



# The EU Regulatory Framework on Equal Opportunities

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## Summary

- *Treaties and Charters of the fundamental rights of the EU*
- *Directive in matters of equal opportunities on the employment and occupation market - 2006/54/EC*
- *Access to and Supply of Goods and Services Directive - 2004/113/EC*
- *Self-employment Directive - 2010/41/EU*
- *Pregnant Workers Directive - 92/85/EEC*
- *Parental Leave Directive- 2010/18/EU*
- *Directive on Equal treatment in matters of Social Security - 79/7/EEC*



## Gender Equality in Treaties

- **Article 2 TEU:** *equality between men and women is a fundamental value of the EU common to all member States*
- **Article 3 TEU:** *the EU promotes equality between men and women*
- **Art. 157 TFEU:** *principle of equal pay*
- **Art. 19 TFEU:** *the EU may adopt measures to combat discrimination on the grounds of sex, race, religion, age, etc.*



## Charter of Fundamental Rights of the EU

**Art 23: Equality between men and women**  
*Gender equality must be guaranteed in all areas*

**Art 33: family and professional life**  
*Protection from dismissal for a reason connected with maternity; the right to paid maternity leave and to parental leave following the birth (adoption) of a child*

**Scope:** *EU institutions and member States only when implementing EU law (Art. 51)*



## Equal opportunities in the employment market Directive 2006/54/EC

*Prohibits direct and indirect discrimination on grounds of sex regarding:*

- *(a) access to employment, promotion and vocational training*
- *(b) working conditions, including retribution*
- *(c) professional social security schemes*



## Directive 2006/54/EC (follows)

### Equal pay (Art. 4)

- *Equal pay for the same work or for work of equal value*
- *If a job classification system is used for determining pay, it must be based on the same criteria for both men and women and drawn up, so as to exclude any discrimination based on sex.*



## Directive 2006/54/EC (follows)

### Professional social security schemes (Art.5)

*Prohibits direct and indirect discrimination on grounds of sex regarding:*

- *(a) the scope of such schemes and the conditions of access to them*
- *(b) the obligation to contribute and the calculation of these contributions*
- *(c) the calculation of benefits*



## Access to and supply of goods and services Directive 2004/113/EC

### Scope

- *All persons who provide goods and services, which are available to the public*
- *Goods and services which are offered outside the area of private and family life*

### It does not apply

- *when it does not prejudice the freedom of the contractual partner and as long as the choice of the contractual partner is not based on that person's sex.*
- *to the content of media and advertising or to education*



## Self-employed Workers Directive 2010/41

### Scope (Art. 2)

- (a) self-employed workers
- (b) spouses of self-employed workers (or life partners) who habitually participate in the activities of the self-employed worker

Life partners: member States are not obliged to recognise unmarried life partners, however if they are recognised by the national law they are included in the scope of this directive.



## Self-employed workers (follows)

- Prohibits the direct and indirect discrimination on grounds of sex regarding the **creation, the supply of equipment or the extension of a business**.
- When a member State has a social protection system for self-employed workers, such a member State must adopt the necessary measures to ensure that **spouses and life partners may also benefit from the social protection system**.
- Female self-employed workers and female spouses and life partners, who contribute to the activities of self-employed workers are entitled to a sufficient **maternity allowance** that will allow them to interrupt working activities in case of pregnancy and maternity for at least 14 weeks.



## Key Concepts

- *Definitions (direct, indirect discrimination, harassment, sexual harassment)*
- *Burden of proof*
- *Protection and sanctions*
- *Equality bodies*
- *Victimization*
- *Social dialogue with NGOs*
- *Positive actions*
- *Derogation when sex is an essential and decisive requirement*



## Positive Actions

### Art. 157(4) TFUE

*With a view to ensure full equality between men and women in working life, the principle of equal treatment shall not prevent any member State from maintaining or adopting measures providing for direct specific advantages to facilitate the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.*



## Positive Actions (follows)

### Criteria developed by the Court :

- *There are less women than men in the position in question*
- *The female candidate is just as qualified as the male candidate*
- *The application of each male candidate is subject to an objective evaluation that must consider all the criteria specific for each single candidate*
- *Priority must not be automatic and unconditioned, but may be disappplied for reasons specifically pertaining to a male candidate*



## Pregnant Workers Directive 92/85/EEC

- **Objective:** *the implementation of measures to promote the improvement of health and safety of women in the workplace when pregnant or after they have recently given birth or while breastfeeding.*
- *Employers have the obligation to assess the safety risks of the workplace for pregnant or breastfeeding workers (Art. 4)*
- *Employers have the obligation to take the necessary measures to avoid all risks for pregnant or breastfeeding workers (Art. 5)*



## Directive 92/85/EEC (follows)

- **Night Work (Art. 7)**

*Pregnant workers must not be obliged to perform night work during their pregnancy or in the period after childbirth.*

- **Maternity leave (Art. 8)**

*At least 14 weeks.*

- **Time off for ante-natal examinations (Art. 9)**

*To this end, pregnant workers are entitled to time off from work without loss of pay.*

- **Prohibition of dismissal (Art. 10)**

*The dismissal of workers, during the period from the beginning of pregnancy to the end of maternity leave is prohibited.*



## Parental Leave Directive 2010/18/EU

- *This agreement is applied to all workers, both men and women, independently from their work contract (permanent, fixed term, part-time...).*
- *Workers are entitled to parental leave for the birth or the adoption of a child (up to 8 years of age).*
- *Parental leave has a minimum duration of 4 months. In principle, it shouldn't be transferrable from one parent to the other. At least one of the four months must not be transferred between parents.*





## Parental Leave (follows)

- *At the end of parental leave, workers shall have the right to return to the same job or, if that is not possible, to an equivalent job.*
- *Workers must be protected against less favourable treatment or dismissal on the grounds of an application for, or the taking of, parental leave.*
- *Return to work: possibility of requesting changes in one's working hours.*



## Social Security Directive 79/7/EEC

*Prohibits any discrimination whatsoever on grounds of sex either directly, or indirectly regarding:*

- *The scope of schemes and the conditions of access thereto;*
- *The obligation to contribute and the calculation of contributions;*
- *the calculation of benefits and the conditions governing the duration and retention of entitlement to benefits.*



## Social Security (follows)

### Scope

- *The working population, pensioners and disabled workers;*
- *Statutory schemes, which provide protection against illness, invalidity, old age, accidents at work and occupational diseases, unemployment;*
- *Provisions concerning social assistance, in so far as they are meant to complete statutory schemes.*



## Social Security Directive 79/7/EEC

### Exceptions (Art. 7)

- *The determination of pensionable age for the purpose of granting old-age and retirement pensions*
- *Advantages to people following periods of interruption of employment due to the bringing up of children*



## Legislative Proposals

- 1 – *The proposal concerning balance between professional activity and family life*
- 2 – *The proposal concerning a better gender balance amongst administrators without executive tasks in companies listed on the Stock Market*
- 3 – *Proposal to adhere to the Istanbul Convention*



## Useful Addresses

- [http://ec.europa.eu/justice/index\\_en.htm](http://ec.europa.eu/justice/index_en.htm) (DG Justice)
- <https://curia.europa.eu/> (EU Court of Justice web site)
- [http://ec.europa.eu/justice/gender-equality/files/case-law-Compilation\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/case-law-Compilation_en.pdf) (the Court's case-law compilation in matters of equal opportunities)
- <http://www.equalitylaw.eu/> (network of judicial experts in matters of gender equality and non-discrimination)
- <http://eige.europa.eu/> (European Institute for Equal Opportunities)
- <http://www.europarl.europa.eu/committees/en/femm/home.html> (European Parliament Equal Opportunities Committee)



***Thanks for your attention!***