GENDER EQUALITY (?) IN THE EUROPEAN UNION

CSILLA KOLLONAY LEHOCZKY
Central European University
Member of the TTUR Group
GENDER EQUALITY IN EUROPE

NICE IN THE LAW
COULD BE NICE IN REALITY?
START OF LEGAL DEVELOPMENTS:

1957 ROME TREATY ON THE EEC

ARTICLE 119

(ART. 157 LISBON TREATY)
ARTICLE 119: EQUAL PAY TO MEN AND WOMEN
Directive 76/207/EEC on equal treatment

- 3 Defrenne cases -
- Concept of “equal pay”
  • Sabbatini - expatriation allowance
  • Barber – occupational pensions
- Burden of proof – direct and indirect discrimination
  • Bilka Kaufhaus
- Pregnancy – (92/85/EC)
  Dekker – pregnancy is direct discrimination
  Herz – absence due to illness
DISCRIMINATORY POLICIES TO ACHIEVE EQUALITY?

• KALANKE and MARSCHALL cases

• (1995, 1997)

• REVERSE DISCRIMINATION
• can be the way to equality?
Dir. 2006/54/EC („Recast” – only employment)

Dir. 2004/113/EC („Service dir.” – gaps?)


Directive 2010/18/EU – „Parental leave”

Court becomes less progressive (e.g. Allonby, Porras Guisado)
BUT!!!

• Eur. 370 billion loss per year !!

• Reasons:
  • Strongly engraved stereotypes about gender roles
  
  • *Lommeres eset* - C- 476/99

• Can be equality at the workplace while there is no equality in the home?
DIFFERENCE AND EQUALITY

ARISTOTELIAN JUSTICE (EQUALITY)

WOMEN AND MEN: ARE THEY DIFFERENT?

CAN DIFFERENT BE EQUAL?

WHAT IS EQUALITY IN SUBSTANTIVE MEANING?

EQUALITY OF DIFFERENCES
PROBLEM WITH GENDER

• Strong imbedded and socially predominant perception of the social role of women (gender roles)

• - Equality at the workplace requires change in the social mind on gender roles (especially equal role in the family)
NEW HOPES?? 😊

CHARTER OF FUNDAMENTAL RIGHTS (2009)

SOCIAL PILLAR OF THE EUROPEAN UNION (2019)
CFREU – Article 23
EQUALITY BETWEEN WOMEN AND MEN (?)
(Not much result so far)

Equality

• Par. 1.:  
  • ....must be ensured in all areas, including employment, work and pay

• What are „all areas“?

• Par. 2:  
  • shall not prevent .... measures providing for specific advantages in favour of the under-represented sex.

What kind of advantages?
SOCIAL PILLAR OF HUMAN RIGHTS
WORK AND PRIVATE LIFE BALANCE

Directive (EU) 2019/1158 of the Council and the Parl. on

WORK-LIFE BALANCE FOR PARENTS AND CARERS

• New language: Work-life balance – instead of reconciliation of family and work – more help to stay in job – might develop progressively
• Retreat from original proposals
  – 2 month instead of 4
  – Increase of available care in early-childhood and out-of-school institutions and long term services (including home-based services) for dependent persons
WHAT IS YET NEEDED FOR A BALANCE?

– *Money, money, money...*
– *CHANGING MINDS....*

– **AND?**
  • *Committed management (CSR)*
  • *ROLE OF SOCIAL PARTNERS!*
  • *Incentives from the State and the European Union*

• *IS THERE ANY PROMISE FOR THE NEXT YEARS?*
MAIN FEATURES OF THE NEW COHESION POLICY FRAMEWORK (2021-2027)
FIVE INVESTMENT PRIORITIES,

a **Smarter Europe**, innovation, digitalisation, support SMEs
a **Greener, carbon free Europe**, a more **Connected Europe**, strategic transport and digital networks
a more **Social Europe**, delivering on the European Pillar of Social Rights and supporting quality employment, education, skills, social inclusion and equal access to healthcare
a **Europe closer to citizens** (local-led and urban development)
...and do not forget MAINSTREAMING!

Then we will see in .... 30? 40? 60? .....................years from now
THANKING FOR YOUR INTEREST AND ATTENTION

I WISH YOU GOOD LUCK ON THE WAY AHEAD FOR

GENUINE GENDER EQUALITY