments compared with 2015, 2016, 2017 and 2018, and means that the implementation of this programme is advancing. In addition, budget line 33 02 01 (ensuring the protection of rights and empowering citizens) has been allocated EUR 27 164 000 to contribute, among other objectives, to combating and protecting against all forms of violence against women. This figure also represents an increase from the 2018 allocation.

A study published in autumn 2016 at the request of the European Parliament's Committee on Women's Rights and Gender Equality (FEMM) provides an overview of the EU budget spent on gender equality^[3] in selected Member States.

[3][http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571393/IPOL_STU\(2016\)571393_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571393/IPOL_STU(2016)571393_EN.pdf)



2. The European Institute for Gender Equality (EIGE)

In December 2006, the European Parliament and the Council established a European Institute for Gender Equality, based in Vilnius, Lithuania, with the overall objective of contributing to and boosting the promotion of gender equality, including gender mainstreaming in all EU and national policies. It also combats discrimination based on sex and raises awareness on gender equality by providing technical assistance to the EU institutions through collecting, analysing and disseminating data and methodological tools (see the EIGE's online Resource and Documentation Centre: <http://eige.europa.eu/content/rdc>).

3. The EIGE as chair of the Justice and Home Affairs (JHA) agencies' network

In 2018 the EIGE chaired the Justice and Home Affairs (JHA) agencies' network. The network was established in 2006 and is made up of nine EU agencies working on a range of justice and security issues, such as migration and border management, combating drug trafficking, organised crime and human trafficking, human and fundamental rights, and gender equality. Throughout 2018, the network examined the impact of digitalisation in the agencies' respective areas of activity, with a specific focus on the different ways in which technology is affecting young women and men. The results of this research demonstrate how agencies can help to negate risks, ensure security and foster equality in Europe. The network's 2018 final report and findings were presented at the March 2019 FEMM Committee meeting and are available online (<https://eige.europa.eu/publications/eu-justice-and-home-affairs-agencies-cooperation-2018-final-report>).

4. The Women's Charter and the Strategic engagement for gender equality 2016-2019

On 5 March 2010, the Commission adopted the Women's Charter with a view to improving the promotion of equality between women and men in Europe and throughout the world^[4].

In December 2015, the Commission published the [Strategic engagement for gender equality 2016-2019](#)^[5] as a follow-up and prolongation of the Commission Strategy for equality between men and women (2010-2015)^[6].

The Strategic engagement focuses on the following five priority areas:

- [Increasing female labour market participation and equal economic independence](#);
- [Reducing the gender pay, earnings and pension gaps and thus fighting poverty among women](#);
- [Promoting equality between women and men in decision-making](#);

[4]<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:em0033>

[5]Commission Staff Working Document – Strategic engagement for gender equality 2016-2019 (SWD(2015) 0278).

[6]The reflections on the next strategy started in September 2014 with a workshop entitled 'A new strategy for gender equality post-2015', which launched the preparation of the FEMM Committee's own-initiative report leading to the adoption of Parliament's resolution of 9 June 2015 on the EU Strategy for equality between women and men post 2015 (OJ C 407, 4.11.2016, p. 2). The contributions to the workshop are available on the European Parliament's website.



- [Combating gender-based violence and protecting and supporting victims](#);
- [Promoting gender equality and women's rights across the world](#).

5. Gender Action Plan 2016-2020

On 26 October 2015, the Council adopted the 'Gender Action Plan 2016-2020'^[7], based on the Commission and the European External Action Service (EEAS) Joint Staff Working Document on 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020'^[8]. The new Gender Action Plan stresses 'the need for the full realisation of women's and girls' full and equal enjoyment of all human rights and fundamental freedoms and the achievement of gender equality and the empowerment of women and girls'.

6. Sustainable Development Goals

The United Nations General Assembly adopted on 25 September 2015 the resolution on the post 2015 development agenda entitled 'Transforming our world: the 2030 Agenda for Sustainable Development'^[9]. The 2030 Agenda entails 17 Sustainable Development Goals (SDGs) and 169 targets, which came into force on 1 January 2016. The SDGs are built on the Millennium Development Goals (MDGs). However, in contrast to the MDGs, which were intended for action in developing countries only, the SDGs apply to all countries. SDG 5 'Achieve gender equality and empower all women and girls' contains five targets.

7. EU accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)

The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which came into force in 2014, is the first legally binding international instrument on preventing and combating violence against women and girls at international level. It establishes a comprehensive framework of legal and policy measures for preventing such violence, supporting victims and punishing perpetrators. As of November 2017, it has been signed by all EU Member States, and has been ratified by 17 of them as of March 2018 (Austria, Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Italy, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain and Sweden). The Convention also provides for EU accession, to the extent of its competences.

In October 2015, the European Commission issued a roadmap on possible EU accession to the Istanbul Convention and followed it up in March 2016 with two proposals for Council decisions, one on the signing and the other on the conclusion (ratification), on behalf of the European Union, of the Istanbul Convention.

Following debates in the Council, it was decided that the draft decision on the signing of the Convention should be divided into two decisions, one covering judicial cooperation in criminal matters and the other asylum and non-refoulement. These two Council decisions were adopted in May 2017, following which the EU Commissioner for Justice,

[7]Council Conclusions on the Gender Action Plan 2016-2020, 26 October 2015.

[8]21.9.2015, SWD(2015) 0182.

[9]Resolution 70/1 adopted by the UN General Assembly on 25 September 2015.



Consumers and Gender Equality, Věra Jourová, signed the Istanbul Convention on behalf of the European Union on 13 June 2017.

The signature is the first step in the process of the EU joining the Convention. Accession now requires the adoption of Council decisions on the conclusion of the Convention. At Council level, the framework for discussions on the legislative proposals is the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP — interinstitutional file [2016/0063 \(NLE\)](#)), whose discussions are now focusing on a Code of Conduct defining how the EU and its Member States will cooperate on implementing the Convention.

The conclusion of the Accession to the Convention requires the European Parliament's consent.

ROLE OF THE EUROPEAN PARLIAMENT

The European Parliament has played a significant role in supporting equal opportunity policies, in particular through its Committee on Women's Rights and Gender Equality (FEMM). In the area of equal treatment on the labour market, Parliament acts on the basis of the ordinary legislative procedure (codecision), for example regarding:

- The proposal for a directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures ([COM\(2012\) 0614](#)) (see Parliament's position at first reading, adopted at the end of 2013)^[10].
- The revision of Directive 92/85/EEC (see above); at first reading^[11] Parliament advocated a longer period of fully-paid maternity leave, namely 20 weeks^[12]. As there was no agreement reached between Parliament and the Council on the Commission proposal, the Commission has now withdrawn the proposal and replaced it with a roadmap for the initiative 'A new start to address the challenges of work-life balance faced by working families'^[13].

In addition, Parliament contributes to overall policy development in the area of gender equality through its own-initiative reports, and by drawing the attention of other institutions to specific issues, including:

- Combating violence against women by adopting a legislative own-initiative report requesting a legislative initiative on the part of the Commission on the basis of

[10]European Parliament legislative resolution of 20 November 2013 on the proposal for a directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures — OJ C 436, 24.11.2016, p. 225.

[11]European Parliament legislative resolution of 20 October 2010 on the proposal for a directive of the European Parliament and of the Council amending Council 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 — OJ C 70E, 8.3.2012, p. 162.

[12]For a comparative analysis of the legal provisions in the Member States, please see the European Parliament's Policy Department C, Citizens' Rights and Constitutional Affairs report entitled 'Maternity, paternity and parental leave: data related to duration and compensation rates in the European Union', published in 2015 and available on the European Parliament's website.

[13]http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_just_012_new_initiative_replacing_maternity_leave_directive_en.pdf



Article 84 TFEU promoting and supporting the action of Member States in the field of prevention of violence against women and girls (VAWG); this resolution includes a number of recommendations^[14], and the FEMM Committee has established a special working group to follow up this resolution;

- International Women’s Day 2019 focused on women’s power in politics. The topic chosen is at the heart of women’s rights because it defines women’s capacity to participate in and decide on the collective governance of our societies. Equality between women and men is one of the objectives of the European Union. Over time, legislation, case law and changes to the Treaties have helped to shore up this principle and its implementation in the EU. The European Parliament has always been a fervent defender of gender equality and this event highlights the importance of women’s presence in politics, particularly within the framework of the upcoming European elections;
- European Parliament recommendation to the Council on the EU priorities for the 62nd session of the UN Commission on the Status of Women (CSW), calling for the empowerment of rural women and for access of women to the media and information and communications technologies, and their impact on and use as an instrument for women’s advancement^[15]. A delegation from the FEMM Committee attended the UN CSW in March 2018.

Parliament is also seeking gender mainstreaming in the work of all its committees^[16]. To this end, two networks on gender mainstreaming have been established, which are coordinated by the FEMM Committee. The network of Chairs and Vice-Chairs for Gender Mainstreaming brings together MEPs who support the introduction of a gender dimension into the work of their respective committees. They are supported by a network of Gender Mainstreaming Administrators in each committee secretariat. The High-Level Group on Gender Equality promotes training and awareness-raising about gender mainstreaming among the staff of the European Parliament and the political groups.

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[14]European Parliament resolution of 25 February 2014 with recommendations to the Commission on combating violence against women — OJ C 285, 29.8.2017, p. 2.

[15]European Parliament recommendation of 1 March 2018 to the Council on the EU priorities for the 62nd session of the UN Commission on the Status of Women – OJ C 129, 5.4.2019, p. 58.

[16]European Parliament resolution of 13 March 2003 on gender mainstreaming in the European Parliament — OJ C 61E, 10.3.2004, p. 384.

