

# focus

News and views

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Finding out about...

## equal opportunities\*

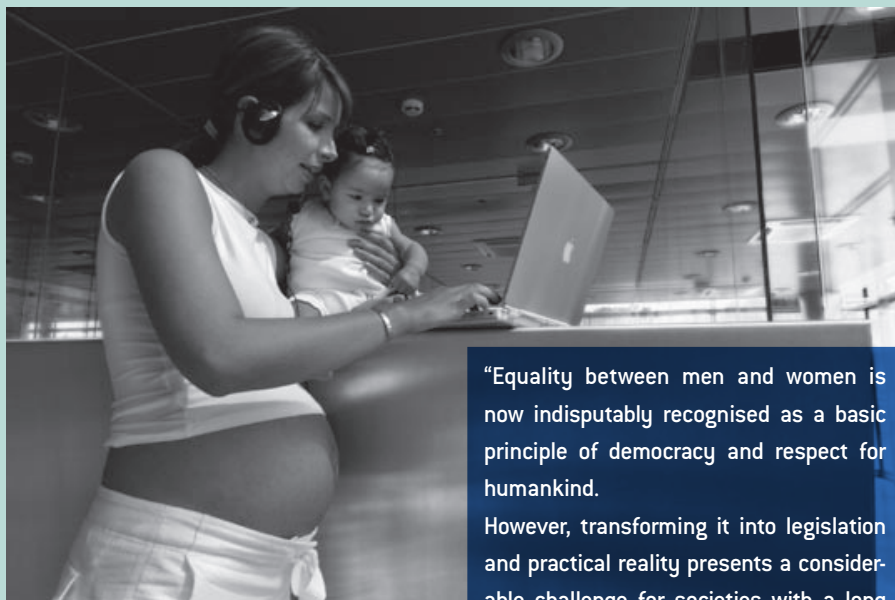
January should see the official opening of the European Institute for Gender Equality. Intended to support the Member States, the Commission and the other EU institutions in the implementation of Union policy on gender equality, the Institute will operate from Vilnius, Lithuania.

Launched just as the 2007 European Year for Equal Opportunities for All closes, the advent of the Institute is further evidence of the Union's long-standing commitment to equal opportunities.

The Year for Equal Opportunities coincided with the 50th anniversary of the 1957 Treaty establishing the European Economic Community ('Treaty of Rome') which included a commitment to the principle that men and women should receive equal pay for equal work (Article 119; now Article 141, which in part reads: "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.")

### Background

Despite that early commitment, Member States were slow to implement the principle. Binding legislation was therefore introduced, with the 'equal pay' Directive being adopted in 1975; legislation directed at specific aspects of gender equality followed over the next few years, including: access to employment, vocational



training and promotion and working conditions (1976); social security (1978); safety and health at work of workers who have recently given birth or who are breastfeeding (1992); parental leave (1996); part-time work, and burden of proof in cases of discrimination based on sex (1997).

The 1989 Community Charter on the Fundamental Social Rights of Workers included amongst its headings 'Equal treatment for men and women'. The Charter of Fundamental Rights of the European Union, adopted in 2000 and now incorporated into the new Reform Treaty, has a wide-ranging chapter on 'Equality', whose coverage includes 'Equality

"Equality between men and women is now indisputably recognised as a basic principle of democracy and respect for humankind.

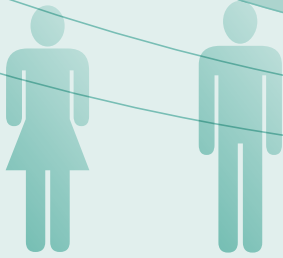
However, transforming it into legislation and practical reality presents a considerable challenge for societies with a long history of inequality behind them: in both industrialised and developing countries, inequalities between women and men are still apparent."

COM [96] 67: 'Incorporating equal opportunities for women and men into all Community policies and activities'

before the law', 'Non-discrimination', and 'Equality between men and women'.

The 1997 Treaty of Amsterdam amended Article 141 of the Treaty and also introduced into Article 2 the statement that "The Community shall have as its task ...to promote ... equality between men and women ..." - a requirement reinforced by Article 3 (2): "In all the activities

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## Gender mainstreaming

This is the term given to the concept and practice of integrating a gender perspective into every stage of the policy-making process. From design, through implementation and monitoring, to evaluation, it aims to assess how policies impact on both women and men and to promote equality between them. Mainstreaming was incorporated into EU law by the Treaty of Amsterdam.

According to the Commission's 1996 Communication 'Incorporating equal opportunities for women and men into all Community policies and activities' (COM (96) 67), gender mainstreaming "involves 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."

referred to ... the Community shall aim to eliminate inequalities, and to promote equality, between men and women." Article 137 of the Treaty addresses "equality between men and women with regard to labour market opportunities and treatment at work".

Introduced into EU law by Article 3 (2), the concept of 'gender mainstreaming' - integrating a gender perspective at every stage of the policy-making process - is one of two EU approaches to tackling equal opportunities, the other being to address specific issues.

According to the 1997 Annual Report on Equal Opportunities for Women and Men in the European Union (COM (1998) 302)

the commitment to mainstreaming was signalled in February 1996 by the adoption of the Communication 'Incorporating Equal Opportunities for Men and Women into All Community Policies and Activities' (COM (96) 67).

In December 1997, the Council adopted guidelines for employment - including strengthening equal opportunities policies - to be implemented in national action plans drawn up by the Member States. 1999 saw the publication of a Communication 'on certain Community measures to combat discrimination' (COM (1999) 564), which proposed a package of measures which would "contribute to combating discrimination, including through the promotion of equal treatment."

In July 2003, the campaign 'For Diversity, Against Discrimination' was launched, to promote awareness of EU anti-discrimination legislation, and especially of two Directives due to be implemented by the end of that year: the Race Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC).

In June 2004, the Employment, Social Policy, Health and Consumers Council and the European Council both supported the creation of a European Institute for Gender Equality.

The Commission's 2005 Communication 'Non-discrimination and equal opportunities for all - A framework strategy' (COM (2005) 224) sowed the seeds for the 2007 Year of Equal Opportunities for All, with the Commission arguing that "There is a need to go beyond

anti-discrimination policies designed to prevent unequal treatment of individuals. The EU should reinforce its efforts to promote equal opportunities for all ..."

On 1 March 2006, the Commission adopted 'A Roadmap for equality between women and men 2006-2010' (COM (2006) 92), which outlined six priority areas for action:

- ▶ equal economic independence for women and men
- ▶ reconciliation of private and professional life
- ▶ equal representation in decision-making
- ▶ eradication of all forms of gender-based violence
- ▶ elimination of gender stereotypes
- ▶ promotion of gender equality in external and development policies

The Barcelona European Council of 23-24 March 2006 approved a European Pact for Gender Equality, which encouraged measures at EU and national level to:

- ▶ close gender gaps and combat gender stereotypes in the labour market
- ▶ promote a better work-life balance for all
- ▶ reinforce governance through gender mainstreaming and better monitoring

Published in July 2006, Directive 2006/54/EC 'on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)' simplifies and updates existing legislation; the deadline for national implementation is 15 August 2008.

## Case law

The Court of Justice has issued a number of important decisions in this area, including *Kalanke* (1995), which held that positive action policy on recruitment and promotion contravened Article 2 (4) of Directive 76/207; and *Marschall* (1995), in which the Court recognised that existing inequalities can be addressed by giving preference for promotion to women possessing the same qualifications as their male counterparts.

The 1997 Directive 'on the burden of proof in cases of discrimination based on sex' (97/80/EC - extended to the UK by Directive 98/52/EC) requires defendants taken to court for direct or indirect discrimination to prove that they have not infringed the principle of equal treatment. Previously, the burden of proof lay on the person bringing the case.

**“The development, implementation and monitoring of flexicurity policies should take account of their different impacts on women and men and should avoid stressing the ‘flexibility’ aspect for women and the ‘security’ aspect for men”**

**Report on equality between women and men 2007**



### Recent developments

The 2007 Year of Equal Opportunities for All was based around the concepts of rights, recognition, representation and respect. The Year was the first Community activity to cover all six grounds for discrimination prohibited by Article 13 of the EC Treaty. It aimed to:

- ▶ make people more aware of their rights to enjoy equal treatment and a life free of discrimination, irrespective of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation
- ▶ promote equal opportunities for all
- ▶ launch a debate on the benefits of diversity, for both societies and individuals

January 2007 saw the European Parliament adopt a ‘Resolution on gender mainstreaming in the work of the committees’ (P6\_TA (2007) 0010). Amongst other things, it undertook “to adopt and apply within its administration a gender mainstreaming strategy with specific targets in Community policies, and assign[ed] to the committee responsible the task of developing that strategy by the end of the current legislative term at the latest”. It also called “for gender mainstreaming to be taken into account when vacancies are advertised in the EU institutions”.

In February, the Commission published its ‘Report ... on equality between women and men - 2007’ (COM (2007) 49), providing an overview of the main developments during 2006 and highlighting future challenges.

Parliament’s Resolution of 13 March (P6\_TA (2007) 0063) on the Commission’s Roadmap for equality between women and men (2006-2010)’ pointed out that the Roadmap “fails to specify the responsibilities of the Commission and the

Member States as regards implementation and information to citizens, and that it does not specify the funds that will be allocated to implement its recommendations”. It called on the Commission “to draw up an overall framework for the assessment of policies and programmes to promote gender equality, including resulting national policies”.

On 19 June, Parliament’s Resolution ‘on a regulatory framework for measures enabling young women in the European Union to combine family life with a period of studies’ (P6\_TA (2007) 0265) encouraged EUROSTAT and the Member States to obtain and provide data on how family responsibilities impact on young female students.

In July 2007, COM (2007) 424 ‘Tackling the pay gap between women and men’ concluded

that “The persistence of the gender pay gap is a sign that women continue to be affected by direct and indirect discrimination and inequalities in the labour market ...” and called for more information to be obtained to “allow the identification of possible ways of dealing with the problem in a targeting [sic] manner, and to identify possible improvements to the existing legal framework likely to lead to a significant reduction in the pay gap.”

Parliament’s Resolution of 27 September ‘on equality between women and men in the European Union - 2007’ (P6\_TA (2007) 0423) called on the Commission “to propose, in addition to the gender mainstreaming approach, a series of specific measures including awareness-raising campaigns, the exchange of best practices, dialogues with citizens and public-private partnership initiatives”.

### Action programmes

- 1st 1982-1985 - Community Action Programme on the Promotion of Equal Opportunities for Women**
  - 2nd 1986-1990 - Equal Opportunities for Women: Medium-term Community Programme**
  - 3rd 1991-1995 - Third Medium-term Community Action Programme on Equal Opportunities for Women and Men**
  - 4th 1996-2000 - Fourth Action Programme for Equal Opportunities for Women and Men**
  - 5th 2001-2005: Fifth Community Action Programme on Equal Opportunities**
- For 2007-2013, equality between women and men is one of five elements comprising Progress - the Community Programme for Employment and Social Solidarity. Established in October 2006 [Decision 1672/2006/EC], Progress provides financial support for EU initiatives under five main headings: employment; social protection and inclusion; working conditions; anti-discrimination and diversity; gender equality.**

### European Institute for Gender Equality

Regulation 1922/2006, establishing the Institute, was published on 30 December 2006. The Commission had symbolically adopted the draft Regulation on 8 March 2005, marking the International Day for Women and the 10th anniversary of the ‘Beijing Platform’ (the Fourth World Conference on Women, held in September 1995).

Based in Vilnius, the Institute will initially have 15 staff - growing to 30 by 2013 - and a budget of €52.5 million for 2007-2013. Intended to be a centre of excellence in equality issues and to support the Community institutions and the Member States, its tasks will include: collecting, analysing and disseminating relevant information; carrying out surveys; organising events and initiatives, and encouraging the exchange of information amongst researchers.

### Funding initiatives

The 1991-1994 New Opportunities for Women (NOW) initiative was described in ‘Implementation of gender mainstreaming in the Structural Funds programming documents 2000-2006’ (COM (2002) 748) as “A turning point and a forerunner of measures to reduce vertical and horizontal segregation”.



'Launch of European Year for Equal Opportunities for All, January 2007'

The 1993 revision of the Structural Funds made equal opportunities a principle of the European Social Fund (ESF), European Regional Development Fund (ERDF) and European Agricultural Guidance and Guarantee Fund (EAGGF), and also introduced equality as a key element of Objective 3.

NOW was succeeded by Employment-NOW, one of three strands of the Community Initiative on Employment and Development of Human Resources, 1994-1999, funded from

the ESF. Employment-NOW focused on reducing unemployment among women and improving their occupational status, qualifications and career prospects.

Since 2000, the Community Initiative EQUAL has harnessed trans-national cooperation to fight discrimination and exclusion and includes specific objectives for promoting gender equality. Although being implemented by Member States until 2008, the initiative does not appear

as a distinct element of the Structural funds for 2007-2013, although its "lessons should be integrated into ESF support" for that period. ■

**"One of the consequences of the differences and inequalities which women face on the labour market is the persistent gender pay gap. Women earn an average of 15% less than men for every hour worked"**  
Report on equality between women and men 2007

## Information sources

A wealth of background information can be found on the 'Summaries of legislation' pages [SCADPlus - europa.eu/scadplus] where 'Employment and Social Policy' has a section on 'Equality between men and women', with sub-sections on 'General framework', 'Principle of non-discrimination based on sex', 'Female employment and entrepreneurship', 'Combating sexual harassment and violence against women', and 'International dimension of equality between men and women'.

In the Commission, the relevant Commissioner is Vladimír Špidla [ec.europa.eu/commission\_barroso/spidla], whose Directorate General is the DG for Employment, Social Affairs and Equal Opportunities.

The 'Employment, Social Affairs and Equal Opportunities' thematic website has a section dedicated to gender equality [access direct at ec.europa.eu/employment\_social/gender\_equality or via ec.europa.eu/employment\_social]. It has sections on: 'News', 'Legislation', 'Gender mainstreaming', 'Financial support', 'European Institute for Gender Equality'. The section 'Legislation' - 'General overview' offers a useful list of topics [e.g. 'Pregnant workers and parental leave', 'Equal treatment in access to goods and services'] and of sources, including 'Equal treatment in the EC Treaty', 'Legal acts on equal treatment', 'Bulletin on legal issues in equality', and 'European Court of Justice cases'.

The relevant European Parliament Committee is FEMM - Women's Rights and Gender

Equality [www.europarl.europa.eu/committees/femm\_home\_en.htm]. Section 4.8.7 of Parliament's Fact Sheets covers 'Equality for men and women' [see www.europarl.europa.eu/facts\_2004 or access via ec.europa.eu - then 'Parliament' - Archives' - 'Fact sheets on the EU'].

The Council website at consilium.europa.eu gives details of the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) which meet about four times a year [see under 'Council' - 'Council configurations']. Press releases from Council meetings can be found via 'Press' - 'Press releases' - 'Council meetings'.

Policy and legislative developments can be checked in the monthly *Bulletin of the European Union*, where Part One, Section 8 covers 'Employment and social policy' [see europa.eu/bulletin/en/welcome.htm - though note that there is always a time lag of some months before the full version is available].

The *General Report on the Activities of the European Union* summarises developments [europa.eu/generalreport/en/welcome.htm]. In the 2006 edition, find the relevant section via 'Chapter III - Solidarity' - 'Section 1 - 3.1 Consolidating economic and social cohesion' - page forward to 'Social dimension' - 'Equality between women and men'.

Relevant publications can be found on the 'EU Bookshop' website [bookshop.europa.eu]. Use the 'By author' option - 'Directorate-General

for Employment, Social Affairs and Equal Opportunities' - click on one of the links shown [e.g. '138 publications'].

The 2007 European Year of Equal Opportunities for All website is at ec.europa.eu/employment\_social/eyeq.

Many of the older documents - useful for tracing policy developments - are not available or hard to find online. For these materials, the archive of European integration at the University of Pittsburgh can be a useful source. It has a 'Gender Issues' section, which includes texts of the annual reports and action programmes [aei.pitt.edu/view/eusubjects/H030003.html].

The Eurostat website [epp.eurostat.ec.europa.eu] provides relevant statistics from a variety of publications under the 'Population and social conditions' theme. Topics covered in the latter part of 2007 include 'Gender differences in the use of computers and the Internet', 'At-risk-of-poverty rate after social transfers by age and gender', 'Reconciliation between work and family life'.

\* 'Finding out' features in *Focus* have previously covered the 'Year of the Disabled' (February 2003), 'Gender equality' (January 2004), and 'Human rights' (September-October 2007). Disability policy will be the subject of a future 'Finding out'.