

Chapter 5

The EU Gender Equality Strategy 2020-2025: the beginning of a new season?

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Introduction¹

After the 2019 European elections, the issue of gender equality made it back firmly onto the political agenda, with unparalleled support from the first-ever female European Commission President, Ursula von der Leyen, and the nomination of a dedicated Commissioner for Equality, Helena Dalli². Von der Leyen's first speech to the European Parliament invoked a strong and unambiguous pledge to make gender equality a key priority of her programme (von der Leyen 2019). Not long afterwards, on 5 March 2020, the European Commission published 'A Union of Equality: Gender Equality Strategy 2020-2025' as part of its wider agenda on equality and democracy³, striving for a European Union where women and men, girls and boys, in all their diversity, are free to pursue their chosen path in life, with equal opportunities to thrive and to participate in and lead European society (European Commission 2020a and b).

Almost halfway into its implementation, it is time to take stock of the new Gender Equality Strategy's achievements and provide a critical assessment of its performance to date. Some authors have raised questions as to whether the strategy is 'fit for purpose', as its few legislative initiatives include many long-existing ones blocked in the Council for years, while also arguing that the Strategy's performance can be evaluated critically in view of the fact that women have suffered significantly more from the consequences of the pandemic (Vanhercke and Spasova 2022). Others have been more positive, calling the Strategy 'the beginning of a new chapter' (Iratxe et al. 2020) and stressing von der Leyen's success in 'claiming a leadership position for herself, for the Commission and for the EU' in the area and her determination 'to advance women's descriptive and substantive representation' (Abels and Mushaben 2020).

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 2. Dalli (Malta) is the Commissioner for Equality, strengthening Europe's commitment to inclusion and equality, and leading the fight against discrimination.
 3. The Commission aims to build a 'Union of equality' and create 'the conditions for everyone to live, thrive and lead regardless of differences based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation' (European Commission 2020b). Other key initiatives include the EU anti-racism Action Plan 2020-2025, the LGBTIQ Equality Strategy 2020-2025 and the EU Roma Strategic Framework for Equality, Inclusion and Participation 2020-2030.

1. Gender equality policies in the European Union

The promotion of gender equality can be traced back to 1957 when the principle of equal pay for equal work was taken up in the Treaty of Rome. Equality between women and men is defined as a core value in the Treaties of Amsterdam and Lisbon, with research highlighting its importance in the ‘foundational myth’ of the EU (Fiig 2020; MacRae 2010).

Over the past decades, gender equality policies in the EU have developed into a solid policy field, moving from a single Treaty article to a comprehensive legal and political framework dealing with multiple sources of discrimination (Fiig 2020). With their evolution characterised by fluctuations between progress and stalemate, gender equality policies continue to be met with resistance. Nevertheless, most authors agree that the EU has been an important catalyst ‘in shaping women’s economic, political, and social equality in Europe’ and in putting gender equality and women’s rights into effect (Fiig 2020: 1; Debusscher and van der Vleuten 2017).

The continuous development of EU gender equality policies over the past decades has been well documented in the literature, with three stages beginning with the 1957 adoption of Art. 119 EEC on ‘equal pay for equal work’ outlined (Abels and Mushaben 2012; Jacquot 2015; Debusscher and van der Vleuten 2017; Ahrens 2019; Fiig 2020) from the EU’s inception to the 1970s (associated with women’s civil and economic rights and equal treatment), the 1980s (equal opportunities and positive action), and the 1990s (gender mainstreaming). With the entry into force of the Treaty of Amsterdam in 1999, the EU constitutionally committed itself to a new approach to achieve gender equality through gender mainstreaming all policy processes and policy areas, and through making gender equality and non-discrimination guiding legal principles of the Union. Since the 2000s, a fourth phase of new policies combating various forms of discrimination and including an intersectional perspective has slowly but surely emerged. These different stages of EU gender policy continue to coexist and should ideally be mutually reinforcing. Throughout this policy evolution, the Commission has promoted multi-year action plans, strategies and roadmaps, moving from equal treatment to positive action, to gender mainstreaming. While authors agree on the significance of these developments for women and gender equality in Europe, they also point out that what happens in practice often fails to live up to stated ambitions (Abels and Mushaben 2020).

In the past, gender equality policies rarely enjoyed the priority status now seen among European Commissioners, despite their often ‘lofty speeches’ and ‘boasting’ about the EU’s status as ‘one of the most gender-equal’ institutions in the world (Abels and Mushaben 2020: 124; Fortin-Rittberger and Rittberger 2014: 496). Commitments by previous Commission presidents were minimal and ‘modest at best’, with the notable exception of Jacques Delors (1985–1995) whose presidency saw a flourishing of equality initiatives linked to the single market project, as well as the creation of the

European Women’s Lobby (EWL) at the initiative of Commission femocrats⁴ (Abels and Mushaben 2020: 124). While Commission President Romano Prodi at least spoke ‘the rhetoric of balanced participation’ and explicitly encouraged Member States ‘to put forward women’s names for consideration’ when forming his Commission (MacRae 2012: 31), his successor José Manuel Barroso ‘downsized’ women’s strength in the Commission by issuing several ‘administrative reforms’ weakening existing gender equality institutions, including shifting the equality portfolio from the Directorate-General (DG) for Employment, Social Affairs and Inclusion (EMPL) to DG Justice and Consumers (JUST) (Jacquot 2015; Abels and Mushaben 2020).

The European Parliament’s continuous efforts over the past two decades to (re-)kickstart the EU gender equality agenda were met with consistent Member State opposition. Pressured by the European Parliament, Commission President Jean-Claude Juncker tried unsuccessfully to raise the number of female Commissioners, due to resistance from Member State governments. Furthermore, Juncker’s austerity policies proved to be gender-blind, bluntly undermining earlier initiatives – for instance on childcare provision (Abels and Mushaben 2020). While he launched ideas for a road map involving equal pay, public consultations and pay transparency in his Action Plan for 2017-19 and aimed to recast the Maternity Leave Directive, most of his initiatives were blocked by the Council. The work-life balance proposal (European Commission 2019) was his only real success story in this area. While Juncker’s ideas for the future of gender equality in the EU were in essence limited and minimal (Ahrens and van der Vleuten 2019), some authors point out the significance of this Commission in strategically ‘tilling the policy field’ (Hartlapp 2017; Abels and Mushaben 2020). All in all, however, the past two decades can be characterised by limited progress combined with diverse legislative and budgetary changes and cutbacks inhibiting substantial advances in gender equality policy and legislation (Jacquot 2015). Especially over the last decade, strong resistance from Member States has eroded the policy field (Hartlapp et al. 2021).

With this background information in mind, the importance of von der Leyen’s appointment in 2019 should not be underestimated. Prior to 2019, women accounted for 35 of 183 Commissioners, i.e., less than 20 per cent of the seven-decade total (Abels and Mushaben 2020). Or to put it the other way round: male overrepresentation exceeding 80 per cent created a ‘gender-specific environment moulded by [masculine] norms and expectations’ (Sykes 2014: 691). Indeed, in relation to women’s descriptive representation the Commission was no ‘women-friendly organization’ over the past decades (Abels and Mushaben 2020: 122; Hartlapp et al. 2021). Von der Leyen’s declaration that her Commission would consist of equal numbers of women and men was immediately thwarted by two Member States refusing to designate female nominees. As a result, her Commission falls just short of parity, consisting of 12 women (44 per cent) and 15 men. Nevertheless, von der Leyen’s election as the European Commission’s first woman president, combined with the fact that she heads the first-

4. The EWL was founded to coordinate among European women’s organizations, facilitate communication with the Commission, and establish a permanent representation for women at EU level. Although the EWL was formed with the active support of the Commission, it was not merely top-down or entirely new. Even in the 1980s, women activists had been actively seeking to develop participatory mechanisms to lobby for women’s interests in the EU (Pudrovska and Ferree 2004).

ever Commission to boast near-parity, is tremendously significant as it ‘confirms the fundamental transformation of the Union’ towards more social justice for women, both in its politics and policies (Abels and Mushaben 2020: 121).

2. A Union of Equality: Gender Equality Strategy 2020-2025

Promoting ‘a Union of Equality’ is one of the key priorities of Ursula von der Leyen’s Commission, as outlined in her political guidelines (von der Leyen 2019). Consequently, in March 2020 the European Commission presented its EU Gender Equality Strategy 2020-2025, setting out its policy objectives and actions to advance towards gender equality by 2025. The Strategy is a notable step-up from previous EU-level commitments to tackling gender discrimination. It recognises the promotion of equality between women and men as ‘a task for the Union, in all its activities’ and foresees a dual approach, combining targeted measures with effective gender mainstreaming. The strategy also explicitly puts forward ‘intersectionality’ as a crosscutting principle to take account of the interplay between gender and such characteristics as age, ethnicity, sexual identity and orientation, and disability. Other crosscutting priorities include the role of men and boys in achieving gender equality and the cumulative impacts of gender inequalities throughout lifecycles.

The new strategy is a clear break with the past. The previous four-year programme, the Commission’s ‘strategic engagement for gender equality 2016-2019’, was heavily criticised by gender advocates from the European Parliament and civil society for its weak legal status – being issued as a staff working document rather than a full communication – as well as for its lack of concrete benchmarks and a dedicated budget, without which progress on targets and indicators was neither measurable nor achievable.

Supported by allies in the Council and from civil society, the Parliament continued to highlight the standstill in political action for gender equality at EU level over the last decade, calling for a new strategy containing concrete action to strengthen women’s rights and promote gender equality, accompanied by new EU legislation.

The new Gender Equality Strategy is structured around six themes: a) being free from violence and stereotypes; b) thriving in a gender-equal economy; c) leading equally throughout society; d) gender mainstreaming and an intersectional perspective in EU policies; e) funding actions to make progress in gender equality in the EU; and f) addressing gender equality and women’s empowerment across the world. In what follows I critically discuss EU progress in each of these areas.

2.1 Being free from violence and stereotypes

In her political guidelines and 2021 State of the Union address, the Commission President undertook to prioritise preventing and combating violence against women. In its Gender Equality Strategy and annual work programmes, the Commission has

accordingly set out concrete measures and pledges to take action to end gender-based violence and cyberviolence against women as well as to challenge gender stereotypes.

The key priority in this area has long been the EU's accession to the Council of Europe's Istanbul Convention, which would help provide more equal protection for women across Europe against all forms of violence. Having signed the Convention in 2017, the next step is the EU's formal accession, requiring the Council to adopt a decision after having obtained the consent of the European Parliament. However, the road to formal accession has been very bumpy, with several EU Member States blocking accession. Governments in Bulgaria, Croatia, Hungary, Poland and Slovakia, often supported by conservative and religious groups, have undermined further progress by questioning the concept of 'gender', with some Member States even arguing that the Convention jeopardises 'traditional family values'.

Anticipating this stalemate, the Commission set out other options to achieve the goals enshrined in the Istanbul Convention in its 2020 Gender Equality Strategy. The Commission – urged and supported by the European Parliament – has therefore been exploring alternative legislative options to make progress in this area. Indeed, in October 2021, the Court of Justice of the European Union (CJEU) issued its long-awaited opinion on the EU's accession to the Istanbul Convention and its legal basis. The Court notably confirmed that the EU has competence to accede to the Convention on the basis of Articles 82(2) and 84 of the Treaty on the Functioning of the EU (TFEU) concerning victims' rights and crime prevention. As to the accession process, the CJEU clarified that there was no legal requirement for unanimity in the Council for acceding to an international convention, even if that convention was covered only partially by EU competences. The Court thus affirmed that the EU may accede to the Istanbul Convention and proceed with ratification even without all EU Member States being party to it or consenting to it. Based on the Court's opinion, the French Presidency of the Council of the EU 2022 – which made 'the fight against sexual and gender-based violence' one of its priorities – relaunched negotiations on the conclusion of the Convention in the Council Working Group, in close cooperation with the Commission (European Commission 2022a; Trio Presidency 2022).

Subsequently, on 8 March 2022, the Commission launched its long-awaited proposal for a directive on combating violence against women and domestic violence (European Commission 2022b). Sharing the objectives of the Istanbul Convention, the proposal addresses the fragmentation of the current legal framework and fills gaps in protection at Member State and EU level. It introduces minimum standards for protecting the fundamental rights of victims and brings the relevant EU rules up to date with recent societal developments, including digital offences not explicitly included in the Istanbul Convention (European Commission 2022a). For the first time, the Commission is proposing a comprehensive framework to effectively combat violence against women and domestic violence. This includes EU-wide criminalisation of the most egregious forms of violence against women and of certain forms of cyberviolence, thereby ensuring that the most serious forms are sanctioned. Such criminalisation will notably contribute to addressing challenges in the online space and to better protecting users from illegal gendered online content. Furthermore, the proposed directive contains

targeted measures to ensure victims of violence against women and domestic violence are granted access to justice, adequate protection and support and that measures are taken to prevent such violence from happening in the first place (European Commission 2022a).

All in all, the EU proposal for a directive on combating violence against women and domestic violence is a strong compromise, addressing violence against women in a way never done before in a binding legal EU instrument (De Vido 2022). While critics might point out it could have been even more ambitious, it could certainly have also been a lot less ambitious. The proposal is strategic in that it aims to force a breakthrough in a dossier blocked for years and, if successful, would allow the Istanbul Convention to be implemented without the EU having yet ratified it. Indeed, even without such ratification, the directive, once adopted by a qualified majority, would oblige all EU Member States to respect its provisions, several of which reflect the Istanbul Convention. This ratification ‘bypassing’ thus constitutes a strategic move by gender advocates in the institutions to overcome the resistance shown by conservative Member States. While the ongoing legislative process will require the votes of both the European Parliament and the Council and will most likely be slowed down by a large number of amendments, the symbolic value of having the Commission proposal on the table should not be underestimated (De Vido 2022). After decades of lobbying from women’s rights organisations and gender activists from the European Parliament, this proposal historically recognises violence against women ‘as a systemic problem at the EU level and does not diminish it to the private sphere’ (EWL 2022: 1).

2.2 Thriving in a gender equal economy

The new Strategy proposes measures meant to close gender gaps in the labour market, achieving equal participation across different sectors of the economy, addressing the gender pay and pension gap and closing the gender care gap. Key actions outlined in the Strategy include enforcing the Work-Life Balance Directive, supporting women as investors and entrepreneurs through the European Innovation Council and the InvestEU programme, addressing the digital gender gap in the updated Digital Education Action Plan, and notably the promise to propose a directive on pay transparency.

Indeed, in her 2019 political guidelines, Ursula von der Leyen announced that she would introduce a proposal on binding pay transparency measures in the first 100 days of her term of office to address the gender pay gap and ensure application of the principle of equal pay for equal work. Surprisingly, the announced directive disappeared off the political agenda for over a year, most likely due to pressure from employer organisations including BusinessEurope, SMEunited and CEEP who ‘passionately oppose’ (Hofman et al. 2020: 32) binding pay transparency measures as being administrative burdens for companies and distorting market mechanisms (see for instance BusinessEurope 2021). The unexplained disappearance of this key proposal led to strong criticism from civil society and active campaigning from the European Trade Union Confederation (ETUC) which, in a bid to end the delay, took the unusual step of commissioning legal experts

to draft a 3,000-word model directive on pay transparency the Commission could use (Vanhercke and Spasova 2022).

The campaigning proved successful and the Commission's legislative proposal on pay transparency was ultimately adopted on 4 March 2021. The proposed directive focuses on two aspects of equal pay: measures ensuring pay transparency and better access to justice for victims of pay discrimination. First, jobseekers would gain a right to information on the pay range of posts they apply for, while employers would be prohibited from asking about an applicant's pay history. Similarly, employees would have the right to ask their employer for sex-disaggregated information on the average pay of other workers doing the same work or work of equal value. Employers with at least 250 employees would have to report on their gender pay gap and carry out a pay assessment if the gap exceeds five per cent and cannot be justified. Second, under the access to justice measures, compensation would be available to victims of pay discrimination, with the burden of proof put on the employer and infringements of the equal pay rule sanctioned. Workers' representatives would have a role to play in pay assessments and legal proceedings, including the possibility of leading collective claims on equal pay.

The proposal moved forward swiftly after being adopted by the Commission, with the Council reaching agreement on a general approach to the proposed directive on 6 December 2021. The European Parliament, which had been calling for stronger measures on pay transparency for several years, also quickly reached agreement and adopted its negotiating position in April 2022 with a view to informal trilogue negotiations with the Council (European Parliament 2022a). Negotiations between the Council and the Parliament are ongoing at the time of writing (June 2022). The 2022 French Presidency stated in its programme that it would move forward negotiations through trilogue, while the succeeding Czech Presidency pledged to support the negotiations leading towards the adoption of the directive (Trio Presidency 2022). If the directive is approved, it would be a major breakthrough as it gives advocates additional tools to fight the pay gap by providing evidence of its existence and to improve enforcement. However, despite its strengths, the proposal is also limited in its outreach due to the Commission's decision to limit gender pay reporting to organisations with over 250 employees. According to an ETUC estimate, this would mean that just a third of European employees would be covered, with the impact even weaker in those Member States with the largest gender pay gaps, such as Estonia and Latvia, where just one in five workers would be covered (ETUC 2022). Furthermore, transparency is only the first step. Alongside measures to make information on pay more readily available, it is key to introduce further measures helping address the insufficient recognition and remuneration of crucial work performed predominantly by women – most notably care work.

In this respect it is noteworthy that – for the first time – the Commission has put a European Care Strategy on the table. Although not part of the original Gender Equality Strategy issued in 2020, the Covid-19 crisis has made the importance of paid and unpaid care work abundantly clear to society. The package envisaged for the second half of 2022 will address both carers and care recipients, from childcare to long-term care.

Highlighting the gender dimension of necessary changes, it has been warmly welcomed by a number of stakeholders including the EWL, ETUC, AGE Platform Europe, Eurochild, the Platform for International Cooperation on Undocumented Migrants and Eurocarers. It will include a Commission Communication on a European Care Strategy, a proposal for a Council Recommendation to revise the Barcelona targets on childcare and a proposal for a Council Recommendation on long-term care. It builds on a Long-Term Care Report prepared jointly in 2021 by the Social Protection Committee and the Commission, and on a broad consultation process launched by the Commission in January 2021 involving trade unions, employers, national administrations, civil society and the public at large (European Commission 2022a).

2.3 Leading equally throughout society

The measures proposed in this section of the Strategy push for the adoption of the 2012 proposal for a directive on improving the gender balance on corporate boards, promoting the participation of women as voters and candidates in the 2024 European Parliament elections, aiming to reach gender parity (50 per cent) at all levels of Commission's management by the end of 2024, and increasing efforts towards reaching a larger share of female managers in EU agencies.

The flagship measure in this area of the Strategy is the Commission's longstanding proposal for a directive on improving the gender balance among non-executive directors of companies listed on stock exchanges (also called the 'Women on Boards' directive) which has been stalled in the Council for nearly a decade (since November 2012) despite the European Parliament's tireless push for progress. While von der Leyen stated in her political guidelines that she would seek to build a majority to unblock the proposal, it has proved to be a thorny matter as not all Member States support EU-wide legislation, with several Member States (Croatia, Denmark, Greece, Hungary, Poland, Slovakia, Sweden and the Netherlands) arguing that binding measures at EU level are not the best way to pursue the objective. Similarly, employer organisations such as BusinessEurope have actively opposed the proposal since its inception, arguing that self-regulation by businesses is sufficient to address the issue of gender imbalance on boards (BusinessEurope 2012). In June 2021 the proposal seemed to have reached yet another stalemate as the EU ministers of employment and social affairs reviewed progress at the end of the Portuguese presidency, noting – perhaps symbolically under 'any other business' – that a qualified majority remained out of reach (Vanhercke and Spasova 2022).

However, in January 2022, both the Commission president and the French Presidency expressed their determination to move forward with the dossier, explicitly including it in the EU Legislative Priorities for 2022 (European Parliament 2022b). In February 2022, the new Dutch and German governments announced their intention to support the proposal for a 'Women on Boards' directive. Under Chancellor Angela Merkel, Germany had been one of the major countries blocking the directive, but with the new coalition led by Olaf Scholz change is in sight. The Party of European Socialists (PES) had urged Merkel to unblock the directive, as the group's women's organisation wrote in 2020.

According to the PES, Merkel had been supportive of pushing for gender equality on corporate boards at national level but was opposed to EU-level legislation. Olaf Scholz' SPD-led coalition government has now allowed it to pass to the next stages (Preiss 2022). With these government announcements, a breakthrough seems to be within reach for a proposal blocked in the Council for ten years. Indeed, an agreement on a 'general approach' was reached in the Employment and Social Affairs Council in mid-March 2022. The active French Presidency has much helped matters by centre-staging the promotion of gender equality and the realisation of the Gender Equality Strategy commitments in its programme (French Presidency 2022; Trio Presidency 2022). The general approach in the Council is a crucial step forward with a view to the final adoption of this directive, which will help address the glass ceiling which many women still face in the world of work. Since its original publication in 2012, the Parliament has strongly supported the proposed directive and has continued to push for progress, for instance by adopting a resolution in January 2021 calling on the Commission 'to urgently break the deadlock in the Council and adopt the proposed Directive on "Women on Boards"' (European Parliament 2021).

The proposed directive sets a target to include 40 per cent of the 'underrepresented sex' (typically women) on the boards of companies⁵. Companies that fail to reach these targets would have to apply clear, unambiguous and neutrally formulated criteria when appointing or electing directors. Member States would also have to ensure that companies give priority to candidates of the under-represented sex when choosing between candidates equally qualified in terms of suitability, competence and professional performance. Member States with measures already in place such as national targets to achieve more balanced representation of women and men may suspend application of the requirements. Eight EU countries, including France, already have quotas at national level, meaning that they could opt out of the bloc-wide rules. Other Member States that have moved towards the targets through other means could do the same.

Although progress has been made towards greater gender equality on corporate boards, it remains uneven. In October 2021, only 30.6 per cent of board members and just 8.5 per cent of board chairs were women. In addition, gaps between European countries are extensive⁶. What is clear however is that Member States with binding legislation on quotas for boards have experienced much faster progress (European Parliament 2022b). Quota laws have been very effective in increasing the share of women on boards, with recent research demonstrating profound and lasting effects: following their introduction companies made substantive changes to policies addressing leadership and pay gaps as well as childcare and workplace flexibility (Latura and Weeks 2022a). This is because the introduction of (additional) women members creates a 'critical mass' in the boardroom able to bring up gender issues like family leave and childcare support, flexible work schedules, and leadership training and mentorship for women.

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5. Companies would have to take steps to reach, by 2027, the minimum target of having 40 per cent of non-executive director positions held by members of the under-represented sex, or 33 per cent if all board members are included. It is up to the Member States (and not companies) to choose between the two targets.
 6. France — having adopted quota laws — remains the only Member State with at least 40 per cent of each gender on its companies' boards while countries such as Cyprus, Estonia and Hungary have rates below than 10 per cent (European Commission 2022a: 35).

Additionally, adoption of a quota law itself draws attention to the issue of gender equality in the workplace, cuing both men and women in senior leadership to change their views about the importance of solving problems related to gender inequality. In addition, in many companies, quotas also trigger new policies for identifying ‘ready for board’ women in the talent pipeline, in turn creating a sustainable and reinforcing effect (Latura and Weeks 2022b).

Growing support among Member States to back the proposed directive has kickstarted negotiations between the Council and the European Parliament with a view to reaching a final agreement on the text. The first two trilogue sessions were held in March and May 2022 and negotiations are ongoing. The von der Leyen Commission remains determined to unblock this important legislation, and it seems that it is finally succeeding, thanks to changes in government in some EU countries and pushed by civil society, the French Presidency and the European Parliament.

2.4 Gender mainstreaming and an intersectional perspective in EU policies

Under the fourth priority the Commission explicitly acknowledges that the ‘core challenges affecting the EU today – including the green and digital transitions and demographic change – all have a gender dimension’ (European Commission 2020a: 15). Accordingly, as codified in the 1997 Amsterdam Treaty, the Commission pledges to integrate a gender perspective in all major initiatives during its mandate (explicitly mentioning amongst others, the European Green Deal, the EU Beating Cancer Plan and the EU Drugs Agenda 2021-2025). The Commission also recognises that ‘women are a heterogenous group [that] may face intersectional discrimination’ and aims to address the ‘intersectionality of gender with other grounds of discrimination [...] across EU policies’ (European Commission 2020a: 16).

The Commission’s 2022 implementation report on the Gender Equality Strategy features several good practices of EU initiatives launched in 2021 with an important gender dimension, including initiatives linked to key topics such as the green and digital transition, agriculture, health, and media policy (European Commission 2022a). However, critics have pointed out that adoption of gender mainstreaming has been patchy and ad hoc, and that the commitment has not been accompanied by sufficient resources to ensure systematic and effective implementation and institutionalisation across all policy areas. Gender mainstreaming requires continuous investments, not only to support the creation and maintenance of the necessary structures and processes, but also to ensure that ‘the actors normally involved in policy-making’ (Council of Europe 1998: 15) are equipped to mainstream gender in their day-to-day practice (Mergaert and Minto 2021). Indeed, there is little evidence of consistent efforts to systematically build the capacity of staff to understand and promote gender mainstreaming in all policy areas and phases of the policy cycle (Mergaert and Minto 2021).

It is thus unsurprising that there has been ample criticism both from civil society players, such as the EWL or the European confederation of relief and development NGOs (CONCORD 2021) and from the Parliament, pointing out that that the Commission

is not walking the talk on gender mainstreaming. A number of key policy initiatives, such as the European Green Deal published in late 2019 and the Farm to Fork Strategy published in May 2020, entirely lack gender considerations, despite the fact that women and girls in the poorest communities globally are often those hardest hit by the effects of climate change, food insecurity and malnutrition, while being key actors of change in these sectors (CONCORD 2021). One of the main reasons why gender is absent from core policy documents such as the Green Deal is a lack of coherence between policy domains. Gender equality and climate change action are put forward as two of the Commission's top priorities, but 'are kept separate' from each other (Allwood 2021). While the Gender Equality Strategy contains a section on climate change which points out some of the ways in which climate change is gendered, the major climate framework remains largely gender-blind (Allwood 2021) and needs a stronger social dimension, as highlighted by the ETUC (2021).

In a similar vein, a 2022 European Parliament report stressed that the EU is finding it difficult to systematically apply gender mainstreaming and gender budgeting to all EU policies. Although these concepts have a strong legal basis and have been reaffirmed in many EU documents, including the agreements on the EU Multiannual Financial Frameworks for 2014-2020 and 2021-2027, Parliament highlights the fact that 'so far not much progress has been made in their practical application' (European Parliament 2022c: 2). Indeed, as concluded by the European Court of Auditors (ECA) in a special report, 'the Commission has not yet lived up to its commitment to gender mainstreaming in the EU budget'. Furthermore, it concluded that the Gender Equality Strategy has 'stepped up the Commission's commitment to gender mainstreaming', but that fundamental prerequisites and 'specific actions aimed at systematically taking gender equality into account in all EU policy areas, internal and external' are lacking (ECA 2021). By contrast, the European Commission's DG for International Partnerships (INTPA) – and more recently DG Research and Innovation (RTD) headed by the supportive Commissioner Mariya Gabriel – provide a more positive example where there has been investment in developing institutional gender equality structures as well as internal capacity. However, there is little to indicate that this practice is widespread or systematic in the Commission (Mergaert and Minto 2021).

To remedy this situation and undo the previous dismantling of institutional gender equality structures by previous Commissions, the von der Leyen Commission has aimed to establish a stronger institutional framework for gender equality, appointing not only the first-ever Commissioner with a dedicated equality portfolio but also a Task Force on Equality at the beginning of her mandate. The Task Force is composed of representatives from all Commission services and the European External Action Service and is supported by a secretariat based in the Secretariat-General of the Commission. According to the Commission, this Task Force plays a key role in mainstreaming equality (not just gender equality) in all policies, from their design to their implementation. In February 2021, the Task Force issued guidance for all DGs on equality mainstreaming when drafting, implementing and evaluating EU policies and programmes. The von der Leyen Commission has moreover set up a wide network of equality coordinators responsible, *inter alia*, for the screening of all upcoming policy initiatives for which their

DG is *chef de file* from an equality point of view at an early stage of preparation and design, to ensure the inclusion of a meaningful equality perspective (ECA 2021).

At this stage, it is too early to assess the effectiveness of these developments and of the Task Force in the systematically mainstreaming gender across all policy areas. Whilst there are indeed many good practice examples within the Commission, significant work remains to be done for application to be consistent, with this work encompassing not only the Commission's policymaking activity but also the Commission as an organisation itself. Ultimately, one of the key ingredients for successful gender mainstreaming is political will (Mergaert and Minto 2021) – and this willingness and energy seem to be present in the von der Leyen Commission, boding well for the chances of having more systematically gender-mainstreamed EU policies in the (near) future.

With regard to the introduction of intersectionality in the Strategy however – new at EU level –, the picture is more ambivalent. Despite the novelty and beyond a reference in the gender mainstreaming section, an intersectional approach is not really applied to the rest of the Strategy. This criticism is also voiced by relevant civil society players, such as the Equinox Initiative for Racial Justice which calls out a superficial engagement with the term, stating that, despite formally acknowledging intersectionality as an implementing principle, in practice EU gender equality policy treats intersectionality more as an afterthought or 'add-on' (Equinox 2021: 20). Meaningfully engaging with the intersectionality of gender with other grounds of discrimination would require additional funding to gain the analytical capacity and human resources to collect and analyse data and design and implement targeted policies.

2.5 Funding actions to make progress in gender equality in the EU

As outlined in the Strategy, budgetary policy and funding are an integral part of the dual approach to gender equality, including both gender mainstreaming EU policies and targeted measures to address persistent inequalities. To ensure this, the Multiannual Financial Framework (MFF) integrates 'a gender dimension throughout the financial framework, and more specifically in various EU funding and budgetary guarantee instruments' such as the European Social Fund Plus, the European Regional Development Fund, Creative Europe, the European Maritime and Fisheries Fund, the Cohesion Fund and the InvestEU Programme (European Commission 2020a: 16). Furthermore, the Strategy stipulates that 'dedicated funding for projects benefiting civil society organisations and public institutions that implement specific actions, including preventing and combating gender-based violence, will be available through the Citizens, Equality, Rights and Values Programme' (European Commission 2020a).

In the Commission proposal for the 2021-2027 MFF, gender equality was embedded in the programme design both as a horizontal principle and through specific programme objectives, with a view to promoting gender-focused and gender-responsive policies – but only after active lobbying by gender activists from the European Parliament and civil society (among others the EWL). Gender activists were also successful in gaining the commitment of the European Commission to develop a methodology for tracking

gender-equality-related expenditure, now to be tested and rolled out progressively. Furthermore, the Commission is working on updating its guidelines for a deeper analysis of the impact of EU funding programmes on gender equality.

In 2021, on top of the MFF for 2021-2027, the EU agreed to fund a large temporary recovery instrument referred to as NextGenerationEU (NGEU) (Bokhorst, this volume). Backed by funds totalling €806.9 billion, this stimulus package is designed to help repair the economic and social damage caused by the pandemic, generate high-quality jobs, combat social exclusion, and support the Union's green and digital transitions. The bulk of the NGEU budget is earmarked for the Recovery and Resilience Facility (RRF), with funds to be spent on selected reforms and investments in Member States defined in national Recovery and Resilience Plans (RRPs). The RRF is an important litmus test for the EU to put into practice its commitments in the areas of gender mainstreaming and gender budgeting and is being followed closely by gender activists from within and outside the institutions. Although gender mainstreaming and budgeting have a strong legal basis and have been reaffirmed in key EU documents, including in both the 2014-2020 and 2021-2027 MFFs, little progress has been made in practice. Similarly, the EU's budget cycle does not take gender equality adequately into account (ECA 2021).

To improve the situation and make EU recovery measures gender-sensitive, the European Court of Auditors called for gender equality to be properly taken into account in the regulation establishing the RRF and in the RRFs. These concerns were widely shared and voiced by various stakeholders, experts and MEPs (European Parliament 2022c). However, the first Commission proposal on implementing the RRF, put forward on 28 May 2020, completely lacked a gender perspective, not even mentioning women as a specific social group to be supported. During the legislative process, largely due to pressure from civil society organisations and the European Parliament, a gender dimension was added to the provisions and became part of the RRF Regulation approved on 12 February 2021 (European Parliament 2022c). It was only as a result of the Parliament's 'strong bargaining' that the final text 'recognises that women have been particularly affected by the Covid-19 crisis' and explicitly requires Member States to explain how the measures in their RRFs are expected to contribute to gender equality and gender mainstreaming (Vanhercke and Verdun 2021). Furthermore, due to pressure from gender advocates the Commission adopted a methodology for reporting social expenditure, inter alia on measures targeting children and young people and improving gender equality (European Commission 2021). This can be considered an important win as it will – hopefully – provide, in a transparent and accountable manner, summary information on social expenditure under the Facility (Vanhercke and Verdun 2021: 13).

While the inclusion of gender equality provisions in the RRF Regulation can indeed be called a political success and a crucial step towards gender mainstreaming, concerns remain among stakeholders and experts about their implementation and monitoring (European Parliament 2022c). Gender advocates and experts from within and outside the institutions have been closely following the process of the Commission assessing the RRFs and are monitoring implementation of the plans. Some have launched their own analyses of the RRFs to find out if and how the situation of women is to be tackled by the Member States (European Parliament 2022c).

Elomäki and Kantola (2021) for instance consider that the gender obligations in the RRF are vague and insufficiently specific. Moreover, they were introduced into the RRF Regulation decision-making process too late, meaning that the key spending priorities and measures had already been fixed and agreed at national level in some Member States and that gender could only be an add-on instead of an inherent part of the RRF.

Gender experts have also warned that the spending priority on the green and digital transitions will create jobs mainly for men (in such sectors as IT, transport, energy and construction) and could aggravate existing gender segregation and inequalities on the labour market (Klatzer and Rinaldi 2020). They add that the care, health and education sectors, traditionally dominated by female employment and worst hit by the pandemic, are not sufficiently supported by the RRF (Tostado 2021). Instead of an add-on approach, gender equality should have been a central feature of the RRF (Barry and Jennings 2021).

The trajectory of the MFF for 2021-2027, as well as the RRF, clearly demonstrates that gender mainstreaming the EU budget is not yet a systematic process in the Commission, but rather incidental and very much dependent on constant scrutiny by gender experts and advocates from civil society, trade unions and the Parliament. As the watchfulness of gender experts and advocates has proved indispensable, it can be considered a missed opportunity that the EU's funding for women's organisations remains at the same level under the new MFF and continues to be precarious and fragile. Moreover, EU funding for organisations advancing women and sexual minorities has come under increased fire from conservative Member States, as well as being hit by 'shifting priorities during and after the financial crisis' (Lang 2021: 225). What is more: without additional resources, the EU's broad and ambitious diversity agenda is producing increased competition among the different diversity claims and players (Lang 2021).

2.6 Promoting gender equality and women's empowerment across the world

Under the Strategy's sixth priority, the Commission stipulates that gender equality is 'a core objective of EU external action', with the EU 'promoting gender equality and women's empowerment in its international partnerships, political and human rights dialogues with third countries, EU trade policy as well as in its neighbourhood and enlargement policies, including in the context of accession negotiations and the Stabilisation and Association Process. Moreover, gender-related actions are included in the EU's actions in fragile, conflict and emergency situations' (European Commission 2020a: 17).

EU external action is guided by the objectives set out in the EU Action Plan on Gender Equality and Women's Empowerment in External Relations 2021-2025 (Gender Action Plan (GAP) III) and in the EU Action Plan for Human Rights and Democracy 2020-2024. GAP III was presented by the Commission and the European External Action Service (EEAS) in a Joint Communication in November 2020 and aims to accelerate progress on empowering women and girls through a transformative and intersectional

approach. It is significant, as it is the first time that the Commission has adopted a Communication on the GAP. Moreover, in both form and content, it represents a significant improvement over previous GAPs (CONCORD 2021). While its predecessors were only 'Staff Working Documents' with a limited outreach and a weaker legal status, the aforementioned 'Joint Communication' gives the strategy much greater political weight and visibility.

GAP III has generally been welcomed by gender activists in Europe and across the world. Its progressive and ambitious outlook dispels fears that the von der Leyen Commission, with its distinctively more geopolitical agenda, would subordinate the EU's role as a promoter of human and women's rights to its own interests, such as economic or migration interests. Quite the contrary, the EU seems to be stepping up its game by explicitly focusing on changing its own institutional culture and aiming for gender-responsive leadership at top levels. The EU's thinking can be considered transformative and progressive, as the roadmap aims to involve all policy areas (including such traditionally difficult policy areas as trade or security) and to include women and men in all their diversity, addressing all intersecting dimensions of discrimination, such as age, disability, sexuality, or racial, ethnic, and religious inequalities.

However, some critical observers point to a superficial engagement with these intersecting dimensions: instead of treating the concerns of marginalised women and people at the core of gender policy, it includes them on an ad hoc basis (Maes 2021). Similarly, concerns have been raised by civil society players such as CONCORD about GAP III's vague targets. For instance, the stated target of '85% of all new actions throughout external relations will contribute to gender equality and women's empowerment by 2025' does not say anything about the actual and total amount of funding earmarked for gender equality. A clear and ambitious EU target on actual funding would have been much more powerful – especially since recent United Nations figures have shown that Sustainable Development Goal (SDG) 5 to 'Achieve gender equality and empower all women and girls' is among the three least financed SDGs globally.

Despite its drawbacks, support for GAP III in the Council has proved a thorny and divisive issue. Most significantly, in December 2020 the EU failed to issue Council conclusions on GAP III, as three Member States refused to endorse the notion of gender equality (as opposed to a binary approach to equality between women and men). The German Presidency of the Council of the EU 2020 was forced to shelve its draft Council conclusions because it could not count on the support of Bulgaria, Hungary and Poland. The Commission invited the Parliament and Council to endorse GAP III, but the Council failed to reach the necessary consensus, again due to disagreements over the term 'gender'. Instead, Presidency conclusions were adopted with the support of 24 Member States (European Parliament 2022d). Civil society criticised the policy failure as 'astounding and noteworthy', reflecting 'a rolling back of previous EU commitments' as the Council traditionally issued an official endorsement of the GAP (CONCORD 2021). The lack of GAP III Council conclusions, as well as inconsistencies on women's rights and gender equality in the Member States and in the Commission, do not look good for an EU positioning itself as a global leader on gender equality, despite its strong policy documents and existing global commitments (CONCORD 2021).

This prompted the European Parliament to approve a report in March 2022 on GAP III. Prepared jointly by the Parliament's Committees on Development and on Women's Rights and Gender Equality, the report welcomes the EU Action Plan, but outlines several areas in which the EU needs to do more, not least given the negative impact of the pandemic. In it, the Parliament deplores the fact that the Council has failed to achieve unanimity on conclusions, thereby obstructing the formal endorsement of the Action Plan. The Parliament also points out that the EU has an important role to play in achieving a gender-equal world through supporting partner countries in addressing gender discrimination, and calls on the EU to lead by example (European Parliament 2022e).

Conclusions

The current European Commission has shown more ambition than any of its predecessors combined – with the notable exception of Jacques Delors –, and perhaps more than it will be able to maintain over the coming years. In its quest for a 'Union of Equality', the von der Leyen Commission has encountered 'major structural constraints' and will most likely encounter many more (Abels and Mushaben 2020). Over the past years, several Member States 'have experienced unprecedented processes of de-democratisation' with negative consequences for (gender) equality and social justice (Lombardo et al. 2021). On the one hand, this threatens to roll back commitments on gender equality and even on democratic values. On the other hand, this often emboldens gender advocates from civil society, trade unions, political parties, and political institutions to become increasingly vocal in favour of the gender equality agenda, as gender politics is often central in de-democratisation's polarised discourse (Lombardo et al. 2021). Indeed, in the past two years, the governments of Hungary and Poland, sometimes supported by Bulgaria and Slovakia, have been systematically attempting to remove the words 'gender' and 'gender equality' from key EU policy documents previously agreed by Member States, thereby undermining the gender equality agenda's progress. Furthermore, administrative reforms undertaken by von der Leyen's predecessors have weakened the Commission's institutional structure with respect to gender equality policy. The past two years have also been marked by the Covid-19 pandemic which demonstrated not only the importance of both formal and informal care for our societies, but also how differences in women's and men's employment, social protection and unequal contribution to unpaid household work result in socio-economic gender inequality, both in Europe and elsewhere.

Despite the challenges arising from consistent conservative Member State opposition, structural constraints and a succession of crises, over the past two years the Commission has made significant progress in implementing the Gender Equality Strategy. It has stepped up its fight against gender-based violence with the support of gender advocates within and outside the institutions. In the area of leadership, the changes in government in some Member States have brought a breakthrough in negotiations on the 'Women on Boards' proposal, with its adoption finally seeming within reach after ten years. While consistent gender mainstreaming in all EU policy areas in all phases of the policy cycle is still far off – despite it being a constitutional EU obligation for over two decades – there

are grounds for optimism. Led by Ursula von der Leyen, the Commission has provided strong leadership under crisis conditions, including resurgent refugee waves and the corona pandemic, and is strategically advancing the gender equality agenda. In doing so, von der Leyen has the backing of a Commission where 40 per cent of top positions are held by women, and of a host of allies from the EU institutions and from civil society. After two decades of legislative blockades, budgetary cutbacks and disastrous administrative reforms undermining the policy field, it might be time to revise the more pessimistic analyses on the fate of gender equality in the EU, while gender advocates might start dreaming of a new season finally begun.

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