

■ European Union: Summary of Directive on Gender Equality

Date: July 5, 2006

Author: European Parliament and Council of the European Union

Genre: Legislation

Summary Overview

Gender inequality is a pervasive problem in Europe, as it is in the United States. The directive that is summarized in this entry is an attempt by the European Union to combat this problem. The EU issued this directive in 2006. Its stated goal was to coordinate and simplify previous directives on gender equality, as well as provide a more comprehensive vision for achieving this elusive end. The directive was written by the European Parliament and the Council of the European Union, the two major decision making bodies of the European Union. The directive outlines the areas in which gender equality is to be sought. It also puts forward procedures for empowering victims of gender discrimination, as well as bodies to oversee and manage all of these efforts.

Defining Moment

The European Union has long made gender equality a priority. In 1957, the Treaty of Rome established the predecessor to the European Union, the European Economic Community, made up of Belgium, France, Italy, Luxembourg, the Netherlands and West Germany. The Treaty of Rome itself included the principle of equal pay for equal work. A number of directives aimed at curbing gender discrimination followed. A 1978 directive aimed to secure equality for women and men in the matter of social security. A 1992 directive introduced measures to help keep pregnant, recently pregnant, and nursing women safe in the workplace. After the official founding of the European Union, more directives followed. In 2004, a directive codified the principle of equality “in the access to and supply of goods and services.”

The 2006 directive featured in this chapter sought to consolidate these previous measures and provide a more comprehensive approach to gender equality. After this landmark directive, other directives have attempted to shore up details. One 2010 directive strove to standardize parental leave policies, and another one from the same year took on gender discrimination among self-employed individuals. The results have been mixed. For example, the European Union began issuing yearly reports on the gender pay gap, the difference in pay that a man and a woman receive

for doing the same work. The close monitoring of this statistic and the European Union’s commitment to decreasing this gap are promising signs, as is the modest decline in the estimated rate. Despite these positives, according to the European Union itself the pay gap as of January 2017 was still at 16.3 percent. The stubborn persistence of the pay gap shows the difficulty in combating both this specific form of inequality as well as other, similar entrenched types of gender discrimination.

Author Biography

The official authors of this legislative document are the European Parliament and the Council of the European Union, two official bodies of the EU. The Parliament consists of seven-hundred-and-fifty-one members elected by direct election every five years; the Council of the European Union is made up of ministers sent from all of the member nations. Together the Parliament and the Council comprise the two main decision making bodies of the European Union, and both bodies predate the European Union itself. The European Parliament was established in 1952 as the Common Assembly of the European Coal and Steel Community. It became the European Parliament in 1962 and held its first elections in 1979. The Council was formed in 1958 as the Coun-

SAY NO TO DOWRY

Grand concluding ceremony of the Statewide Campaign for the eradication of dowry (March 10 - April - 10) by Karnataka forum for Dignity.

Human values have lost their meaning due to the barter of dowry. Material culture and lifestyle have eroded ethical values and robbed of mutual love between Human Beings.

Dowry deaths and suicides have catapulted our social life leading to many social problems and rise in crime rates.

KFD invites you to participate in large numbers along with your family & friends to bring a resolve to put an end to this social menace DOWRY. Let us take a great leap forward. People from all faiths & beliefs are welcome (Ladies / children will have special seating arrangements)

CHIEF GUEST

Hazrath Moulana Mufti Ashrafali Saheb
Amir-e-Shariath Karnataka,
Principal, Darul Uloom Sabeelur Rashad, Bangalore.

Hazrath Moulana Syed Mustafa Rifae Nadwi Saheb, Member All India Muslim Personal Law	Hazrath Moulana Riyaz ur Rahman Saheb Rashadi, Khateeb-e-Imaam Jamia Masjid, City Market, B'lore
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Janab Masood Abdul Khader Saheb President, Anjuman Khuddamul Mustameen, B'lore	Janab Hasan Mansoor Saheb President, P.U.C.L Karnataka

KFD **PRESIDED BY** **KFD**

Janab K.M. Sharief Saheb,
President, Karnataka Forum for Dignity

Date : 8th April 2006, Saturday at 7.10 p.m.

Venue : Eidgah-e-Khuddus Saheb,
Millers Road, Bangalore.

KARNATAKA FORUM FOR DIGNITY
Hamidshah Complex, Cubbonpet, Bangalore

Anti-dowry poster in Bangalore, India. According to Amnesty International, "[T]he ongoing reality of dowry-related violence is an example of what can happen when women are treated as property." By tara hunt from San Francisco, USA (Say no to dowry).

cil of the European Economic Community, one year after the Treaty of Rome formed this predecessor to the European Union. Not until 1993 did the Maastricht Treaty officially form the European Union. The European Union has since expanded its

membership. The issuing of Euro banknotes starting in 2002 has further consolidated its members. Great Britain's vote to leave the European Union on June 23, 2016 has challenged but not fatally harmed the EU's strength.



Historical Document

Summary of Directive on Gender Equality

Summary of 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)

The objective of this Directive is to consolidate several directives on gender equality by simplifying, modernising and improving EU legislation in the area of equal treatment for men and women in employment.

SUMMARY

Equality between men and women is a fundamental principle of EU law which applies to all aspects of life in society, including to the world of work.

Equality in employment and working conditions

This Directive prohibits direct* or indirect discrimination* between men and women concerning the conditions of:

- recruitment, access to employment and self-employment;
- dismissals;
- vocational training and promotion;
- membership of workers' or employers' organisations.

In addition, Article 157 of the Treaty on the Functioning of the EU prohibits discrimination on grounds of sex on matters of pay for the same work or work of equal value. This principle also applies to job classification systems used for determining pay.

However, different treatment for men and women may be justified by reason of the nature of the particular occupational activity, if the measures taken are legitimate and proportionate.

EU countries must encourage employers and vocational trainers to act against discrimination (both direct and indirect) on grounds of sex, and particularly against harassment* and sexual harassment*.

Equality in social protection

Women and men are treated equally under occupational social security schemes, particularly concerning:

- the scope and conditions of access to the schemes;
- the contributions;
- the calculation of benefits, including supplementary benefits, and the conditions governing the duration and retention of entitlement.

This principle applies to the whole working population, including:

- self-employed workers, however for this category EU countries may provide for different treatment, in particular concerning the age of retirement;
- workers whose activity is interrupted by illness, maternity, accident or involuntary unemployment;
- persons seeking employment, retired and disabled workers, and those claiming under them.

Maternal, paternal and adoption leave

At the end of maternal, paternal or adoption leave, employees have the right to:

- return to their jobs or to equivalent posts on conditions which are no less favourable to them;
- benefit from any improvement in working conditions to which they would have been entitled during their absence.

Defence of rights

EU countries must put in place remedies for employees who have been victims of discrimination, such as conciliation and judicial procedures. In addition, they shall take the necessary measures to protect employees and their representatives against adverse treatment as a reaction to a complaint within the company or to any legal proceedings.

Lastly, they shall establish penalties and reparation or compensation possibilities in relation to the damage sustained.

In the case of legal proceedings, the burden of proof is on the party accused of discrimination who must prove that there has been no breach of the principle of equal treatment.

Promoting equal treatment

EU countries appoint bodies whose role it is to promote, analyse and monitor equal treatment, to ensure that the legislation is followed and also to provide independent support to victims of discrimination.

In addition, enterprises must promote the principle of gender equality and strengthen the role of social partners and non-governmental organisations.



Glossary

Direct discrimination: where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation.

Indirect discrimination: where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

Harassment: where unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual harassment: where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Document Analysis

This document is the European Union's summary of its 2006 directive. Despite its brevity, the document outlines what the directive hope to enact and explains how it intends to do so.

The opening of the document includes a programmatic statement clearly laying out the intent of the directive: "The objective of this Directive is to consolidate several directives on gender equality by simplifying, modernising and improving EU legislation in the area of equal treatment for men and women in employment." This statement indicates that this is not the first directive on gender equality but that the previous directives were not sufficient. The next section, titled "SUMMARY," continues to specify what the directive will enact. It reads "Equality between men and women is a fundamental principle of EU law which applies to all aspects of life in society, including to the world of work." This latter statement underscores the importance which the European Union places on gender equality and also specifies that this directive will focus on gender equality in the workplace.

Following this opening, the document is divided into five main sections, followed by background, and key terms sections as well as a reiteration of the act's title and number. The first three main sections outline the areas that the directive covers. The first requires equal treatment "in employment and working conditions." This includes recruitment, dismissal, and training. The authors cite a previous treaty which prohibits pay discrimination; this directive clarifies that this article also applies to job classification systems which dictate pay. The second section calls for equal treatment "in social protection," which is in reference to "occupational social security schemes." The third section aims to ensure that men and women going on parental leave do not receive unfair discrimination while they are gone or upon their return.

The final two main sections seek to set effective mechanisms for the enforcement of the first three sections. The fourth section requires countries in the European Union to establish systems of recourse for victims of gender discrimination, "such as conciliation and judicial procedures." The directive goes fur-

ther, attempting to shield victims who speak out from retaliation: "In addition, they shall take the necessary measures to protect employees and their representatives against adverse treatment as a reaction to a complaint within the company or to any legal proceedings." This section further includes a call for countries to set penalties and compensation, and it even places the burden of proof on the party accused. The fifth and final section complements the fourth. It calls for countries to appoint bodies that can promote and oversee gender equality. These bodies can "ensure that the legislation is followed and also to provide independent support to victims of discrimination." These two sections reveal the authors' understanding that victims of gender discrimination face an uphill battle if they attempt to seek justice. The authors hope that these standardized systems can help lessen the burden placed on victims of gender discrimination and help to further promote gender equality.

Essential Themes

The two themes of equality and enforcement come up throughout the document. The former is the ideal which the directive strives to enact; the inclusion of the latter is a tacit acknowledgement that the attainment of that ideal will take serious effort.

The theme of equality is explicitly developed throughout the document, straight from the title which names "the principle of equal opportunities and equal treatment" between the genders in the workplace. Both "equality" and "equal treatment" are mentioned in the programmatic statement—or abstract—directly after the subject. Showcasing the centrality of the theme to the directive, the one sentence summary begins with the word "Equality," as do the next two section titles "Equality in employment and working conditions" and "Equality in social protection." Of course, the development of the theme of equality runs deeper than these mentions. The two sections whose titles begin with "Equality" are devoted to promoting this concept within their given realms. Other sections that do not explicitly mention the theme are focused on promoting it. For example, the section entitled "Maternal, paternal and adoption leave" is no less concerned with equality than the two

sections that precede it. It states that “At the end of maternal, paternal or adoption leave, employees have the right to: return to their jobs or to equivalent posts on conditions which are no less favourable to them.” In other words, this section of the directive aims to ensure equal treatment for workers despite the disruption caused by parental leave.

While the theme of equality is the ideal for which the directive strives, the theme of enforcement stands as a stark reminder that the directive is operating in reality. The word enforcement does not appear in the document but stands as a blanket term for the procedures which the document sets up to attempt to achieve gender equality. One example comes in the “Defence of rights” section. It reads, “EU countries must put in place remedies for employees who have been victims of discrimination, such as conciliation and judicial procedures.” Another example follows in the next section: “EU countries appoint bodies whose role it is to promote, analyse and monitor equal treatment, to ensure that the legislation is followed and also to provide independent support to victims of dis-

crimination.” As these two examples exhibit, enforcement procedures can differ broadly in form, yet they have the same goal: to help the ideal of gender equality materialize in the real world.

—Anthony Vivian, MA

Bibliography and Additional Reading

- Bohnet, Iris. *What Works: Gender Equality by Design*. Cambridge, MA: Belknap Press, 2016.
- European Union. “Directive 2006/54/EC of the European Parliament and of the Council.” *European Union*. <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1435216807215&uri=CELEX:32006L0054>. Retrieved October 29, 2017.
- Kantola, J. *Gender and the European Union*. New York: Palgrave Macmillan, 2010.
- McClain, Linda C. & Joanna L. Grossman, eds. *Gender Equality: Dimensions of Women's Equal Citizenship*. Cambridge: Cambridge University Press, 2009.