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Provided in Cooperation with:

Czech journal of social sciences, business and economics

Reference: Valkovičová, Veronika Mainstreaming gender into tackling human trafficking in the European Union.

This Version is available at:

<http://hdl.handle.net/11159/555>

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MAINSTREAMING GENDER INTO TACKLING HUMAN TRAFFICKING IN THE EUROPEAN UNION

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Abstract

The present article concentrates on the advent of gender mainstreaming as a method of incorporating gender perspective into public policies. It analyses the historical as well as the epistemological foundations of gender mainstreaming laid down during the Beijing Platform for Action Conference of 1995. Furthermore, it analyses the factors that led to the adoption of gender mainstreaming by the European Community's institutions and the policy context in which it has been applied ever since. The aim of this article is to portray the epistemological framework of this soft law method as an open signifier for different perceptions of gender. For these purposes, the article analyses the "subject positioning" within the framework of 13 projects on tackling human trafficking in EIGE's tool for good practice sharing¹.

Key words: gender mainstreaming, positive actions, gender equality, human trafficking, EIGE

Introduction

Constructivist theories on European integration and Europeanisation² have been prolific in analysing the discursive level of the European Union's (EU) public policies. Furthermore, feminist perspective has been applied to criticize a number of these policies, including the EU's gender equality policy. The EU's equality policy has been under active academic scrutiny since the late 1980s. A number of new feminist viewpoints have been expressed in the last decade, whether they are related to tools and principles applied, or to particular areas of EU engagement³. Nevertheless, this paper reinforces the continuity of feminist Deconstructivism in international relations, since its main focus of analysis is the epistemological framework of gender mainstreaming as a tool used in EU equality policy. In this article, we argue in favour of Emanuela Lombardo and Petra Meier's critical approach to the EU's gender mainstreaming policy (Lombardo and Meier, 2006; Lombardo and Meier,

¹ This is an independent analysis which was not commissioned by or written on behalf of the European Institute for Gender Equality (EIGE). The author hereby declares that she has no professional or academic affiliation to the Institute.

² Scholars continue to debate the definition of Europeanisation. Nevertheless, in this article we identify with the simple definition by Isabelle Bruno, Sophie Jacquot and Lou Mandin, who summarise Europeanisation as the process of construction, diffusion and institutionalisation of formal and informal rules, policy paradigms, perceptions, procedures, etc. (Bruno et al., 2006).

³ Among many others, it is worthy to mention existing studies about the EU's anti-trafficking policy, such as Susanne Baer's criticism of EU policy on sexual harassment and pornography (Baer, 1996), Marjan Wijer's analysis of the EU approach to prostitution (Wijers, 2000), or Dorchen Leidholdt's essay on sexual trafficking in the EU (Leidholdt, 1996). In terms of critiquing the epistemological framework of EU methods and tools applied to attain gender mainstreaming, it is worthy to mention Emanuela Lombardo's and Petra Meier's essay on framing gender in the EU public policy (Lombardo and Meier, 2008), Vivien Schmidt's and Claudio Radaelli's study on policy change and European discourse (Schmidt and Radaelli, 2004), or Rijken and Volder's essay on human rights approach in EU policy on trafficking of human beings (Rijken and Volder, 2009).

2006; and Lombardo, 2013), which is based on the assumption that the current methodological baseline for this approach lacks consistency and is not compatible with its aim construed by the Beijing Platform of the United Nations (UN). We propose to support this thesis via the analysis of the European Institute for Gender Equality's (EIGE) project on sharing gender mainstreaming practices, in particular with relation to human trafficking. EIGE's objective as an EU agency is to provide research-based advice to the EU and its Member States' institutions. The work of the Vilnius-based agency is therefore very much soft law oriented and requires thorough scrutiny.

In the first section of this paper, we will present the concept of gender mainstreaming and its epistemological foundations created by the Beijing Platform for Action. Gender mainstreaming will be presented here as an umbrella term for a set of tools and methods aimed at incorporating gender perspective into a variety of policies. This part of the paper also works with a number of feminist perspectives on different variations of gender mainstreaming. The second part of this article will deal with how gender mainstreaming penetrated EU discourse on gender equality, its legal baselines in the institutional framework and the scope of EU agenda in the area of human trafficking. The final part is devoted to the aforementioned analysis of EIGE's online sharing tool for gender mainstreaming practices in EU Member States and the epistemological framework of 13 included practices that explicitly deal with human trafficking. We aim to present the epistemological basis of this tool on the example of these particular 13 projects via the analysis of "subject positioning", which was conceptualised by Ernesto Laclau and Chantal Mouffe and often serves in the process of critical discourse analysis (Laclau and Mouffe, 2001).

Historical foundations of gender mainstreaming

The UN's Beijing Platform for Action of 1995 indicated a global paradigm in policies on gender equality. The conference uniting policymakers and practitioners in the field of gender equality laid down the foundations for a new policymaking approach, 'gender mainstreaming'⁴, which began formulation at an earlier conference in 1985 in Nairobi (Beijing Declaration and Platform for Action, 1995).

Nevertheless, gender mainstreaming is not a method *per se*, rather an umbrella term for methods applied in policy making and "the process of assessing the implications for women and men of any planned action, including legislation, policies, or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality" (UN Office of Special Advisor on Gender Issues, 2002: 1). Gender mainstreaming has from its beginning been perceived as a new shift in the cognitive dimensions of gender-sensitive policymaking without requested quantitative results. The aim of gender mainstreaming is to achieve results from which both women and men would benefit, with regards to the socio-cultural environment inherent to the policy. The previous "women-in-development" approach, as Petra Debusscher (2011) calls it, ignored the underlying societal

⁴ The Beijing Platform for Action enhanced the advancement of gender equality in twelve crucial areas: women and poverty; education and professional formation of women; women and health; violence against women; women and armed conflicts; women and economy; women in leading and decision-making positions; institutional mechanisms for the advancement of women; human rights of women; women and the media; women and environment; girls (Kulašiková, 2008). The conference united a number of scholars and practitioners in the field of gender equality who voiced their concern of the so-far existing political strategies to combat gender inequalities (Kiczková and Pietruchová, 2011).

problems stemming from gender relations; therefore, a new approach had to be construed. Many of the policies based on the women-in-development approach (before the advent of gender mainstreaming) simply overlooked the gender implications of discrimination. They were therefore also blind to the gender-based discrimination men face because of patriarchal structures⁵ (Kiczková and Szapuová, 2011). The women-in-development approach Petra Debusscher writes about was *ipso facto* women-centred, concentrating on inequalities in resources. One of the UN's guidebooks on gender mainstreaming even mentions three general aims (not women-centred aims) of this approach used also in development policy - that is "tackling poverty, revitalisation of economic growth and reinforcement of citizenship" (Franceskides, 2004: 8). Laura J. Shepherd ventures slightly further as she speaks of the "womenandchildren" approach, which creates the notion of women and children as one disadvantaged group requiring special treatment in development policies. Therefore, these development policies conserve "women and children as eternal victims of violence" (Shepherd, 2013: 45).

The second wave of feminist activism in Europe, as well as the new political movements in North America, led to a favourable climate to advance new integrated approaches of gendered perspective. Policymakers and gender equality policymakers influenced by second wave Feminism had continually suggested that no decision taken in the sphere of public policy could be gender neutral. Therefore, the Beijing Platform founded its demand for this approach on the assumption that any policy programme or strategy has implications for social reality related to the socio-cultural construct of gender (Beijing Declaration and Platform for Action, 1995). As Zuzana Kulašiková recalls, "Along with gender mainstreaming, there also emerged a new need to make decisions which would imply that gender, age, ethnicity and sexual orientation have the effect on an individual's position in competition" (Kulašiková, 2008: 52). This integrated approach, constructed in the late 1990s, may be applied to policy analysis, data collection and other methodology whose aim is to ensure that the policy's target group will achieve the most favourable outcome (UN Office of Special Advisor on Gender Issues, 2012). To conclude and to see how the creators of the integrated gender perspective envisaged the approach to function, we shall recall the words of Barbara Stiegler, who claims the following on equality: "[E]quality of chances of both women and men can be achieved only when we try to attain it in every possible sphere of polity. The questions of gender will therefore become an integrated part of thinking, decision-making and action-taking of all the concerned actors" (Stiegler, 2002: 6).

After the Beijing Conference of 1995, the Council of Europe took the initiative to further elaborate on gender mainstreaming by creating a number of handbooks. These were later taken up by the European Community's policymakers, NGOs and practitioners (Debusscher, 2011).

Gender mainstreaming methodology

Integrated gender perspective in public policy encompasses a great variety of activities related to research, evolution of policy, and technical assistance. We may, in one all-encompassing term, call this "gender mainstreaming methodology"⁶. In her book *How to apply gender*

⁵ From a Constructivist point of view, the representations in policy happen to be crucial to the construction of its own subjects. As Lombardo and Meier eloquently put it, representations emerge in implicit and explicit forms to create cognitive dimensions of subjects. Representation is therefore responsible for creating the discursive framework of who is responsible, who is the victim and who is to solve the problem (Meier, Lombardo, 2006).

⁶ By the word "method" *per se*, we mean the process of reaching and amassing the results of an enquiry or an analysis. We behold it is a group of rules on how to reach a desirable outcome of a research (Kulašiková, 2008).

perspective?, German scholar Barbara Stiegler creates her own classification of gender mainstreaming techniques and divides them into two groups:

1. Analytical techniques – these techniques take into consideration a number of factors: “Representation (how many women and men are targeted), resources (finances, environment, time frame), usage (examines the root causes of the detected inequalities)” (Stiegler, 2002: 17). Examples *par excellence* of this group of techniques are various methods of document analysis. Some of these methods were created in an academic environment, others in practice of governance. Among others, the following methods are applied in the European environment:
 - The 3Rs Method – a simple method created in the environment of Swedish municipal politics, assessing three areas of project management – resources, representation and results (Asklöf et al., 2003).
 - Gender Impact Assessment (GIA) – One of the first countries to use this method was the Netherlands in 1998. GIA is applied to policies and experiences to find out how they influence women and men and to neutralize the discrimination and establish equality (Kulašiková, 2008). This tool also endeavours to incorporate the analysis of gender and societal roles.
 - The Trace Method – created by Selma Sevenhuijsen, this method incorporates the aspect of care into policymaking. According to Joan Tronto, it was created to de-privatise care (shifting from private sphere to the public sphere), (Sevenhuijsen and Švab, 2004).
 - Gender Budgeting – created in 1984, this tool operates with the assumption that no decision on budget and finances can be gender neutral. The aim of this tool is not to create separate budgets for women and men, but to be applied to the budgetary process as a whole (MPSVaR SR, 2011).

According to European Commission’s accessible toolkit on applying gender mainstreaming, these techniques require the framework of four steps of implementation which differ accordingly in respect to each technique: Getting organised (providing a structural and cultural basis for opportunities), learning about gender differences (collection of relevant data), assessing the policy impact (assessing the root causes of the inequalities), redesigning the policy (if the results of the policy are not favourable, the technique needs to be redesigned), (European Commission, 2007: 36).

2. Consultative and participatory techniques – One of the guidebooks of EIGE on gender mainstreaming stresses out that analytical techniques require the assistance of complementary strategies (EIGE, 2011). Gracia Arribas and Laura Carrasco, for example, consider awareness raising and training on gender issues to be imperatives for an effective implementation of gender mainstreaming (Arribas and Carrasco, 2003). There are various forms of training on gender issues, the most common of which are applied in corporate environment and civil service. Another well-known form of this training is gender-sensitive education of children which may be applied at different stages of schooling and in various forms. In the next section we shall also see that training on gender issues happens to be one of the core components in applying gender perspective in public policy. Nevertheless, gendered training for stakeholders and policymakers is not the only complementary technique that can be applied. Quite close to the gendered trainings in public policy are the so-called focal points. These

are inter-sectorial agents who coordinate policymaking and provide guidance in decision-making (Kulašiková, 2008). The work and the agenda of these focal points may have a different basis, as much as these agents may be a part of the given organisation, or they may be just the “outside experts”.

Furthermore, any gender-sensitive policymaking requires a substantial amount of data on social reality. Therefore, gender-sensitive data collection techniques are to amass, analyse and interpret the quantitative and qualitative inputs of research (Kulašiková, 2008). In general, gender-sensitive data can be divided into two specific groups. The first includes the so-called indexes of gender equality, whose aim is to provide comparative data on factors of gender equality⁷. The second group encompasses the gender-sensitive statistics, with specific indicators. These statistics not only accompany the project management of positive actions, but they also are a *conditio sine qua non* for gender mainstreaming, as they “give details on differences between genders and their interrelatedness. They analyse whether the needs of women and men are being equally satisfied” (Asklöf et al., 2003: 28). Both groups of gender-sensitive data are an inseparable complement of analytical methods of gender mainstreaming. Among Barbara Stiegler’s consultative and participatory techniques we may also find the legal requirement for gender balance, also known as the quotas in decision-making (Stiegler, 2002). There has been some continuous debate in the scholarly environment and political arenas over the quota system in decision-making institutions in EU Member States. Nevertheless, for the purposes of this article, which wishes not to delve further into the debate over the legal requirement of gender balance in decision-making, it has to be noted that, according to some scholars, equal representation of women and men in decision-making is a crucial element in attaining gender equality.⁸

Epistemological foundations of gender mainstreaming

The integrated gender perspective applied to public policy represented by the umbrella term ‘gender mainstreaming’ encompasses a variety of analytical, consultative and participatory techniques that may be applied at different stages of policymaking. “It involves the incorporation of gender considerations into all policies, programmes, practices and decision-making, so that at any stage of development and implementation an analysis is made of the effect on women and men and appropriate action is taken.” (Arribas and Carrasco, 2003: 24). Furthermore, the primary idea of gender mainstreaming represented a completely different approach to the expected outcomes of new gender equality policies. The epistemological foundations of gender mainstreaming can be demonstrated by recalling the work of Nancy Fraser – *Justice Interruptus* – in which she theorizes the notion of social inclusion and recognition. Fraser distinguishes between two types of strategies (methods in public policy): affirmative and transformative, this dichotomy also being applicable to advocate in favour of the difference between gender mainstreaming methods and the so-called positive actions (Fraser, 1997). Furthermore, in her work on radical imagination, Nancy Fraser speaks of affirmative actions as of outcome-driven, while the transformative actions are aimed at disclosing the root causes of inequalities. This is because the affirmative actions target unequal outcomes of societal structure without challenging the structure itself. On the contrary, a transformative action displays root causes by challenging and deconstructing social patterns leading to inequalities (Fraser, 2007). Affirmative actions, as described by

⁷ The foremost index of gender equality is the United Nations Development Programme Human Development Report (UNDP, 2011).

⁸ See for example: Dahlerup, 2011; Niskanen, 2011; or Lovenduski, 2000.

Nancy Fraser, are also known as positive actions⁹, aimed at particularly ostracised socio-cultural groups (Council of Europe, 2000). A positive action is a preferential and redistributive measure, which, in the context of equality policies, is often framed as a women-in-development measure. While the latter aspire to tackle the inequality in access to goods and the inequality of possibilities, gender mainstreaming was declared by the Beijing Platform to have the transformative potential to deconstruct the cultural patterns causing the discrimination. Nancy Fraser concludes her deliberations on affirmative and transformative actions by assessing their influence on individual's social status. When comparing the two approaches, she comes to the conclusion that "while affirmative actions appear to be more focused on solidarity, the transformative actions are in fact more focused on solidarity", since the latter endeavour to tackle inequalities without creating stigmatised groups perceived to benefit unjustifiably (Fraser and Honneth, 2004: 118). Despite the respectful dichotomy in Fraser's conceptualization, she admits that the two categories may overlap, and this would in most cases happen when a positive action gains transformative measures during application.

Gender mainstreaming brought a new, transformative perspective of gender equality policies when it rebuilt the concept of distributive understanding. Rather than understand the inequalities as rooted in the division of resources, it applied a performative, Butlerian¹⁰ view of gender. As Zuzana Kiczková and Ol'ga Pietruchová write on gender mainstreaming, it is vastly related to "the change in decision-making in organisations with androcentric structures [...] these are the organisations where the mainstream, as a dominant trend in thinking and acting, stems from traditional male forms of perception and experiences which are deemed to be the generally binding norms." (Kiczková and Pietruchová, 2011: 473). Moving away from a purely distributive understanding of gender inequalities led to a new understanding of women and gender bias. As Petra Debusscher writes in her analysis of gender mainstreaming strategies, there is a considerable difference between the previous women-in-development approach, which deemed women to be the problem, as well as the solution of inequalities, and the new approach of integrated gender mainstreaming (Debusscher, 2011). As Kiczková and Pietruchová conclude, "[T]he whole approach to women has changed, since they are no more the source of the problem, it is not their insufficient education, or low self-esteem. The attention is drawn to the social structures and processes which create inequalities between women and men [...]" (Kiczková and Pietruchová, 2011: 474).

The feminist critique

Here we shall recall a number of feminist perspectives applied to the integrated gender-perspective approach to public policy. Though it may seem that gender mainstreaming, as a product of second wave Feminism and a new paradigm in the discourse on gender equality in public policy, is a feminist approach in its own nature, there are numerous scholars arguing against this assumption. These scholars claim that the epistemological framework of applied gender mainstreaming methods may vary. In this article, we argue particularly in favour of Emanuela Lombardo and Petra Meier, who analyse the epistemological framework of gender mainstreaming in EU policies and therefore treat the umbrella term as an open signifier "that can be filled with both feminist and non-feminist content" (Lombardo and Meier, 2006: 151).

⁹ The term "affirmative action" is rather more often applied in the Anglo-American environment. However, legal terminology prefers the term "positive action" as this does not hold the label of "special treatment" (Waddington and Bell, 2011).

¹⁰ In 1990, Judith Butler published a ground-breaking publication titled *Gender Trouble*, which presented a significant reconceptualization of the Anglo-American and Continental feminist philosophy. In this work, Butler argues that the substance of the socio-cultural construct of gender is in its own essence performative. In this innovative publication Judith Butler proposed a more cognitive perspective of gender, as she sees it as a "series of repeating acts which create an effect of stability and substantiality" (Zábrodská, 2009: 39).

Nevertheless, when it comes to the term ‘feminist’, regarding the criticism of gender mainstreaming, it is certainly in need of an explanation. The term itself comprises a wide range of approaches in political activism, as well as in political philosophy. The criticism of gender mainstreaming can be often found in the works of two types of Feminism: the Feminism of difference and Feminism of diversity. These two schools find their interest in deconstructing dichotomies and attack discursive hierarchies¹¹ (Evans, 1995). However, since the Feminism of difference has the tendency to oppose the liberal Feminism¹² of equality, which hopes to “advance women into men’s world”, it demands gender mainstreaming to keep up to its transformative objective and attack the hierarchies feeding the discrimination.

Therefore, it is possible that gender mainstreaming “as an open signifier” uses different epistemological frameworks, which stem from different approaches to gender. Authors Carole Bacchi and Joan Eveline (2010), for example, establish three different theoretical frameworks that gender mainstreaming can apply to in practice (p. 322):

- Inclusion: This approach is epistemologically close to liberal Feminism of equality as its aim is to assure equal opportunities of individuals.
- Reversal: The importance of women’s perspectives gained through consultation with women’s organisations. This approach is close to the Feminism of difference.
- Displacement: This approach roots for complex equality, requires inclusive deliberation and represents the Feminism of diversity.

Zuzana Kiczková and Oľga Pietruchová use a typology of epistemological framing resembling closely the one of Bacchi and Eveline while they speak of the third framework as “degendering”, meaning we no longer speak of women or groups but of social institutions (Kiczková and Pietruchová, 2011: 483). Nevertheless, Bacchi and Eveline (2010) argue that it is necessary to distinguish between these three approaches in gender mainstreaming, as according to them, “[P]roblems do not characterize policies, but rather policies characterize problems” (p. 116). In their deliberations, Bacchi and Eveline clearly imply that different understandings of gender affect policies on gender equality. They write that “in some cases these understandings reproduce and increase the male, white and able-bodied privileges they seemingly challenge, in other certain inequalities are remedied. In short, the meaning of gender is contested, along with the utility of the mainstreaming strategy.” (p. 90)

Lombardo and Meier challenge the application of gender mainstreaming by recalling its original aim: “to challenge traditional gender roles from a feminist perspective” (Meier, Lombardo, 2006: 152). The authors assume that gender mainstreaming does not often address what they call the “gender equality perspective” (p. 152). Based on this assumption, they establish five rules that each gender mainstreaming approach should abide by when truly mainstreaming gender (p. 153):

- Focus on gender: the applied method has to focus on gender, not only on women. If the subjects of the applied tool are only women, the method implies that their behaviour is the root cause of the problem and that men’s lifestyles do not have to be altered. It is worthy to mention that there are researchers who insist on

¹¹ The Deconstructivist approach in Feminism strongly opposes women-centred strategies in public policy (Stiegler, 2002).

¹² The Feminism of equality (in northern American literature known as liberal Feminism) speaks of equality as of opportunity, rather than of conditions. With regards to this, Evans writes that liberal Feminism “wants to advance women to what is continually regarded as equality with men within the various hierarchically ordered groups” (Evans, 1995: 30).

including men and masculinity into the epistemological framework as a way of indicating the power relations.

- Reference to gender issues: gender mainstreaming method has to exhibit a clear reference to gender at all stages and aspects of the policymaking. This means that gender mainstreaming need to be gender-centred, rather than women-and-girls-centred.
- Equal representation of men and women: equal representation of both women and men is required throughout the whole policymaking. As Petra Debusscher writes, “The absence of men in the solutions for gender equality implies that women have to catch up with the male norm and are made the sole responsible for that” (Debusscher, 2011: 44).
- Knowledge: substantial knowledge on gender issues is required for the agents and stakeholders of the programme.¹³
- Mainstreaming diversity: since discrimination is not solely related to one factor, but is rather related to different social statuses an individual holds (e.g. race, religion, sexual orientation), it is necessary to also mainstream diversity into the policy. Carol Bacchi and Joan Eveline (2010) argue that diversity mainstreaming became a necessity when feminist scholars started to express concern that “the concept of gender is invariably tied to a male-female binary and hence is limited in its ability to reflect dilemmas among women” (p. 321).

These scholars summarise in their theories the feminist criticism of gender mainstreaming, however, the critique itself comes more often from the constructivists, as they analyse the language of policymaking and its effect on individuals. In the next part of this article we shall discuss how gender mainstreaming penetrated the discourse of the EU’s institutions on gender equality and thus became a part of the EU’s “new modes of governance” (Bruno et al., 2006: 519).

Gender mainstreaming in European Union policies on gender equality

All deliberation on the EU’s gender equality policy must take into consideration that the Union is an “establishment of a common economic market for capital, labour, goods and services” (Elman, 1996: 11). As Amy Elman eloquently states, the EU was originally envisaged as an “economically inspired plan” (p. 1). The first and at the same time the most decisive directives on gender equality were adopted in the late 1970s. They concerned equal pay, equal treatment in employment and equal treatment in social security systems (Hoskyns, 1996). Nevertheless, from the Community’s evolution it is clear that the agenda of EU institutions does not follow a fixed framework, which cannot be extended or restricted. The EU’s public policy on gender equality is an archetypal example of how the forces of Neo-functionalism and Europeanism evolve policies and continuously find legitimation in further areas. As Mark Pollack and Emily Hafner-Burton (2000) summarise, “During the past five years, the EU’s approach to equal opportunities has been transferred from a narrow focus on equal treatment in the workplace, to a gradual acceptance of specific positive actions and since 1996, an institutional commitment to mainstreaming gender” (p. 450). At the advent of the Community, triggered by the Treaty of Rome, it was clear that the Community’s interest in gender equality rests in its potential to enhance the market and economic development of

¹³ The Council of Europe set up a working group in 2004 to evaluate the existing strategies and policies on gender equality in EU Member States. Its final report revealed a rather critical view of the framework used for these applied strategies and their women-centered approach, instead of a gender-centered framework (Council of Europe, 2004).

its Member States. Gender-based discrimination in the labour market became the core of European gender equality policy (Kulašiková, 2008), and it has hitherto become a part of this policy's identity. Furthermore, the EU's gender equality policy is not specifically assigned to and committed by institutions and agents. It is rather what we may call a "chewing-gum policy", and therefore influences different fields and areas of social reality. The current *Strategy for equality between women and men 2010 - 2015* identifies 5 areas where the European Commission wishes to advance gender equality, namely: equal economic independence; equal pay for equal work and work of equal value; equality in decision-making; dignity, integrity and an end to gender-based violence (Strategy for equality between women and men 2010 – 2015, 2010). This clearly shows that EU's gender equality policy engages in diverse areas and it is therefore limited to abide by its own scope of intervention. In this chapter, we will describe the process of transformation of the EU's gender equality policy and its agenda on tackling human trafficking.

The advent of integrated genderisation in EU institutions

The Treaty of Rome (1957), as the founding document of European Community, demanded equal pay for women and men in each country acceding to the agreement. Article 119 outlaws any kind of discrimination in remuneration for work based on individual's sex. We may therefore conclude that European policy on gender equality did not tolerate anti-discrimination effort to boost economic growth. The first endeavours to tackle gender discrimination were oriented towards the equality of resources and equal treatment in the labour market. However, the policy on gender equality gradually escaped the primary understanding of discrimination as based in resources (Kulašiková, 2008; Hoskyns, 2000).

As we have already mentioned, the first three directives of the 1970s were aimed at assuring legal equality of women and men in the labour market. Nevertheless, the policy of equal treatment became gradually replaced by the preferential treatment approach demonstrated in a number of the European Commission's Action Plans. The first Action Plan was created in 1981 and endeavoured to make use of positive actions (i.e. affirmative actions) to advance gender equality in the workplace. The second Action Plan (1986–1990) aimed at launching work and life balance, also promoting positive actions and specific training in this area. The third Action Plan (1989–1990) fractured the boundaries of private and public spheres as it concerned sexual harassment, protection of motherhood and women's contribution to the private sphere. This programme was also the first to tentatively introduce an integrated gender perspective into the policy (Hoskyns, 2000). Nevertheless, the fourth Action Plan (1994–1995) presented a breakthrough in the policy as it engaged in "further reduction of the importance given to law and legal remedies. Law as a strategy for enforcing rights is only mentioned briefly at the end of the document" (Hoskyns, 2000: 54). This new approach gave way to the paradigm of gender mainstreaming as a token and the European Commission's soft law strategy. As Jill Rubery (2002) writes, the soft law nature of this approach "provides much greater incentives for member states to interact with and shape the policy agenda, in contrast to the hard law system, where the policy becomes fixed in legislation"¹⁴ (p. 305).

According to Lombardo and Meier, there have been numerous efforts to incorporate gender perspective into EU policymaking since the early '90s, leading to the Community's

¹⁴ The "soft law" nature of the gender mainstreaming approach is a part of the EU's multi-dimensional governance in the form of a "voluntary policy transfer" (Mazey, 2002: 230). This in practice means that Member States are coerced into policymaking they did not sign up for in the first place. One example is the process of applying for Structural funds, where the requestors are deliberately asked to provide the information on how the proposed project will influence gender structures (Mazey, 2002).

legal commitment to gender mainstreaming proclaimed in the Treaty of Amsterdam (1997), (Lombardo, 2013). Sonia Mazey, for example, speaks of the Amsterdam Treaty as of a well-grasped “window of opportunity” (Mazey, 2002: 227) for European feminists and the European Women’s Lobby. The European Commission is believed to be the turning wheel for the transformation of the EU’s discourse on gender equality, as it has been employing the so-called gender correspondents, as independent agents responsible for mainstreaming gender in its DGs, since the mid-90s¹⁵ (Bruno et al., 2006). Mazey further concludes that “[in] keeping with its own technocratic policy style, the EU has largely adopted the dominant Nordic top-down, expert-bureaucratic model of gender mainstreaming” (Mazey, 2002: 232). The European Commission can be truly seen as the warrantor and the mercenary of gender mainstreaming in the European institutional structure. In 2001, the Commission set up the High-level group on gender mainstreaming, which comprises high-level representatives responsible for gender mainstreaming at the national level. Since 2003, this group has also assisted in the preparation of the *Report on equality between women and men*. Nevertheless, the European Commission’s initial endeavours to incorporate gender perspective relied heavily on professional consultants and academic experts, the so-called flying experts (Mazey, 2002).

Furthermore, Mark Pollack and Emilie Hafner-Burton speak of a number of factors which led to the legal commitment to gender mainstreaming (Pollack and Hafner-Burton, 2000: 436):

- The accession of Sweden, Austria and Finland, which have a long tradition of gender equality policies, which have led to a new pro-equality approach in European discourse.
- Maastricht Treaty of 1993 conferred new mandate to the community as it created the three pillars of Community policy.
- Treaty of Amsterdam - it was clear before the adoption of the treaty that the gender equality policy will and should advance beyond the scope of labour market.

Pollack and Hafner-Burton also name a number of relevant actors who helped to adopt the gender mainstreaming approach in the Community’s common public policy. These include the Equal Opportunities Unit within the European Commission, Women’s Rights Committee of the European Parliament, as well as the networks of scholars and activists (Pollack and Hafner-Burton, 2000). The European Commission integrated the approach of gender mainstreaming into its own work, promoting this strategy and helping to evolve the discourse on gender equality in EU’s Member States. Nevertheless, it has to be emphasized that the European Commission often stands alone in this endeavor, as the Council and the Court of Justice have been only briefly influenced by this paradigm (Mazey, 2002).

Nonetheless, as the Treaty of Amsterdam introduced gender mainstreaming into the EU’s gender equality policy, there has been some confusion as to whether the Member States are still allowed to apply positive actions to balance inequalities¹⁶. Even in 1995, the Community saw the well-known Kalanke case in the United Kingdom, where the court ruled a positive action applied in employment to be unlawful (Sohrab, 2000). Therefore, the

¹⁵ It must be noted that the incorporation of gender mainstreaming into the work of European Commission’s structures did not occur in the same way in each General Directorate. Sonia Mazey writes that gender mainstreaming easily penetrated into the DGs, whose work previously concerned inequalities (e.g. employment), while it struggles in the others (e.g. trade), (Mazey, 2002).

¹⁶ It is important to emphasize that the beginning of the millennium saw the adoption of two crucial texts in communitarian law: the *Charter of the Fundamental Rights of the EU* denominated rights and principles of fundamental human rights throughout the EU; and secondly, the Treaty of Nice (2001) reinforced the principle of subsidiarity (Bruno et al., 2006).

position of positive actions and gender mainstreaming in the hierarchies of Community and national law remained rather dubious for quite some time. Nonetheless, even Nancy Fraser and Axel Honneth claim that the affirmative and transformative actions should not stand apart, since this creates conflict in the approaches. What they simply propose is a combined approach (Fraser and Honneth, 2004). This so-called dual strategy became popular in the EU's gender equality policy after the adoption of the Treaty of Nice. Article 21 of the *Charter of the Fundamental Rights of the EU* speaks of specific measures, as well as an integrated gender approach. The *Treaty on the Functioning of the European Union* (as amended by the Treaty of Lisbon, 2007) in its Article 157 also endorses this dual approach when tackling and preventing inequalities.

The EU has been rather slow in implementing gender mainstreaming into all of its policies and processes because it is constantly in the process of negotiating its scope of intervention, notably in the areas formerly known as the second and third pillar (i.e. common foreign and security policy; police and judicial co-operation in criminal matters, respectively), (Lombardo, 2013). Nevertheless, gender mainstreaming has provided feminist activists with opportunities to advance genderisation in areas which were previously gender neutral, such as “world trade, globalization, social exclusion, the environment, fisheries and asylum and refugee policy” (Mazey, 2002: 236). Therefore, in the next part of this chapter we shall speak more of the EU's policy on tackling human trafficking and its gendered implications.

Gender implications of the EU's policy on human trafficking

The aforementioned two pillars, “common foreign and security policy” and “police and judicial co-operation”, are problematic in the EU's quest for converging the Member States' policies since the early 1990s (Smith, 2010). It is crucial to recall that the pillars system created by the Maastricht Treaty (while it is no longer in practice) was in fact based on the typology of decision-making. Furthermore, the Amsterdam Treaty moved the issues of asylum, visa, immigrant policy, border and justice co-operation to the first pillar, where the plenary takes decisions by the qualified majority¹⁷ (Lipková, 2011: 42). Since 1999, the Community functioned according to the Tampere programme on developing migratory policy (Lipková, 2011). Nevertheless, the aftermath of 9/11 demanded a new approach in the Schengen territory, which was to expand.

After the adoption of the Lisbon Treaty and the coming into force of the *Charter of the Fundamental Rights of the EU*, a new area of policy-making opened up for EU institutions. The Community adopted a new, multi-annual strategy, *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*. This was based on the *Directive 2011/36/EU on preventing and combating trafficking in human beings*, and it addressed human trafficking as the slavery of the 21st century, denominating the coercive and exploitative conditions in which millions of people are forced to live around the globe. The communication of the European Commission issued with regards to the strategy states that trafficking affects women and men, girls and boys all around the world (European Commission COM(2012) 286 final, 2012: 2). Nevertheless, the numbers published in the mid-term report on the implementation of the strategy claim that 80% of the total number of persons trafficked throughout the EU are women and girls, while the majority (62%) of all the victims of trafficking in the EU are exploited for sexual servitude (European Commission SWD(2014) 318 final, 2014). Since the majority of victims of trafficking are women and girls and the primary reason for trafficking is sexual exploitation, it can be assumed that trafficking

¹⁷ Since 2014 a new voting system has been implemented, where the plenary votes by the so-called double majority – The Council of the EU has to have the “vote of the majority of Member States (55%), which represents at least 65% of the population of the EU” (Lipková, 2011: 59).

is a highly gendered issue, which requires genderisation in public policy. As the Commission puts in its communication, “Trafficking in human beings is a complex transnational phenomenon rooted in vulnerability to poverty, lack of democratic cultures, gender inequality and violence against women, conflict and post-conflict situations, lack of social integration, lack of opportunities and employment, lack of access to education, child labour and discrimination“ (European Commission COM(2012) 286 final, 2012: 3). The gender-related approach to trafficking is thus framed in the EU’s policy on combatting violence against women (as a form of gender-based violence). The strategy itself identifies five action points to be considered when combatting trafficking (The EU Strategy Towards the Eradication of Trafficking in Human Beings 2012 - 2016, 2012):

- Identifying, protecting and assisting victims of trafficking
- Stepping up the prevention of trafficking in human beings
- Increased prosecution of traffickers
- Enhanced coordination and cooperation among key actors and policy coherence
- Increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings

In terms of the gender-specific character of human trafficking, the aforementioned directive includes the following in its Article 3: “This Directive recognises the gender-specific phenomenon of trafficking and that women and men are often trafficked for different purposes. For this reason, assistance and support measures should also be gender-specific where appropriate.” (Directive 2011/36/EU of the European Parliament and of the Council, 2011: 2). Hence, it is clear from the beginning of the directive that the EU requires a gender-specific approach to its anti-trafficking policy. The anti-trafficking strategy, for example, refers to protective measures: “Under the Directive on trafficking in human beings, victims should receive appropriate protection and assistance on the basis of individual risk and needs assessments” (The EU Strategy Towards the Eradication of Trafficking in Human Beings 2012 - 2016, 2012: 6). Therefore, it calls for individual assessment, opposing pre-tailored measures which may reinforce gender stereotypes in the sense of essentialism¹⁸.

Nevertheless, there are some serious risks related to this approach. Since the anti-trafficking legal framework of EU is “victim-centred and anchored in fundamental rights. It takes a gender-specific and child-sensitive approach and aims for coherence across all relevant policy fields“ (European Commission SWD(2014) 318 final, 2014: 4), it assumes the specific measures will take up the epistemological framework of a women-in-development approach, avoiding the broader gender implications of unequal power relations in society. A victim-centred approach (and, therefore, when it comes to sexual exploitation often a women-centred approach) is prone to portray “women as the main problem-holders” (Debusscher, 2011: 44). This approach could easily assume that women have specific traits that predispose them to become victims of trafficking and that need to be eradicated, neglecting the implications of patriarchal structures. This approach could, for example, easily disregard the assumption of Dorchen Leidholdt that in many countries of Eastern Europe, “girls and women have been socialised into an ethos of female servitude and self-sacrifice” (Leidholdt, 1996: 85), therefore many of them may perceive their own victimisation in a completely different light than the policymakers or the law enforcement officials. Furthermore, Catherine Hoskyns

¹⁸ Within Feminism, “essentialism means that the characteristics of a group of people (normally women) are basically static. No outside force can change what is essentially there“ (Evans, 1995: 77). This means that the essentialist approach would assume that women (as individuals) have specific traits (and as a group) that distinguish them from men – claiming that women are caring, sensitive, etc., while men are aggressive, assertive, etc.

writes that when women “are treated as a single category, then the interests of women with more resources tend to dominate the policy agenda.” (Hoskyns, 1996: 15). Hoskyns thus warns us that in case of a women-centred approach to trafficking, some particular groups of women may be victimised, since they suffer from other forms of social exclusion (related to their race, religion, sexual orientation, etc.).

Furthermore, Meier and Lombardo assume in their studies on gender perspective in EU’s public policies that the evolution of gender mainstreaming in the EU’s structures “has not necessarily led to a deeper framing of the issues in terms of gender equality” (Lombardo and Meier, 2008: 102). It is important to be reminded that the Community has been from its inception rather reluctant to intervene in the “internal” or “private” issues of its Member States (Elman, 1996). This reluctance has entered the law in the principle of subsidiarity, enforced by the Maastricht Treaty and the Treaty of Nice. Lombardo and Meier argue that EU policy has been reluctant and eager at the same time to intervene in the gendered issues of its Member States, finding its “windows of opportunity” in framing some of the issues as falling within EU’s remit (Lombardo and Meier, 2008: 107). Debusscher writes that applying gender mainstreaming into EU employment policies found its legitimacy to boost economic growth (Debusscher, 2011). Meier and Lombardo argue, in the same sense, that the majority of EU policy on domestic violence is framed as a public health issue (Lombardo and Meier, 2008). By the same token, the EU’s anti-trafficking policy and its gendered perspective of this policy are framed by the institutions of the EU in a variety of forms, drawing their legitimacy from the labour market – the exploitative conditions, malfunctions of competitiveness or public health concerns, etc. Nevertheless, as Sonia Mazey claims, sensitive areas of the EU’s remit have always been conferred to the soft law approach, including gender mainstreaming. Hereby the “policy transfer has become a preferred method for extending European integration” (Mazey, 2002: 232).

In the next section we will have a closer look at the tool of sharing good practices of European Institute for Gender Equality (EIGE). We shall scrutinise the 13 projects listed in this instrument that deal explicitly with human trafficking and we will approach these projects from the perspective of “subject positioning”. This is an approach of critical discourse analysis that concentrates on subjects and the creation of their identity within a particular discourse¹⁹ (see e.g. Laclau and Mouffe, 2001).

EIGE’s shared practices on mainstreaming gender in the area of human trafficking

The European Institute for Gender Equality (EIGE) is an officially a functioning institution in the cluster of EU justice and home affairs since 2010. An agency founded upon the *Charter of Fundamental Rights of the EU*, it was created to become the knowledge centre and the front-runner in developing reliable evidence, collecting knowledge, sharing useful experiences and expertise on gender equality (EIGE, 2012). A considerable part of the EIGE’s agenda is devoted to documenting good practices and recording methods and tools on mainstreaming gender in public policies (EIGE, 2012). For this purpose, EIGE developed an online tool for sharing methods and tools used in EU Member States. These are understood to be operational instruments, “which can be used separately or combined together to shape largely different programmes, in terms of aims, approaches and dimensions. Some are practical, ready to use how-to tools, while others are more elaborated combinations of different elements” (Methods and Tools, 2014). These collected methods and tools can be therefore used in different stages of applying gender perspective into policy.

¹⁹ This particular method of critical discourse analysis is also often called member categorical analysis (see in Beneš, 2008)

Nevertheless, when scrutinising these 13 specific projects present in this database, specifically in relation to human trafficking, we would like to concentrate on the position of a subject, or the main category around which the project evolves. In this case it is “the victim” who is the determinant of the framework in which these projects are aimed at tackling human trafficking²⁰. Joan Eveline and Carole Bacchi (2010) write that policies and discursive practices create “subject positions” which are of particular relevance to policy analysis. The authors claim that the position and identity of the subject is crucial, since it is not the problems which characterise the policies, “rather policies characterise problems in ways that affect what gets done or not, who gets harm and who benefits” (p. 116). In this context, Lombardo and Meier claim the following: “Within the dimensions of diagnosis and prognosis, there emerge implicit or explicit representations of who is deemed to hold the problem, who causes it and to what extent gender and intersectionality are related to the problem and its solution” (Lombardo and Meier, 2006: 155).

The aforementioned online system currently enlists exactly 13 projects²¹ developed and implemented in EU Member States explicitly mentioning human trafficking. This method-sharing tool, in applying gender perspective into public policies, is divided into four specific sectors: domestic violence, female genital mutilation, gender mainstreaming and women and the media. Nevertheless, this tool lacks further explanation on why this particular division was opted for. Each project explicitly mentioning human trafficking in this tool is either classified under the sector of domestic violence (DV) or female genital mutilation (FGM). Of these project, three happen to be listed under the category “awareness-raising campaigns/events”, three are “direct services”, two projects are “networks”, one is a “publication”, two are “studies/surveys”, and two are classified as “other”²². It must be noted that none of the 13 project is solely devoted to tackling human trafficking. Each assumed a multi-dimensional approach dealing with other societal issues in relation to human trafficking, such as migration, intimate partner violence, feminisation of poverty, etc.

Table 1: 13 national projects devoted to human trafficking²³

Country	Title	Start Date	Sector	Type
Greece	Awareness raising campaign (TV & Radio spots, culture and art activities and informational events) “You are not the only one. You are not alone!”	2011	DV	Awareness-raising campaigns / events
France	National Commission for fight against the violence against women	2001	DV	Network

²⁰ Norman Fairclough writes that discourses figure in a number of specific ways. First, they (re)produce social activity and hold a continuum. Secondly, they figure as representations; and thirdly, they create identities (Fairclough, 2013) The third factor of a discourse seems to be the most relevant to this analysis as it is directly related to subjects and their identities created by specific policies.

²¹ This article was in preparation throughout the year 2014.

²² The category titled “network” generally denominates intra-structural agents functioning in governmental institutions, networks of experts functioning as an advisory body in policymaking or a public-private partnership in governmental institutions aiming to promote gender perspective. “Direct services” are a category uniting projects where direct service was provided to a specific group (e.g. victims of violence). These include housing programmes, relocation projects, help lines, etc. In the case of the aforementioned 13 project related to human trafficking, the two project classified as “other” include a governmental report and an information campaign.

²³ Abbreviations: DV – domestic violence, FGM – female genital mutilation.

The Netherlands	Evaluation of alien policy from gender perspective in the Netherlands	2008	FGM	Study / Survey
United Kingdom	Hard Knock Life - Violence Against Women. A Guide for Donors and Funders	2008	FGM	Study / Survey
Croatia	Housing program and counselling centre (including helpline)	1998	DV	District Service
France	Delegation for victims (DAV)	2005	DV	District Service
Greece	Microsite with information on Violence against women of the Awareness raising campaign "You are not the only one. You are not alone!"	2012	DV	Publication
Croatia	National Campaign to prevent gender based violence -"Silence is not gold"	2006	DV	Awareness-raising campaigns / events
Malta	Police specialised squad	2007	DV	District Service
United Kingdom	Report From the Harmful Traditional Practices and Human Trafficking Sub-Group - Responding to Violence against Women and Children - The Role of the NHS	2010	FGM	Other
Belgium	Information campaign for female asylum seekers	2011	FGM	Other
United Kingdom	Women Refugees and Asylum Seekers in the UK	2007	FGM	Awareness-raising campaigns / events
Greece	Panhellenic Network of 61 structures to prevent and tackle all forms of violence against women	2009	DV	Network

Source: <http://eige.europa.eu/methods-and-tools> (2014).

Of the 13 projects, 12 refer to victims of violence solely as to female victims, while talking about women and girls as of a group in need of protection. Only the Dutch project of 2008 speaks of victims in a gender-neutral way. This project is based on the diversity of victims of violence, including human trafficking, explicitly mentioning also transgender persons. With the exception of the Dutch project, all other 12 projects speak of men directly and only as of perpetrators of violence against women. Directing men in promoting the project is rarely mentioned, only in general public awareness-raising campaigns. The majority of these projects also address the victims of violence (ergo women) and are aimed at women directly to promote their empowerment. The majority of these projects speak of "violence against

women”; a broader gender-centred framing is present only in the project of the Netherlands (2008) and Croatia (2006), as these are the only ones using the notion “gender-based violence”.

We can therefore conclude that a broader genderisation of human trafficking is included only in two of the 13 projects listed in EIGE’s sharing tool. The language and subject positioning in the framework of the other 11 projects is more typical of a women-in-development approach, as described by Petra Debusscher, while the Greek project of 2009 is framed similarly to Laura Shepherd’s notion of “womenandchildren”. Of the three awareness-raising campaigns, two are aimed at empowering women and motivating them to “break the silence”, yet only one is broader, denouncing gender stereotypes and communicating a gender-centred perspective which deals with power relations and root causes of inequalities. The three direct services projects are exclusively oriented towards female victims, therefore marginalizing male victims of violence and human trafficking etc., unable to recognize them and provide services to them as well. This approach also happens to be gender-blind to transgender and trans-sexual persons, who may also fall victims of human trafficking. Of these projects, only the Dutch project and a Belgian project of 2011 are devoted to a specific group rather than just women in general. As they speak of asylum seekers and immigrants, they acknowledge that particular groups in society are more vulnerable than the others. Other projects devoted to women in general seem to adhere to the notion that women are a homogeneous disadvantaged category, which neglects the fact that differentiation by class, race and other choices and opportunities are sometimes more relevant determinants of social inclusion than gender (Jahan, 1996). This also contributes to the agenda’s tendency towards “women’s problems”, excluding references to gender relations. Role attribution takes a stereotypical form as it portrays men exclusively as perpetrators. In the discursive frame of the 12 projects (excluding the Dutch project of 2009), the problem holders seem to be passive women (as a homogenous group), yet they also seem to be the group directed to resolve this problem.

Conclusions

Considering the above analysis of EIGE’s shared tools of integrated gender perspective in public policy, it is clear that the framework of these practices is close to the women-in-development approach, which happens to be victim-centred and in this context also women-centred. The majority of the Member States’ projects listed in the database happen to diverge from Lombardo and Meier’s five rules of implementing gender perspective into public policies (Lombardo and Meier, 2006: 153). These projects do not follow the standard of equal representation, as they tend to stereotype women and men according to the roles of victims and perpetrators. Furthermore, references to gender and power-related root causes of human trafficking and violence are scarce and the majority of these projects do not include diversity, as they often exclude other grounds of discrimination, such as race, sexuality, class, etc.

It can be therefore concluded that the issue of human trafficking has not, despite its gender-specificity, reached de-genderisation, as envisaged by the epistemological framework put forth in the advent of gender mainstreaming. The results of this analysis also advocate in favour of Lombardo and Meier’s assumption that, even though the second wave Feminism did influence the creation of the gendermainstreaming paradigm, the usage of this concept is rather open to different interpretations and perceptions of gender (Lombardo and Meier, 2006). While EIGE’s materials speak eloquently of applying gender mainstreaming and the necessary application of gender perspective, the approach of these 13 chosen methods is epistemologically closer to affirmative action approach in public policy and, therefore, as

Meier and Lombardo also conclude, it happens to be rather confusing for policy makers on the national level as it lacks in consistency (Lombardo, 2013).

Nevertheless, it has to be emphasized that the EU's anti-trafficking policy is of a specific kind and it is clear from the founding documents of the policy already mentioned in this article that the Community prefers the "reverse" approach (as put by Bacchi and Eveline, 2010) while emphasizing women's perspectives and women's empowerment. Therefore, the Community opts for the framing of human trafficking as a women-in-development policy. This is also supported by the fact that EIGE promotes the application of the aforementioned 13 projects related to human trafficking in the same epistemological framework. As we have demonstrated in the previous chapter, this approach happens to overlook some factors of inequality and power-related structures inherent to the social reality, thereby reinforcing a stereotypical perception of genders. This approach may primarily lead to the exclusion of male and transgender victims of human trafficking, as well as to the reinforcement of the notion that women are the cause of the problem and that they have to be targeted so that the problem is tackled. To conclude, we should recall that the current women-in-development approach in anti-trafficking policy also loses out by not fully embracing the potential of the soft law benefits of gender mainstreaming, which may help to advance the Europeanisation of this policy. Since human trafficking is also framed in the EU's policy as a form of violence against women, the Community's remit stays dubious in relation to its competence and the competence of the Member States. The onus is put on the violent and exploitative conditions of the victims, not emphasizing the root causes, ergo the gender stereotypes operating in trade with sexual services. It is therefore clear that this area of EU public policy could be influenced by the soft law approach in implementing gender perspective, as it would create the normative impetus in form of "framing mechanisms" (Bruno et al., 2006: 520).

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Acknowledgements:

The author would like to thank Ľuboš Žársky, Meghan Casey and Michael Wilkinson for their advice and valuable comments.