

Akdeniz University
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A Comparative Study to Show Resemblances in Gender Policies of the EU Member States
that Derive From *Acquis Communautaire* Obligations and to Reflect Their Differences Which
Arise From Diversified Political and Socio-Economic Conditions

Joint Master's Programme European Studies Master Thesis

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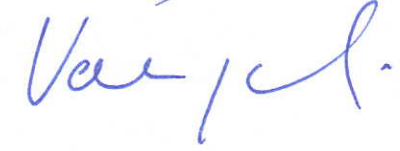
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LIST OF ABBREVIATIONS

CEDAW	The Convention on Elimination of All forms of Discrimination against Women
CEE	Central and Eastern Europe
CEEC	Central and Eastern European Countries
CEEP	The European Centre of Employers and Enterprises providing Public Services
CJEU	The Court of Justice of the European Union includes; ECJ, the General Court (previously the Court of First Instance) and specialised courts
EC	The European Community
ECJ	The European Court of Justice
EEC	The European Economic Community
ETUC	The European Trade Union Confederation
EU	The European Union
FEMM	The Committee on Women's Rights and Gender Equality in the European Parliament
FRG	The Federal Republic of Germany / West Germany
GDR	The German Democratic Republic / East Germany
GDP	Gross Domestic Product
ILO	International Labour Organisation
LPD	Law on Protection against Discrimination
NGOs	Non-Governmental Organisations
QMV	Qualified Majority Voting
SEA	The Single European Act
UN	United Nations
UNICE	Union of Industrial and Employers' Confederations of Europe (now BUSINESSEUROPE)

ABSTRACT

In a regular nation state, market policies and social policies are always in a political competition at the very same constitutional level. However in Europe, European integration created a fundamental asymmetry between policies promoting market efficiencies and those promoting social protection and equality, i.e. social policies remained at national level while market policies are progressively europeanised therefore, social policies are politically hindered by the diversity of national welfare traditions and society structures. As a predicament that causes problems for all EU Member States, ‘gender inequality’ had become a problem at European level. Thus, ‘Gender Equality’ has become an indispensable element of the Acquis Communautaire and a key aspect of embraced European values. Yet, diversified socio-economic and political structures of the Member States can cause reproduction of different approaches and/or implementations of obligatory EU policies. In this sense, this study examines the ways that these varied structures of the Member States affect the implementation of gender equality obligations derived from the EU law; and tries to uncover the reasons why national gender equality frameworks among some member states stand still and why they advances in others, whereas the same obligatory EU policies create ‘Europeanised gender policies’ at national level in the most recent Member States.

Keywords: Gender Equality, European Union Gender Policies, the Nordic Model, Welfare State, Europeanisation, Sweden, Germany, Bulgaria

ÖZET

Ulusal devlette piyasa politikaları ve sosyal politikalar eşit anayasal seviyede rekabet halindedir. Fakat Avrupa entegrasyon süreci, Avrupa Birliği üyesi devletlerdeki bu rekabette bir asimetri yaratmıştır: Ulus devletlerin pazar politikaları giderek avrupalılaştırılırken, sosyal koruma ve eşitlik politikaları ulusal mevzuat seviyesinde bırakılmıştır bu sebeple sosyal politikaların gelişimi, AB üye devletlerinin farklı sosyal yapı ve refah sistemleri nedeniyle siyasi olarak aksamıştır. Tüm AB üyesi devletlerde soruna yol açan bir kavram olarak ‘Toplumsal cinsiyet eşitliği’, zamanla Avrupa hukuku seviyesinde ilgilenilen bir problem haline gelmiştir. Böylece ‘Toplumsal cinsiyet eşitliği’, Avrupa Birliği Müktesebatının vazgeçilmez bir unsuru ve Avrupa değerlerinden bir parçası haline gelmiştir. Fakat yine de AB üye devletlerinin birbirinden farklı sosyoekonomik ve siyasi yapılanmaları, AB Hukukunun uygulanması zorunlu politikalarına karşı farklı yaklaşımların türetilmesine sebep olabilir. Bu bağlamda bu çalışma, AB üye devletlerinin farklı yapılanmalarının AB ‘Toplumsal cinsiyet eşitliği’ politikalarının uygulanmasında ne gibi farklılıklara yol açtığını; AB mevzuatının son üye devletlerde avrupalılaştırılan ‘Toplumsal cinsiyet eşitliği’ politikaları yaratırken, eski üye devletlerin bazılarında nasıl aynı kalırken bazılarında neden ilerleme kat ettiği incelemiştir.

Anahtar Kelimeler: Toplumsal Cinsiyet Eşitliği, Avrupa Birliği Toplumsal Cinsiyet Politikaları, Kuzey Avrupa Sosyal Devlet Modeli, Sosyal Devlet, İsveç, Almanya, Bulgaristan

INTRODUCTION

Action of women and men are involved each and every field of economy. If we determine a macroeconomic perspective, economic theories lead us to following topics as pertinent areas: Growth, employment, inflation, business cycles, interest rates, external and internal trade, etc. On the other hand, if we determine a microeconomic perspective, then household, income distribution, enterprises, prices, markets, market equilibrium, economic behaviour etc. would constitute our range of topics. However, can we consider “gender” as a significant category when we analyse economy? Is “gender” a determinant? Are women and men affected equally by economy? Is there any condition that allows us to disregard “gender”? Both women and men act as economic agents in markets (labour market, goods market and services market, capital market), in families (households) and in firms (employees, employers). If only we could be certain that women and men have equal status, equal access to and equal rights in economic affairs, only then gender would not be an indicator in analysis.

During the last two centuries - that saw many wars, many economies move from being dependent on agriculture to industry then to a predominance of services¹ - we have seen huge developments in science, technology, knowledge, health, literacy, life expectancy and political participations, etc. albeit women were excluded from economy and from being economic agents: Economic theories gave attention to markets and paid work and attribute the notion of “reproductive work” (childbearing, childrearing, doing housework, etc.) to women which has no economic value but needs *homo oeconomicus* as an economic agent. This inequality has existed for decades thereby been helpful to inflame a debate on human rights of women.

According to mainstream neoclassical approach, freedom of men to focus on paid labour and the burden of women to do unpaid work within the household constituted the gender-based division of work and belonged to the belief in the quality of rational choices which guarantee an optimum of economic efficiency and, as a consequence of rational choice, it could be rationalised that men form paid labour and professional work sphere instead of wasting time in the household and that women form unpaid work within the household; not in the market oriented labour. However, because of increasing number of women in paid work as employees, economic theories that assign roles for women only in family, home and unpaid work field faced another challenge.

¹ M. F. Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.3

Since the early 1960s, there is a growing interest in inclusion of housework into economic indicators and data collection methods while analysing welfare and economic growth therefore it can be concluded that there had been a change in economic theories and there was indeed growing number of scientific works in western countries to²:

- (a) develop theoretical models that include the two genders
- (b) analyse economic policies to develop empirical work that addresses similarities and differences between two genders
- (c) affect the genders differently or may have intended or non-intended gender effects

Some of the abovementioned scientific works are based on the traditional neoclassical economic modelling and if we summarise the arguments of neoclassical theory with an approach of division of labour between women and men, they can be put in order as follows³:

- (a) new home economics - gender specific division of housework and paid work is seen as a result of specialisation and exchange
- (b) Allocation of time between the household and the labour market - why women's position in the labour market is weaker than men's (life cycle theories)
- (c) Human capital investments - why women earn less than men (supply side and demand side explanations)
- (d) Lower productivity - statistical discrimination as a result of employer's, male colleagues' and/or customers' behaviours
- (e) Labour market theories - why women get the worse paid jobs, have relatively lower wages, higher labour market risks and are therefore well advised to do the housework and to marry a breadwinner (man).

This study is organised in three main parts. It firstly tries to give an insight regarding gender equality; sets out the definitions of our main concepts 'gender' and 'welfare state', clarifies the relationship in-between and rationalise a conceptual framework to assess welfare state from a gender perspective. Within this framework, subtopics examine welfare state arrangements in areas of care, work and welfare. Secondly, it looks into gender policies at European level; its main goal is to depict evolvement of gender policies during European Integration, thereby the chapter is organised in a methodical manner. Third chapter develops the empirical framework of the study; it consists of a comparative study to show the way that diversified welfare traditions and society structures affect implementations of gender policies. The first subtitle focuses on Europeanisation at national level in the newly EU Member States (CEEC) and as a case study, focuses on Bulgaria to reflect Europeanisation of gender policies

² Friederike Maier, *Women's Work and Economic Development*, in *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, Regina Becker-Schmidt (Ed.), (Leske+Budrich, Opladen, 2002), P. 83.

³ Ibid. P. 85

at national level. Subsequently, research tries to clarify in what way diversified socio-economic and political conditions of the Member States affect the implementation of gender equality obligations derived from the EU law; to uncover differentiation of national gender equality frameworks among older EU member states (on a sampling of Germany and Sweden) and the reasons why women's situation stand still in some Member States while it still advances in the Nordic Countries.

Treating gender in a systematic way requires understanding of gender aspect of social roles and awareness of the way states shape and respond to gender-based roles and power relations among individuals. Thus, key elements of gender equality policies - paid work, unpaid work, time, income gap and voice/power- were examined as indicators for each case and exposing to both European political and economic integration is treated as a common denominator of the comparison, even though the timeline for EU Accession is different for each state. In this regard, the study includes three European Union Member States: Bulgaria, as one of the latest EU Member States; Germany, as one of the oldest European Union Member States and Sweden; as one of the Nordic countries. In conclusion, findings are reviewed and assessment of the study is presented.

1. GENDER AND THE WELFARE STATE: HOW DOES WELFARE STATE AFFECT GENDER EQUALITY POLICIES?

1.1 Definition of Gender

It should be reminded that within the most of abovementioned studies, “gender” is used as synonym to “sex”. Martha F. Loutfi also highlights that ‘gender’ is not (and should not be used as) equivalent to “female” or a euphemism for ‘sex’⁴. Later on, the difference between “sex” and “gender” was clarified: As Mary Daly highlights, sex is related to the biological differences between women and men and “sex as a biological distinction provides a basic building block from which social processes act to mould socio-economic and other differences between women and men⁵” but gender, treated as a category for sociological analysis, refers to “inequality processed and relations that create, sustain and change systems of social organisation⁶” and includes the arrangements of cultures to sex differences.

According to Martha F. Loutfi⁷, gender refers to the social constructs - the institutions - that greatly influence our behaviour and interactions. She also highlights that gender roles are derived from sex and stereotypes created by the culture and society in which we live; and puts forward that gender constitutes the main reason of the differences between women and men in concerning areas - such as income, life expectancy, and educational attainment - and can be seen and measured; and redressed.

In most of the world, these above-mentioned stereotypes lead people to consider women as “nurturing, caring, emotionally accessible and socially concerned and men, on the other hand, as assertive, pragmatic, emotionally detached and ego-involved⁸” and encumber responsibilities to men such as protecting and supporting women in their duties with child care and household. However, even though the “economic man” thought is universal, these different obligations of women and men are not; there is a wide range of diversity. For instance, economic policies/theories in Eastern/Socialist countries had already integrated women into paid work and socialised parts of household work through publicly financed services like child care services before western countries. However, in general, these

⁴ Martha Fetherolf Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.4

⁵ Mary Daly, *The Gender Division of Welfare - The Impact of the British and German Welfare States* (Cambridge University Press, 2000), P.7

⁶ Cynthia D. Anderson, *Understanding the Inequality Problematic: from Scholarly Rhetoric to Theoretical Reconstruction*, 1996, Gender and Society vol. 10 no. 6 P. 733, In: Mary Daly, *the Gender Division of Welfare - the Impact of the British and German Welfare States* (Cambridge University Press, 2000), P. 6.

⁷ Martha Fetherolf Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.4

⁸ Laura Rioli Saltzman, *Gender Equality in Eastern Europe: a Cross-Cultural Approach*, In: Michel E. Domsch/Desiree H. Ladwig/ Eliane Tenten, *Gender Equality in Central and Eastern European Countries*, (Peter Lang GmbH, 2003), P.60.

stereotypic approaches set the background in the workplace - and generally in cultures - for the different treatment of women and men, such as low payment for equal work, etc.

After the second wave of women's movement (1960s-1980s), disputes on "gender equality" have escalated but there is not only one "gender equality model". Rees proposes three different models of Gender Equality⁹:

- (a) first gender equality model, described by Rees as "tinkering" with gender equality, takes "sameness" as a base, particularly where women enter previously concerned as male domains and existing male norm remains as standard to also apply to women
- (b) second gender equality model, described by Rees as "tailoring", includes equal valuation of existing and different contributions of women and men in a gender segregated society; comprises specific programmes designed around women's perceived special needs
- (c) third gender equality model, described by Rees as "transformation of gender relations", consist of new standards for both women and men which replace the segregated institutions and standards associated with masculinity and femininity

1.2 Definition of the Welfare State

The welfare state has been conceptualised by a wide range of social scientist and examined with many varied approaches thereby a clear definition is crucial. In this part, the most common and appreciated definitions among social scientists are stated.

After the Second World War, the phenomenon of 'welfare state' is developed as a macro-sociological institution to adjust a fair distribution of income, life chances and power through a set of social and economic policies. The concept of 'welfare state' derives from nation states' commitments to grant "citizens social rights and claims on government, and guarantees to uphold the welfare of the social community¹⁰". In a nutshell, it might be considered as 'state measures to protect and promote welfare of citizens'.

According to social policy literature, the welfare state focuses on a set of public policies and services such as social security, education, health, etc. The welfare state, as a set of policies which have their own agency, operates either in concert or conflict with other forces. This literature supports the idea of 'equivalence of institutional form of social policies and the welfare state, albeit administrative and contextual divergences between social programmes of different nation states do exist.

⁹ T. Rees, *Mainstreaming Equality in the European Union, Education, Training and Labour Market Policies* (London, 1998), In: *Gender and Work in Europe: Rethinking Concepts and Theories*, Sylvia Walby, In: *Made in Europe: Geschlechterpolitische Beiträge zur Qualität von Arbeit*, Julia Lepperhoff / Ayla Satilmis/ Alexandra Scheele (Hrsg.), P.25.

¹⁰ G. Esping-Andersen, *Welfare States and the Economy*, 1994, In: N.J. Smelser and R. Swedberg (Eds.), *The Handbook of Economic Sociology*, Princeton University Press, (Princeton, 1995), P.712.

Secondly, there is a definition which arises from political economy that conceptualises 'welfare state' as a specific state model: This approach defines 'welfare state' as a substance of relations of power; examines it with a wider approach of democratisation, state building within the limits of outcomes of its programmes for classes and economic actors. Although it has a broader perspective, it narrows 'power' mainly into the formal political arena and ignores its importance within the family concept. Such an inclination neglects women's political agency and the influence of women's movement on the development of welfare state concept¹¹.

Thirdly, there is the definition that originated from the approach of viewing 'welfare state' as an 'ideological mechanism'. These views have been subject to various understandings, for instance Marxist writing has highlighted the welfare state's legitimisation of interest of capital and interpreted social interventions as a machinery to silence social protest, defining and controlling unusual actions and in so doing maintaining social division.

Lastly, 'welfare state' is defined in a much broader concept: It has been acknowledged as a particular society "in which the state intervenes within the processes of economic reproduction and distribution to reallocate life chances between individuals and/or classes¹²". In this context, Pierson underlines the position of the welfare state in a wider social order as a social transformation agent. According to his definition, reorganisation of life chances emerges as a result of welfare state intervention and it draws attention to the welfare state's redistributive effect. Since this approach implanted in society itself, contrary to abovementioned definitions, we can assume the 'welfare state' as social as an economic actor. Since a comparison is involved in the present study, there must be a comprehensive definition that can contain all diversities among included national settings in the study. Even it seems more akin to our approach, the definition of welfare state as 'part of society' is not sufficiently comprehensive and should be extended further: Combining the conceptualisations of welfare state as 'ideological process' and 'being part of society' includes both normative processes and power relations.

The crucial role of the 'welfare state' is to create and underpin specific set of social values which has a subpart of values attached to social roles like carer, worker, etc. therefore it forms abovementioned power relations. In operation, the welfare state should be emphasised as a "site of struggle, with economic, cultural and other forms of power relations ongoing in

¹¹ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.34

¹² C. Pierson, *Beyond the Welfare State? The New Political Economy of Welfare*, Cambridge, (Polity Press, 1991), P.7

welfare¹³ and as a politicised domain which lead us to formulate a research around a view of the state and its location within power relations. Furthermore, different responsibilities of the welfare state in the areas of redistributive, political and social processes diversify cross-national and it helps us to examine the role of the welfare state in the regulation, production, distribution and politicisation of welfare. Besides, the participation of non-state actors and institutions (mostly the labour market and family) in welfare provision also has an effect on varied national frameworks.

1.3 The relationship between Gender and the Welfare State

Since the late 20th century, influence of the welfare state on ‘family’ and ‘private’ social relations has gradually increased thereby one can conclude that the social roles that attached to being woman or man, married or single, young or old is decisively affected by the welfare state¹⁴. As W. Korpi¹⁵ approaches the welfare state as an agent shaping gender relations and puts forward that conceptualising the meaning and functioning of the processes of the way welfare state measures affect distributive processes is what we need to analyse these processes. However, it does not mean that gender relations are formed only by the welfare state or a uniform way of responding of women and men to distributive processes exists.

The welfare state is the key social agent that reconciles household or family and the market this relationship should be emphasised in broader terms. Individual life courses and well-being constitute the nexuses of these spheres which are graphically represented in Figure1:

¹³ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P. 165

¹⁴ M. Daly, *The Gender Division of Welfare: The Impact of the British and German Welfare States*, (Cambridge University Press, 2000), P.1

¹⁵ W. Korpi, *Social Policy and distributional Conflict in the Capitalist Democracies: a Preliminary Comparative Framework*, West European Politics Vol.3 Issue: 3, (1980), pp. 296-316, P.297

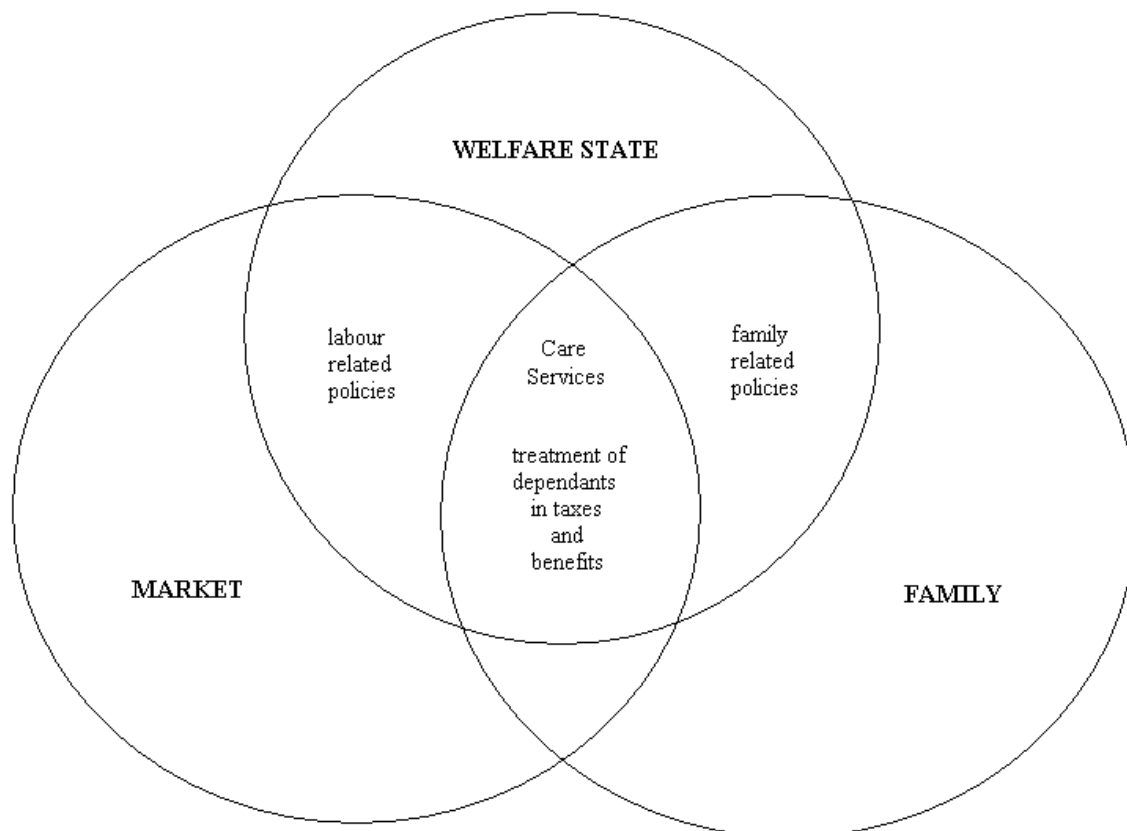


Figure 1.1¹⁶: Interrelations Between Welfare State, Family and Market

Since these three interactive spheres attach income security to family status and relations between women and men, one can conclude that welfare state provisions are ‘classed’ and ‘gendered’¹⁷. Policies concerning family usually occur as support of families with children and labour related policies arrange the linkages between the market and the state. The most complex policies are of course the conjunction between three spheres, where the class and gender interact: Within this conjunction, policies and processes affect the distribution of resources and opportunities between women and men through income compensation/cash transfers, taxation, care-related social services, etc. It can also be concluded that separation of paid work from unpaid work nest among the outcomes of the structure.

The greatest contribution of Esping-Andersen to scholarship is the amplification of axes of deviation of welfare state dimensions with their stratificational outcomes. However, his work provoked criticism both for its regime types and for how it classifies individual countries, even though he puts forward the most systematic and broad-ranging conception of regime

¹⁶ Figure is taken from “*the Gender Division of Welfare: The Impact of the British and German Welfare States*, Mary Daly, Cambridge University Press, 2000, P.9.

¹⁷ Ibid. P.9

type¹⁸. As a positive impact of these criticisms, critiques of feminist literature escalated the number of studies on the welfare state and constitute engagements between feminist and conventional approaches.

Conceptualising the relationship between the welfare state and gender contains two main missions: integrating the family and taking account of the situation of women, in its own right and as it compares to that of men. It mainly lies upon the definitions of ‘gender’ concept. There have been studies arose as part of these commitments and derived from the wish to develop a gender-specific typology: Lewis and Ostner¹⁹ and Lewis²⁰ examined the organisation of welfare state from a gender perspective and their work have brought into light the fact that conclusions regarding the role of women are included in welfare policies and their outcomes²¹.

In these studies, the central question was whether compared European welfare states recognise and consider women only as wives and mother and/or as workers. According to her findings, the general tendency is to treat women as mothers. In sum, it can be stated that the dichotomous treatment of women by welfare systems generally tends to define women’s role in terms of family rather than their status as individuals. In accordance with her findings, Lewis forms a three-fold categorisation of European Welfare States which is still considered as the most significant typology in the gender-focused welfare literature: those with strong, moderate and weak breadwinner models.

What constitutes a ‘gender-friendly’ approach to the welfare state? As said by M. Daly, a gender-friendly approach to the welfare state “must capture the material resources provided by the state to women and men as individuals and as members of families, the conditions under which redistribution is effected between them and the outcomes in terms of gender-based processed of stratification²²,” and she follows three analytical directions that derive from this: Conceptualising the relevant dimensions of welfare state provision; imagining the processes that are set in train by welfare state arrangements; and modelling the outcomes that follow from these provisions then next, she demonstrates her overall approach to these questions with a graphic.

¹⁸ M. Daly, *The Gender Division of Welfare: The Impact of the British and German Welfare States*, (Cambridge University Press, 2000), P.49

¹⁹ J. Lewis and I. Ostner, *Gender and the evolution of European Social Policies*, In: S. Liebfried and P. Pierson (Eds.), *European Social Policy*, Washington: The Brookings Institution, 1995, pp. 432–66.

²⁰ J. Lewis, *Gender and the Development of Welfare Regimes*, *Journal of European Social Policy*, Vol.2 No: 3, August 1992, pp.159-73.

²¹ For more information, see Appendix V: Table for Conceptual and Empirical Focuses of Works on Welfare State Variation.

²² M. Daly, *The Gender Division of Welfare: The Impact of the British and German Welfare States*, (Cambridge University Press, 2000), P.63

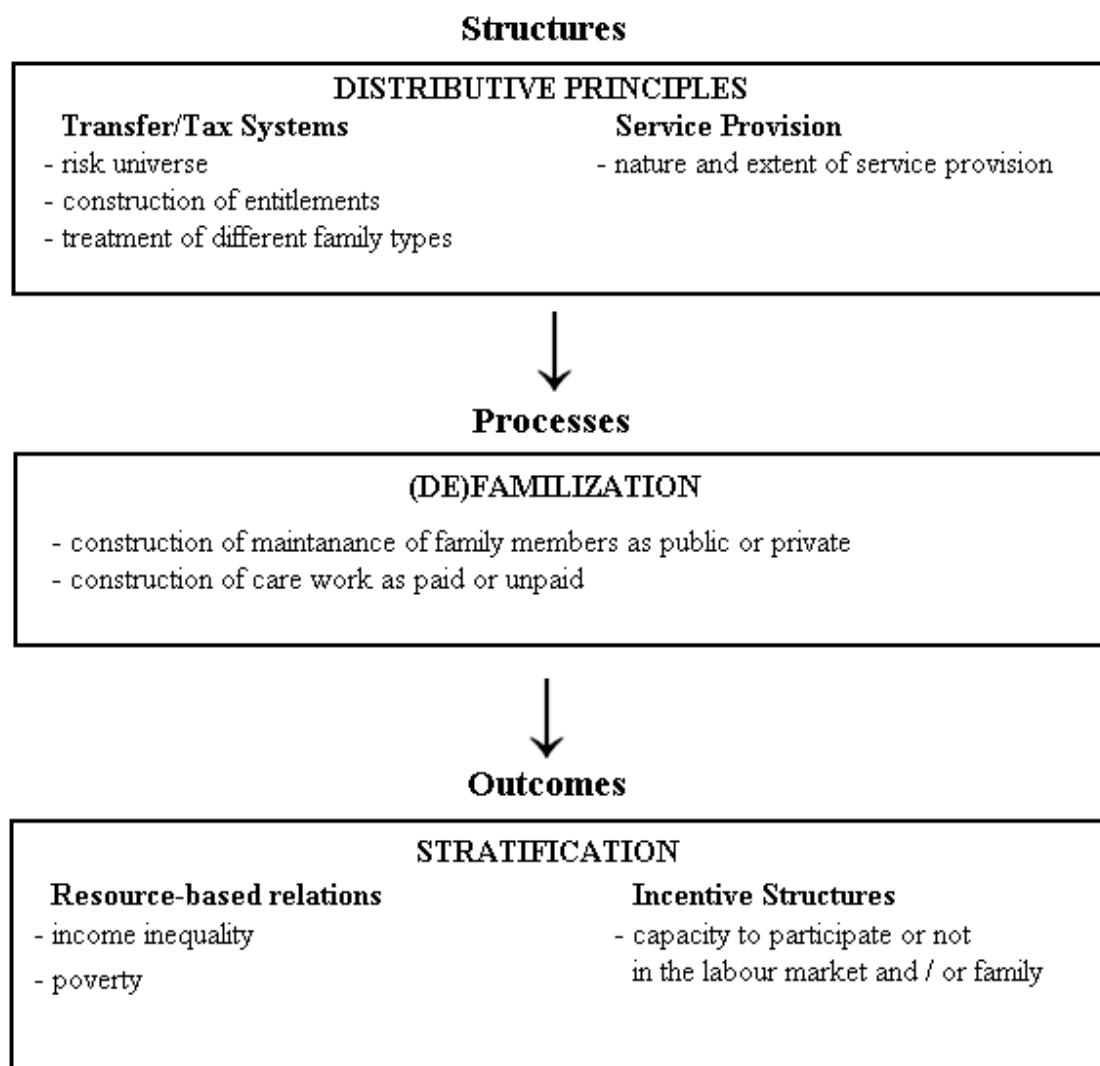


Figure 1.2²³: Welfare State as a Gendered Domain: Conceptual and Empirical Framework

With the concept ‘risk universe’, M. Daly refers to contingencies covered for social protection purposes. According to her, this identification is contained of three dimensions: the range of risk covered; the location and conditions under which risks are covered and the hierarchical relationship between risks. While all individuals, regardless of sex, have risks in common (possibility of interruption or loss of earned income through illness, accident, unemployment or old age), women suffer also from an additional set of risks: Female biological constitution, loss of personal income through pregnancy, and loss of male income (through widowhood, divorce and separation); and loss of personal income through the need to care for others (either adults and/or children).

²³ Figure is taken from “the Gender Division of Welfare: The Impact of the British and German Welfare States”, Mary Daly, 2000, P.64.

Secondly, ‘incentive structures’ concept of the author refers to “capturing the more qualitative effects of state provisions on gender relations”. This concept is close to ‘life chances’ notion of Dahrendorf²⁴ which is defined as ‘opportunities for individual development that are provided by social structure’.

It is a well-known fact that women and men are treated differently when it comes to employment; even the level varies in different welfare regimes, the fact remains the same. In this manner, labour market participation of women and men is always considered as an indicator in comparative studies of welfare states. The baseline question for this kind of measurements is whether the state guarantees the opportunity to participate in the labour market.

The Impact of the welfare state in people’s lives is not vague and can easily be noticed: For instance, it shapes the circumstances, which women and men presume their regarded roles at different stages of life course, particularly regarding power relations therefore it is apparent that ‘gender’ concept crosses ‘public’ and ‘private’ spheres and leads us to deem that the interconnections between ‘gender’ and the ‘welfare state’ comprises material, normative and behavioural aspects which are connected to power relations. In order to uncover this relationship, three lenses which define the quality of social life should be chosen: Care, Work and Welfare. Approaches of the welfare state under these notions are useful to understand the connection between welfare state and gender.

1.4. What does Welfare State do?

First of all, what should be clarified is that research distribution is the most well-known and concrete characteristic of welfare state; it is indeed the *raison d’être* of the welfare state in many countries. However it has essential consequences for social inequality and material well-being: Money transfers alone are not sufficient enough to capture ‘resource distribution’ concept; time, which stands out through care-related benefits and services, is complementary of resource of transfers.

Resource redistribution might be seen comprehensive enough because it corresponds to a kind of power settlement but it does not embrace the implication of power-related matters of welfare state’s activities therefore it leads us to mull over another form of welfare state agency and how welfare state influences the power balance between women and men with its activities.

²⁴ For more detailed information: *Life Chances*: Ralf Dahrendorf, *Approaches to Social and Political Theory*, The University of Chicago Press, 1980.

Since the welfare state is not passive and political competition is innate, welfare state can and does shape power relations; mediates and installs ideas, roles and practices with power that's why reform discussions are indispensable; contradictory ideas and demanding arguments help to shape the welfare state.

If we include gender in the activities of welfare state, conceptualising 'gender' helps us to shed light on social practices that appears in the relationship dynamics between women and men. These practices of gender emerge as access to resources, social roles and above-described power relations and can be observed through the abovementioned lenses (care, work and welfare).

Within the following subparts, care is monitored in terms of the conditions under which the activity of caring for children and the elderly is carried out; work is examined with respect to situations of women and men in the labour market and divisions between paid and unpaid work; and welfare is analysed regarding of distribution of resources for both individuals and families, within the gender lines.

1.5 Framework for Analysing the Gender Concept in Welfare States

1.5.1 Care

Concept of 'care' is defined regard to activities and bond involved in caring for the dependent young, the ill and the elderly; and is formed as interpersonal relations and social exigency or activity in society. Since it is rooted in intimate human relations and activities, there exists moral element and distance it from usual boundaries of work but it is, at the same time, part of and integral to society²⁵.

As an academic concept, it is indeed a field of study, particularly in sociology and social policy and in time becomes an axis of feminist analysis of welfare states. If it is not considered as sweeping statement, it can be stated that care has two main practices in the literature: As a concept utilized to interrogate and account for the life experiences of women (which points out the material and ideological processes that constitutes and validates women's role of carer) and as a tool for the analysis of social policy²⁶.

In the studies that analyse social policies, research questions are mostly related to the way social policies has attempted to manage demand and supply of care and if we consider the

²⁵ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.49

²⁶ M Daly, and J. Lewis, *the Concept of Social Care and the Analysis of Contemporary Welfare States*, British Journal of Sociology, 51 (2), pp. 281-98, P. 282:ff

literature on care overall, there are two main points that need highlighting. First, the place of social policies in determining the structure and outcomes of care: This does not mean that public policies always cover care but when it treats 'care' as a social need, it establishes a substitute vision of women's lives and family life. Second point that needs to be emphasised is the political economy element of care because it is beyond public provisions. Most care is generally provided informally within communities and families by this means political economy factor emerges.

With responding to the needs arose from care, welfare states modifies the division of labour, cost and duties among the state, market, voluntary/non-profit sector and family²⁷. In doing so, care provisions of welfare states recast what were hitherto considered as 'private'.

Since we conceive care as a public policy, therein lies a fundamental problem: it has three newly emerged dimensions: need for services, for time and for financial support, need for actors (who assigned to satisfy the need of care).

It should be illuminated that 'care' can be provided by both state and private sphere: In an over-simplified manner, welfare states can either provide care directly or provide resources to people in order to make them enable to provide care privately. However, the situation in practice is more complex than that. Studied researches on the 'care' policies in Europe show that there are four types of provision and that each has its own compensative methods²⁸:

- (a) Monetary and Social Security Benefits, such as cash payments, credits for benefit purposes, tax allowances. These compensate people financially for either the provision of care or the costs incurred in requiring care.
- (b) Employment-related Measures, such as paid and unpaid leaves, career breaks, severance pay, flexi-time, reduction of working time. Time and income compensation for earnings lost are the main 'goods' conferred by these provisions.
- (c) Benefits or Services provided in kind, such as home helps and other community-based support services, child care places, residential places for adults and children, and so forth. These provide care directly, thereby substituting for private provision.
- (d) Incentives for Provision other than by the State, such as subsidies towards costs, vouchers for domestic employment, and vouchers for children.

As a conclusion, one can say that 'care' policies are the epitome of identification of contemporary social policies and of understanding the involvement of societies and states in shaping the division of labour and responsibility between women and men and the state and

²⁷ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.50

²⁸ Ibid. P.51

the market. Therefore, care provisions shape women's chances to be employed, their financial situation and their late years of their life courses. Thus, gender inequality and moulds of individual and/or family well-being occur as repercussion of care policies of states and vary among countries.

1.5.2 Work

Since the WWII, the economic role of women, in particular to married women and mothers, has been transforming. This ongoing movement of integrating women into paid work has had effects on families in private sphere and at societal level; it has caused changes in social organisation of production and reproduction. Furthermore, "women's integration into paid work has been associated with a restructuring of employment, including the growth of service employment, more diversified working-time arrangements, and new patterns of industrial relations"²⁹, therefore it can be said that differences between welfare states' variations of labour market policies are ascribable to diversified employment policies of states toward women.

Since employment, poverty and financial well-being are at the heart of growth and development, welfare states have always been trying to keep their relationship strong with the labour market. In terms of the relationship between 'employment' and welfare state, focus is on labour supply and their well-being at societal level; while it concentrates on the circumstances that people carry out paid work at micro level therefore 'social insurance' is considered as the core of this relationship. It lies therein because social insurance is treated as a guaranty in occurrence of income loss because of such reasons as illness, accident, unemployment, maternity and old age. As one of the fundamental concepts of welfare state studies, decommodification³⁰ is a measure to determine the requirements which welfare states oblige their citizens in order to grant benefits to them.

Owing to such a characteristic of capturing concerns of both state and labour, decommodification cannot satisfactorily explicate the relationship between 'gender' and labour for the reason that it is based on male breadwinner model; its main focus is cash benefits and disregards other opportunities and finally, has no acquisition on social services.

²⁹ J. Rubery, M. Smith, C. Fagan and D. Grimshaw, *Women's Employment in Europe*, (Routledge, 1999), P. 13, In: M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.70

³⁰ 'Decommodification' concept arises from the idea that in a market economy, citizens and their labour are commoditised. Given that labour is a citizen's primary commodity in the market, decommodification refers to activities and efforts of government which reduce citizen's reliance on both the market and their labour for their financial well-being. In general, unemployment, sickness insurance and pensions are used to measure decommodification for comparisons of welfare states, Esping-Andersen, 1990.

Hence, as a critique of decommodification, feminist approach underlines impacts of welfare state and labour market together on the lives of women and men.

Regarding theorising the interconnection between welfare state and work, feminist study developed two main approaches. The first structure is a comparison of welfare states to assess their work and family relations based on the 'male breadwinner model' main approach. Its research area mainly bases on the dissimilar structures of employment of women and men and their reflections on social policies at national level. Lewis³¹ typified Britain and Ireland as strong; France as moderate; and Sweden as weak male breadwinner model according to her before-mentioned threefold categorisation of European welfare states which she developed to see if European Welfare States distinguish and treat women only as wives or mothers and/or also as workers.

The establishment of labour, work and employment relationship is always influenced by the welfare state but its influence emerges in various ways: For instance, welfare state contributes to establishment of both labour market and care-related provisions. This interconnection is obvious when we enquire situation of women and inconsistencies between women and men therefore it seems as there is no more a clear line between 'private sphere' and 'paid work', since they are both treated under the same system called 'social organisation'. However, there are a range of different levels of relations that depends on the definition of regarded social policy, such as caring roles of women, women's capacity to do paid/unpaid work, etc. Additionally, care services of welfare state depends generally on women labour and therefore it gives welfare state the chance to form both the demand and supply of women labour by defining care.

Care approach is what fundamentally constitutes the gender patch of the relationship between state and family and it is indeed the linkage between 'private sphere' and 'employment' therefore studies that focus on the relationship between labour market and employment are considerably crucial to reveal significance of 'gender' approach in welfare states.

Overall, it cannot be denied that there are differences from men in terms of access, participation amount and requirements of engagement for women to participate in employment. In other words, if women wish to get involved in the paid work, they have to cope with different compromises and trade-offs. Although "compromise or a trade-off is common for both women and men" is a common statement, these 'trade-offs' are mostly

³¹ J. Lewis, *Gender and the Development of Welfare Regimes*, Journal of European Social Policy, Vol.2 No: 3, August 1992, pp.159-173.

encountered by women among countries due to their diversified national welfare traditions and societal structures.

Part-time work is the most widespread trade-off for women which is followed by ‘low payment’ and ‘segregation’. Segregation emerges at two levels; ‘horizontal’ and ‘vertical’: *Horizontal Segregation* is understood as underrepresentation of women in occupations or economic activity sectors. According to Rubery³², states tend to employ women in public sector services in extremely sex-segregated economies and as put forwarded by Anker³³, horizontal segregation is a nearly immutable and universal characteristic of contemporary socio-economic systems.

Vertical Segregation refers to the underrepresentation of women in top positions regardless sector of activity; whereby men are generally in jobs of a higher grade and status than women. Under-representation at the top of occupation-specific ladders was encompassed under the heading of ‘vertical segregation’ now more commonly used as ‘*hierarchical segregation*’³⁴. It is also referred by *glass ceiling* phrase which suggests the existence of visible/invisible obstacles that lead to a scarcity of women in power and decision-making positions in public organisations, enterprises, associations and in trade unions. Vertical segregation and glass ceiling concepts nowadays harmonised with a third concept of ‘*sticky floor*’ which describes the approach to maintain women at lowest levels of employment; a metaphor to explain the difficulties women face when they try to slip into the first levels of the academic career³⁵. According to Jensen³⁶ (1995), women are included in less impressive research and/or working areas, such as paediatrics or gynaecology, while men rule surgery and internal medicine areas. Field and Lennox underlines the reason why this kind of differentiation exists as gender discrimination in certain specialties³⁷.

³² J. Rubery, M. Smith, C. Fagan and D. Grimshaw, *Women's Employment in Europe*, (Routledge, 1999), P. 176

³³ R. Anker, *Gender and Jobs: Sex Segregation of Occupations in the World*, International Labour Office, Geneva, 1998.

³⁴ F. Bettio and A. Verashchagina, *Gender segregation in the labour market: Root causes, implications and policy responses in the EU*, Publications Office of the European Union, (Luxembourg, 2009), P. 32

³⁵ L. Maron and D. Meulders, *Les effets de la parenté sur la ségrégation, Rapport du projet 'Public Policies towards eEmployment of Parents and Sociale Inclusion'*, Département d'Economie Appliquée de l'Université Libre de Bruxelles, Bruxelles, 2008, In : D. Meulders,...[Et al.], *Horizontal and Vertical Segregation : Meta-analysis of Gender and Science Research – Topic report*, 2010, P.29

³⁶ U. Jensen, *Besonderheiten der Berufs- und Lebensplanung von Ärztinnen*, Archives of Gynecology and Obstetrics, 1995, Vol. 257, no. 1-4, pp. 694-99, In: D. Meulders,...[Et al.], *Horizontal and Vertical Segregation : Meta-analysis of Gender and Science Research – Topic report*, 2010, P.66

³⁷ D Field, and A. Lennox, *Gender in medicine: the views of first and fifth year medical students*, Medical Education, 1996, Vol. 30, No. 4, pp. 246-252, In: , In: D. Meulders,...[Et al.], *Horizontal and Vertical Segregation : Meta-analysis of Gender and Science Research – Topic report*, 2010, P.66

1.5.3 Welfare

As the key activity of welfare states, redistribution of income among families examines the resources that the state provides for different type of households. In our context, the most critical question is whether female-headed households secure a living income without recourse to the income of a male partner, or even more crucial, without recourse to state. In this regard, opportunities of women and men to access sufficient income at different stages of their life courses - thereby to live in prosperity - should be taken as indicators to explore poverty risks of household types (female- and male-headed).

Redistribution process has both quantitative and qualitative aspects: Question of who receives what type of resources constitutes quantitative facet and offered protection against risk of income loss constitutes qualitative aspect. By doing so, welfare state tries to valorise activities. Yet there remains a problem; difference between the income loss risks of women and men: Generally women suffer from more risks that arise from care giving and dependency on family breadwinner model that is supported by the state policies. Consequently, what lies at the heart of resource accession is gender policies because resources have impact on power dynamics among both individuals and households.

Welfare state has the power of organising well-being and standard of living of its society through resource distribution and through its redistribution process; it reflects its gender relations. By shaping such provisions on employment, care, income, etc., which affect individuals both in short and long term life courses, welfare state gets a chance to reshape or underpin pre-existed gender approaches of the society and social roles ascribed to women in the labour market and the family.

Heretofore comparative studies on welfare level of different household types proved that impacts of care on lone mother- and on older female-headed households both for short-time period and over the life span indeed exist; and as a life-course outcome, low income of pension emerges because of accumulated economic disadvantages attached to caring role during the life time³⁸.

The welfare of female-headed household can be reinforced by welfare state mechanisms, like income transfer. Welfare states already have income transfer systems however at this point, it should be stated that they attach privilege to such family forms and discriminate against

³⁸ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P. 96:ff

others, such as same sex couples, lone parents, cohabitants³⁹. Even there is not a simple way to capture gender-based inequalities within welfare state's resource distribution process, analyses indicate that the situation of women changes when one interprets at household level or at individual level.

The welfare state constitutes a hierarchy of claims, and that this hierarchy reflects the relative coverage and privilege granted to women's and men's income risks. In a comparison of relative income position of female- and male-headed households suggests that a gendered hierarchy of claims does exist⁴⁰. Daly's study shows that households headed by lone mothers and older women constituted quite differently among the compared states and female-headed households have a higher risk of both falling into and remaining in poverty. If we evaluate the impact of state intervention at before and after transfers' base, it can be concluded that states generally maintain gendered pattern of poverty. Daly's comparative work shows that resource redistribution patterns vary across countries that are studied⁴¹ and have effects on gender. For instance, Sweden and France have a tendency towards families with children (includes lone mothers) while Germany, Italy and to a lesser extent the Netherlands have a tendency towards older population which includes older women (thereby leads to reduce gender gap in incomes)⁴².

To sum up, the answer of our first question lies herein: The majority of women cannot secure a sufficient amount of income to maintain a household without male income or support of state. This means that women who live currently with a male partner are just a 'divorce/separation' away from poverty risk.

This jeopardy was recognised by both welfare states and the European Union along with steps taken to alleviate it at European level in terms of European social policies to dispel systematic differences and inequalities between women and men.

³⁹ For example, women who have children within a cohabiting relationship may not be offered protection equivalent to that of their married peers, affecting their claims on an ex-partner's current income or their contribution to state or occupational pensions.

⁴⁰ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.115

⁴¹ Germany, Sweden, France, Italy, Netherlands, the UK, Ireland, and the USA

⁴² Ibid. 116

2. GENDER EQUALITY AT EUROPEAN LEVEL: HISTORICAL APPROACH

Before going into details of the historical development and significance of the Gender Policy at European level, the supranationality⁴³ characteristic of the European Union Law should be recited: European Union laws have direct applicability in the Member States and individuals have a right to invoke them before national tribunals⁴⁴.

Historical development of Gender Policy at European level consist of the EU Treaty provisions and related directives therefore we have to proceed step by step in order to be able to evaluate the transfer periods to national law and consequences at national level.

2.1 Gender Equality in the European Economic Community (EEC)

Gender Equality was not a focal point of the Treaty of Rome⁴⁵. It focused only on the creation of the single market and market related social issues because all parties were not in agreement to be bound by a stronger obligation of “Social Europe” thereby, only the European Economic Community was established.

Article 119 of the Treaty of Rome was the only provision that addresses gender equality issues. Under the article, it is assured that:

Each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work.

For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, in respect of his employment from his employer.

“Equal pay without discrimination based on sex” means:

(a) pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement

(b) pay for work at time rates shall be the same for the same job

Article 119, as mentioned above, was a concern arose from market related social issues because this principle was already part of the French legislation and France feared economic disadvantages if the other Member States were able to pay their female workers less⁴⁶. As a

⁴³ See F. Costa v. ENEL Judgment of the ECJ, Case 6/64, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61964CJ0006:EN:HTML>, retrieved in: 17.10.2011

⁴⁴ See Van Gend Loos Judgment of the ECJ, Case 26/64, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61962CJ0026:EN:HTML>, retrieved in: 17.10.2011

⁴⁵ The Treaty of Rome was concluded by Germany, Belgium, France, Italy, Luxembourg and the Netherlands on 25 March 1957; it entered into force on 1 January 1958. The Community was later enlarged with the accession of Denmark, the UK and Ireland (1973), Greece(1981), Spain and Portugal (1986), Austria, Finland and Sweden (1995), Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia (2004), Bulgaria and Romania (2007).

⁴⁶ Helene Herda, *Gleichberechtigung und Chancengleichheit in der EU*. In: Flossmann, Ursula (Hrsg.) *Recht, Geschlecht und Gerechtigkeit - Frauenforschung in der Rechtswissenschaft*, (Linz, 1997), P.66.

result, competitiveness concerns were the main factor in the introduction of Article 119; not the equality between women and men

However, national governments of the Member States did not fulfil their obligations under the Article 119 of the Treaty that's why there had been actions taken by female employees and the Belgian Lawyer Eliane Vogel-Polsky⁴⁷. With the Defrenne II Case⁴⁸, European Court of Justice (ECJ) decided that Article 119 was directly applicable.

The 1970s has witnessed great legislative activity - concerning gender equality - in the European Community that covers women at work, under the impact of the UN Decade for Women (1975-1985).

The first adopted Directive was the "Equal Pay Directive 1975"⁴⁹ which aims to harmonise and approximate the national laws in the implementation of the principle of equal pay for equal work and work of equal value⁵⁰. Member States were obligated to respect the right, which grants individuals a right of action in case of discrimination and protects employees against victimisation, and to provide for remedies.

The "Equal Treatment Directive"⁵¹ was adopted just one year later in 1976. It grants the right of equal treatment for women and men in the areas of employment, vocational training and promotion and working conditions including dismissal. This Directive is a comprehensive one as compared to first directive therefore its impact on employment in Europe was noteworthy. It also reflects sex equality provision of the International Labour Organisation (ILO) Convention 111 (1958) which bestows the right to redress discrimination without fear of victimisation.

In 1978, the Directive of 1978 on the progressive implementation of the principle of equal treatment for women and men in matters of social security⁵² was adopted. It was comprehensive and congruent albeit it has left the crucial question of retirement ages to the Member States.

2.2 Gender Equality in the European Community (EC)

In next decade, 'gender equality legislation' tradition of the late 1970s had continued: Correspondingly to legislative actions, the 1980s also witnessed to internal reforms within the

⁴⁷ Sonia Mazey, *The European Union and Women's Rights: From the Europeanisation of National Agendas to the Nationalisation of a European Agenda?* In: Hine, David / Kassim, Hussein (eds.), *Beyond the Market: The EU and National Social Policy*, London, Page 140ff.

⁴⁸ Judgement of the European Court of Justice of 25/05/71, G. Defrenne v. Belgian State, C-80/70, Case law No: 43/75, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61975CJ0043:EN:PDF>, retrieved: 21.10.2011.

⁴⁹ 75/117/EEC OJ (1975) L45/19.

⁵⁰ "Work is of equal value" concept occurs when two persons perform substantially the same tasks, have similar qualifications, carry similar responsibilities and their conditions of work and efforts are for all purposes the same.

⁵¹ 76/207/EEC OJ (1976) L39/40.

⁵² 79/7 OJ (1979) L 6/24.

institutional framework of the European Community to mirror the growing interest in and political commitment to gender equality related issues. For instance, European Commission's Directorate of Employment and Social Affairs (now it's Directorate General for Employment, Social Affairs & Inclusion) created a sub-unit for the Equal Opportunities in 1981 and only three years after, in July 1984, a Committee on Women's Rights and Equal Opportunities (now it is the Committee on Women's Rights and Gender Equality - FEMM -) within the European Parliament was created and since then FEMM deals with all matters regarding gender equality and equal opportunities.

These institutional reforms and related legislative actions strengthened with the adoption of the first Equal Opportunities Action Programme, covering the years 1982-1985. Thus, promotion of gender equality at European level became more organised and consistent.

In 1986, two new directives were adopted: First Directive was about the implementation of the principle of equal treatment for women and men in occupational social security schemes⁵³ (which was subsequently modified by the Directive of 1996); and the second Directive, the Self Employees (Equal Treatment) Directive⁵⁴ concerns "the application of the principle of equal treatment between women and men engaged in an activity, including agriculture, in a self-employed capacity, and the protection of self-employed women during pregnancy and motherhood⁵⁵."

It should be kept in mind, though, in 1986, the Single European Act (SEA) was signed and entered in force in the following year as the new primary source of European Community legislation. SEA introduced new voting procedure which grants a chance to improve the working environment within the Council: Whereas consensus was formerly mandatory (in cooperation with the European Parliament) in legislative actions; with the Single European Act, the Council gained the right to take decisions by qualified majority voting (QMV) instead of unanimity and this new procedure facilitated the decision making process with the European Council and avoided the search for unanimity among the twelve Member States for all legislative actions which includes also actions regarding to all social matters therefore the SEA introduced "the possibility of adopting minimum standards to improve the working environment by majority vote in the Council⁵⁶" and paved the way for a shorter and trouble-free decision making process.

⁵³ 86/378/EEC OJ (1986) L 225/40

⁵⁴ 86/613/EEC OJ (1986) L 359/56

⁵⁵ Eve C. Landau & Yves Beigbeder, *ILO Standards to EU Law: The Case of Equality between Men and Women at work*, (Martinus Nijhoff Publishers, 2008), P.48:ff

⁵⁶ Martha Fetherolf Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.472

2.3 Gender Equality in the European Union (EU)

In December 1991, at the Maastricht Summit⁵⁷, 11 of the 12 Member States of the Community were ready to include the Agreement concluded between the social partners [cross-industry, representative employers' and unions' organisations, UNICE (now BUSINESSEUROPE), CEEP (the European Centre of Employers and Enterprises providing Public services) and ETUC (the European Trade Union Confederation)] into the new EC Treaty (Maastricht Treaty / Treaty on European Union) but with an "opt-out" for the United Kingdom of Great Britain and the Northern Ireland.

In 1992, the Directive on the introduction of measures to encourage improvements in safety and health at work for pregnant workers and who have recently given birth or breast-feed⁵⁸ aims to protect pregnant women from inherent risks in certain jobs. Furthermore, the Pregnancy Directive had an annex which includes a list of certain activities that can not be carried out by pregnant workers at the work place (such as work in underground mines, work which involves / might involve exposing to high atmospheric pressure) because of the possibility of causing harm to pregnant women and their babies. In addition, women may not be obliged to perform night work during pregnancy and for a period following childbirth to be determined by the national authorities. In general, pregnant workers are entitled to 14 weeks continuous maternity leave which they may take before and/or after the birth, (in line with national legislation)⁵⁹. Besides, it also grants legal protection from dismissal on the grounds of pregnancy: protection against dismissal between the beginning of the pregnancy and until the end of maternity leave was granted by the very same directive.

Between 1991 and 1999, the European Union prepared a special employment programme for women called "Employment-NOW" (New Opportunities for Women). The main goals of the programme were to⁶⁰:

- (a) reduce unemployment amongst women
- (b) improve the position of those already in the workplace

⁵⁷ The Maastricht Treaty on European Union created the "three pillars" of the EU: First pillar includes the founding treaties; sets out the institutional requirements for the European Monetary Union (EMU). It also provides for supplementary powers in areas like environment, research, education and training. Second pillar established the Common Foreign and Security Policy (CFSP) which makes possible to take joint action in foreign and security affairs. The third pillar created the Justice and Home Affairs policy (JHA), dealing with asylum, immigration, judicial cooperation in civil and criminal matters, and customs and police cooperation against terrorism, drug trafficking and fraud. The CFSP and JHA operate by intergovernmental cooperation, rather than by Community institutions which operate pillar one.

⁵⁸ 92/85, OJ (1992) L 348/1

⁵⁹ Eve C. Landau, Yves Beigbeder, *From ILO Standards to EU Law: The Case of Equality between Men and Women at Work*, (Martinus Nijhoff Publishers, 2008), P.48:ff

⁶⁰ Verena Schmidt, *Gender Mainstreaming - an Innovation in Europe? The Institutionalisation of Gender Mainstreaming in the European Commission*, Barbara Budrich Publishers, (Opladen, 2005), P.46

- (c) develop innovative strategies in response to changes in the organisation of work and job requirements, with a view to reconciling employment and family life

In 1997, the next European Union Treaty (Amsterdam Treaty), which includes remarkable modifications in all areas of the Union legislation, was signed. First of all, Social Policy Protocol was included into the Treaty as a “Social Chapter”⁶¹ (The Chapter 9 and 10 of the Treaty deal with maternity protection, parental leave, child care and the balance of work and home responsibilities.). In part, the Social Chapter obliged the Commission to consult both management and labour within the social policy formulation thereby it establishes a role for both in the EU legislation.

It is important to highlight that Article F of the Amsterdam Treaty captures the general provision on human rights that already preserved in the Treaty of Maastricht:

“The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principles that are common to the Member States. The case law of the Community Court has repeatedly declared its adherence to fundamental human rights as part of the general principles of law that it is bound to respect.”

Secondly, promotion of equality between women and men throughout the European Union was defined as one of the common tasks (Article 2 EC) of the European Union and in the Article 3(2) EC, it is stated that the EU shall aim to eliminate inequalities, and to promote equality between women and men in all the activities listed in Article 3 EC. This obligation of gender mainstreaming means that both the EU and the 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 activities⁶².

The concept of “gender mainstreaming” was firstly used in international texts after the United Nations 3rd World Conference on Women (Nairobi, 1985)⁶³. The Beijing Platform for Action, which is adopted after the 4th World Conference on Women (Beijing, 1995), was the first mainstreaming policy at international level. During this conference, the concept of “gender mainstreaming” was depicted by the UN as following:

“Governments and other actors should promote an active and visible policy of mainstreaming in all policies and programmes, so that, before decisions are taken, an analysis is made of the effects on women and men respectively.”⁶⁴

⁶¹ Ibid. P.49

⁶² Sacha Prechal, Susanne Burri, *EU Rules on Gender Equality: How are they transposed into National Law?*, European Commission DG for Employment, Social Affairs & Equal Opportunities, 2009, P.3.

⁶³ Gracia Vara Arribas, Laura Carrasco, *Gender Equality and the EU: An Assessment of the Current Issues*, Eipascop, 2003/I, <http://www.eipa.nl>, P.24.

⁶⁴ Ibid. P.24.

The European Union internalised the “gender mainstreaming” approach within their legislation processes and subsequent definition was identified by the European Commission:

“Gender Mainstreaming is not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situation of men and women (gender perspective). This means systematically examining measures and policies and taking into account such possible effects when defining and implementing them.”⁶⁵

According to Article 13 of the Treaty of Amsterdam, the Council is permitted to take appropriate actions to combat, amongst others, discrimination based on sex. In addition to that, Article 141 of the Treaty replaced the Article 119 of the Treaty of Rome and includes additional 2 paragraphs: First paragraph establishes former ECJ-Rulings on the matters of “equal pay for equal work and work of equal value”; second paragraph remains the same as in Article 119 and paragraph 3 and 4 were added as following:

(3) The Council, acting in accordance with the procedure referred to in Article 251, and adopt after consulting the Economic and Social Committee, 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 and work of equal value.

This means that the Council can decide with a qualified majority, which limits the scope for single member states to veto decisions.

(4) 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 in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

It has to be stressed that in paragraph 4 “under-represented sex” in the field of employment can refer to men as well and this means that men can also be targeted by appropriate measures to be taken under these provisions⁶⁶.

⁶⁵ The Communication ‘*Incorporating Equal Opportunities for Women and Men into all Community Policies and Activities*’ European Commission, 1996.

⁶⁶ Petra Ziegler, *Gender Equality Policies in the European Union*, in: , in: Verena Kaselitz / Petra Ziegler (Hrsg. / Eds.), *Gleichstellung in der erweiterten Europäischen Union*, (Peter Lang Verlag, 2008), P.18.

In 1996, the Directive concerning the Framework Agreement on Parental Leave⁶⁷ concluded by UNICE, CEEP and the ETUC and upon the Council Recommendation on child care of 1992.

In 1997, a crucial step was taken in sex discrimination cases: The adoption of the Burden of Proof Directive⁶⁸. The general principle of burden of proof (*onus probandi*) normally lies with the plaintiff (*actori incumbit probatio*) however; this obligation causes overwhelming problems in discrimination cases because necessary documents usually in the possession of the employer and in the cases of indirect discrimination⁶⁹ cases, it is much more difficult to prove by its nature⁷⁰ therefore, it was considered appropriate to replace the burden of proof on the employer to show that there is no discrimination; his actions were prompted by objective occasions and thus to disprove the claim of discrimination. In the Article 4 of the Directive, it was reserved to plaintiff to supply only evidence leading to a presumption of direct discrimination or less favourable treatment⁷¹ and then the employer must disprove the presumption of plaintiff with proof and solid reasoning that shows presumption of discrimination has nothing to do with the sex of the worker.

The last Directive adopted in 1990s was the Framework Agreement on Part-time Work by UNICE, CEEP and the ETUC⁷² but it took two years to transpose it into national laws of the Member States. The main aim of the directive was removing discrimination against part-time workers and since the majority of part-time workers is women; this directive has fundamental impact on the employment of women and, thereby, is vital to recover working conditions of women.

⁶⁷ Directive 96/34/EC, OJ (1996) L 145/4

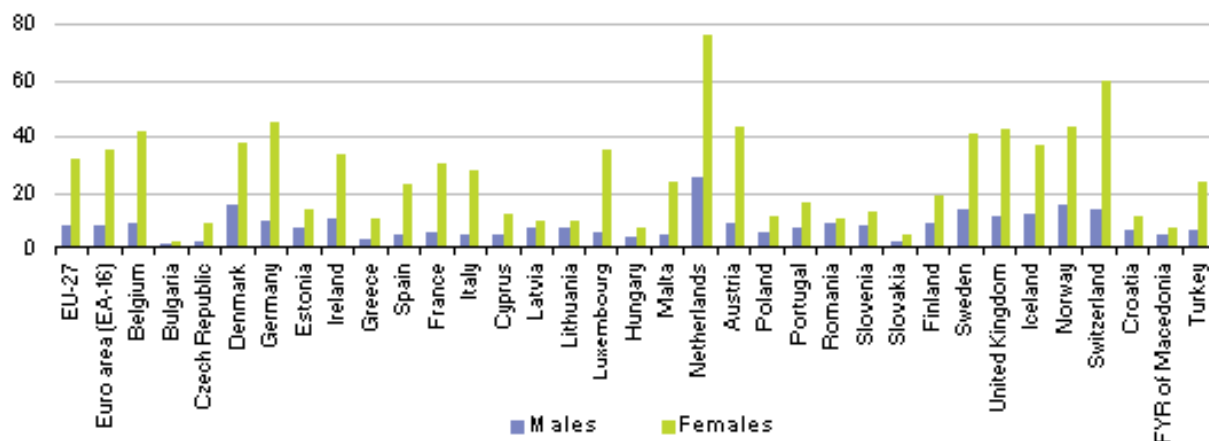
⁶⁸ Directive 97/80, OJ (1998) L 14/6.

⁶⁹ Indirect discrimination, arises, for example, in accordance with Section 1 (1) (b) of the Sex Discrimination Act, 1975 where a person discriminates against a woman if he applies to her a requirement or condition which he applies/would apply equally to a man but which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and which is to her detriment because she cannot comply with it.

⁷⁰ Eve C. Landau, Yves Beigbeder, From *ILO Standards to EU Law: The Case of Equality between Men and Women at Work*, (Martinus Nijhoff Publishers, 2008), P.49.

⁷¹ Ibid. P.49

⁷² 97/81/EC OJ (1998) L 14/9.



Source: Eurostat (tps00159)

Chart 2.1⁷³: Persons Employed Part-Time, 2009 (% of Total Employment)

Last decade started with a new European Council in Nice where the EU Charter of Fundamental Rights was presented. The Charter was a political document which gathers rights that already existed at the European level into one single text but unfortunately had no legally binding status. Chapter 3 of the EU Charter of Fundamental Rights is dedicated to Equality matters; includes provisions concerning gender equality (Article 21) and non-discrimination and equality between women and men (Article 23), which are also preserved under the EC Treaty (as abovementioned, Article 13 of the EC Treaty prohibits any discrimination on any grounds and Article 2, 3(2) and 141(3) of the EC Treaty establishes that equality between women and men must be ensured in every field, including employment, work and pay, and admits the validity of positive action in favour of the under represented sex).

Last but not least, Article 33 of the Charter of Fundamental Rights include the right to reconciliation of professional and family life which draw on Council Directive 92/85/EEC and Directive 96/34/EC.

This Charter grants rights that even leave behind the related rights at national level of the Member States and includes a variety of social rights which were response to the critiques about the absence of social sides of European Citizenship. Since such an absence could weaken institutional reforms, jeopardise the enlargement of the Union and endanger the social security of Europe; the EU Charter of Fundamental Rights stands as an essential solution to alleviate such a possibility.

⁷³ http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/File:Persons_employed_part-time,_2009_%28%25_of_total_employment%29.png, retrieved: 23.10.2011

Despite its significance and although it was unanimously approved by the EP, Commission and the Council, the Charter stayed as a political declaration; had no legally binding status until the Treaty of Lisbon (2007)⁷⁴.

In 2002, the Equal Treatment Directive of 1976 was amended by Directive 2002/73⁷⁵ (entered into force in 2005). It took related ECJ case laws and incorporated them into the first directive; it includes for the first time the issue of sexual harassment as part of sex discrimination⁷⁶. In a manner, this directive reflects the evolution of Gender Equality law at European level.

Lastly, in 2006, the Recast Directive⁷⁷, a consolidating Equal Treatment Directive, on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) was adopted. Its main aim is that to clarify and bring this large of directives together in a single text; to recast directive includes the main provisions of the existing gender equality directives. It also has an additional part for case law of the European Court of Justice. It can be concluded that the ECJ has played a major role in the field of gender equality as a result of its crucial decisions on EU equality legislation and related treaty articles.

In the very same year, the first European Gender Equality Pact was set in motion which supplies a correlation between the Commission Strategy for Gender Equality 2010-2015 and the joint EU Growth Strategy; Europe 2020 (the key document of the EU for smart, sustainable and inclusive growth). The overlapping between the Europe 2020 Strategy and the Strategy for Gender Equality contains the provisions about labour market participation: The Europe 2020 Strategy aims to raise the employment rate for women and men aged 20-64 to 75% by 2020 and to meet this challenge, four priorities were determined⁷⁸:

- (a) a better functioning of labour markets
- (b) more skilled workforce
- (c) better job quality and working conditions;
- (d) stronger policies to promote job creation and demand for labour

⁷⁴ By virtue of the first subparagraph of Article 6(1) of the Treaty of Lisbon, the Charter of Fundamental Rights gained its formal legal status: "The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties."

⁷⁵ OJ (2002) L 269/15

⁷⁶ Eve C. Landau & Yves Beigbeder, *ILO Standards to EU Law: The Case of Equality between Men and Women at work*, (Martinus Nijhoff Publishers, 2008), P.101

⁷⁷ OJ (2006) L 204/23

⁷⁸ Fondazione G. Brodolini, *Equal Economic Independence: The Contribution of Women to Achieving the Europe 2020 Targets*, Conference on 'Equality between Women and Men', European Commission DG Justice, Brussels, 19-20 September 2011, P.9

Apart from these four key step, what still seems problematic is that labour market segmentation and implementation of successful flexicurity⁷⁹ models.

However, due to the economic crises, Europe 2020 Strategy falls behind its goals. Number of people falling or risking to fall below the poverty level has been increasing; inequality has been growing and as a result, more and more people [especially women] experiencing poverty and social exclusion. Reversing this trend and ensuring that growth and social cohesion go together is a key objective of the Europe 2020 Strategy⁸⁰.

The next strategy for equality between women and men 2010-2015 includes a set of important horizontal issues relating to gender roles, legislation, governance and tools for gender equality and it focuses on five priorities: equal economic independence; equal pay for equal work or work of equal value; equality in decision-making; dignity, integrity and an end to gender-based violence; and gender equality in external actions⁸¹.

In December 2010, the European Commission adopted conclusions on the implementation of the European Commission's strategy for Equality between Women and Men 2010-2015⁸²; on underpinning the commitment and accelerating acts to close the gender pay gap and decided to adapt a new and improved Gender Equality Pact.

Consequently, in March 2011, a new European Gender Equality Pact was adopted at the Council Meeting where Member States once again declared that they are committed to supporting the gender equality. This new Gender Equality Pact underlines the significance of reduced pay gap between women and men in the labour market; of easier access to childcare facilities; and of combating all forms of violence against women.

Although Member States possess commitment to gender equality issues and despite the significant amount of legislations promoting gender equality; the numbers indicate differently: Annual reports on "Equality between Women and Men" adopted by the European Commission⁸³ demonstrate that Gender Equality process is slow and that *de facto* has yet to

⁷⁹ The concept of "flexicurity" is generally defined as an integrated strategy for simultaneously enhancing flexibility and security in the labour market. In other words, flexicurity is a global approach to the labour market that combines flexibility of contractual arrangements, employment security (guarantee of keeping one's job or rapidly finding another) and adapted management of periods of transition.

⁸⁰ European Commission, Annual Growth Survey, *Annex I: Progress Report on Europe 2020*, Brussels, (COM2011) 11-A1/2, P.9

⁸¹ 3073rd Employment, Social Policy, health and Consumer Affairs Council Meeting, *Council Conclusion on the European Pact for Equality for the period 2011 - 2020*, (Brussels, March 2011), P.2 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lisa/119628.pdf, retrieved: 23.10.2011

⁸² Council Conclusion, 16880/10, *Support of the implementation of the European Commission's Strategy for equality between women and men 2010-2015*, 25 November 2010, Brussels, <http://register.consilium.europa.eu/pdf/en/10/st16/st16880.en10.pdf>, retrieved: 24.10.2011

⁸³ For the most recent report 6571/11, <http://register.consilium.europa.eu/pdf/en/11/st06/st06571.en11.pdf>, retrieved: 24.10.2011

be attained and also the Annual Growth Survey⁸⁴ adopted by the European Commission shows that involuntary part-time work is still an issue in some Member States and that women wishing to re-enter the labour market continue to face obstacles.

2.4 Assessment of the Gender Equality Policies at European Level

The European Union designed on a dynamic structure, rather than a static one; therefore long-lasting peace, greater prosperity and social justice could be materialized from the start. In addition, primary source of law (Treaties), secondary legislation (Unilateral Acts, Convention & Agreements) and supplementary law (CJEU⁸⁵ case-laws, international law and, of course, general principles of law) have been constructive to maintain its dynamic structure during the European integration process.

Within our framework, Gender Equality policies at European level has been also dynamic as it is enhanced; and since European Union law has a supranational character, gender equality policies has had a crucial impact on national legislations of the Member States. However, if we degrade our analysis to national level; what stays on surface is that varied scores of Member States on performance of their regarded policy areas. For instance, why do Nordic Countries score more on each and every benchmarking determinant or why does Austria score less than Germany?

The European Union has created the most extended set of policies since the awareness on the gender issue arose. “Europeanisation of gender equality policies means the creation of European-wide norms and frameworks and their implementations and transformations into national legislation. The national context is characterised by divergent gender orders, so that different strategies are being used to implement European provisions.”⁸⁶

Furthermore, Gender Policies are not only a matter of supply and demand; all gender related policies are highly complex processes because economic, sociological, political and cultural factors all play a part to shape a societal structure. Moreover, attitudes that anchored into social organisations are indeed crucial when analysing gender policy developments at national level throughout the Europe thereby, in order to be able to differentiate diversity between Member States of the European Union, six factors should be used to analyse differences at national level:

(a) Economic Growth and Employment

⁸⁴ 18066/10 + ADD 1-3.

⁸⁵ CJEU refers to the Court of Justice of the European Union which includes the Court of Justice, the General Court (previously the Court of First Instance) and specialised courts.

⁸⁶ Ursula Liebert (Ed.) with Stefanie Sifft, *Gendering Europeanization (Public Discourses on EC Equal Treatment and Equal Opportunity Norms in Six Member States)*, Series Multiple Europes, No. 19, (Peter Lang, 2003), P.276

- (b) Attitudes towards Women's Employment
- (c) Tax System
- (d) Working Time Arrangements
- (e) Parental Leave Arrangements
- (f) Childcare Facilities.

The first two factors are related to labour market performance for instance, if interplay between the employment regime and socio-economic policy can be formed, these two factors can significantly contribute to shaping an equal opportunities environment. The Second two factors reflect the employment regime. Tax system, for example, can be incentive or disincentive to the employment of women.

The question of whether an income tax regime should be geared to individuals or households has been vital in many countries because the given tax amount can vary if there is a joint taxation. In a country with a joint taxation regime, the secondary earner faces a marginal rate of the primary earner from the first unit of earning and in a progressive system; this tax rate will be higher than if the couple were taxed as two separate individuals that's why this contrast renders tax regimes crucial for employment of women, since secondary workers are mostly women⁸⁷.

In "modified" individual taxation systems, which follow the "individual taxation principle" with an additional tax relief to individuals who lives with household dependents, system permits "transference" as a basic tax relief. Even if it sounds preferable, it bolsters the male breadwinner model and may cause discouragement within women to (re)entry in labour market despite fewer disincentives than that faced under joint taxation⁸⁸. For instance, Sweden, as one of the most successful countries regarding gender equality, has a system based on independent taxation of individuals.

It is hard to decide upon one common conclusion while there are diversified fiscal regimes but, nevertheless, it can be concluded that all non-individual tax regimes involve difficulties from gender equality approach.

The last two of the abovementioned factors (parental leave arrangements and childcare facilities) are within the framework of socio-economic policy areas that are fundamental for gender equality policies at national level.

⁸⁷ Martha Fetherolf Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.291

⁸⁸ Ibid. P.291

Other than these factors, there are also strategies to accelerate the women's position within the society / at national level that are regarded differently by Member States⁸⁹:

- (a) Enacting Equality Laws and rendering complaint procedures more effective
- (b) providing family care assistance
- (c) revaluing "feminine" occupations
- (d) moving women into more scientific areas
- (e) insisting on objective criteria in recruitment and promotion
- (f) questioning organisational structures in terms of their efficiency and treatment of both women and men
- (g) building networks
- (h) raising awareness and changing social attitudes

However, progress in these areas also depends on labour market trends and available economic opportunities. For instance, the United Kingdom, as the most liberal economy of the European Union, has ranked always lower degrees when it comes to comparing to gender policies implementations at national level among European Union Member States. Hence, diversified welfare traditions, society structures and respective traditions should be emphasised. These diversities are the reasons why a uniform recipe at national levels cannot be implemented and why different implementations of gender policies and internal institutional processes among European Union Member States are needed. Nevertheless, Europeanisation of gender equality policies goes significantly further than most of its Member States in this regard.

Since we entered to the new millennium with a quarter-century of experience in reflection and practicing about women and subsequently gender equality policies in development, there is a need to develop and increase sophistication of that body of knowledge and action associated with integrating women into every sphere of life. We have to combine attention regard to gender in institutional core missions and strategies at national level that pursued in the complex political and bureaucratic policy-making contexts, wherein decisions are made always affect women and men differently given historical and persistent gender inequality⁹⁰.

⁸⁹ Linda Wirth, *Breaking through the glass ceiling: Women in management*, ILO Office, 2001, P.149

⁹⁰ Kathleen Staudt, *Gender Mainstreaming: Conceptual Links to institutional machineries*, In: Shirin M. Rai (Ed.), *Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the Advancement of Women*, (Manchester University Press, 2003), P.40

3. GENDER POLICIES AT NATIONAL LEVEL: COMPARISON OF WELFARE MODELS

Studies and analysis were made on European welfare models generally focuses on the three classical (and later four) regimes of the Esping-Andersen classification⁹¹. However, as a result of the last enlargements of the European Union (in 2004 and in 2007), we have to consider a new approach to analyse the social regimes of these countries. Three EU Member States were chosen in the present study: Sweden as one of the Nordic Countries, Germany as one of the oldest Member States and Bulgaria as one of the latest Member States. Germany and Sweden are chosen to show how diversified welfare traditions and society structures caused to reproduce different approaches and implementations of gender policies whereas Bulgaria - a country that really suffered from transformation into democratic system and market economy - is chosen to reflect Europeanisation of gender equality policies at national level. In addition, even though the time line of becoming EU Member State for each is different, exposure to both European political and European economic integration forms our common denominator while examining Gender Policies as well as their consequences at national level.

3.1 Eastern Europe

During the end of the twentieth century, the Central and Eastern European Countries (CEEC) witnessed profound changes in their political and social systems that affected most aspects of the citizens' lives; but women and men experience the burden and gains differently⁹².

In the literature, CEEC are either treated as a single group of post-communist countries or each is analysed separately. Since they have similar political past and suffer from similar challenges emanate from transformation into democracy and market economy therefore one can straightforwardly gather these⁹³ countries as a result of their akin paths taken to create sovereign national states and afterwards to become a member of the European Union. The latter approach, treating each country separately, puts forward that effects caused by the transformation period of each country and paths taken as a way out were so different that their common features are not satisfactory to cluster them as single post-communist group.

⁹¹ Esping-Andersen's types of Welfare States consists three classification: Liberal (USA) , Corporatist-Statist, (Germany), Social Democratic (Sweden), The Three Worlds of Welfare Capitalism, 1990. Later on, he added fourth classification: Mediterranean (refers to Greece, Italy and Spain).

⁹² S. M. Rai (Ed.), *Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the Advancement of Women*, Manchester University Press, 2003, P. 167

⁹³ Poland, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and Slovenia, Romania and Bulgaria

The accession to the European Union period in Central and Eastern European Countries escalated the legal framework for gender equality at national levels. Consistent with EU legislation, legal framework ameliorations are being carried out among CEEC but yet there is lack of spirit: To achieve recognition of gender equality and render 'equality' a reality of women's daily lives, practices of regarding laws should be fulfilled in the workplace and household; in a broader extent, at every aspect of economic and social life.

Bearing in mind the fact that implementation of EU laws on gender equality and equal opportunities is precondition to access the European Union, CEEC had to prove their aspiration to become a member state; transfer necessary laws into their national law; and/or amend their pre-existing laws according to relative EU Law provisions. However promoting/achieving equality in practice need more than aspiration and signature: This challenge still remains for Central and Eastern Countries that became EU Member States in 2004 and 2007. This is a process that goes beyond law articulations and still an issue at EU-27 level.

According to the European Commission, these countries have made sufficient progress in macroeconomic stabilisation and economic reforms and can cope with competitive pressure and market forces within the European Union. In economic terms CEEC developed more dynamically than the EU average during the period from 1995 and 2001 (All countries, except Bulgaria⁹⁴ and Romania⁹⁵, registered a positive increase during this period⁹⁶) but yet income per capita - by purchasing power standards - in CEEC falls behind the Western Europe average.

Since the early 1990s, the common problems of all Central and Eastern European countries were political criteria (Copenhagen Criteria⁹⁷), persisting corruption, informal economy, fragile justice and weak state administration bodies.

The main problem in the labour markets of CEEC was privatisation during transformation to market economy. The majority of the working-age population had been working in large scales in state-owned enterprises but after the reorganisation of the economy, these enterprises have closed/privatised. Since the creation of new work areas has been low, these people were

⁹⁴ registered -10.9 % and -6.9 % growth in real GDP in 1996 and 1997, respectively.

⁹⁵ registered -6.1 %, -5.4 % and -3.2 % growth in real GDP in 1997, 1998 and 1999, respectively.

⁹⁶ M. E. Domsch...[Et al.], *Gender Equality in Central and Eastern European Countries*, (Peter Lang, 2003), P.12

⁹⁷ The Copenhagen European Council of June 1993 adopted following criteria for membership to the EU: "The achievement of stable institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union, and the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

unemployed, e.g. in Bulgaria the long-term unemployed were higher than 50% of the total unemployment by 1997.

In our context, the main problem in employment was gender segregation. Under communist regime, women's situation was different in comparison to Western Europe. Women's contribution to household income rendered power reachable for women; decreased their poverty and made them less dependent on their husbands and/or families therefore it can be concluded that the economic activity of women enriched their actual position under the communist regime but yet, there were similar problems with Western European countries: the gender division in the labour market; wage gap and gender segregation:

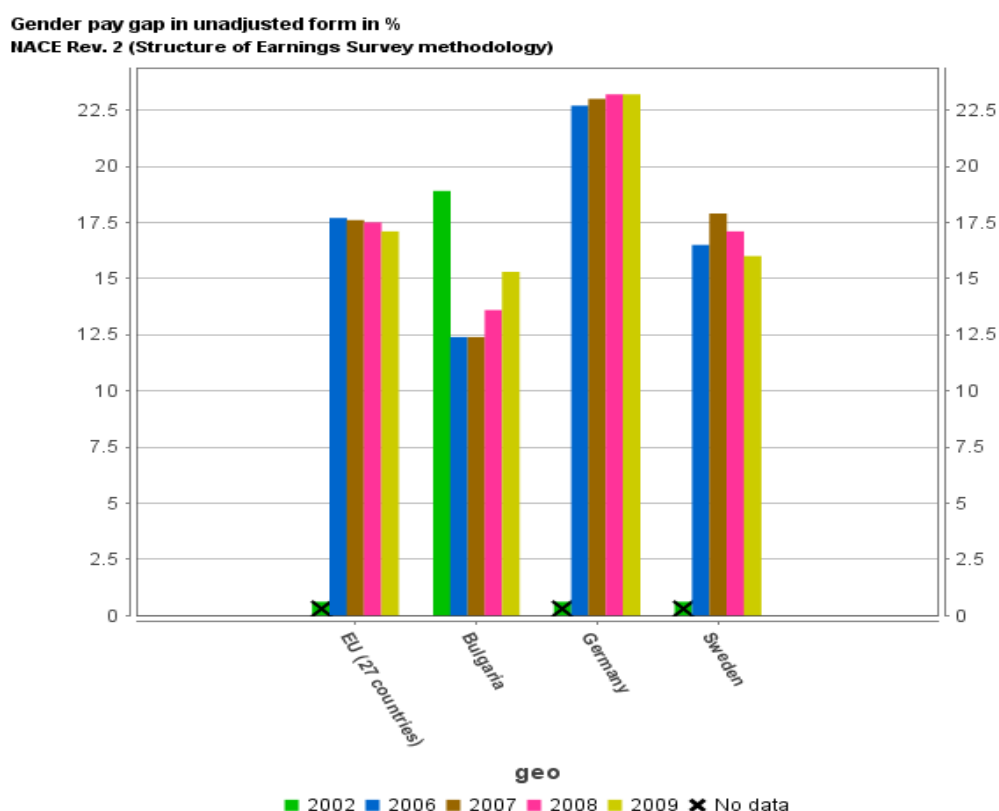


Chart 3.1⁹⁸: Gender Pay Gap in unadjusted form since 2002

⁹⁸ Source of Data: Eurostat, General Disclaimer of the EC: http://europa.eu/geninfo/legal_notices_en.htm, Hyperlink to the graph: <http://epp.eurostat.ec.europa.eu/tgm/graph.do?pcode=tsiem040&language=en>, **Disclaimer:** This graph has been created automatically by Eurostat software according to external user specifications for which Eurostat is not responsible.null, **Short Description:** The unadjusted Gender Pay Gap (GPG) represents the difference between average gross hourly earnings of male paid employees and of female paid employees as a percentage of average gross hourly earnings of male paid employees. The population consists of all paid employees in enterprises with 10 employees or more in NACE Rev. 2 aggregate B to S (excluding O) - before reference year 2008: NACE Rev. 1.1 aggregate C to O (excluding L). The GPG indicator is calculated within the framework of the data collected according to the methodology of the Structure of Earnings Survey (EC Regulation: 530/1999). It replaces data which was based on non-harmonised sources. For further information please consult the detailed explanatory texts (metadata).

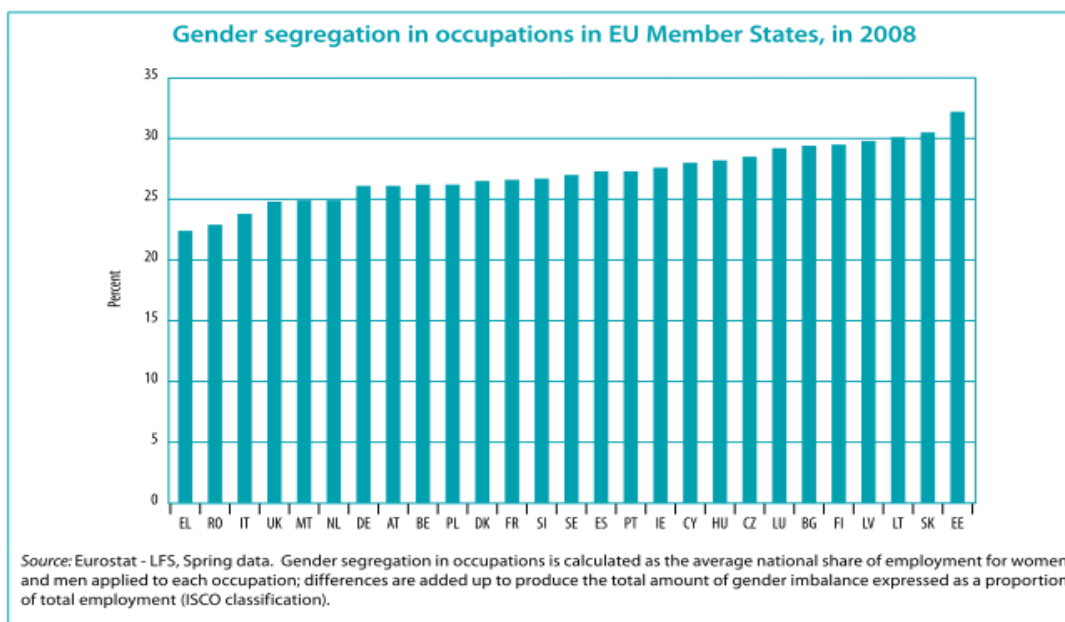


Chart 3.2⁹⁹: Gender Segregation in Occupations in EU Member States in 2008

Women concentrated in certain occupations and industries and also in lower-paid services and in some occupations, wage gap was close to 30% between women and men. Besides, vertical segregation was also important; women were not promoted because of their childcare responsibilities that rendered them as ‘unreliable’ workers¹⁰⁰. After the collapse of communism, emerged national states in the CEE recreated patriarchal system in work place rather than building a gender equality framework on the existing infrastructure of women’s participation. The main reason of this situation was rationalised in literature as ‘imposed gender equality under communism had no basis in societies therefore transition to free market economy caused a return to patriarchal traditions and roles’. During this transition period, high number of closed child-care facilities and low number of jobs left women outside of the periphery of employment and pushed them to revert to housewife role. However, pre-existing Gender Equality Framework of the Communist Era would have been useful for CEEC to bear competitive pressure by granting them all the resources of women and men in the labour market.

⁹⁹ Unit G.1 of the Directorate-General for Employment, Social Affairs and Equal Opportunities, *Report on Equality between Women and Men 2010*, European Commission, , P.26

¹⁰⁰ A. Pailhé, *Gender Discrimination in Central Europe during the Systemic Transition*, in: *Economics of Transition*, 2000, Vol. 8 No:2, pp. 505-535

In this environment, the following tasks of governmental structures should have been given attention in order to build ‘gender’ into the policy-making and implementation structures of government¹⁰¹:

- (a) introducing and disseminating, to the possible widest population (not excluding official bodies), the idea of gender mainstreaming as an integral part of the progressive development of society as a whole,
- (b) understanding the importance of raising gender awareness at all social and territorial levels
- (c) providing a gender approach in all forms of education and training
- (d) stimulating and encouraging the mass media to produce and disseminate information on national and international activities in the field of gender issues
- (e) constructing procedures for regular and open communication, within official bodies as well as from the bottom up and vice versa, in a sustainable manner
- (f) formulating transparent methodologies for monitoring processes of implementation of governmental policies on mainstreaming; to set up the indicators of progress made to date; to utilize feedback; and to set up other relevant controlling mechanisms
- (g) International, intergovernmental and regional institutions should be encouraged to provide financial and technical assistance in support of institutional mechanisms and the development and implementation of tools for gender equality

3.1.1 Bulgaria

Under the rule of communism, state controlled all sphere of economic, political and social lives. Social services were provided uniformly; education and health care were free; enrolment of school age children was almost 100%; pensions were nearly equal to the average working salary; social benefits such as a two-year paid maternity leave and stipends for university students.

In 1989, with the collapse of the Soviet Block, Bulgaria had an opportunity to make new choices for the future. First democratic elections were held in 1991 then Bulgaria adopted its new constitution which ensures human rights and freedoms; reforms in the administration structure; liberalisation of the economy; and development of civil society.

Transformation from centrally planned to a market economy process in Bulgaria caused real suffering in the society: In 1996, the annual inflation rate was 311% with depreciation of currency at 3000% which caused serious damage in people’s incomes; devaluated their

¹⁰¹ S. M. RAI (Ed.), *Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the Advancement of Women*, Manchester University Press, 2003, P. 183

savings; reduced purchasing power of people by half, thereby caused immense poverty: The average monthly wage fell from ~ USD 110 in 1995 to USD 20 in the first months of 1997.

The social transformation taking place in Bulgaria, combined with the deep and long crisis, has engendered a number of socio-economic problems¹⁰². The burden of these problems is distributed differently between women and men. Poverty among female-headed households was growing faster than male-headed households: 64.9% of female-headed households were poor by the standard of absolute poverty and they were poorer than male-headed households¹⁰³: The average monthly earning of a woman was about 69% of male earning in the public sector.

Health care was the area in which people experience the greatest deterioration since 1989. The former well-organized network of medical institutions was under pressure; many primary health centres and hospitals are closed down and furthermore, government expenditure for health care as a percentage of GDP decreased 3% - 5% between the years 1993-1997.

In the first half of 1999, more than the entire decline of 1998 (~ 111000 employees) were laid off in the public sector which corresponds to 54.4 % women and 45.6% men¹⁰⁴. In 1999, the study “the impact of privatisation on women during the economic transition in Bulgaria” highlighted that women are affected by economic restructuring worse than men: Young women, women during and after maternity leave, and women over age 40, face discriminatory practices in their employment conditions, discriminatory practices in hiring, evasion of labour and social provisions, sexual harassment, etc. Reduced social allowances related to child-care, maternity and social security make women less competitive on the labour market.

All of these negative outcomes set forth that Bulgaria tried to transfer into ‘market economy’ without taking into consideration the ‘human factor’.

3.1.1.1 Legislative Overview

Bulgaria has already signed major gender-related conventions at international level; e.g. the Convention on the Political Rights of Women in 1955, the Equal Remuneration Convention in 1956, the Convention against Discrimination in Education in 1962, the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in 1981 and showed its commitment to the non-binding principles and goals that were set in the final documents of

¹⁰² S. Todorova, Z. Toneva, *Labour-professional Development of Women with higher Education in Bulgaria*, Institute of Sociology, Bulgarian Academy of Sciences; In: M. E. Domsch, ...[Et al.], *Gender Equality in Central and Eastern European Countries*, Peter Lang, 2003, P. 71

¹⁰³ V. B. Dakova and R. Indshewa, *Transition: Gains and Losses*, Social Watch Report, 1999, P.2

¹⁰⁴ Nations in Transit 1999-2000: Country Report for Bulgaria, UNPAN, pp.176-96, <http://unpan1.un.org/intradoc/groups/public/documents/nispacee/unpan008363.pdf>, retrieved: 31.10.2011, P. 193

UN World Conferences on Women in Mexico (1975), Copenhagen (1980), Nairobi (1985), Vienna (1993), Cairo (1994) and Beijing (1995).

Equal rights and the principle of non-discrimination are preserved in the Bulgarian Constitution (1991) but the Constitution does not provide specific regulations on gender equality¹⁰⁵. The Family code (1985, amended in 1992) is based on the principle of equality between women and men; and defines the relationship in marriage, relation and adoption, guardianship. The Labour code (1986) prohibits all forms of discrimination, privileges, and limitations based on nationality, origin, gender and race.

In accordance with UN commitments, the Bulgarian National Plan, which includes initiatives suggested by NGOs and governmental bodies, was introduced in 1996. The main effort of the Plan was ‘the achievement of real equality and the development of women in all spheres of social life on the basis of sustainable social and economic development and the reaffirmation of democratic civil society’. Within the measures of the plan, urgent need of institutional mechanisms was underlined and the structure of its implementation was identified.

Significant progress in the gender equality legislation was made through amendments and new provisions in pre-existing laws such as the Labour Code and the Social Insurance Code: The principle of equal pay for women and men (in 2001) and definition of indirect discrimination (in 2003) were articulated into labour code certain amendments to the Labour Code introduced the definitions of indirect discrimination in order to render national legislation compatible with the EU law.

In 2002, Bulgaria signed a Memorandum of Understanding with the European Community for participation in the Community programme. The Framework strategy requires that women’s problems and needs are equal to men’s and should be taken into consideration equally when policies and/or measures are elaborated which means that the gender mainstreaming concept should be introduced at national level in Bulgaria. During the same year, the National Action Plans on Employment which includes an entire section on the promotion of equal opportunities for women and men was introduced. Specific measures to encourage women’s participation in the labour market and to reconcile work and family life, etc. were amended into action plan. It can be concluded that all accession countries, which do not have necessary legislations and/or instruments to promote gender equality, have followed the same path that led by European Action Plan for Employment.

¹⁰⁵ K. Stoichev, *Bulgarian Legislation and Gender Equality: A General Overview*, <http://www.enelsyn.gr/papers/w14/Paper%20by%20Dr.%20Krassen%20Stoichev.pdf>, retrieved: 31.10.2011, P.2

Pertaining to the ‘Chapter 13¹⁰⁶’ of the accession negotiations, fundamental legislative steps were taken with regard to further transposition of the *Acquis Communautaire* in the field of equal treatment for women and men during the early 2000s. In order to ensure compliance with the primary law and secondary legislation of the EU in the ‘protection against discrimination’ field, Bulgaria committed itself to the gender equality actions regarding required legislation amendments and new legislative instruments¹⁰⁷.

The most essential step taken in legislation was the introducing of **the Law on Protection against Discrimination (LPD)**. It organises the implementation of ‘gender equality’ in labour market, education and training, etc.; introduces a sanction system. Since the LPD is the first law to grant such a comprehensive legal instrument that brings principles of equal treatment, laying down the equality as value to be sustained and promoted, it can be stated that the LPD constitutes the most substantial step taken in the legislative actions that have been adopted to assure a significant level of transition of the *Acquis Communautaire* to the national law. The adoption of the LPD ensured a new perspective for the Bulgarian anti-discrimination legislation. The significance of this development can be briefly outlined as following¹⁰⁸:

- (a) The LPD introduced a list of discrimination grounds. This is a non-exhaustive list as it is planned that it will be further developed in separate material laws
- (b) A special merit of the LPD is that it provides legal definitions for ‘harassment’, ‘victimization’, ‘sexual harassment’, ‘race segregation’, ‘unequal treatment’, ‘multiple discrimination’, and – perhaps the most important – for ‘direct and indirect discrimination’. Most of the definitions reflect the wording and meaning of the terms used in the transposed Directives [another step that renders national law ‘Europeanised’]
- (c) The LPD provided an exhaustive list of explicitly given cases when unequal treatment shall not qualify as discrimination and difference in treatment is justified. This makes legislation more strict and accurate and thus renders it a powerful tool for reasonable and effective protection against discrimination.
- (d) Affirmative actions are laid out in the law although not exhaustively. Affirmative actions are extremely important instruments in combating discrimination and particularly for achieving the objectives of the LPD to ensure equality for everyone before the law, equal treatment and opportunities in the social life as well as effective protection against discrimination.

¹⁰⁶ Requirements for antidiscrimination actions and policies for equality of women and men are laid down in ‘Employment and Social policy’ Chapter of the accession negotiations.

¹⁰⁷ G. Illieva and M. Delinesheva, *Equal Opportunities for Women and Men: Monitoring Law and Practice in new Member States and Accession Countries of the European Union - Bulgaria*, Centre of Women’s Studies and Policies, Open Society Institute, 2005, P.11

¹⁰⁸ *Ibid.* P. 8

Furthermore, The LPD is a reflection and further development of the principle for prohibition of discrimination proclaimed in Article 6 of the Constitution of the Republic of Bulgaria. Moreover, it is the basic instrument for the transposition of key EU Directives related to gender equality and equal treatment as regards employment, working conditions, remuneration, vocational training, and burden of proof¹⁰⁹:

- (a) Directive 76/207/EEC on the Implementation of the Principle of Equal Treatment for Women and Men as Regards Access to Employment, Vocational Training and Promotion, and Working Conditions;
- (b) Directive 97/80/EC on the Burden of Proof in Cases of Discrimination Based on Sex;
- (c) Directive 75/117/EEC on the Approximation of Laws of the Member States Relating to the Implementation of the Principle of Equal Pay for Women and Men;
- (d) Directive 2000/43/EC on the Implementation of the Principle for Equal Treatment of Persons, Irrespective of Their Race or Ethnic Origin;
- (e) Directive 2000/78/EC on the Creation of a General Framework for Equal Treatment as Regards Employment and Professions; and
- (f) Directive 92/85/EEC on the Measures for Encouragement of Improvements in the field of Health and Safety Labour Conditions for Pregnant or Breastfeeding Employees.

As a result, the configuration and harmonisation of Bulgarian legislation with the Acquis Communautaire made an outstanding progress and it did not remain so; continued its advancement through the new amendments to the Labour Code. Newly amended provisions that are in compliance with related EU Directives refer to ‘parental leave’ and ‘protection of pregnant women from dismissal’.

Furthermore, the Law on Protection against Domestic Violence, which is in line with both government’s commitments at international level and EU Acquis Communautaire, was adopted; it obliges state to implement programmes to prevent women from domestic violence and to give assistance to victims of domestic violence and perpetrators¹¹⁰.

Another substantial reform was made in the ‘pension scheme’ field which reflects formal equality of women and men. In 2000, under the financial direction of the international financial institutions and following the policies implemented in Central and Eastern Europe and Latin America, Bulgaria set up a new pension system which based on three pillars¹¹¹: First, is the ‘pay-as-you-go’ compulsory system, which is administered by the National Social

¹⁰⁹ Ibid. P. 10

¹¹⁰ K. Stoichev, *Bulgarian Legislation and Gender Equality: A General Overview*, <http://www.enelsyn.gr/papers/w14/Paper%20by%20Dr.%20Krassen%20Stoichev.pdf>, retrieved: 03.11.2011, P.4

¹¹¹ *Gender Dimension of the Pension Reform in Bulgaria*, Fact sheet prepared by the International Labour Organisation (ILO), 2007 P.1.

Security Institute (NSSI). The second pillar consists of the fully funded compulsory supplementary system under which a small but growing portion of the contributions of workers born after December 31, 1959, goes into individual private pension accounts. The critical position of women regarding pension schemes is affected by women's high unemployment percentage that is 47.6 (in 2002) and 45.8 (in 2003)¹¹². The third pillar 'additional voluntary social insurance' consists of voluntary supplementary retirement plans to which any person can openly contribute and covers the risks such as old age, disability, death, unemployment, and/or professional qualification.

In our context, gender dimension of the new pension system puts women to a distinctive disadvantaged position: Women's employment rate significantly lower than men because of the fact that Bulgarian women, like in any other patriarchal society, are more likely to take time off from work to care for the elderly and dependent children and because of the same reason, they also more likely to work part-time therefore, the lower they contribute to retirement fund, the lower pension they get in the long life course¹¹³. In addition to that, the *early retirement age* is a disguised disadvantage for women: Since each worker's own earnings are the direct basis for his/her own retirement funds, a shorter working life means lower pensions for women.

However, pension reform as a whole, carries the burden of the lack of particularly designed compensating measures, employment programmes and its overlapping effects in privatisation and restructure of areas like economy, health care, etc.

3.1.1.2 National Machineries

Institutional mechanisms implement gender mainstreaming into all policy areas and its functions articulate women's interests therefore effective measures to combat gender discrimination require these mechanisms to be active.

In 2003, a Consultative Commission on Equal Opportunities for Women and Men and Disadvantaged Groups on the Labour Market was established within the Minister of Labour and Social Policy of Bulgaria. Its key duty is to improve the coordination between government, social partners, academia, and NGOs, in the process of gender and social equalisation in Bulgaria. Next year, the National Council on Equality between Women and Men (NCEWM) was set up and has the task to develop and implement the National policy on gender equality as a consultative body.

¹¹² P. Loukanova, *Women and Men in the Pension System in Bulgaria*, Centre for Women's Studies and Policies, (Sofia, 2004), P. 8

¹¹³ *The New Pension Paradigm: will it work at all?*, Bulgarian Gender Research Foundation, (BGRF), Bulgarian-European Partnership Association (BEPA), 2007, P. 4

In 2006, Bulgaria National Assembly established Women's Rights and Gender Equality subcommittee under the Human Rights and Religious Affairs Committee.

Legislation and mechanism developments in the areas concerning gender equality are - as above mentioned - requirements for any accession country of the EU yet; Bulgaria was the last to set up national machinery among the CEEC¹¹⁴. Common points of all these requirements and national implementations of the Bulgaria can be described as¹¹⁵:

- (a) stimulating political and social sensitivity to gender equality issues
- (b) establishing executive bodies, responsible for gender equality
- (c) studying indicators for the equal treatment of women and men, providing necessary information for developing and implementing relevant gender equality policies

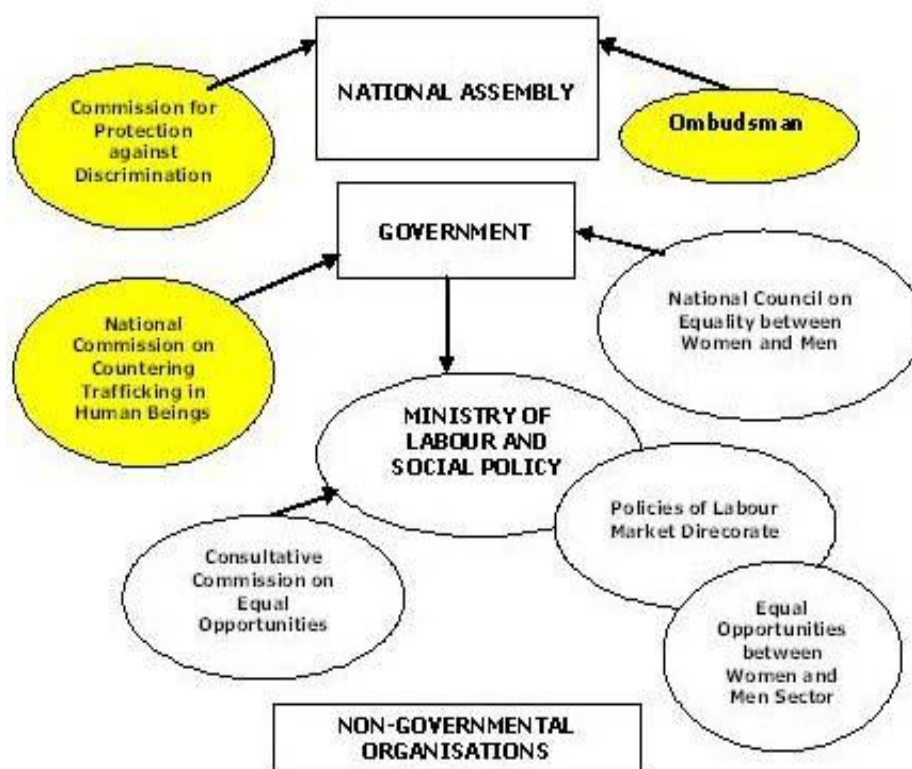


Figure 3.1¹¹⁶: Gender Equality Machinery in Bulgaria

The indispensability of the Commission for Protection against Discrimination and Ombudsman stems from their status of being bound up directly with the National Assembly. The Commission for Protection against Discrimination works as an independent specialised

¹¹⁴ S. M. RAI (Ed.), *Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the Advancement of Women*, Manchester University Press, 2003, P.178

¹¹⁵ Association of Spread of Knowledge "Missal", *Gender Equality Issues in Bulgaria*, Gender Equality: Women Creates Democracy Project, <http://www.gender-equality.webinfo.lt/results/bulgaria.htm>, retrieved: 05.11.2011

¹¹⁶ Source: *Gender Equality in Bulgaria*, http://www.stopvaw.org/list_of_law_and_policy_documents12.html, retrieved: 04.11.2011

state body to prevent any kind of discrimination and to ensure implementation of equal opportunities; it prepared obligatory prescriptions for compliance with the LPD and other laws in the field of equal treatment; can appeal against any administrative act that creates contradictions between the LPD and other equality laws.

The Ombudsman has the rights to inquire in case of received complaints or notifications on any violation of rights and freedoms done by the state, local authorities and public servants; to mediate between affected persons and the accused administrative authority and to prepare recommendations for concerning authority of the state to reinstate violated rights.

Civil Society and NGOs have a key role in addressing gender issues in Bulgaria and act to bring the 'European values' to home; bring closer the concepts of equality between women and men, awareness raising to change patterns and stereotypes, promotion of measures to eliminate discrimination.

3.1.1.3 Programmes and Strategies

Employment Strategy 2004-2010, the National Plan for Economic Development, Education Policies, and the European Strategy for Employment and the Strategy for the Equality of Sexes imply that certain general and specific measures need to be undertaken in order to achieve equal treatment of women and men in the labour market.

In 2003, Employment Strategy 2004-2010 was approved by the Council of Ministers. This strategy recognises the situation of discouraged people; develops ways to reintegrate them into the society and highlights two strategies to achieve gender equality¹¹⁷:

- (a) general measures refer to establishment of legislative, institutional and resource base for guaranteeing equal opportunities for women and men
- (b) specific measures are for those social groups that are considered to be disadvantaged and in a position on the labour market unequal with that of the other persons

Another step taken to harmonise national law with the regarding EU law is amendments in order to approximate employment related provisions to EU law, e.g. part-time work, shared employment, flexible working hours on a weekly and monthly basis, employment for performance of a specific job.

However, during the first year as a member of the European Union, Bulgaria failed to present a consistent policy to protect citizen's rights specifically socioeconomic rights; to include disadvantaged groups and to improve living standards, accession to education, health and

¹¹⁷ G. Illieva, M. Delinesheva, *Equal Opportunities for Women and Men: Monitoring Law and Practice in new Member States and Accession Countries of the European Union - Bulgaria*, Centre of Women's Studies and Policies, Open Society Institute, 2005, P.27

housing¹¹⁸. Government showed no concern that Bulgarians are at the bottom of EU living standards but showed great interest in absorbing EU Funds (which later on made the European Commission to cut Bulgaria's pre-accession funding due to the unprecedented corruption level¹¹⁹).

Since disadvantaged groups in a society include minorities, another issue should be raised here: Roma Women. They suffer from both gender inequality and minority discrimination, e.g. 87% of Roma households live at or below the poverty threshold and regarding women's situation; Roma women finish secondary education four to five time less frequently than Roma men.

Protection and integration of minorities is one of the major concern areas of the European Union and Bulgaria was criticised that their adopted legislations toward minorities' integration into society mostly remain on paper and there is no adequate programme to put legislative acts in action. However, it should be reminded that Bulgaria is not the only EU Member State which marginalises Roma people: Last year France adopted an 'anti-crime initiative' which specifically targets the Roma community¹²⁰. It includes expulsion from France of all Roma with Romanian and Bulgarian citizenship who had committed public offences, and the closure of unauthorized camps. As one of the oldest Member States, France itself adopted a policy that is not compatible with European laws and values and caused huge reaction among EU Member States¹²¹. Yet, this does not legitimise Bulgaria's actions. Beside the European Union, the Council of Europe has also recognised the lack of practice of legislation toward minorities¹²².

In this respect, Bulgaria included both short term and long term measures in its new National Reform Programme (2011-2015) to promote inclusion of disadvantaged groups. The measures that are adopted with this new Reform Programme are in accordance with Europe 2020 Strategy.

Politic matters in Bulgaria were dominated by accession to the European Union in the early 2000s: Bulgaria had to impose compulsive political criteria and legislative standards. Within

¹¹⁸ Research of the Bulgarian Gender Research Foundation and the Bulgarian-European Partnership Association, *Stagnation of Socioeconomic Rights*, Social Watch: Poverty Eradication and Gender Justice, 2008, <http://www.socialwatch.org/node/11064>, retrieved: 09.11.2011, P. 1

¹¹⁹ Social Watch: Poverty Eradication and Gender Justice, *Social Justice 2009 Report: Making Finances Work - People First*, National Reports No:9 - Bulgaria, Social Unrest, 2009, P. 2

¹²⁰ J. Hoare (Ed.), *State of World's Minorities and Indigenous People 2011: Events of 2010 - Focus on Women's Rights*, Minority Rights Group International, 2011, P. 188

¹²¹ Viviane Reding: "this is a situation I had thought Europe would not have to witness again after the WWII", September 2010, Vice-President of the European Commission responsible for Justice, Fundamental Rights and Citizenship, In: Ibid.

¹²² In 2010, the ECtHR found that Bulgarian police had engaged in inhuman and degrading treatment of three Bulgarian nationals of Roma origin during their arrest and detention in police custody, and that the use of force by the police against the applicants had been extensive and disproportionate (Case: Sashov vs. Bulgaria)

the period country launched negotiation chapters and adopted necessary legislations. In order to harmonise national legislation to the EU law, numerous new legislation and amendments to pre-existing policies (e.g. the law on protection against discrimination, the law on domestic violence, the Anti-trafficking law) were carried out in a very short time. This swift synchronising caused ambiguity within the public administrations that were unprepared for such a quick implementation.

As for Bulgarian people, European Union membership assured them concrete social and political rights to enjoy at both national and European level. However, as it is above mentioned, transformation of national law and harmonisation of EU standards and values were so quick that there was no place left for public to converge. From 'gender equality' approach, it is not wrong to compare it to communism period: Even though gender division existed in the labour market, women enjoyed - alleged or real - gender equality under communist regime and since it was imposed from up to bottom - had no base in society - , after the collapse of the Soviet Union, women in CEEC found themselves in a patriarchal society that attaches traditional roles to them. Hence, one can conclude that such a rapid change in laws in order to achieve harmonisation with EU law does not mean people embrace them: e.g. the claim of former attorney general stated that Bulgaria cannot fight against crime with women judges¹²³. Such a statement proves that patriarchal structure of the society did not vanish after the EU membership. What Bulgarian society really need is 'awareness-raising' in society and concrete 'gender mainstreaming' steps taken in all areas of life.

From now on, Bulgaria should accelerate practices of its transposed laws and lead Bulgarian people to embrace European values and standards. Both government and employers have responsibility in this task. Government, in cooperation with employers, should take urgent measures to rein in inflation; negotiate compensation for decreases in real incomes¹²⁴; guarantee wages; assess the impact of the crisis on the most vulnerable groups; improve efficiency of the public and private sectors and take measures to protect social and economic rights which need progress in areas like education and health care reforms. If these steps take part in practice, women in Bulgaria can only then enjoy their 'on paper' rights, which derive from Europeanisation of national law, at least as much as their fellow beings in Western Europe.

¹²³ S. Voyvona, *Strategies applied in Bulgaria to increase women's participation in and representation*, 2006, P.2

¹²⁴ According to Social Watch Report (2009), regular Bulgarian person must cope with price levels that come up to ~ 46% the average European price levels with 20% of the average European salary.

3.2 Western Europe

During the negotiations that led to the Treaties of Rome and the creation of the European Economic Community, French Prime Minister Guy Mollet had recommended that harmonisation of social regulations and fiscal burdens should be prerequisite for integration of industrial markets. However, since he was more concerned about opening European market to French agriculture and France's competitiveness in the market, he could only ensure the rules against "the discrimination of women in the labour market" and rules guarantying "non-discrimination and the portability of social benefits for migrant workers" in the final treaty¹²⁵. We cannot know what would have happened if Mollet's proposal was acknowledged but it is indeed intriguing enough to ponder on: Where would the European Union be now if the prerequisite of 'harmonisation of social regulations and fiscal burdens' was recognised? Could it lead to succeed or, on the contrary, could it hinder the European integration? It is a well-known fact that during the 1950s European states just started to recover from the WWII but were not fully advanced countries. It should be emphasised that all founding countries had a work-based social insurance based on Bismarck Model¹²⁶ and furthermore, if we check the GDP share of total public expenditures for each founding country, we can verify that there was not a huge different that can block them from approximating their welfare systems to build a European welfare system¹²⁷. However this one time chance was missed because quantitative and structural heterogeneity among Member States became more and more obvious in time¹²⁸.

We do not know whatever might have happened if Mollet's way was chosen as a path of European integration; yet we certainly know that 'decoupling' of economic and political dimensions of European integration would not have happened which is the case from 1957 (the Treaty of Rome) to 1991 (Maastricht)¹²⁹ therefore policy discussions at European level were solely on market integration and liberalisation. As a result, these steps let economic interest access to European policy processes and when 'direct effect' and 'supremacy' characteristics of primary and secondary European law were formed by the European Court of Justice, EU law took precedence over national laws of Member States. Consequently,

¹²⁵ F. W. Scharpf, *the European Social Model: Coping with the Challenges of Diversity*, JCMS, 2002, Vol: 40, No: 4, P.647

¹²⁶ The Bismarck system is primarily based on social insurance contributions and characterised by the following three points: (a) the insured persons are employees or gainfully employed; (b) the financing is via contributions, graduated according to income; and (c) the contributions to be paid are based on wages or salaries.

¹²⁷ In 1960 and among the original six, the GDP share of total public expenditures on social protection had varied by a ratio of 1.54 - 18.1% of GDP in Germany and 11.7% in the Netherlands. By 1965, further convergence had reduced the ratio to 1.17.

¹²⁸ With the unification of Germany and 1995 Enlargement, the GDP share of total public expenditures on social protection had risen to 2.15 (33.1% of GDP in Sweden and 15.4% in Portugal (OECD, 1994, Tables 1a-1c; in: Ibid.)

¹²⁹ Exceptions are rules against discrimination of women in the labour market and rules ensuring non-discrimination and the portability of social benefits for migrant workers.

Member States had to recognise this characteristic of the *Acquis Communautaire* and form their welfare state regulations in this regard.

3.2.1 Germany

Equality between women and men in employment was already guaranteed in national legislation of Federal Republic of Germany (FRG): Until 1980, the Basic Law of 1948 was considered as a sufficient assurance. According to Article 3(2) of the constitution of the FRG, “All provisions that are in violation of the principle of equality are unconstitutional and therefore null and void” and Article 3(3) prohibits discrimination on various grounds including grounds of sex. Since all laws, regulations, administrative provisions, articles of professional associations, collective agreements and occupational agreements are directly subject to the principle of equal treatment enshrined in Article 3(2) and 3(3) of the Basic law of the FRG, there was resistance to transpose the gender concerning Directives into national law. However, European Commission took necessary steps against the FRG then Germany had to take action: The act respecting equality of treatment for women and men at the workplace and the maintenance of claims in the event of the transfer of establishments [Labour law (European Community Harmonisation) Act] was set up in 1980¹³⁰. What is more is that the FRG has enormous contribution to EU Law through ECJ Case-laws¹³¹ since it is one of six founding countries of the European Union (back then EEC).

Horizontal redistribution and supports for families with children were the key features of the social policy in the German Democratic Republic. General policies, which targeted middle- and higher-income families, were characterised by general cash transfers, paid and unpaid parental leave, tax allowances and child care facilities (part-time Kindergarten for children over 3 provided by non-statutory organisations/groups despite funding by the state)¹³².

The GDR existed for 40 years which was a labour society with the right and obligation to work for both sexes inscribed in the constitution¹³³. Inclusion of both sexes did not mean that there were equal status and values in the labour market: there was a clear division/segregation between women’s and men’s jobs, corresponding differences in compensation and gender specific job hierarchies nevertheless the GDR promoted women’s work and provided for child

¹³⁰ E. C. Landau, *The Rights of Working Women in the European Community*, Official European Community Publications, 1985, P.56

¹³¹ For more detailed information: *Handbuch Gleichbehandlung von Frauen und Maennern in der Europaeischen Union*, Europaeische Kommission, Generaldirektion Beschaeftigung, Arbeitsbeziehungen und soziale Angelegenheiten, 1998.

¹³² M. Daly, *The Gender Division of Welfare: The Impact of the British and German Welfare States*, (Cambridge University Press, 2000), P.80

¹³³ I. Dölling, East Germany: Changes in Temporal Structures in Women’s Work After the Unification; in: R. Becker-Schmidt (Ed.), *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, (Leske+Budrich, 2002), P. 149

care facilities. Even wages were generally low and gender segregation exists, women could draw their humble welfare rights and benefits from their own work (83% of women in East Germany were employed while 54% in West)¹³⁴ whereas social policies encouraged strong male breadwinner model, marriage based gender and family roles through breadwinner wages and marriage related benefits and/or tax allowances in the FRG. People in the FRG could not gain any entitlement as individuals; but rather as husbands and wives, fathers and mothers, generations, employees, retirees etc¹³⁵. It was clear that in the FRG, obligations and/or benefits derive from “marital and/or family statuses” are prior to individual rights and it caused feminist literature to categorise Germany as ‘Familist Model’, in which welfare states are assessed regarding their ‘*familisation*’ or ‘*defamiliation*’ characteristics.

Here one might need a clear definition of ‘family policy’: Although there are numerous definitions of the ‘family policy’ concept, the definition provided by Skrede is considered as the best among all: Family Policy is public policy measures affecting the economic situation of parents and dealing with the regulation of the responsibility and sharing of costs and social reproduction between the private and the public sphere, or more specifically, between the *state* and the *family*¹³⁶.

To illustrate the contradictory situation of women in East and West, such a comparison might be useful: Regime of the GDR ensure independence to women with economic activity and expected women both to be workers and mothers; on the other hand, husbands in the FRG had the right of ‘last word’ on gender divisions matters of labour until 1977. Additionally, married and single mothers had the same rights in the GDR (because they were rearing ‘state’s children’) whereas single mothers and their children did not have the same rights with the ones come with the marriage.

By the time the new East German states joined the Federal Republic of Germany in 1990, plentiful incidents occurred in the labour market because of the Unification e.g. high unemployment, increasing job insecurity, and insufficient wages (to support a family single-handedly). In our context, the sharp increase in the number of ‘worker women’ and ‘female-headed households’ (about one-third of the former East Germany) posed a particular challenge to traditional welfare system of the FRG therefore it led changes in norms about the meaning of ‘family obligations’; altered patterns of ‘family life’ which rendered traditional

¹³⁴ R. Becker-Schmidt (Ed.), *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, (Leske+Budrich, 2002), P. 139

¹³⁵ H. Ostner,...[Et al.], *Family Policies in Germany: 3rd Report for the ‘Welfare Policies and Employment in the context of Family Change’ Project*, Social Policy Research Unit, University of York, circa 2004, P.5

¹³⁶ M. Daly, *The Gender Division of Welfare: The Impact of the British and German Welfare States*, (Cambridge University Press, 2000), P. 246

concept of 'welfare state support' obsolete because of the fact that traditional male breadwinner society marginalises female-headed households by far than other households.

Afterwards, families in the FRG are less conventional and more diverse; many people did not prefer the traditional male-breadwinner/female homemaker model anymore which was demonstrated by rising female employment (and also the quest for homosexual partnership rights)¹³⁷ therefore the GDR concept of 'equality' had replaced the traditional concept of different spheres of life, and women could claim some success in respect to incremental policy changes removing the discriminatory mechanisms that built into the male-breadwinner model welfare state¹³⁸.

Here, one might want to compare Germany to Bulgaria: Since "equality of women and men" was a 'top-down principle' in both East Germany and Bulgaria under the communist regime; it could have caused similar results after its collapse. There are indeed significant differences between uniting with a pre-existing state and creating a new one; however, as a common denominator of the comparison, the pre-existence of women's participation could have been constructive for both countries' adjustments. While this top-down principle vanished after the collapse of communism and caused massive poverty rates in the female-headed households in Bulgaria, where society reverted to the traditional male-breadwinner/female-homemaker model direct after the collapse of the communist regime, the concept of 'women as dual earner' was already embraced by German society and caused revisiting of social policies toward amending increased number of 'dual earner' into pre-existing male-breadwinner model of the FRG. Though there remains another point yet to be highlighted: Since 'care work' is fundamental for the well-being of any society and an indispensable element for providing 'welfare', the extreme number of women in the labour market after unification led to decisive questions among the key elements of welfare state; where care should be located, by whom it should be provided, how it should be supported. Therefore it seems like German family policy shifts toward Eastern thinking since the late 1990s (at least at the public debates level)¹³⁹. Even though West German system, institutions and procedures were transferred to

¹³⁷ R. Becker-Schmidt (Ed.), *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, (Leske+Budrich, 2002), P. 133

¹³⁸ C. Lemke, *New Family Patterns: Germany After Unification*; in: R. Becker-Schmidt (Ed.), *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, (Leske+Budrich, 2002), P. 139

¹³⁹ H. Ostner, ...[Et al.], *Family Policies in Germany: 3rd Report for the 'Welfare Policies and Employment in the context of Family Change' Project*, Social Policy Research Unit, University of York, circa 2004, P.3

the East with the unification, social policies shift toward Eastern thinking. To illustrate the shift, a summary of social policy measures of the GDR as follows¹⁴⁰:

- (a) A 40 hour work-week at full pay for all mothers with two or more children under 16 years of age (in comparison: the normal work-week in the GDR is 43 ½ hours or 40 to 42 hours per week for shift-workers)
- (b) A monthly paid housework day for all married women, mothers of children under 16 years of age and for all women over 40
- (c) 26 weeks of pregnancy or maternity leave (since 1976, in comparison: 1950 - 11 weeks; 1963- 14 weeks and 1972 - 18 weeks)
- (d) A paid leave for one year after the birth of a first or second child, 18 months for each further child. During the 'baby year' support payments between 70% and 90% of the mother's average income. Return to original workplace is guaranteed. Since 1986, the 'baby year' can be by either the mother or father or can be divided between them.
- (e) Unmarried mothers (in 1988 over 30% of all first births are to unmarried mothers) receive a financial support payment at the level of sick pay (that is 70-90% of average income) until the child is three years of age, if the child is unable to attend day care because of health reasons or if no day care space is available.

Welfare state, as defined in the Chapter one, either provided care directly or provides resources to enable people in private life to provide it. However, what matters empirically is how different gauges are accumulated by welfare states into a general framework. With regard to 'care', Germany was the second most supportive states by means of care provisions. In the early 1990s, consecutive weeks of maternal and parental leave was 162; equivalent of leave weeks paid in full was 31.7% (Sweden was in the first rank with records of 64 and 42.6%, respectively)¹⁴¹.

Based on the assumption that socialism can be recognised as a special type of modern society, 'gender equality' in the GDR can be interpreted as a version of 'paths toward modernised European gender arrangements' which is originally theorised by Pfau-Effinger¹⁴²: The gender contract practiced in the GDR was based on the 'dual-earner model' and it led gender arrangements to be characterised by the disappearance of male-breadwinner role, by a trend

¹⁴⁰ I. Dölling, East Germany: Changes in Temporal Structures in Women's Work After the Unification; in: R. Becker-Schmidt (Ed.), *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, (Leske+Budrich, 2002), P. 169

¹⁴¹ F. Bettio, S. Prechal, *Care in Europe*, Joint Report of the 'Gender and Employment' and the 'Gender and Law' Groups of Experts, European Commission, Brussels, 1998; in: M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.52

¹⁴² Pfau-Effinger differentiates two paths of modernisation of European gender policies following different gender contract: (a) modernisation of the traditional male-breadwinner model via part-time work for women that privatises care to women's responsibility (which corresponds to the women's situation in the West) and (b) integration of both sexes full time into the labour market - dual earner model - combined with the cultural norm and respective institutionalised forms of a mixed private and public care taking for children.

toward female economic independence and a correspondingly strong position of women in the family which bolstered by financial contribution of women to the household income of 47% on average (compared to 18% in the FRG)¹⁴³. However, after unification, much of the West German labour, tax, and family legislation were based on a modernised male-breadwinner/housewife model (modernised because it covers part-time work for women). Social Benefits for women/mothers in the United Germany were as follows¹⁴⁴:

- (a) 14 weeks of paid maternity leave with job-dismissal protection for 4 months
- (b) 36 weeks parental leave - can be split between the parents; child-rearing money is received for the first 6 months (600 DM:/month) and after that following 18 months can be financed depending on income
- (c) The legal right of all children to attend a preschool/kindergarten from age 3 to 6 (introduced 1996 along with the new abortion law; to be put into action in all Federal Laender till 1999) [In 1994 the opening hours for kindergarten in West Germany were 3 to 6 hours (in the morning), in East Germany 8 hours]
- (d) Since 1992, 3 years of child-caring are credited for pension

According to study of Sarina Kaiser prepared within the period of 1990-1994 showed that gender-specific differences on gainful employment of women resurrect in the views held by 20-30 years old: In 1994, significantly fewer men were in favour of women working full-time than in 1990, even for households without any children. In four years, the 'equality head start', which these men had over those of the previous generation, had disappeared¹⁴⁵.

The ageing of populations across Europe and longer female life time led studies on economic resources and poverty concentrate on gender inequalities; and led welfare states to recognise the rising need of caring elderly (65+), ill and those are disabled; but the way to provide it differentiates among the states. While leaves for parents is one of the most widespread types of policy response to the need for care of children, approaches to care for elderly of the European states vary between residential provision, cash payments to those who either provide or need care which indicates the tendency toward home-based care through payments specifically for the private care for elderly and incapacitated. During the early to mid-1990s, Germany was also included in the group that makes payment for private care but what led Germany to stand out is that it gives these payments to care receiver; not to care provider. Germany also provided medium level institutional care but had relatively low levels of

¹⁴³ I. Dölling, *East Germany: Changes in Temporal Structures in Women's Work After the Unification*; in: R. Becker-Schmidt (Ed.), *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, (Leske+Budrich, 2002), P. 150

¹⁴⁴ Ibid, P. 171

¹⁴⁵ R. Becker-Schmidt (Ed.), *Gender and Work in Transition: Globalisation in Western, Middle and Eastern Europe*, (Leske+Budrich, 2002), P. 158

providing public services to the elderly¹⁴⁶. As a result, one can conclude that Germany supported the idea of ‘care is a private matter’ during the early to mid-1990s.

When we take ‘unpaid care’ into consideration, women are identified as unpaid care providers across Europe in terms of providing care for both children and elderly. During 1990s, 23%, 5% and 27% of German women provide care for children, adults and both for children and elderly, respectively¹⁴⁷ which show that care responsibilities bring about tough and direct effect in women’s participation in labour market as ‘part-time worker’ (89.1%, in 1999¹⁴⁸).

In 1999, overall employment rate for German women was 69.1% whereas 50.1% for women with children (0 - 5 years old). Market participation rates of German women reduce by -12, -25 and -36 if a German woman has 1 child, 2, and 3+ children, respectively¹⁴⁹. It is obvious that in Germany, the more children German women have, the less job possibility they have. Generally, one can easily conclude that during 1990s, caring activities have strong costs on labour supply of German women and children have the strongest negative effect on participation of German mothers in the labour market. However, since not all mothers are in the labour market, it has significant value to loon into their economic well-being; into the distribution of poverty. During the early 1990s, in Germany¹⁵⁰:

- (a) Mothers’ poverty rate as % of that of fathers was 119 %
- (b) Mothers’ poverty rate as % of that of childless women was 84%
- (c) Lone Mothers’ poverty rate as % of that of mothers in couples was 306%
- (d) Lone Mothers’ poverty rate as % of that of single childless women was 172%

When it comes to women’s problems within the employment, the focal point should be gender segregation because gender does not only lead to divergence in propensity of women and men to be in employment but also for segregation in the employment. This fact can be observed even in the best welfare state examples of women’s participation in employment, e.g. the Nordic countries¹⁵¹.

Despite the progressive integration of women into the labour force, a strong differentiation in the jobs held by women and men continues to be observed. As it is summarised in Chapter 1, gender segregation has two dimensions: Horizontal and vertical.

State has been always the biggest chance for women’s participation in the labour market thus German women has also concentrated in public services (50.3%) but, despite massive number

¹⁴⁶ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.52

¹⁴⁷ Ibid, P. 55

¹⁴⁸ Ibid, P. 77

¹⁴⁹ Ibid, P. 61

¹⁵⁰ Ibid, P. 64

¹⁵¹ Further information can be found in the following subpart

of women public servant, the percent of women in senior management in the public sector was 33.1 in 1999¹⁵².

In order to be able to see gender inequality at national state level, the next factor should be analysed is 'wage rates'. It is a recognised fact that male wages are sufficiently fixed to support an entire family in traditional male-breadwinner model societies therefore there is no need for wives to commence employment for financial reasons. In this regard, income levels of women and men can be measurement for revealing gender inequalities in payments: EU average rate of women's gross hourly earning as percent of those of men was around 75% whereas German Women's was 76.9% in 1995 (Sweden stands out in this case with the rate 87.0% for the same year)¹⁵³. To combat gender inequality in wages, the common method that is used in Europe is 'minimum wage' arrangements but in Germany there is no such arrangement¹⁵⁴.

As a result of all these differences between women and men, two main differentiations prevail: 'equality of accesses' and 'equality of outcome'. The role of worker has a different meaning for women; analyses prove that there is indeed outstanding distinction: 'poor quality of women's employment' which includes 'level of job, financial return from work, future career prospects which have enormous influence on the rights, entitlements and welfare of women as they age'.

With regard to analysing impacts of 'gendered social roles' on female households and their poverty, first the difference between female- and male- households should be clarified: Female-households tend to consist of an elder living alone, a sole younger childless woman or lone parent whereas majority of male-households contain couples with/without children.

The gender dimension of income and poverty is obvious if one looks into the degree of protection of women in case of the loss (through divorce, separation or widowhood) or absence of male wage, pension or other income. Across Europe, the EU women living alone are almost one and a half times more likely to be in poverty than men in the very same circumstances which indicates 'feminisation of poverty'. Germany had relatively good performance during the 1990s with a 1.4 gender poverty ratio (Sweden: 0.8) and a 90% gender wage gap (income of female-headed households as % of male-headed)¹⁵⁵.

¹⁵² M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.82

¹⁵³ Ibid, P. 84

¹⁵⁴ Although Trade Unions have always been supportive hitherto there was not any minimum wage arrangement but nowadays 'minimum wage proposal' took its part in the policy discussions of the Christian Democratic Union.

¹⁵⁵ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P. 99

The income ‘penalty’ is attached on lone mothers because the difference between the average incomes of lone mothers’ households and those of the whole population does exist and can be measured. This penalty is at its greatest before the state intervenes and in so doing the state becomes an important source of income for lone mothers. In 1990s, German lone mothers were receiving one third of their income from Germany¹⁵⁶ whereas in Sweden taxes and transfers reduce women’s poverty by more than three quarters¹⁵⁷. In respect to poverty rates of lone mothers’, Germany has very high rates of poverty that prevails among other European states therefore the “economic penalty attaching to lone motherhood emerges in spite of state intervention, and reflects the rigorously compromised access that lone mothers have to have market income¹⁵⁸”.

At-risk-of-poverty rate after social transfers by gender

%

Females

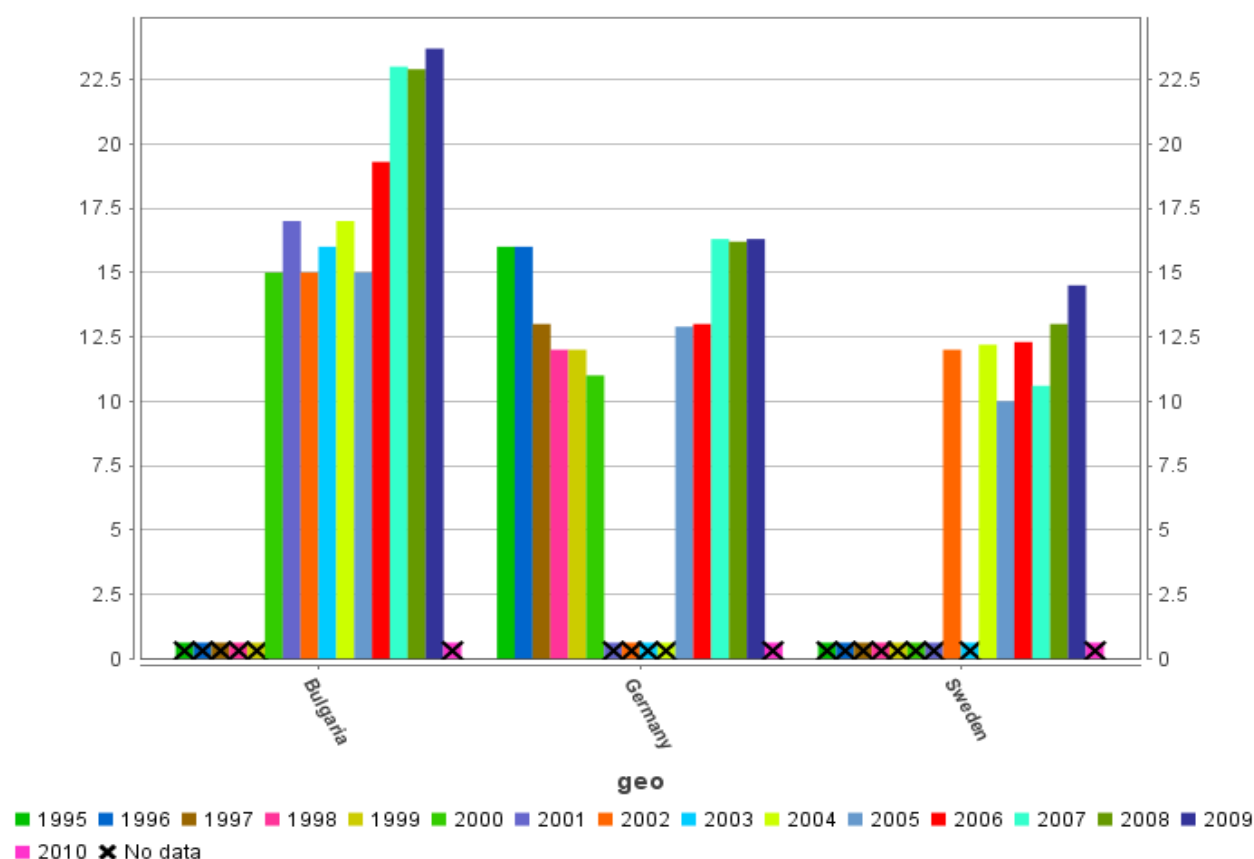


Chart 3.3¹⁵⁹: Women’s At-Risk-Of-Poverty Rates After Social Transfers Since 1995

¹⁵⁶ Ibid, P.106

¹⁵⁷ Ibid, P.102

¹⁵⁸ Ibid, P.108

¹⁵⁹ Source of Data:: Eurostat General Disclaimer of the EC: http://europa.eu/geninfo/legal_notices_en.htm, Last update: 30.09.2011 Date of extraction: 02 Oct 2011 17:22:37 MEST, Hyperlink to the graph: <http://epp.eurostat.ec.europa.eu/tgm/graph.do?pcode=tsisc030&language=en>, Disclaimer: This graph has been created automatically by Eurostat software according to external user specifications for which Eurostat is not responsible.null, Short Description: The share of persons with an equivalised disposable income below the risk-of-poverty threshold, which is set at 60 % of the national median equivalised disposable income (after social transfers). Code: tsisc030

All of these abovementioned indicators show that gender inequalities do exist in Germany and that how social model of Germany reacts to occurred gender inequalities: In a nutshell, it can be stated that the social system of Germany strengthens female/male income inequalities both directly and indirectly but more among individuals rather than households during 1990s¹⁶⁰.

In 2000, social security schemes were under pressure because of demographic changes, increased unemployment and growth stagnation. Pressure that resulted from the demand for more competitiveness caused reduction in social security resources and escalated private individual contributions¹⁶¹. Within the same year, there was a major reform of the 1986 Parental Leave Legislation which aimed at adopting the existing rules according to the needs of employed mothers and fathers to promote flexible employment: Parents now can share the up-to-three years leave which implies to increase fathers' take up rate by flexing eligibility rules and granting rights which are more adequate for men. Threshold of income-testing of the benefit and for being employed while on leave were considerably raised by the 2000 reform. This was a real step taken in a male-breadwinner model society toward recasting working men as care providers and mothers as workers. However, all these positive measures were changed in 2005 retrospectively¹⁶².

Next year, it was stated that 42% of one-parent families with two or more children live below the relative 50% poverty line which was tried to ameliorate by several legislative initiatives that boost family benefits and tax reforms. Furthermore, government tried to recover the situation also in other ways, such as reform in pension politics¹⁶³, health sector¹⁶⁴. However this 'reforms' made lower income groups suffer more because they cannot simply replace lost services through private spending. Moreover, the Action Plan 2015 made budget cuts for social services which reduced from 16.5% in 2000 to 13.5% in 2001¹⁶⁵ but it did set out a poverty reduction strategy that covers all policy areas and identifies "Guaranteeing Basic Social Services - Strengthening Social Protection" as a separate priority area for government action¹⁶⁶.

¹⁶⁰ Mary Dally, *The Gender Division of Welfare - The Impact of the British and German Welfare States* (Cambridge University Press, 2000), P.233

¹⁶¹ R. Brand, J. Martens, *Further than ever from the 0.7%*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2000, P.2

¹⁶² H. Ostner,...[Et al.], *Family Policies in Germany: 3rd Report for the 'Welfare Policies and Employment in the context of Family Change' Project*, Social Policy Research Unit, University of York, circa 2004, P. 20

¹⁶³ For further information on 2001 Pension Reform in Germany: M. Schuldi, *The Reform of Bismarckian Pension Systems: A Comparison of Pension Politics in Austria, France, Germany, Italy and Sweden*, Changing Welfare States Series, Amsterdam University Press, 2005, P. 150

¹⁶⁴ S. Richter, J. Reichel, *Half Committed*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, German NGO Forum, World Summit for Social Development (WSSD), 2001, P.2

¹⁶⁵ Ibid, P.3

¹⁶⁶ U. Kerkow, *No Social Progress in Germany, Artificially Inflated Development Aid Abroad*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2006, P.3

In 2001, the German government presented several initiatives to reduce poverty and social exclusion in Germany that includes the first official '*Report on Poverty and Wealth*' which embraces the situation of poor. The main findings are¹⁶⁷:

- (a) Income disparity has grown slightly in the last few years despite government initiatives to counteract. The 90/10 ratio¹⁶⁸ has worsened from 3.04 in 1988 to 3.26 in 1998; the gap between the rich and poor continues to widen.
- (b) The widening income gap has resulted in an increase in relative poverty: According to the usual definition of relative income poverty¹⁶⁹, 11% of German households were relatively poor in 1998 and single parent households primarily among these 11%.
- (c) The number of unemployed people remains at about four million; in addition, report acknowledges the existence of low-income sector made up of the *working poor*.
- (d) High unemployment tends to hit women rather than men, especially since the income tax system favours a one-earner model (*Ehegattensplitting*).

Within the same year, the German government took steps forward to ameliorate the existing public pension insurance, such as increase in women's pensions (e.g. claims resulting from part-time work while bringing up children)¹⁷⁰. This reform explicitly promotes 'dual breadwinner model' of a full-time and part-time working couple: It reduced the standard pension; introduced a small funded tier to compensate for the decrease and introduced more generous social assistance in cases of pensions below the poverty threshold; granted pension credits to part-time working mothers for children which are lifted to two thirds of total average income; however it abolished children's obligation to support their poor elder parents¹⁷¹.

In 2002, despite several political initiatives, income gap has widened and access to basic social services (basic education, health service, reproductive health) remained uneven.

Although Germany is one of the most industrialised countries in the world, this fact did not impede the growth in either the number of people living at poverty risk or income inequalities between women and men: In 2003, 13.5% of German residents were at high risk of poverty, whereas it was 12.1% in 1998 and lone parents - mostly women - are at risk by far; their at

¹⁶⁷ S. Richter, J. S. Richter, *Antipoverty Rhetoric: More Programme than Action*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, German NGO Forum, World Summit for Social Development (WSSD), 2002, P.1

¹⁶⁸ The 90/10 Ratio: the income of the richest 10% divided by the income of the poorest 10%

¹⁶⁹ Relative Income Poverty: 50% of net average income, adjusted to equivalence scale

¹⁷⁰ S. Richter, J. S. Richter, *Antipoverty Rhetoric: More Programme than Action*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, German NGO Forum, World Summit for Social Development (WSSD), 2002, P.2

¹⁷¹ H. Ostner, ...[Et al.], *Family Policies in Germany: 3rd Report for the 'Welfare Policies and Employment in the context of Family Change' Project*, Social Policy Research Unit, University of York, circa 2004, P. 23

risk of poverty rate has been “35.4% since 1998¹⁷²”. This occurrence is not unforeseen because salaries of women have always been lower and in 2004, women were paid “20% below¹⁷³” (for female engineers 30.7% below) for equal work in comparison to men despite the fact that the ‘equal pay for equal work’ EU Directive that has been in force since 1975. According to the metal industry union ‘IG Metall’, “if women wages in West Germany continue to move into line with men’s at the same rate as over the last 40 years, it will take another 40 years, at least, for women white-collar workers and far more than 70 years for women in manual jobs, to catch up with their male co-workers¹⁷⁴”.

Yet, there exist positive social trends, for instance, the number of homeless has almost halved since 1995 according to the Working Group on Assistance to the Homeless (*Bundesarbeitsgemeinschaft Wohnungslosenhilfe* - BAGW)¹⁷⁵. In 1998, there were registered 530000 homeless people, but the rate had fallen 38% by 2002 which includes 75000 (23%) women and 72000 (22%) children and teenagers¹⁷⁶.

In 2003, there has been a new agenda setting: Agenda 2010 ‘Vorteil Familie’; it introduces measures concerning families by highlighting the need for consciousness policies which aims to set up an institution that is responsible for enhancing to decision to have children and secondly, it plans to readjust cash benefits and services. The first measure concerns a supplementary benefit for low wage earning parents and the second measure consists of the re-introduction of lone parent care benefit. It should be here declared that Germany combined the second tier of unemployment benefit and social assistance in 2004 which pushed many families below the social assistance threshold¹⁷⁷. It also treated unemployment or sickness benefits as income so it formed a major deviation from the 2000 Parental Leave Reform. It is obvious that this reform aimed to reduce the numbers of recipients. To summarise, it can be stated that funding was shifted toward children and employment of their parents; children have been defined as society’s assets and future human capital (here, the concept of ‘state’s children’ of socialism might cross minds).

¹⁷² U. Kerkow, *The Copenhagen Goals are still far-off*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2005, P.1

¹⁷³ Ibid, P.1

¹⁷⁴ IG Metall, on 3 March 2004, the Federal Statistical Office (Statistisches Bundesamt, Destatis) published the results of its 2003 comparison of the incomes of men and women. It states that the average income of women in 2003 was even 30% below the average income of men; in: U. Kerkow, *The Copenhagen Goals are still far-off*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2005, P.2

¹⁷⁵ U. Kerkow, *Social Security under Treat*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2004, P.1

¹⁷⁶ U. Kerkow, *The Copenhagen Goals are still far-off*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2005, P.3

¹⁷⁷ H. Ostner, ...[Et al.], *Family Policies in Germany: 3rd Report for the ‘Welfare Policies and Employment in the context of Family Change’ Project*, Social Policy Research Unit, University of York, circa 2004, P. 20

In recent years, the meaning of ‘individualisation’ in Europe became ‘labour market individualisation’. In our context, it means ‘partial’ institutionalisation for women because it is either ‘part-time’ individualisation or de-familisation. Chart 2 reviews impacts of family oriented reforms on German women which aim to¹⁷⁸:

- (a) increasing part-time employment of mothers and in this manner, contribute to social insurance funds (but reduce contribution rates for health and old age insurance of women at the same time)
- (b) supporting parents to balance work and family responsibilities by granting ‘part-time right’ and hence encouraging flexible employment; extending parental leave and making it more attractive for fathers at the same time, e.g. by extending the right of weekly hours worked alongside parental leave from 20 to 30 hours enabling employers to retain ‘valued members’ of staff
- (c) increasing birth rates where needed etc.
- (d) investing in ‘future human capital of society’; by redefining the objectives of German Kindergarten from helping children to educate themselves through play to early childhood cognitive education (*edu-care*)
- (e) tackling child poverty; by helping their parent(s) to enter and stay in employment and by granting tax credits for low wage families

¹⁷⁸ Ibid, P.21

	De-Familisation [(Re)-Commodification]	Re-Familisation [De-Commodification]
Negative Measures	<i>Individualisation by</i> - abolition or reduction of derived benefits, e.g. widows' pension, health and care insurance (2001 and ongoing debate); - transformation of tax splitting (ongoing debate) - obligatory private insurance (old age) (2001) <i>hits especially non-employed child-less married women but also lone mothers</i>	<i>Familisation by</i> - reduction of pensions (2001, 2003, ongoing) - reduction of provisions and services for elderly and for chronically sick or handicapped (ongoing health care reform: reduction by implicit and explicit forms of rationing) <i>hits especially solo women with lower income</i>
Positive Measures	<i>Individualisation by</i> - pension credits for part-time employed mothers (fathers) (2001) (right derived from child!) - (child's!) right to long part-time care (1995) - legal right to part-time (2002) - part-time friendly parental leave (2001; 2004) - extension of day care (2005 onwards) - subsidies (tax relief) for paid domestic help or child minders (2002) <i>advantages mostly married mothers</i>	<i>Re-Familisation by</i> - re-introduction of lone parent's benefit (2004) - pension credits for non-employed mothers of two and more children (2001 Pension Reform) (right derived from child!) <i>advantages mostly married mothers who can afford to stay at home and care for their children</i>

Table 3.1¹⁷⁹: Family Related Reforms in Germany: Impacts for De-Familisation & Re-Familisation

At the end of 2005, more than seven million people in Germany depended on the state financially at the level of social assistance: In December 2005, almost 5 million people were receiving unemployment benefit II and almost 1.8 million people were claiming 'Sozialhilfe'; which constitute the two fundamental form of German basic social assistance. The second vulnerable group in German society was 'working poor'. In some sectors, wages are even lower than social assistance¹⁸⁰; consequently these people need social assistance in order to have a decent life. Furthermore, in 2007, increase in the standard value added tax (VAT) had an outrageous impact on working poor, people with state benefits, pensioners on small

¹⁷⁹ H. Ostner,...[Et al.], *Family Policies in Germany: 3rd Report for the 'Welfare Policies and Employment in the context of Family Change' Project*, Social Policy Research Unit, University of York, circa 2004, P. 22

¹⁸⁰ U. Kerkow, *No Social Progress in Germany, Artificially Inflated Development Aid Abroad*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2006, P.2

incomes and families; generally on whom are reliant on the state and on whom have to spend their income on consumption¹⁸¹. This new burden, therefore, broadens the 90/10 ratio within the German society.

Financing jointly by both the workforce and the employers is fundamental peculiarity of German statutory social insurance framework which is being criticised by companies for years due to the competitive disadvantage. In 2007, Germany raised the retirement age from 65 to 67; anyone who has to stop working before the age 67 would encounter pension cut (38.4% of the 55-64 age group in Germany still work). This measure was adopted to limit the pension contributions being made, particularly by companies, not to secure the income replacement ratio¹⁸².

Furthermore, financing of health insurance is not shared equally by the workforce and the employers anymore and this fact shifts risks onto the insured persons. However, new health insurance measures do have affirmative consequences: (a) it obliges everyone living in Germany to have health insurance coverage; (b) it obliges private health insurance companies to offer a 'basic tariff' which blocks them to charge extra funds to cover individual health risks¹⁸³.

In recent years, the common concern of critiques on Germany have been increased poverty and economic and social inequality which escalated more swiftly in comparison to other EU Member States: In 2007 alone, income inequalities have increased by 0.3%; a quarter of the population and one-third of children and young people would have been under the poverty rate if they could not acquire state benefits. As a result, debates about minimum wage and labour protections were prompted¹⁸⁴.

Another problem was extreme increase in the number of 'mini jobs' that pays maximum wage of 400€ and 'part-time' jobs that mostly (almost two-thirds of these marginal positions) occupied by women¹⁸⁵. The convergence of women in these marginal employments has two critical sources: Lack of state-funded childcare options and discriminatory tax provisions that still promote to the 'male-breadwinner' model within the household, hence, put women at a disadvantage position in the labour market and make them dependent on a higher-earning

¹⁸¹ Ibid, P.1

¹⁸² U. Kerkow, *High Level of Social Security Under Treat*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2007, P.2

¹⁸³ Ibid, P.3

¹⁸⁴ U. Kerkow, *High Level of Social Security Under Treat*, Social Watch: Poverty Eradication and Gender Justice Country Reports: Germany, 2007, P.3

¹⁸⁵ Ibid, P.4

partner. As a result, there are critiques on Germany to find a way to set up a Gender Equality Act at national level which is based on the Nordic Model.

3.3 The Nordic Countries

With reference to existing social and economic system in the world, there is one that can be referred as ‘Nordic Model’. This does not mean that there is not any difference between economies and policies of the Nordic Countries¹⁸⁶ but their remarkable resemblances what lead social scientists to attribute them as ‘Nordic Model’. The fundamental features of the ‘Nordic Model’ are as follows¹⁸⁷:

- (a) comprehensive welfare state with an emphasis on transfers to households and publicly provided social services financed by taxes, which are high notably for wage income and consumption
- (b) a lot of public and/or private spending on investment in human capital, including child care and education as well as research and development (R&D)
- (c) a set of labour market institutions that include strong labour unions and employer associations, significant elements of wage coordination, relatively generous unemployment benefits and a prominent role for active labour market policies

In consistent with its features, the ‘Nordic Model’ can be defined as “a way of generating political support for growth-enhancing technical change, free trade and open markets by creating a number of systems through which the winners from structural transformation at least to some extent compensate the losers¹⁸⁸” and includes compensation mechanisms such as “solidaristic wage setting, active labour market policies, redistribution of income via tax-transfer schemes, comprehensive and generous unemployment insurance schemes and other elements of social protection¹⁸⁹”.

In our context, the ‘Nordic Model’ is based on the presumption that ‘women and men have the same rights, obligations and opportunities in all essential areas of life’. This broad concept of equality in turn imposes demands on the fundamental structure of society and its various functions. Among five Nordic countries, 72% to 83% of women participate in the labour market¹⁹⁰. The Nordic Countries are associated with strong political commitment to gender equality and to policies regarding women’s integration into public life therefore pre-existing

¹⁸⁶ The ‘Nordic Countries’ concept refers to “Sweden, Norway, Finland, Denmark and Iceland, incl. their associated territories.

¹⁸⁷ T. M. Andersen, ...[et al.], *The Nordic Model: Embracing Globalization and Sharing Risks*, The Research Institute of the Finnish Economy (ETLA), Taloustieto Oy, 2007, P.13:ff

¹⁸⁸ Ibid, P.18

¹⁸⁹ Ibid., P.18

¹⁹⁰ S. M. Rai (Ed.), *Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the advancement of Women*, Manchester University Press, 2003, P. 148

comparative studies concerning welfare states and gender equality have always showed that the Nordic countries succeed way better than other countries in combining economic growth and generous social system. Hence, the Nordic Countries are always seen as epitome that shows enhanced social and economic system can be achieved at the same time.

In the early 1980s, Norway took a step ahead and started systematically to fix 'gender' into all policy fields and during the next decade, the other Nordic countries started to develop their own mainstreaming strategies.

According to efficiency indicators, the Nordic countries have always been successful in accomplishing their social objectives combined with booming economic performances in terms of employment and GDP per capita. However, this success has not always existed; the Nordics went through a period of low productivity growth in the 1970s and during the early 1990s, they had to deal with high unemployment rates and large fiscal imbalances. Here, one would be right to think that all three countries that take part in this study suffered from major economic crises during the early 1990s.

In 1996, the Nordic Council of Ministers decided to implement a three-year project (1997-1999) in order to develop methods and tools to integrate gender perspective into labour market policy and youth policy of the Nordic countries¹⁹¹. This cooperation has provided outstanding opportunities to develop new methods and strategies and since it is also a forum for exchange of experience, it did approximate Countries' approaches and implementations. Furthermore, the activities arose from this cooperation have focussed on¹⁹²:

- (a) promotion of equal access for women and men to the political and economic decision-making processes
- (b) promotion of equal economic status and influences for women and men; particular emphasis placed on steps to promote equal pay
- (c) promotion of gender equality in the labour market
- (d) improved opportunities for both women and men to combine parenthood with a job
- (e) measures to influence European and international developments in the field of gender equality
- (f) development of methods of promoting active steps to achieve gender equality

¹⁹¹ Ibid., P.146

¹⁹² Ibid., P.148

3.3.1 Sweden

Historically, Sweden has always stood out among other countries with respect to its simultaneously economic and social achievements. Over time, outside observers began to use ‘Swedish Way’ to refer a ‘middle way’ between competitive capitalism and state socialism. As a result, Sweden has created a “self-image of a welfare society in which the state is the best vehicle for achieving social integration¹⁹³” and was typified because of its economic and social achievements. On the other hand, since Sweden has accomplished one of the highest living standards in the world and has advanced welfare system, high rate of taxation does exist¹⁹⁴.

Sweden can be named as a ‘large state’ with a ‘small family’¹⁹⁵; activity sphere of the state contains the areas that are generally considered beyond the reach of the state. Sweden intervenes are directly effective on citizens’ life to integrate citizens into employment and, therefore, into society, regardless of their life histories. Hence, combined employment and citizenship is the access to welfare state resources. High degree of individualised social protection let citizenship prevail and this means no poverty risk for women in case of loss of partner’s income (whereas German women generally are just a partner away from poverty).

The Equal Opportunities Act of Sweden has been in effect since 1992. The main goal of this act that replaced the 1980 legislation on equal opportunities is to promote equal rights for women and men with respect to employment, working conditions and opportunities for personal development at work. However, these goals could not be achieved without preconditions of gender mainstreaming, e.g. strong political will at the highest level and national machinery with the mandate, tools and resources on the policy process at all levels¹⁹⁶. Sweden’s active place in engaging and promoting women in the labour market confirms the very existence of strong gender elements in policies: Within years, social policies have advanced and became a perception that also refers to active participation of men in unpaid work and in care-related activities, e.g. daddy month, therefore Sweden enabled an area, which is considered ‘private’ in other societies, to become a part of the state’s influence sphere. There are numerous labour market rulings that enable this feature functioning: long hours of part-time work, extensive support through leaves for caring purposes, gender

¹⁹³ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.151

¹⁹⁴ M. Donald Hancock, ...[et al.], *Politics in Europe: An Introduction to the Politics of the UK, France, Germany, Italy, Sweden, Russia and the EU*, 3rd Edition, Chatham House Publishers of Seven Bridges Press, 2003, P. 347

¹⁹⁵ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.150

¹⁹⁶ S. M. Rai (Ed.), *Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the advancement of Women*, Manchester University Press, 2003, P.146

equality embedded ideology and framework, etc. Care is, therefore, an influence area which includes access to both services and transfers. Mothers work relatively shorter hours than women without children and the existence of a large part-time sector allows them to have flexibility with regard to being part of the labour market, but the privileging of the dual-breadwinner family serves to delimit the options around care and the labour market. For instance, Swedish women work on average 38.2, while Dutch women - another Nordic country - work on average 29.5 hours¹⁹⁷.

‘Parental leave’, means a paid time-off to take care of the child/children; shared between women and men and combined in a wider environment of policies for gender equality in work and family¹⁹⁸, exists for both parents since 1975¹⁹⁹. Its generosity and flexibility has encouraged women to participate into labour market through which women acquired independence, public voice and power. Yet it may causes gender inequalities in relatively poor households because men are not likely to take parental leave - unless it is paid - within these households thereby parental leave is largely taken by women²⁰⁰.

Sweden has a critical role in women’s lives because it reduces the poverty rate of women more than three quarters through taxes and transfers. It should be stated that Swedish women would have suffered from high gender poverty ratio along with the other European states, if they depended on only market income²⁰¹. Hence, it is clear that Sweden eases the effects of poverty on women through its advanced welfare system.

It should be realised that the ‘Nordic Model’ Equality is based on a long democratic tradition in all Nordic countries that there is no public doubt on political system. Thus, here one can compare the process with Bulgaria. Since Bulgaria has been trying to set a democratic system and gender equality policies simultaneously, gender equality policies could not deepen enough to create necessary public support. Although equal opportunity policies under communist regime did exist, these ‘top down’ measures could not survive from the economic crisis during the first years of transition to democracy; implementation of gender

¹⁹⁷ Åsa Löfström, *Gender Equality, Economic Growth and Employment*, Swedish Ministry of Integration and Gender Equality, 2009, P.15

¹⁹⁸ Leira, A. (1999), ‘Cash for child-care and daddy leave’, in P. Moss and F. Deven (eds), *Parental Leave: Progress or Pitfall?*, Brussels: NIDI CBGS Publications, pp. 267–92; in G. Pascall, J. Lewis, *Emerging Gender Regimes and Policies for Gender Equality in a Wider Europe*, Cambridge University Press, 2004, Jnl Soc., Vol: 33, No: 3, pp.373 - 394, P.384

¹⁹⁹ For more information on relative reforms in Sweden, see Appendix VII - Gender Equality Progress so far and Parental allowances in Sweden since 1974

²⁰⁰ G. Pascall, J. Lewis, *Emerging Gender Regimes and Policies for Gender Equality in a Wider Europe*, Cambridge University Press, 2004, Jnl Soc., Vol: 33, No: 3, pp.373 - 394, P.384

²⁰¹ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.102

mainstreaming strategy at national level is a long-term procedure and cannot survive without a democratic system and public pressure.

Gender Equality Policy of Sweden was lately reorganised and divided into three parts²⁰²:

- (a) Policy Political ambitions are expressed as the national gender equality policy objectives (Govt. Bill 2005/06:155)
- (b) Theory Swedish gender equality policy is based on the gender system theory (Official Government Report, SOU 1994:44)
- (c) Strategy Gender Mainstreaming has been the strategy of choice for the Swedish Government and Riksdag since 1994. It was first set out in the bill 'Shared power, shared responsibility' (Delad makt – delat ansvar, Govt Bill 1993/94:147)

In 2006, The Swedish Government and Riksdag (Parliament of Sweden) have adopted objectives for Swedish gender equality policy and all government agencies are required to help achieve them (Makt att forma samhället och sitt eget liv – nya mål i jämställdhetspolitiken, Govt Bill 2005/06:155). The overall objective of the new gender equality policy was “women and men must have the same power to shape society and their own lives” and subsequent measures were identified as interim goals of policy implementation process and adopted by the Riksdag in May 2006 (Govt. Bill 2005/06:15)²⁰³:

- (a) Equal division of power and influence between women and men. Women and men shall have the same rights and opportunities to be active citizens and to shape the conditions for decision-making;
- (b) Economic equality between women and men. Women and men shall have the same opportunities and conditions with regard to education and paid work that provide lifelong economic independence;
- (c) Equal distribution of unpaid care and household work: Women and men shall take the same responsibility for household work and have the same opportunities to give and receive care on equal terms;
- (d) Men's violence against women must stop: Women and men, girls and boys, shall have equal rights and opportunities in terms of physical integrity.

Sweden has a unique 'gender system theory' that is regularly applied in policymaking processes. According to Yvonne Hirdman, gender is interpreted as “our created sexual identity as opposed to our biological sexual identity: The sum total of what we perceive to be male or female²⁰⁴”. She states that this framework limits power of women and men to making

²⁰² Swedish Government Official Reports, *Gender Mainstreaming Manual: A Book of Practical Methods from the Swedish Gender Mainstreaming Support Committee* (JämStöd), SOU:2007:15, Stockholm, 2007, P.14

²⁰³ Swedish Government Official Reports, *Gender Mainstreaming Manual: A Book of Practical Methods from the Swedish Gender Mainstreaming Support Committee* (JämStöd), SOU:2007:15, Stockholm, 2007, P.15

²⁰⁴ Ibid, P.14

free choices and all human beings help its recreation and preservation by daily actions therefore she underlines that the key objective of national gender equality policy is to break down this gender system²⁰⁵.

As Sweden one of the best examples of welfare states that can enshrine gender equality approaches into their all policy areas; yet, it does not mean that Swedish women enjoy 100% gender equality and welfare. They also suffer from high gender segregation within the labour market but it seems like gender segregation concept has evolved in Sweden in a positive manner: It does exist but is limited only within the labour market; there is no evidence that shows ‘gender segregation’ is mirrored in private life.

Occupational sex segregation 2008
Percentage distribution and numbers in 1 000s

Occupations with		Women	Men
90–100 % women	0–10 % men	23	2
60–90 % women	10–40 % men	48	14
40–60 % women	40–60 % men	14	12
10–40 % women	60–90 % men	15	48
0–10 % women	90–100 % men	1	24
Total percent		100	100
number		1 880	1 937

Source: Occupational Register, Statistics Sweden

Calculations are based on all employees aged 20–64 years. The occupations follow the classifications used in the Swedish Standard Classification of Occupations (SSYK). There are a total of 355 occupations.

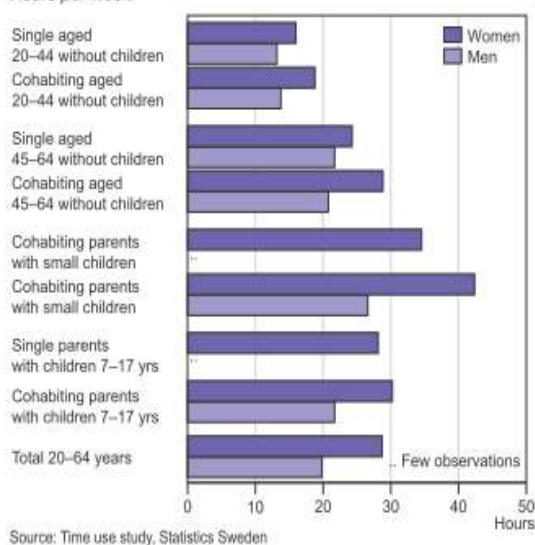
Table 3.2²⁰⁶: Occupational Sex Segregation in Sweden

Greater equality in society, financial contribution to the household and most importantly, diminished spent time in unpaid work show that there is relatively no segregation in private sphere.

²⁰⁵ Ibid, P.15

²⁰⁶ Source: Women and Men in Sweden: Facts and Figures 2010, Statistics Sweden, P. 57

Time spent on unpaid work by life cycle stages 2000/01
Hours per week



Time use for persons aged 20-64 1990/91 and 2000/01
Hours

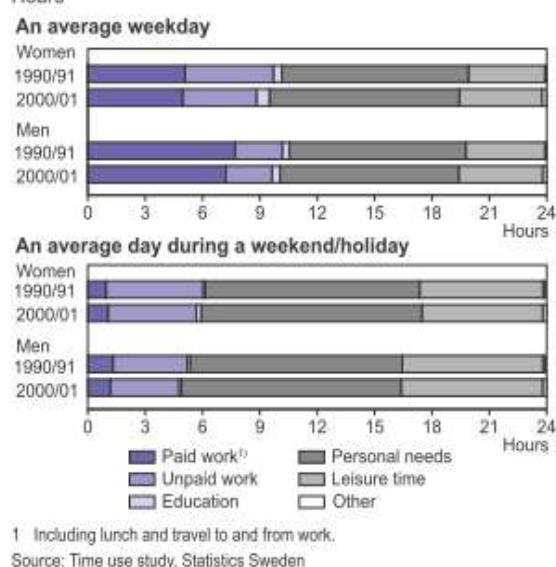


Chart 3.4²⁰⁷: Time Spent On Unpaid Work and Time Use For Persons Aged 20-64 in Sweden

As the graphics show, women's participation in labour market has increased since 1990/91 and men reduced their time for paid work by 3 hours per week hitherto. It is also apparent that women spend more than 28 hours per week on unpaid work whereas men do nearly 20 hours. It is a well-known fact that Sweden performs beyond other European states in regard to gender equality indicators (employment rates, wage gap, poverty rates, imbalance within the decision-making bodies, occupational segregation, etc.) nevertheless it might seem disappointing since women still spend longer time for unpaid work than men but in comparison to other states, Sweden stands out with a far better performance. Moreover, combination of effective minimum income protection and enhanced performance in gender equality indicators promotes women's position within the Swedish society.

In order to conceive the importance of adopted gender approaches in state policies, one should look into outcomes, for instance, increased employment rates. Average employment rate of women in the EU was 59.1%, which increased 4.2 p.p. from 2003 to 2008, whereas it is 71.8% in Sweden where employment rate gap between women and men has almost vanished (less than 5% in 2008)²⁰⁸. It can be concluded that these state policies with well-embedded gender approaches led the Nordic countries to be ranked at the top of the concerning lists since it ensured them to use enshrined potential of women's participation in the labour market.

²⁰⁷ Source: Women and Men in Sweden: Facts and Figures 2010, Statistics Sweden, P. 34

²⁰⁸ Unit G.1 of the Directorate-General for Employment, Social Affairs and Equal Opportunities, *Report on Equality between Women and Men 2010*, European Commission, , P.15

Despite the policies that have been hitherto implemented and positive outcomes, gender inequality still exists in Sweden, when one considers occupational gender segregation, as above mentioned. Occupational gender segregation negatively affects the efficiency and productivity of the labour market and has negative consequences on “women’s career opportunities, pay, quality of their working life and valorisation of their work²⁰⁹”. Studies on gender segregation also show that female labour are generally concentrated on less decision-making and less independent planning areas rather than typical male labour.

Since there have been numerous studies about sex segregation in the Nordic welfare states, it is crystal clear that this problem is acknowledged since the 1970s. According to the OECD study presented in M. F. Loutfi (P.197), approximately 32% of male and female workers in Sweden (plus Finland and Norway), would have needed to change their occupations to eliminate the gender segregation of occupations that occurred within the period between 1970s and 1990s.

²⁰⁹ M. F. Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.191

Employment rate by gender, age group 15-64

%

Females

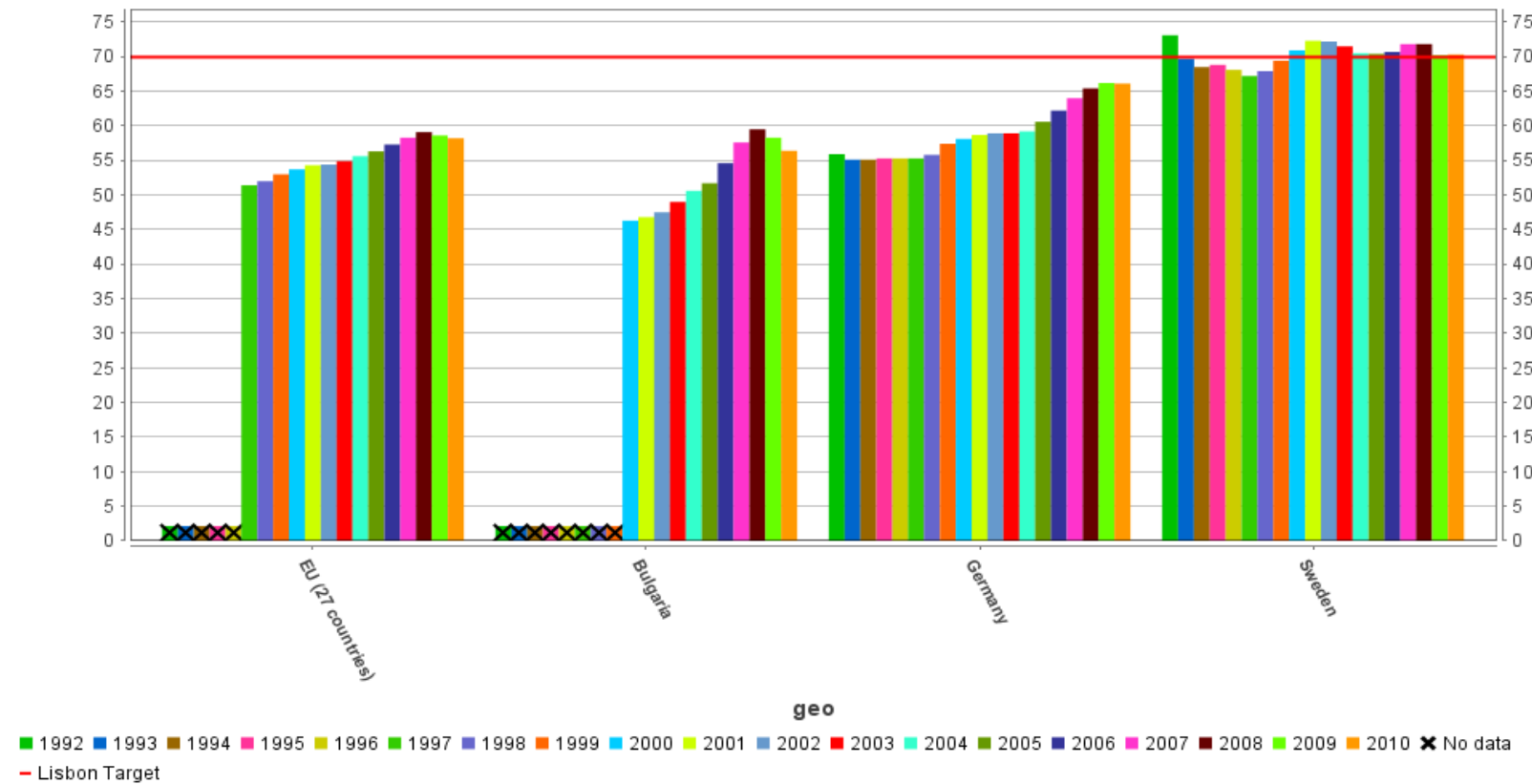


Chart 3.5²¹⁰: Employment Rates of Women in EU-27, Bulgaria, Germany and Sweden Since 1992

²¹⁰ **Source of Data:** Eurostat, General Disclaimer of the EC: http://europa.eu/geninfo/legal_notices_en.htm, Code: tsiem010, Last update: 29.09.2011 Date of extraction: 02 Oct 2011 17:31:47 MEST, Hyperlink to the graph: <http://epp.eurostat.ec.europa.eu/tgm/graph.do?pcode=tsiem010&language=en>, **Disclaimer:** This graph has been created automatically by Eurostat software according to external user specifications for which Eurostat is not responsible. **Short Description:** This employment rate is calculated by dividing the number of persons aged 15 to 64 in employment by the total population of the same age group. This is not the Europe 2020 employment rate indicator which refers to persons aged 20 to 64. The indicator is based on the EU Labour Force Survey. The survey covers the entire population living in private households and excludes those in collective households such as boarding houses, halls of residence and hospitals. Employed population consists of those persons who during the reference week did any work for pay or profit for at least one hour, or were not working but had jobs from which they were temporarily absent.

On the other hand, some studies argue that gender segregation has positive effects: Kandolin²¹¹ and Lehto²¹² state that gender segregation protects some women's employment from male competition and, therefore, maintains demand for female labour. If payment, status, promotion opportunities, independence and authority are reasonably similar with men's, then one might think that sex segregation does not cause any disadvantages and even grants advantages because female dominated occupations would offer higher chances for recruitment of women and, therefore, are easy gateway to the labour market as first jobs.

However, there are neither equal conditions nor similar circumstances within the 'separated' labour markets; occupational segregation frequently results in lower pay and fewer career opportunities for women labour force therefore we cannot conclude that sex segregation in the labour market is attributable as utilisable.

Growth in the elderly population (aged between 55 - 64) is a common and growing burden for welfare states because the quality of life in old age depends on welfare state's pension regulations; and pension provisions are dependent on worker's career: workers retired under same pension regime can sometimes receive different benefits which have generally roots in time pattern of employment and unemployment term, in the scale of income shocks and more generally of in the age-profile of earning²¹³. In comparison to other European countries, Sweden, as always, stands out: 70.1%²¹⁴ of elderly population still participates into labour market²¹⁵.

All pension benefits in Sweden are adjusted in accordance with the "base amount"²¹⁶ which is typically linked to the consumer price index (yet, between 1991 and 1997 this alleged base amount was not arranged in proportion to increases in consumer prices²¹⁷). Each Swedish pensioner is entitled to a guaranteed "minimum pension" which amounts to 144% of the base amount (consisting of a basic pension which equals 96% of the base amount, and a pension

²¹¹ I. Kandolin, Women's Labour Force participation and Sex Segregation in Working Life, 1993; in K. Kauppinen-Toropainen (Ed.), OECD Panel Group on Women, Work and Health: National Report: Finland; in M. F. Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.191

²¹² A.M. Lehto, Quality of Working Life and Equality: Changes in Working Conditions of Women and Men in 1977-1990, 1991; in: M. F. Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.191

²¹³ A. Börsch-Supan (Ed.),...[Et.al.], the Individual and the Welfare State: Life Stories in Europe, Springer-Verlag Berlin Heidelberg 2011, P. 125

²¹⁴ OECD Employment Outlook 2011, Labour Market Outcomes: Sweden, http://www.oecd.org/document/58/0,3746,en_2649_37457_43219002_1_1_1_37457,00.html, retrieved: 15.11.2011

²¹⁵ For female elderly participation in the labour market, see **Appendix VII: Employment Rate of older Workers by Gender.**

²¹⁶ The base amount (basbelopp) is an accounting unit used to calculate qualifying income and benefits in all social insurance schemes.

²¹⁷ M. Schuldi, *The Reform of Bismarckian Pension Systems: A Comparison of Pension Politics in Austria, France, Germany, Italy and Sweden*, Changing Welfare States Series, Amsterdam University Press, 2005, P. 93

supplement which equals 48% of the base amount)²¹⁸; the General supplementary pension scheme covers all economically active people over the age 16.

Swedish pensioners occasionally went through several short term cutbacks but the big pension reform emerged after the economic and fiscal crisis in the early/mid 1990s. Apart from that, the pension reform aimed to render the system vigorous to both economic changes and decisive change in the age structure of the population. To put it briefly, this reform can be considered as a shift from a defined-benefit toward a (notional) defined-contribution design as well as the creation of an additional private mandatory pillar on a fully funded basis (“premium reserve system”)²¹⁹. The resistance to the reforms declined over a period of time because it was anticipated that the pension system would have collapsed (as an outcome of fiscal crisis in the 1990s) without reforms and also because of the increased number of winners among society that came along with reforms.

With the reform, all pension contributions on social transfers and non-contributory benefits are financed by the public budget and in return, state withdrew from the co-financing of the gradually phased-out universal basic pension. It is, therefore, foreseen that in 2040, contribution rates decrease between 3.1% and 9.4% in comparison to pre-reform budget²²⁰. Whereas in Germany, there was not any reform toward ‘defined contribution system’ of pensions and, therefore, Germany was expected to face an enormous increase in its pension system budget over the decades if they do not switch into a defined-contribution pension system²²¹. Afterwards, as a response to the alarming ageing crisis, Germany took several steps toward a defined-contribution system (which was under pressure and criticised during the last financial crisis)²²².

²¹⁸ M. Schuldi, *The Reform of Bismarckian Pension Systems: A Comparison of Pension Politics in Austria, France, Germany, Italy and Sweden*, Changing Welfare States Series, Amsterdam University Press, 2005, P. 89

²¹⁹ Ibid, P.97

²²⁰ E. Palmer, *Swedish Pension Reform: How did it evolve and what does it mean for the future?* 2000; in: Ibid, P.99

²²¹ M. Schuldi, *The Reform of Bismarckian Pension Systems: A Comparison of Pension Politics in Austria, France, Germany, Italy and Sweden*, Changing Welfare States Series, Amsterdam University Press, 2005, P. 131

²²² H. Bonin, *15 Years of Pension Reforms in Germany: Old Successes and New Threats*, IZA Policy Paper No.11, Policy Papers Series, Forschungsinstitut zur Zukunft der Arbeit, July 2009, P. 5

CONCLUSION AND REMARKS

Among European states, significant cross-national diversities exist on the following subjects:

- (a) the possibility of combining employment and motherhood
- (b) inequalities among women
- (c) the relative privileging of different types of families
- (d) the role of the family in supporting women and women's risk of poverty
- (e) the significant of the welfare state in women's lives

The differences between gender equality policies derive from diversified priorities of states regarding their societies, welfare traditions, prioritised policy principles and different modernisation processes. Thus, Julkunen categorise western industrialised states in four groups: Conservative, Mediterranean Belt, modern Nordic welfare state and countries with liberal social structure in which he clearly stated that Germany belongs to 'conservative social structure' category whereas Sweden belongs to 'modern Nordic welfare-states'²²³.

In Sweden, there are policies that enable such a combination of motherhood and employment in a way that is not possible anywhere else: There is both recognition of women in a diversified roles and a concerted policy to combat gender inequality; mainstreaming gender into taxation, social security, employment policies and generous parental leave legislations, child-care services to harmonise labour market participation of mothers whereas Germany encourages full time motherhood, exclusively by the tax system. The range of inequalities among women is much less in Sweden and no group of women stands out as being markedly more disadvantaged or advantaged while in Germany, women spouses are only a 'male income' away from poverty.

Another remarkable diversity among European states lies in the assumption of 'families need support of women': While such a dependency does not even exist in some countries, in others, it is legitimated by public policies and even recreated through mass media. In the course of our sample, German women are widely seen as secondary earners and public policies confirm such a mindset through taxation benefits, wage rates, etc. which encourages male-breadwinner family model.

The other fundamental differences between the way Sweden and Germany emerge out of the understanding of their child-care and social services. Sweden did not build its child-care system on the assumption that mothers are homemakers; but on a system to enable and encourage women to participate in the labour market whereas in Germany, these services are

²²³ M. F. Loutfi (Ed.), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office, 2000), P.192

only constructed from an educational point of view, i.e. state care facilities are social commitment to children and disabled people in Germany while they are some kind of compensation for women's unpaid care work in Sweden; set limits to care responsibility for individuals, moderate unpaid work, and give time for paid work to become earners from carers to earn incomes and pensions. In Sweden, care is a public concern, with the consequence that female employment is encouraged and gender inequalities reduced. Public support of care is also high in Germany but it is organised around family; rather than individuals which leads to prevalence of traditional gender roles. Moreover, since German welfare state privileges marriage, widows are much better placed on the hierarchy of access to financial resources than are lone mothers²²⁴. What is more is that Sweden recognises women as individuals; as its citizens. It does not tag women according to their marital status but their citizenship or employment, while financial stability of German women commonly depends on her marital status, since Germany regards them through family supporting services.

The fact that Swedish state intervenes to women's lives more than other European states, it renders these well-established services and even the state itself indispensable in women's daily life. The other factors that render the welfare state indispensable are as follows:

- (a) the degree of state intervention and the form of the welfare state;
- (b) the bridging of the work/family interface;
- (c) the extent to which the welfare state directly targets inequality and women's welfare
- (d) the coherence of social policy as it addresses gender roles and inequalities

If we build our 'gender perspective' on Esping-Andersen's characterisation of welfare states, Sweden belongs to social-democratic type and it can explain particularities of Sweden from a gender perspective: promotion of welfare citizenship, philosophy of egalitarianism, high levels of caring services, low risk of poverty and promotion of a dual-breadwinner family model. However when we consider gender perspectives in Germany, Esping-Andersen's categorisation breaks down because Germany, France and the Netherlands do not have similar approaches in regard to gender equality framework; Germany encourages classic male breadwinner model whereas others have different arrangements.

Comparative study of M. Daly and K. Hake which includes a range of European welfare states proves that France, Germany and the Netherlands intervene at the very same level yet they have different approaches to gender relations.

²²⁴ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.160

In comparative studies, it is stated as a challenge to identify opposing model of Sweden. Yet, Germany can be opponent in the degree that it frames women in terms of the family: In Germany, public resources are made available to assist the family with caring but this subsidisation of care acts to privatise care *within* the family, whereas in Sweden, it serves to relocate care *away* from family²²⁵.

All these relevant indicators point the extent of German patterns around work, care and welfare and the way these are gendered in terms of both process and effects. In German social model, social market economy is essential to German social policy which bases on market but also dwell upon the idea of 'socialising the market'. The German System is a prototype of a social insurance-based welfare state model, with equivalence and compensation, rather than prevention and redistribution therefore its main function is maintaining the income and other differentials that arise in the market and to protect employment-related risks to income²²⁶. Hence, since eligibility for benefits is generally based on labour market participation and paid contributions, the right to benefit is strongly attached to class and status which means that different occupational groups and classes are entitled to different benefits and services in conservative-corporatist states, e.g. Germany whereas Sweden, as a main agent guaranteeing its citizens' well-being, demonstrates an epitome for social-democratic regime with its high levels of universalism and solidarity²²⁷.

Regimes regarding gender equality are seen as the key elements of welfare state context and have been challenged by 'male breadwinner model' societies, e.g. Germany. Equally, since the collapse of communism, Central and Eastern Europe have also been challenged by the same societal mind-set. Transformations in economy, politics and legislations created mass of unemployed women who have to be dependent on men's income henceforth. Additionally, reconstruction of system created lack of legislation on sex discrimination and reconciling work, family, women. At this point, CEEC used their EU accession requirements to establish such a system to demolish the lack of necessary policies and to develop policies which embrace all components of gender equality. Higher collectivist values and recognition of the importance of the quality of life beyond the workplace in CEEC look more like Nordic countries such as Sweden than Anglo or Germanic cultures²²⁸. Although there are reduced spending on child care, education, health, pensions and child benefits, some of the CEEC

²²⁵ M. Daly and K. Rake, *Gender and the Welfare State: Care, Work and Welfare in Europe and the USA*, (Polity Press, 2003), P.162

²²⁶ Ibid., P. 139

²²⁷ J. Aidukaite, *Welfare Reforms in Central and Eastern Europe: A New Type of Welfare Regime?*, Vilnius University and Lithuanian Centre for Social Research, ISSN 1392-1258, Vol. 89, No:4, Ekonomika, 2010

²²⁸ M. E. Domsch, ...[Et al.], *Gender Equality in Central and Eastern European Countries*, Peter Lang, 2003, P. 69

have maintained the tradition of state supported childcare (social cuts have tended to close these facilities down, but the tradition of pre-primary school enrolment has been sustained). Hence, it can be stated that care related regimes in this respect are close to Scandinavia in style, albeit it is with much lower living standards²²⁹. However, if it is not strengthened with necessary budget, it would lead gender equality to belong to better off²³⁰. As CEE countries work toward gender equality, they might benefit from pre-existing methods in other states. Since Eastern European societies are developing, not yet developed, transposed EU laws and pre-existing practices across Europe would be indispensable on their way to gender equality. The actions taken at European level are more concerned to enable women's individualisation yet, current gender equality policies of national states are more oriented on the trade-offs of women's labour market participation than redesigning societal structures and the bond between work and family life are at the centre of their policy agendas. Yet, there are differences between the levels of their perceptions: Sweden has been trying to create such policy agendas to achieve women's expectations in order to ameliorate the trade-offs involved, whereas Germany constructs 'family friendly' policy frameworks rather than policies concerning gender equality and, consequently, does not do much to change the unfair situation in the 'unpaid work area'.

However, both the CEE and the Western Europe need a model of individualisation of society, public and personal life. Individual based citizenship means 'genderless' mindset and treatment to its citizens and challenges most of the social structures of concerning states. Post-industrial states can only be built upon a 'genderless' society with fundamental contribution of its hitherto 'untapped' power. One of the most recent studies²³¹ estimates the potential increase in GDP that would take place, if women's rates were to reach the level of men's in terms of employment and productivity: There would be a gain in GDP of almost 30% for the EU as a whole if gender gaps were eliminated.

²²⁹ G.Pascall, J. Lewis, *Emerging Gender Regimes and Policies for Gender Equality in a Wider Europe*, Jnl Soc. Pol., 33, 3, 373–394 C, Cambridge University Press, 2004, P. 376

²³⁰ Ibid, P. 385

²³¹ Åsa Löfström, *Gender Equality, Economic Growth and Employment*, Swedish Ministry of Integration and Gender Equality, 2009, P.26

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ANNEXES

Appendix I -

HISTORICAL DEVELOPMENT OF THE EU TREATIES AND GENDER EQUALITY RELATED PROVISIONS

I. The Treaty establishing the European Coal and Steel Community

The Treaty establishing the European Coal and Steel Community (ECSC), which was signed on 18 April 1951 in Paris, entered into force on 23 July 1952 and expired on 23 July 2002.

II. The Treaty of Rome

Signing of the Treaty of Rome The Treaty of Rome, establishing the European Economic Community (EEC), signed in Rome on 25 March 1957, and entered into force on 1 January 1958. The Treaty establishing the European Atomic Energy Community (EURATOM) was signed at the same time and the two are therefore jointly known as the Treaties of Rome. The only gender equality related article of the treaty was derived from concerns about the competitiveness within the member states; not because of gender equality concerns:

Article 119 -

Each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work.

For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, in respect of his employment from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

III. Merger Treaty

The Merger Treaty, signed in Brussels on 8 April 1965 and in force since 1 July 1967, which provided for a Single Commission and a Single Council of the then three European Communities.

IV. The Single European Act (SEA)

The Single European Act (SEA), signed in Luxembourg and the Hague, and entered into force on 1 July 1987, provided for the adaptations required for the achievement of the Internal Market.

V. The Treaty on European Union (Maastricht Treaty)

The Treaty on European Union, which was signed in Maastricht on 7 February 1992, entered into force on 1 November 1993. The Maastricht Treaty changed the name of the European Economic Community to simply "the European Community". It also introduced new forms of co-operation between the Member State governments - for example on defence, and in the area of "justice and home affairs". By adding this inter-governmental co-operation to the existing "Community" system, the Maastricht Treaty created a new structure with three "pillars" which is political as well economic. This is the European Union (EU).

An agreement on social policy was concluded between the Member States of the European Community with the exception of the United Kingdom and Northern Ireland. This Social Policy Agreement has the following gender equality concerned provisions:

Article 1 -

The Community and the Member States shall have as their objectives the promotion of employment, improved living and working conditions, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Community economy.

Article 2 -

1. With a view to achieving the objectives of Article 1, the Community shall support and complement the activities of the Member States in the following fields:

- improvement in particular of the working environment to protect workers' health and safety;
- working conditions;
- the information and consultation of workers;
- equality between men and women with regard to labour market opportunities and treatment at work;
- the integration of persons excluded from the labour market, without prejudice to Article 127 of the Treaty establishing the European Community (hereinafter referred to as 'the Treaty').

2. To this end, the Council may adopt, by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The Council shall act in accordance with the procedure referred to in Article 189c of the Treaty after consulting the Economic and Social Committee.

3. However, the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament and the Economic and Social Committee, in the following areas:

- social security and social protection of workers;
- protection of workers where their employment contract is terminated;
- representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;
- conditions of employment for third-country nationals legally residing in Community territory;
- financial contributions for promotion of employment and job-creation, without prejudice to the provisions relating to the Social Fund.

4. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraphs 2 and 3.

In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 189, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive.

5. The provision adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Treaty.

6. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Article 6 -

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work is applied.

2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. This Article shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for women to pursue a vocational activity or to prevent or compensate for disadvantages in their professional careers.

VI. Treaty of Amsterdam

The Amsterdam Treaty was agreed in 1997 and has entered into force after being ratified by the – at that time – fifteen EU member states. It has amended the founding Treaty on European Union, the Treaties establishing the European Communities and related acts. The inclusion of Articles 2 and 3 (see below) in the new treaty has meant that gender equality has become a specific Community objective and that incorporating equal opportunities (= gender mainstreaming) is now a Community obligation.

Article 2 -

The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 3a, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

Article 3 -

1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:

(a) the prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;

(b) a common commercial policy;

- (c) an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;
- (d) measures concerning the entry and movement of persons as provided for in Title IV;
- (e) a common policy in the sphere of agriculture and fisheries;
- (f) a common policy in the sphere of transport;
- (g) a system ensuring that competition in the internal market is not distorted;
- (h) the approximation of the laws of Member States to the extent required for the functioning of the common market;
- (i) the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- (j) a policy in the social sphere comprising a European Social Fund;
- (k) the strengthening of economic and social cohesion;
- (l) a policy in the sphere of the environment;
- (m) the strengthening of the competitiveness of Community industry;
- (n) the promotion of research and technological development;
- (o) encouragement for the establishment and development of trans-European networks;
- (p) a contribution to the attainment of a high level of health protection;
- (q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (r) a policy in the sphere of development cooperation;
- (s) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- (t) a contribution to the strengthening of consumer protection;
- (u) measures in the spheres of energy, civil protection and tourism.

2. In all the activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women.

Article 13 (ex Art. 6a)

Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 141 (ex Art. 119) -

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, 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.

4. 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 in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

VII. Treaty of Nice

The Treaty of Nice, signed on 26 February 2001, entered into force on 1 February 2003. It dealt mostly with reforming the institutions so that the Union could function efficiently after its enlargement to 25 Member States. The Treaty of Nice, the former Treaty of the EU and the Treaty of the EC have been merged into one consolidated version.

Article 137 -

1. With a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in the following fields:

(a) improvement in particular of the working environment to protect workers' health and safety;

(b) working conditions;

(c) social security and social protection of workers;

(d) protection of workers where their employment contract is terminated;

- (e) the information and consultation of workers;
- (f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;
- (g) conditions of employment for third-country nationals legally residing in Community territory;
- (h) the integration of persons excluded from the labour market, without prejudice to Article 150;
- (i) equality between men and women with regard to labour market opportunities and treatment at work;
- (j) the combating of social exclusion;
- (k) the modernisation of social protection systems without prejudice to point (c).

2. To this end, the Council:

- (a) may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;
- (b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The Council shall act in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee and the Committee of the Regions, except in the fields referred to in paragraph 1(c), (d), (f) and (g) of this Article, where the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament and the said Committees.

The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament, may decide to render the procedure referred to in Article 251 applicable to paragraph 1(d), (f) and (g) of this Article.

VIII. The Treaty of Lisbon

The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community was signed in the Portuguese capital on 13 December 2007 by the

representatives of the twenty-seven Member States. It entered into force on 1 December 2009, after being ratified by all the Member States.

After the Treaty of Lisbon, the European Union founded on consolidated version of the Treaty on European Union (TEU) and the new Treaty on the Functioning of the EU (TFEU) which replaces the old Treaty establishing the European Community (TEC). Both Treaties have equal legal value (Art 1(2) TFEU).

The Treaty on European Union includes a provision for the amendment of the Treaties. Article 48 says that any Member State, the European Parliament or the Commission can submit proposals for the amendment of the Treaties to the Council. The Council forwards any such proposals to the European Council, and the national Parliaments are notified. If the European Council agrees to examine the proposed amendments, its President convenes a Convention composed of representatives of the national Parliaments, the Heads of State or Government of the Member States, the European Parliament and the Commission. The Convention examines the proposals for amendment and adopts by consensus a recommendation to an Intergovernmental Conference (IGC), which is convened by the President of the Council. Alternatively and subject to the consent of the European Parliament, the European Council can also decide by a simple majority not to convene a Convention if a Convention is not justified by the extent of the proposed amendments, in which case it is the European Council itself that defines the terms of reference of an IGC, which is then convened by the President of the Council. In any case, an IGC composed of all the Member States is convened (whether preceded by a Convention or not) and any amendment to the Treaties must be ratified by all the Member States in accordance with their own constitutional requirements.

The Lisbon Treaty is the latest of the Treaties which, to date, have amended the Treaties on the basis of which the Communities and the European Union were founded, such as the Single European Act (1986), the Treaty on European Union (Maastricht Treaty) (1992), the Amsterdam Treaty (1997) and the Treaty of Nice (2001).

The Treaty of Lisbon amends the EU's two core treaties, the Treaty on European Union and the Treaty establishing the European Community. The latter is renamed the Treaty on the Functioning of the European Union. In addition, several Protocols and Declarations are attached to the Treaty.

Within the Treaty, Values (**Article 2 TEU**) and the Objectives (**Article 3 TEU**) of the European Union are respectively:

“Dignity, freedom, liberty, democracy, equality, rule of law, human rights and rights of minorities” and Peace, values, well-being, Justice, no internal frontiers, internal market,

competition, sustainable development, growth, price stability, social progress, full employment, environmental protection, scientific and technical advances, social exclusion, social justice, gender equality, solidarity between generations, children, diversity and cultural heritage”.

Article 9 TEU -

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.

Article 19 TFEU (ex Art 13 TEC) -

Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

2. By way of derogation from paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt the basic principles of Union incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1.

Article 21.1 (TEU)-

The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

Article 153 TFEU (ex Art 137 TEC) -

1. With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields:

- (a) improvement in particular of the working environment to protect workers’ health and safety;
- (b) working conditions;

- (c) social security and social protection of workers;
- (d) protection of workers where their employment contract is terminated;
- (e) the information and consultation of workers;
- (f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;
- (g) conditions of employment for third-country nationals legally residing in Union territory;
- (h) the integration of persons excluded from the labour market, without prejudice to Article 166;
- (i) equality between men and women with regard to labour market opportunities and treatment at work;
- (j) the combating of social exclusion;
- (k) the modernisation of social protection systems without prejudice to point (c).

2. To this end, the European Parliament and the Council:

- (a) may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;
- (b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions.

In the fields referred to in paragraph 1(c), (d), (f) and (g), the Council shall act unanimously, in accordance with a special legislative procedure, after consulting the European Parliament and the said Committees.

The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament, may decide to render the ordinary legislative procedure applicable to paragraph 1(d), (f) and (g).

3. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraph 2, or, where appropriate, with the implementation of a Council decision adopted in accordance with Article 155.

In this case, it shall ensure that, no later than the date on which a directive or a decision must be transposed or implemented, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive or that decision.

4. The provisions adopted pursuant to this Article:

— shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof,

— shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Treaties.

5. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Article 157 TFEU (ex Art 141 TEC) -

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, ‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Economic and Social Committee, 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.

4. 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 in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

IX. Charter of Fundamental Rights of the European Union

The European Union Charter of Fundamental Rights, as signed and proclaimed by the Presidents of the European Parliament, the Council and the Commission at the European Council meeting in Nice on 7 December 2000, sets out in a single text, for the first time in the European Unions history, the whole range of civil, political, economic and social rights of European citizens and all persons resident in the EU.

Since the ratification of the Treaty of Lisbon, legally binding status of the Charter of Fundamental Rights was granted (Article 6.1). According to **Article 6 paragraph 1** of the consolidated version of the Treaty on European Union:

“The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have **the same legal value as the Treaties**.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.”

Article 20 -

Everyone is equal before the law.

Article 21 -

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.

Article 23 -

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

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

Appendix II -

THE LIST OF THE GENDER EQUALITY RELATED DIRECTIVES

Member States have agreed in the treaties that directives would be used to supplement the treaties with laws that go into more detail about the goals that the Member States therefore, as an important subtitle of the EU legislation, directives are also used to promote Gender Equality within the Union. Followings are the main directives in the field of gender equality policies:

- 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 the application of the principle of equal pay for men and women OJ L 45, 19.2.1975, pp. 19–20.
- Equal Treatment Directive (76/207/EEC) establishes prohibition against direct or indirect discrimination (the latter means that a rule that appears to be neutral might in actual fact be disadvantageous for a particular group, as in the case of a decision by an employer to pay lower pensions to part-time workers, as almost all of those who work part-time are women)
- 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 that guarantees equal rights to social security; OJ L 6, 10.1.1979, pp. 24–25.
- Council Directive of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes (86/378/EEC) protects women's and men's right to be treated equally where company or occupational social security schemes are concerned, with regard to pension entitlement, for instance;
- Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood.
- 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 establishes the rights of the women who are pregnant or who have just given birth: the right to at least 14 weeks

leave in connection with the delivery and the right to retain their wages or other forms of remuneration. (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) OJ L 348, 28.11.1992, pp. 1–8.

- Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (96/34/EC) stipulates that both women and men should have the right to at least three months unpaid parental leave; OJ L 145, 19.6.1996, pp. 4–9.
- Council Directive of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes; OJ L 46, 17.2.1997, pp. 20–24.
- Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex stipulates who has to prove what in cases involving gender discrimination (it is up to the employer suspected of discrimination to show that there has been no discrimination based on gender in the workplace);
- Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC 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 OJ L 269, 5.10.2002, pp. 15–20.
- 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 OJ L 373, 21.12.2004, pp. 37–43.
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) OJ L 204, 26.7.2006, pp. 23–36. With the aim of clarification and bringing this large of directives together in a single text; recast directive includes the main provisions of the existing gender equality directives and also an additional part for case law of the European Court of Justice.
- 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, OJ L 68, 18.3.2010, p.13.
- 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, OJ L 180, 15.7.2

Appendix III -

European Pact for Gender Equality (2011-2020)

THE COUNCIL OF THE EUROPEAN UNION acknowledges that equality between women and men is a fundamental value of the European Union and that gender equality policies are vital to economic growth, prosperity and competitiveness. Five years after the adoption of the first European Pact for Gender Equality, a new impetus is needed, particularly in order to reaffirm and support the close link between the Commission's Strategy for equality between women and men 2010-2015 and "Europe 2020: the European Union's Strategy for jobs and smart, sustainable and inclusive growth". THE COUNCIL therefore reaffirms its commitment to fulfil EU ambitions on gender equality as mentioned in the Treaty and in particular to:

1. close the gender gaps in employment and social protection, including the gender pay gap, with a view to meeting the objectives of the Europe 2020 Strategy, especially in three areas of great relevance to gender equality, namely employment, education and promoting social inclusion in particular through the reduction of poverty, thus contributing to the growth potential of the European labour force;
2. promote better work-life balance for women and men throughout the life-course, so as to enhance gender equality, increase women's participation in the labour market and contribute to meeting the demographic challenges; and
3. combat all forms of violence against women in order to ensure the full enjoyment by women of their human rights and to achieve gender equality, including with a view to inclusive growth.

THE COUNCIL urges action at Member State and, as appropriate, Union level in the following fields:

Measures to close gender gaps and combat gender segregation in the labour market:

- (a) promote women's employment in all age brackets and close gender gaps in employment, including by combating all forms of discrimination;
- (b) eliminate gender stereotypes and promote gender equality at all levels of education and training, as well as in working life, in order to reduce gender segregation in the labour market;

- (c) ensure equal pay for equal work and work of equal value;
- (d) promote women's empowerment in political and economic life and advance women's entrepreneurship;
- (e) encourage the social partners and enterprises to develop and effectively implement initiatives in favour of gender equality and promote gender equality plans at the workplace; and
- (f) promote the equal participation of women and men in decision-making at all levels and in all fields, in order to make full use of all talents.

Measures to promote better work-life balance for women and men:

- (a) improve the supply of adequate, affordable, high-quality childcare services for children under the mandatory school age with a view to achieving the objectives set at the European Council in Barcelona in March 2002, taking into account the demand for childcare services and in line with national patterns of childcare provision;
- (b) improve the provision of care facilities for other dependants; and
- (c) promote flexible working arrangements and various forms of leave for both women and men.

Measures to tackle all forms of violence against women:

- (a) adopt, implement and monitor strategies at national and Union level with a view to eliminating violence against women;
- (b) strengthen the prevention of violence against women and the protection of victims and potential victims, including women from all disadvantaged groups; and
- (c) emphasise the role and responsibility of men and boys in the process of eradicating violence against women.

Governance, implementation and monitoring:

The relevant aspects of this Pact, and of the Commission's annual reports on "Equality between Women and Men", should be taken into account in the mechanisms of the Europe 2020 Strategy as appropriate.

THE COUNCIL reaffirms its commitment to reinforce governance through gender mainstreaming by integrating the gender perspective into all policy areas including external EU actions, also taking into account the critical role of men and boys in the promotion of gender equality, and by ensuring that gender equality effects are taken into account in impact

assessments of new EU policies. THE COUNCIL encourages the Member States and the Commission, in particular through Eurostat, to further develop existing statistics and indicators disaggregated by sex and to fully utilise the capacities of the European Institute for Gender Equality.

When developing and implementing their national reform programmes, the Member States are encouraged to apply a gender equality perspective and to promote gender equality policies, especially concerning the employment guidelines, and invited to make appropriate use of agreed gender equality indicators developed within the Joint Assessment Framework and within the follow-up of the Beijing Platform for Action in all relevant policy areas and processes.

The Commission and the Council are also invited to incorporate a gender equality perspective into the Annual Growth Survey, the country opinions and the country specific recommendations. The progress made on the implementation of the European Pact for Gender Equality should be discussed by ministers annually, at the Council level.

Appendix IV -

Table: Conceptual and Empirical Focuses of Work on Welfare State Variation

Author	Conceptual Focus in relation to the Welfare State	Empirical Indicators
Esping-Andersen, 1990	Degree of decommodification	Wage replacement rates; length of contribution periods; method of financing of transfers; degree of transfer equality
	Principle of stratification	Degree of corporatism; etatism; significance of means-tested poor relief; private pensions; private health spending; average universalism; average universalism; average benefit equality; range of entitlements
	State-market relations	State/market mix in pension provision; conditions under which individuals exit from and enter the labour market
Castles & Mitchell, 1990	The redistribution process	Distribution of market incomes; final distribution of incomes; extent of net redistribution
	Linkages between welfare effort, instruments and outcomes	Degree of transfer equality; household transfers as a percentage of GDP; income and profit taxes as a percentage of GDP
Lewis, 1992	The strength of the male breadwinner model crossnationally	Extent and form of female labour force participation; bases of women's entitlements; treatment of mothers and other carers; primacy of family policy; treatment of and outcomes for lone mothers
Scheiwe, 1994	How institutional arrangements in labour market, welfare state, family and marital law construct poverty risks for mothers	Form, conditions and levels of child support payments; childcare service provision: conditions of transfer entitlement as they relate to family situation; treatment of marriage as against parenthood; tax allowances; ideology underlying transfers

Appendix IV - (cont.)

Shawer & Bradshaw, 1993	Degree of support for domestic labour in tax benefit package	Comparison of net disposable income of one-earner couples to single person; support for a dependent wife compared to that for children; comparison of lone parents to one-earner couples
Orloff, 1994	The institutional division of labour among states, markets and families in providing welfare	Resources provided by each to different types of household, men and women; levels of adequacy of such resources
	The gender stratification structures and effects of income maintenance provision	The level of differentiation of programme directed at ameliorating the consequences of market vs. family failure; the proportions of men and women making claims based on workforce participation, citizenship, need and family or marital status
	The bases of social rights	The relative treatment of men and women, workers and caregivers; conditions of access to transfers; the degree of leverage given to workers vis-à-vis the market; women's capacities to form and maintain autonomous households
Sainsbury, 1996	The elaboration of models of social policy as they impact upon women	Family ideology; basis of entitlement; recipient and unit for transfers; unit of contribution; taxation, employment and wage policy; state involvement in the sphere of care
	Outcomes of gender equality reforms	Women's access to transfers; location of women in insurance- and assistance-based programs; equality of transfers received

Appendix V -

1. Bulgarian Legal Framework for Gender Equality as presented by the Governmental Unit: Gender Equality and Non-Discrimination Sector at the Ministry of Labour and Social Policy¹:

Legislation	Year	Main provision(s)
Act on Safety and Health at Work	1997	This act regulates rights and duties of the state; employers; employees; persons, who alone or in cooperation with other persons work are self-employed; other organizations and legal persons in respect of the provision of healthy and safe working conditions. (Art. 1)
Anti-discrimination law	2004	Any direct or indirect discrimination on the grounds of sex, race, nationality, ethnic origin, citizenship, origin, religion or belief, education, opinions, political belonging, personal or public status, disability, age, sexual orientation, marital status, property status, or on any other grounds, established by the law, or by international treaties to which the Republic of Bulgaria is a party, is forbidden. (Art. 4)
Bulgarian Constitution	1991	Art. 6. (1) All persons are born free and equal in terms of dignity and rights; (2) All citizens shall be equal before the law. There shall be no privileges or restrictions of rights on the grounds of race, national or social origin, ethnic self-identity, sex, religion, education, opinion, political affiliation, personal or social status or property status. Art. 14. The family, motherhood and children shall enjoy the protection of the State and society. Art. 46. (1) Matrimony shall be a free union between a man and a woman. Only a civil marriage shall be legal; (2) Spouses shall have equal rights and obligations in matrimony and the family. (3) The form of a marriage, the conditions and procedure for its conclusion and termination, and all private and material relations between the spouses shall be established by law. Art. 47. (1) The raising and upbringing of children until they come of legal age shall be a right and obligation of their parents and shall be assisted by the State; (2)

¹ Source: E. Stoykova, *Context Study Bulgaria*, QUING Project, 2008, Vienna: Institute for Human Sciences (IWM), http://www.quing.eu/files/results/cs_bulgaria.pdf, retrieved: 15.11.2011

Legislation	Year	Main provision(s)
		Mothers shall be the object of special protection on the part of the State and shall be guaranteed prenatal and postnatal leave, free obstetric care, alleviated working conditions and other social assistance; (3) Children born out of wedlock shall enjoy equal rights with those born in wedlock; (4) Abandoned children shall enjoy the protection of the State and society; (5) The conditions and procedure for the restriction or suspension of parental rights shall be established by law.
DECREE N 313 of Council of Ministers from November 17.2004 for formation of a National Council on Gender Equality with the Council of Ministers	2004	The text defines the general functions of the National Council on Gender Equality as a public body for conducting the consultation, cooperation and coordination between government and non-government organisations in the elaboration and implementation of the national policy concerning the equality between women and men with the Council of Ministers.
Employment Strategy 2004-2010	2004	The Strategy identifies women as a risk group in the labour market. The Strategy pays special attention to the need to develop policies on equal opportunities for all social groups to the labour market and to make these freely and easily accessible. General measures refer to the establishment of legislative, institutional and resource base for guaranteeing equal opportunities for women and men. Specific measures for social group, which are considered to be disadvantaged and in unequal position on the labour market as to the other persons. The Strategy draws attention to the fact that it is very important that the impact of each measure on the status of the respective groups is timely and appropriately measures ² .
Law on combating trafficking in human beings	2004	The law provides measures to prevent and defy trafficking in human beings; measures aimed at protecting and supporting the victims of human trafficking, especially women and children; ensure co-operation and co-ordination between the bodies of state and the municipalities, as well as between them and the non-governmental organisations (NGOs), with a view to preventing and defying trafficking in human beings, and developing the national policy in that area. In additional provisions of the Law, the term “exploitation” is defined as “the illegal use of human beings for debauchery, removal of physical organs, forced labour, slavery or servitude”. “Trafficking for sexual exploitation” is not specifically mentioned.
Law on protection against domestic violence	2005	The law governs the rights of individuals having suffered from domestic violence, the protection measures, and the procedure applicable to the imposition of such measures (Art. 1) The law gives a legal definition of ‘domestic violence’; regulates the relations related to domestic violence; and

² <http://cwsp.bg/en/htmls/page.php?category=424>

Legislation	Year	Main provision(s)
		provides protection measures. The state's responsibilities under the law are to ensure the implementation of prevention and protection programs, as well as programs providing assistance to the victims. The law establishes the institution of a protection order, which are valid for up to one year. The measures prescribed by the court may be one or more of the following: obliging the perpetrator to refrain from continuing acts of domestic violence; removing the perpetrator from the common habitation; prohibiting the perpetrator to approach the home and place of work of the victim, or any other places where the victim pursues his or her social contacts or recreation; temporarily relocating the residence of the child with the innocent or victimized parent; obliging the perpetrator to attend specialized programs; and advising the victim to attend rehabilitation programs. In case of direct and impending threat to the life or health of the victim, the regional court shall issue an emergency protection order within 24 hours. Failure to comply with the protection order entails the arrest of the perpetrator ³ .
Law on the ombudsman	2004	The Ombudsman shall intervene by the means, envisaged in this law, when citizens' rights and freedoms have been violated by actions or omissions of the state and municipal authorities and their administrations as well as by the persons assigned with the provision of public services (Art. 2)
National Action Plan for Promotion of Gender Equality for 2005	2005	The same as the National Plan for Promotion of Gender Equality for 2006.
National Action Plan for Promotion of Gender Equality for 2006	2006	One major set of actions is devoted to the media and information campaigns about gender equality and problems of gender based violence which should encourage public debate and better cooperation with the civil society. Other set of actions envisages gender training in general gender equality for the central and local administration and again separate special gender training targeted at magistrates and judges. Vocational training and encouraging employment and self-employment aim at fighting the social isolation and to create conditions for equal opportunities for women and men in the labour market. A relatively new kind of action is the introduction of indicators for gender equality assessment and gender disaggregated data needed for the planned research activities and referred at the Eurostat elaborated indicators. “However, the institutions involved and the society has no feedback whether the activities and measures suggested in these plans are efficient because there is no visible official report for the accomplishment of the 2005 Action Plan ⁴ .

³ http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/BULGARIA_VAW_FACT_SHEET_2006_3.pdf

⁴ <http://cwsp.bg/htmls/page.php?lang=en&category=122&page=3>

National Demographic Strategy of the Republic of Bulgaria 2006 - 2020⁵	2006	The encouragement of childbirths will be achieved by the creating of favourable child-raising conditions. Also, there is the two-child family as an "ideal reproductive case" justified by the tradition. The encouragement of the child raising in the family will be achieved by developing positive attitudes towards the family. And at end, to encourage "adequate reproductive life in good health for all groups" there must be policies ensuring equal opportunities.
Social Security Code	1999	The state public insurance shall grant benefits, allowances and pensions in case of: 1. temporary incapacity to work; 2. temporary reduced capacity to work; 3. disability; 4. maternity; 5. unemployment; 6. old-age; 7. death.

2. Additional legislation listed:

Legislation	Year	Main provision(s)
Labour Code	1985	The Labour Code prohibits all types of discrimination, privileges and limitations based on nationality, origin, gender and race. Article 8(3) states that: In the exercise of labour rights and duties no direct or indirect discrimination, privileges or restrictions shall be allowed on grounds of ethnicity, origin, sex, race, skin colour, age, political and religious convictions, affiliation to trade union and other public organisations and movements, family, social and property status and disability. The amendment to the Code in 2001 introduced the principle of equal pay to women and men (Article 243). Another provision refers to the parental leave, regulated by article 167a of the Labour Code. The provisions of parental leave were quite recently introduced and public opinion towards it is has not yet been registered. By the end of 2003 certain amendments to the Labour Code introduced the definitions of indirect discrimination (Supplementary Provisions, §1,7) ⁶ .
Penal Code	1968	The Penal Code creates criminal penalties for the infliction of severe and moderate physical injuries. Article 128 of the Penal Code states that the punishment for inflicting severe bodily injury on another person is imprisonment for three to ten years. Article 129 of the Penal Code prescribes the punishment for inflicting moderate bodily harm on another individual as deprivation of liberty for up to five years ⁷ .
Family Code	1987	The Family Code (1985, amended 1992) settles the relationship in marriage, relation and adoption, guardianship and trusteeship. The Family Code is based on the principle of "... equality of men and women ..." (Article 3) ⁷ .

⁵ http://www.mlsp.government.bg/bg/docs/demography/Dem.%20Strategy_ENG.pdf

⁶ http://www.stopvaw.org/List_of_Law_and_Policy_Documents12.html

⁷ http://www.stopvaw.org/List_of_Law_and_Policy_Documents12.html

3. The list of Bulgarian legislation, transposing the Directives in section “Equal Treatment of Women and Men” published on the Gender Equality and Non-Discrimination Sector web-page⁸:

LIST OF BULGARIAN LEGISLATION, TRASPOSING THE DIRECTIVES IN SECTION “Equal Treatment of Women and Men”	
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.	Labour Code Law on Protection against Discrimination
COUNCIL DIRECTIVE 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 (76/207/EEC)	Labour Code Law on Protection against Discrimination
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 (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Labour Code Law on Health and Safety at Work Law on Protection against Discrimination Social Insurance Code Personal Income Tax Law Ordinance No 5 of 11 May 1999 on the Procedure, Manner and Frequency of Carrying out Risk Assessment
COUNCIL DIRECTIVE 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC	Labour Code Ordinance on the Working Time, Rest Periods and Leaves
COUNCIL DIRECTIVE 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex	Law on Protection against Discrimination
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	Social Insurance Code
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 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes	Social Insurance Code
COUNCIL DIRECTIVE 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood	Social Insurance Code
DIRECTIVE 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC 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;	Bill on Equal Opportunities for Women and Men

⁸ <http://www.mlsp.government.bg/equal/equalen/bglaw.asp?id=277>

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	Law on Protection against Discrimination
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4. Gender machineries

National gender machineries	Yes (specify date)		No	Notes
	Gender specific	General equality		
Central government gender equality body with senior minister	2004			No report available on the activity of the equality body to date.
Independent equality body (research, monitoring, and enforcement)	2003			No report available on the activity of the Equal Opportunities Department (EOD) The activity of the Sector was reviewed in 2005 by the Centre of Women's Studies and Policies, which recommended: "The Sector on Equal Opportunities for Women and Men at the Ministry of Labour and Social Policy should focus primarily on the issues related to equal opportunities and should not deal with other non-gender issues, as it does presently. In our opinion, it is recommended that the Sector makes public announcements of its work and activities ⁹ ."
National consultative / representative body linking state and women's NGOs	2003			
Any other body / bodies (e.g. parliamentary committees) Please name:		X		
1. Human Rights and Religious Affairs Committee				
2. The Commission for Protection against Discrimination (2005)		2005		In the annual report for 2006, the Commission reported 3 correspondence on gender based discrimination out of 220.

⁹ Open Society Institute. 2005. Equal opportunities for women and men: monitoring law and practice in new member states and accession countries of the European Union. New York: OSI.
http://www.soros.org/initiatives/women/articles_publications/publications/equal_20050502

Appendix VI -

Gender Equality Progress so far and Parental allowances in Sweden since 1974¹⁰

- 1845 Equal inheritance rights for women and men.
- 1846 Widows, divorcees and unmarried women entitled to work in manual trades and some commerce.
- 1858 Unmarried women over 25 years old may come of age by court order. Marriage means a return to minority status.
- 1859 Women entitled to some teaching positions.
- 1863 Unmarried women attain majority at the age of 25.
- 1864 Husbands lose legal right to strike their wives.
- 1870 Women gain right to take high school diploma at private schools.
- 1873 Women gain right to take degrees with some exceptions (doctorate in law and theology)
- 1874 Married women gain the right to control their own incomes.
- 1884 Unmarried women come of age at 21.
- 1901 Women gain the right to four weeks unpaid maternity leave.
- 1919 All women gain suffrage for municipal elections and the right to hold office at municipal and county levels.
- 1921 Women gain national suffrage and the right to hold office at the national level; married women come of age at 21; the new marriage code gives wives and husbands equal legal status.
- 1922 The first five women are elected to Parliament.
- 1925 With some exceptions, women gain the same rights as men to civil service jobs.
- 1927 Public upper secondary schools open to girls.
- 1931 Maternity insurance benefits introduced.
- 1935 Equal basic pensions adopted for women and men.
- 1938 Legalisation of contraception; child support assistance established; financial assistance to mothers established; universal maternity allowance established.
- 1939 Gainfully employed women may not be dismissed due to pregnancy, childbirth or marriage.

¹⁰ Source: Women and Men in Sweden: *Facts and Figures 2010*, Statistics Sweden, combined lists: Gender Policies so far: P.5:ff and Parental Allowances: P.39:ff

- 1947 First woman Cabinet Minister: Karin Kock; equal pay for equal work for state employees; child allowances introduced.
- 1950 Both parents declared a child's legal guardians.
- 1951 Women entitled to retain their Swedish citizenship upon marriage to foreign citizens.
- 1955 Three months paid maternity leave for working women on birth of child.
- 1958 Women entitled to be ordained into the clergy.
- 1960 Employers and unions agree to abolish separate wage rates for women over a five year period.
- 1964 Birth control pill approved in Sweden.
- 1969 Compulsory schools adopt new curriculum; encouraged to promote equal opportunities.
- 1970 Secondary schools adopt new curriculum; encouraged to promote equal opportunities.
- 1971 Separate income tax assessment for wife and husband.
- 1974 Parents entitled to share parental allowances upon childbirth.
- 1974 Parental allowance is introduced. Benefit comprises 90 percent of wage for 180 days, which must be used up before the child is 8 years old. Temporary allowance is introduced: 10 days per family and year for children under 12 years old. Benefit comprises 90 percent of wage.
- 1975 UN's International Women's Year - New abortion law: A woman has the right to decide until the 18th week.
- 1976 UN's Decade for Women; ordinance for equal opportunities in civil service; Sterilisation Act: person aged 25 decides her/himself.
- 1977 Agreement between employers and unions on equal opportunities.
- 1978 Parental Allowance is now paid for 270 days, of which 30 at the minimum rate only.
- 1979 Right to six hour day for parents of small children.
- 1980 Parental Allowance is increased to 360 days of which 90 at the minimum rate only. Temporary allowance is now 60 days per child and year. The "10 day benefit" for the father following the birth of a child is introduced. The benefit is 90 percent of wage.
- 1980 Law against sex discrimination in employment; spouse-means test for student loan abolished; equal opportunities agreement with municipal and county governments; compulsory schools adopt new curriculum – now required to promote equal opportunities; new law on succession to the throne – monarch's first-born daughter or son succeeds to the throne.

- 1982 All assault and battery against women even if committed on private property subject to public prosecution; ban on pornographic “live shows” in places open to public; social security points for care in home of children under 3 years; public funds to women’s organisations; new name-change law – at time of marriage, couples decide which name or names they will use.
- 1983 New equal opportunities agreement between employers and unions; all occupations open to women, including armed forces.
- 1984 The State Sector Equal Opportunities Ordinance.
- 1985 UN’s Decade for Women ends – strategies until year 2000 adopted; equal opportunities agreement for public companies/utilities.
- 1986 The “2 day benefit” for visiting child (4–12 years) in day-care centre or school is introduced. The benefit is 90 percent of wage.
- 1987 New law concerning joint property of cohabiting couples (unmarried): The Cohabitation Act.
- 1988 National 5 year plan of action to promote equal opportunities.
- 1989 Parental allowance is increased to 450 days, of which 90 at the minimum rate only.
- 1989 Nordic plan of action to promote equal opportunities.
- 1990 Temporary allowance is increased to 120 days per child and year.
- 1992 New Equal Opportunities Act.
- 1994 Revised Equal Opportunities Act; new national policy for equal opportunities; gender statistics made part of Sweden’s Official Statistics.
- 1995 Sweden joins the European Union; UN Fourth World Conference on Women in Beijing; Act on Registered Partnership; at least one month of parental leave must be used by mother and one by father (“mummy/daddy month”).
- 1995 “Mummy/Daddy Month” is introduced. 30 days must be used by the mother and 30 by the father. The benefit is 90 percent of wage. Remainder can be used by either parent; 300 days with 80 percent compensation and 90 days at the minimum rate. Temporary allowance can be transferred from parents to any other person who stays home from work to care for the child. The “2 day benefit” is taken away.
- 1996 Compensation during “mummy/daddy month” is now 85 percent. 300 days are compensated at 75 percent of wage and 90 days at the minimum rate. Temporary allowance is now 75 percent of wage.
- 1997 First woman bishop.

- 1997 “Mummy/daddy month” is compensated at 75 percent.
- 1998 Parental allowance and temporary allowance are 80 percent.
- 1998 Act on Violence against Women (amendment of Penal Code); Act on Prohibition against Female Genital Mutilation; The Equal Opportunities Act tightened concerning sexual harassment.
- 1999 Law prohibiting the purchase of sexual services.
- 2000 Special session of the General Assembly, Women 2000: Gender equality, development and peace for the twenty-first century. National Council for Peace for Women founded.
- 2001 Amendment to the Equal Opportunities Act with stricter regulations regarding equality analyses for wages.
- 2002 Parental Leave: Number of days increases with 30 sickness benefit days to 480 days, 60 of which are reserved for each parent and cannot be transferred. Temporary parental allowance can be paid to another insured person when the parent is sick and thus can neither work nor take care of her/his child. The 10 so-called “father days” can in certain cases be used by another insured person.
- 2003 Amendment to Ban on Visitors Act - a ban on visitors can relate to the common home.
- 2004 Swedish Government adopts a strategy for the integration of gender equality into the Government Offices.
- 2005 New legislation on sexual crimes.
- 2006 The income ceiling for sickness benefit is raised so that those who earn up to 10 price base amounts for parental allowance, temporary parental allowance and pregnancy benefit.
- 2006 Decision by Parliament on new objectives in gender equality policy. The European Council decides on a European pact for gender equality. European Parliament and European Council order for establishment of a European institute for gender equality.
- 2007 The income ceiling for sickness benefit is reduced to 7.5 price base amounts for temporary parental allowance and pregnancy benefit. The ceiling for parental allowance is still based on 10 price base amounts.
- 2007 The Government adopts an action plan to combat men’s violence against women, violence and oppression in the name of honour and violence in same-sex relations.
- 2008 A “gender equality bonus” is introduced when using parental allowance. This bonus applies to parental allowance days at the sickness benefit level, excluding the days that

are reserved for each parent. The maximum bonus can be given if these days are shared equally.

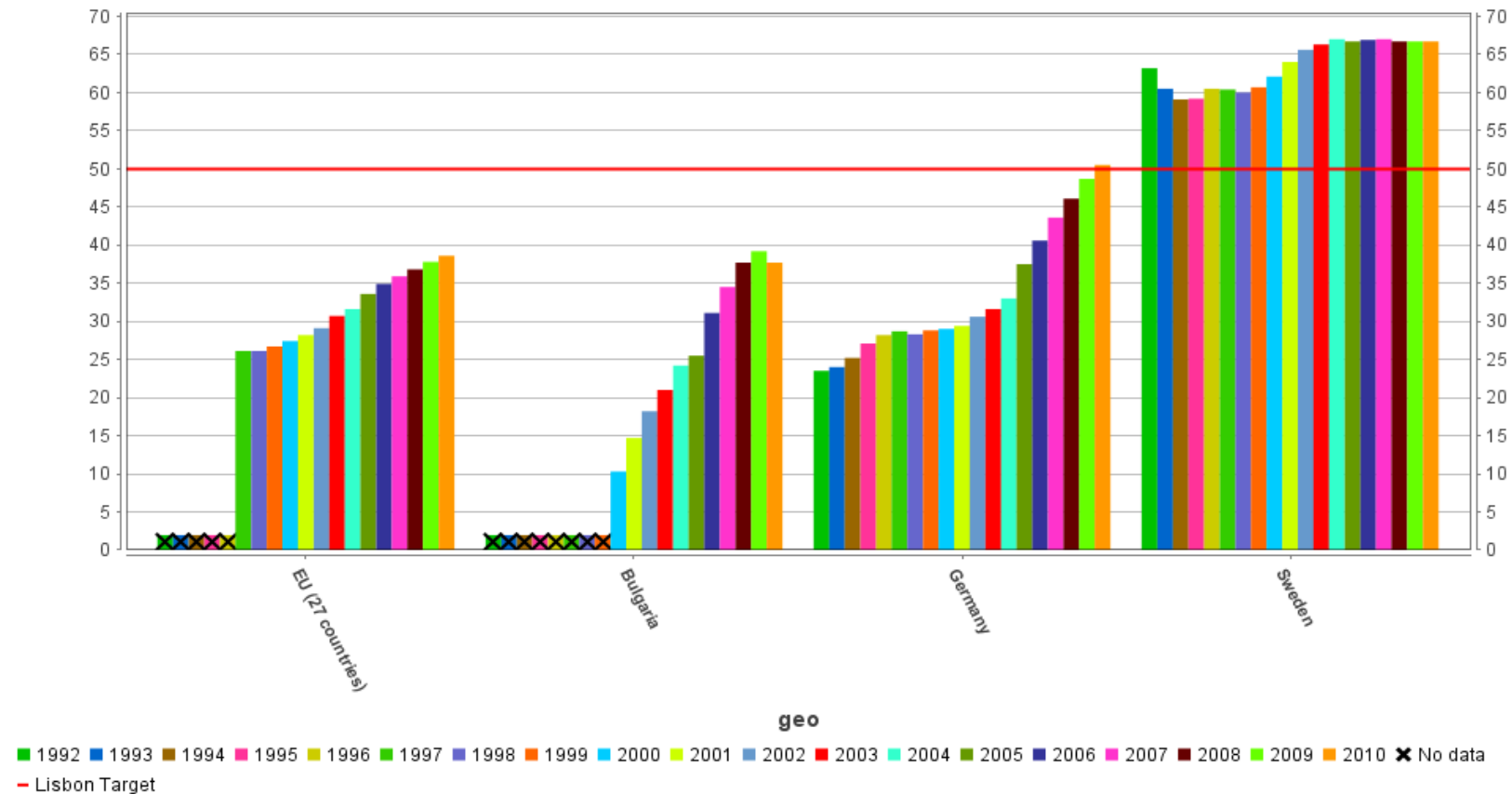
- 2008 The municipalities are given the right to introduce a municipal “child care subsidy” for children aged 1 to 3 of maximum SEK 3 000 per month.
- 2009 The European Institute for Gender Equality is set up in Vilnius, Lithuania.
- 2009 Discrimination act entered into force. Combats, among other things, discrimination on grounds of sex and discrimination on grounds of transgender identity or expression. Equal Opportunities Act ceases.
- 2009 A new agency, the Office of the Ombudsman against Discrimination is formed and the Equal Opportunities Ombudsman ceases.
- 2009 Gender-neutral marriage law.
- 2010 In the case that a single parent becomes sick and cannot take care of her/his child (children under age 3), it is now possible to let someone else who refrains from work to get temporary parental allowance for the care of the child.

Appendix VII - Elderly Female Participation in the Labour Market¹

Employment rate of older workers by gender

%

Females



¹ Source of Data:: Eurostat, General Disclaimer of the EC: http://europa.eu/geninfo/legal_notices_en.htm, Code: tsiem02, Last update: 29.09.2011 Date of extraction: 02 Oct 2011 17:33:05 MEST Hyperlink to the graph: <http://epp.eurostat.ec.europa.eu/tgm/graph.do?pcode=tsiem020&language=en>, **Disclaimer:** This graph has been created automatically by Eurostat software according to external user specifications for which Eurostat is not responsible. **Short Description:** The employment rate of older workers is calculated by dividing the number of persons aged 55 to 64 in employment by the total population of the same age group. The indicator is based on the EU Labour Force Survey. The survey covers the entire population living in private households and excludes those in collective households such as boarding houses, halls of residence and hospitals. Employed population consists of those persons who during the reference week did any work for pay or profit for at least one hour, or were not working but had jobs from which they were temporarily absent.

DECLARATION OF AUTHORSHIP

I declare that this thesis and the work presented in it are my own and have been generated by me as the result of my own original research.

None of the parts of this thesis has previously been submitted for a degree or any other qualification at this University or any other institution.

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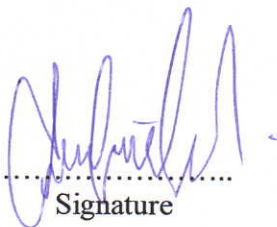
Where I have quoted from the work of others, the sources is always given within reference part of my Thesis.

ANTALYA

Place

05.01.2012

Date



Signature