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Gender Mainstreaming

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a. Definitions

Gender mainstreaming is the integration of the gender perspective into every stage of policy processes – design, implementation, monitoring and evaluation – with a view to promoting equality between women and men. It means assessing how policies impact on the life and position of both women and men – and taking responsibility to re-address them if necessary.

“the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making.” Council of Europe, 1998

b. Origins of mainstreaming

Development assistance; Scandinavian equality policies; UN Platform for Action, Beijing, 1995.

c. Why turn to mainstreaming?

One feature of the development of equality law and policy in the EU has been a gradual widening of the policy areas in which the EU has engaged. While historically the focus was on the **employment sphere**, particularly equal treatment **in work**, this widened (e.g. in the 1990s) to include the balance between work and private life (maternity provision and parental leave, part-time and flexible work), and more recently **goods and services**. Other concerns have also arisen – for example, **balanced participation in decision-making** and **social exclusion and social protection**.

A second feature is that action in most of these areas is heavily biased towards the removal of discrimination, following a logic that discriminatory criteria, working practices and employment/selection policies are ‘the problem’ and that removal of these ‘barriers’ will lead to greater equality. A major critique of this approach is that, despite its long history in relation to e.g. equal pay, it has not produced this result.

Thus there is a **perception** of failure of previous ‘equality policies’; better ‘evidence-led’ understandings of the workings of equality leading social scientists to locate the causes of equality in social institutions generally (education, family, healthcare, transport) rather than merely in the workplace:

a wider view of ‘the problem’ required a wider view of ‘the solution’ (c.f. Beveridge and Nott, below)

See also the Beijing Platform for Action (online). What sort of policy areas are targeted by its recommendations?

d. The ascent of mainstreaming in the EU

1996 - *'Communication from the Commission: Incorporating Equal Opportunities for Women and Men into all Community Policies and Activities'* (below)

1998 - *'Progress report from the Commission on the follow-up of the Communication: "Incorporating equal opportunities for women and men into all Community policies and activities."'* (below)

Art 3(2) EC, introduced by Treaty of Amsterdam

1999 Structural Funds Regulation (1260/1999)

Pioneer areas: EES: Employment policy, social exclusion and social protection –

'Unemployment' as a 'European' problem; the White Paper on Growth (1993), and the Essen European Council (1994): 5 priority areas

- promoting investment in vocational training;

- increasing employment through periods of growth (i.e. no 'jobless' growth)

- reducing non-wage labour costs

- improving the effectiveness of labour market policies; and

- improving measures to help groups at risk of exclusion from the labour market

The Luxembourg process: competence and players, tools, methods

The Treaty of Amsterdam, Title VIII - Employment – Employment Guidelines:

In 1997 the Council adopted Guidelines for Member States' Employment Policies¹ which utilised a range of 'soft' tools to encourage states to bring their employment policies into line.² Equal opportunities formed one of the four 'pillars' of these guidelines and was also integrated into the implementation of the other pillars and to evaluation of the results. This was significant since annual review by the Commission and Council was anticipated in these Guidelines: as Jacobsson notes, compared to other 'soft law' processes in the European Union the Open Method of Coordination used in the context of the European Employment Strategy included a "more systematic system of monitoring with clear procedural mechanisms."³

Annual monitoring – ratcheting-up effect – general and country-specific guidelines

Revised version 2003

A principal objective of the revision was to enhance the contribution of the European Employment Strategy to the Lisbon Strategy, a strategy for economic management based on the objectives of long term economic growth, full employment, social cohesion, and

¹ Council Guidelines for Member States Employment Policies for 1998, 15 December 1997

² The arrangements for acting under the Employment Title of the Treaty (Title VIII) are known as the Open Method of Coordination (OMC) and involve the use of guidelines, targets and benchmarks agreed and monitored by the Member States themselves, albeit with significant input from the Commission and other European institutions. See further Jacobsson K. "Soft Regulation and the subtle transformation of states: the case of EU employment policy" (2004) 14(4) *Journal of European Social Policy* 355-370; Mosher J. and Trubek D. "Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy" (2003) 41 *Journal of Common Market Studies* 63-88.

³ Jacobsson, *ibid*, at p. 358.

sustainable development in a knowledge based society.⁴ To this end the Commission also took steps in 2002 to co-ordinate the future annual review cycles of the Broad Economic Policy Guidelines, the Stability and Growth Pact and the European Employment Strategy.⁵

Specifically under the gender equality ‘priority’ the new European Employment Strategy identifies increased participation of women in the labour market as crucial for achieving the Lisbon targets on employment, particularly by encouraging older women to stay in work longer and by facilitating participation for women with small children. In connection with the latter it endorses the targets on childcare set at the Barcelona European Council of providing childcare for 90% of children between 3 years old and the mandatory school starting age and for 33% of children under 3.⁶ There is also recognition of the need to tackle structural inequalities in the labour market which produce gender gaps in employment and unemployment, gender segregation, a gender pay gap and the numbers of women in decision-making positions. Under-representation of women in the key areas shaping the ‘knowledge society’ is recognised as a particular problem, bringing higher education and research policies under scrutiny. Finally, policies concerning the reconciliation of work and family life are identified as key in promoting more favourable working conditions for women.

‘Lisbon’ process – changes and pressures.

How does the OMC work? General and country-specific guidelines, with self-assessment, ‘peer review’, monitoring and targets.

e. Putting Mainstreaming into practice

Mazey – below; Hafner-Burton and Pollack (below), Beveridge (below)

1995-2000 – a technocratic approach – ‘Gender Impact Assessment’ within the Commission’s own operations, with a group of officials responsible within each Directorate and a cross-service group to support. Unlike EIA, not all areas were tackled at once, but Structural Funds, then EES singled out and others gradually incorporated.

High level Group of Commissioners on Equal Opportunities took overall responsibility and Progress Reports were produced as part of on-going monitoring.

2000-2005 - broadening the approach?

Community Framework Strategy on Gender Equality (2001-2005)⁷ adopted what has been described as a ‘dual-track approach’, “bring[ing] together under a single umbrella all the

⁴ Lisbon, Conclusions of the Presidency

⁵ Commission of the European Communities, *Communication from the Commission on Streamlining the Annual Economic and Employment Policy Co-ordination Cycles*, COM(2002) 487 final of 3 Sept. 2002.

⁶ Barcelona, Conclusions of the Presidency

⁷ Commission of the European Communities, *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions Towards a Community Framework Strategy on Gender Equality (2001-2005)* COM(2000) 335 final of ??; hereafter *Framework Strategy*.

different E.U. initiatives and programmes designed to promote gender equality with an across-the-board mainstreaming approach.”⁸

Accompanied by more intense cycle of policy innovation, monitoring, renewal – pledges made annually, and a ‘scoreboard’ of progress (cf. Progress Reports). Involved Commission-wide priorities, together with ‘pledges’ from each Directorate-General/Service.

Annual Report on Equal Opportunities for Men and Women (later Annual Report on Equality between Men and Women) – looks less at internal record of Commission, more at record of the ‘EU’ as a whole e.g. issues like enlargement, EMU, the Member States. The most recent report (2009) considers progress against the backdrop of economic downturn and has the tone of trying to persuade relevant parties that continued promotion of equality will help rather than hinder economic recovery.

The Roadmap 2006

Further widening and deepening

The Gender Institute

Taking mainstreaming to the Member States - the European Pact for Gender Equality

Annual Report 2009 – calls for deepening of awareness to meet political commitment, and

for more action on the part of Member States to ensure that progress continues/goals are met.

f. Towards assessment

How to assess mainstreaming?

‘Integrationist’ or ‘transformative’

‘Expert-bureaucratic’ or ‘democratic-participatory’

Mainstreaming as ‘good governance’ or deliberative democracy

The EU and the Member States

The role of the European Commission

Gender Mainstreaming and Equality Mainstreaming

⁸ Mazey S. “Gender Mainstreaming Strategies in the E.U: Delivering on an Agenda?” (2002) 10 *Feminist Legal Studies* 227-240 at 234-5.

Reading:

Official Reports

Annual Reports of the Commission...on Equality between women and men e.g. 2009 report

CEC Green Paper *European Social Policy: Options for the Union* COM (93) 551 (1993)

CEC White Paper *European Social Policy: A Way Forward for the European Union* COM (94) 333 final (1994)

CEC *The future of the European Employment Strategy (EES) "A strategy for full employment and better jobs for all"* COM (2003) 6 final of 14 Jan 2003

Commission of the European Communities '*Communication from the Commission: Incorporating Equal Opportunities for Women and Men into all Community Policies and Activities*' COM (96) 67 final of 21 Feb 1996

Commission of the European Communities '*Progress report from the Commission on the follow-up of the Communication: "Incorporating equal opportunities for women and men into all Community policies and activities."*' COM (98) 122 final of 04 March 1998

Commission of the European Communities, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, "*Implementation of gender mainstreaming in the Structural Funds programming documents 2000-2006*", COM(2002)748 final of 20 December 2002

Council of Europe *Gender Mainstreaming: Conceptual Framework, Methodology and Presentation of Good Practices, Final Report of the Activities of the Group of Specialists on Mainstreaming*, Strasbourg, Council of Europe, 1998

Literature

Beveridge F. and Nott S. "Mainstreaming: A Case for Optimism and Cynicism" 10(3) *Feminist Legal Studies* (2002) 299-311

Beveridge F. "Building Against the Past: The Impact of Mainstreaming on EU Gender Law and Policy", *European Law Review*, 2007.

Busby N. "Pulp Fiction or Hard Fact? The Development of a European Employment Policy" *IJ CER* 1(2) 29.

Jacobsson K. "Soft Regulation and the subtle transformation of states: the case of EU employment policy" (2004) 14(4) *Journal of European Social Policy* 355-370

Mazey S. "Gender Mainstreaming Strategies in the E.U: Delivering on an Agenda?" (2002) 10 *Feminist Legal Studies* 227-240

Mosher J.S. and Trubeck D.M. (2003)“Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy” 41 *Journal of Common Market Studies* 63-88

Pollack M and Hafner-Burton E. “Mainstreaming gender in the European Union” (2000) 7(3) *Journal of European Public Policy* 432-56

Rubery *et al.*, “Gender equality still on the European agenda – but for how long?” (2003) 344(5) *Industrial Relations Journal* 477-497

Squires J. “Is Mainstreaming Transformative? Theorizing Mainstreaming in the Context of Diversity and Deliberation” (2005) 12(3) *Social Politics* 366

Shaw J. “Mainstreaming Equality and Diversity in European Union Law and Policy” (2005) 58 *Current Legal Problems* 2

Szyszczyk E. “Future Directions in European Union Social Policy Law” (1995) 24(1) *ILJ* 19-32;

Szyszczyk E “The Evolving European Employment Strategy” in Shaw J. (ed) *Social Law and Policy in an Evolving European Union* (Oxford, OUP. 2000) at 212.