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TO THE COUNCIL, THE EUROPEAN PARLIAMENT,
THE ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS

Equal Opportunities for Women and Men in the European Union
– 1999 –

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EXECUTIVE SUMMARY

Commitment to equality between women and men was enhanced in 1999 with the entry into force of the Treaty of Amsterdam on 1 May. The principle of equality is now enshrined in Article 2, which sets out the aims of the Union. The European Community has been given new tasks, legislative powers, responsibilities and potential in the field of equal opportunities.

This fourth Annual Report on Equal Opportunities for Women and Men in the European Community presents an overview of the main developments and achievements in gender equality at European¹ and national levels in 1999 and outlines the perspectives for the year 2000.

Gender mainstreaming and specific actions – European Employment Strategy

The Community strategy of combining the integration of a gender perspective into all of the European Union's policies and programmes with specific actions in favour of women was sustained during 1999.

The report identifies the core policy areas where progress has been made in 1999, such as structural policies, research, education, development co-operation, the struggle against violence, and employment policy.

As already affirmed in the 1998 Annual Report, the European Employment Strategy provides a particularly good example of the positive consequences of including gender in the mainstream of a large-scale co-ordinated economic process.

When Member States drew up their 1999 National Action Plans on Employment, the equality issue was taken up in a more dynamic way than the year before but despite progress made to advance gender equality much remains to be done in certain areas. Efforts in this direction need to be strengthened in the years to come. Women are paid less than men. Recent EUROSTAT statistics from the Structure of Earnings Survey show that the gender pay gap remains high. In the private sector women's earnings on average are 28 per cent less than men's. Women are still unemployed more and longer than men. They are also less integrated into the labour market. The new Regulations on the Structural Funds and in particular the European Social Fund are designed to contribute to improve this situation.

Gender balanced participation in decision-making

The European Community has been one of the prime promoters of changing the status of women in society, not only through law but also through measures promoting de facto equality. However, inequalities continue to exist, in particular with regard to the participation of women at the level of decision making. Unless the participation of women from all walks of life increases in this field, as this report shows, they will not be able to exercise influence properly so that policy making and decisions will reflect the social, economic and cultural values of society as a whole.

The agreement reached by the Council to develop a common measurement system of gender progress in political decision-making is a step towards redressing this imbalance.

¹ In the context of co-operation within the Agreement of the European Economic Area, some information about Norway, Iceland and Liechtenstein has been added where appropriate.

Gender equality legislation

The new Treaty of Amsterdam and the continuing development of European jurisprudence have equipped the European Union with a wide-ranging legal framework in the field of equality.

As the report shows, the Court of Justice of the European Union issued a considerable number of judgments during 1999, which are complementary to legislative work in favour of equal opportunities. The legal edifice which guarantees equality of access to employment to women and men is on the way to completion, albeit with improvements to be made. The promotion of equal opportunities is now an obligation for all institutions, at all levels, and has to be taken on board.

A gender perspective in the European Union external relations

The situation of women raises concerns in many parts of the world. In the process of enlargement as well in its human rights and development-cooperation policies the European Union, in the context of its external relations, has a role to play in favour of promoting equal opportunities in those countries where gender equality is still an emerging subject. The European Union is supporting the candidate countries in their efforts in relation to the promotion of equality between women and men. The European Community together with the European Union's Member States worked towards the implementation of the Platform for Action adopted in 1995 and acted in support of the Beijing+5 review process.

As the year 2000 marks the fifth anniversary of the UN World Conference on Women in Beijing, a full and critical appreciation of the contribution of the European Union will emerge at the special session of the UN General Assembly convened in New York in June 2000.

Equal opportunities outlook

The year 2000 will be a year of reinforcing Community policy on gender equality. The Commission will propose an "Equality Package" before the summer 2000, consisting of several initiatives: a new Framework Programme on Gender Equality (2001-2005), a proposal for a new Directive and a Commission decision on a more gender balanced composition of its committees and expert groups.

The Programme will be more comprehensive than the previous ones and will embrace all Community policies in the effort to achieve gender equality, built around clear assessment criteria, monitoring, benchmarking and evaluation.

The strong political support of the European Parliament and the Council as well as the new opportunities offered by the new Treaty, in particular Articles 141 and 3 (mainstreaming) provide the basis for this new Commission's approach.

The new Directive will amend 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 by including new provisions on important issues, such as sexual harassment in the workplace, and by specifying better some of the existing provisions.

SECTION 1: GENDER MAINSTREAMING AND SPECIFIC ACTIONS

The Community strategy of combining the integration of a gender perspective into all of the European Community policies and programmes with specific actions in favour of women, as now expressed in the Amsterdam Treaty, was sustained during 1999.

Soon after the nomination of the new Commission in autumn 1999, President Prodi created a new Group of Commissioners for Equal Opportunities with four Commissioners as permanent members, but open to all others. The Group, chaired by the President with the Commissioner in charge of Employment and Social Affairs, Anna Diamantopoulou, as vice-president, will promote the coherence of the Commission's actions in the field of equal opportunities inside and outside the Commission. The practical implementation of the gender mainstreaming strategy in all relevant fields of Community action continued to involve inter-departmental co-operation, developing appropriate tools and methods, organisation of staff training, and monitoring in a number of Commission services covering different policy areas.

Core policy areas were identified in 1999 where progress had been made including: employment policy, education, research, structural funds and the struggle against violence. Other Community policies have remained relatively untouched or have advanced at a slower pace. The impact of gender equality on transport, and environment were pinpointed as areas for new gender initiatives.

The Economic and Social Committee took steps to integrate a gender dimension into its work². The Committee of the Regions supports the Commission's emphasis on mainstreaming and provides for the inclusion of an equal opportunities perspective in its opinions. The European Parliament considered gender mainstreaming important enough to hold a public hearing on the subject³.

The Commission's Gender Planning for 2000+

Considerable resources in terms of time, personnel and expertise are required to lift barriers to developing a gender perspective in all fields and activities. Strong political support was forthcoming for a new Community programme on gender equality after the current Medium-term Community Action Programme on Equal Opportunities for women and men (1996-2000) expires. Such a Programme was supported in a Resolution of the European Parliament⁴ and by the Labour and Social Affairs Council in its October Conclusions. Such a Programme could sweep a broad line-up of specific and general equality policies into a single all-encompassing framework. From domestic violence in the home to women's human rights overseas, a more ambitious co-ordination of equality actions would heighten visibility and impact and distil the monitoring of progress in gender equality.

² ESC 286/99 of 22-23.10.1999.

³ European Parliament, Women's Rights Committee, Public hearings on mainstreaming equal opportunities, 20.4.1999.

⁴ Resolution of the European Parliament of 4.5.1999 based on Document No. A4-0194/99 - Final Edition.

Developing Mainstreaming Instruments in the Member States

Actions and events in the Member States to implement the twin track approach of mainstreaming and positive action unfolded using a variety of interesting instruments. Strategies included general plans (Portugal, Sweden), strategic policies (Netherlands), addressing new fields (Austria, UK), and legislative screening (Greece). Women's entrepreneurship became important parts of industrial programmes in Italy and Greece.

The under-representation of women in decision-making in France was addressed in law with the adoption of a new legal arrangement on 8 July 1999, the objective of which is to achieve parity between women and men in political life. The newly elected government of Finland has fixed gender mainstreaming in the state administration as one of its equality objectives⁵. In the UK (Northern Ireland) the Equality Commission has taken over from the existing bodies dealing with gender, race, disability and fair employment on religious grounds. A broadly similar equality infrastructure was put in place in Ireland to eliminate discrimination on eleven grounds including gender.

Equal opportunities in the new Structural Funds and the new Community Initiatives

Structural policies constitute the main Community instrument for promoting cohesion, for improving employment and integration and for achieving sustainable development. Some 195 billion € will be channelled into the new Structural Funds for the years 2000-2006. Thus, increasing the capacity of the Structural Funds to promote equality of opportunity between women and men is a significant advance.

The General Regulation for the Structural Funds (2000-2006) approved by the Parliament⁶, and formally adopted by the Council⁷, incorporated gender mainstreaming as an obligation. The Regulation states that '*in its efforts to strengthen economic and social cohesion through the Structural Funds, the Community also seeks to promote (...) equal opportunities for women and men*'. It stipulates that the Structural Funds are to '*help to eliminate inequalities and promote equal opportunities for men and women*'. Of the 56 Articles of the General Regulation, ten concern equal opportunities, which became a transversal theme integrated into all programmes and actions.

For the next period, the *ex-ante* evaluation of national plans is to include a gender assessment (Article 41 of the Regulation). Wherever possible, indicators should be broken down by sex (Article 36). Within monitoring committees (Article 35) '*partners shall promote the balanced participation of women and men*'. When nominating partners at national, regional and local level, Member States (Article 8) should also take '*account of the need to promote equality between men and women*'. The same provisions are carried into the Regulations for individual funds - the European Social Fund (ESF) where 'people' are the focus, but also the Funds for agriculture, fisheries and regional development.

⁵ Finland also gave priority to the critical area of concern - Violence against women.

⁶ Parliament Decision, 6959/1/99 REV 1, C4-0215/99.

⁷ EC Regulation N°1260/1999 of 21.6.1999. OJ L 161 of 26.6.1999.

The new ESF has been aligned with the four pillars of the Employment Guidelines. The ESF objectives cover five key policy areas including equal opportunities for women and men as part of the drive to achieve equality. The ERDF⁸ will support '*equality between women and men*'. The EAGGF⁹ will support rural development activities concerning the '*removal of inequalities and the promotion of equal opportunities for men and women, in particular by supporting projects initiated and implemented by women*'. A new provision in the FIG¹⁰ provides for the promotion of equal employment opportunities between women and men working in the fisheries sector.

What is new is not the recognition of equality, but the strengthened status it has acquired in the reshaping of the legal framework of the Structural Funds over the next seven-year period. It is expected that the new provisions on monitoring and evaluation will have an important impact in furthering equal opportunities between women and men. The New Opportunities for Women (NOW) strand of the Employment Initiative has been a major source of good practice in equality over the past ten years and experience gained is to be integrated into the mainstream. An equality dimension has been included in all proposals for Community Initiatives as proposed by the Commission at the end of 1999 for the period 2000-2006.

The EQUAL Community Initiative¹¹ based on the experience of the Employment and Adapt initiatives, with a budget of 2,847 billion EUR, aims in particular at combating any form of labour market discrimination based on sex, race or ethnic origin, religion or belief, disability, age, or sexual orientation. In particular, as far as gender equality is concerned, developing new forms of work organisation to reconcile family and professional life and reducing gender gaps and supporting job desegregation are among the key priorities.

The LEADER Initiative¹² considers young women and men as levers to the development of rural areas. The Commission stipulates in its proposal that it wishes to support in priority strategies aiming at the improvement of jobs and/or activities for those targeted groups. Low pay and unequal pay between women and men aggravate the conditions of living for women in agriculture.

In its proposition for the INTERREG Initiative¹³, the Commission states that programming has to take into consideration the general orientations of the Structural Funds and to contribute to the promotion of equal opportunities for women and men. Concerning the URBAN Initiative¹⁴, the Commission states that strategies will have to respect the principle of equal opportunities for women and men.

Research and education policies - towards gender equality

Research

The new fifth Framework Programme for Research embraced the gender mainstreaming approach as presented in the Communication on women and science that was adopted by the

⁸ European Regional Development Fund.

⁹ European Agricultural Guidance and Guarantee Fund.

¹⁰ Financial Instrument for Fisheries Guidance.

¹¹ COM(1999) 476 final of 13.10.1999.

¹² COM(1999) 475 final of 13.10.1999.

¹³ COM(1999) 479 final of 13.10.1999.

¹⁴ COM(1999) 477 final of 13.10.1999.

Commission in February¹⁵. In this communication, the Commission presents an action plan with two objectives: develop a policy dialogue among Member States on measures implemented to promote women in science and develop a gender watch system within the fifth Framework Programme itself, along three perspectives, research by, for and about women. One of the concrete measures announced by the Commission is to establish a target of 40% women's participation in various assemblies and panels assisting the Commission in the implementation of the fifth Framework Programme. Gender impact studies will be undertaken throughout the fifth Framework Programme to analyse if gender specificities have been taken into account in the research agenda. In the "socio-economic key action", the gender dimension is also taken into account where appropriate. The Council adopted a resolution on "women and science"¹⁶ on May 1999. This resolution backs up the approach proposed by the Commission, and reinforces the need for simultaneous mobilisation at Member State and European Union level. A group of "women and science" representatives of Member States and States associated to the implementation of the fifth Framework Programme has been established at the initiative of the Commission to carry on the policy dialogue and the mobilisation at all levels.

Education, Training and Youth

The second phase of the Leonardo da Vinci Programme (2000-2006) for vocational training stipulates that in implementing its general objectives special attention will be paid to proposals aiming to facilitate access to training for people most at a disadvantage on the labour market, including disabled people, and to equal opportunities for women and men, with a view to combatting discrimination in training¹⁷. The second Socrates Community action programme for education (2000–2006) integrates the promotion of equal opportunities between women and men and between girls and boys in its objective to reinforce the European element of life-long learning¹⁸. The gender dimension is one of the criterion for selection of the programme's activities and must be included in the reporting of outcomes and evaluation. The Commission's proposal for the new YOUTH programme, which includes youth exchanges, youth initiatives and voluntary service also includes the promotion of equal opportunities in its objectives¹⁹.

The promotion of equal opportunities in the instruments of the Information Society was contained in a Resolution addressed to governments of Member States in their actions in schools and training²⁰.

Commission proposals for a MEDIA Plus programme (2001–2005) to encourage the development of the European audio-visual industry will ensure that equal opportunities are taken into account in the implementation of the programme²¹.

In its Helsinki Report on Sport²², the Commission recalled the important values, in particular equal opportunities, that are associated with physical and sporting activities. Similarly, the

¹⁵ COM(1999)76 final of 17. 2.1999.

¹⁶ Council Resolution of 20 May 1999 on women and science, OJ C 201 of 16.7.1999; Fifth Framework Programme for Research (1998-2000), OJ L 26 of 1.2.1999.

¹⁷ Parliament and Council Decision of 26.4.1999. OJ L 146 of 11.6.1999.

¹⁸ Parliament and Council Decision of 24.1.2000. OJ L 28 of 3.2.2000.

¹⁹ Council common position No 22/1999 of 28 June 1999 – OJ C 210 of 22.7.1999.

²⁰ Labour and Social Affairs Council, Resolution of 29.11.1999.

²¹ COM(1999) 658 final of 14.12.1999.

²² COM(1999) 644 of 10.12.1999.

conclusions of the European Union's meeting on sport in May 1999 called on participants to recognise that all aspects of sport must reflect equal opportunities. In the September 1999 study on "Sport and Employment in Europe"²³, the gender dimension was also given particular importance.

Gender dimension in development co-operation policies

Since the adoption of the Council Regulation on integrating gender issues in development co-operation²⁴, a steady progression of gender mainstreaming in this policy can be noted, most recently when the Council reiterated its importance in the review of development instruments and programmes²⁵. During 1999 the process of updating 13 gender country profiles, which had been developed in 1995, began. The European Commission together with the Member States have discussed a format for joint reporting on progress in implementing the Council Resolution of December 1995 on integrating gender issues in development co-operation. An action plan for gender mainstreaming was prepared in 1999 and will be further elaborated during early 2000. A special budget-line for mainstreaming of gender issues was used to initiate support projects in the Mediterranean Region, Latin America and in ACP countries. In addition, a framework contract for ACP countries enabled technical assistance, gender training, and evaluation of past and present project work on integrating gender issues in development co-operation to be advanced.

Gender mainstreaming was included in the European Community Humanitarian Office strategy guidelines for 1999 in the context of humanitarian aid. A forum for an exchange of views between the Commission, NGOs, academics and researchers on progress in the field of gender and human rights in sexual and reproductive health programmes and policies was held in January 1999²⁶.

Finally, preparations for the review of developments over the five years since the adoption of the Platform for Action and Beijing Declaration at the UN Fourth World Conference on Women in 1995 together with preparations for the Special Session of the United Nations to review the 1995 World Summit for Social Development provided the Member States and the Commission with an occasion to take overall stock of achievements in gender mainstreaming.

Women and violence - a year of awareness raising

The development and promotion of actions oriented specifically to women, alongside mainstreaming approaches, is an integral part of the dual-track perspective on gender equality. Policies, programmes and legal instruments to combat violence against women illustrate the value of the combined strategy.

The struggle against violence against women in all its forms has succeeded in mobilising a large array of actions, measures, legal instruments and campaigns across sectors, across Member States and across Ministerial and departmental boundaries.

²³ Study for the European Commission by the European network of sport science institutes – European observatory on employment in sport.

²⁴ OJ L 354 of 30.12.1998.

²⁵ Development Council meeting, Brussels, 21.5.1999.

²⁶ European round table, Brussels, 21-22 January 1999.

The Commission proposal for a Council Directive on the right to family reunification²⁷ devotes special attention to the situation of third-country national women, who are victims of domestic violence: they are protected from automatic removal if they are forced to leave their family home.

The first ever European-wide information campaign to raise awareness on violence against women with a budget of 2.5 million € was launched with a Declaration by the Commission before the European Parliament on the 8 March 1999. It had been originally devised by the European Parliament's Women's Rights Committee and had been high on the agenda of women's NGOs. The year long campaign was strongly supported by the Commission and will close in Lisbon in May 2000.

With the support of the Commission, the German Presidency of the European Union organised a conference on violence against women in March 1999²⁸. At an informal meeting of equal opportunities Ministers held in Berlin on 14-15 June, the Commission declared that much remained to be done in the field of violence against women citing : the support for women in Kosovo, action measures oriented towards men, support for NGOs working with battered women and their children and support for young girls and women who have suffered violence. The Finnish Presidency of the European Union continued with high level efforts to draw attention to the problem of violence against women by convening an expert conference on the subject²⁹.

Combating violence against disabled people was the theme chosen for the conference on the European Day of Disabled People, on 3 December 1999. The theme's specific pertinence to women with disabilities was underlined.

Eurobarometer published the results of research into European attitudes on violence against women, one of the largest cross-national studies of its type³⁰. The study found that few Europeans claim to know any victim of violence although they believe the problem is widespread. Contrary to research evidence, most Europeans believe that victims of violence are most at risk from strangers rather than people they already know.

The DAPHNE Programme 2000-2003 was adopted on December 1999³¹. The Programme is in the forefront of the fight to ensure gender equality, as it seeks to protect female victims, both women and girls, from violence. It will continue to support the type of actions supported hitherto under the DAPHNE Initiative³². In addition it will support applications by public authorities as well as from organisations in the private sector. It will also be opened to the candidate countries and the EEA/EFTA countries and it will support multi-annual actions.

Combating trafficking in women and sexual exploitation continued in 1999 to be high on the political agenda. The policy in this field is characterised by the central focus put on the victims of trafficking and on the need to involve all the persons responsible (multidisciplinary approach) to fight against this form of violation of human rights and human dignity. The

²⁷ COM(1999) 638 final, 1.12.1999.

²⁸ German Presidency Conference on violence against women, Köln, Germany, 29-30 March 1999.

²⁹ Expert Meeting on Violence, Jyväskylä, Finland, 9.11.1999.

³⁰ Eurobarometer 51.0: attitudes to violence against women, Directorate-General for Education and Culture, 1999.

³¹ European Parliament and Council Decision No. 293/2000, OJ L 34 of 9.2.2000.

³² COM(1999) 82, OJ C 89 of 30.3.1999.

STOP Programme (1996-2000)³³ continued in 1999 to support training, projects, seminars, studies, involving to a larger extent also partners from the candidate countries related to actions against trafficking in women and sexual exploitation of children. The European Council conclusions in Tampere³⁴ put emphasis to the fight against trafficking in human beings. The Commission has announced³⁵ that legislative proposals would be put forward on common definitions, incriminations and sanctions, including the issue of temporary permits of stay for victims of trafficking that are prepared to give evidence. It has been also announced that a proposal for a renewed five-year STOP programme opened up to candidate countries will be put forward.

Under the ODYSSEUS Programme³⁶ on training, exchanges and co-operation in the field of asylum, immigration and external frontiers, the Commission supported projects benefiting women refugees and asylum-seekers.

The Commission has been involved in work carried out by the OSCE in the field of trafficking against women since 1999. The issue was specifically addressed at the supplementary human dimension meeting on gender issues in June 1999, at the OSCE review conference in September 1999 and at the Istanbul summit in November 1999 where a 2000 action plan for activities to combat trafficking in human beings was launched.

The involvement of the travel and tourism industry in combating sex tourism moved forward when the Commission adopted a Communication on the implementation of measures to combat child sex tourism over the period 1997-1998³⁷. An immediate follow-up was the formation of a team of communication experts at European level to publicise actions against sex tourism³⁸. There is now an expressed willingness from the tourism industry to address the issue and to support a Commission involvement to back the industry in their efforts³⁹.

SECTION 2: GENDER EQUALITY IN THE EUROPEAN EMPLOYMENT STRATEGY

Important progress

In the two-year period since the launch of the European employment process in Luxembourg in 1997, equality between women and men has been integrated into the employment policy agenda. It is now accepted that Europe needs the skills, experience and active involvement of women from all walks of life in the workforce in order to strengthen its growth and cohesion. Initially, equal opportunities were introduced as one of the four Pillars in the 1998 Employment Guidelines, together with employability, entrepreneurship and adaptability. The need to mainstream equal opportunities across all the pillars of the Guidelines was accepted by the Council and a new Guideline on gender mainstreaming was introduced into the 1999

³³ Joint Action 96/700 JHA, OJ L 322 of 12.12.1996.

³⁴ 15-16 October 1999.

³⁵ COM(1999) 349, final of 14.7.1999. Crime victims in the European Union - Reflections on standards and action.

³⁶ Joint Action 98/244/JHA, OJ L 99, 31.3.1998.

³⁷ COM(1999) 262 final of 26.5.1999.

³⁸ OJ S 101 of 27.5.1999.

³⁹ Study conducted by the European Commission, DG for Enterprise, co-ordinated by Strat and Com, Brussels, undertaken at the International Tourism-Börse, Berlin, March 1999.

Employment Guidelines.⁴⁰ This reflected a significant strengthening of the European Union commitment towards equal opportunities. In the Helsinki European Council conclusions⁴¹, equal opportunities between women and men was singled out as an area for particular attention in labour market reform.

The 1999 National Action Plans for employment

The Commission carried out a detailed assessment of the National Action Plans for Employment in 1999 to gauge the extent to which each Member State had complied with the commonly set objectives of the Employment Guidelines. While the principle of gender equality was taken into account in the 1999 National Action Plans on Employment, not all Member States fully applied the gender mainstreaming principle.

The Joint Employment Report adopted by the Council in December 1999 reviews the employment position across the European Union and in individual Member States and analyses the NAPs⁴². From this analysis, the Commission developed recommendations on employment policy for each of the Member States, which were in turn examined by the Council. In its Recommendations, the Commission noted that further action was needed to close the gender gaps in employment, unemployment and pay, to redress the unbalanced representation of women and men across sectors and occupations, and to improve care for children and other dependants⁴³. The high number of recommendations on gender issues is indicative of the importance the Commission attaches to equal opportunities. Themes highlighted in particular were:

- the need for an examination of the tax-benefit systems in order to address high unemployment and inactivity levels;
- the importance of exploiting the jobs potential of the services sector;
- a need to develop specific measures aimed at increasing participation rates of older workers.

The gender equality pillar

- Gender mainstreaming

Promoting a gender mainstreaming approach across all four pillars was a key new feature of the Employment Guidelines for 1999. In the 1999 NAPs, all Member States either applied or stated that they plan to apply gender mainstreaming. Many Member States are still in a preparatory or early stage of the process. In most cases, the application of gender mainstreaming is shown by the development of new methods for researching, measuring analysing and researching the gender impact of employment measures. In relation to Pillar 1 (employability), approaches adopted by Member States included giving statutory rights to access to active labour market policies or positive action measures to ensure equal access. In relation to Pillar 2 (entrepreneurship), the majority of Member States launched specific

⁴⁰ Guideline 20: Council Resolution of 22.2.1999.

⁴¹ Presidency Conclusions, Helsinki European Council of 10-11 December 1999.

⁴² Approved by joint ECOFIN-Labour and Social Affairs Council of 29.11.1999 and adopted by the Helsinki European Council on 10.12.1999.

⁴³ Commission Recommendation for Council Recommendations on the Implementation of Member States' Employment Policies COM(1999) 445 of 8.9.1999.

measures to encourage women to become entrepreneurs. In Pillar 3 (adaptability), some Member States mentioned the role and contribution of social partners in gender mainstreaming.

- Desegregating the labour market

Reducing the gender gap in unemployment and increasing the employment rate of women was the focus of a few Member States. Desegregation of the labour market is being tackled by Member States through actions aimed at future labour market entrants in schools as well as at women currently on the labour market.

Desegregation of the labour market has become a major policy objective of guideline 20. Three countries with a very high level of segregation - Finland, Sweden and Denmark - have taken measures to improve the situation. Diversification of education, training and occupational choices, backing for positive action and lifting bottlenecks to women's employment, have all been utilised to bring about change.

- Facilitating reintegration in the labour market

In the 1999 NAPs, measures reported by Member States in respect of this Guideline are on the whole limited to the issues of reconciliation of work and family life, active labour market policy and increased efforts in training. For 2000, the Guideline remains unchanged, although specific mention is made of tax and benefit systems, which may act as a disincentive for women, and men, considering a return to the workforce.

- Reconciling work and family life

Commitment to the promotion of family-friendly employment policies varies widely between Member States. In Sweden workers with small children have the right to work part-time. This is planned in Germany and the Netherlands. Important efforts were made or are planned by those countries with gaps in childcare provision (Germany, Greece, Ireland, the Netherlands, Austria, Portugal and the UK). Sweden plans to cut the cost of childcare. In the UK much emphasis was placed on pre-school children. Few Member States mentioned care facilities for the elderly and concrete initiatives on care for all other dependants are lacking in all of the National Action Plans.

The Commission has encouraged debate and exchanges of views on the reconciliation of work and family life through a series of national seminars organised by the European Network 'Family and Work' during 1999. The introduction of parental leave (see Section 4) is not only linked to gender equality but also to a variety of other considerations such as the maintenance of family life, the situation of the labour market, declining birth rates and the interests of the child. In Austria, for example, 60 per cent of mothers do not return to work after the final leave period of 18 months. Men have responded remarkably well to parental leave in the Netherlands, where leave is paid for public sector workers. In Norway, Ireland and Austria there have been wider debates about payment for care work in terms of equity between parents who work outside the home and those who do not.

- Social security and tax disincentives

Although Community equality legislation has had considerable impact in reducing discrimination between women and men in social security, social protection systems are still

often based on assumptions about male and female working patterns and family roles, which may not reflect present realities. This can significantly influence the equality of women's and men's opportunities to benefit effectively from social protection in practice even when equality of treatment within the system is assured⁴⁴. In July 1999, the Commission's Communication "A Concerted Strategy for Modernising Social Protection" proposed a new process of concertation between Member States and the Commission aimed at improving and modernising social protection systems in the European Union⁴⁵. The Communication states that gender issues are an important cross-cutting theme of this task. The Council's conclusions of 17 December 1999⁴⁶ mandated a high level group of officials from the Member States and the Commission to begin work on the basis of these proposals, emphasising that equality between women and men must be mainstreamed in all their activities.

The 1999 Employment Guidelines emphasised the need to address tax and benefit disincentives to women's participation in employment. The Commission drew attention to the lack of initiatives at Member State level on this issue in its Recommendations to the Member States on Employment Policy of 8th September 1999.

Ministerial Conferences to support gender equality in employment

Maintaining the high-level momentum, a European Union Ministerial Conference on gender and employment was held in Helsinki shortly after the announcement of the Commission's new 'employment package in autumn 1999'.⁴⁷ Organised on the occasion of the Finnish Presidency of the Council, it sustained the continuity of the Informal Councils of Belfast (1998), Innsbruck (1998) and Berlin (1999). The presence of Members of the European Parliament and the European social partners added to the significance of the event. Detailed discussion papers supported the Helsinki deliberations on gender mainstreaming and tax and social security issues in the overall employment strategy.

The significant and persistent gender pay gap was the subject of a separate Ministerial Conference on the issue of equal pay and economic independence as a basis of gender equality⁴⁸. The need for new initiatives at European Union and national level concerning both transparency regarding pay differentials between women and men and the implementation of existing legislation was stressed.

Employment Guidelines 2000

The proposals for the Employment Guidelines 2000⁴⁹ take into account the lessons of the 1999 analysis of the National Employment Action Plans. For the sake of consistency and continuity of efforts and to ensure that the Member States and the social partners deliver fully on their commitment to the Luxembourg process, changes were kept to a minimum. In the Equal Opportunities Pillar, a minor change was made to clarify Guideline 22 on facilitating re-integration into the labour market. The Employment Guidelines for 2000 received a favourable endorsement from the Helsinki European Council on 10 December 1999 together

⁴⁴ Social protection in Europe 1999.

⁴⁵ COM(1999)347 final of 14.7.1999.

⁴⁶ Fisheries Council, Brussels, 16-17.12.1999.

⁴⁷ Gender equality and employment policy, Helsinki, 30 September and 1 October 1999.

⁴⁸ Conference organised by the Swedish Prime Minister and the Ministers of Equality, 2-4 November 1999.

⁴⁹ COM(1999) 442 of 8.9.1999.

with the Joint Employment Report, which was adopted⁵⁰. The persistence of a wide gender gap in employment rates does indicate that there is considerable scope for increasing women's employment rate in the majority of Member States. The experience of recent years confirms that policies to enhance women's employment are the key to strengthening the employment rate across the European Union.

Gender equality in the public sector

The public sector, including local communes, regions and municipalities, employs a significant number of women in the European Union: 44 per cent of women in employment are in public services compared to 22 per cent of men. Therefore, the public sector has an important role to play in the promotion of equal opportunities. In 1999 the Council of European Municipalities and Regions employers' platform and the European federation of public services signed a joint declaration⁵¹ stating that '*equal opportunities is a vital issue for the local and regional government sector in relation to the composition of the workforce and the role of authorities as employers*'. The declaration stressed the need for initiatives to combat sexual harassment, implement the principle of equal pay for equal work and place equal opportunities at the centre of measures taken in the process of modernising the public sector.

The role of the social partners in the employment process

At European level the social partners have been involved in the implementation and assessment of progress made under the Employment Guidelines. The participation of social partners in the preparation of the National Action Plans, albeit in a variety of ways, has reinforced the role they play in the shaping and implementation of labour market policy at national level. However, in its Joint Employment Report, the Commission has stressed that further development is needed.

The framework agreement concluded on fixed-term work by the social partners demonstrates the important role they have to play in the Employment Strategy⁵².

During the meeting of the Standing Committee on Employment on 11 November 1999, representatives of employees indicated that the integration of the principle of equality between women and men had to be more thorough⁵³.

Progress has been made in some sectoral committees such as post and textiles. The postal services sectoral dialogue committee agreed to include in its working programme for 2000 the publication of a set of good practices in the field of equal opportunities. In the textiles-clothing sector, a study is being undertaken to identify good practices and promote their implementation. The representatives of the electricity sector have also included a specific action, related to the implications of the internal electricity market and its impact on women, in their joint work.

⁵⁰ Presidency conclusions, Helsinki European Council of 10-11 December 1999.

⁵¹ Conference on equal opportunities in the public sector, 8.3.1999, Brussels.

⁵² Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, OJ L 175 of 10.7.1999.

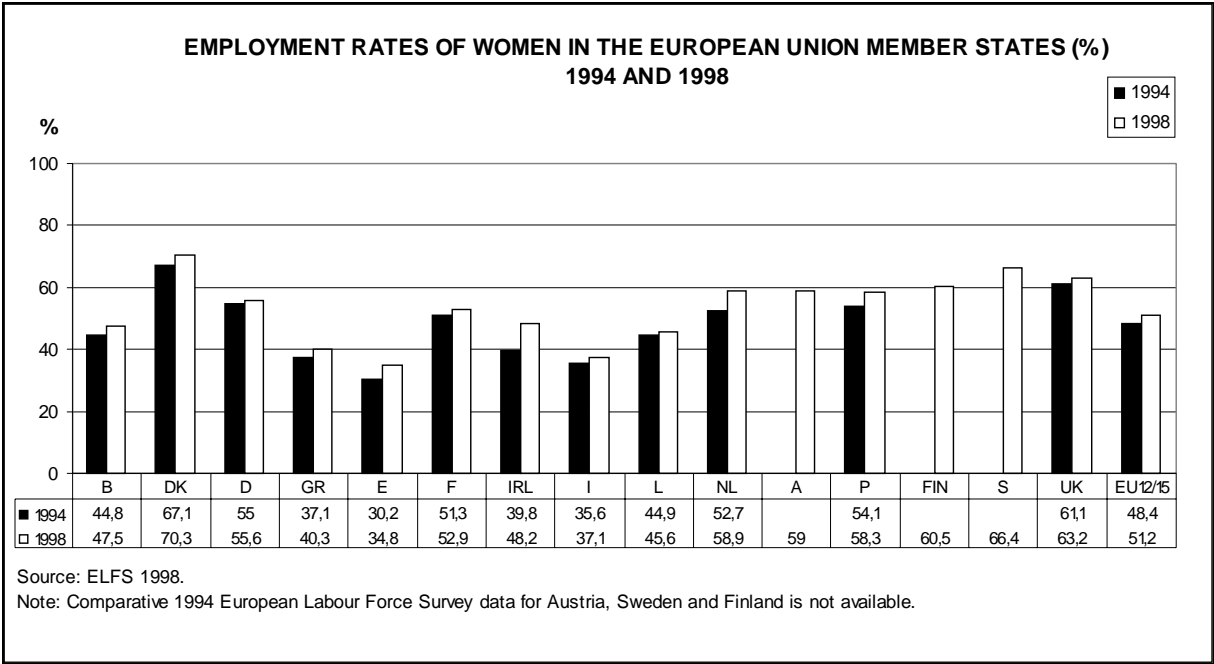
⁵³ Meeting of the Standing Committee on Employment, 11.11.1999. Conclusions of the Presidency, 12640/99.

Employment trends over the 1994-1998 period

The European Union still lags significantly behind the US and Japan who have employment rates of 75 per cent. The overall employment rate in the European Union rose slightly between 1997 and 1998 (60 to 61 per cent) but is still lower than the employment rate in 1990 (63 per cent). This marginal annual increase means that an additional 1.8 million people were at work. This represents the highest annual increase since 1990 and twice the increase of 1997. Raising the overall European Union employment rate above 61 per cent to an agreed goal of 70 per cent is the task ahead. Currently, four Member States only, Denmark, the UK, Sweden and Austria have employment rates of 70 per cent.

Despite the strong emphasis on employment policy over the five-year period 1994-1998, the employment rate across the European Union rose by only one percentage point. This period predates the European employment strategy. Most of this was accounted for by a rise in women's employment. The variation between Member States is very marked. The high employment rate in Denmark, for example, rose from between 1994 and 1998 as both women's and men's employment rates rose. In contrast, in Germany the employment rate fell over the same period, again affecting both women and men equally. The employment rate also fell in Sweden but, in this instance, women's employment fell particularly sharply compared with men.

Table 1



Women's employment rate rose most significantly over the four years between 1994 and 1998 in Belgium, Denmark, Greece, Spain, Ireland, the Netherlands, Portugal and the UK (see Table 1). A number of the Member States that recorded a high rate of growth in women's employment are those in which the level of women's employment has been traditionally low. In just two Member States, Italy and Spain, the employment rate of women was running at less than 40 per cent in 1998.

SECTION 3: PROMOTING A GENDER BALANCE IN DECISION-MAKING

Strengthening the EU commitments

The new Commission marked a fresh effort to tackle the persisting gender gaps in political decision-making. Since taking office in September 1999 the new Commission has stressed its firm intention to play a pro-active role in promoting a more equal participation of women in all relevant bodies, committees and expert groups where decisions are made and intends to propose a decision on a more balanced composition of its committees and expert groups.

Five out of 20 of the new Commissioners are women holding the important portfolios of Commission Vice-President and Relations with the European Parliament, Employment and Social Affairs, Transport and Energy, Education and Culture, Budget and Environment. Forty per cent women were appointed to cabinet posts. As part of a first stage of an internal reform strategy, the Commission announced explicit provision for improving the proportion of women appointed to senior posts in December 99. For the first time in his history, a woman was appointed in 1999 as one of the 15 judges of the Court of Justice of the European Union. A women was also appointed to the European Court of Auditors which now has two women out of a total of 15 members.

The Member States together with Iceland, Norway and Liechtenstein reported on the implementation of the Council Recommendation (96/694/EC) of 2 December 1996 on the balanced participation of women and men in the decision-making process, in 1999. The Recommendation requires an integrated strategy to promote a balanced participation of women and men, including the mobilisation of the most important actors; the collection of data and examples of good practice; and the promotion of gender balance at all levels of governmental bodies and committees.

The Commission's implementation report reveals that under-representation of women in the political arena, public administration and, in particular, in the private sector, is a persistent phenomenon requiring long-term commitment and multi-faceted strategies. The report will be submitted to the European Parliament, the Council and the Economic and Social Committee in early spring 2000.

A significant European Union event on women in decision-making was the conference 'Women and Men in Power' in Paris in 1999. Hosted by the French Government, it assembled representatives of European institutions, national and regional parliaments and governments, the world of business, social partners and NGOs. The Paris meeting yielded a strong, forward-looking declaration. Ministers of the Member States of the European Union, both women and men, put their political weight behind this manifesto for 'a caring society, a dynamic economy, a vision for Europe'⁵⁴. A positive outcome was the agreement by Ministers, later in the year, to adopt nine common measurement indicators in political decision-making⁵⁵.

⁵⁴ Declaration of Paris, 17 April 1999.

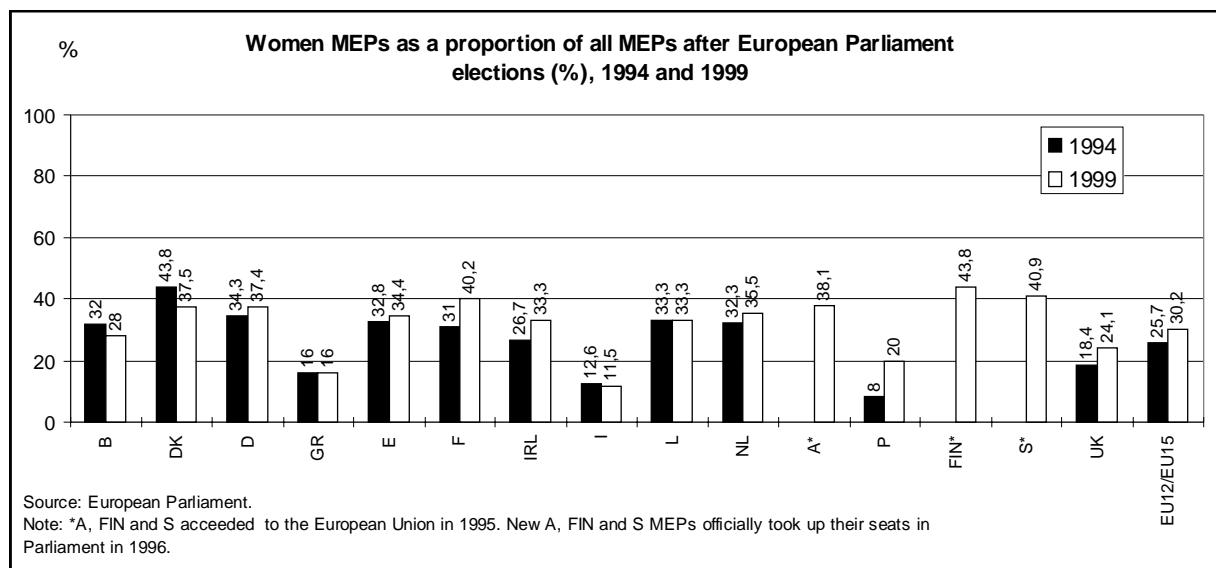
⁵⁵ Council conclusions of 22.10.1999.

Women in the European Parliament - elections of 1999

Women's representation in the European Parliament has increased steadily with each election since 1984. After the 1994 elections women represented 25.7 per cent of the total Members of the Parliament. The trend continued with the 1999 elections, which took place in June (see Table 2). Yet, at 30.2 per cent, women continue to be under-represented in the European Parliament in 1999.

The variation between Member States is striking. Three countries - France, Finland and Sweden – now have proportions of women Members of the European Parliament above 40 per cent. Greece and Italy continue to have a very low level of representation of women in the European Parliament.

Table 2



Coming up to the 1999 elections, efforts were made at a number of levels to promote the balance of women and men in the European Parliament. Based on the experience of the successful 1994 information campaign *'Vote for a balance in the European Parliament'*, the Commission prepared a brochure for mass distribution during the 1999 election campaigns as well as a 'campaign-kit' distributed free of charge to all interested bodies.

The type of electoral system in operation at Member State level influences the proportion of women elected and the representation of women in decision-making⁵⁶. A new system of proportional representation with multi-seats in the United Kingdom and the use of lists alternating women and men candidates by French and German parties had a positive bearing on women's representation in 1999.

A woman was elected as the President of the Bureau for the first half of the new mandate (1999-2001) but there is only one woman among 14 vice-presidents. Two women were elected among the five Parliamentary Quaestors. The number and composition of the Standing

⁵⁶ See Electoral Systems in Europe: a gender-impact assessment, European Commission Directorate-General Employment and Social Affairs, Unit D/5.

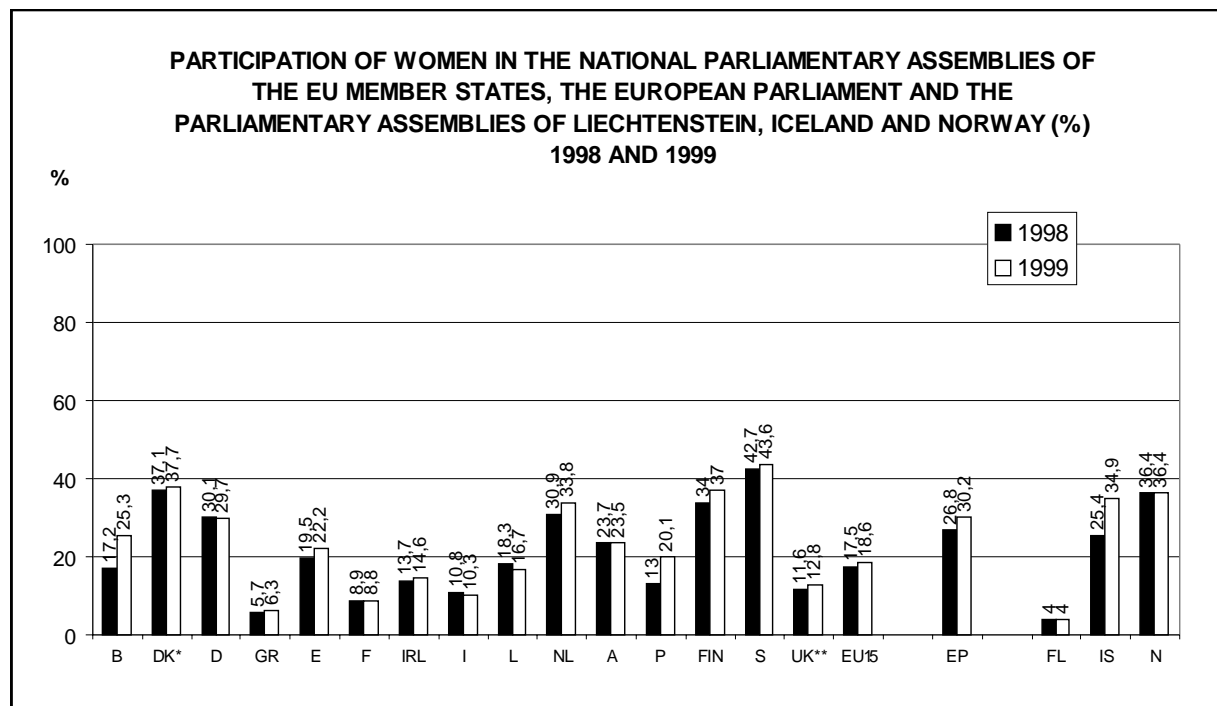
Committees was changed by Parliament. Of the 17 newly formed Committees, there are now five women Presidents⁵⁷.

Gender balance in parliaments of the European Union

With 54 elections, at national and regional level, in nine Member States, plus the European Parliament elections, 1999 was a year of increased awareness of the lack of gender balance in political decision-making. National elections took place in five Member States at intervals throughout 1999. Regional elections changed the political landscape in close to half of the Member States - Austria, Belgium, Germany, Italy, the Netherlands, Spain and the United Kingdom. Yet, progress in favour of an improved representation of women was minimal (see Table 3).

The average participation rate of women in the national parliaments across the European Union stood at 18.6 per cent in 1999. Using comparable methods of data collection, the annual rate of change in women's participation was small, but consistent. It rose by 0.6 in 1997-1998 and by just over one percentage point in 1998-1999.

Table 3



Source: FrauenComputerZentrum Berlin and Deuce. Data for 1998 updated June 1998; data for D and S updated September 1998.

1999 data updated June. Data for E, F, IRL, P, A and UK updated November.

Note: DK: Data for Lower Chamber excludes 4 members elected in Greenland and Faroe Islands. UK (1999 Data) One seat vacant.

National parliamentary elections took place in Finland, Belgium, Luxembourg, Portugal, Austria and Iceland. Finland, Belgium and Portugal all recorded increases in the participation of women in their national parliamentary assemblies and in the cases of Portugal and Iceland a substantial rise. In Member States where no elections took place, small changes – both upward and downward - in the participation rates of women in national assemblies were

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recorded between 1998 and 1999. For seven countries the change was upward. In Germany, France and Italy the participation rate of women decreased slightly. Despite the minimal increase in women's participation in lower chambers, the gender gap in upper chambers continues to be considerably wider with women's representation at just 11.3 per cent in 1999.

Women's presence in national governments

The increase in the number of women holding positions in national government is somewhat more significant and illustrates the impact of new policy thinking in relation to gender equality. The share of women members of cabinet (ministers and junior ministers) rose from 21.9 to 24.1 per cent (1998-1999). In Belgium, Finland and Iceland the increased participation of women in parliaments was mirrored by significant increases in the proportion of women in their governments. In Portugal, the participation rate of women in government fell slightly. In Sweden, women held a majority (52.6 per cent) in national government. The combined impact of cross-party groupings, quotas and alternating male/female lists in elections, go some way towards explaining women's equal presence in Swedish government.

At the regional level of political decision-making the rapid progress achieved during the last decade appears to be consolidated, although overall growth rates tend to be smaller. Women's participation rate in regional parliaments has risen by 1.1 percentage points from 27.8 to 28.9 per cent (1998-1999) and in regional governments it remained the same at 24.5 per cent. A closer look reveals large differences between Member States with decreases (German Länder) and increases (Belgian Regions).

Women in trade union organisations

The European Trade Union Confederation published the results of a significant and detailed research into women and decision-making in its affiliated trade union organisations⁵⁸. The study found that the presence of women in trade union decision-making bodies across Europe has appreciably improved over the five-year period 1993-1998 from 23 to 28 per cent. Change was found in memberships and participation at the level of Congress delegation, executive committee, steering committee/bureau, and heads of departments. In light of the report findings, the ETUC prepared a Plan to promote equality in the ETUC and its affiliated organisations with three fundamental aims: ensuring women are properly represented in bodies for collective bargaining and decision-making; mainstreaming gender equality into all areas of trade union policies; and achieving equal pay.

⁵⁸ ETUC and Catholic University of Louvain, "The Second Sex of European Trade Unionism", Brussels 1999.

SECTION 4: GENDER EQUALITY LEGISLATION

The Amsterdam Treaty

With the entry into force of the Treaty of Amsterdam on 1 May 1999, equality has been integrated into the foundations and objectives of the Community legal order.

In addition to Article 2, Article 3 places an obligation on the Community to eliminate inequalities and promote equality between women and men in all its activities. Article 13 provides a legal base to 'take appropriate action to combat discrimination' based on, inter alia, 'sex or sexual orientation'⁵⁹. The new Article 137 allows the Council to act by qualified majority vote, using the co-decision procedure with the Parliament, to adopt measures relating to equality between women and men with regard to labour market opportunities and treatment at work. Article 141 (former Article 119) consolidates the Court's previous case law in the field of equal pay by adding a reference to work of equal value while Article 141 (3) provides a new legal base to develop legislation in the area of equal opportunities and equal treatment in matters of employment and occupation.

Parental Leave Directive: the implementation report

The Council Directive 96/34/EC⁶⁰ on parental leave was adopted on 3 June 1996 providing for a minimum of three months leave for both male and female employees in the case of the birth or adoption of a child. The Directive incorporates a framework agreement on parental leave concluded by the social partners at European level. Member States had until 3 June 1998 to implement the Directive, with Ireland and Austria being granted an additional period of six months and one year respectively. Adopted on the basis of the Social Protocol, the Directive was subsequently extended to the United Kingdom, which was given until 15 December 1999 to implement it⁶¹. The Commission examined the implementation of the Directive in the Member States and will publish a report on at the beginning of 2000.

The Commission initiated infringement proceedings against three Member States for non-communication of implementation measures for the Directive. The Commission has launched separate proceedings against nine Member States for improper implementation.

Maternity Leave Directive: the implementation report

A Report on the implementation of Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage the improvement of safety and health at work of pregnant mothers and workers who have recently given birth or are breastfeeding was adopted by the Commission in 1999⁶². The deadline for the transposition of the Directive was 19 October 1994.

Based on responses provided by Member States, the Commission concluded that, overall, there is a high degree of compliance by the Member States. However, there are differences between the Member States, for example, marked variations in the length of maternity leave,

⁵⁹ The other areas of competence are racial or ethnic origin, religion or belief, disability and age.

⁶⁰ OJ L 145 of 19.6.1996 .

⁶¹ Directive 97/75/EC. OJ L 10 of 16.1.1998.

⁶² COM(1999)100 final of 15.3.1999.

ranging from 14 to 28 weeks,⁶³ the percentage of maternity leave which is compulsory and the level at which it is paid. Infringement proceedings have been instigated against several Member States in respect of problems such as: leave for health and safety reasons, the two weeks compulsory maternity leave, and the use of lists of information in risk assessment.

Referral of Cases from Member States to the Court of Justice of the European Union

During 1999, the European Court of Justice delivered seven rulings in cases concerning equal pay and equal treatment between women and men in response to questions referred to it by national courts. Article 141 of the Treaty continues to generate case law that explores the concept of what constitutes sex discrimination in equal pay issues as well as the substantive scope of the principle of equal pay in relation to choice of comparators and how pay inequalities may be justified.

Equal Pay (Council Directive 75/117/EEC)

In February 1999 an important ruling was given on the interpretation of the concept of indirect discrimination in a reference from the United Kingdom in the *Seymour-Smith* case⁶⁴. The Court was asked a series of questions concerning, amongst other things, the test for indirect discrimination and for objective justification. The Court repeated its previous case law in that it is for the national court to decide whether the statistical evidence available shows that a considerably smaller percentage of women than men is able to satisfy the requirement in question. Indirect discrimination could also be shown by a lesser but persistent and relatively constant disparity over a long period of time. While the Member State has a broad margin of discretion in achieving its social policy aims, this must not frustrate the implementation of a fundamental principle of Community law such as equal pay between women and men.

The *Oberlandesgericht*, Vienna (Higher Regional Court) referred a number of questions to the Court concerning the application of the equal pay principle in Article 141 and Council Directive 75/117/EEC in the *Angestelltenbetriebsrat der Wiener Gebietskrankenkasse and Wiener Gebietskrankenkasse* case.⁶⁵ The issue was whether two groups of workers (psychologists and doctors employed as psychotherapists) performing seemingly identical tasks, but with different training and/or professional qualifications, were called upon to perform the same work. The Court ruled that while the two groups perform seemingly identical activities, they draw upon different knowledge and skills, and concluded that they cannot be regarded as being in a comparable situation for the purposes of Article 141.

A second reference from Austria was the *Gruber v Silhouette International* case⁶⁶. Mrs Gruber was obliged to terminate her employment in order to care for her children because of lack of childcare facilities. She received a lower termination payment than workers who resign for reasons connected to their employment or the conduct of their employer. The issue was whether this was indirect discrimination. The European Court of Justice did not consider it to

⁶³ Under Article 8 of the Directive, 14 weeks is the minimum period of maternity leave allowed.

⁶⁴ Case C-167/97, *Regina v Secretary of State for Employment, ex-parte Nicole Seymour-Smith and Laura Pérez*, [1999] ECR I-0623.

⁶⁵ Case C-309/97, *Angestelltenbetriebsrat der Wiener Gebietskrankenkasse and Wiener Gebietskrankenkasse*. Judgment of 11 May 1999.

⁶⁶ Case C-249/97 *Gabriel Gruber v Silhouette International Schmied Gmb and Co. KG*, judgment of 14 September 1999.

be so because one could not compare workers who resign for reasons connected to the undertaking which make continued work impossible, with a worker who resigns for reasons connected with childcare.

A preliminary reference from the Conseil de Prud'hommes Le Havre (Industrial Tribunal) was made in the *Oumar Dabo v Abdoulaye and Others v Régie Nationale des Usines Renault SA* case⁶⁷. A number of male employees challenged the maternity payments made to female employees by bringing an allegation of sex discrimination against their employer, Renault. The Court ruled that the maternity payments fell within the scope of Article 141 and that the Article does not preclude special payments to women designed to offset the occupational disadvantages which arise for those workers as a result of their being away from work.

A notable judgment was delivered in a preliminary reference from the *Arbeitsgericht* Munich (Labour Court) in the *Andrea Krüger v Kreiskrankenhaus Ebersberg* case⁶⁸. The Court confirmed that an end of year bonus which the employer pays to a worker under a law or a collective agreement is received in respect of the worker's employment and therefore constitutes 'pay' within the meaning of Article 141. The Court's case law shows that Article 141 covers direct and indirect discrimination. Although the German agreement excluded persons in 'minor employment' from the scope of its provisions, this cannot alter the mandatory nature of Article 141 EC. The finding of the Court in the *Susanne Lewen V Lothar Denda* case⁶⁹ was that a refusal to grant a Christmas bonus to a woman who had been on maternity leave for part of the year is discrimination in pay, if the bonus can be regarded as pay for work performance in the past.

The Equal Treatment Principle

The Equal Treatment Directive (Council Directive 76/207/EEC⁷⁰) allows for a few defined derogations in Article 2. Cases from the Member States are being referred to the Court challenging the compatibility of excluding women from the armed services such as in the *Angela Maria Sirdar v the Army Board and Secretary of State for Defence* case⁷¹. Mrs Sirdar was employed as a cook in the British army but was made redundant in 1994. The Court ruled that the derogation on grounds of public security could not be applied generally to other areas of the Treaty and that employment in the armed service is covered by the equal treatment principle. However, it ruled that the exclusion of women from service in special combat units is not contrary to that principle.

In the *Kreil case*⁷², the Court held that the total exclusion, under German law, of women from all military posts involving the use of arms was contrary to Directive 76/207/EEC. The refusal to employ Ms Kreil in the army's electronic maintenance service was therefore illegal.

The Statutory Social Security Directive (Council Directive 79/7/EEC⁷³) allows the Member States to maintain derogations in relation to differences in retirement age. However, this

⁶⁷ Case C-218/98 *Oumar Dabo v Abdoulaye and Others v Régie Nationale des Usines Renault SA*, judgment of 16 September 1998.

⁶⁸ Case C-281/97 *Andrea Krüger v Kreiskrankenhaus Ebersberg*, judgment of 9 September 1999.

⁶⁹ Case C-333/97, *Susanne Lewen v Lothar Denda*, judgment of 21 October 1999.

⁷⁰ OJ L 39 of 14.2.1976.

⁷¹ Case C-273/97, *Angela Maria Sirdar v the Army Board and Secretary of State for Defence*, judgment of 26 October 1999.

⁷² Case C-285/98, *Tanja Kreil v Bundesrepublik Deutschland*, judgment of 11 January 2000.

⁷³ OJ L 6 of 10.1.1979.

derogation should be interpreted strictly and in the case *The Queen v Secretary of State for Social Security ex parte Taylor*⁷⁴, the Court of Justice held that United Kingdom legislation cannot derogate from the principle of equal treatment for women and men in respect of winter fuel payments for pensioners.

Other infringement procedures

Apart from infringement proceedings launched because of the incorrect implementation of Directives 92/85/EEC on pregnancy and maternity and 96/34/EC on parental leave, it is worth mentioning that the Commission decided to ask for financial penalties to be imposed on France for failure to implement a judgment of the Court of Justice of 13 March 1997. The Court had found that France was in violation of the principle of equal treatment between women and men by retaining within its legislation a prohibition on nightwork for women but not for men.

SECTION 5: A GENDER PERSPECTIVE IN THE EUROPEAN UNION EXTERNAL RELATIONS

Significant developments in advancing equality between women and men came to fruition in the field of external relations in 1999. In the process of enlargement of the Union as well as in its human rights and development co-operation policies, the Union has increasingly focused attention on the gender perspective in its external relations. Over the same period, the follow-up to the United Nations Fourth World Conference on Women and Platform for Action, held in Beijing in 1995 focussed Member States of the European Union on a five-year review known as *Beijing+5*.

This section explores progress within the enlargement process, the human rights of women world-wide and the Beijing follow-up. Information on Development co-operation policy is included in section 1(Gender mainstreaming and specific actions) of this report.

Gender equality in the enlargement process

Gender equality is an integral part of the enlargement process. There are now 13 countries within a single framework of the accession process to the European Union⁷⁵. In addition to Cyprus and Malta, plus Turkey, ten candidates are from central and eastern Europe countries (CEECs): Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. Candidate countries have to adopt, implement and apply by accession all existing Community legislation in all areas including the nine directives on equal opportunities.

The Commission has stressed throughout the enlargement process that there can be no membership without the guarantee of equal rights for women and men and the machinery to enforce these rights. Screening meetings, bilateral discussions and the participation of

⁷⁴ Case C-382/98, *The Queen v Secretary of State for Social Security ex parte John Henry Taylor*, judgment of 16 December 1999.

⁷⁵ Presidency Conclusions, Helsinki European Council of 10-11 December 1999.

candidate countries at European conferences and seminars⁷⁶ have helped to increase awareness of the issue.

The Czech Republic, Slovenia, Hungary, Lithuania, Romania participate, in particular, in the Medium-term Community Action Programme on equal opportunities for women and men (1996-2000) which is open to all candidate countries. Hungary has undertaken projects relating to the training of the legal profession and the dissemination of publications on European law in the Hungarian language. The process of developing comparative and harmonised reporting of the situation of women and men in the pre-accession countries was enhanced in a report from Eurostat⁷⁷. The report reveals that the unemployment rates for women were higher than for men in most of the 10 CEECs. Hungary, Estonia, Bulgaria, Slovakia and Latvia were an exception to this trend.

Equality screening of progress in the candidate countries

Screening of the social chapter, of which equal opportunities is a part, continued in 1999. Most countries have legislation in process and declare that it will be adopted by the time of accession. Screening has shown that all countries guarantee equality in their constitutions. Problems still exist, however, when it comes to the guarantee of equal pay for equal work, equal access to work, for example, gender specific advertising, parental leave for fathers and the burden of proof. The Commission is monitoring developments closely and will continue to emphasise the importance of the application of the legal principles .

The progress of candidate countries in adopting the *acquis communautaire*⁷⁸ in relation to economic and social cohesion, and to equality between women and men in particular, was measured for the period 1998-1999⁷⁹. The results varied, but progress was significant in all countries during 1999. The principle of equal treatment is enshrined in the Bulgarian Constitution and specific legislation is planned. Cyprus prepared a new draft equality law. Hungary showed considerable progress in its enforcement of equality law and handled three cases of alleged sex discrimination in 1998. Malta needs to introduce provisions on the burden of proof, self-employed persons, maternity leave period and guaranteeing mothers and fathers the right of return to the same job after leave periods. The emphasis in Romania was primarily on actions to implement and improve knowledge of equal rights, family rights and protection from domestic violence. A new equal opportunities Department in the Ministry of Labour, Social Affairs and Family equality was established in the Republic of Slovakia. While Latvia had still to adopt legislation in all fields of equality, Lithuania adopted a law on equal treatment and extended parental leave to fathers. An act on equal treatment was rejected in the Polish parliament. The government of Slovenia drafted a detailed employment relationship act with provisions on indirect discrimination.

⁷⁶ See Conference on 'equal pay and economic independence', 2-4 November 1999, Stockholm; Seminar on 'equal opportunities in employment', 18-21 October 1999, European Foundation for the Improvement of Living and Working Conditions, Dublin; European Conference on the follow-up to the Beijing Platform for action, Brussels, 3-4.2.2000.

⁷⁷ Eurostat, Central European countries' employment and labour market review, No 1 July 1999.

⁷⁸ This concerns existing Community law and jurisprudence.

⁷⁹ Regular Report from the Commission on Progress towards accession by each of the candidate countries, Composite Paper. COM(1999)500 of 13.10.1999.

Promoting the Human Rights of Women world-wide

On April 1999, two human rights regulations 975/99 and 976/99⁸⁰ were adopted by the Council which provide a comprehensive framework for EU human rights activities. They include several references to equal opportunities, non-discrimination and the promotion of women in their article 2. The regulations provide a legal basis for the European Initiative for Human Rights and Democracy which brings together under one budget Chapter the human rights budget lines. All these refer explicitly to women as a target group and a number of actions were financed in 1999 to promote women's rights.

In the framework of the EU/China human rights dialogue, a seminar was jointly organised by the Finnish Presidency and the European Commission in Rovaniemi (Finland) on 7-8 September 1999 entitled 'Perspectives on human rights with special reference to women'. The seminar followed on from the first sino-European seminar on women's rights organised in Beijing in 1998, and was innovative in that a gender perspective was mainstreamed throughout the issues discussed (economic and social rights, minority rights) and brought together gender and human rights experts.

Gender mainstreaming and trade issues

In the framework of the preparation for the eventual start of a new round of multilateral trade talks after the World Trade Organisation (WTO) Ministerial conference in Seattle in 1999, and in accordance with the overall objective of sustainable development as a central benchmark for this round, the Commission is carrying out a Sustainability Impact Assessment (SIA)⁸¹. This assessment uses a core group of sustainability indicators and measures the impact which the EU's proposals might have on various criteria, including gender equality. As the SIA progresses, the linkage between trade and gender may become an important aspect of the assessment of some areas. Wide public consultation, involving in particular development NGOs and organisations working in the area of trade and gender, will continue throughout the Sustainability Impact Assessment.

The Review of the Beijing Platform for Action

The United Nations Fourth World Conference on Women, held in Beijing in September 1995, was called to assess the implementation of the 1985 'Forward Looking Strategies for the Advancement of Women to the Year 2000'. The Beijing Conference gave a tremendous impetus for a renewed effort to bring about real equality between women and men. At the conference, the European Union spoke clearly and with a single voice, and acted as broker in some difficult and delicate areas of debate. The conference reaffirmed women's rights as human rights, and it especially worked to have the concept of mainstreaming incorporated in the conference's agreed '*Platform for Action*' as a key tool to achieve equality. Following the conference, the Council of Ministers undertook to review annually the European Union's implementation of the Platform. The Commission has prepared reports on follow-up at Community level for the annual sessions of the UN Commission on the Status of Women.

At the invitation of the Commission, representatives from the Member States of the EU and EEA, candidate countries, EU institutions, international organisations, gender equality

⁸⁰ OJ L 120 of 8 May 1999.

⁸¹ The Commission has taken for its definition of sustainable development that contained in the UN's Agenda for Development (1997).

agencies, social partners, NGOs as well as independent experts and academics came together in Brussels in February 2000 to discuss the Beijing follow-up. The Conference⁸² has served to further co-ordinate the European Union position for the Special Session of the UN General Assembly entitled 'Women 2000: gender equality, development and peace for the twenty-first century', the review process is universally referred to as 'Beijing+5' (5-9 June 2000).

Implementation of the Platform for Action in the European Union

The Platform for Action includes a *mission statement on equality*, a description of the *global framework*, *12 critical areas of concern*, an analysis of *institutional arrangements* and of *financial arrangements*. In October 1998 the UN issued a questionnaire on implementation to its Member States. The information supplied in response to the questionnaire during 1999 is a major component of the Beijing review process.

An overview of the national reports from the European Union Member States shows that:

- The range of equality initiatives is very varied - all Member States can demonstrate new legislation, new or improved institutional arrangements, increases in funding, research, conferences, publications, support for NGO activities, publicity campaigns, amongst others.
- Most if not all Member States have taken this opportunity to be remarkably open about describing the areas where they have not achieved their goals, and the obstacles set by the particular conditions in their own country.
- All Member States highlight government co-funding of projects under the Medium-term Community Action Programme on equal opportunities (1996-2000).
- All Member States have produced statistics, however the responses of the Member States are not harmonised making comparisons between them somewhat difficult.

The European Commission's own response to the UN questionnaire⁸³ covers all areas of concern and shows how the Community has implemented its commitments stated in the Platform for Action. It notes the significance of the entry into force of the Treaty of Amsterdam with its reinforcement and strengthening of equality of opportunity in the Community.

Analysis of the replies of the Member States to the UN questionnaire reveals a number of important issues. Changing attitudes and structures towards a culture of equality is recognised as a long-drawn out process. Many Member States point out the difficulties of clearly distinguishing between funding for women's issues and the general budget for health or education. The extent of collaboration with women's NGO varies significantly.

As far as critical areas of concern of the Beijing Platform for Action, all Member States gave extensive and detailed information on women and the economy. Second came either Education and training of women or violence against women. Overall, least attention was given to the girl-child women and the environment and women and armed conflict. The low

⁸² The Commission intends to prepare a publication before June 2000 on the follow-up to the Beijing Platform for action, at EU level, which will include a section on the results of this conference.

⁸³ The questionnaire is expected to be transmitted by Spring 2000.

attention to environmental issues is surprising, since environmental debate and discourse are widespread in the Union. Many new structures, institutions and plans were influenced by the Beijing Platform for Action. Examples are to be found in the Netherlands ten-year *emancipation* policy plan, Finland's *Gender Barometer* survey or Denmark's major review of equality work.

The European Community , and the Member States, have played a leading role in developing equality work in these five years, and made an important contribution to the work of the United Nations, directly and in partnership with other international institutions. A full and critical appreciation of that contribution will emerge at the final review in New York in June 2000.