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Women in decision-making positions in the European Parliament: Gender Equality in the European Union.

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Academic year 2018/2019

*To my mother and father,
my endless source of strenght.*

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Women in decision-making positions in the European Parliament. Gender Equality in the European Union

«Women make up more than half of the world population. Their participation and their contribution to the political process are both significant and necessary, not to say a fundamental right» (European Parliament, 2017).

Summary

This research will reconstruct the history of the institutionalization of the principle of gender equality in the European Union, and more in particular it will focus on the concept of gender parity in representative politics. The diachronic analysis of the principle of gender equality highlights the reasons behind the EU increasing attention towards equality among sexes. The European project contributed to increase the political room reserved to women, who had always been at the margins of the political arena. As a matter of fact, women found in the Community political institutions new possibilities of participation and expression. From 1957, with the Treaty of Rome, the CEE has devoted itself to the achievement of gender equality with several directives, action plans and strategic engagements to better the political, economic and social conditions of women (Di Saracina, 2010). Women represent half of the world population; however, this balance is not reflected in decision-making positions (EPRS, 2019). The European Union has shown a great interest in achieving gender equality through gender-targeted initiatives and programmes, devoted to the accomplishment of a significant threshold of gender balance in institutions at EU level and national level. Indeed, the Eurostat has recorded that the percentage of women in the European Parliament has risen to 36.1 % and seats held by women in Member States' national parliaments rose to 29%. Meanwhile, the percentage of female presidents and prime ministers in Member States has also experienced a significant growth (EPRS, 2019).

EU gender policies positively affected women's representation in the European Parliament and in national parliaments (lower/single house). Through Gender Equality Law and gender-targeted initiatives the European Union has played a major role in advancing women's right to representative politics. The research will also take into account the specificities of Member States and the prerequisites for an effective and well-functioning implementation of EU gender policies and national strategies.

I. Introduction

The first section of my research will provide a detailed analysis on the legislative framework and institutionalization of the principle of gender equality in the EU. The first chapter will encompass the evolution of EU gender policies, the historical landmarks and the achievements obtained by the EU through binding regulations and soft law. The research will then provide an overview of the historical steps towards the European Commission's adoption of the concept of gender mainstreaming, which consists in a public policy strategy that requires both integrating a gender perspective to the content of different policies and addressing the issue of representation of women and men in a given policy area. The research has the goal of updating the theoretical framework, and will therefore introduce among the main initiatives, the most recent Gender Action Plans, gender-targeted initiatives, Strategic Engagement for Gender Equality 2016-2019 and the objectives set by the EU, concerning gender equality and the empowerment of all women and girls by 2030.

The research will analyse the histories and contributions given by the founding mothers of the European Union, such as Fausta Deshormes La Valle, Ada Rossi, Eliane Vogel-Polsky and Simone Veil. Simone Veil, noted feminist, became the first president of the directly elected European Parliament in 1979 and the first woman to hold the post, and will therefore serve as a perfect example of a women's access to EU institutions (Di Saracina, 2010).

The second chapter will encompass the history of European Gender Equality Law through the most famous cases of the European Court of Justice (ECJ), concerning with the application of the principle of equal pay, direct and indirect discrimination, discrimination against mothers and pregnant workers. The ECJ has been a privileged arena for women to call upon and defend their right to equal treatment and gender equality. The research will analyse the production of ECJ's judgements from the initial economic perspective taken in the Defrenne Trilogy, to the growing proactive behaviour towards women, by embracing the latest developments in Gender Equality Law (Di Saracina, 2010; Guth, Elfving, 2018).

In the third chapter, the thesis will then focus on the issue of women's presence in decision-making positions at the EU level, by relying on data and statistics by Eurostat, European Parliamentary Research Service (EPRS) and European Institute for Gender Equality (EIGE). In order to produce gender impact evaluations and a gender-based analysis, the research will look at the effects of positive actions and EU gender policies on the presence of women in the European Parliament and will highlight the increasing trend towards a more gender-balanced Parliament from 1979 to 2018. Furthermore, it will be necessary to make an in-depth evaluation of the hindering factors and supporting factors, which affect women's participation to the political arena (EIGE, 2016; EIGE, 2019).

Empirical research in comparative studies has monitored the adoption and effectiveness of

gender mainstreaming and EU Gender Equality Law in Member States, through data and statistics. Those studies gave proof that gender mainstreaming and EU gender policies have given birth to different policies and outcomes because of the influence of factors of variations, such as political ideology of the country, electoral system, level of patriarchy, presence of neo-liberal policies etc. Therefore, the fourth chapter will analyse women's representation across national parliaments, by taking into account EU policies' influence on MS as well as the factors of variations, which have a key role in the determination of women's status. Furthermore, the presence or absence of reserved seats, legislated and voluntary quotas will be taken into account, by developing a relationship between the electoral system, political parties and the effectiveness of quotas. The main focus will be on the implementation of gender quotas and its correlation with the percentage of women in national parliaments.

The fifth chapter will focus on four relevant case studies, in order to look at the outcomes of both EU policies and national strategies. Four countries were selected for special scrutiny: Belgium, Italy, Sweden and Hungary. Those case studies were chosen because they represent countries with legislated quotas as well as countries with voluntary party quotas, countries with a high (over 30%) and with a low (under 20%) representation of women in their national parliaments, countries with different ideologies and different historical backgrounds on women's movements. They have adopted the same proportional representation electoral system; however, the cases selected are valuable for different motives: Belgium has given a great importance to gender mainstreaming and will be observed as typical case of a Member State that has showed significant increases in women's representation because of the implementation of legislated gender quotas and EU policy's tools, such as gender budgeting, awareness-raising, etc. Italy will be analysed to understand the particular nature of voluntary gender quotas, highly-debated in Italy, and the turbulent history of electoral system reforms. Sweden, a symbol of the gender-sensitive Nordic countries, is considered as a pioneer of gender equality, due to the country's strong traditions of balanced female participation; while Hungary, which has adopted voluntary quotas, is at the lowest levels of women's representation in Europe and is characterized by a long tradition of patriarchy, anchored to traditional ideology and religious belief.

This multilevel perspective will also highlight the factors of variation in the application of EU gender policies and national initiatives in those countries. As a matter of fact, EU political interest in the empowerment of women has strongly influenced the domestic level of its Member States, however the implementation of EU strategies has produced different outcomes and results. To tackle those two main goals, it will be necessary to look at the share of women in national institutions (in particular focusing on the lower/single house of the Parliament), in order to see changes overtime and to observe the influences of gender policies in action, by

relying on the existing literature on women's representation. This will prove that, despite the empowerment derived from the implementation EU Gender Equality Law, the countries' specificities and political actors have a great power in shaping the status of women in representative politics.

The conclusions will highlight the link between the implementation of EU equality policies and the percentage of women in decision-making positions at the institutional level, taking into consideration the impacts of domestic factor of variations. This thesis will sustain that EU gender policies have played a major role in the empowerment and growth of women's presence in the decision-making mechanisms and positions within EU institutions. Its main goal is to show that a comprehensive approach by the EU, Member States, political parties, CSOs can actually improve the status of women. As a matter of fact, what has been done until today is not enough. We are still too far away to talk about gender parity.

1.1 Methodology

The thesis adopts comprehension as vision of reality, since it will observe how EU Gender Equality Law and gender policies have affected the empowerment of women in the European Union, and more in particular, in EU institutions. The research adopts a deductive type of reasoning and relies on the existing literary framework on gender equality to present a comprehensive historical analysis, before analysing four concrete case studies. The case studies have been included, in order to construct a valuable theoretical contribution and update the theoretical framework. The research aims at showing that, notwithstanding the challenges and differences due to the specifics of the country, the EU political interest in the empowerment of women has positively influenced the composition of EU and national institutions. As a matter of fact, all the challenging aspects related to the specificities of each Member State have been taken into account as factors of variations in the implementation of gender policies.

The dependent variable of this research is represented by the presence of women in European Institutions, more in particular in the European Parliament, and their reflection in national parliaments. This refers to the level of equality between female MEPs and male MEPs in the decision-making level and it is defined as the share of women occupying seats in the composition of European institutions. This variable has to be analysed by looking at the gendered divisions in institutions, the legislative framework of the EU and the EU gender equality strategies. My research topic has been developed during my internship at the European Parliament, where I had the chance to observe the composition of the heart of EU Institutions and to follow European Women Alliances' conferences. Therefore, the topic will be analysed

at the meso level, by focusing on EU institutions, national parliaments and women, analysed as a group. For those reasons, this thesis will argue that EU gender policies have actually empowered and increased the presence of women in the decision-making processes inside the EU institutions.

For what concerns the data collection method, this research will rely mostly on databases, literary discussion and official documents and reports by the EU. Databases (World Bank, EIGE, EPRS, OECD etc.) and documents will be used as reliable source to analyse the composition of the EU Parliament and of national parliaments, in order to take a closer look at the effects of EU policy and its consequences on women's representation. EU official documents and reports will be useful to understand EU's goals for gender equality, and to observe the current situation in the selected Member States. My research question considers the institutionalization of the main principles of EU Gender Equality Law, EU Gender policies and positive actions as the main independent variable. However, in the last section, based on 4 case studies, the research will also take into account as intervening variables: the main political ideology (left or right dominance), the patriarchy level, the electoral system, the presence of a quota system and women's movements in a particular country.

In order to analyse the effects and outcomes of EU gender policies on women's political representation, the research project has relied on quantitative and qualitative indicators. Among the quantitative indicators, we took into account the percentage of seats held by women in the European Parliament, the share of women in the national lower or single houses of parliament; number of women ministers, vice-presidents, etc. (women in high-level post offices); Gender Equality Index's rankings by the European Gender Equality Institute (EIGE), electoral gender quotas, political ideology and the presence or lack of gender mainstreaming tools implemented by MS. The figures of the mothers of the European Union, women MEPs and the initiatives led by NGOs and women's civil society and movements have been included as qualitative indicators to understand the degree of influence played by women in policy-making. The quantitative indicators will record the impact of gender policies in the composition of EU and domestic parliaments, and the number of women that gained high-level positions in the institutions post-EU Gender Equality Law and the 1996 adoption of gender mainstreaming. The qualitative indicator will be used to monitor the degree of female empowerment and the level of equality in decision-making from a more informal perspective.

1.2 Why is women's political representation relevant?

Gender equality and women's political representation in the EU are still relevant research topics since women are under-represented in almost in every sphere of social, economic and political relevance. Concrete equality of opportunities, equal treatment, equal representation have still not been achieved in the European Union. Moreover, the weak presence of women in European institutions, in particular in the European Parliament, represents a symptom of the patriarchal nature of politics. If gender equality had been truly acknowledged, we wouldn't have to theorize about gender equality mechanisms and enforcement. If women had the same opportunities as men, without any kind of discrimination, there wouldn't be the necessity to implement positive action and gender sensitive measures. However, women still face many obstacles to fully access politics and institutional bodies. The 2017 EIGE report has shown the persistence of women's disadvantage in comparison to men and has stated that meaningful improvements are still «needed in all Member States in order to attain gender-equal societies where both women and men can enjoy equal levels of well-being in all domains of life» (EIGE, 2017). The European Union has developed several gender-targeted initiatives and strategic engagement, as well as a comprehensive *acquis communautaire* on gender equality, in order to promote women's empowerment.

Hoskyns (1996); Di Saracina (2010); Woodward (2010); Weiner E., MacRae H. (2014), gave meaningful contribution on the history of EU integration policy, evolution and consequenced of EU gender policies. Empirical research in the field of comparative studies has observed the application of gender policies and mainstreaming in several EU countries, through the collection of data, founding out that EU gender mainstreaming has not produced the same policies and outcomes because of some factors of variations (political ideology of the country, electoral system, level of patriarchy, presence of neo-liberal policies etc.). Praud (2012); Palici Di Suni (2012); Dahlerup D. (2006); Dahlerup, Johanson (2013), built up a significant literary framework on case studies and gender quotas in different countries, such as Italy, Sweden, France, etc. By analysing different outcomes, they built up a valuable set criteria and findings to compare GM's outcomes at a cross-national level.

A substantial number of researchers has turned the attention to the consequences and unintended mistakes caused by the EU policies, which include the problems concerning its effectiveness. Is gender mainstreaming enough? Are we satisfied by the current unbalances in representative politics? MacRae (2013), Walby (2015) have highlighted the challenges and threats to gender mainstreaming which, in some cases, were too powerful to contrast. This particular angle of perspective shows some areas and specific case-studies, in which gender mainstreaming is ineffective or even counterproductive. This particular theoretical perspective

has influenced my research project, in order to keep a critic perspective and identify the possible fallouts, flaws of EU gender policies and, in particular, of the lack of effectiveness produced by MS' transposition in domestic legislative framework.

From this literary context some interesting independent variables have emerged, for instance Hubert, Stratigaki (2016) have observed the impact of EU initiatives and programmes on women's empowerment. Furthermore, Drage (2001) has concentrated on the campaigns by NGOs and the efforts by international conferences. He sustained and observed the influence that those actors had on women's representation. Another valuable independent variable has been found by Pini, McDonalds (2011), which have focused on grassroots campaigns and state feminism, which appeared to positively empower women's positions in institutions. From an economic perspective, it is also possible to comprehend how socio-economic variables influence women's status, as observed by Sundström A., Stockemer D. (2015).

Burri, Prechal (2008); Brzezińska (2009); Guth, Elfving (2018) and reports by the EELN (2018) will provide a comprehensive theoretical framework on the evolution of the ECJ's stance towards gender equality. The ECJ has been an important arena for women's rights and has expanded the interpretation of important gender equality principles, such as the equal pay principle (Defrenne II).

By relying on the European Commission and European Parliament's official reports and statistics, the research will reconstruct the general framework on the evolution of women's representation in the European Parliament from 1979 to 2018. Furthermore, the analysis will look at the gendered composition of MEPs from different MS and the outcomes of gender quotas in the 2014 European Parliamentary elections. EPRS and EIGE's will provide useful tools to analyse the improvements in women's empowerment in the area of power and decision-making; and the relevance of hindering (glass-ceiling, glass cliff, institutional and cultural factors) and supporting factors (EU gender policies, gender mainstreaming tools, positive action and gender quotas).

The last chapter has relied on research projects by Freidenvall (2003); Meier (2008); Varnagý (2013); Pansardi (2016); Chiaramonte, D'Alimonte (2018) to present a multilevel, comparative approach, in order to highlight the relevance of national strategies, gender quotas and factors of variation in the adoption and transposition of EU Gender Equality Law in Sweden, Belgium, Italy and Hungary. Moreover, the comparative approach has highlighted the requisites for the effectiveness of gender quotas, such as political parties' positive behaviour towards women, a congruent implementation of EU gender policies, PR electoral system, positioning strategies and sanctioning systems.

II. Gender Equality in the European Union

2.1 The first steps of Gender Equality in the European Community

In the first section, we will deal with establishment and codification of the principle of gender equality in the European Union *acquis communautaire*, starting from the Treaty of Rome, which established the European Economic Community (EEC), until the entry into force of Treaty of Lisbon, in 2009. Gender equality has played a major role in EU social policy and it has been the engine of the fourteen directives, aimed at promoting equal treatment among women and men (Di Saracina, 2010; Woodward, 2010). The European Economic Community's approach towards gender equality has gradually shifted from a mere economic approach towards a more comprehensive social approach (Di Saracina, 2010). Gender equality is at the heart of every democratic system, since a society cannot be defined truly democratic without the full participation to society of both women and men (European Parliament, 2019). Since the European Economic Community, the European Community (EC) and nowadays the European Union, the EU institutions have prioritized gender equality as one of the main pillars and fundamental values of the Union's policy (Di Saracina, 2010).

2.1.1 The principle of equal pay

Equality between women and men is one of the fundamental rights which lies at the heart of the European Union (European Parliament, 2017). Member States recognize gender equality as a common value and a necessary condition for the accomplishment of the EU goals, in terms of progress, employment and social inclusion. Through the history of the European integration process, the European Union's rising interest in gender issues has led to the development of the EU gender equality policy (Hoskyns, 1996). Even though at first the European Economic Community's actions in the field of equality were led by mere economic reasons, the EU efforts for gender equality came to represent the most important arena for the recognition of women's rights (Di Saracina, 2010).

The European Economic Community (EEC) was set up with the Treaty of Rome (1957), which formalises the principle of equal pay for equal work. Art. 119 established that:

«Each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work. For the purpose of this Art., “pay” means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, in respect of his employment from his employer.

Equal pay without discrimination based on sex means:

1. (a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
2. (b) that pay for work at time rates shall be the same for the same job ». (EEC, 1957)

The real engine behind the inclusion of art. 119 was purely economic, since Member States wanted to avoid market distortions in competition between enterprises in different Member States (Di Saracina, 2010). As a matter of facts, the rationale behind the Treaty of Rome was to create a common market based on competition, characterized by free movement of goods, workers and capital among Member State and by a common external tariff towards third countries (Guth, Elfving, 2018). The aim of the establishment of the principle of equal pay for equal work was to fight social dumping and ensure the functioning of the internal common market (Di Saracina, 2010; Guth, Elfving, 2018). The dumping phenomenon is a practice of unfair competition, which violates workers' rights and used female underpaid work as one of its preferential arenas of application (Guth, Elfving, 2018).¹. As Catherine Bernard describes it: «equal opportunities were acceptable so long as they did not interfere significantly with the operation of the Single Market» (Bernard, 2012, as cited in Guth, Elfving, 2018).

Historically, the patriarchal order of the world society had legitimized and naturalized a sort of hierarchy, for which women occupied the lowest positions and received lower salaries in comparison to men. Despite the EEC's efforts to put an end to wage discrimination, the main obstacles to the implementation of art. 119 came from Member States themselves and their aversion towards the Community's intrusion in social domestic matters (Di Saracina, 2010; Woodward, 2010). Moreover, the founding members of the EEC lacked a common, homogeneous interpretation of «equal work», which represented the fundamental basis for a proper implementation of the principle in the whole Community (Di Saracina, 2010). The debate among Member States was based on the circumstances of equal work, since Belgium, Netherlands and Luxembourg interpreted art. 119 as only applicable to those situations involving identical jobs, carried out in the same enterprises and under the same circumstances by women and men (Di Saracina, 2010). Unlike the Benelux countries, France had already approved national legislation on equal pay for men

¹ «Dumping occurs when goods are exported at a price less than their normal value, generally meaning they are exported for less than they are sold in the domestic market or third-country markets, or at less than production cost. » definition by World Trade Organization.

and women and feared that cheap female workers in other countries could endanger national economy due to lower labour costs (Di Saracina, 2010).

Meanwhile, the European Commission reaffirmed the importance of a proper implementation of art. 119 through recommendations to the Council of Ministers to encourage a more rapid and proper implementation of the obligation derived from the principle of equal pay. Notwithstanding the importance conferred by the Community's institutions to art. 119, Member States' behaviour proved to be very disappointing, as no State had fully respected the principle of equal retribution among sexes (Woodward, 2010). Women did not remain silent and took action to safeguard art. 119 by marching in the streets during the Herstal strike in 1966. More than 3 thousand women workers of the Fabrique National exposed the continuous violation of the Treaty's provisions by Member States and gave life to the first protest in the name of a communitarian principle and to the largest female strike in the history of Belgium (Di Saracina, 2010). The Herstal strike proved that despite all the efforts and initiatives, the European institutions had not been able to guide Member States to effectively implement the principle of equal pay (Di Saracina, 2010).

The most concerning problematic around art. 119, was the fact that the article was still not considered as self-executing (Di Saracina, 2010). For this reason, the European Commission was unable to take any kind of action or impose sanctions towards those violating this norm, and moreover citizens themselves were unable to protect their rights and pursue cases of violations in front of national courts. It will be only in the second half of the 1970s with the Defrenne case, that the Court of Justice of the European Union (CJEU) will expose the self-executing nature of art. 119, by designing the outline of a modern European Gender Equality Law (Di Saracina, 2010; Guth, Elfving, 2018).

The economic characterisation of women's issues began to vanish, as the Commission described the question equal pay as an attempt to human dignity. The question of gender parity in the field of employment and retribution, emerged as a more complex concept, which included the question of women's integration to the labour market and the widespread phenomenon of occupational segregation (Di Saracina, 2010). The European Parliament, which still represents the most privileged arena for the advancement of women's rights, also recognized that the establishment of a formal equality between men and women was only a first step towards a substantial equality. Overall, the Community's efforts during the Sixties and the controversies around art. 119 paved the way for the normative provisions of the Seventies, which were strongly influenced by a communitarian wave of feminism (Di Saracina, 2010; Guth, Elfving, 2018)

2.1.2 Codification of the *acquis communautaire* on equal treatment

Between the end of the Sixties and the first half of the Seventies, a tight cooperation between women's movements and European institutions started to emerge, in the hope of narrowing down the gender gap in the Community's political life. The Seventies represent an intense decade for the path towards gender equality and have witnessed the production of important normative content for the condition of women within the European countries (Di Saracina, 2010). Since the 1969 Hague summit and the 1973 first EU enlargement, with the entry into the Community of Great Britain, Ireland and Denmark, the European project evolved towards the project of integration and extended its competences from the economic sphere to political cooperation, regional, environmental and social policy (Di Saracina, 2010).

During this lively period, the debate on gender equality was stimulated by the European parliament, while the European Commission and the Council of Ministers gave life to the *acquis communautaire* on equal pay and equal treatment between men and women, which will become one of the main pillars of the European social model (Hoskyns, 1996; Di Saracina, 2010). The EEC directives (1973-1975) introduced a new European strategic approach to fight gender inequalities, that is the equal treatment approach, made up of the formal equality vision and an antidiscrimination policy (Di Saracina, 2010; Woodward, 2010). Those normative achievements managed to guide Member States to implement the necessary changes to adjust to the communitarian normative context. This long and troubled process increased the protection of the equal rights of female and male workers from a juridical point of view and encouraged the creation a more just labour market.

During the Paris European Summit (1972), the Heads of State or Government of the future Nine defined the goals and the strategies of the EEC, for what concerns regional, industrial, economic and social policies (Di Saracina, 2010). The procedural dispositions of the Paris Summit demanded to the European Commission to draw up a strategic plan, the first Social Action Programme. Through the «Resolution of the Council of 21 January 1974 concerning a social action programme», the Council approved the main objectives of the plan, which included the fulfilment of full occupation, improvement of life, improvement of working conditions and an increased participation of representatives of workers, employers and citizens to the economic life of the Community. For what concerns gender parity, the Council highlighted that it was necessary to facilitate women's access to the work field, to encourage professional training, in order to put an end to the phenomenon of occupational segregation and women's relegation to underpaid sectors and low-positions jobs (Di Saracina, 2010).

The normative framework has been enriched by three meaningful directives, with the aim of strengthening the existing dispositions on equal pay, working conditions and fight the marginalization of women in the labour market (Woodward,2010). The «Council Directive

75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women» aimed at reinforcing the basic laws by standards to achieve an effective application of the principle of equality (Hoskyns, 1996; Di Saracina, 2010; Woodward, 2010). The 75/117/EEC Directive clarified the debate around the interpretation of art. 119 of the Treaty of Rome and the concept of “equal work”, by establishing the elimination of any form of discrimination based on sex for the same work, or for a «work to which equal value is attributed » (EEC, 1975). The expansion of the interpretation of art. 119 produced a convergence between the EU normative framework on equal pay and the principles established by the Equal Remuneration Convention, 1951 (No. 100) organized by the International Labour Organisation, which embraced stereotypically female occupation and the relative pay gap (Di Saracina, 2010; Woodward, 2010).

After only one year, the European Union strengthened its commitment to gender equality and approved the «Council Directive 76/207/EEC of 9 February 1976 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» (EEC, 1976; Di Saracina, 2010; Woodward, 2010). Art. 2 of the Council Directive 76/207/EEC introduced the principle of equal treatment, and the elimination of any form direct or indirect discrimination based on sex:

« [...], the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status. » (EEC, 1976)

The Council Directive 76/207/EEC formalises the principle of equal treatment for what concerns the requirements of accession to any job position in whichever sector or hierarchical level of activity, and the admission procedures to professional training and orientation sessions (Woodward, 2010). For the first time in the European community’s history, the concept of equality of treatment came to include direct and indirect forms of discriminations (Di Saracina, 2010). The 1975 directive referred only to direct discriminations, namely when individuals are treated differently in a similar situation without any kind of justifications. On the other hand, an indirect discrimination is when alleged gender-neutral normative provisions, regulations or policies cause disadvantages on person of one sex (Hoskyns, 1996; Di Saracina, 2010).

The directive that put the last piece to the normative framework of the Seventies, is the «Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security» (Woodward, 2010). This directive was meant to ensure the respect of the principle of equal treatment for what regards social security (Di Saracina, 2010; Woodward, 2010; European Parliament, 2016).

The European Community established the non-discrimination principle on the grounds of sex for what regards illness, invalidity, injuries in the work environment, unemployment and social assistance. This was the first step to introduce the principle of equal treatment in the Member States' legal social security systems, however the directive did not mention an harmonization of the social security national systems due to the regional sensibility of Member States in this particular field and provided for the possibility for MS to disregard the principle in matter of pension age and pensions' system, also for what regards people with disabilities (Di Saracina, 2010; Woodward, 2010).

This consistent publication of normative specific provisions of binding nature made sure that the EEC take on an important role in the recognition of the general principle of equal treatment between women and men. Moreover, the European Commission, presided by Roy Jenkins, proposed an extension of the funds reserved to women approaching to the labour market, with some amendments to the internal functioning of the European Social Fund (Di Saracina, 2010). The reform of the European Social Fund aimed at the elimination or reduction of all forms of restriction, which prevented some categories of human beings from benefiting from it. Therefore, in 1978 the Council of Ministers approved the reform of the European Social Fund, which extended the funds allocated to women, and encouraged projects of promotion for women without a professional qualification, such as operations of training for women's entry into the labour market (Di Saracina, 2010). Through this reform, the European Commission proved its will to promote a policy of equal opportunities, made up of positive actions towards women and a promotion of professional training. As a matter of fact, since the 1973 Oil crisis women's unemployment was one of the biggest challenges in the European Community and the funds allocated by this reform were largely criticized by the European Parliament. The resources allocated to women were not sufficient to fight the concerning unemployment rates that affected the nine countries of the EEC, therefore from 1978 to 1980 the funds reserved for women were furtherly extended. Despite the lack of concreteness of the 1978 reform, the European Social Fund will become the principle means for women in terms of professional training and employment (Di Saracina, 2010).

A wave of communitarian feminism crawled into the Community's institutions and found its voice through the press and grassroot associations. In 1977, one of the founding mothers of the European Union, Fausta Deshormes La Valle, European Commission official, founded the Information Unit for Women, which will give life to the bulletin *Femmes d'Europe*. *Femmes d'Europe* became a sort of official journal for women, which recounted all news and information about the institutional-political life of the EEC and the development of feminist movements in Member States (Di Saracina, 2010; Fondazione Nilde Iotti, 2018). This network of knowledge and solidarity gathered women from every country of the Community and

represented the main channel to reduce the gap between Europe and the women of Europe. Moreover, the Information Unit for Women has built up a political European female conscience, by mobilizing a great awareness-raising campaign to encourage women to vote, and most of all to vote for women in the upcoming first elections by direct universal suffrage for the European Parliament, held in June 1979 (Di Saracina, 2010). The first Parliamentary election by direct universal suffrage was a real milestone for women's representation in the European parliament and 69 women gained their seats in the Parliament (Hoskyns, 1996; Di Saracina, 2010). Through 1970s, Member States of the European Community made some headway, by issuing legislation about equal treatment for men and women: France was the first country to do so in 1972, then United Kingdom in 1975, Denmark in 1976 and 1978, Italy in 1977, and Belgium in 1978. The Federal Republic of Germany, the Netherlands, Ireland and finally Luxembourg adopted provisions towards the achievement of gender equality only in 1980s (Di Saracina, 2010).

2.2 The founding mothers of the European Union

The same massive attention that surrounded the founding fathers of the European Union has not been devoted to those women who have marked the history and the path towards the European integration (Fondazione Nilde Iotti, 2018). This lack of attention is a clear testimony of the under-representation and induced “invisibility” of women in the political field, reinforced by a strong deficit of women's presence in the political area and institutions. Since the first elections by direct universal suffrage women's presence has gradually increased and reached 16% in 1979 (European Parliamentary Research Service, 2018). Gender equality is recognized as one of the core values of the European Community, however women did not have the chance to fulfil some of the most important institutional roles, despite their commitment for a better Europe, fairer and more pledged to parity. Notwithstanding women's efforts to gain political power in the European Community, until today only two women have fulfilled the role of President of the European Parliament, Simone Veil (1979-1982) and Nicole Fontaine (1999-2002) (Di Saracina, 2010; Fondazione Nilde Iotti, 2018). Moreover, no woman has ever served as President of the European Commission, or as President of the Council of Ministers.

The names of Altiero Spinelli, Ernesto Rossi and Eugenio Colorni are surrounded by a legendary aura and are associated with the creation of the Ventotene Manifesto of 1941, but most people ignore that there was one woman, who committed her heart and mind to the Manifesto, Ursula Hirschmann (Fondazione Nilde Iotti, 2018). Ursula Hirschmann took part in the drafting process of the Manifesto and was able to spread its words thanks to the

collaboration of many women. As a convinced Europeist and feminist, she devoted her days to the creation of «*Femmes pour l'Europe*», a group of influential women, wives of European bureaucrats, who aimed at introducing women to the public sphere and demanded the presence of more women in the communitarian institutions (Fondazione Nilde Iotti, 2018). The first «*Femmes pour l'Europe*» meeting took place in 1975 and it was a great success: more than 80 women from every European country committed to the project to protest against women's institutional discrimination. Among those women, there was Fausta Deshormes La Valle, Italian journalist, feminist and UE official, who took the leadership of the group after Ursula. She was the creator of the Information Unit for Women and committed herself to women's European network since the beginning of her career (Di Saracina, 2010; Fondazione Nilde Iotti, 2018). The brave journalist will be one of the mothers of the European Women's Lobby, founded in 1990, an umbrella association that includes thousands of groups and activists from all over Europe. Fausta Deshormes La Valle founded the bulletin «*Femmes d'Europe*», under the auspices of the European Commission, with the view of bringing Europe and women closer. «*Femmes d'Europe*» represented the most important channel of information, which collected all European recommendations, directives and initiatives about gender parity and women's rights (Di Saracina, 2010). Women like Fausta Deshormes La Valle, Ada Rossi, Eliane Vogel-Polsky and Simone Veil gave their precious contribution to the construction and growth of the European Union. Female MEPs, female workers, and women from all parts of Europe have to thank the founding mothers of the EU for the many political conquests acquired through the years and for the directives and provisions that have changed women's life in the European community (Fondazione Nilde Iotti, 2018).

2.2.1 Simone Veil

As the European Parliament President Antonio Tajani described her during the Parliament's tribute to her life, Simone Veil was «the conscience of the EU and defender of women's rights» (Tajani, 2017)². She was born in Nice in 1927, Jewish and proud. Because of her Jewish roots she suffered from persecution during the Second World War. Simone Veil and her family were arrested in 1944 and spent a part of their life in Nazi concentration camps, where she lost her parents and brother. In 1945, Simone became one of the few survivors of the Holocaust and managed to go back to France, where she experienced a period of strong discrimination, isolation and pain due to the loss of her family (Di Saracina, 2010; Fondazione Nilde Iotti, 2018). In 1974, she was appointed Minister of Health, under Valéry Giscard d'Estaing, and radically reformed the health system for what concerns disabilities,

² Simone Veil died at 89 on the 30th June 2017. The tribute to Simone Veil's life took place in Strasbourg on 4th of July, 2017.

contraception, vaccinations and most of all, women's issues. She was the mastermind behind the 1974 new law on abortion, the «*Loi Veil*», which legalized abortion within the first ten weeks and gave all French women the right to decide on their own bodies through Catholic France. Moreover, she was the first woman minister in France, and used her influence to improve women's life, by expanding health coverage and reserved funds for child care; and raising maternity benefits (Di Saracina, 2010).

In 1979, Simone Veil was elected as one of the members of the European Parliament at the first elections by direct universal suffrage. She was a “woman of many firsts”; as the new Parliament appointed her as the new President of the European Parliament, she became the first president of the newly direct elected European Parliament and the first female president of a European institution (Fondazione Nilde Iotti, 2018). During her first speech as President, the strong European idealist highlighted her project of giving the new Parliament a more influential role, so that all citizens could be voiced at European level. In just two years and a half of presidency, she managed to confer to the Parliament an influential political role and increased the President's visibility itself. She was never afraid of advancing her federalist and supranational positions, as she declared her faith in a European Community based on solidarity, well-being and peace. She was a member of the EP for 14 years and fulfilled the role of Chair and Vice Chair of the Liberal and Democratic Group (Fondazione Nilde Iotti, 2018).

From the beginning of the legislature, the European Community's agenda began to focus on women's issues, and the members of the Parliament asked for the appointment of a committee devoted to women's needs. A Parliament majority voted for the creation of an *Ad Hoc* Committee on Women's Rights, whose purpose was to develop proposals for the improvement of women's condition, with a particular attention to the work environment. Yvette Roudy, a French MEP, was appointed as chair of the Committee and presided over the constituent meeting, held in December 1979, which defined the goals and duties of the Committee (Di Saracina, 2010; Fondazione Nilde Iotti, 2018). The Committee, along with the European Commission, had to deal with the many concerns related to the work sphere and the roles of woman in family and society. During Simone Veil's mandate, after the dissolution of the *Ad hoc* Committee, the European Parliament gave life to the first committee of inquiry on women's condition in Europe. In 1984, this committee paved the way for the creation of the Committee on Women's Rights and Gender Equality (FEMM), which is devoted to promoting women in political and economic decision-making making positions (Di Saracina, 2010). Nowadays, the FEMM committee has strengthened the fight against violence, sexual harassment and women discrimination (European Parliament, 2017). As a protector of women's rights, Simone affirmed, in her autobiography “*Une vie*”, her support for gender quotas, and for every positive discrimination and positive action, aimed at reducing inequalities

(Fondazione Nilde Iotti, 2018).

Madame Europe, as she has been called, became the spokeswoman of human rights and the protector of the Community's fundamental values (Fondazione Nilde Iotti, 2018).. She left her mark in the European Union's history as the emblem of the reconciliation, based on peace and fraternity, as she devoted her life to campaign against anti-Semitism and protect women's rights (Fondazione Nilde Iotti, 2018).

2.3 The creation of the Committee on Women's Rights

In 1980, the *Ad hoc* Committee was entrusted with the drafting of a report on women's position in the European Community, with Hanja Maij-Weggen as its relator. In 1981, five hundred women were invited to witness a breakthrough debate in the Plenary, which resulted in the adoption of the «Resolution on woman's condition in the European Community» and the dissolution of the *Ad hoc* Committee on Women's Rights (Di Saracina, 2010). This resolution embraced several pragmatic initiatives and new instruments to boost women's education, health system and legal personality. From the parliamentary debate emerged a detailed analysis on women's occupation in Europe, characterized by a strict separation between a man's job and a woman's job. In this job hierarchy, women were relegated to unwaged activities, while men were the real protagonist of paid employment. This phenomenon, known as occupational segregation, forced women into conditions of discrimination and isolation. Some of the main dispositions of the resolution aimed at achieving a more equal redistribution of work and family responsibilities between men and women, and at developing intervening measures to increase women's socio-economic status, level of education and to increase their political participation (Di Saracina, 2010).

The Maij-Weggen resolution was considered as a pragmatic manifesto of philosophical density, as it emphasized the necessity of providing women with an adequate level of education and professional formation, in order to help women to get access to those areas of jobs haunted by men and men only. In addition to this, the resolution offers a meaningful contribution for the improvement of the health system and the protection of maternity, with the aim of reconciling the work sphere with family's responsibilities (Di Saracina, 2010). Through an intersectional perspective, the manifesto commits itself to protect migrant women and women living in developing countries, with specific economic and social policies. For what concerns the occupational segregation phenomenon, the resolution proposed introducing structural measures, such as the modernization of social services, shorter and more flexible working hours, aimed at allowing both sexes to reconcile work and family life. The Parliament also asked for an enhanced effectiveness of the Council's directives, the development of new

binding instruments and also for the allocation of substantial financial subsidies and the promotion of raising-awareness campaigns to fix the traditional gender unbalance in the work distribution system (Di Saracina, 2010; Woodward, 2010).

The debate on women's condition and the Maij-Weggen resolution highlighted the fact that the European Parliament was about to become the privileged arena for the gender parity project and for the achievement of women's rights in Europe. For the first time in the European history, the European Parliament made an implicit reference to the implementation of "positive actions" for women, which came to represent the European progressive approach of the 1980s (Di Saracina, 2010). In the Resolution, the Parliament affirmed that the EEC action shouldn't limit itself to the adoption of specific directives and provisions but should develop and enact a specific gender policy in every sector of the European Community. Those positive actions, which consisted in the removal of every structural obstacle to gender equality, and the resolution itself contributed to the formulation of the first «Action Programme on the promotion of equal opportunities for women (1982-1985) ». The parliamentary debate fuelled the discourse on equal opportunities and anticipated the revolutionary concept of gender mainstreaming (GM), officially institutionalized with the 1997 Treaty of Amsterdam (Di Saracina, 2010). Indeed, during the 1981 Parliamentary session, the Italian MEPs, Paola Gaiotti De Biase and Vera Squarcialupi, advanced brilliant and progressive considerations on mainstreaming gender, which refers to the adoption of a gender orientation in every public policy, in order to introduce a female reading of the communitarian policies and the process of European integration (Di Saracina, 2010). Actually, despite MEPs' controversial debate around the creation of the *Ad hoc* Committee, this committee paved the way for the creation of Standing Committee, established in 1984, which allowed women to speak up and stand up for their rights (CARDOC, 2013).

Notwithstanding the dissolution of the *Ad hoc* Committee, in July 1981, the European Parliament, upon request of 110 signatories, established the first Committee of Inquiry on woman's situation in Europe (Di Saracina, 2010). The Committee of Inquiry's role was to observe and examine the implementation of the 1981 Resolution and woman's condition in the Member States, with a particular attention to the enforcement of the European directives (CARDOC, 2013). The Committee covered a very comprehensive record of subjects: application of the Directive on equal pay, and the Directives on equal treatment; the remodelling of working hours; vocational training; new technologies and the impact on women's occupation; the revision of the European Social; self-employed women; maternity and parental leave; education and training, and many more. Thanks to Maria Antonietta Macciocchi's proposal, the Committee added another topic, never mentioned in any previous communitarian document, that is the presence of women in decision-making positions (CARDOC, 2013). The research work on this last topic highlighted the phenomenon of women's underrepresentation

in governments, political parties, mass media, diplomacy, universities and enterprises. In the 1980s, on average, women made up less than 10% of ministers and national parliaments (EPRS, 2019). For what concerns European institutions' composition, the situation was not very positive as women made up less than 20% of the European Parliament and no woman had ever occupied the role of European Commissioner. Indeed, the so-called guardian of the Treaties had never witnessed the presence of a woman in its conformation; it was only in 1989, during the Delors Commission (1989-1993) that the first female representatives, Vasso Papandreu and Cristiane Scrivener, entered the European Commission (Di Saracina, 2010).

The «European Parliament resolution of 17 January 1984 on the situation of women in Europe» highlighted the massive gap and the lack of substantial actions by the EEC and Member States to safeguard the *acquis communautaire* in the field of gender equality and equal treatment. Moreover, the Parliament asked the newly elected 1984 Parliament for the permanent institution of a standing committee on women's rights, in order to enact and monitor the equal opportunities policies (Di Saracina, 2010). Fulfilling the hopes of the former MEPs, in 1984 the new Parliament decided to establish the Standing Committee on Women's Rights, whose task was to define and increase women's rights in the Community, monitor the enforcement of the equality directives and to draw up new normative instruments and positive actions for women's occupation. The Committee on Women's rights, presided by Marlène Lenz (EPP), will represent since the beginning a fertile ground for women to contribute and take part to Europe's unstoppable maturation through the development of the equal opportunities policy of the Community (Di Saracina, 2010). The European framework became much more supportive of females, due to an increasing percentage of women in the communitarian institutions. Through the 1980s women experienced a meaningful increase in women's presence in institutional and policy-making positions. The European Commission encouraged affirmative action for its members, while the European Parliament still had a higher percentage of women MEPs in comparison with national parliaments. Moreover, the emerging European transnational network and movements of international feminism increased the hopes and concrete actions for gender equality policy (Hoskyns, 1996; Di Saracina, 2010).

2.4 European Action Programmes on equal opportunities

The action programmes are soft-law instruments used by the European Community to deal with particular political issues, which are beyond the community's competences. During the development of the action programmes on equality, a great role has been played by lobbies, feminist associations, groups of experts and more in particular by the Committee on Women's Rights. Once approved, the action programmes are used as the general framework to develop legislative proposals, funding of projects and new initiatives (Di Saracina, 2010; Woodward,

2010). The first action programme to promote equal opportunities for women was approved with the «Council Resolution of 12 July 1982 on the promotion of equal opportunities for women», in which the Council praises the Programme's objectives and highlights:

« [...] the stepping up of action to ensure observance of the principle of equal treatment for men and women and the promotion of equal opportunities in practice by positive measures» (EEC, 1982).

The first goal of the 1982-1985 Action Programme was to consolidate and expand the principle of equal opportunities, ratified in the 1970s EEC directives, and to reinforce the rights of individuals (Di Saracina, 2010; Woodward, 2010). An important advancement was the introduction of a monitoring system and counter infraction measures, set up for the transposition of the Community's *acquis* in Member States' jurisdictions. As a matter of fact, the first part of the text insisted on the necessary revision of national legislations and social security systems, which were often an obstacle to women's full employment, maternity and parental leave, in order to reconcile professional life and family. The second set of dispositions promoted the enactment of a strategy of positive actions, to overcome all kind of hindering factors to equal opportunities, such as traditional thinking and the naturalization of patriarchy. The first action programme (1982-1985) pushed for the implementation in Member States' national legislations of a set of positive actions, which consisted in specific policies on the diversification of career choices for women, employment of new technologies and improvement of women's positions in advisory and decision-making bodies (Di Saracina, 2010).

With the «Council recommendation of 13 December 1984 on the promotion of positive action for women 84/635/EEC», the EEC officially recognized the enforcement of positive actions as one of the fundamental instruments of their equality policy (Di Saracina, 2010). More in particular, the Council recommended:

« [...] to adopt a positive action policy designed to eliminate existing inequalities affecting women in working life and to promote a better balance between the sexes in employment, comprising appropriate general and specific measures, within the framework of national policies and practices, while fully respecting the spheres of competence of the two sides of industry, in order:

(a) to eliminate or counteract the prejudicial effects on women in employment or seeking employment which arise from existing attitudes, behaviour and structures based on the idea of a traditional division of roles in society between men and women;

(b) to encourage the participation of women in various occupations in those sectors of working life where they are at present under-represented, particularly in the sectors of the future, and at higher levels of responsibility in order to achieve better use of all human resources» (EEC, 1984).

The adoption of positive actions represented a breakthrough change in the European Community's gender equality policy. Many structural and naturalized obstacles prevented women to be considered as equals in the labour market (Woodward, 2010). Hence, the EEC decided to implement targeted strategies for the benefit of women, which were previously disadvantaged in comparison to men, like professional training and the promotion of women's skills. Positive action aims at developing policies and norms, by focusing on the specifics characteristic of women and ends the unnecessary continuous comparison with men. It includes many initiatives, from vocational training to targeted employment clauses, thanks to which the under-represented gender is hired (Woodward, 2010).

The European Commission reiterated and confirmed the main arguments and dispositions of the 1982-1985 Action Programme in the second «Medium Action Programme on the promotion of equal opportunities for women 1986-1990», among which figured the enforcement of existing normative provisions, professional formation and education, occupation, new technologies, social security and protection, allocation of professional and family responsibilities, awareness-raising campaigns and positive evolution of mentalities. Moreover, it established networks reserved to occupation and the enforcement of the equality directives (Di Saracina, 2010; Woodward, 2010). The European Commission highlighted the presence of good practices put in place by Member States towards a promotion of equal opportunities for women and men. Moreover, the Community executive had managed to build up a gender equality network through conferences and meetings, dedicated to gender parity in the occupational field. One of the most important consequences of those symposia were the transnational networks promoted by the Commission, such as the Law Network, which dealt with the monitoring of the enforcement of the communitarian directives in national jurisdictions and the Network for Women's Occupation, which recorded data and statistics on women's employment in Europe (Di Saracina, 2010). In addition to this, the European Commission, along with the Committee on Women's Rights gave life to a project of supranational harmonization of women's associations of Member States, which will lead to the birth of the European Women's Lobby in 1990, promoted by the European Commission. One of the founding mothers of the European project, Fausta Deshormes La Valle, played a major role in creation of this umbrella association, which became a supervisory instrument on communitarian and national policies in gender parity matters (Fondazione Nilde Iotti, 2018).

The second action programme took another step forward towards equal opportunities because of the adoption of new normative provisions. Indeed, after almost 10 years of normative silence, in 1986, two new directives extended the *acquis communautaire* on gender equality (Di Saracina, 2010; Woodward, 2010). The «Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in

occupational social security schemes» aimed at eliminating gender discriminations in occupational social security schemes (Woodward, 2010). Gender differences were very recurring in Member States' social security schemes for what concerns the area of pensions, in which married women were frequently disadvantages, or for the financing of sickness benefits and invalidity benefit (Di Saracina, 2010).

During the second half of the 1980s, the EEC's normative efforts concentrated upon self-employed women, as for example women working in the agricultural sector. The Self-employed women directive (Council Directive 86/613/EEC) refers to two main categories, which are self-employed workers and their spouses and aims at achieving «the absence of all discrimination on grounds of sex, either directly or indirectly, by reference in particular to marital or family status» (EEC, 1986; Woodward, 2010). Despite the fact that the 86/613/EEC Directive introduced necessary measures to reduce gender discriminations in this sector, it however delegated to Member States the responsibility to examine whether and to what extent during pregnancy or maternity, self-employed women or the wives of self-employed men had the right to access social security measures like cash benefits and temporary replacements (EEC, 1986; Woodward, 2010). Notwithstanding the lack of concreteness of this last disposition, the 1980s normative advancements filled the legislative gap, that had caused many women to be disadvantaged and excluded from the Council's directives in matters of equal opportunities. Indeed, as Catherine Hoskyns affirmed that the 1986 directive «thought law to draw a tighter boundary in the family business between domestic and productive work» (Hoskyns, 1996).

Through the 1980s, the stimulus to equality policy came in part from to the vivid debate between women activists and researchers from all over the world. Many women's studies departments were set up in important universities and became a privileged meeting point for women to develop demands for equality policy (Di Saracina, 2010). In the Europe, French feminists, Scandinavian feminists, British feminists and other activists begun to rally and discuss in international conferences and events. The 1980s Action Programs were focused on the positive action approach and treated women only as economic subjects, integrated in the work environment. In the preparatory work of the Third Action Programme 1991-1995, the European Community developed policies related to all sectors, embracing not only the economic nature of women, but also their social life, following the principal Nineties' trend of the construction of a "Social Europe" (Woodward, 2010; Hubert, Stratigaki, 2016). The context of drafting of the Third Action Programme was completely new, the main European goal was the realization of the Internal Market, designed to ensure a better competitiveness in the Community's economy. This Programme focused on the consolidation of the existing *acquis communautaire* in the equality field, the promotion of professional training and a better

coordination between the European institutions and Member States (Di Saracina, 2010; Hubert, Stratigaki, 2016). The new strategy was more global and integrated; it was designed to realize a full gender equality in every policy sector, at the national and communitarian level. The European Commission set up an integrated initiative, the so called «Now - New Opportunities for Women», financed by the European Social Fund, which dealt with all the obstacles and boundaries that were preventing women, and more in particular women living in underdeveloped areas, to have full access to the work environment. The social nature of the European Community's approach is clear in the objectives of the Programme itself, which are extrapolated from "The Community Charter of the Fundamental Social Rights of Workers", adopted on 9 December 1989 (Di Saracina, 2010). Among those principles, the Charter established an increased security for pregnant workers, the reconciliation between family and work responsibilities and the protection of men and women's dignity.

2.5 Gender in the Social Europe

The Nineties were a decade of massive legislative reconstruction for women, during which the European Community did not only produce most of EU norms, normative provisions and soft-law instruments regarding gender equality, but it also extended the *acquis communautaire* on gender equality through the adoption of the Treaties of Maastricht (1992) and Amsterdam (1997), which renewed the communitarian equality policy and redefined the conceptualization of gender for all Member States, except for Great Britain, who decided to opt-out (Woodward, 2010). Those treaties had modified the internal structure of the European Community and had given life to new fundamental beliefs: the concept of EU citizenship, the Social Protocol, and a legal *raison d'être* for pursuing discrimination. The idea of picturing women as mere economic subjects or employees was coming to an end, as the European Community defined women as more than just workers, mothers or wives; they were now considered as citizens of Europe (Woodward, 2010). Meanwhile, civil society grew further, and many international players and European social networks became more active and stable during this decade. For instance, the European Women's Lobby became the supranational bridge for every women's association in Europe, while others civil society organizations provided a link between non-governmental actors, from youth to the elders (Woodward, 2010).

The Treaty of Maastricht, signed on 7 February 1992, was the founding momentum of the European Union and it reconstructed its fundamental structure which was reformed only in 2009 with the adoption of the Lisbon Treaty (Hoskyns, 1996; Di Saracina, 2010; Woodward, 2010). The main advancement in the field of gender equality was brought by the social values proclaimed in the Protocol on Social Policy and the Agreement on Social Policy annexed to the Treaty on European Union. The so-called Social Chapter extended the modality of qualified

majority to certain fields of social policy, while it preserved unanimity voting for the most delicate policies. Indeed, qualified majority was extended to equal opportunities; working conditions, information and consultation and integration of those individuals, who never had access to the labour market (Woodward, 2010). As for the pursuit of gender equality, the Treaty of Maastricht, inspired by the «The Community Charter of the Fundamental Social Rights of Workers», advanced the principle of equal pay between male and female workers (art. 6) as defined in the 1957 Treaty of Rome, and added a paragraph which legitimized, without any binding provision, the implementation of positive action in favour of women:

Art. 6

«1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work is applied.

2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. This Article shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for women to pursue avocational activity or to prevent or compensate for disadvantages in their professional careers» (EC, 1992).

In the lively path towards the construction of a Social Europe, the Council of Ministers approved an important directive to safeguard the health at work of pregnant workers and women who had recently given birth, based on the Social Chapter's dispositions and on the Single European Act (1986), which had also extended qualified majority to all those norms aimed at improving the work environment for what regards safety and health of individuals (Di Saracina, 2010; Woodward, 2010).

2.5.1 Maternity and Parental Leave

The Pregnant Workers Directive (Council Directive 92/85/EE) establishes minimum requirements to safeguard safety and health of pregnant women and women who have recently given birth or are breast-feeding in the work environment. It also introduced a legal right to no less than 14 weeks maternity leave, before and/or after childbirth, in conformity with national legislation (Di Saracina, 2010; Woodward, 2010). The duration of maternity leave was one of the most debated topics in national legislation and was subject to a lot of variation across Member States; therefore, the Council limited its action to the establishment of a mandatory minimum common standard, which in comparison to some countries was a step behind. The Council also entrusted the Commission with the drafting of guidelines for the evaluation of chemicals, industrial processes, limits to physical and mental health which could have endangered the safety and health of pregnant workers. Those guidelines were necessary for the possibility of suspending any work activity in dangerous circumstances for pregnant women or women, engaged in breast-feeding (Di Saracina, 2010).

In the 1990s multiple efforts by the renewed European Union were directed to the reconciliation between family and professional sphere and a more equal distribution of parental duties (Hoskyns, 1996; Woodward, 2010). After the establishment of the maternal leave minimum standard, the Council approved the so-called Parental Leave Directive (Council Directive 96/34/CE) aimed at achieving an increased equality in the distribution of domestic work and family duties (Woodward, 2010). In 1996, with the Parental Leave Directive, the European Union legitimized the framework agreement set up by Union of Industrial and Employers' Confederations of Europe (UNICE), European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP) and the European Trade Union Confederation (ETUC) (Di Saracina, 2010; Woodward, 2010). The question of parental leave represented a key element of the reconciliation process, since it established the right of both parents to voluntary and abstain from work for the birth or adoption of their child, even at the same time. The duration of the period of absence from work was fixed from a minimum of 3 months to a maximum of 8 years, in conformity with national legislation. As the 1992 Directive, the 1996 Directive was limited in its scope, as it did not impose a common measure for all Member States, but it established a minimum common standard, which Member States could choose to maintain or to substitute with more generous regulations (Woodward, 2010).

In the equality field, the EU also committed itself to the protection of human dignity in the work environment, to protect female workers from sexual harassment and physical violence which had always affected women's fundamental rights and access to work (Woodward, 2010). From the 1986 «European Parliament's Resolution on Violence against Women» and the «Council Resolution of 29 May 1990 on the protection of the dignity of women and men at

work» (90/C 157/02), European institutions invited Member States to adopt a legal definition of sexual harassment and to promote awareness-raising campaigns to prevent sexual harassment and protect human dignity (Di Saracina, 2010). After almost ten years after the European Commission's directive proposal, in 1997 the Council approved the Burden of Proof Directive (Council Directive 97/80/EC), which required Member States to modify their legal systems for a fairer distribution of the "burden of proof" in cases of workers' accusations against the employers to prevent sex discrimination. As a matter of fact, the *actori incumbit probatio*³ was complemented by the defendant's obligation to prove that no violation on the grounds of sex discrimination had occurred (Di Saracina, 2010).

2.6 Historical context of the appearance of Gender mainstreaming

The 1990s witnessed the emergence of an intense debate on the type of measures and strategies to achieve gender equality. Many of the cases and sentences by the European Court of Justice reflected a conceptualization of gender equality that its roots in the patriarchal system, since it used man as the principal yardstick. However, feminist movements and activists highlighted the unidentical nature of women and men, considered different, but of an equal value (Woodward, 2010). The maximum 'De Jure does not equal De Facto' anticipated the progressist conceptualization of equity, in the sense of providing different individuals of a fair treatment, according to their needs and differences. Moreover, in the European context formal equality had often encouraged unexpected consequences of inequalities; therefore, it appeared almost time to move towards substantial equality (Woodward, 2010).

The Third Community Action Programme for Equal Opportunities (1991-1995) introduced the concept of mainstreaming gender and acknowledged the lack of concreteness of the standing policies on gender equality and the negligence of Member States to comply with communitarian legislation. Despite the fact that they were still marginalized in the labour market and decision-making positions, through the 1990s, women found new channels to voice their demands (Woodward, 2010; Hubert, Stratigaki, 2016).

The communitarian commitment on gender equality shifted towards a more global and integrated approach, as a consequence of the European enlargement and the entry into the Community of Finland and Sweden into 1995, alongside Austria (Di Saracina, 2010). The long history of dedication toward gender equality and gender mainstreaming of Finland and Sweden inspired a revolutionary change of attitude into the hearts of European women and decision-

³ *Actori incumbit onus probandi* means 'the burden of proof is on the complainant.' This legal principle establishes that the complainant must show proof of his claim in order to win the case.

makers. In 1994, the Swedish government designed significant measures and key actions for the implementation of the gender perspective into policies, such as national statistics, professional courses for ministers and political advisors and the obligation for each Cabinet Commission to produce a gender-assessment evaluation in every political sector (Di Saracina, 2010). Moreover, the entrance of Sweden and Finland increased the presence of women in the European Parliament, which will rise to 30% after the 1999 Parliamentary elections, thanks to the high percentage of female Swedish and Finnish MEPs (EPRS, 2018). In 1999, the percentage of Swedish female MEPs in the EP was 50%, while the Finnish women MEPs 43,8% (Freedman, 2002, as cited in Di Saracina, 2010; EPRS, 1999).

The Santer Commission (1995-1999) increased its efforts towards equal opportunities and showed a strong interest in the gender parity field. Moreover, the Santer Commission registered the record presence of five women: Anita Gradin, Edith Cresson, Monika Wuld-Mathies, Emma Bonino and Ritt Bjerregaard (Di Saracina, 2010). In 1996, the Commission led by Santer established the High-level Commissioners Group on equal opportunities, which had the task of stimulating discussions and assess the level of gender equality, achieved by communitarian actions (Di Saracina, 2010).

The Fourth Action Programme (1996-2000) developed a more comprehensive outline of mainstreaming equality. Mainstreaming equality implies to always bear in mind the equality area of interest in all policies and sectors, and therefore develop initiatives and concrete actions to promote equal opportunities in every sector. Gender mainstreaming aims at achieving the adoption of a gender perspective for all communitarian policies through gender perspective evaluation, ownership process and the implementation of mainstreaming tools (Bennett, Booth, 2002; Woodward, 2010)

In the 1998 report «Gender Mainstreaming, Conceptual Frameworks, Methodology and Presentation of Good Practices», the Council of Europe gave the meaning of gender mainstreaming:

«Gender mainstreaming is the (re) organization, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and all stages, by the actors normally involved in policy making» (Council of Europe, 1998).

The gender mainstreaming approach emerged after the United Nations (UN) Third World Conference on Women in Nairobi, in 1985 (Woodward, 2010; Hubert, Stratigaki, 2016; EIGE, 2016). This idea of mainstreaming equality started to spread in EU Member States, as the European Commission took part in the preparatory works for the UN Conference on Women in Beijing in September 1995. After the 1995 Conference, gender mainstreaming was one of the points of strength of the 'Platform for Action', to which national states had given their

consent (Bennett, Booth, 2002). Moreover, the main innovation of the Beijing Platform for Action (BPfA) was the section dedicated to ‘Women in Power and Decision-Making’, which aimed at achieving gender equality in decision-making and an increased participation of women in power relations and institutions (Bennett, Booth, 2002). During the parliamentary debate on women in decision-making (1992-1993), the European Parliament had already asked for an increased diversification of women’s occupation possibilities, to broaden their access to every sector, at every level, in the labour market. Moreover, MEPs insisted on expanding women’s opportunities through the allocation of funds by the European Social Fund, reserved to endorsement courses, management training and professional education (Di Saracina, 2010). This particular field has always been at the heart of the EU efforts to achieve gender equality; it was already introduced through the Third Action Programme on Equal Opportunities between Women and Men (1991-1995) and by the «Council Recommendation of 2 December 1996 on the balanced participation of women and men in the decision-making process» (96/694/EC).

The 96/694/EC Recommendation invites Member States and the European institutions to develop a comprehensive strategy aimed at the integration of women in decision-making bodies, through legislative and regulatory measures, and it also required the production of statistics, quantitative and qualitative studies to better understand the hindering factors (Di Saracina, 2010). From that moment on, the question of women’s presence in decision-making has been one of the core issues of the EU strategy, which is still elaborating measures and tools to increase the percentage of women in leadership positions in the economic sector and the political field, as in the Strategy for Equality between Women and Men 2010–2015, and the latest European Pact for Gender Equality 2011–2020 (EIGE, 2015).

An equal participation of women and men to decision-making process appeared necessary, not only to establish a fairer distribution of opportunities, but also to achieve enduring changes in the logic of men and women (European Parliament, 2016). As a matter of fact, women’s empowerment in politics was also one of the areas of interests of the mainstreaming strategy described in the Fourth Action Plan, which included the allocation of funds for equal opportunities initiatives, a fairer partitioning of resources to help disadvantaged women, the improvement of gender balance in decision-making, and the reconciliation of work life and family duties (Woodward, 2010). The latest Action Plans and the mainstreaming strategy were essential for the beginning of an intense debate on female empowerment and their role in politics and decision-making. In 1992, the European Commission sustained the creation of network of experts, called Women in decision-making, which had the role of evaluating women’s status in Member States’ power structures and recording the strategies adopted by national governments to increase women’s presence in power positions (Di Saracina, 2010). During the same period, this influential network, along with the Commission’s support,

organized the Women in Power Summit, held in Athens, which led to the drafting of the Declaration of Athens (Di Saracina, 2010). This important document raised people's awareness about the under-representation of women in power structures and advanced its demands for fairer redistribution of public power and political power between men and women. The European Community's efforts continued in 1996 during the European Summit on Women and politics, held in Rome, which culminated with the Charter of Rome, which defined the under-representation of women in institutional bodies as one of the symptoms of the democratic deficit in standing institutions. The Charter reaffirmed the necessity of stronger measures to support the communitarian equal opportunity policy and lauded the latest gender mainstreaming theorization (Di Saracina, 2010).

Gender mainstreaming strategy complements and overcomes the outdated nature of the affirmative action approach and brings gender awareness into the mind of every worker, policy-maker and institution (Bennett, Booth, 2002; Di Saracina, 2010; Woodward, 2010; EIGE, 2016). This strategy presupposes the implementation of mainstreaming techniques or tools, such as gender-targeted training, gender balance statistics and equality support mechanisms. We could think of this strategy as dual approach and complementary strategy to the already existing equal opportunities policy and gender parity strategies (Bennett, Booth, 2002).

Thanks to the institutionalization of gender mainstreaming, the policy of equal opportunities abandons its socio-economic double significance and embraces a wider meaning, by becoming one of the highest scopes of the European Union's integration process (Hafner-Burton, Pollack, 2000). The mainstreaming gender's principles were enforced by the 1997 Treaty of Amsterdam, which introduced several dispositions empowering EU authority on equal opportunities' matters. The Treaty of Amsterdam, signed on the 2nd of October 1997, came into force in 1999 and increased the democratic legitimacy of the communitarian institutions, by expanding the powers of the European Parliament, heart of the EU democracy (Hafner-Burton, Pollack, 2000; Di Saracina, 2010; Hubert, Stratigaki, 2016). The Social Protocol, annexed to the Treaty of Maastricht, was modified with a view to establish an explicit legal basis for legislation on gender equality in the field of occupation and to introduce a provision, legitimizing positive discrimination for women. The Treaty legitimized all those principles developed by the European Community's gender equality policy from the 1970s and deeply modified the outdated elements in the text of Art. 119 of the Treaty of Rome (Hafner-Burton, Pollack, 2000). Art. 141 of the Treaties establishing the European Communities extended the principle of equal pay from equal works to works of "equal value", as anticipated by the Defrenne case, by broadening its scope (Di Saracina, 2010). Moreover, the Treaty confers upon the Council the power to design measures and concrete actions to ensure the application of equal treatment, in women's occupation and employment-related matters. This

provision, contained in art. 141, conferred upon the Council the possibility to implement normative acts and regulation, which are binding upon Member States' national legislations (Di Saracina, 2010). Art.141 also legitimized the adoption of positive or affirmative actions, with the aim of benefiting the under-represented sex. Since the enforcement of the Treaty of Amsterdam, the application of the concept of equal opportunities between sexes has overcome its economic and work-related connotation and has become a key goal of the EU strategy, integrated in every policy sector of the Community (Di Saracina, 2010).

Art. 141 established that:

«1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, “pay” means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 189b, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice 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 specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers» (EC, 1997).

2.6.1 The European Union enlargement

During the 2000s, gender mainstreaming went through a fall back because of two political-economic emergencies that set back the path towards gender for a while, the EU enlargement processes and the 2008 economic crisis (Hubert, Stratigaki, 2016). As a result of the weakening of gender equality policy, the European Commission embraced the concept of gender parity as part of the broader anti-discrimination policy and as one of the fundamental rights. However, in 2006, the creation of the European Institute for Gender Equality (EIGE) ensured the fulfilment of research work and production of statistics on equal opportunities. This

European autonomous institutional body is completely devoted to the gender equality and plays an important role for the implementation of gender mainstreaming (Hubert, Stratigaki 2011, as cited in Hubert, Stratigaki, 2016). Through the 2000s, some obstacles in the field of equal opportunities started to emerge, due to the 2004 EU fifth enlargement, with the entry of eight countries from Central and Eastern Europe, along with Malta and Cipro. The process of European expansion proceeded in 2007 with the entry of Bulgaria, Romania and culminated in 2013 with Croatia. In the early 2000s, while the Council approved the Fifth Action Programme on gender equality, the European Commission developed the Community framework strategy for equality between women and men (2001-2005), which reiterated the commitment towards gender mainstreaming in all Community policies, with the aim of reducing inequalities (Hubert, Stratigaki, 2016). The Framework Strategy prioritized the lifelong learning practices in the occupational sphere and the improvement of communitarian structural funds' implementation, which encouraged the expansion of the gender equality network and the exchange of the so-called "good practices" among Member States and applicant States (Di Saracina, 2010).

The 2004 EU enlargement to Central East European countries caused a strong reduction in the communitarian budget and necessary administrative reforms to maintain the level of effectiveness of gender equality policies (Hubert, Stratigaki, 2016). The greatest concern was that of the status of women in Central East Europe, which had been deeply marked by the consequences of almost 40 years of socialist regime. The equality pattern in countries like Estonia, Hungary, Latvia, Lithuania, Slovenia followed the soviet model, based on a hierarchical gender system, which naturalized and legitimized women's subordination to men (Di Saracina, 2010). Those countries had been characterized by a long wave of occupational segregation, which marginalized women to underpaid sectors. Women's political actions were strictly monitored, and women's activism was vetoed by the government, in order to prevent the spread of European feminism into socialist structures (Di Saracina, 2010). Moreover, after the fall of Communism in 1989, those countries experienced the uprising of nationalism, which led to the institutionalization of the patriarchal system and the naturalization of women in their traditional roles, as only mothers and wives. However, as established by the Copenhagen requirements in 1993, the applicant countries must respect the principles and values of the European Union, such as democracy and the respect of human rights, which includes the recognition and protection of gender equality between women and men. Since the initial stages of the EU enlargement, the European Commission highlighted that the necessary condition of membership to the EU was the loyal transposition of communitarian legislation into national systems, which meant also the adoption of the 70s and 90s equality directives (Di Saracina, 2010; Hubert, Stratigaki, 2016).

The promotion of networking and exchange of good practices by the Community Framework Strategy for equality between women and men and the Fifth Action Programme helped candidate States to make use of good actions towards gender balance, such as the «When this is a man» initiative of the Polish government, which encouraged men to take part to the promotion of equality process and stood up against those gender types and stereotypes haunting the labour market. All the emerging projects strengthened the international dialogue on gender equality and Europe witnessed the multiplication of pro-equality initiatives, such as the «Modern men in enlarged Europe: developing innovative gender equality strategy», aimed at bringing the participant countries closer to the achievement of the European model of gender parity (Di Saracina, 2010). Moreover, the European Commission systematically arranged for the launch of international screening, bilateral discussions, conferences to raise a gender awareness into the applicant countries and mobilize the governments' action. By the end of 2002, this induced process led to the gradual adoption by Central Eastern Countries of the communitarian *acquis* on gender equality (Di Saracina, 2010). On the eve of the EU 2004 enlargement, the candidate States had accomplished the recognition in their judicial national systems of the principles of formal equality, enshrined in the gender equality directives (Hubert, Stratigaki, 2016). However, the formal adoption of a normative provision does not always preclude Members States from committing violations or disregarding certain values. *De facto*, the juridical recognition of a norm is not directly linked with its real, practical enforcement, which presupposes a development of a culture of parity, based not only on communitarian policies, but also on the fundamental values of the European Union (Di Saracina, 2010).

Concurrently with the EU enlargement process, through year 2000, gender equality law was enriched by the ratification of the Charter of Fundamental Rights of the European Union. The adoption of this Charter represented a milestone for the affirmation of human rights and the values of the European project. The Charter forbids every form of discrimination, including sex discrimination (art. 21) and establishes the observation of the principle of gender equality in every sector, along with the promotion of the positive action approach (art. 23)⁴. In addition to this, the Charter safeguards family's rights, the reconciliation of family life with the occupational sphere and the right to maternity and parental leave (art. 33).

At that historical moment, the Charter was not a legally binding document. Despite its non-compulsory nature, all European Union bodies, including the European Court of Justice, resorted to the Charter as an official document on communitarian rights, which had to be enforced in European countries (Di Saracina, 2010). It will be only in 2009, with the ratification

⁴ Art. 23: «Equality between women and men must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex» (EC, 2000).

of the Lisbon Treaty, that the Charter will achieve the status of a binding source of the European Union (art. 6(1) TEU, as amended by the Lisbon Treaty).

Human rights have always been at the heart of the core values of the European Union and of its external policy. At the end of the 1990s, the European Commission launched two main projects regarding human rights and women's rights, addressed not only to its Member States, but also to the applicant States. The first project was related to the protection of women and children from human trafficking and sexual exploitation, the STOP program (Sexual Trafficking of Persons). This project was the first real commitment to stop sex trafficking of people and it financed consistent research work on this sensitive matter, while also promoting a better formation for judges, immigration consultants and members of organizations for victims' assistance (Di Saracina, 2010). The Brussels Declaration of 2002, issued at the European Conference on Preventing and Combating Trafficking in Human Beings, is considered as the official document of the European Union on human trafficking. It highlighted the urgency of coordinating a communitarian policy to fight off human trafficking. Recently, the EU has adopted a more integrated gender-targeted policy framework, that produced the Directive 2011/36/EU on combating and preventing trafficking in human beings and protecting its victims (Di Saracina, 2010; Woodward, 2010).

The European Commission undertook meaningful initiatives also against domestic violence, which was another relevant problematic of the EU enlargement. Slovakia, Romania, Estonia had all reported a very concerning percentage of cases of domestic violence, and very few initiatives had been conducted from the Eastern government to deal with this issue (Di Saracina, 2010). In 2000, the European Union promoted a new project called DAPHNE (2000-2003), whose main task was to design preventive measures fighting violence against children and women. This program was open from the very beginning to the applicant countries and was renewed in 2004, with a view to help those countries meet the requirements for EU membership. DAPHNE II (2004-2008) focused on a wider and improved theorization of violence, which included physical and psychological domestic violence, sexual abuse, domestic harm, harassment and any form of discrimination on the grounds of sex (Di Saracina, 2010). The European Union committed to the defence of victims of acts of violence by issuing legally binding provisions to strengthen victim's rights in the Directive 2012/29/EU. This new directive introduced minimum standards on the rights and protection of victims for Member States and promoted gender-specific support initiatives, such as the establishment of shelters for domestic violence victims and sexual acts victims (Woodward, 2010). The main innovation brought by the Directive is the «individual assessment mechanism» which has the competence to grant specific measures for the tutelage of victims at all stages of the criminal proceeding (EU, 2012). In 2011, the European Union adhered to the Council of Europe Convention on

Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention (Di Saracina, 2010, EIGE, 2016; European Parliament, 2016).

The second regress for gender mainstreaming was a consequence of the 2008 economic crisis, which prioritized fiscal reconstruction. Moreover, the 2008 occupational situation offered portraits of unemployed workers, job insecurity and limited choices for workers, that led to an increasing attention towards men (Hubert, Stratigaki, 2016). Moreover, inequalities emerged also among women themselves, as new “categories” of women started to emerge. For instance, highly qualified women had enhanced possibilities and forgot that gender inequalities even existed, meanwhile, disadvantaged women, divorced women, single women felt the all the weight of the global recession on their shoulders (Hubert, Stratigaki, 2016).

However, the *acquis communautaire* on gender equality was further broadened by the adoption of the Directive 2004/113/EC, which established the principle of equal treatment for the supply of goods and services. For the first time ever, an EU Directive acknowledges that gender inequalities and sexual abuses also occur beyond the work environment, and prevent women to fully have access, on the same foot as men, to the socio-economic world (Di Saracina, 2010; Woodward, 2010).

In 2006, through the Recast Directive, the European Community managed to gather all normative provisions that had built up the European gender equality policy and meaningful case law of the European Court of Justice regarding the principle of gender equality (Di Saracina, 2010). The 2006 Directive includes clarifications on the main concept of gender equality law, such as direct and indirect discrimination, harassment, domestic violence; and it contains normative provisions on equal pay, equal treatment in employment and work environment, as well as the promotion of gender mainstreaming, international discussion, debates with NGOs, and the introduction of dispositions regarding reparative measures and sanctions (Brzezińska, 2009). The New Equal Treatment Directive aimed at simplifying the existing *acquis communautaire* on the equal treatment of women and men. With a view to renewing and ensuring an improved enforcement, this directive has gathered the Equal Pay, the Equal Treatment, the Occupational Security and the Burden of Proof Directives (Brzezińska, 2009).

With the entry into force of the Treaty of Lisbon, in 2009, which amended the Treaty on European Union (2007) and the Treaty of Rome (1957), the non-discrimination principle and equality between women and men were incorporated among the values of the European Union (Article 2 TEU). Moreover, the Treaty reiterated that the Union must «combat discrimination and promote equality between women and men» (Article 3 TEU). The Lisbon Treaty explicitly highlights the obligation to enact gender mainstreaming for the Union and its Member States (Brzezińska, 2009; Di Saracina, 2010).

Despite all of the damages brought by the administrative changes and cutting of gender-related budget, due to the enlargement and the global recession, the dual approach on gender equality has maintained its commitment and value in the pursue of gender equality in all policies' sector. Even today, gender mainstreaming still represents the most ground-breaking approach, since it managed to lobby on policy-making powers to implement the gender perspective all policies, with a view to deconstruct gender hierarchies. The temporary setback of gender equality has not threatened the rightfulness and power of EU gender equality law, gender mainstreaming approach and affirmative action, which have all played a major role in the achievement of meaningful improvements at the national and EU level (Hubert, Stratigaki, 2016).

2.6.2 What is gender mainstreaming?

The Treaty of Amsterdam did not only provide a legal basis for European gender equality policy, but also institutionalized the gender mainstreaming approach, which became the preferential instrument in the communitarian equal opportunities policy (Di Saracina, 2010). The European Commission officially adopted gender mainstreaming in the Communication of 21 February 1996 «Incorporating equal opportunities for women and men into all Community policies and activities» (COM 1996 67). In this Communication, the Commission has defined gender mainstreaming as:

«a new partnership between men and women to ensure that both participate fully on an equal footing in all areas and that the benefits of progress are evenly distributed between them. » (COM 1996 67).

After the 1996 Communication, the Commission adopted the so-called dual approach, with a view to enforcing gender equality (Di Saracina, 2010; Woodward, 2010, Hubert, Stratigaki, 2016). This strategy is based on the inclusion of the gender perspective in every policy, meanwhile, it does also introduce empirical and pragmatic initiatives to reduce and eradicate gender inequalities (EIGE, 2016). As matter of fact, gender mainstreaming has been defined as complementary strategy which does not replace gender-specific policies and initiative, gender equality law, or specific government's actions to reduce the gender equality gap. The European Parliament adopted the 1998 Council of Europe's definition as its own, which highlighted the measures of the GM strategy goals, such as the organization, improvement, and evaluation of every policy, with a strongly gender perspective as the guiding framework. It will be only in 2008 that the definition developed by the European Commission Directorate General for Employment, Social Affairs and Equal Opportunities will be adopted as the common working definition for all European institutions (Di Saracina, 2010; Woodward, 2010):

«Gender mainstreaming is the integration of the gender perspective into every stage of the policy process - design, implementation, monitoring and evaluation - with a view to promoting equality between women and men. Gender mainstreaming is not a goal in itself but a means to achieving equality. Similarly, it is not concerned only with women, but with the relationship between women and men for the benefit of both. Specific actions may be required in addition to remove those inequalities between women and men which have been identified» (European Commission Directorate General for Employment, Social Affairs and Equal Opportunities, 2008).

Gender mainstreaming consists in the critical examination and review of policies, to make sure that the gender perspective is contemplated in all the steps of EU actions and normative production. All new policies are analysed from the very early stages until the very last one, from «defining, planning, implementing to checking (monitoring and evaluating) », to make sure that the policy does not cause any discriminatory effect on one of the sexes (EIGE, 2016). Some of the most implemented instruments are the indicators and indexes of gender equality, which evaluate policies' drafts through Impact Assessment procedures, and gender budgeting (Woodward, 2010). The GM is made up of four stages: «measurement and monitoring, implementation, creating awareness, ownership and understanding, and gender proofing and evaluation» (European Commission, 2008).

The European Institute of Gender Equality has drawn up the gender mainstreaming model, which is a set of guidelines and steps to fully comprehend how to integrate the gender dimension into the development of policies and communitarian programmes (EIGE, 2016). Gender mainstreaming is implemented through valuable set of methods and tools, such as gender analysis, gender audit, gender budgeting and many more gender-sensitive instrument which allows policies and initiatives to meet gender equality's goals and requirements (EIGE, 2016). The first step of the gender mainstreaming's cycle is the gender analysis process, which consists in the collection and thorough comprehension of statistics and information to incorporate the gender perspective into policies and proposals. Moreover, subsequently, through the implementation of awareness-raising initiatives, GM promotes an increased communication and debate on gender issues with gender-sensitive language, such as public conferences and events, lobbying and advocacy, communication initiatives and social networks, employment of media and local initiatives for a specific community (EIGE, 2016; EIGE, 2019). One of the strongest GM's tools is gender budgeting, a specific approach to budgeting, which consists in the assessment of the overall budget and budgetary policies and integrates gender perspectives and gender equality's goals into the budget's reconstruction. In order to fight imbalances, GM has also developed the gender procurement tool, which consists in the integration into public contracts of gender equality clauses, by ensuring a better implementation of the principles of equality and non-discrimination (EIGE, 2016; EIGE, 2019).

There are other complementary measures that constitutes the gender mainstreaming model, such as gender evaluation, gender planning, and quantitative tools, like the gender indicators and gender statistics, whose task is to monitor the imbalances between women and men in all fields and to record the changes in their relations in certain policies' sectors (EIGE, 2019).

2.7 Where are we now?

It is undeniable that gender inequalities still exist in the European Union, however during the past decades, the European institutions have tenaciously worked for the achievement of an improved gender balance in the Community. Fifty years of struggle and commitment by the EU have led to the production of the EU Gender Equality Law, the gender mainstreaming approach, the dual approach of the European Commission, and gender-targeted initiatives to increase women's presence in every sector (Hubert, Stratigaki, 2016). The strong legal basis, represented by the European Union Gender Equality Law, and the experience, instruments and mainstreaming process have provided gender equality policy with powerful means to ensure the enforcement of its principle at the EU and national levels. As a matter of fact, EU strategies have a great power to affect and shape national policies through the implementation of binding directives, soft-law initiatives and the exchange of best practices, which allows Member States to get closer to gender equality's requirements (Hubert, Stratigaki, 2016). European gender equality framework managed to tighten the institutional level with the society. There is a very strong networking activity on EU Gender Law, expressed by the mutual relationship between social actors and European institutions. Social actions, as feminist and women's movements, gathered together with the institutional area, which leads the political action and monitors administration. For instance, the umbrella association European Women's Lobby, promoted by the European Union, is the main instrument to draw women's organizations together to lobby on European policymaking (Hubert, Stratigaki, 2016).

The Strategic Engagement for Gender Equality 2016-2019, developed by the Commission, has established the targets and strategies to achieve and promote gender equality. The European Commission has dealt with the some of the most problematic issues of gender equality, such as the achievement of a stable economic independence both for women and men, the enforcement of the principle of Equal Pay, the fight against violence against women and the promotion of women's rights beyond European borders (European Commission, 2016).

The 2018 Sustainable Development Goals Index and Dashboards Report 175 has recorded that 11 European countries have achieved more than 80/100 for Goal 5 on gender equality (SDGs Index, 2018). Sweden, Finland and France are actually pioneers in gender equality and have scored more than 87 out of 100 in the SDGs Index (SDGs Index, 2018).

Unfortunately, from the Commission's "Annual Report 2019 on Equality between Women and Men" has emerged that the gender gap remains a relevant, high-visible problematic in almost every area of society (European Commission, 2019). Women are still under-represented in decision-making bodies; meanwhile, their presence is very high in underpaid sectors. However, the percentage of women in the labour market is increasing and women have a better access to education and professional training (European Commission, 2019). The employment rate for women has reached its highest percentage in 2017, but while women's employment rate is at 66.4 %, the employment rate for men is at 77.9 %, with a gender gap at 11.5 percentage points, as 3 years ago (Eurostat, 2019). In 2018, in the European Semester framework, the European Union gave very specific recommendations to some of its Member States to increase women's employment and improve their access to the work environment. For instance, the recommendations directed to Austria, Italy and Poland, highlighted the urgent necessity to improve childcare services and the work-life balance (European Commission, 2018). Since the Strategic engagement for gender equality 2016-2019, the gender pay gap in the EU has persisted at a stable percentage of approximately 16% (Eurostat, 2019). One of the main reasons behind the gender pay gap's stagnation is the shortage of women in high qualified profession, typically described as men's jobs, associated with a higher wage (Table 2.1). Approximately 30 % of the gender pay gap is due to female's under-representation in decision-making positions or highly-qualified job positions and their over-representation in underpaid jobs. This phenomenon of occupational segregation persists, despite the fact that in some countries, like Spain, Portugal, Finland, women have a higher education than men (European Commission, 2019). The European Commission has committed itself to advance women's position in corporate businesses and boards. In 2012, the EC designed a legislative proposal, which established the threshold of 40 % of the marginalized sex in boards of corporate companies by 2020 (European Commission, 2016). The EU efforts proved to be effective, as it has been recorded a significant increase in the presence of women in boards from 2010-2016 (increase of 11.4 pp) (European Commission, 2016).

Table 2.1 The gender pay gap, 2010, 2014, 2015, 2016, 2017 (%)

«The gender pay gap is the difference between average gross hourly earnings of male and female paid employees, expressed as a percentage of the former» (European Commission)

	2010	2014	2015		2016		2017	
EU28	17.1	16.6	16.5	p	16.3	p	16	p
BE	10.2	6.6	6.5		6.1		6	
BG	13	14.2	15.4		14.4		13.6	
CZ	21.6	22.5	22.5		21.5		21.1	
DK	17.1	16	15.1		15		14.7	
DE	22.3	22.3	22	p	21.5	p	21	p
EE	27.7	28.1	26.9		25.3		25.6	
IE	13.9	13.9	:		:		:	
EL	15	12.5	:		:		:	
ES	16.2	14.9	14.2		15.1		15.1	p
FR	15.6	15.5	15.3		15.3	p	15.4	p
HR	5.7	8.7	:		11.1		11.6	
IT	5.3	6.1	5.5		5.3		5	p
CY	16.8	14.2	14		13.9		13.7	
LV	15.5	17.3	17		17		15.7	
LT	11.9	13.3	14.2		14.4		15.2	
LU	8.7	5.4	5.5		5.5		5	
HU	17.6	15.1	14		14		14.2	p
MT	7.2	10.6	10.4		11		12.2	
NL	17.8	16.2	16.1		15.6		15.2	
AT	24	22.2	21.7		20.1		19.9	
PL	4.5	7.7	7.4		7.2		7.2	p
PT	12.8	14.9	17.8		17.5		16.3	
RO	8.8	4.5	5.8	e	5.2	e	3.5	e
SI	0.9	7	8.1		7.8		8	
SK	19.6	19.7	19.6		19		19.8	
FI	20.3	18.4	17.6		17.4		16.7	p
SE	15.4	13.8	14		13.3		12.6	
UK	23.3	20.9	21		20.7		20.8	p

: =not available p=provisional e=estimated

Source: Eurostat, Structure of Earnings Survey

Today more women have succeeded to play a role in the labour market, mostly because of their occupation in part-time jobs, however maybe too much frequently they are relegated to unpaid work in the private area. There is a very strong unbalance for what concerns domestic and family responsibilities between women and men (European Commission, 2019). As a matter of fact, in all European countries, family duties are weighing mostly on women's shoulders. The gender gap in unpaid sectors is relevant in all MS, ranging from 6 hours in Sweden, Finland to more than 15 hours in Italy, Malta, Greece (European Commission, 2019). The stereotypically gender hierarchical distribution of work and domestic responsibilities in Europe is changing at a very slow rhythm. Women working in part-time jobs still represent the

norm, and it is much more frequent for women to access the labour market through part-time occupations, than through full-time jobs (European Commission, 2019).

The gender pay gap can also be explained because of the socially constructed idea that is somehow fair to associate women with a lower wage. Salary's disparities originate from unfair gender rules that attributes a higher worth to men's occupation, causing severe gender discrimination. Not only women are employed in underpaid positions, but their occupations are also somehow undermined because they are carried out by women. The European Commission has multiplied its efforts, by financing initiatives against gender stereotypes and occupational segregation (European Commission, 2019). These programmes aim at exchanging good practices among Member States, which have joined forces to develop effective measures to combat gender discrimination in the work environment. The European Union Horizon 2020 project HYPATIA has focused on promoting gender education in Science, Technology, Engineering and Mathematics (STEM), and offers toolkits, support and national hubs to be implemented in national contexts. Moreover, the European Union continues to finance new programmes and grass-root initiatives, developed by associations on education, and national-level measures to improve the gender pay gap in Member States (European Commission, 2019).

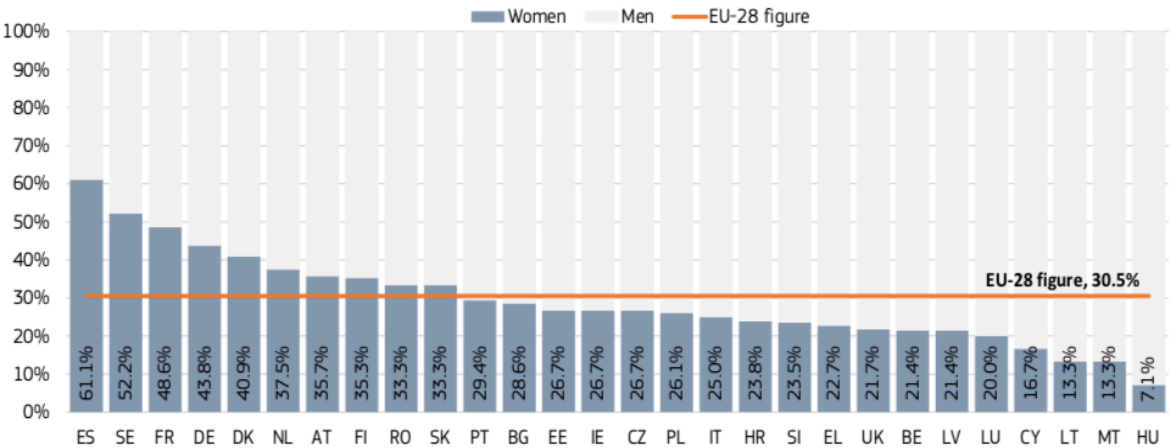
Even though, in the European Union, gender equality is ensured by law, parity between women and men has still not been fully achieved. The gender gap in the field of education is rapidly reducing and the situation has turned upside down. According to the Eurostat, the share of women between 30-34 that have obtained tertiary education is at 45%, which overcomes the percentage of men having tertiary education, which is 35% (Eurostat, 2018). However, the majority of indicators on equality is stalling and the presence of women in decision-making positions is still very low, since women in boards make up just a quarter of the membership of the biggest companies in Europe, occupying the 6.3 % of CEO positions (European Commission, 2018). The shortage of female presence in corporate management encouraged the European Commission to develop a legislative proposal to improve the selection process of high positions in big companies, as board directors. This proposal applies the principle of transparency in every phase of the selection procedures for board members and intends to pursue the target goal of 40 % of the under-represented sex, based on defined criteria and the candidates' capacities (European Commission, 2016; European Commission, 2019). In 2014, the EU approved the directive, which compels the biggest companies to disclose information about the composition of their boards, in order to monitor their compliance with EU standards on equality policy, including factors such as age, sexuality, ethnicity, social status, etc. (European Commission, 2019). Furthermore, the President of the European Commission, Jean-Claude Juncker established the 40 % target goal of women in middle and senior management in-house, to be achieved by the end of the ongoing mandate (European Commission, 2019). In

2018, the percentage of female managers has raised to 39 % and women represented the 37 % of senior management (European Commission, 2019). Those increasing trends have been achieved through targeted projects and support initiatives led by Commission and the European institutions. One of the most effective projects, the ‘corporate female talent development’ programme, has offered women in pre-managerial posts private training sessions, mentoring and evaluation to encourage women to take on leadership positions (European Commission, 2019).

As for women in politics, the situation is highly diversified among Member States, due to countries’ specifics. National Parliaments of North European countries, such as Sweden, have recorded a percentage of women’s MEPs of approximately 40 %, while in Cyprus, Greece, Hungary women do not reach the threshold of 20 % of members (European Parliament, 2018).

In 2018, in 25 of EU Member States the Prime Minister was a man, except for Germany, Romania and the UK. Furthermore, men represented the 69.5% of senior ministers, while the 30.5 % was occupied by female ministers. For what concerns, gender-advanced countries like Sweden and France, a significant presence of women has been recorded in their cabinets, approximately 40%, while in Hungary (7.1 %) and Malta women are almost absent from power positions. In the European Union, the percentage of women in senior minister positions has been constantly growing since 2004, which was 21.2 %, to 30.5 % in 2019, the highest percentage ever recorded (European Parliament, 2019).

Table 2.2 Proportion of women and men in governments, 2018



Source: EIGE, Gender Statistics Database, 2018

According to the 2014 survey of the European Union Agency for Fundamental Rights, more than 30% of women stated to have suffered from physical and/or sexual abuses and almost 50% of European women have endured episodes of sexual harassment (FRA, 2014; European Commission, 2019). From the EIGE Gender Equality Index 2017, it has emerged that violence

against women is still a highly-dangerous issue in MS. The EU's score is 27.5 out of 100, with a strong internal variation from 22.1 in Poland to 44.2 in Bulgaria (EIGE, 2017). However, the Union's efforts during the «Year of Focused Actions to end violence against women» brought about the creation of the platform Ending Violence against Women with the «No Non Nein campaign- #SayNoStopVAW», which received more than 15 million funds from the European Commission (European Commission, 2019). Recently, the worldwide movement Me Too has relentlessly worked to help women and survivors of sexual violence. The attention around the “metoo” hashtag promoted a powerful discussion about violence against women in national contexts and also in European institutions (European Parliament, 2019; EPRS, 2019).

The Inter-Parliamentary Union and the Parliamentary Assembly of the Council of Europe have funded a life-changing research work, which has revealed alarming percentages of sexual harassment and violence against women within national parliaments (European Commission, 2019). The study has proved that 85% of women MPs have experienced emotional and mental abuse in parliament; and that episodes of sexual violence are very frequent for women employed in the parliamentary staff (IPU, 2018). In 2018, the Me Too EP platform was introduced, and it has become the privileged channel for women to speak out and give their testimonies of sexual violence or harassment in the European Parliament in an anonymous way. The EU and the United Nations worked together for the establishment of the Spotlight Initiative to combat against violence and sexual abuses (European Commission, 2019).

Notwithstanding the fact that women are actually achieving more power and access to institution, and that the employment rates stand at the highest levels in the European Union history, a lot more needs to be done to completely fulfil the standing gender equality's goals (European Parliament, 2018; European Parliament, 2019). Recently, the Commission committed itself to the drafting of the directive proposal on the reconciliation of work life and family, aiming at renewing maternity and parental leave and introduce more flexible working adjustments. On January 2019 a provisional agreement on work-life balance has been reached, which establishes a new European minimum benchmark of 10 days of paternity leave and it reinforces the already standing 4-months parental leave. The new directive will also reinforce the possibility for parents to ask for more «flexible working arrangements» and will hopefully be adopted during 2019, revoking the Parental Leave Directive (Directive 2010/18/EU) (European Commission, 2019). Furthermore, once the directive will be formally adopted, it will establish paid paternity leave, parental leave and carers' leave for EU workers.

Undeniably, European equality policy has made a lot of progress since the 1950s, however equal treatment has not been fully enforced among Member States. The EIGE, Eurostat empirical studies have shown the necessity to reduce the existing gender gaps in all sectors. The 2017 EIGE report has shown the persistence of women's disadvantage in

comparison to men and has stated that meaningful improvements are still «needed in all Member States in order to attain gender-equal societies where both women and men can enjoy equal levels of well-being in all domains of life» (EIGE, 2017). On the anniversary of the International Women's Day in 2018, the Commission introduced a new approach to enhance women's presence in the digital sector, which included several initiatives aimed at reducing stereotypes based on sex and promoting women as entrepreneurs (European Commission, 2019). Furthermore, 2018 has been the year of the Social Fairness Package, which included measures promoting gender equality and non-discrimination in Europe (EELN, 2018)

The first innovation has been represented by the proposal for the introduction of the European Labour Authority, with a view to enhance workers' rights and equal treatment in the labour market. The Commission approved the Council recommendation promoting equality in the field of social protection of workers and self-employed persons, characterized by forms of indirect discrimination against women (EELN, 2018). This Council Recommendation establishes access to «labour market status [...], type of employment [...], gender, age and citizenship» (Council Recommendation, COM/2018/0132), in order to ensure gender equality and non-discrimination (EELN, 2018).

III. Gender Equality Law in the European Court of Justice

This chapter will deal with the evolution of EU Gender Equality Law through the cases brought before the European Court of Justice (ECJ). The principle of gender equality is one of the pillars of the European social policy and has been the leading principle of the EU directives concerning equal treatment between women and men. Through the years, the EU developed different approaches to gender equality: equal treatment, positive action and the latest EU official model of gender mainstreaming. The equal treatment approach has been characterized by the concept of formal equality, which was the key to interpretation of most ECJ's judgements. Notwithstanding the efforts, the ECJ has been struggling to elaborate a concrete systematic and coherent framework on gender equality, sometimes neglecting positive discrimination and gender mainstreaming (Brzezińska, 2009). On the other hand, milestone judgements by the ECJ helped promoting women, most in particular in the labour market, where they have always been the under-represented sex. This part will deal with the key concepts of EU Gender Equality and the most meaningful judgements by the ECJ, with a view to determine the evolution in EU Gender Equality Law and in the Court's reasonings. Moreover, the latest rulings of the ECJ show a more sensitive behaviour towards gender implications, reflecting the gradual change and process in EU social policy.

3.1 Structure and functioning of the European Court of Justice

The Court of Justice of the European Union was established in 1952 in Luxembourg and is composed by the Court of Justice and the General Court. The latter mostly deals with annulment by individuals, companies or Member States in relation to legislation on trade and commercial policy. The European Court of Justice, instead, represents the Supreme Court of the European Union and it is concerned with preliminary rulings brought by national courts, cases of annulment and appeals. It is the highest interpreter of EU Law and it guarantees its equal enforcement all over Europe. The European Court of Justice tackles all domains of EU law, from social policy, freedom of circulation, State funding, to human and fundamental rights (Guth, Elfving, 2018). The ECJ is made up of 28 Judges and 11 Advocates General, nominated by the governments of Member States (Court of Justice of the European Union).

The European Court of Justice has given a major contribution to the enforcement of EU Gender Equality Law. It has granted women the possibility to call upon and defend their right to equal treatment, through the interpretation of the communitarian Treaties and normative

provisions on equality (Di Saracina, 2010; Guth, Elfving, 2018). Since the very beginning of the European legislation on gender equality, the enforcement of gender equality directives has never been a smooth process in Member States' national legislations. Moreover, the transposition of the *acquis communautaire* into national systems was often delayed or contrasting with EU law (Guth, Elfving, 2018). Nevertheless, the principle of EU law's supremacy ensures that, in case of disagreement between EU and national legislation, the communitarian directives and treaties override national laws. In addition to this, Treaties' articles, regulations, directives have direct effect⁵, which ensures that they are directly enforced in Member States, by allowing citizens to call upon a provision of the Community law before a domestic or European court (Di Saracina, 2010).

According to the principle of supremacy of EU Law, communitarian provisions with direct effect prevail over national laws (*Flaminio Costa v. ENEL*, Case 6/64). Domestic courts must interpret their national legislation in accordance with the directive in question, which means that they must fulfil the communitarian directive's goal through the right interpretation of domestic law (Guth, Elfving, 2018).

In all of the cases in which EU gender equality law is called upon in domestic courts, the latter have the possibility to ask for preliminary rulings from the ECJ (Article 234 EC) (European Commission, 2008). Cases can be brought before the Court by means of preliminary rulings under Article 267 TFEU and by infringement proceeding undertaken by the Commission against Member States (Guth, Elfving, 2018). Through preliminary reference procedure, for which cases are referred to the ECJ by national courts, the Court has constantly extended its constitutional powers, in terms of supremacy and direct effect (Cichowski, 1995, as cited in Guth, Elfving, 2018). Preliminary reference procedure has represented a privileged arena for those women who endured discrimination on the grounds of sex in the work environment and did not receive proper protection by national courts. According to Cichowski, this mechanism gave the ECJ the power to reinforce women's rights and create a powerful collection of rights to safeguard women all over Europe (Cichowski, 1995, as cited in Guth, Elfving, 2018).

⁵ In *Van Gend en Loos v. Nederlandse Administratie der Belastingen* (C-26/62, 1963), the Court of Justice introduced the principle of direct effect. The definition of this principle has been extended as applicable to all EU legislation, as for instance regulations, and also directives, which can have a vertical direct effect. In *Defrenne II*, the ECJ identified two types of direct effect: vertical direct effect, through which individuals can advance claims against the State, and horizontal direct effect, applied by individuals against individuals or companies, etc (Guth, Elfving, 2018).

Since 1971, the ECJ has been very active in the field of gender equality, by issuing more than 200 binding judgments, fuelling the discussion and advancement of equality provisions. Even though in the Sabbatini case (1972) the Court reinforced the model of the breadwinner man⁶ and its hierarchical power, in the following rulings it advanced some anti-stereotyping judgements that have made the history of EU Gender Equality Law (EELN, 2016). The ECJ has shaped the future of the EU Gender Equality law and has given both women and men the possibility to assert and defend their equality rights (Guth, Elfving, 2018). The most significant case law will be addressed in the following paragraphs, along with the ECJ judgements' evolution.

3.1.1 Key concepts of EU Gender Equality Law

Before taking a leap into ECJ's judgments, it is necessary to analyse and comprehend some of the most important concept of gender equality, on which the Court has elaborated on over and over again. Formal equality, substantive understanding of equality, discrimination, access to employment are just some of the key concepts that we encounter in EU Gender Equality Law.

Through its first rulings, the European Court of Justice has relied on the basic principle of formal equality, neglecting the substantial differences between women and men, and on nothing more than a mere economic rationale as the main purpose for its rulings, mostly dealing with cases of access to the labour market. The principle of formal equality finds its roots in Aristotle and his vision of equal things and equal treatment. According to the philosopher in *Etica Nicomachea*, what is alike must be treated the same, and what is different must be treated differently (Bain, Masselot, 2012). This vision of equality applied to gender results in one of the most out-dated and restricted theories of EU gender policy, as it employs an alleged gender-neutral approach while ignoring the substantial differences related to sex. The principle of equal pay itself was based on formal equality, however, this same principle led the EU's first steps on gender equality. Formal equality, even though limited in its scope and nature, helped deconstruct the labour market's patriarchal logic and addressed sex discrimination in the work field (Bain, Masselot, 2012). Despite this, formal equality does not take into consideration the embedded characteristics, nature and context of differences among human beings. Another fallacy of this conception is the assumption of women and men making free choices, which

⁶ The male breadwinner model emerged during the XIX century at the time of the Industrial Revolution and enforced a hierarchical division of society. It sustained that the member of the family who works and has a salary provides for the family (mostly men), while the member who is not employed has to take care of the household and children (mostly women).

presupposes that human beings are always offered multiple alternatives, among which they can freely choose. Moreover, formal equality employs the figure of man as the norm and benchmark to make comparison with, reinforcing gender stereotypes in this hierarchic society (Bain, Massolot, 2012).

However, from the Treaty of Amsterdam, the European Court of Justice, and more in general the European Community, shifted its behaviour towards a different approach, that of substantial equality. Substantial equality considers inequalities as deriving from social constructions, rooted in society itself (Brzezińska, 2009). This conception deals with the consequences of inequality by analysing the different circumstances and backgrounds in which those inequalities are built up. The substantial equality approach attempts at conquering gender equality and equal treatment through positive actions, to the disadvantaged sex in all sectors. The point of strength of substantive equality is that it recognizes the differences associated with being a woman and being a man, and it grants women special treatment under particular conditions, as pregnancy or breastfeeding (Brzezińska, 2009). The main critiques to substantive equality regarded the unforeseen prejudices and stereotypes that can emerge from treating human differently. Even though, the European Court of Justice has taken the substantive equality approach as its own, sometimes it has adopted more narrow approach and ruled in favour of traditional naturalized (Brzezińska, 2009).

This radical mindset change begun with the Treaty of Amsterdam and was renewed with the enforcement of the Treaty of Lisbon (2009) (Brzezińska, 2009). This new European approach officially formalized substantial equality as the privileged approach through EU Treaties and normative content. Through the implementation of Article 13 EC, the European Community finally proved its interest in advancing equal opportunities beyond the field of occupation and expanded gender equality policy's purposes. Furthermore, Article 141(4) EC legitimizes the implementation of positive discrimination initiatives, in order to help women to access employment (Brzezińska, 2009). The social nature of the EU approach is particularly visible in terms of gender mainstreaming and positive actions, which aim at achieving gender equality in all EU law area of interests. Furthermore, with the Amsterdam and Lisbon Treaties, the EU approach in gender equality policy finally became proactive (Brzezińska, 2009).

Thanks to the substantive approach, the Pregnant Workers Directive was adopted, introducing adjustments, flexible working timetables and special conditions regarding leave and extra benefits for pregnant women or women breastfeeding, in order to promote equal opportunities in the labour market (Di Saracina, 2010). As we will see later on, cases related to discrimination on the grounds of sex related to status of pregnancy are often brought before the European Court of Justice, which produced several judgements addressing pregnancy issues. Nevertheless, Member States have often implemented positive requirements to advance

women's rights, which are more favourable towards women than those proposed by the EU. For instance, prioritizing women in matters of access to work has been one of the most implemented MS positive measures, which are translated as quotas for access to work, or protection for dismissal (Prechal, 2005).

The ECJ has dealt with many cases of sex discrimination, which occurs when individuals, acting under identical circumstances, are treated in a different manner because of their gender, or when individuals are treated equally, but not fairly, which means that despite different circumstances, they are treated the same. European non-discrimination law embraces all EU directives against discrimination and the European Convention on Human Rights, which forbids discrimination on the grounds of race, nationality, religious beliefs, sex, etc. EU anti-discrimination comprehends direct discrimination and indirect discrimination, reciprocally complementary (Brzezińska, 2009). Through the Equality Directives, the EU established that direct discrimination occurs when: « [...]one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation» (Directive 2006/54/EC). Therefore, direct discrimination causes disadvantageous consequences for members of one of the sexes. In order to detect cases of direct discrimination, a comparison with a «past, present, or hypothetical» (Directive 2007/54/EC) benchmark, the so-called comparator, must be made (Di Saracina, 2010). The 2006 Recast directive has defined indirect discrimination, which occurs:

«...where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary» (Directive 2006/54/EC).

Sex discrimination also includes harassment and sexual harassment Article 2(1)(c) of the Recast Directive, defines harassment:

«(...) where unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment» (Directive 2006/54/EC).

More in particular, sexual harassment is characterized sexual or physical behaviours, aimed at violating the dignity of a person.

Following the adoption of the Burden of Proof Directive, the ECJ's cases were subject to an important innovation. In case of indirect discrimination, the defendant has the obligation to

prove that no violation on the grounds of sex discrimination has occurred (Di Saracina, 2010). Moreover, Article 19(1) of the Recast Directive establishes that:

«Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment» (Directive 2006/54/EC).

3.2 Case law of the European Court of Justice

From the Seventies to the end of the Nineties, the ECJ dealt with plenty of cases regarding gender discrimination, and more in particular discrimination concerning treatment in the work environment, in terms of wage and work conditions (Guth, Elfving, 2018). This section will provide an analysis of the most meaningful judgments which led to the expansion of EU social policy and protection of women under special conditions such as pregnancy. The case presented will mostly focus on equal pay, direct discrimination, indirect discrimination, positive action and equal treatment measures, and cases of discrimination against pregnant women. Furthermore, the last paragraphs reconstruct a detailed report on the ECJ's latest reasonings on sex discrimination and gender stereotypes; and offer a brief overview on remedies and sanctions.

3.2.1 The Defrenne Trilogy

One set of cases, advanced by the Belgian lawyer and gender pioneer Eliane Vogel-Polsky, symbolises the beginning of the ECJ's work for a gender-balanced work environment, the so-called Defrenne trilogy (Di Saracina, 2010, Guth, Elfving, 2018). Gabrielle Defrenne was the well-known intrepid woman, protagonist of three cases dealing with equal pay, equal treatment conditions and pensions. Gabrielle Defrenne worked as an air hostess in the Belgian airline company Sabena, which attributed to her an inferior wage, an inferior pension, and a lower capital sum in comparison to male hostesses (Hoskyns, 1996; Di Saracina, 2010). The Belgian airline fixed the retirement age for women at 40, meanwhile men had the possibility to work until 55. Defrenne I (1971), did not introduce any tangible innovation in gender equality, as the Court was still not open enough to adopt a broader interpretation of "pay", as included in art. 119, and did not seriously consider gender implications (Guth, Elfving, 2018). The Court was

asked to consider if the retirement pension granted in social security frameworks could be considered as an indirect payment from the employer to the worker, and therefore if situations involving discrimination on retirement pension were protected under art. 119. The Court's judgement remained quite narrow, as it established that social security schemes or benefits were not included in the concept of pay, as defined in art. 119 (Guth, Elfving, 2018).

The milestone case in EU Gender Equality Law, was Defrenne II, which established the self-executing nature of art. 119 and expanded the concept of pay. In Defrenne vs. Sabena (1976), Gabrielle Defrenne claimed that she was protected under art. 119 of the Treaty of Rome, which establishes equal pay for equal work for women and men (Guth, Elfving, 2018). In its judgement, the ECJ, established that, the fact that the airline Sabena set the retirement age for women at 40, while it did not impose such limitation on men who had the same role as females flight attendants, represented discrimination on the grounds of sex, forbidden by art. 119 (Brzezińska, 2009). As a matter of fact, in this landmark sentence, the Court established that the provisions included in art. 119 were directly effective. Notwithstanding the serious gender implications deriving from Defrenne II, the rationale behind the ECJ's decision was still purely economic (Guth, Elfving, 2018). The main goal, pursued by the Court, was to to avoid any kind of competitive disadvantage between Member States.

This turning momentum represented the first time in EU Law that a Treaty provisions was directly applied between an individual and a private enterprise, and it contributed to improve the enforcement of art. 119 EEC in all the Member States (Guth, Elfving, 2018). Moreover, the Court established that:

«The principle that men and women should receive equal pay, which is laid down by Article 119, may be relied on before the national courts. These courts have a duty to ensure the protection of the rights which that provision vests in individuals, in particular in the case of those forms of discrimination which have their origin in legislative provisions or collective labour agreements, as well as where men and women receive unequal pay for equal work which is carried out in the same establishment or service, whether private or public.» (Case C-43/75 Defrenne v Sabena [1976] ECR 00455)

In Defrenne III (1978), Gabriella Defrenne pleaded that the fact that Sabena's employments contracts established pension age for women at 40, while men had the possibility to work until 55, was a discrimination on the grounds of sex under art. 199 EEC (Guth, Elfving, 2018). The claimant sustained that the lower retirement age meant that she was denied the chance to earn the same amount of money as men, who had the possibility to work longer than female flight attendants (Guth, Elfving, 2018). However, in its judgement, the Court stated that despite the economic consequences deriving from the retirement age, those conditions were not considered under the field of application of art. 119 (Guth, Elfving, 2018). While Defrenne I

and Defrenne II established the direct horizontal effect of art. 119 EEC, Defrenne III introduced a new key interpretation of art. 119 EEC. Contemporarily with the EU expansion towards social policy, the Court affirmed the social meaning of art. 119 by defining two main goals: to avoid competition among Member States and to increase the quality of life and the working conditions of women and men (Bain, Masselot, 2012).

3.2.2 Indirect discrimination

During the Eighties the “C-170/84 Bilka - Kaufhaus GmbH v Karin Weber von Hartz” brought another important expansion to the field of application of the principle of equal pay. In this particular case, part-time employees were denied the right to their pension by the company Bilka GmbH (Guth, Elfving, 2018). The claimant, Ms Weber, pleaded that the current occupational pension scheme was in violation of equal pay, as defined in art. 119 EEC. As a matter of fact, the occupational pension system was quite unfavourable to women, who were more frequently hired to work in part-time positions, in comparison to men (Guth, Elfving, 2018). For the first time, in the Bilka case, Court identified a form of indirect discrimination on the grounds of sex. The Court stated that the fact that the company denied part-time workers of a pension was contrary to Art. 119 of the Treaty of Rome (Guth, Elfving, 2018). The Court held that:

«Article 119 of the Treaty is infringed by an undertaking which excludes part-time employees from its occupational pension scheme, where that exclusion affects a far greater number of women than men, unless the undertaking shows that the exclusion is based on objectively justified factors unrelated to any discrimination on grounds of sex» (C-170/84 Bilka - Kaufhaus GmbH v Karin Weber von Hartz)

Another meaningful case in the sphere of equal pay was “Case 129/79 Macarthy Ltd v Smith (1980)”, in which the claimant sustained that the employer Macarthy Ltd paid her a lower salary for the same position once filled by a man, to whom was granted a higher pay. Ms Smith pleaded that this situation represented a case of discrimination on the grounds of sex (Guth, Elfving, 2018). The ECJ’s judgements did not only reckon the validity of Ms. Smith’s equal pay claim on the basis of the comparison with a male predecessor, but it also led to significant changes in the UK legislation relating to equal pay, and in particular in the Equal Pay Act 1970 and to the re-evaluation by all the other Member States of their own legislation on equal pay (Guth, Elfving, 2018). The ECJ established that while defining pay for a worker, it must be considered if this would cause a different treatment «between a man and a woman performing equal work within the meaning of article 119» (ECJ, 1980). Furthermore, the Court broadened the meaning of equal work, by highlighting that “equal work” relates to the qualitative

characteristics of the functions performed and cannot be restricted «by the introduction of a requirement of contemporaneity» (ECJ, 1980).

3.2.3 Positive actions

Access to the labour market has always been one of the hardest challenges for women, as they were never granted the same treatment as men, who indeed dominated the occupational sphere.

In “C-450/93 Eckhard Kalanke v Freie Hansestadt Bremen (1995)”, the Court of Justice gave its judgement on the implementation of positive action to help the disadvantaged sex. Mr. Kalanke sustained that he suffered from discrimination under Directive 76/207/EC (Equal treatment of men and women) art. 2(1) and art. 2(4). A woman was granted the promotion to a high position in the city’s parks department, for which Mr. Kalanke was the other candidate (Brzezińska, 2009). The Bremen Law established that when two applicants possessed equal qualifications, women had automatic priority in those sectors in which they were disadvantaged. The ECJ’s judgment was considered as a massive hindering momentum for gender equality, as the Court upheld Mr. Kalanke’s claim and precluded any chance of positive action on behalf of Member States that would grant women an automatic priority over men. The ECJ weakened the German system of protection for women, by declaring this positive action rule incompatible with the Community’s Law (Brzezińska, 2009). The ECJ stated as follows:

« [...] national rules which guarantee women absolute and unconditional priority for appointment or promotion go beyond promoting equal opportunities [...] » (C--450/93 Eckhard Kalanke v Freie Hansestadt Bremen)

EU law does not excuse initiatives that grants automatic priority to one of the sexes. For instance, in case of employment, positive quotas can be applied only if an impartial evaluation of all applicants is carried on, by taking into consideration specific conditions (Prechal, 2005).

The European Court of Justice embraced the positive action approach in the well-known Marschall case (1995). Mr. Marschall was competing for a promotion with another candidate, which was a woman. The woman candidate was chosen to fill that position over Mr. Marschall. Both candidates were equally qualified, however the female candidate had an automatic priority as women were under-represented in that specific sector (Brzezińska, 2009; Guth, Elfving, 2018). The ECJ’s judgment explicitly legitimized the implementation of positive actions for women, in cases in which women were under-represented in a specific position of a certain sector. Therefore, it upheld the promotion of positive action for the employment of women by

Member States was not in violation of art. 2(1) and art. 4 of the Equal Treatment Directive. It highlighted that candidates had to possess an «equal suitability, competence and professional performance», otherwise no priority could be granted to women (Brzezińska, 2009; Guth, Elfving, 2018). Moreover, by enabling Member States to take positive actions, the Court noted that even when women and men are equally qualified, men tend to have a constructed priority which overrides women in the occupational sphere, due to all the prejudices and stereotypes that surrounds the role of women in the work environment, and the relegation of her image to the household. Furthermore, even if candidates have equal competences and qualifications, it does not mean that both sexes are granted the same chances, opportunities and rights. This was a very important moment for gender equality, as the Court paved the way for the implementation of affirmative action to help women (Brzezińska, 2009; Guth, Elfving, 2018).

In 2000, the *Abrahamsson et al.* case involved the recruitment process of a position of professor at the University of Göteborg, in Sweden. The auspices of the offer itself highlighted the fact that the fulfilment of the vacancy aimed at promoting gender equality by taking into consideration the enactment of positive actions (Grimheden, 2004). The case was referred to the European Court of Justice, which held that European law does not preclude the application of national positive discrimination contributing to the achievement of gender equality in male-dominated sectors, with the precondition that they have equal qualifications to fill a specific post (Grimheden, 2004). The Court held that:

«Article 2(1) and (4) of Directive 76/207 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 does not preclude a rule of national case-law under which a candidate for a public post who belongs to the under-represented sex may be granted preference over a competitor of the opposite sex, provided that the candidates possess equivalent or substantially equivalent merits, where the candidatures are subjected to an objective assessment which takes account of the specific personal situations of all the candidates» (*Abrahamsson et al. v. Fogelqvist*, Case C-407/98).

Furthermore, the Court made a clear reference to the substantive approach to gender equality by highlighting that the goal Article 2(4) of Directive 76/207 was the achievement of «substantive rather than formal equality by reducing de facto inequalities which may arise in society» (*Abrahamsson et al. v. Fogelqvist*, Case C-407/98) (Grimheden, 2004).. The main obstacles to the implementation of positive action in Member States are entrenched in a paradox: promoting the under-represented group through positive measures and priorities can also lead to discriminatory actions against the other gender. Through its rulings the Court has established a proportionality test and a set of criteria, which however only partially facilitated the implementation of positive action in legislation and policy formulation. Moreover, it is

necessary to be aware of the risks related to granting women advantages, which can sometimes strengthen gender stereotypes and marginalize women to old traditional roles (EELN, 2018).

3.2.4 Discrimination against pregnant women

Being a mother should never represent an obstacle for women to access employment, however the history of gender controversies in the European Union tells us otherwise. Throughout its judgements, the ECJ has insistently validated that marginalizing pregnant women, or women on maternity leave, in terms of access to employment is a serious direct discrimination on the grounds of sex (Guth, Elfving, 2018). The Court managed to expand the protection of pregnant workers, and to grant them enhanced benefits during the duration of pregnancy (Abdoulaye et al v Renault, C-218/98), without producing inequalities. Furthermore, the Court established that excluding women from the possibility of gaining a promotion because of their status of pregnancy constitutes discrimination on the grounds of sex (Silke, C-307/98) (Grimheden, 2004).

Indeed, in the early Nineties, the Dekker case cleared up that, the habits of business managers, enterprises to avoid employing pregnant women constituted an act of sex discrimination, in violation of art. 2 and art. 3 of the Equal Treatment Directive. Notwithstanding her being the most qualified candidate, Carole Dekker's application to a sport centre was refused on the grounds that she was pregnant at the time, as her employment would have meant granting her a period of maternity leave (Guth, Elfving, 2018). The Court was asked to deliberate on whether the rejection of the application because of the «anticipated consequences for the employer due to the applicant's pregnancy» constituted a direct or indirect violation of the principle of equal treatment as defined in art. 2(1) and art. (3) of the Equal Treatment Directive (Case C-177/88 Elisabeth Johanna Pacifica Dekker v Stichting Vormingscentrum voor Jong Volwassenen). Once again, the Court ruled in favour of the claimant and pregnant women's rights, by establishing that the employer had committed direct discrimination by violating art. 2 and art. 3 of the Equal Treatment Directive (Grimheden, 2004; Guth, Elfving, 2018)

Another meaningful case was the Webb case in 1994, which concerned a woman who was fired due to her pregnancy, while replacing another woman currently on maternity leave. As soon as she told the employer about her pregnancy, she was obliged to leave her post. The ECJ held that firing a woman because of the status of pregnancy constitutes a violation of art. 2(1) and 5(1) of the Equal Treatment Directive (Guth, Elfving, 2018). Furthermore, the Court

highlighted the fact that the status of pregnancy could not be matched with a situation of absence from work because of medical issues, which instead would be a valid reason to fire a worker without any implication of gender discrimination. In 1992, the Pregnancy Directive invited Member States to take serious actions to forbid firing pregnant women from the early stages of pregnancy to the expiration of maternity leave (art.10) (Guth, Elfving, 2018).

The Court positively influenced the field of access to employment and expanded its preceding rulings by dealing with pregnancy and access to employment (Guth, Elfving, 2018). In 2000, in the *Silke-Karin Mahlburg*, the Court established that rejecting employing women on the grounds of pregnancy because of their unavailability to work from the beginning and during the length of time of the pregnancy represents an example of «unfavourable treatment regarding their access to employment» (C-207/98 *Silke-Karin Mahlburg*). This was a meaningful moment for gender equality, as restricting access to employment for pregnant women was included in the 2006 Recast Equal Treatment Directive. (Guth, Elfving, 2018). Article 14 (1) of the Recast Directive establishes as follows:

«[...] there shall be no discrimination on grounds of sex either directly or indirectly in the public or private sectors, including public bodies» (Equal Treatment Directive 2006/54/EC).

Despite the undeniable contribution brought by the ECJ, sometimes its judgements have been a bit controversial and hindered the process towards gender equality. In the *Aldi* case, the Court established that firing a worker due to medical complications, arising after maternity leave or after the birth of the child, does not represent discrimination on the grounds of sex. Another judgment that interfered with the course of women's battle for their rights, was the 1997 *Larsson* case (Guth, Elfving, 2018). In this case the Court merely compared a medical disorder related to pregnancy and persisting after pregnancy to an illness experienced by a male colleague, and therefore it did not deserve a different treatment.

As observed from the cases brought before the European Court of Justice, in Member States dismissal and pregnancy are two words too often intertwined. In “*Brown v Rentokil*”, the Court categorized pregnancy as a special status, which can sometimes lead to illness or medical issues (Brzezińska, 2009). Because of the vulnerability of pregnancy, women must have special measures to safeguard their condition and their right to work. Ms Brown was fired on the grounds that she was absent from work for more than the maximum allowed of 26 weeks, due to medical issues emerging from her pregnancy. Her contract, as the ones of male employees, included a provision which set the maximum continuous days of absence to 26 weeks. However, since pregnancy is a special condition, it cannot be compared to a normal pathological disorder or illness (Brzezińska, 2009). In the *Brown* case, the Court held that, firing a woman because of medical issues related to pregnancy represents a forbidden direct

discrimination on the grounds of sex. The area of interest of this ruling embraces all types of contexts in which pregnant workers suffer from unfavourable treatment due to whichever motivation or consequence related to pregnancy (Brzezińska, 2009).

Nowadays, the 2006 Recast Directive forbids «less favourable treatment of women in relation to pregnancy and maternity» (Article 2) and safeguards women's right to hold their post, once their maternity leave comes to an end (Article 15) (Di Saracina, 2010; Woodward, 2010). Furthermore, the Pregnancy Directive aims at protecting pregnant women workers and women breastfeeding. Art. 8 of this Directive established a minimum of 14 weeks (2 compulsory) of maternity leave, while artt. 10 and 11 prevents women's dismissals during pregnancy or maternity leave and establish payment during the duration of the leave. Moreover, the Parental Leave Directive set out minimum standards of leave to both parents, including one month of non-transferable leave (Di Saracina, 2010, Woodward, 2010).

3.3 Latest developments of EU Gender Equality Law

This last part offers a general survey of the principal recent updates on gender equality and non-discrimination judgements brought before the European Court of Justice.

Recent developments in EU gender policy and the latest ECJ's judgements seem to have developed a certain degree of sensitiveness and empathy towards gender stereotypes, discarding traditional gender roles as naturalized in the occupational field. As a matter of fact, the ECJ has committed itself to fight outdated gender stereotypes, by promoting a progressive model of gender equality, characterized by the sharing of women and men's duties and responsibilities. This wave of fairness has been proved by the decisions of the Court, through which it has held that fathers must be granted some benefits in relation to their parental status (EELN, 2018).

Through the cases "Land Branderburg v Ursula Sass" (2004) and "Pedro Manuel Roca Álvarez v Sesa Start Espana ETT SA" (2010), the ECJ enhanced equal rights for fathers for what regards leave related to childcare. Mr. Roca Álvarez asked the company where he was employed for his period of parental leave, in order to take care of his new-born child. According to Spanish legislation, maternal leave is transferable, in the sense that if the mother of the child does not take her period of maternal leave, the father may benefit from her leave. This was the only way for men to benefit from leave (EELN, 2018). However, Mr. Roca Álvarez's employer denied him leave because his wife was self-employed (Rubenstein, 2015). This breastfeeding leave was not directly connected with the role of women as breast feeders, as childcare was the main issue. The ECJ's judgments in Roca Álvarez, established that women and men both share the same duties with regard to their children, therefore they both must benefit from leave. The ECJ found the Spanish provisions as discriminating against fathers and fuelling hierarchical gender stereotypes, since men had no access to parental leave. (EELN, 2018) By fuelling

traditional gender roles, the Spanish law was reinforcing the outdated idea of women as the primary carers of family responsibilities and therefore pushing them outside of the labour market (Rubenstein, 2015; EELN, 2018).

Another recent development related to sex discrimination, is the 2014 ECJ's judgement in "X". The legal insurance system for occupational injuries in Finland, and more in particular the definition of remuneration for permanent or long-lasting handicaps employs different quantitative tables for men and women (EELN, 2018). In "X", the amount of payment destined to the plaintiff, who suffered from injuries in the workplace, was lower than the quantitative amount that would have been granted to a woman in the same situation, under the same circumstances. In X, the ECJ held that said that the definition of payment or remuneration «cannot be based on average life expectancy of men and women, on which the Finnish government had relied to excuse the event. Moreover, the CJEU held that EU law precludes national legislation which make use of life expectancies' averages to justify differences in terms of compensation (Rubenstein, 2015).

Despite the presence of cases of sex discrimination against men, women are still the main actors of claims on discrimination on the grounds of sex. In 2017, in «Ypourgos Esoterikon v Maria-Eleni Kalliri» the Court held that Greek legislation, which required a height criterion of 170 centimetres to take part into police service, represented a form of indirect discrimination on the grounds of sex (EELN, 2018). The height criterion excluded Ms. Kalliri, as she was 168 centimetres. Ms. Kalliri claimed that the motives of her being rejected for police service were a form of sex discrimination, since men are usually taller than women. The innovation brought by this case is the fact that it extended the area of interest of discrimination on the grounds of sex outside the traditional field of labour market and equal remuneration. In the Kalliri case, the Court challenges the alleged neutral recruitment criteria such as height, which can cause women disadvantages in the selection procedure (EELN, 2018). Kalliri has shown the necessity to improve fairness in the selection procedure and the occupational requirements, by highlighting the importance of the proportionality test to detect sex discrimination. Given this premises, the Court held that the Greek legislation concerning police service represented a form of indirect discrimination of communitarian law, as it created serious disadvantages for women and granted a much easier access to men (EELN, 2018).

In 2011, the ECJ was called to rule upon the Belgian Gender Directive, which incorporates the 2004/113/EC Directive into domestic law. However, according to the ECJ Belgian law regarding insurance was in violation of the principle of equal treatment, since it established the possibility for insurers to determine different benefits and premiums on the grounds of sex (EELN, 2018). In the well-known Test-Achats case, the European Court of

Justice declared Article 5(2)⁷ of the 2004/113/EC Directive invalid from December 2012, which allowed for insurance differences based on the sex criterion. The Court relied on the principle of equal treatment, as defined in the Charter of Fundamental Rights of the European Union (EELN, 2018).

3.4 Remedies and sanctions

Member States must ensure the compliance with EU Gender Equality Law and abolish any national legislation, which is in discordance with the principle of equal treatment (Burri, Prechal, 2008). According to Article 25 of the Recast Directive, remedies, which may include paying compensation to the victim, «must be effective, proportionate and dissuasive» (Directive 2006/54/EC). In “Von Colson and Kamann”, the ECJ made its first important reference to reparation in case of breach of the principle of equal treatment, by stating that:

«It is impossible to establish real equality of opportunity without an appropriate system of sanctions» (C-14/83, von Colson and Kamann)

Following the Lisbon Treaty, the principle was codified as primary law through Article 47 of the Charter of Fundamental Rights of the European Union which establishes the right to an effective remedy. In cases of violations of this principle, Member States need to provide effective penalties, in order to remedy for the breach of EU Law (Burri, Prechal, 2008). The type of remedies implemented by Member States depends upon the violation in question, therefore sanctions must be adequate to significance of the violation, while being dissuasive and proportional. Member States have the right to establish remedies and penalties for violations of EU gender equality law, which can take the form of criminal sanctions, prohibitory injunctions, fines, etc (Burri, Prechal, 2008). From the 2016 EELN survey on the transposition of EU legislation into Member States’ domestic laws, it has emerged that the measures of reparations implemented among EU countries are contrasting and unequal, due to the self-determination of sanctions. For instance, some countries have no fixed limit of compensation’s amount, while others are very reluctant to grant high sum of compensation for violation on the grounds of sex (Italy, UK) (Burri, Prechal, 2008).

⁷ «[...] Member States may decide before 21 December 2007 to permit proportionate differences in individuals’ premiums and benefits where the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data [...]» (Art. 5(2) Directive 2004/113/EC)

3.5 ECJ case law: source of Gender Equality Law

The European Court of Justice has been a pivotal pioneer in matters of equal treatment between men and women, by allowing citizens to call upon and defend their right to gender equality. The case law brought before the ECJ represent a fundamental source of law of EU Gender Equality Law, which has been enriched by the ECJ's landmark judgments (Guth, Elfving, 2018). Even though, the first stance taken by the ECJ was still anchored to the economic rationale, pursuing the goal of a perfectly functioning internal market (Defrenne II); the ECJ's approach has become increasingly proactive towards women, and more in particular for what regards the protection of pregnant workers and mothers (Di Saracina, 2010; Guth, Elfving, 2018). The ECJ social goal has been contemporary to the expansion of the European Community towards a more comprehensive policy, which considers the economic, political and social aspects of reality. Moreover, the ECJ has guided Member States towards a more effective implementation of EU legislation, in matters of equal pay, equal treatment, positive action, fighting against stereotyping genders (Guth, Elfving, 2018).

IV. Women in decision-making positions in the European Parliament

4.1 Gender parity in politics and decision-making

Gender parity in political representation is a *sine qua non* condition of any democratic system and it constitutes one of the main pillars of EU social justice. Notwithstanding the EU commitment to enhance female representation in politics and in decision-making bodies, both in the public and private sectors; females are still the under-represented sex in almost all Member States (European Parliament, 2019). The underrepresentation of women in EU institutions and Member States' governments is a symptom of a concerning democratic deficit that endangers women's status in society.

The «Women's Charter» and the «Strategy for Equality between Women and Men (2010–2015)» are only some of the EU initiatives to promote women's growth. The «Women's Charter» was adopted by the European Commission on the anniversary of the International Women's Day in 2010, and it focuses on addressing inequalities for what concerns equal pay, economic independence and women's presence in decision-making. The European Union has played a major role in the advancement of the goals established by the UN Beijing Platform for Action, which encourages women to access positions of power and take part into decision-making policy. More recently, the adoption of the «European Pact for Gender Equality 2011–2020» has reiterated the need to promote female empowerment in representative politics.

Why is it always women's representation in a precarious equilibrium? Despite the complexity of such a question, there is a very simple and plain answer. The society's construction of "women" has put them through a process of devaluation to being just wives and carers of children, far away from power processes and politics. Politics has been put through a gendering process and it is still linked to concepts typically associated with men, such as power and strength. This chapter will look at women's political representation in the European Parliament and the effects of EU gender policies on women's presence, while taking into account all the hindering and supporting factors that still affects female representation.

4.1.1 What is "gender parity"?

Gender equality is based on the assumption that men and women are not the same and, therefore, their differences must be accounted for. Gender equality includes that both women and men's needs must be considered, by acknowledging the differences associated with being a man or a woman in all policy sectors (EIGE, 2019). According to the EIGE, parity democracy refers to the «full integration of women, on an equal footing with men, at all levels and in all

areas of the workings of a democratic society» (EIGE, 2019). The EIGE glossary has developed a definition of three fundamental concepts: gender balance, gender parity and critical mass. While gender balance refers to a 40% - 60%, gender parity implies a 50% - 50% condition of parity. Critical mass is established at a minimum of 30% of women or men to be (EIGE, 2016).

Achieving parity democracy in policy institutions and government positions is related to empowering women and promoting their access to politics. According to Rhodes, gender balance can be interpreted as descriptive and substantive (Rhodes, 2014, as cited by European Parliament, 2019). From a descriptive perspective, which includes a numerical growth in the share of women in political positions, gender balance is necessary as it grants rightfulness and authenticity to institutions and creates images of women models as politicians to look up to. On the other hand, substantive representation refers at the consequences of a more equal gender representation, in the sense that female politicians have at hearts women's interests and introduce the highly-debated "female way" of leading politics, characterized by solidarity and cooperation (Rhodes, 2014, as cited by European Parliament, 2019). According to the theory of the "female way" of governing, women are more inclined to be peaceful and to resolute conflicts with diplomacy and cooperation; however, this theory has produced lot of negative comments from feminists and women's movements as it created and reinforced the traditional gender stereotypes, that women are still trying to eradicate (EPRS, 2019). The United Nations have designed a concrete theoretical background on women in leadership political positions, resuming the advantages of gender balance in six main explanations. According to the UN, since women make up more than half of the world population, they must have a say in politics (justice); they possess different experiences which need to be accounted for (experience); their interest are not the same as men's (interests); they are more eager to achieve their objectives through cooperation and solidarity (critical mass); they must set examples of women politicians in order to encourage young women (role models); and lastly, gender balance increases democratization (democracy) (EPRS, 2019).

4.1.2 EU-level strategies and action for gender balance

From the early 1990s, the EU's social policy has prioritized gender equality, by promoting women's participation into political life from local to national and EU levels. The European Parliament has always been the "spokesperson" of women's political integration and influence in EU institutions, as a *sine qua non* condition for the effectiveness of democracy and for the respect of fundamental human rights. Through gender-sensitive and targeted programmes the European Social Fund has financed pro-active initiatives to help women access work, improve

their working conditions, or start their own businesses (European Commission, 2019). Moreover, the EU has recently showed its support for gender quotas initiatives designed by some Member States, which have proved to encourage women's participation into political life and increase their presence in EU and national parliaments. The EP has recommended all MS to implement parity system in their national context, in order to make up for the current gender unbalances in political posts (European Parliament, 2019). Since 2014 European elections it has encouraged its MS and political parties to introduce «gender-balanced electoral lists» (European Parliament, 2019). Through this legislature, the EP has made a great effort to erase sexual harassment in political life and has taken a gender perspective stance in all of its policy areas (European Parliament, 2019).

As we have previously assessed in Chapter 2, the European Union action on gender equality in decision-making processes has been articulated in three key moments. The first big momentum is the production of the «Third Action Programme on Equal Opportunities (1991-1995)» and the creation of the «Women in Decision-Making (1992-1996)» initiative, which promoted EU-wide awareness-raising initiatives. Moreover, in the mid-1990s, the EU took part into more solid actions such as the Athens Declaration (1992), the Charter of Rome (1996), and the «Council Resolution on the balanced participation of women and men in decision-making» (1995) (Hoskyns, 2000, as cited in Kantola, 2009). The second key moment for gender equality is represented by the 1996 Council Recommendation, promoting positive action with a view to gender parity in decision-making and by the «Fourth Framework Programme on Equal Opportunities» (1996–2000) (Hoskyns, 2000, as cited in Kantola, 2009). In 1999, the EU took part to the Paris Conference on «Women and Men in Power: A Caring Society, a Dynamic Economy, a Vision for Europe», aimed at enhancing women positions in power. In 2000, the EU action went through its third momentum towards gender equality, as the European Commission updated its guidelines for gender parity, establishing the 40% threshold as the minimum requirement of presence of women or men in «committees and expert groups» (European Commission, 2000; Hoskyns, 2000, as cited in Kantola, 2009). In the early 2000s the Commission introduced the «Women and Men in Decision-making: A Database with Facts and Figures», which collects statistics and insight on women in high-level positions in parliaments, Member States' governments, EU bodies, state administration and in the judicial bench. In 1999, the Council of the European Union defined an index made up of several indicators recording women's presence in decision-making, in order to allow a comparison among Member States (Hoskyns, 2000, as cited in Kantola, 2009).

Table 4.1 Women in decision-making

«Official Indicators on Women in decision-making»
«Proportion of women in the single/lower houses of the national/federal Parliaments of the MS and in the EP
Proportion of women in the regional assemblies of the MS
Proportion of women in the local assemblies of the MS
Policies promoting balanced participation in political elections
Proportion and number of women among the members of the national/federal governments of the MS and the proportion of women among members of the European Commission
The proportion and number of women and men among senior/junior ministers in the different fields of action (portfolios/ministries by BEIS type) of the national/federal governments of the Member States
The proportion and number of women and men among the leaders and deputy leaders of major political parties in Member States
The proportion of women among the highest-ranking civil servants in the MS
The distribution of the highest-ranking women and men civil servants in the different fields of action (portfolios/ministries by BEIS type) in the MS
The proportion and number of women among the members of the Supreme Courts of the member States and the proportion and number of women among the members of the European Court of Justice and the General Court
The proportion and number of women and men among governors and deputy/vice-governors of the Central Banks of the MS and the President of the European Central Bank
The proportion and number of women and men among members of the decision-making bodies of the Central Banks of the MS and the European Central Bank
The proportion and number of women and men among presidents and vice-presidents of social partner organisations representing workers at national level and at European level
The proportion and number of women and men among members of the highest decision-making-bodies of social partner organisations representing workers at national level and at European level
The proportion and number of women and men among presidents and vice-presidents of social partner organisations representing employers at national and European level
The proportion and number of women and men among of the highest decision-making bodies of social partner organisations representing employers at national and European level

The proportion and number of women and men among presidents and chief executive officers (CEO) of the largest nationally registered companies listed on the national stock exchange
The proportion and number of women and men among members of the highest decision-making body of the largest nationally registered companies listed on the national stock exchange
The proportion and number of women and men among executive and non-executive members of the two highest decision-making bodies of the largest nationally registered companies listed on the national stock exchange»

Source: EIGE, Gender Statistics Database

In 2001, the European Parliament has claimed that the presence of women in high-level positions enforces the principle of democracy and ensures the protection of women and human rights (European Parliament, 2001; European Parliament, 2019). Furthermore, the European Parliament has applauded the gender parity system, implemented through the introduction of targeted quotas, inviting all Member States to embrace this system. More recently, the European Commission's «Strategic Engagement for Gender Equality for 2016-2019» has introduced soft law initiatives, such as statistics and funding, to encourage Member States and civil organizations to promote women in political life. Moreover, the Council has insisted on the promotion of zipped systems to achieve a concrete gender balance for the next 2019 Parliamentary elections (European Parliament, 2019). The European Commission's commitment to help Member States reach gender parity in decision-making is enforced by the Directorate General for Justice and Consumers. However, the European Union's role as pioneer of gender equality is limited to monitoring activities and the issuing of recommendations and opinions, which are not binding on Member States. Despite the highly-criticized nature of soft-law measures; recommendations, opinions and EU programmes have set out a sort of guidance for Member States to follow, mostly because of the major role assumed by EU institutions on gender parity in the private and public sphere (European Parliament, 2019). The measures implemented by the EU range from sensitization campaigns, production of data and elaboration of indexes and indicators, to the promotion of a good practices' network. As a matter of fact, the first EU actions on gender equality were based on the adoption of hard law, in the forms of directives (1970s-1980s); meanwhile, the last phase of EU Gender Equality policy has introduced the instruments of soft law, focusing on the promotion of a gendered perspective in all EU areas, through recommendations, resolutions and the Open Method of Coordination (OMC) (Kantola, 2009).

The «Strategic Engagement for Gender Equality 2016-2019» highlights the European Union's goals for what concerns gender balance (European Commission, 2015). The main

areas of interest are: achieving growth in women's participation in the work field and promoting their economic independence. Moreover, the Commission has pointed out the necessity to reduce the gender pay gap and the widespread phenomenon of female poverty (European Parliament, 2019). Gender equality in decision-making and power positions is a primary objective of the EU and the Strategic Engagement, along with the promotion of women's rights and the elimination of violence against women. Boosting the participation of women in decision-making includes both the private sphere, such as private business enterprises and public companies; and the public sector, more specifically the political field. The «Strategic Engagement for Gender Equality 2016-2019» establishes the necessity to gather and spread official data on the presence of women and men and the related gender balance in decision-making and the drafting of new initiatives to boost women's share in high positions of the public sector by the EU and its Member States. Furthermore, the Commission is funding both the EIGE and the European Women's Lobby (European Parliament, 2019; European Commission, 2015). Thanks to the EWL initiative «50/50: Women for Europe: Europe for Women», the goal of parity among sexes in the composition of European institutions has been further strengthened. In order to reach gender equality, the EWL has started lobbying activities on parties to boost women's presence in party lists and to increase the funding and contribution to women's electoral initiatives; by elaborating a set of tools on lobbying with a view to the achievement of gender balance (EIGE, 2017; European Parliament, 2019). The EWL toolkit helps to elaborate and collect data on the status of gender balance among EU Member States' Parliament and in the EP. Moreover, it provides lobbyists with indications and research on gender balance to guide their activities on key actors and promote an international lobbying networking. The EWL 2019 European elections Manifesto encourages political parties to design gender balanced electoral lists and sets out an awareness-raising campaign to reach gender parity. Another resourceful toolset is that elaborated by the European Institute for Gender Equality. The EIGE is constantly analysing statistics on gender parity in the political field, gathered in the EIGE's Gender Statistics Database, and collecting EU good practices, implemented by Member States. Furthermore, it provides Parliaments and individuals of unique instruments such as the gender mainstreaming set of tools and the gender sensitive parliaments' initiative (European Parliament, 2019).

Following the 2003 EP's resolution on GM, the Parliament set up the High-Level Group (HLG), which was renamed High Level Group on Gender Equality and Diversity. This body promotes the enforcement of a gender mainstreaming approach inside the Parliament itself and in its internal structure. The HLG, chaired by Dimitri Papadimoulis, works with the FEMM Committee and the Conference of Committee and Conference of Delegation Chairs for the elaboration of gender equality measures such as the creation of gender networking of MEPs

and parliamentary personnel to enforce GM; developing recommendation on the establishment of a “gender-neutral language” in parliamentary activities; and promoting GM’s tools such as gender budgeting inside the EP (European Parliament, 2018). The HLG’s «Gender Equality in the European Parliament Secretariat - state of play and the way forward 2017-2019», also known as the Papadimoulis Report, and the 2017-2019 roadmap encouraged an increased participation of women in high-level managerial positions and established a toolset of concrete initiatives to be carried out during a defined period of time. The initiatives set out in the 2017-2019 roadmap have been effectively enforced. For instance, the HLG organised many conferences and events, such as the International Women’s Day 2017 event on gender-targeted language and collected adjoined data on women’s empowerment in the EP, promoting better opportunities for women in the EP and an enhanced gender-sensitive awareness (European Parliament, 2018). Furthermore, the «Regulation 2018/67390 amending the Regulation on the statute and funding of European political parties and European political foundations» improves transparency in electoral selection processes, as it promotes the integration of data on gender balance with respect to all political parties of every European political group (European Commission, 2019).

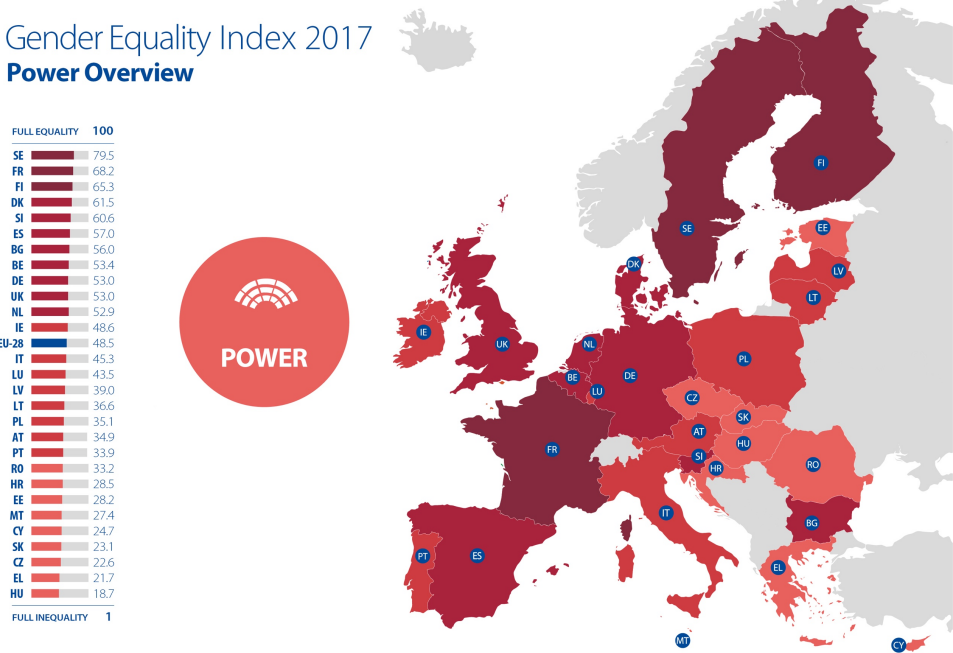
The EU has established the «WEgate platform», which helps women who are willing to set up a new business, providing training, guidance, and a networking platform. Moreover, this platform offers information about EU funds and capital reserved to women and new businesses (European Commission, 2019). The European Union has also focused on increasing women’s presence in the digital sector by encouraging teaching and formation of women business leaders through new technologies. As a matter of fact, in 2018, the EU has developed «The European Network for Women in Digital», in order to promote a gender-sensitive approach in the digitalization area (European Commission, 2019). For what concerns education, the EU Horizon 2020 is currently focusing on boosting gender equality plans in research projects and universities. The well-known «EU Prize for Women Innovators» represent an important occasion to award business women, «entrepreneurs and innovators», who brought meaningful contributions to the society, through innovations or research projects (European Commission, 2019). In 2018, the EU Prize for Women Innovators, held in Brussels, awarded the Italian Gabriella Colucci, CEO of ArterraBioscience, with €100,000 for her breakthrough findings on the manufacturing of active compounds for industrial employments (European Commission, 2019). The European Union has also committed itself to help third countries, most in particular developing countries in the path towards gender equality, through the Framework for Gender Equality and Women’s Empowerment. It has developed a «twin-track» strategy, which relies on the promotion of gender mainstreaming and women’s targeted actions to help women’s movements, spread awareness on gender balance and parity democracy and to encourage the

exchange of good practices and skills-development measures (European Commission, 2019). In addition to this, the principle of gender equality is one of the fundamental principles and a necessary condition, to which countries who wish to apply for European Union membership must comply with (European Commission, 2019).

4.2 Women in European Institutions

The EIGE has developed the Gender Equality Index, which investigates on gender gaps' evolution in the EU (EIGE, 2019). For what concerns gender equality in the power area, the Gender Equality Index has showed that this particular field has experienced the highest increase in women's presence; however, it is still the largest gap. As a matter of fact, Sweden is the only EU Member state to record over 90 out of 100 in women's power in politics. The political power indicator is calculated on the percentage of women ministers, women MPs and female officials in regional assemblies. (European Parliament, 2019; EIGE, 2019).

Table 4.2 Political power: Gender Equality Index



Source: EIGE, 2017

More than half of the global population is made up of women, however this composition is not reflected in the configuration of decision-making positions. As we have previously analysed, the European Union has committed itself to the scope of improving the balance of sexes in institutions at EU level and national level, through gender equality policies and mainstreaming initiatives. According to the EIGE, in order to achieve a real gender balance in women's political representation, EU institutions' percentage of women and men should not be inferior

to 40% (EPRS, 2019). However, following the 2014 European elections only eleven Member States reached the 40% threshold (EPRS, 2019).

Through the 2000s the European Union has experienced a relevant growth in the percentage of women in high-level positions in decision-making institutions and public administration (European Parliament, 2019). Those results have been possible thanks to the efforts of EU gender policy and civil organizations, which have tightly cooperated for the achievement of a policy based on parity democracy. Despite the efforts and increase in women's presence, gender stereotypes continue to be predominant in the functions and roles played by the two sexes, and to hinder the process towards gender parity. From the 2015 EIGE report on «Gender Equality in Power and Decision-Making», the allocation of women and men to ministerial or political positions is deeply gendered and differentiated (EIGE, 2015). Indeed, men are more likely to occupy posts related to defence, justice and foreign policy; while most women are marginalized and relegated to positions dealing only with culture and education. As we will see later on, the same EU institutions' partitioning is deeply gendered, and women are still just a small fraction of the EU institutions (EIGE, 2015).

The European Commission is still far from achieving a concrete gender equality in its internal structure. Currently, out of the 28 current Commissioners, only 9 are females. Currently, one of the highest positions of the Commission is held by Federica Mogherini, who holds the post of High Representative of the Union for Foreign Affairs and Security Policy and is the only woman Vice-President of the Commission (European Parliament, 2019). It was only in 1989 that the first woman commissioner was nominated. In the last 20 years, the percentage of female commissioners has grown from 6% to 30%. Moreover, a woman has never been appointed as President of the European Commission (Kantola, 2009). The official goal of the European Commission is to reach the 40% threshold of women in the Commission's configuration by the end of 2020. EU research work has showed that there is a high disparity in the percentage of females among senior positions in all EU institutions. Moreover, more than half of EU institutions are headed by men, since women hold only the 23.3% of senior positions (European Parliament, 2019).

Table 4.3 Women in EU institutions

EU institution	Number on governing body	Number of women	% of women
European Council (President of the European Council and President of the European Commission)	2	0	0%
European Council Cabinet (excluding secretariat)	3	0	0%
Council of the European Union	0	n/a	n/a
European Commission (Director Generals or Heads of Service of 53 Directorate Generals)	53	14	26%
Court of Justice of the European Union (Members of the Court of Justice)	40	8	20%
Court of Justice of the European Union (Members of the General Court)	46	10	22%
European Central Bank (Governing Council)	25	2	8%

European Court of Auditors (Presidency)	28	6	21%
European Economic and Social Committee	11	9	82%
European Committee of the Regions	3	0	0%
European Investment Bank (Board of Governors)	28	4	14%
European Ombudsman	1	1	100%
European Data Protection Supervisor	2	0	0%
European External Action Service	4	3	75%

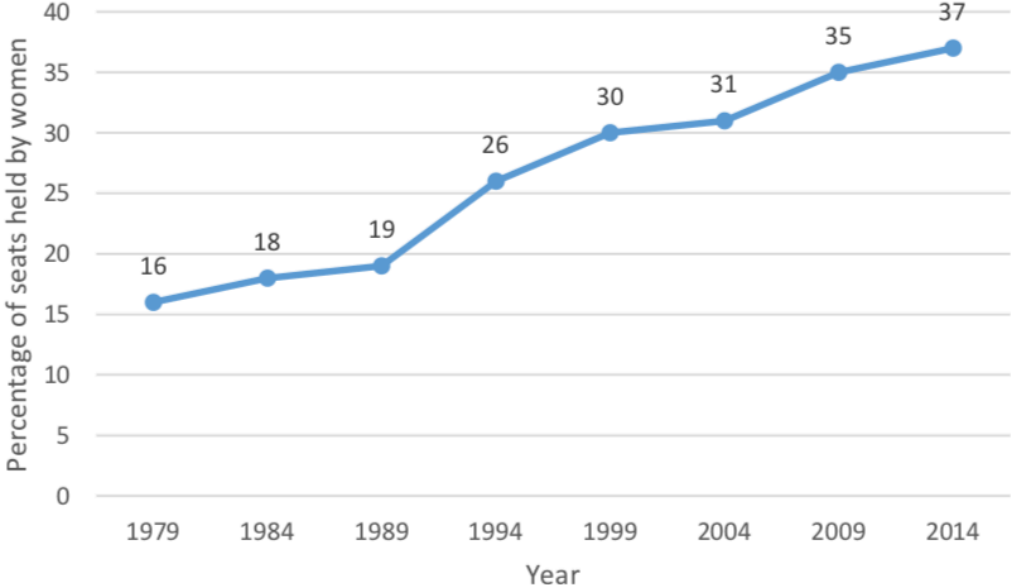
Source: European Parliament, 2019.

4.2.1 Women in the European Parliament: composition

The European Parliament is the heart of European Union's democracy and it represents the major EU decision-making arena, due to its role of co-legislator along with the Council. It is the engine of political discussion, promoting human rights, democracy and taking important decisions on legislation, while also monitoring the operations and work of others European institutions. Nowadays, the European Parliament is the most gender balanced institution of all European bodies and a privileged field of action to advance women's rights. However, until 1979, year of the first directly-elected Parliament, the Common Assembly was composed by members nominated by national parliaments. In 1952, the representation of women in the assembly was almost non-existent, as women represented only the 1.3% of the whole composition (European Parliament, 2019; EPRS, 2018; Norris and Franklin, 1997, as cited in Kantola, 2009). Notwithstanding the European Economic Community's efforts to promote gender equality, this percentage increased only by a little amount and reached 3% in 1958 and 5.5% in 1978 (Norris and Franklin, 1997, as cited in Kantola, 2009). From 1979, year of the first directly-elected Parliament, Members of the European Parliament (MEPs) are directly elected by European citizens and women had the chance to finally play a role in the new Parliament, by reaching 16.3% in the EP composition (EPRS, 2018).

The under-representation of women has been a steady trend in EU history, and it is also a general common phenomenon in Member States. By looking at the evolution of the composition of the MEPs and the current internal configuration of the European Parliament, the improvements in women's representation are crystal-clear; however, the haunting gender unbalance persists at the EU level (EPRS, 2018). There has been a persistent change of the percentage of women in the European Parliament at the start of every parliamentary mandate. As a matter of fact, the percentage of women in the first directly elected Parliament in 1979, amounted to 16.3%. Nowadays, out of 751 seats, only a third is occupied by women. At the last Parliamentary elections in July 2014 has peaked to 36.9%, recording the highest presence ever of female MEPs, which increased during the mandate to 37% (EPRS,2018). Currently, women represent the 36.4%. Furthermore, today five women are Vice-Presidents (Mairead McGuinness, Sylvie Guillaume, Evelyne Gebhardt, Lívia Jàròka, Heidi Hautala) and twelve women chair parliamentary committees (12 out of 24) (European Parliament, 2018).

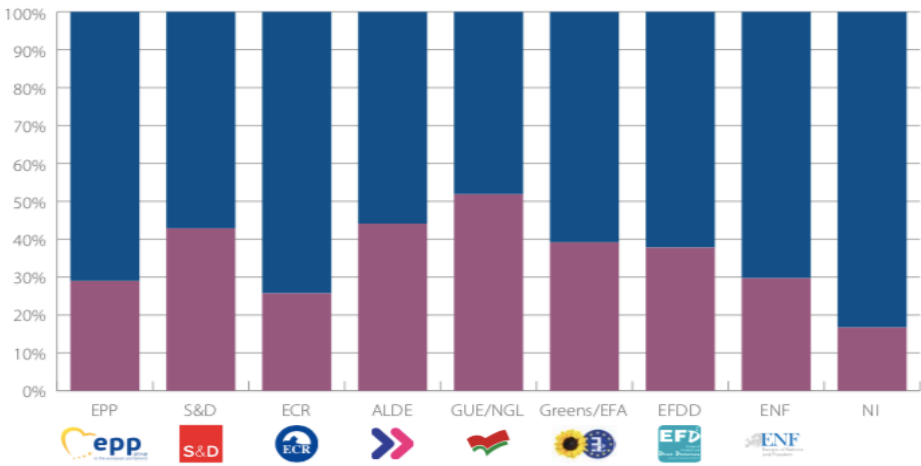
Table 4.4 Percentage of women’s representation in the European Parliament (1979 to 2014)



Source: «Results of the 2014 European elections: Men and women distribution, European Parliament 2019 », adapted by Policy Department for Citizens’ Rights and Constitutional Affairs

In 2018, the percentage of women MEPs in the EP was at 36.1%, which is more than the overall average of national parliaments, which is 23.6%, and the EU average for national parliaments, which has gone up to 30.2% (European Parliament, 2018). Women parliamentarians are actually at the vertex of 12 standing committees, including some of the highest profile committees dealing with budgetary issues, common market and constitutional matters, such as CONT, IMCO, SEDE, and AFCO. For what concerns the eight European political groups of the European Parliament, only two women occupy the roles of chair, Ska Keller (Greens/EFA) and Gabriele Zimmer (GUE, NGL) (Table 4.5) (European Parliament, 2018).

Table 4.5 Gender composition of political groups



Source: European Parliament, 2018, «Women in the European Parliament»

Women’s activism and lobbying had a major influence on the increases in the share of women in the European Parliament. Through the creation of «The European Network of Experts on Women in Decision-Making», in 1992, the European Union has conducted many awareness-raising programmes to address the gender gap in political representation. Moreover, the FEMM Committee and the European Women’s Lobby are currently working on the 50/50 Campaign, databases and initiatives to promote women’s representation with a view to the 2019 Parliamentary elections (European Parliament, 2019).

4.2.2 Women in national parliaments

A clear symptom of this persistent unbalance is the fact that in all national parliaments of EU Member States, the share of men is superior to that of women. Moreover, in national governments while some countries, such as Spain, Sweden and France recorded more than 50% of women in their cabinets; Italy recorded a share of women of 16.7 %. The EU average for national parliaments has went up to 30.2% (European Parliament, 2018).

In 2018, just Croatia, France, Ireland, Malta, Spain, Sweden, and the UK achieved the so-called “gender balance zone”, which requires women’s representation to be between 40% and 60% among MEPs (Table 4.6). Sweden and Malta have actually achieved a concrete gender equality among their Members of the European Parliament MEPs, meanwhile Croatia, Finland, and Ireland’s women representatives are more than half of the MEPs. For what concerns all the other Member States, men’s share of MEPs is superior to women (European Parliament, 2018).

Table 4.6 Gender equality among MEPs, by Member States (2014-2018)

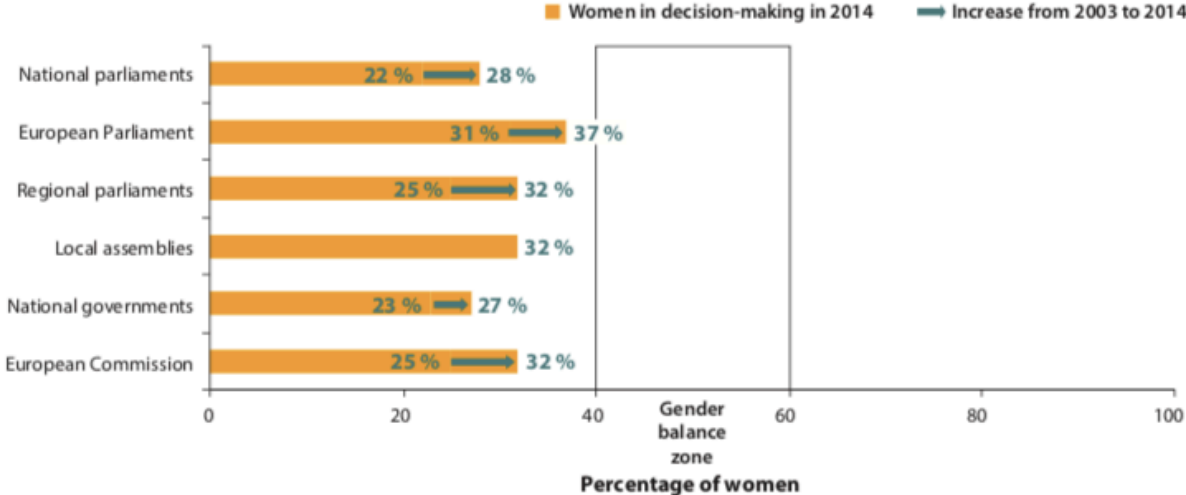
MT	FI	IE	HR	EE	LV	AT	SE	ES	UK	NL	FR	IT	SI	EU	DE	BE	LU	DK	SK	PT	RO	PL	CZ	EL	BG	HU	LT	CY
														Total seats														
6	13	11	11	6	8	18	20	54	73	26	74	73	8	751	96	21	6	13	13	21	32	51	21	21	17	21	11	6
														Percentage of women Members in the EP (1 March 2017)														
66.7%	61.5%	54.5%	54.5%	50.0%	50.0%	50.0%	50.0%	46.3%	42.5%	42.3%	41.9%	38.4%	37.5%	37.3%	36.5%	33.3%	33.3%	30.8%	30.8%	28.6%	28.1%	25.5%	23.8%	23.8%	23.5%	19.0%	18.2%	16.7%
														Gender quotas applicable to EP in the 2014 elections														
None	None	None	40%	None	None	None	None	40%	None	None	50%	33%	40%		None	50%	None	None	None	33%	> 0	None	None	None	None	None	None	None

Source: European Parliamentary Research Service, 2018

For what concerns women in national parliaments, there has been a consistent growth in women’s representation from the mid-2000s, due to the implementation of electoral gender quotas, which influenced the outcome of national elections. Gender disparity haunts women also in regional assemblies or local and municipal councils. From 2018 statistics, it has

emerged that on average women make up only the 33.3% and the 32.1% of local and municipal councils (European Parliament, 2019).

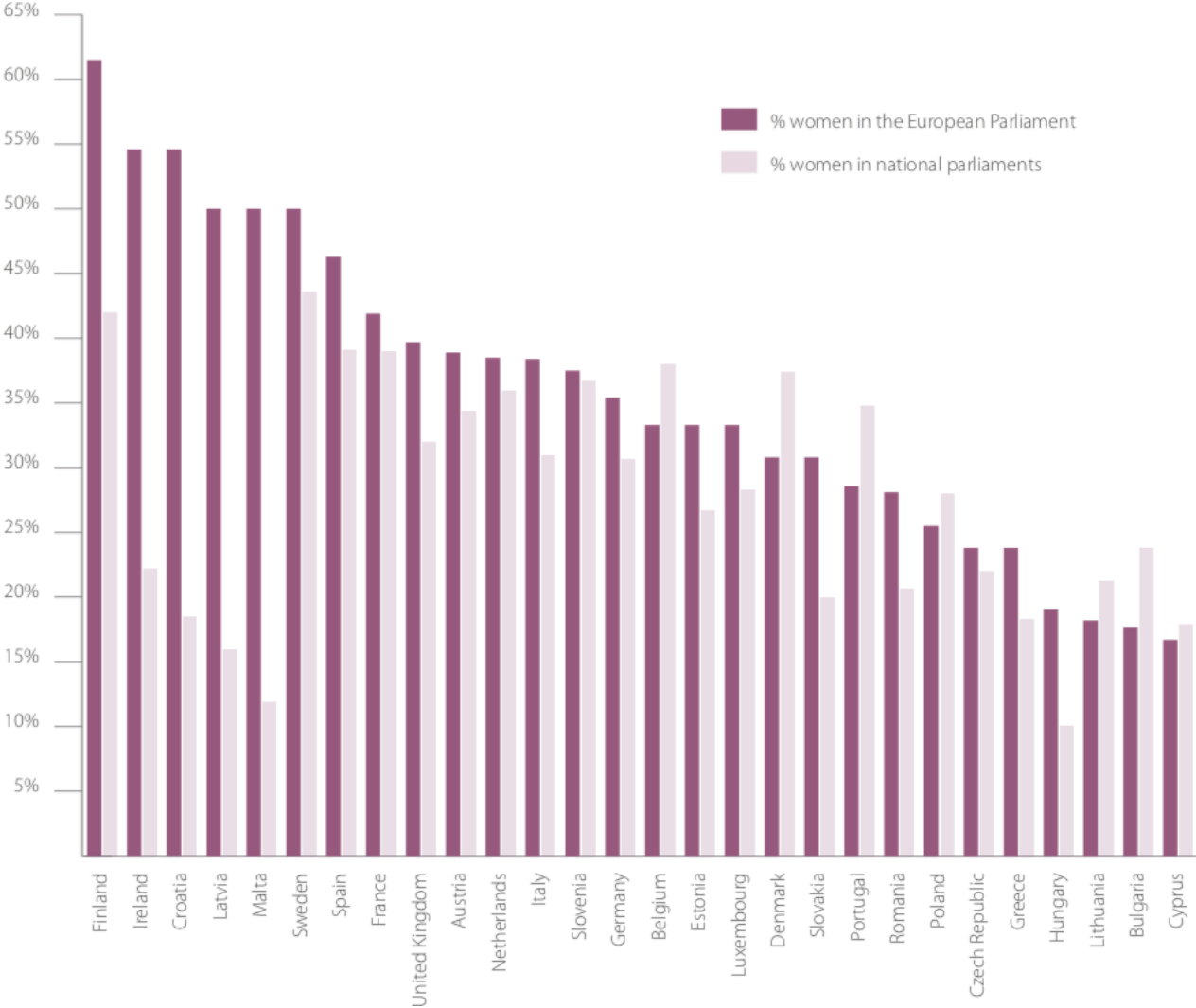
Table 4.7 Gender balance from 2003 to 2014 at the EU, national, regional and local level



Source: Adaption by EIGE, 2015, «Gender Equality in Power and Decision Making» of data by the European Commission, database on women and men in decision-making.

The Members of the European Parliament are actually 751 and are elected according to Member States’ electoral systems. However, according to EU law, Member States must implement a form of proportional representation system (European Parliament, 2019). Therefore, citizens can express their preference between political parties, candidates or parties and candidates. Moreover, there are different type of lists that can be implemented: closed list, through which citizens can select only one list and the given order of candidates; preferential voting, through which voters can choose one or more candidates; and the single transferable vote system (STV) (European Parliament, 2019).

Table 4.8 Women in the European Parliament and women in National Parliaments



Source: European Parliament, 2018

4.3 Hindering and supporting factors

Women have suffered from a descriptive under-representation, namely their numeric inferiority in comparison to men; however, the most concerning under-representation is the symbolic status of inferiority. Women politicians or high-level positions female managers are, in fact, treated differently from men, because of the traditional stereotyping process (Raterman, 2018).

Traditional common sense and women’s image through media have forced generations to blame women for the alleged lack of political interest or attitude, however, research has shown that there are many concrete structural and society-imposed obstacles, which harden women’s path towards politics and leadership posts (Raterman, 2018). Women are more likely to take part to grassroots activism and politics, rather than the corporate, organized expressions of politics. Politics appears to be strongly gendered and women often lack the aspiration to get

involved into the political arena, symptom of “naturalization” of gender hierarchies and male-possessed “natural inclinations”. Therefore, women’s ambition and desires are deeply rooted in artificial society-constructed logics and given opportunities (EPRS, 2019). Moreover, considering the intersectionality of gender, women face even more obstacles and discriminating barriers because of their ethnicity, religion or sexuality. Boundaries, obstacles are country-specific, rooted into the societal background. They find their expression through cultural, economic and electoral meanings (EIGE, 2015). Some of the most concerning threats to women’s empowerment are those of political nature, which impede women to fully access the policy arena. For instance, individual perception of women’s capacities, economic inequalities, voters’ prejudices against women, scarcity of networking, burdening of family duties, male-dominated parties and gender stereotyping are only some of the strongest barriers to gender equality in politics (EIGE, 2015). Gender stereotypes generate certain ambitions and expectations on young girls, which separate women and politics (EPRS, 2019).

Because of the persistent inequalities that characterize work-life duties, and the lack of an effective childcare system; women cannot manage to get engaged into politics, because of the burden of family duties. Women also encounter financial limits to access elections, due to their unfavourable economic condition. As shown by the Opcit Research 2015 for the EP, women have less financial capital at their disposal to invest in electoral campaigns and are therefore less keen on accessing politics (European Parliament, 2019). Furthermore, women are given an inferior amount of private contributions and funding for their political activities. Hence, they must count on their own income, which is generally lower than men’s, or party’s contributions. Politics is pictured as a distant, stranger entity, male-dominated and somehow unintelligible to women. Still today, leadership is depicted as a vigorous matter of supremacy and predominance, made of rational thinking and strategical reasoning (European Parliament, 2019). Centuries of patriarchy cannot be erased overnight, and this is what feminists today are still fighting about, paying the consequences of silence and induced invisibility. In comparison to men, less women pursue political careers because of the high expenditures and risks related to elections, media sexism, physical or mental abuses and mistreatment, and the overall patriarchal nature of representative politics (EPRS, 2019; EIGE, 2015).

Even though, we have witnessed an undeniable increase of women in power and leadership positions; this phenomenon has produced numerous “negative feelings” and feedback due to the relationship women and politics. Women displaying characteristics of leadership, as strength and dominance, are perceived as contradicting the “natural” expectations linked to gender, producing feelings of “alienation”. Women’s access to politics is deeply discouraged by the unequal distribution of family responsibilities between women and men, since women still represent the primary carers of children and of the household. (EPRS, 2019).

Traditionally, women are pictured as being mothers and wives before individuals, with weaker commitment to work in comparison to men, therefore, they are often kept away from power-decision positions. This phenomenon is self-evident in the high percentage of women employed in part-time positions or precarious work, which limits their possibility of professional growth throughout their careers and their aspirations of being employed full-time (EIGE, 2015).

Furthermore, there is an urgent attention on abuse, harassment and violence that haunt women's presence in politics, self-evident from the numerous initiatives to fight sexual harassment within institutions, such as MeToo EP. In 2018, the Inter-Parliamentary Union and the Parliamentary Assembly of the Council of Europe has conducted a survey on sexual and mental abuses on female members of parliament (MPs) in EU Member States. From the survey, it has emerged that the youngest MPs were much more frequently victims of psychological and sexual harassment, and the 33.3% of women physically or mentally abused revealed that those events hindered their liberty of speech and weakened their positions (EPRS, 2019). Moreover, there has been also a high percentage of harassment against female MEPs, and even more against females working as staff in the EP. Women are also affected by obstacles, preventing them to run in the elections. It is sadly very common that political parties, which represents the gatekeepers to access politic prevent women to fully access politics, when choosing candidates (Dahlerup, 2006; Dahlerup, Freidenvall, 2008). The degree of political parties' influence depends upon the electoral systems (EPRS, 2019). As a matter of fact, in those system, in which voters express their preference for parties (closed systems), parties have a major influence on the candidates which are elected. Meanwhile, in open systems, voters can express their preference for candidates. Proportional representation systems promote women candidates, in comparison with majority systems which act as a hindering institutional barrier for women (EPRS, 2019).

4.3.1 “Glass ceiling” and “glass cliff”

Because of the so-called “glass ceiling” effect women's growth in their professional career is specifically limited, in the sense that it is almost impossible for them to access the highest positions (EIGE, 2015). This phenomenon derives from the societal boundaries, gender bias and stereotypes, which act as hindering barriers. The invisibility of the glass ceiling effect toughens the comprehension of the dynamics embedded in employment and career advancement; however, the scarcity of women at the highest levels of societies emphasises the existence of hindering boundaries to women's growth (EIGE, 2015).

The “glass cliff” phenomenon refers to the habitual process for which women are appointed in precarious positions of power, as for instance at the vertex of companies or political parties which are on the verge of breaking down. Because of this system women's

prospects to succeed in business or politics are deeply weakened, as their possibility of failure are very high. In 2004, those phenomena have been confirmed by professors Ryan and Haslam of University of Exeter, which coined the term glass cliff. In their project, they analysed the functioning and level of success of 100 companies prior to the entry of members to the boards and after their entrance (EIGE, 2015). The research proved that those enterprises that nominated female members to their boards had already undergone massive poor results in their prior management operations. Women who experience glass cliff, are actually women who managed to overcome the glass ceiling effect and to break the glass-made barriers of society. However, as we have seen, taking power does not actually mean having power. High-risks leadership positions are more likely to be reserved to women, left to take the blame for failures and to fall off the glass cliff (EIGE 2015).

4.3.2 Institutional barriers and media sexism

Institutional barriers, such as the political patriarchy, party-lists or electoral system can actually hinder or support women's participation to the political arena. For what concerns electoral factors; parties' selection of candidates and majoritarian or plurality-majority systems have a negative impact on the gender balance in politics, because they weaken the effectiveness of quotas (EIGE, 2015). The type of electoral system affects «the supply and demand for women politicians» (European Parliament, 2019). In cases of majoritarian systems, the effectiveness of quotas depends entirely on men's will to empty their posts. Meanwhile, proportional systems are able to favour gender quotas (EIGE, 2015). According to EIGE statistics, in European countries with proportional systems there is a higher percentage of women elected, because of the effectiveness and encouragement of gender quotas. Furthermore, EU countries have often implemented 'zipper system' quota, which compel parties to develop lists with a male-female candidate alternation. In EU Member States, proportional systems are the most frequent, meanwhile, France and the UK are still enforcing a purely majoritarian system for elections to national parliaments. In 2014, in almost half of the MS with proportional system, women's percentage in the lower or single houses of Parliament rose above 30 %. Meanwhile, France and the United Kingdom's presence of women did not reach the 30% threshold of women MPs (EIGE, 2015).

Table 4.9 Electoral systems by Member States

Majority-Plurality system (2)	Mixed System (6)	Proportional Representation system (20)
FR; UK	BG; DE; ES; LT; HU; RO	BE; CZ; DK; EE; IE; HR; CY; IT; LV; LU; MT; NL; AT; PL; PT; SI; SK; FI; SE

Source: adapted from Inter-Parliamentary Union, 2013

As defined by the «Council Decision 2002/772/EC», all Member States must implement a proportional system for the election of Members of the European Parliament, however they possess a certain degree of flexibility in nature and openness (European Parliament, 2019). According to the degree of openness of the system, political parties can have a greater control on which candidates are elected (closed system); or less control, as citizen themselves are able to design and choose among the candidates (open system) (European Parliament, 2019). Within the proportional system framework, Member States can choose among a list system or the single transferable vote (STV). Overall, while most Member States have implemented typologies of preferential voting, the remaining MS employ closed list systems, and only Malta and Ireland have actually implemented the STV system. The single transferable vote is a democratic and open system, in which citizens express one vote through which they are able to sort their candidates in order of preference, even belonging to different parties. This STV system allows voters to express their preference, without parties’ impositions (European Parliament, 2019). In closed list systems, the lists of candidates are designed by political parties, which are able to enforce a great deal of power over the elections’ outcome. As a matter of fact, citizens can express their preference between party lists and cannot affect the candidates’ order in the lists. Therefore, it is up to parties to distribute the parliamentary seats won to their candidates, according to the lists. During the selection processes of candidates, parties have the upper hand and the power to elaborate the lists. Therefore, it is up to them to implement or neglect gender equality quotas and measures. (European Parliament, 2019).

Preferential voting systems allow voters to exercise some degree of control on which candidates will gain seats from the party lists. However, there are different typologies of preferential voting systems, more or less open. While some preferential systems grant citizens the possibility to choose candidates from different parties; others, as the mixed system, require

voters to pick just one party list (European Parliament, 2019). In more open systems, citizens can express their preference for individuals. Therefore, the seats are distributed on the grounds of the amount of votes received by candidates, providing a greater control to voters over parties. However, research has shown that proportional systems are not always the best choice (European Parliament, 2019; Matland, 2005). In countries characterized by voters’ strong gender prejudices, closed list systems can offer more favourable result for women, thanks to the implementation of quotas or zipping systems in order to enforce gender equality in party lists. In this hypothetical framework, gender quotas act as incentives for parties selecting their candidates, even though they are subject to voters’ influence. However, in those Member States, which boasts a positive history of gender equality (Sweden, Denmark, Norways, etc.) open lists or half-open lists can be quite effective as well, as the implementation of quotas is not needed at all (Matland, 2005).

It has been proved that gender balance in European Parliaments’ elections has been boosted by the introduction of national legislated quotas, which ensures a balanced representation of both sexes in MS’ candidates. Moreover, national legislated quotas are more effective when they are associated with coercive measures for non-compliance, such as legal and economic penalties (Matland, 2005). Legislated quotas make up for the lack of «supply and demand of women candidates», ensuring a better representation and gender balance (European Parliament, 2019).

Table 4.10 Typologies of electoral systems in Member States

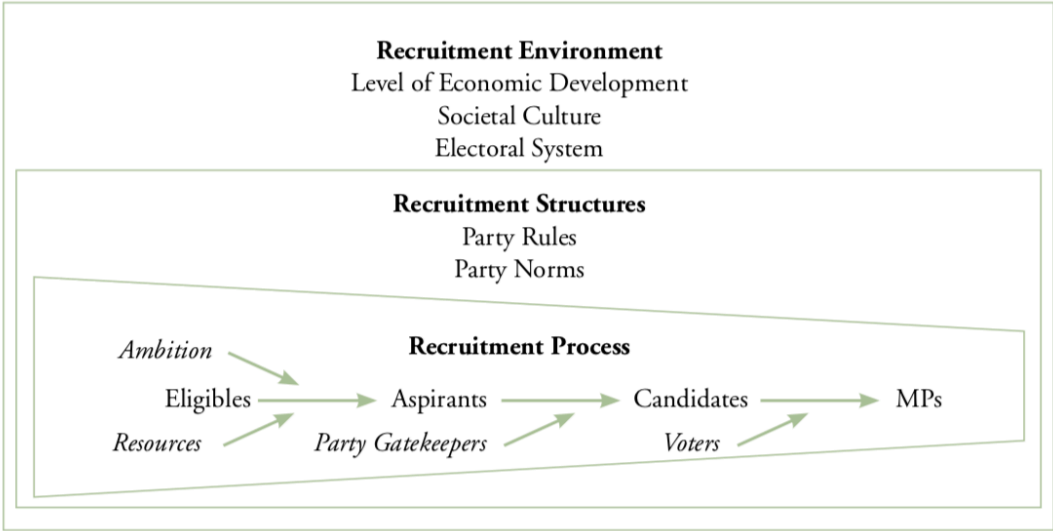
Electoral system	Closed lists	STV	Preferential voting: open lists	Preferential voting: semi-open lists
Actor: influence	Strong party influence	Strong voter preference	Strong voter preference	Mix of party and voter preference
Openness	More closed	More open	More open	Mixed

Source: adapted from European Parliament, 2019, «Women in political decision-making in view of the next European elections»

As we have seen, the type of electoral system and the level of influence of parties affects to a certain extent women’s presence in the European Parliament. On average, affirmative action, as gender quotas, can positively affect the demand for female candidates and make up for the gender inequality that characterizes party, national and European levels. As we will develop

later on, gendered targeted quotas, defined gender ratio criterion, or “zipped system (alternation of women and men in parties’ lists) are some of the most effective measure and do actually make a major difference for gender balance (European Parliament, 2019, EPRS, 2019). According to Matland’s theory, the entrance of women in politics has to face three major barriers: women’s perception of themselves as political animals, women must be chosen by parties’ as candidates, women must be chosen through voters’ preferences (Matland, 2005).

Table 4.11 Matland and The Legislative Recruitment



Source: Matland, R. and K. Montgomery, 2003, «Recruiting Women to National Legislatures: A General Framework with Applications to Post-Communist Democracies»

In order for women to access politics, they must make a choice and self-define themselves as potential candidates. Even though they possess an alleged equal status, they are surrounded by a patriarchal model of representative politics and are discouraged from accessing the political arena. This process of devaluation makes it harder for women to aspire to politics, as women are commonly perceived as less powerful and less capable of being leaders (Ryan, Haslam, 2005, as cited in European Parliament, 2019). Moreover, Murray has recently highlighted that a great burden weights on women leaders, as they are somehow obliged to prove their capacities and must excuse or motivate their election and rise to power (Murray, 2014, as cited in European Parliament, 2019). A major hindering factor is the media’s exposition of women candidates and politicians. Women’s under-representation in the political arena is a direct consequence of media sexism and inegalitarianism. Precisely because of media coverage on women, female MEPs, national politicians, and more in general, women in the European Union are still dealing with abuses, cyber-bullism, mistreatment and risks coming from the society and their own working environment (European Parliament, 2019). According

to the 2018 Inter-Parliamentary Union survey, 85% of the interviewed female MPs experienced mental abuses during their mandate; 68% experienced mistreatment on the grounds of their aspect or gendered characteristics. Another concerning issue has been the amount of cyber-bullism experienced by women on the web, including menaces of physical violence and rape. According to the survey, a quarter of the women respondents was sexually abused (European Parliament, 2019).

Those repellent data give us an insight on the life of women in politics. Gender equality, gender balance is not only about how many women are in power but also on how women actually experience this sort of power; how they are treated in comparison to their counter-sex; and what differences can result from having more women in power. The MeeTooEP blog is a clear example of the fact that even when women are in positions of power, they have to endure mistreatment and sexist behaviours by their fellow colleagues. The MeeTooEP blog collects the anonymous testimonies of female MEPs, or parliamentary staff, which suffered from abuses or psychological violence within the European Parliament (EPRS, 2019, European Parliament, 2019).

4.3.3 Political parties: gatekeepers to gender balance

Political parties have the power to nominate and select candidates; therefore, they possess a great deal of control on the gendered composition (Dahlerup, 2006). Political parties have been defined as the guardians and “gatekeepers” to achieve gender equality in political representation (European Parliament, 2019). However, they have often acted as deterrents for women’s entrance into politics. A survey carried out on the latest 2014 Parliamentary elections by the European Parliament has shown that, at the time of the elections, gender bias against women was weaker than ever; therefore, in those countries in which citizens had the chance to exercise a strong voter preference, there was a higher percentage of women MEPs (European Parliament, 2014; European Parliament, 2019). Meanwhile, in cases of closed list and a restricted presence of women in parties lists, there were consequently fewer women elected. Moreover, gender inequality’s persistence is self-evident, as from 2011 to 2014, 25% of deputy leaders of the main national political parties were females, however they made up just the 13 % of leaders of the principal political parties in the EU (EIGE, 2015).

However, European political groups did not put any pressure on national parties about gender balance in party lists. As a matter of fact, few European political groups included gender parity in their electoral campaigning activities and did not express any comment on gender quotas.

4.4 Towards the 2019 Parliamentary elections

Gender equality is not only related to women's rights, but also to human rights. It is a fundamental pillar of the European Pillar of Social Rights, which promoted equal treatment and equal opportunities in all sectors, ranging from work environment, selection processes, promotions and work-life balance (European Commission, 2019).

We are currently experiencing a particular momentum for gender equality, as the number of women MEPs, women in leadership positions and women CEOs is steadily growing (EIGE, 2016; European Parliament, 2019; EPRS, 2019). The European Union strategies for gender equality and Member States commitment to communitarian law and international initiatives such as the «UN Conference on Women in Beijing», the «Convention On the Elimination of All Forms of Discrimination against Women», or the commitment to the UN SDGs, have actually had a major influence on women's representation in positions of power, improving the work environment conditions and a better distribution of work-life duties (EIGE, 2015).

Nonetheless all the efforts, women still have to face hindering barriers, such as income inequalities, psychological or physical mistreatment, media sexism and also institutional barriers, such as the typology of electoral system and parties'/voters' levels of influence on the outcome of elections (EIGE, 2015; Dahlerup, 2006). Notwithstanding all the obstacles women still have face in their path towards decision-making positions; the percentage of women in political and high-level business positions is constantly growing, contributing to women's empowerment in the European Union (European Parliament, 2014). Moreover, the hopes for a more gender-balanced European Parliament lie in the 2019 Parliamentary elections (EPRS, 2019; European Parliament, 2019). Nowadays, EU action and the 2019 European elections campaigning has taken a different stance and adopted meaningful initiatives for a gender balanced EP (EPRS, 2019). Moreover, the electoral manifestos of European political groups appear to be increasingly gender-sensitive. The Parliament is currently cooperating with civil organizations such as the European Women Alliance, Women Political Leaders, Make Mothers Matter Europe, and many more. The goal is to ensure a higher voter turnout among women citizens compared to the 41% recorded during the 2014 Parliamentary elections, in comparison to 45% for men (European Parliament, 2019). Apart from increasing female voters' participation, EU actions aim at increasing the presence of women MEPs. The EWL 50/50 campaign aims at achieving the 50% women's threshold of gender parity and has encouraged parties to develop gender balanced lists and implement the zipping system, in order to increase women candidates. As a matter of fact, political parties possess the power to facilitate or harden women's political path (European Parliament, 2019). The European Union is constantly trying to encourage women and sustain them, by fighting the glass ceilings and glass cliff in business

and politics (EIGE, 2015). Therefore, it is cooperating with Member States' representatives, enterprises, trade unions and civil society organisations to spread EU-supported activities to stimulate gender-sensitive approaches in high-level positions levels, by promoting the exchange of good practices and networking (European Commission, 2019).

Currently, women managed to occupy high-level positions in the European Union bodies. The Vice-President of the Commission Federica Mogherini covers the role of the High Representative of the EU for Foreign Affairs and Security Policy (European Commission, 2019). Thanks to the efforts of the President of the European Commission, Jean-Claude Juncker, eight women Commissioners are dealing with key areas such as commerce, transport, work selection process and justice. Emily O'Reilly is the European Ombudsman, who analyses and monitors accusations of bad governance by EU bodies (European Commission, 2019). Nowadays, the next Parliamentary elections, which will be held in May 2019 represents a great opportunity to achieve a greater gender balance in the European Union and to give women more room in a fairer institution (EPRS, 2019; European Commission, 2019; European Parliament, 2019).

V. Gender equality at the national level in relation to European elections

This chapter further investigates on the gender equality framework at the national level and on examples of good practices implemented among Member States. Furthermore, it will focus on the functioning of electoral gender quotas and their consequences on the level of female political representation. Gender quotas can be a successful measure to boost women's presence in political institutions; however, they must be supported by other factors, such as the electoral system, the political ideology, country's attitude towards gender equality and non-compliance remedies (European Parliament, 2019). The last section of this chapter will provide the analysis of the gender equality framework through four case studies: Sweden, Belgium, Italy and Hungary. The analysis will focus on the effectiveness and typologies of quotas and the role of political parties as gatekeepers to women's political accession.

5.1 Electoral gender quotas

As we have seen, the growth of women's percentages in national bodies and European bodies depends upon the structural-framework, which includes the type of electoral system, proportional representation being the most gender-sensitive; positive measures to improve women's socioeconomic status (gender budgeting and positive action), cultural and political ideology of the country (left predominance vs. right predominance) and the implementation of gender quotas. (Reynolds 1999; Rule and Zimmerman 1994; Siaroff 2000; Tremblay 2008, as cited in Cowell-Meyers, 2016).

During the 1990s many parties and EU Members decided to undertake the establishment of gender quotas in their national systems. The EU efforts towards the implementation of quotas find their expression in several meaningful documents, such as: the «Council Recommendation 96/694/EC on the balanced participation of women and men in the decision-making processes», the EP «Resolution of 11 February 1994 on women in decision-making» and the «Council Resolution of 27 March 1995 on the balanced participation of women and men in decision-making» (European Parliament, 2019). Electoral gender quotas have been defined as one of the most influential measures to boost female politicians' presence in political decision-making bodies. Their effectiveness is strictly linked to structural and external elements, such as the typology of quotas implemented, the establishment or lack of penalties and enforcement measures and the political parties' behaviour towards quotas (European Parliament, 2019).

When successfully enforced, those measures deconstruct hierarchical gender structures and change the candidates’ selections and the outcomes of elections. Electoral quotas can have a different nature: voluntary, legislated or reserved seats quotas. In the European Union, 23 Member States have actually enforced a quota system; however, voluntary party quotas are the most used. Only recently, a growing number of Member State is adopting legislated quotas (Krook, 2009, as cited in EIGE, 2015).

Electoral gender quotas are an example of positive-affirmative action to promote gender balance, however, they do not impose any kind of discrimination against man, neither do they provide a disproportionate benefit to women. They simply act as a temporary instrument to mitigate the existing discriminations against females in elections and they are necessary because discrimination and unbalances still exist (European Parliament, 2019). In the last decade, the average percentage of women in Member States national parliaments has grown by only by 6 %, peaking at 28 % in 2014. In 2014 only eleven Member States overcome the critical mass requirement (over 30%) (EIGE, 106). Only five of those Member States had employed legislated gender quotas (BE, ES, IT, PT, SI, at regional level), as the others had voluntary party quotas. Quotas can be quite an effective method as proven by the increases of women in national parliaments in Portugal, France, Poland and Greece (EIGE, 2016).

Table 5.1 Types of Quotas across EU Member States

No quotas	Legislated candidate quotas & voluntary party quotas	Only voluntary party quotas
BG; DK; EE; LV; FI	BE; IE; EL; ES; FR; HR; PL; PT; SI	CZ; DE; IT; CY; LT; LU; HU; MT; NL; AT; RO; SK; SE; UK

Source: IDEA, 2015

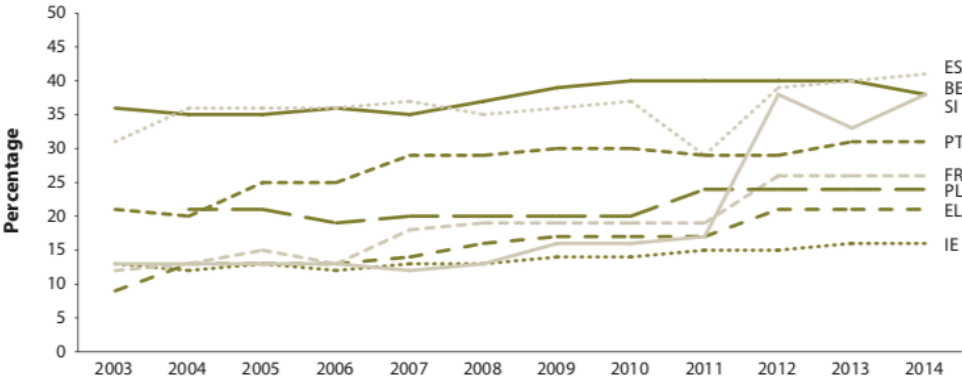
5.2 Typologies of quotas

A quota system is employed for the achievement of a threshold of women or men, or both sexes (gender-neutral quotas), in a governmental institution, national parliament, committee, party list or European Parliament (EIGE, 2015). One of the most common critiques that has been addressed to quotas is the fact that they are in an open contrast with the principle of equal opportunities. According to some critiques, the logic of quotas is not a feature of a functioning

liberal democracy (Dahlerup, 2006). However, the policy of equal opportunities and the principle of equality has not been enough to promote women’s representation in all economic and social aspects of life, as they are still under-represented in the highest-level positions. The implementation of quotas is based on the promotion of an «equality of results», which promotes the implementation of affirmative action for women. As a matter of fact, it is not enough to provide women with the same opportunities as men, because they face forms of discrimination and hindering facts that prevents them to access the political sphere. The International Institute for Democracy and Electoral Assistance (IDEA) has identified three types of quotas: reserved seats, legal candidate quotas and political party quotas (IDEA, 2019). Reserved seats quotas imply that a number of positions of the elected are reserved to females, while, legal candidate quotas and political party quota establish a minimum requirement for the number of women candidates on parties lists, or in some cases for the aspiring candidates. This last type of quotas can be voluntary, subject to the political parties’ willingness to benefit women, or legally enforced (hard quotas) through constitutional requirements (Dahlerup, 2006).

Gender quotas can be legally enforced through the constitution or through the electoral law, as in Belgium and France, and they can be temporary or permanent. In cases of voluntary party quotas, it is up to individual parties to set up a minimum requirement of women in electoral lists. For instance, in Norway and Sweden, several parties have chosen to implement gender quotas in the composition of their lists (Dahlerup, 2006). Overall, the implementation of a quota regime has the goal of achieving at the minimum a percentage between 30% (critical minority) and 40%, the so-called «gender balance zone» threshold (EIGE, 2015). Some countries have fixed a 50% threshold, aiming at a fully consolidated gender balance. Furthermore, a quota system can be implemented at different levels: federal, national, regional or local (Dahlerup, 2006). As shown in Table 5.2, quotas can be an effective method, as shown by the increases in women’s parliamentary seats in Portugal, France, etc.

Table 5.2 Growth of women’s representation in national parliaments in Member States with legislated quotas, 2003–2014



Source: European Commission, DG JUST. Database on women and men in decision-making, adopted by EIGE, 2016.

For instance, in Belgium, gender quotas are employed at all levels of the State (federal, regional and local) and they provide an efficient example of positive action to promote women (Meier, 2008; IDEA, 2019). For what concerns departmental elections France has employed a binominal system, for which citizens can express their preference for a coalition of a woman and a man (EELN, 2018). In Sweden, where only voluntary quotas are applied, women's percentage in the Parliament and the Government has almost reached gender parity (EELN, 2018; IDEA, 2019). As a matter of fact, the representation of women in the national parliaments is currently 46%, reaching the gender balance threshold (IDEA, 2019). From 2007, Spain has promulgated a new law that compels political parties to have a minimum of 40% of women in parties' lists (IDEA, 2019; European Parliament, 2019; EPRS, 2019). Moreover, penalties are enforced in case of non-compliance and the quota requirement is established every five candidates, in order to locate women in winnable spots. This new legislation has increased the percentage of women elected, in the Partido Socialista Obrero Español and People's Party (EIGE, Good Practices Database).

According to the 2019 survey by the Policy Department for Citizens' Rights and Constitutional Affairs for the European Parliament on Women in decision-making, electoral gender quotas can be a valid successful practice for gender equality (European parliament, 2019). However, the survey points out that legislated quotas and voluntary quotas, enforced by political parties, can actually have a positive effect as long as they are supported by a fair electoral system, a defined goal of the quota and the establishment of a regime of sanctions for cases of violations. Moreover, the Policy Department for Citizens' Rights and Constitutional Affairs' analysis stresses the necessity of a minimum of 50% of women candidates and defined requirements on ranking in lists, to safeguard women's possibilities to be elected (European Parliament, 2019). The effectiveness of quotas strongly depends upon the presence of non-compliance penalties and, in case of candidate quotas, on the ranking order (European Parliament, 2019).

According to Dahlerup the main issue is linked the ranks of the women nominated in party lists, in the sense that they must be ranked in a spot that gives them a real possibility of being elected (Dahlerup, 2009; Dahlerup, Johanson, 2013). During the 2014 European Parliamentary elections, 6 of the Member States that employed quotas established norms about the ranking orders, in order to ensure the presence of women in the highest positions of the list (Dahlerup, Johanson, 2013). As a matter of fact, the "zipping system", which establishes the compulsory alternation of women and men in party lists, seems to be one of the most successful measures to reach gender balance in parties' lists. During the 2014 European Parliamentary

elections, only eight Member States (Table 5.3) employed gender quotas in the designation of the electoral lists for potential MEPs (Belgium, Croatia, France, Italy, Poland, Portugal, Slovenia and Spain) (European Parliament, 2019). Moreover, only France and Belgium required the zipping alternation for the first two positions, while Portugal employed a particular type of zipping which allowed for maximum two female or male candidates in sequence and requiring 33% of each gender. Slovenia and Spain introduced gender-sensitive parties' lists, which established a 40%/60% relation among the two sexes (EPRS, 2019). The 40%/60% ratio requires that one of the sexes make up at least 40% of the lists, applying the logic of gender-neutral quotas (EPRS, 2019). While, Poland established a 35% threshold, Romania prohibited lists with all male or all female candidates. Romania is not included in the list of the eight countries aforementioned, as this system was not very effective to improve women's representation (EPRS, 2019). Italy required 33% for each gender in the electoral lists for the 2004 and 2009 elections. In 2014, the newly established Italian requirement established that in case voters expressed an all-male or all-female preference, the third preference votes were annulled. Some Member States, which refused to take any gender measure for the European elections, chose to employ gender quotas in domestic elections, as for example Greece. (EPRS, 2019).

With a view to the 2019 EP elections, eleven Member States will now require the employment of gender quotas. Greece will introduce the requirement of at least one third of each gender in electoral lists, while Luxembourg will introduce the 50% gender parity. As for Italy, it will now require that each gender cannot make up more than 50% of the list and it will require a form of zipping for the two highest ranking positions in the lists (EPRS, 2019). Even though legislated quotas have been an important measure to increase women's representation, there are meaningful examples of pioneers of gender equality, who increase women's presence at the political level through the so-called «incremental track», which includes voluntary party quotas (EPRS, 2019). In the case of Sweden or Denmark, voluntary party quotas had a massive impact on the elections' outcome, achieving a significant percentage of women's representation in the parliaments (EPRS, 2019). Moreover, Sweden has been the only Member State to achieve 100 out of 100 in the Gender Equality Index (EPRS, 2019). North European countries have preferred introducing voluntary party quotas (Sweden, Norway, Denmark, etc.). Those countries (DK, DE, NL, AT, FI, SE), however, are characterized by an empowering gender-sensitive political culture, which has allowed them to reach a significant percentage of women without the implementation of legally binding quotas (EIGE, 2016). Sweden's Social Democrats, for example, have introduced the aforementioned zipping system (Dahlerup, Johansson, 2013).

Overall, non-compliance with legally enforced quotas is punished with the rejection of

the transgressive party lists or with economic penalties, such as in the case of Portugal. Meanwhile, in Italy and France political parties are deprived of part of their funds (European Parliament, 2019). According to Dahlerup and Johansson, depriving parties of the possibility to run for elections is the heaviest and most efficient penalty that can be applied (Dahlerup, Johansson, 2013). However, some countries employing voluntary party quotas, like Georgia, have introduced a particular system of economic subsidies, according to which those countries who implement effective candidate quotas will gain a special financial aid from the state (Dahlerup, Johansson, 2013). In most EU Member States with no legally enforced quotas, parties have chosen to employ party or candidates' quotas in order to promote women in politics in their party statutes or rules (Dahlerup, Johansson, 2013). The Greens and Social Democrats were the first parties to commit themselves to this cause between the 1970s and 1980s (Dahlerup, Johansson, 2013). However, even in those countries where there are legally binding legislated quotas, some parties have introduced more generous positive measures promoting women, such as Italy. Those party quotas can be gender neutral or gender-targeted, from 25% to the 50% threshold (Dahlerup, Johansson, 2013). For instance, Italy has a national requirement of 33%, however, the Democratic Party has fixed the 50% threshold, implementing a zipping alternation in its electoral lists (European Parliament, 2019).

Table 5.3 Quotas in the European Parliament elections 2014

Member State	Quota requirement	List position requirement	Sanction for non-compliance	Electoral system	Gender balance (% of seats won by women in 2014)
Belgium	50%	The first two candidates on the list cannot be of the same sex	Rejection of electoral list	Preferential Voting	29%
France	50%	Alternation of male and female candidates on lists	Rejection of electoral list and financial penalty (reduced public funding)	Closed Lists	42%
Croatia	40%	None	Fine of HRK 50,000 imposed on political parties	Preferential Voting	45%
Slovenia	40%	At least one candidate of each sex must be placed in the first half of each electoral list	Rejection of electoral list	Preferential Voting	37%
Spain	40%	Quotas applied to whole lists and to every 5 posts	Rejection of electoral list (parties are first given time to amend lists)	Closed Lists	41%
Poland	35%	None	Rejection of electoral list (parties are first given time to amend lists)	Preferential Voting	24%
Italy	33%	Some districts require alternation of male and female candidates on lists	Reduction of party funding (partial loss of subsidies)	Preferential Voting	40%
Portugal	33%	Lists cannot include more than two consecutive names of the same sex	Financial sanctions imposed and non-compliance made public	Closed Lists	38%

Source: International Institute for Democracy and Electoral Assistance (2019), EPRS (2019), European Parliament, adapted by Policy Department for Citizens' Rights and Constitutional Affairs

5.3 Alternative gender-targeting initiatives

In the European Union, there are still some political parties who decided not to introduce gender-targeted or gender-neutral voluntary quotas in the drafting of their electoral lists (European Parliament, 2019; IDEA, 2019). In order to address women's representation in institutional bodies, some parties resorted to informal strategies, such as guidance, targets requirements or suggestions. Those measures can be addressed at candidates' level, at the internal composition of the party, committees or sections (Dahlerup, Johansson, 2013). Some parties have witnessed and recommended the emergence of specific women's section, where they could discuss and organize in order to create women-targeted specific initiatives, promote positive measures, awareness-raising campaigns or to undertake «capacity building activities» (Dahlerup, Johansson, 2013). Women's sections started to emerge in the early 1930s, initially designed to increase the percentage of women's voters. However, they gradually transformed into women's arenas within the party to give them a safe place to focus on women's achievements and what needs to be done to address unfair selection processes inside and outside the party (Dahlerup, Johansson, 2013).

Another important initiative, developed at the end of the 1990s, was the introduction of Women's Parties. A women's party is a sort of association between a political party and a social civil society organization, which has the aim of improving women's presence and status in politics (Cowell-Meyers, 2016; Dahlerup, Johansson, 2013). Those parties are not a women's subdivision or department of an already existing political party; they are independent, autonomous parties which participate to elections. However, they are often very small parties, whose intent is to attract attention from other political parties on the issue of women's under-representation in political elections (Cowell-Meyers, 2016). Women's parties, as political entities, have the power to stimulate the dialogue on women's issues, as abortion, family duties, equal retribution, as in the case of Poland's Women's Party, created with a view to the 2007 elections (Dahlerup, Johansson, 2013). Poland is still one of the most restricting countries when it comes to women's rights. Through social media and civil society mobilization, Gocha Adamczyk, of the leftist Razem Party, encouraged women to march against the abortion bill, set forth by the government in September 2016. She was able to create the «Black Protests» phenomenon, which culminated into the 2017 «International Women's Strike». Those women managed to kill the abortion bill of the PiS government, however, legal abortion remains still a very limited by the law (Majewska, 2018). Therefore, social media and civil society mobilization are one of the most powerful tools implemented by women and feminists all over the world to address discriminating practices and the under-representation of women (EIGE, 2015).

Political parties have been defined as the gatekeepers to gender parity because they have

the power to rule on «the secret garden of nominations» (Dahlerup, Johansson, 2013). Some parties have set up «capacity building activities» to fuel gender balance (Dahlerup, Johansson, 2013). Those activities embrace formative programmes ranging from politics training to selection processes, in order to shape women politicians and encourage their accession to political-institutional bodies. Those activities are organized by women's section and grassroots organizations, which have developed mainstreaming-gender programmes and initiatives, such as trust funds or campaigning, to reduce the gap between family duties and working demands. Some North European party programmes are committed to re-shaping working hours and setting up child care spots during events or party summits (Dahlerup, Johansson, 2013). For instance, the Longford Women's Link has developed the Longford Women's Manifesto Group, in Ireland, has developed a “good practice” model, which has stimulated women's willingness to enter political elections at the local and national level through their participation to Council's meetings and engagement with domestic decision-makers and politicians (European Parliament, 2019; Longford Women's Link, 2017). The 2019 European Parliament survey on gender balance in decision-making highlights the case of the Labour Party in Malta, which after a massive period of gender unbalances in its internal structure and electoral lists, has renewed its internal configuration and produced a broad program to engage with the consistent lack of women in politics. The Labour Party's program included mentoring courses in politics-related fields and awareness-raising projects (European Parliament, 2019).

Another important element that shapes the future of women's representation in politics is the exploitation of the digitalization era and its instruments. Social media and media campaigns are an effective tool to fight traditional stereotyping and disclose the current situation on women's representation (EIGE, 2015). In 2006, Sweden and the Liberal Women's Federation distributed several awareness-raising notes to deconstruct traditional ideas about women and spread women's empowerment. One of the messages spread out recited: «We know nothing about women's and men's equal capacities unless we give them equal opportunities» (Liberal Women's Federation, 2006, as cited in European Parliament, 2019). Furthermore, affirmative action such as formation programmes, campaigning, capacity-building or networking activities influence women's willingness to take on the political career. Two examples are the «Meta Dekleta – Promotion of active citizenship of young women» programme in Slovenia and the «Women for election» initiative in Ireland (EELN, 2019).

We can conclude that effective and positive outcomes for gender balance are achieved when European institutions, political parties, media and civil society organization conduct coordinated, multi-level actions to modify the internal structure of society and parties themselves and grant women the possibility to stand a chance in national or supra national elections (European Parliament, 2019).

5.3.1 EU policies: the exchange of “good practises”

The advancement of women in political careers demands an inclusive, multi-level strategy which must take on actions on 3 dimensions: awareness-raising, political skills development and promotion of political actions and legal instruments (EIGE, 2016). The EIGE’s 2016 research «Advancing gender equality in political decision-making. Good Practices» highlights the most effective methods to improve women’s representation at the political level and examples of Member States’ good practices (EIGE, 2016). Awareness-raising campaigns can be addressed to the average voter/citizen or to a specific group (ex. addressing women to encourage them to access politics).

Gender awareness-raising instruments have been implemented to highlight the gendered nature of elections; to spread out knowledge about women running in elections and to influence men’s to be more supportive of women (EIGE, 2016). A great example is offered by the «Stup Strama (Centre for Education, Counselling and Research) » campaigning in Croatia. In 2007, the CESI feminist organization organized an original awareness-raising campaign through street manifestations and an attack to those political parties who were lacking in gender equality requirements (40 %) (EIGE, 2016).

Sweden’s «Combating male dominance in politics» included the screening of spectacles, movies and improvisation-experiments which attracted the attention of the Sweden’s society on women in politics. Moreover, the «Power Handbook», first published in Sweden by the National Federation of Social Democratic Women addressed women and established guidelines on how to enter politics. This book was re-published all over Europe and has represented a milestone of good practices for Member raising activities (EIGE, 2016; EIGE Good Practices Database). The Swedish Power Handbook provides women with a useful tool on how to fight patriarchal domination in politics and how to acquire empowerment and predominance (European Parliament, 2019; EIGE Good Practices Database). Those guidelines are designed to reduce women’s invisibility in politics and combat the glass ceiling and glass cliff effects, which are overwhelming in our “modern” society. As a matter of fact, in 2013 Finland published its own Power Handbook and developed a leadership initiative for young feminists (EIGE Good Practices Database). Poland, which is one of the worst countries when it comes to assessing the level of gender equality, has set up mentoring programmes on how to fight men’s predominance in politics. The Congress of Women Association organized this initiative to lobby on the outcomes of the past elections and increase the percentage of women’s members of the national Parliament (European Parliament, 2019).

Political skills development or competence developments has been employed to train women’s future politicians and to break the glass cliff mechanisms of politics. Those initiatives have been implemented by political parties, women’s organizations and NGOs (EIGE, 2016).

For instance, most major parties have established political skills and competence training projects, which are often combined with awareness-raising mechanisms (EIGE, 2016). Competence-building include training, conferences, public events, media coverage and political networks to empower and support women aspirant politicians or candidates. Moreover, those measures serve also the purpose of influencing men inside the political parties to set up a permanent change into the prevalent patriarchal system of politics (EIGE, 2016).

In 2008, the Portuguese Network of Young People for Gender Equality in Portugal undertook the second edition of the initiative «From Woman to Woman» to encourage young women to approach politics. The first and second editions have been financed by the European Social Fund. The project relies on the structure of the Swiss «*De Femme à Femme*» and represents an example of a truly comprehensive good practice. It is made up of a mentoring programme, competence development projects, social transformation on women and men, the diffusion of books and documents on women's empowerment and the employment of social networks (EIGE, Good Practices Database).

Gender quotas make up the category of political tools, which provide a forceful instrument when they are combined with non-compliance penalties and provides for women's advancement in the most winnable positions (ranking order-zipping) (EIGE, 2016). Furthermore, political advocacy also includes gender equality committees in political parties or assemblies, which mainstream gender in the political area and control legislation and political initiatives on gender equality. Those gender equality tools can have a formal structure (committee-commission) or informal (meetings-working groups) and monitors that the gender perspective is adopted in domestic legislation (EIGE, 2016). For instance, France has set up the French Parliamentary Delegations for Women's Rights and Equal Opportunities for Women and Men, which ensures that the national parliament takes into consideration issues and topics relating to gender (EIGE, 2016). Other political tools are represented by movements and demonstrations by women's civil society, grassroots activism and NGOs, who play a major role in the promotion of gender balanced institutions and laws (EIGE, 2015). In Netherlands, the Dutch Women's Council and women's associations managed to reverse patriarchal practices of the Dutch political system. In Netherlands, the Reformed Political Party (SGP), following a literal reading of the Bible, prevented women from take part to political elections. After seven years of struggles and attempts in courts by civil society and women's movements, women managed to win against this discriminatory convention and take part into elections. (EIGE, Good Practices Database; EIGE, 2016).

5.3.2 Gender Quotas: Pros and Cons

The implementation of gender quotas is constantly increasing in the European Union, as Member States have witnessed improvements while dealing with female political under-representation (Dahlerup, Freidenvall, 2008). Notwithstanding the positive outcomes of quotas, there has been a strong opposition against the adoption of “advantageous” measures reserved to one of the sexes. As a matter of fact, women activists, feminists, and male political actors have manifested their reluctance towards quotas, because of the consequences that those measures have on parity and equal treatment (Dahlerup, Freidenvall, 2008). According to some critiques, the implementation of quotas violates the principle of equal treatment and equal opportunity, discriminating against men and establishing preferential treatment. Arguments have been raised concerning the lack of meritocracy and competence in the allocation of parliamentary seats and high-level positions, which has been allegedly hindered by gender quotas. Moreover, they have been defined as non-democratic, since they give benefits to women over men (Dahlerup, Freidenvall, 2008).

Second-wave feminists have argued that quotas hamper their status in society and the intersectionality of gender, as they undermine women’s capabilities and narrow down the gender sphere. According to them, gender quotas basically institutionalize the division of gender roles, encouraging the production of stereotypes. This institutionalization of «gender binary» could increase and naturalize gender inequalities and discrimination against women (Kuperberg, Norris, 2017). Furthermore, contemporary feminists overcame the liberal feminist perspective, and labelled gender quotas as «anti-feminist» as they grant women no real power (Kuperberg, Norris, 2017). Feminists have argued that gender quotas work in terms of a mere descriptive political representation, however, they are controversial for «intersectional⁸ and post-modern feminism» (Kuperberg, Norris, 2017). The theoretical framework on post-modern feminism has shown a controversial link between affirmative action for women’s empowerment and the latest wave of feminism, highlighting a profound separation between Gender Studies and Political Science (Kuperberg, Norris, 2017).

Even though equality in descriptive representation is not enough to reflect a true gender balance, gender quotas positively impact women’s accession into politics. Women’s empowerment and status in politics can actually make a difference in advancing substantive and symbolic equality of representation, by advancing women’s issues and a gender-sensitive perspective in all areas of social life. The presence of a consistent share of women in high-level positions and institutions will impact the political agenda and grant more attention to women’s

⁸ Intersectionality refers to the complexity of the identity of human beings. Gender is just one category of a multilevel framework, made of race, ethnicity, age, religion, etc. (Kuperberg, Norris, 2017).

rights (Dahlerup, Freidenvall, 2008). Political scientists and EU officials have highlighted that gender quotas do not disadvantage male candidates, as they are a consequence and reaction of the decades of discrimination and under-representation of females in politics (Dahlerup, Freidenvall, 2008). They provide a logic of inclusion and integration, aimed at reducing inequalities in all field of social and political life. As a matter of fact, gender quotas and positive action rely on the concept of equality of result (Dahlerup 2007, as cited in Dahlerup, Freidenvall, 2008).

The most famous justification for gender quotas is the justice and democracy explanation, which sustains that the quantitative equality in the percentage of women and men in political bodies represents a symptom of a well-functioning democratic system (Dahlerup, Freidenvall, 2008). In case of lack of gender balance in institutional bodies, the institution or body in question will experience a democratic deficit, since women represents half of the global population. Furthermore, according to the European Parliament, women's representation in politics is a necessary condition and a «fundamental right» (European Parliament, 2017). For what concerns the effectiveness of gender quotas, they provide a valuable resource when combined with a PR system and gender-sensitive strategies to position women in winnable positions on electoral lists. In the next paragraphs, we will encompass an in-depth analysis on different case studies to comprehend the functioning and prerequisites of well-structured or poorly-structured gender quota systems. The research will argue that the effectiveness of gender quotas depends on different factors; therefore, they must be anchored to a gender-sensitive framework in order to produce a relevant increase in women's representation.

5.4 Case studies

The following section extensively analyses four case studies to monitor the elements and intervening variables, which played a role on the presence of female candidates and female MEPs. The case studies will focus on the typologies of electoral systems implemented, the presence or lack of quotas and the country's historical behaviour towards gender (Dahlerup, Freidenvall, 2008). It has emerged that the presence of women's politicians is deeply influenced by parties' willingness to favour women, political ideology, awareness-raising and capacity building initiatives (European Parliament, 2019). The country's gender ideology has a major influence on the gender balance situation, since the patriarchal nature of a society and the traditional beliefs can hinder women's participation to politics. Moreover, the hierarchical patriarchy can be extremized by the role of mass media and new media.

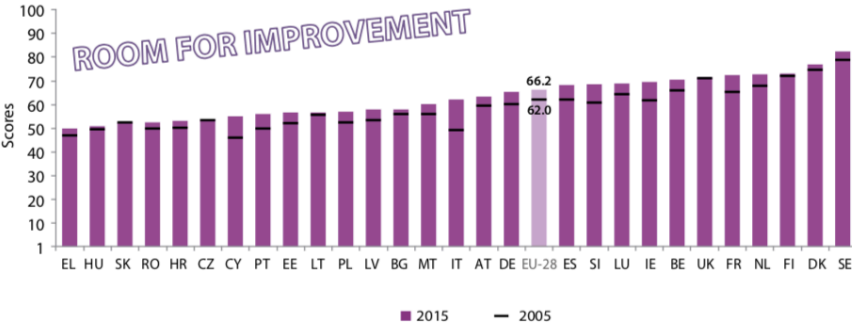
In closed electoral systems, political parties have a great influence on the outcomes of political elections, while, in open systems, citizens have a greater role in determining the candidates elected. However, it must be noted that political parties' role is fundamental in every

electoral system. The so-called “gatekeepers” have the power to open the gates or close the gates of politics to women aspirant candidates (Dahlerup, 2006; European Parliament, 2019).

The four cases studies analysed – Belgium, Italy, Sweden and Hungary – have been chosen to provide a wide range of options in the quota system applied, parties’ behaviour, gender ideology and good practices applied. Among the four case studies, Sweden emerges as the country with the highest percentage of female MEPs, which was 55% at the last European Parliamentary elections in 2014 (European Parliament, 2019). At the opening session of the 2014 EP elections, Italy reached 40% of women MEPs, Belgium reached 29% and Hungary did not even reach 20% (European Parliament, 2014). Therefore, while Sweden achieved gender parity and Italy reached gender balance; Belgium and Hungary did not manage to reach the critical minority set point, with a very concerning situation in Hungary.

Overall, the European Union has scored 66.2 in the 2015 EIGE’s Gender Equality Index (GEI) (EIGE, 2015). This ranking shows a 4.2-point growth in comparison with the 2005 EU score. The GEI monitors gender equality for what concerns work, money, knowledge, time, power and health. Italy is one of the countries which has experienced the greatest growth in terms of gender equality over the last decade (Table 5.4) (EIGE, 2015).

Table 5.4 Gender Equality Index, 2005 and 2015



Source: EIGE, 2017

Currently, Sweden has scored the highest percentage of all EU Member States, reaching 82.6 out of 100. Belgium and Italy experienced a large increase from 2005, reaching respectively 70.5 and 62.1. Hungary has reached 50.8, which is second-lowest percentage after Greece (50.0) recorded by the GEI (EIGE, 2015).

5.4.1 Sweden: voluntary party quotas

Not only Sweden has scored the highest percentage of EIGE’s GEI of all EU Member States; it is also the only country that has overcome the 90 threshold in political power, peaking at 93. (European Parliament, 2019). Gender Equality is protected under the Discrimination Act 2008, which protects individuals against any kind of discrimination on the grounds of sex, religious beliefs, age, etc. The DA is in accordance with EU Equality Directive and its area of application exceeds the EU Non-Discrimination Law (Directorate-General for Justice and Consumers; 2019).

There are different causes for the growth in Sweden’s women’s representation. The first group is composed by institutional factors, namely the type of electoral system, district extent, positioning strategies system (ex. zipping), left predominance and women’s sections activism (Freidenvall, 2003). Moreover, socio-economic characteristics have played an important role in women’s empowerment, such as the presence of women in the labour market, educational background and the growth of the welfare system. The last group of reasons is represented by the cultural ideology which includes religious belief (secular/protestant), society’s behaviour towards women and the development of women’s movements (Freidenvall, 2003). The implementation of a PR system, together with voluntary party quotas, a well-functioning welfare system and the respect of democratic values contributed to the overall gender balance Swedish politics (Freidenvall, 2003). At the 2014 European Parliament elections, Sweden elected 11 female MEPs. Now Sweden boasts a 50% of female MEPs within the EP and is considered by the EIGE as one of the gender pioneers countries of the gender balance zone (EIGE, 2017). The presence of female MPs in domestic institutions is also consistent, as the 46% of the national parliament is represented by women (gender balanced zone) (European Parliament, 2019). In the national parliament women’s presence increased from less than 15% in 1970 to 45% in 2002, and in the government increased from 10% to 50% in 2001 (Sainsbury, 2004).

Table 5.5 Swedish Parliament and quotas

Unicameral Parliament	
Total seats	349
Total women	161
Percentage of women	46%
Election Year	2008

Source: IDEA, 2019

Sweden employs «a mixed system of preferential voting, with a single national electoral district» (European Parliament, 2019). Parties' electoral lists are closed but «non-blocked», in the sense that citizens are allowed to vote for some candidates on the preferred party lists (European Parliament, 2019). Therefore, through this mechanisms parties and citizens have an influence on who will be elected. Sweden has chosen not to have a legislated quota system, however, almost all political parties are employing voluntary party quotas in the candidates' selection processes. Moreover, Swedish political parties provide for strategic techniques of ranking order in lists, such as the zipping system, which seems to be one of the most efficient in all Europe (European Parliament, 2019, IDEA, 2019). Those measures turned out to be very productive and had a significant impact on women's empowerment.

Despite the lack of binding regulations that compel parties to implement quotas, Sweden has the highest number of women MEPs of the four case studies that will be analysed (European Parliament, 2019). Moreover, Sweden does not impose economic sanctions or financial subsidies in case of compliance or non-compliance with party voluntary quotas (European Parliament, 2019). This phenomenon must be understood by taking into consideration that most North European countries don't have the necessity to implement binding legislation to promote women, since they have a positive historical background of gender balance. Even though, positive measures are not needed in Sweden, most political parties in Sweden have chosen to implement voluntary quotas to emphasise the respect of democratic values (European Parliament, 2019). Sweden's gender ideology is based on the fact that the gender component is just one of the pieces of the intersectionality's puzzle. Equality's intersectionality includes race, age, religious beliefs, gender, social status, etc. (European Parliament, 2019).

Some political parties have adopted a pro-active stance, encouraging women and promoting female candidates. This phenomenon is referred by the European Parliament as «talent spotting» and it represents an example of good practice in the European Union (European Parliament, 2019). Talent spotting attracts female workers from other professional fields and stimulates their attention towards the political sphere. This strategy aims at recruiting more female candidates from uncommon fields and bringing women and politics closer (European Parliament, 2019). Moreover, Swedish political parties have organized training programmes based on political, communication skills and domination techniques. The awareness-raising campaign of the Swedish Power Handbook was one of the most influential tools in all Member States, providing for guidelines on how to combat patriarchal domination and take power into hands (European Parliament, 2019; EIGE Good Practices Database).

Another important factor of Sweden's history of gender equality is the rise of the new women's movement at the end of the 1980s (Sainsbury, 2004). Sweden has been characterized by two forms of feminism: socialist feminism and reformist feminism. Reformist feminism asked for the modern concept of «equality of results», substantive equality and affirmative actions, since formal equality proved to be inefficient in providing gender equality (Sainsbury, 2004). Moreover, the rise of the new women's movement gave a significant stimulus the emergence of women's organizations and women's sections within political parties. This led to the production of literature and discussion on gender roles and the birth of activism within women's sections. In the 1990s, gender equality was finally prioritized within parties' agenda. The debate on gender equality fuelled women's initiatives and «cross-gender alliances» between women and men (Sainsbury, 2004). Most positive attention to women's issues stem from the core of the Left. Progressively, the Liberals, the Social Democratic party, the “New” Left, all committed to gender equality's challenges. Another important factor that contributed to the give gender equality greater attention was the political dominance of the left. In the 1970s, the Left encouraged a lively debate on the relationship between gender equality and democratic values (Sainsbury, 2004). According to Freidenvall positive actions and quotas are more likely to be implemented by leftist parties (Freidenvall, 2003).

In the 1970s, the feminist association Fredrika Bremer undertook an awareness-raising campaign on the implementation of voluntary quotas, asking for an increased representation of women in national institutions («More Women in Politics») (Sainsbury, 2004). The first to implement positive actions as quotas were the Greens and the Left Party in the 1980s, requiring at least 40% of both sexes in internal structures, committees and parties' electoral lists. Meanwhile, the predominant political party of the Social Democrats established targets and goals. As a matter of fact, it was only in the 1990s that most political parties decided to adopt quotas (Freidenvall 2003). According to Fredeinvall, the growth of women in the national parliament is due to an effect of «macro contagion» among political parties (Fredeinvall, 2003). The implementation of quotas emerged from the left and was soon followed by the Social Democratic Party. A major boost to women's representation has been given by the Social Democrats's campaign «every single name» based on the introduction of the zipping alternation, launched in the 1990s (European Parliament, 2019). In the 1994 parliamentary elections, women's presence peaked at the highest level ever recorded of 40 %, reaching the gender balanced zone (Sainsbury, 2004). Moreover, the newly elected Social Democratic government strongly addressed gender equality issues, adopting a gender mainstreaming policy (Sainsbury, 2004).

The zipper system implementation was a response to the threat emerging from the possibility of the creation of a woman's party to address women's under-representation. As a

matter of fact, the Social Democratic Party decided to implement the zipping alternation, which allowed women to be positioned in winnable positions, to avoid that the feminist association Support Stockings would create a woman's party if the political parties in power did not increase the percentage of MPs in the 1994 elections (Stark 199X, Ulmanen, 1998, as cited in Fredeinvall,2003). The Social Democratic Party finally identified women's under-representation as an issue of democratic deficit of the whole society, concerning both women and men. The zipping system, initially adopted only by Liberals, established the promotion of «equality of results» and the emergence of the renowned declaration of feminism by the major Swedish parties, such as Left Party, the Green Party, Liberal Party and the Social Democratic Party (Fredeinvall,2003).

Currently, all major political parties have implemented gender voluntary quotas. The Social Democrats have implemented the zipper system, while both the Left Party and the Greens require at least 50% of women in party lists (IDEA, 2019; European Parliament, 2019). The current situation of gender balance in Sweden's Parliament and Swedish MEPs comes from a coordinated action of the inside activism held by women's sections and «femocrats» (women bureaucrats) and the grassroots women's civil society organizations (Sainsbury, 2004). Nowadays Sweden is one of the most gender-sensitive countries in the world. The Swedish cabinet has re-named itself a feminist cabinet, promoting a feminist foreign policy, as announced by the Swedish Prime Minister Stefan Löfven (Government Offices of Sweden, 2019).

5.4.2 Belgium: legislated and voluntary party quotas

Belgium has been characterized by a strong common sense, relegating women to the domestic sphere, far away from politics and businesses. Moreover, Roman Catholicism has strengthened the imposition of stereotyped roles, depending on gender (Paxton and Hughes, 2007, as cited in Kantola 2009; European Commission, 2018). Given Belgium's federal structure, EU law has been chaotically imported, however, the federate states have been increasingly adopting new laws, relying upon federal legislation. Gender Equality is protected under the 2007 Gender Act, which has transposed all EU legal framework on gender equality under the authority of the House of Representatives (Directorate-General for Justice and Consumers, 2018).

Belgium has a bicameral parliament, made up of the House of Representatives and the Senate. The principle of gender equality was introduced in the Belgian Constitution in 2002, by amending art. 10. Moreover, Belgium has implemented «legislated quotas for the lower house and upper house and at the sub-national level» (IDEA, 2019). Belgium employs a

multiple preferential voting system, in which the electoral lists are «half-open», as citizens can choose to vote for the candidates they decide or for their preferred party list (according to its raking order) (Meier, 2008). This represents a sort of mixed list system, which gives both parties and individuals the opportunity to influence the outcome of elections. Moreover, Belgian elections are influenced by the variation in district extent among elections' levels, because of the disproportions in the concentration of the population (Meier, 2008).

In 1994, Belgium established the first legally binding quota system. This quota legislation established that from 1999 parties must not overcome the maximum of 33% of male or female candidates (Meier, 2008). From 1999 this law was applied to all levels, ranging from communal, to federal and to the European Parliament elections (IDEA, 2019). Women's movements in Belgium played a major role in the establishment of legally binding quotas and sanctions for non-compliance. In the 1970s, women activism and women politicians asked for an equal representation of women and men in politics, advancing demands for legislated gender quotas in order to fight discrimination against women (Meier, 2008). While quotas found support from women activists and women MPs, they also found opposition from the Liberal and Far Right parties. According to the representatives of the Liberals and Far Right, the introduction of quotas favouring women would undermine women's role in society and politics (Meier, 2008).

The 1994 gender quotas law established non-compliance measures, which gave the legislation an increased effectiveness. As a matter of fact, all those parties' lists including more than 33% of candidates of one of the two sexes would be rejected and excluded from running into elections. The quota law was employed during the 1994 and 2000 communal and provincial elections and during the 1999 European Parliament, federal and regional elections (Meier, 2008). In 2002, the gender quota law was reformed, establishing that parties must ensure an equal percentage of men and women in parties' lists. Furthermore, the law established that the two candidates at two highest ranking positions in the party lists should be a woman and a man. Non-compliance will again result in the list being rejected by the public authorities (Meier, 2008). The effectiveness of quotas in the Belgian case can be seen in the incremental growth of women in elected in the House of Representatives and Senate. As a matter of fact, while in the early 1990s women represented less than 10% of the members of the bicameral parliament, since the introduction of the quota law, their percentage increased remarkably. In 2003 women represented the 35 % of the House of Representatives and the 38 % of the Senate, overcoming the threshold of critical minority gender representation (Meier, 2008).

In the elections of June 2007, the percentage of women MPs elected rose slightly, to nearly 37 per cent, while the proportion of women elected to the Senate dropped to 30 per cent (Meier, 2008).

In the European Parliament elections 2014, women managed to achieve the 29% of parliamentary seats (European Parliament, 2019). Even though the percentage of Belgian MEPs has suffered from a small decrease from 1999, Belgian female MEPs are still a significant percentage in comparison to the other MS (Meier, 2008; European Parliament, 1999; European Parliament, 2014). Belgium has also witnessed an increase in the presence of women in the executive, thanks to the 2002 constitutional gender parity clause, which establishes that all executives must have at minimum one woman in their configuration (Meier, 2008). Before the 1994 quota law, Belgian parties introduced voluntary party quotas for their parties' lists. Christian Democrats, Liberals and Socialists' measures and targets played a major role on the establishment of legally binding quotas and encouraged other parties to set positive targets (Meier, 2008). According to Meier, the coexistence of legislated gender quotas and voluntary party quotas leads to a positive environment for women, by strengthening the possibilities for women to enter the political arena (Meier, 2004, as cited in Meier, 2008). Broader district extent and the preferential voting system had a positive role in increasing women's representation together with the combination of legislated gender quotas and voluntary party quotas. Today, women make up 38% of the House of Representatives (Table 5.6).

Table 5.6 Belgian Parliament and quotas

House of Representatives	
Total seats	150
Total Women	57
Percentage of Women	38
Election Year	2014
Quota Type	Legislated Candidate Quotas

Source: IDEA, 2019

According to the EIGE's GEI 2017, Belgium's greatest improvement is recorded in the power area (EIGE, 2017). Belgium has a significant history of gender mainstreaming, which has begun with the 1996 law, aimed at controlling the enforcement of the Beijing Declaration and Platform for Action, and the positive action measures applied at the federal level. Moreover, the gender mainstreaming program was reinforced through the 2007 Gender-Mainstreaming Law, establishing the adoption of a gender perspective in all policy spheres (EIGE, 2019).

Even though, gender equality provisions are separately enforced by both the federal and federate level (the Walloon Region, the Flemish Region and the Brussels-Capital Region), generally Belgium has witnessed an overall increase of women's representation at all political levels (EIGE, 2019). Overall, Belgium has reserved an increasing attention to awareness-raising

campaigns in order to reduce the economic gender gap and the employment gender gap. According to the GEI 2017, the occupational gender gap has been decreasing since 1995, however, the phenomenon of occupational segregation remains a concerning issue (EIGE, 2017). Some initiatives have improved women's status in the labour market, such as the campaign launched by *the Association des Journalistes Professionnels* on women's under-representation in the media, and the Interface3 strategy, which organizes training courses to address women's under-representation in information and communication technologies (EIGE, 2011; EIGE, 2019; EIGE Good Practices Database). The first edition of this ICT campaign was launched in the 1980s and went on until today, achieving significant results such as a consistent increase in the percentage of women employed in the ICT sector. From 1984, the 70% of women who complete the Interface3 program have been able to find a job in the ICT field in 6 months (EIGE, 2019; EIGE Good Practices Database).

5.4.3 Italy: legislated party quotas

Equal treatment in Italy is guaranteed by the Italian Constitution and statutory law. The principle of equality is ensured by Article 3 of the Constitution, which establishes «equal social dignity» before the law for all citizens (Italian Constitution, 1948; Directorate-General for Justice and Consumers, 2018). EU Gender Equality Law is enforced in the Italian system through legislative decrees. The overall increase in gender equality's areas in Italy results from the enforcement of the EU directives on gender issues and from the employment of EU funds at the end of the Nineties (EIGE, 2019). As a matter of fact, the «Code of Equal Opportunities between Men and Women» (Decree No. 198/2006) includes the core principles of all EU directives on gender equality issues, ranging from equal pay to equal opportunities (Directorate-General for Justice and Consumers, 2018). Moreover, Act No. 53/2000 provides protection for mothers, childcare and work-life balance (Directorate-General for Justice and Consumers, 2018).

In the 2000s, gender-mainstreaming programmes and positive actions have been implemented thanks to the funds of the European Social Fund and the European Regional Development Fund (ERDF) (EIGE, 2019). Feminist movements in Italy witnessed a momentum of crisis during the eighties, and the question of gender equality only reemerged in the Nineties. However, more recently, women's movements initiated positive actions and awareness-raising campaigns to combat gender stereotyping and gender violence. In 2013, after several demonstrations and campaigning efforts, women achieved the adoption of a new

legislation against “femicide” (Law 119/2013); quotas and positive targets to empower women’s presence in public and private decision-making bodies (pink quotas) and an overall increase of women’s participation in the political arena (European Parliament, Policy Department Citizen’s Rights and Constitutional Affairs, 2014).

As previously mentioned, the question of gender equality emerged in the early 1990s, due to the breakdown of the First Republic (1948-1994). Benefiting from this momentum of crisis, Feminist associations and gender equality activism advanced their demand for the establishment of a quota law in the electoral system (Pansardi, 2016). The Italian Parliament, made up of the Chamber of Deputies and the Senate, has experienced severe changes in the electoral process through four different electoral system.

The 1993 *Mattarella* law provided for the introduction of a quota system, which increased the percentage of women in the House of Deputies in 1994. The history of gender quotas in Italy is highly turbulent, as the 1993 quota law was found to be a breach of art.1 of the Constitution and was, therefore, retreated by the Italian Constitutional Court. The abolition of the quota requirement caused a significant decrease in women’s presence in the House of Deputies (Pansardi, 2016).

One of the main achievement for women is represented by the constitutional reform of art. 51 Cost., which sets out that «citizens of either sex are eligible for public offices and for elective positions on equal terms», and «the Republic shall adopt specific measures to promote equal opportunities between women and men» (Constitution of Italy, as cited in Lorello, 2017).

Despite the controversies around the quota law, there has been a significant increase in the presence of women in the lower house of the Italian Parliament. In the 2013, women’s percentage increased to 31.4%, reaching the critical mass threshold (CISE, 2013, Dahlerup 1988; Studlar and McCallister 2002; Childs and Krook 2008, as cited in Pansardi, 2016).

The 2005 *Calderoli* system established a PR system with majority bonus (Bellucci, 2008, as cited in Pansardi, 2016) and closed parties lists (Bellucci, 2008, as cited in Pansardi, 2016). Through this system, parties are the major influential actors on the elected, since they decide the positioning order on the lists. In Italy, parties have been the gatekeeper to women’s accession to the political arena; as they had the power to facilitate or harden women’s political representation. In this particular case, it seems that political parties have represented an hindering institutional factor for women, which have been traditionally located in the least winnable positions of electoral lists (Pansardi, 2016). The lack of binding or constitutional quotas has been mitigated by the adoption of voluntary party quotas in 2013 by the *Partito Democratico* and the *Sinistra Ecologia Libertà* (Pansardi, 2016).

The current electoral law (2017), amending the *Italicum* 2015, introduced many dispositions, aimed at increasing women’s presence in the House of Deputies and the Senate

(IDEA, 2019). The *Rosatellum* established that in multi-member districts, there must be an alternation of women and men in party lists (IDEA, 2019; Chiaramonte, D’Alimonte, 2018). Furthermore, the leaders of the same gender cannot overcome 60% in each single member-district (IDEA, 2019; Chiaramonte, D’Alimonte, 2018). Thanks to the implementation of legislated quotas, women’s percentage has risen up to 36% (CISE, 2018). In Italy the only party enforcing voluntary party quotas is the *Partito Democratico*, which requires a percentage of 50% of women in parties’ lists, with an alternating positioning system (IDEA, 2019).

Table 5.7 Italian Parliament and quotas

House of Deputies	
Total seats	630
Total women	225
Percentage of women	36%
Election year	2018
Quota type	Legislated candidate quotas

Source: IDEA, 2019

At the subnational level, in 2003, twelve Italian regions have established gender quotas in their electoral procedures. As a matter of fact, regions: Abruzzo, Calabria, Campania, Friuli VG, Lazio, Marche, Puglia, Sicily, Trento, Tuscany, Umbria and Val d’Aoste have now implemented regional quotas, which requires a specific target of women candidates (IDEA, 2019). Moreover, some of those regions have set out penalties for non-compliance with the gender quotas, such as rejection of party lists or economic penalties (IDEA, 2019).

At the European level, the «Council Decision 2002/772/EC» ensures that all Member States implement a proportional system for the election of Members of the European Parliament, even though the nature, characteristics and gender quotas depends upon Member States’ willingness to contribute to women’s empowerment (European Parliament, 2019). In the 2004 and 2009 EP elections, Italy presented «gender-balanced» lists (at least 33% of men and women) (European Parliament, 2019; EPRS, 2019). In latest EP elections, held in 2014, Italy introduced a provision, for which the third vote expressed was annulled if electors had not provided at minimum one vote for each sex (EPRS, 2019). In 2014, Italy has recorded its highest percentage ever of women MEPs, reaching the gender balanced threshold of 40% (European Parliament, 2014). In the next EP elections, Italy will require gender parity lists, namely 50% of each gender, and an alternation of sexes in two highest positions on the list.

Moreover, the second and third votes express will be annulled if electors do not provide at minimum one vote for each sex (EPRS, 2019).

Notwithstanding the overall improvement in women's political representation, according to the EIGE Database, Italy lacks in good practices and gender networking activities, which could play a major role to lobby on political parties (EIGE, 2019). Still today, political parties try to bypass gender quotas, through the very common practice of positioning one women candidate as leaders of the list in multiple districts, with a view to disadvantage other women candidates, while giving a significant advantage to men in the lists (Chiaramonte, D'Alimonte, 2018).

Italy has scored 45.5 in the power area of the EIGE's GEI 2017, which indicates that there is still a lot to do to ensure women's empowerment and equal treatment in all policy areas (EIGE, 2017).

5.4.4 Hungary: weak quota system

Gender equality is protected by Article XV of the Hungarian Fundamental Law. The Equality Act 2003 protects individuals against any forms of discrimination on the grounds of race, religion, ethnicity, sexual orientation and gender (Directorate-General for Justice and Consumers, 2018). Even though EU Gender Equality Law has been imported into the Hungarian Equality Act, the convergence of EU legislation and national legislation has proven to be a mere formality. As a matter of fact, equal treatment legislation has not penetrated through the national legal order (Directorate-General for Justice and Consumers, 2018). The legal safeguards and penalties enforced by the Equality Act have been classified by the European Commission as limited and quite weak (Directorate-General for Justice and Consumers, 2018).

The lack of a proper legal enforcement of gender equality law is reflected in the low scores achieved by Hungary in EIGE's Gender Equality Index. It is very concerning that Hungary scored 26.7 in the field of physical and sexual violence against women (EIGE, 2017). Overall Hungary's GEI is 50.8 out of 100, the second-lowest score of all EU Member States, after Greece (50.0) (EIGE, 2017). In the power area, Hungary has scored 18.7, experiencing a significant decrease from 2010 (23.5) (EIGE, 2010; EIGE, 2017). There has never been a female Prime Minister in Hungary, and women usually occupy the least influential positions in the Hungarian cabinet (Ványi, 2016).

Hungary went through an electoral reform in 2011, during Viktor Orbán's first term. Currently, Hungary employs a mixed electoral system and its parliamentary seats have suffered from a significant decrease with this last reform of the electoral system (Varnagý, 2013). Out of the 199 seats in the national assembly, 106 seats are elected «through majoritarian races in single-member constituencies and 93 through a national proportional representation system»

(OSCE, 2018). Nowadays, women represent just the 13% of MPs in the Hungarian unicameral Parliament (Table 5.8) (IDEA, 2019).

Table 5.8 Hungarian Parliament and quotas

Unicameral Parliament	
Total Seats	199
Total Women	25
Percentage of Women	13%
Election Year	2018
Quota Type	Voluntary party quotas

Source: IDEA, 2019

Overall, Central-Eastern European countries have been characterized by the lowest share of women's representatives in the lower house (Table 5.9) (Varnagý, 2013).

Table 5.9 Women's under-representation in Central Eastern EU Member States

Country	Year of first democratic elections	Percentage of female MPs in the lower house	Year of last democratic elections	Percentage of female MPs in the lower house
Slovenia	1990	13,3	2011	32,2
Bulgaria	1990	8,2	2013	24,6
Lithuania	1990	9,9	2012	24,1

Croatia	1992	4	2011	23,8
Poland	1991	9,1	2011	23,7
Latvia	1990	15	2011	23
Czech Republic	1990	10	2010	22
Estonia	1990	5,7	2011	20,8
Slovakia	1990	12	2012	18,7
Romania	1990	3,7	2012	13,3
Hungary	1990	7,3	2010	9,1

Source: Inter-Parliamentary Union, 2013, adapted by Varnagý, 2013

Hungary does not provide any binding legislation to promote women's presence in institutional bodies (IDEA, 2019). However, in 2007, thanks to women's organizations and NGOs, some Members of Parliament advanced a proposal of gender quotas to ensure an increase in women's representation. Those measures were rejected by the Hungarian Parliament, and some political parties have chosen to introduce voluntary candidate quotas (Varnagý, 2013). The Socialist Party has implemented voluntary candidate quotas, requiring that at least 20% of the candidates are women (IDEA, 2019). Meanwhile, Politics Can be Different has employed the parity rule, that means that no more than two female candidates or two male candidates can be subsequent to one another (Ványi, 2016; IDEA, 2019). However, the steady low representation of women proves the ineffectiveness of the type of quotas enforced in Hungary, which do not provide for any non-compliance sanctions (Varnagý, 2013; IDEA, 2019).

The under-representation of women in Hungarian politics roots in the country's patriarchal political ideology and in the influential power of political parties in the selection of candidates (Ványi, 2016). The feedback towards women politicians in Central Eastern Europe is negative and unfavourable, in comparison to Western Europe. Hungary's customs lie in its past of a rural agricultural community, which locates women in the domestic sphere, taking care of their husband and children (Pongrácz, 2005, as cited in Ványi, 2016). As a matter of fact, in 1989, ex-communist countries went through a wave of conservatism and stereotyping of women and men, relegating women out of the public life (Bretherton, 2001, as cited in Kantola, 2009).

Another factor of variation is represented by religion, which often relies on an overall patriarchy structure. Most Protestant countries show a higher share of female MPs than Catholic countries (Paxton and Hughes, 2007, as cited in Kantola 2009). Moreover, Hungary, which is predominantly catholic, is characterized by a concerning democratic deficit, low levels of transparency in the candidates' selection processes and in the internal structure of political parties, which undermine women's possibilities to run into elections (Varnagý, 2010, as cited in Varnagý, 2013). Overall, there is indifference towards equal treatment and equal opportunities. EU Gender Equality Law has been formally implemented, however its democratic values and principles are considered as dictated upon the Hungarian traditions by an external body (Gunda Werner Institute, 2014). EU monitoring projects and awareness-raising campaigns had little influence on Hungary's gender equality situation (Gunda Werner Institute, 2014). Because of the strong censorship imposed by the government, women's movements have not often mobilised in political activism. As a matter of fact, there are few organizations, which undertake capacity-building programmes or awareness-raising campaigns to empower women in the public sphere and encourage women to take part into the political processes (Varnagý, 2013). Moreover, women sections inside political parties are often silenced

by the overall patriarchal language of domination of the party (Varnagy, 2013). According to the European Institute for Gender Equality, Hungary lacks in significant examples of good practices and has been reluctant to improve women's status in society.

5.5 Evaluation of gender quotas and good practices

Gender quotas can be quite an effective measure for women to overcome the hindering institutional and political factors, which have often prevented them to fully access the political arena on the same grounds as men. For instance, legislated and voluntary quotas had a positive impact in the percentage of women's representation in the elections for the European Parliament in 2014 (European Parliament, 2014; European Parliament, 2019). At the national level, some countries have decided to introduce legally binding quotas, while other provide only for voluntary party quotas, which sometimes are linked to positioning rules and sanctions (European Parliament, 2019; EPRS, 2019).

Legislated and voluntary party quotas can be both quite effective measures, depending on the characteristics of a certain country and the level of enforcement. They differ in the fact that legislated quotas are compulsory for all political parties and can dispose of financial or political sanctions; while, voluntary measures implemented by a specific political party are only binding for that party (Dahlerup, Freidenvall, 2008; EIGE, 2015). The main characteristics to take into consideration are: the electoral system, political parties' influence, positioning norms, open or blocked electoral lists, and penalties and remedies for non-compliance (Dahlerup, Freidenvall, 2008).

This section has provided four case studies, to comprehend the logic behind the increases or decreases in women's representation. Sweden, Belgium, Italy and Hungary all employ a PR electoral system; however, they differ in the presence, lack or typology of quotas implemented and in the overall framework towards gender equality. As the case studies have shown, the effectiveness of gender quotas is affected by the enforcement of sanctions and the elaboration of positioning strategies to locate women into winnable positions (Dahlereup, 2006; Dahlerup, Johansson, 2013). Women's political representation is controlled by parties' willingness to empower women, as gatekeepers of elections. Moreover, the country's political ideology, religious beliefs and common sense shape the framework into which positive initiatives are set out (European Parliament, 2019). While North European countries display a high level in women's representation and a positive attitude towards women in politics, Central Eastern countries are less tolerant towards women entering into politics. Notwithstanding the

EU efforts and the formal transposition of all EU equality directives into the national legal order, some countries seem to be reluctant to actually enforce and respect EU gender principles.

The analysis of those four cases stresses the necessity to take stronger actions and enforce non-compliance measure to ensure the effectiveness of legislated or voluntary quotas, which have proved to be a valid measure to strengthen women's political representation and to actually give women a chance in fairer elections. Moreover, good practices such as capacity-building, skills-improvement, awareness-raising campaigns and political tools employed by women's sections can make a difference to attract more women to politics and to stimulate the elaboration of positive actions by political parties and government bodies.

6. Conclusions

Even though, gender equality is ensured by EU law, parity between women and men has still not been fully achieved. The European Union is changing, but a very slow rhythm.

Gender equality is at the heart of every democratic system, since a society cannot be defined truly democratic without the full participation to society of both women and men. We are still too far away from gender parity. We are still experiencing a democratic deficit.

What has emerged from this research project and from the existing literature on gender equality in the European Union is that, the European Parliament, EU institutions, civil society activism and political parties shall gather their forces and work alongside each other to develop a multi-level comprehensive approach to achieve a truly gender balanced Union (Pollack, Burton, 2011). Women must be allowed to compete on equal terms with men, to share the same amount of family responsibilities with men and to be able to enjoy a greater work-life balance (European Parliament, 2019). From the Treaty of Rome (1957), the CEE has built up a strong legal framework for the achievement of gender equality through a set of directives (Equal Pay, Equal Treatment, Pregnant Workers, Parental Leave, etc.) action plans and strategic engagements to empower women's role in society, decision-making and high-level positions (Di Saracina, 2010). Fifty years of EU efforts have led to the establishment of the EU Gender Equality Law, the more comprehensive gender mainstreaming approach, the dual approach of the European Commission, and gender-targeted initiatives to increase women's presence in every sector (Hubert, Stratigaki, 2016).

Nowadays, gender equality policy provides women powerful means to ensure the enforcement of its principle at the EU and national levels, however their effective implementation is still lacking. The 2017 EIGE report has shown the persistence of women's disadvantage in comparison to men and has stated that meaningful improvements are still «needed in all Member States in order to attain gender-equal societies where both women and men can enjoy equal levels of well-being in all domains of life» (EIGE, 2017). The EU *acquis communautaire* on Gender Equality has been enriched by the landmark judgements by the European Court of Justice regarding equal treatment between men and women, indirect discrimination, protection of pregnant workers and mothers (Di Saracina, 2010; Guth, Elfving, 2018). The ECJ proactive stance has guided Member States towards a more effective implementation of EU legislation, in matters of equal pay, equal treatment, positive action, fighting against stereotyping genders (Guth, Elfving, 2018).

Even though women represent half of the world's population, they are still under-represented in almost all sectors of society. This master thesis emerges as a necessary shout to raise awareness about the under-representation of women and the still standing patriarchal obstacles, which have hampered our opportunities to build up a political career. The research

has the goal of updating the theoretical framework, embracing the most recent Gender Action Plans, Strategic Engagement for Gender Equality 2016-2019 and the objectives set by the EU, while pointing out the hindering and supporting factors which influence women's accession to policy. Even though, EU gender policies have actually empowered and increased the presence of women in the decision-making processes inside EU institutions and national parliaments, the main problem remains the effectiveness of transportation of the EU *acquis communautaire* in Member States' national legislative framework. Women have experienced a process of devaluation, which has always relegated the female figure to the margins of society, far away from power, politics and policy-making. Through processes of glass-ceiling and glass cliff, the positions of women have suffered from discrimination and disadvantages. EU Gender Equality Law, positive action initiatives, gender mainstreaming and legislative/voluntary quotas have actually improved the degree of gender balance in institutions at EU level and national level. Indeed, as reported by Eurostat the percentage of women in the European Parliament has risen to 36.1 % and seats held by women in Member States' national parliaments went up to 29% (Eurostat, 2018). By looking at the evolution of the composition of the MEPs and the current internal configuration of the European Parliament, the improvements in women's representation are crystal-clear; however, the haunting gender unbalance persists at the EU level (EPRS, 2018). Furthermore, the European Parliament has always been the privileged arena of women's political integration and influence in EU institutions, recognizing gender equality a *sine qua non* condition for the effectiveness of democracy and for the respect of fundamental human rights (European Commission, 2019). Gender equality is based on the assumption that men and women are not the same and, therefore, their differences must be accounted for. Gender equality includes that both women and men's needs must be considered, by acknowledging the differences associated with being a man or a woman in all policy sectors (EIGE, 2019). The European Union sustains the effectiveness of gender quotas initiatives designed by some Member States, which have proved to promote women's participation into representative politics and increase their presence in the EP and national parliaments. The European Parliament committed itself promote the implementation of parity systems in Member States' national frameworks, in order to affect the current gender unbalances in political posts (European Parliament, 2019). Since 2014 European elections it has encouraged its MS and political parties to introduce «gender-balanced electoral lists» (European Parliament, 2019). Through this legislature, the EP has made a great effort to erase sexual harassment in political life and has taken a gender perspective stance in all of its policy areas (European Parliament, 2019).

Despite the non-binding measures and soft law advanced by the EU; recommendations, opinions and EU programmes have established fundamental models for Member States to

follow, in particular thanks to the pioneering role assumed by EU institutions on gender parity in the private and public sphere (European Parliament, 2019). The current measures implemented by the EU range from sensitization campaigns, elaboration of statistics and indexes to the promotion of good practices' exchanges among Member States. The latest approach taken by EU Gender Equality policy has focused on the promotion of a gendered perspective in all EU areas, through recommendations, resolutions and the Open Method of Coordination (OMC) (Kantola, 2009).

The last chapter has highlighted the role played by different factors of variations on the empowerment of women in politics, such the role of political parties, the political ideology, religious beliefs and the presence of women activism and feminist movements in Sweden, Belgium, Italy and Hungary (European Parliament, 2019).

We are living particular momentum for gender equality, as the number of women MEPs, women in leadership positions and women CEOs is steadily growing (EIGE, 2016; European Parliament, 2019; EPRS, 2019); however, in order to reach gender parity, EU institutions, civil society and political parties must cooperate in order to implement a multi-level comprehensive approach based on non-discrimination and equality (Pollack, Burton, 2011).

This master thesis encourages further scholarly researches and projects to raise awareness on the challenges to gender equality, which must be dealt at the local, regional, nation and European level. Moreover, this research project opens up new challenges to further develop on gender equality themes, by taking into consideration qualitative and quantitative indicators to scrutinize women's substantive and symbolic representation in politics and decision-making bodies. As a matter of fact, it is necessary to measure women's empowerment beyond their numerical percentage in institutional bodies.

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Acknowledgments

I would like to thank all the precious human beings, who supported me through my research project and drafting of this master thesis. First of all, I would like to thank my supervisors Professor Cristina Fasone and Professor Ramona Coman, who helped me fulfil the dream of writing a master thesis about women's political representation in the European Union. You are a great inspiration and model to me, as strong, independent women. Moreover, I would like to thank my co-supervisor, Emiliana De Blasio.

This research project emerged from my internship experience at the European Parliament, where I had the chance to be part of the female percentage of parliamentary staff. Therefore, I would like to thank MEP Nicola Caputo for giving me this opportunity and teaching me the technical and political dynamics in working at the European Parliament.

Thank you to LUISS University for giving me the chance to experience the Double Degree Patnership. I would like to thank Nicola Lupo, Emily Magliozzi and Antonella Fabbriatore.

Thank you to all my friends who supported me and made me the person I am today. Thank you, Maria Elisa, Marta, Bianca, Nataliya, Vittorio. Thanks to all the people who stayed and all those who walked away. I would like to thank my colleagues and friends, Simone, Giulia, Rino, Arianna and Riccardo for sharing the wonderful experience of the Double Degree programme at LUISS-ULB. Thank you for all the journeys, travels, political debates and all the love you gave me. To Giulia, thank you for supporting me through this year, I couldn't have done it without you. You have a special place in my heart.

I would like to thank my rock, Pietro, for supporting me and giving me the wings to fly again. Thank you for believing in me, every step of the way. I could write hundreds of pages to thank you, but they would never be enough. I love you, 3000.

Thank you to all my family, mom, dad, Mario, Veronica, Sara, Vincenzo and Tito. You made me the proud woman I am today and taught me to overcome stereotypes and gender roles. This master thesis is dedicated to my mother and father. Thank you for all the sacrifices you made for my education and for always supporting my dreams. You are the example of strength and love. Mom, you are the strongest woman I have ever known and my biggest idol. Dad, you are my superman.

Finally, I would like to thank myself for not giving up on me. You are worth it. To the girl I was, I forgive you. To the girl I am, I thank you. Every time you fell down, you pulled yourself up. To the woman I will be, I believe in you.

