

### Policy Context

Gender equality is a fundamental principle, constituting an integral part of human rights and a prerequisite for making human rights applicable and their enjoyment available to all persons. In the Vienna Declaration and Programme of Action 'the human rights of women and of the girl-child' are defined as 'an inalienable, integral and indivisible part of universal human rights'. Further, the declaration calls for the consideration of women's human rights in all activities of the United Nations. Similarly, women's human rights have been addressed and set out in several international and European legal instruments.

#### International Human Rights Instruments and Legislation

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), defining women's human rights as human rights.
- UN Convention on the Rights of Persons with Disabilities (2007), constituting the only international human rights instrument that the EU has ratified.

#### European Union Human Rights Instruments and Legislation

- Treaties of the European Union, e.g. Treaty on the Functioning of the European Union (TFEU) (2009 recast), reaffirming the principle of equality and the EU's obligation to eliminate inequalities, calling on Member States to combat discrimination when defining and implementing policies.
- The European Charter of Fundamental Rights (2000), strengthening the general legislative framework for human rights in the EU, establishing the principle of gender equality and prohibiting discrimination, guaranteeing all individuals the right to effective remedial measures and a fair trial.
- European Union Directives, concerning areas like equal opportunities and equal treatment of women and men in employment (2006/54/EU), the burden of proof in cases of discrimination based on sex (97/80/EC), the rights of victims of crime, the concepts of 'gender-based violence' and 'violence in close relationships' (2012/29/EU).

- Strategy for equality between women and men 2010-15, encouraging Member States to take into account the different needs of women (including intersecting inequalities) within legislation and policies, introducing the idea that violence against women is a human rights violation.
- European Pact for equality between women and men 2011-20, calling on Member States to take the necessary steps to tackle discrimination in different areas of social life.
- European Disability Strategy 2010-20.
- EU Framework for National Roma Integration Strategies by 2020.
- Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings.

### The strategic objectives of the BPfA and the EU indicators

- I.1.** Promote and protect the human rights of women through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- I.2.** Ensure equality and non-discrimination under the law and in practice.
- I.3.** Achieve legal literacy (i.e. empowerment of women regarding issues involving the law).

All Member States have ratified and are thus legally bound to implement CEDAW following the principle of due diligence. As part of this obligation Member States regularly submit national reports on the measures taken to the Committee on the Elimination of Discrimination against Women (CEDAW Committee), which analyses these reports and issues specific recommendations. These are complemented by shadow reports, compiled by civil society organisations in the respective countries. Moreover, the European Commission issues annual reports on equality between women and men. To date the area of human rights has not been reviewed as part of the BPfA monitoring process at EU level.



The database, Women and men in the EU - facts and figures, developed by the European Institute for Gender Equality provides the latest data and information, available at:

<http://eige.europa.eu/content/women-and-men-in-the-eu-facts-and-figures>

## Findings from EU-wide data

### Legislation on anti-discrimination is difficult to transpose and implement

According to the Network of Legal Experts of the European Commission, the implementation of gender equality directives is limited in some instances. The largely gender-neutral approach adopted in the formulation of legislation, for instance, hampers the implementation of gender equality, as does the prevalence of stereotypes within legislative and judicial institutions. Similarly, on average only 22 % of citizens in the EU-27 felt that their respective governments effectively tackled all forms of discrimination in 2012.

### Structural and institutional barriers for women to access justice

Women face specific structural and institutional barriers in accessing justice. These difficulties can be linked to the costs of judicial proceedings. Moreover, courts and the police force potentially have insufficient understanding of violence against women. As a consequence, insufficient

coordination between judicial and criminal institutions during investigation procedures and evidence gathering may require women survivors of violence to restate their experiences and repeat medical examinations. The resulting lengthy judicial proceedings and secondary victimisation, in addition to societal pressure, could effectively discourage women from pressing charges.

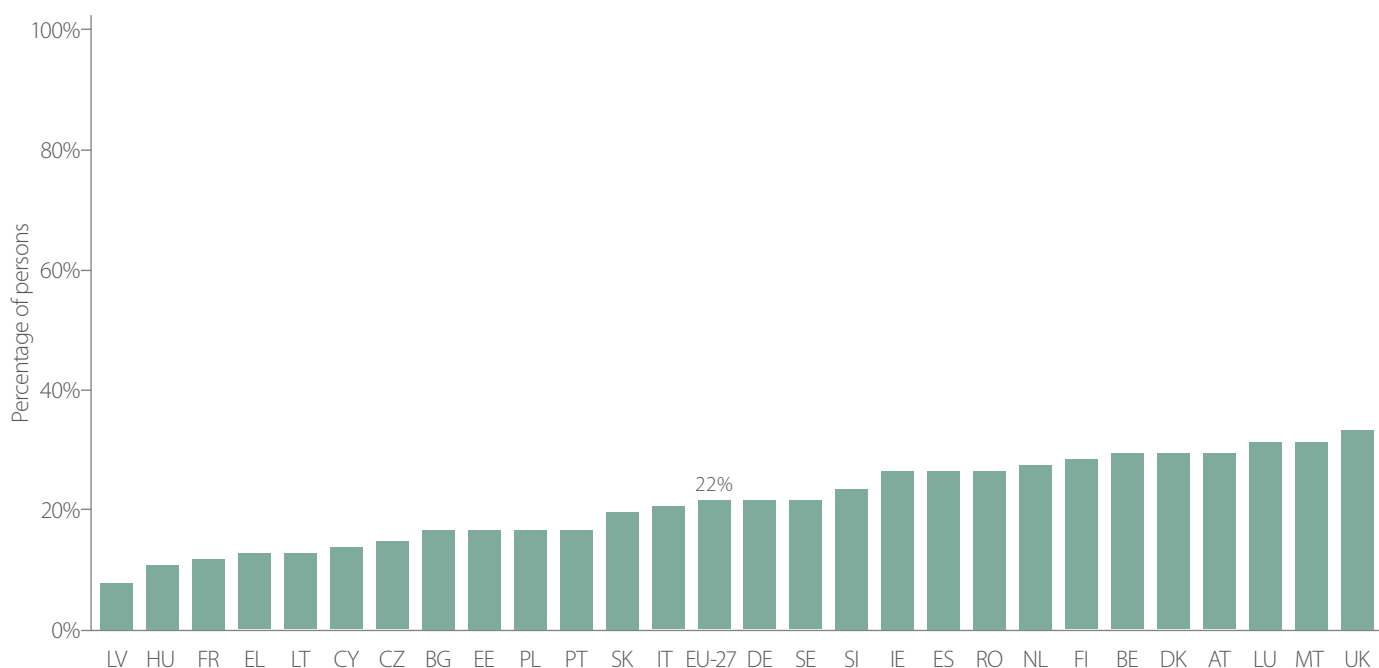
Stereotypes and the underrepresentation of women in the police force and the judiciary may diminish the quality of services received by women and men and can deter women from seeking support. Traditional attitudes and beliefs connected to gender stereotypes can cause gendered biases in courts, which have been identified as one of the reasons for the small number of court cases leading to conviction and the high levels of attrition that have been registered.

Developing data and research at national and European level would help identify the obstacles women face and assess them better.

### Women from different groups face different challenges when exercising their rights

Women do not constitute a homogenous group and legal, institutional, structural, socioeconomic and cultural factors can further hinder some women's access to justice. Accordingly, women can face multiple forms of discrimination simultaneously. Following the concept of intersectionality, discrimination experienced by women on different grounds at the same time is more than the

## PERCENTAGE OF PERSONS THINKING THAT EFFORTS MADE IN THEIR COUNTRY TO FIGHT ALL FORMS OF DISCRIMINATION ARE COMPLETELY EFFECTIVE, 2012



Source: Special Eurobarometer 393, Discrimination in the EU in 2012



additive sum; rather it is a multiplicative one, as experiences of discrimination are inseparable and complex.

### **Assessing intersectional discrimination is difficult, particularly where sex is concerned**

Intersectional discrimination is a complex concept, difficult to define and hence implemented differently across legal systems in Member States. Following the principle of comparability, it is necessary to identify a reference case in both EU and national law, in order to assess if a person has been discriminated against. Specifically where intersectionality is concerned, suitable comparisons are difficult to find, hence causing the principle of non-discrimination to be limited in practice.

### ***Migrants (including refugees, asylum seekers and undocumented women)***

Most Member States grant the right of temporary residence when proof of a regular work contract is present. Migrant women, however, often work in non-regulated sectors and the informal economy. Moreover, largely gender-blind laws on residence and employment are still linked to family status. Consistently, women who enter the country as spouses of a man workers depend on the continuity of their relationship, making it particularly difficult for them to seek support from the criminal justice system when they face gender-based violence, for instance. Accessing justice is particularly difficult for undocumented migrant women, as they might fear to be criminalised when accessing the legal system; an issue faced specifically by victims of human trafficking and forced prostitution.

### ***Women from a minority group***

Women from minority groups (e.g. ethnic, linguistic or religious) have limited access to justice as they face a higher risk of poverty and social exclusion. However, difficulties and barriers encountered by women from

ethnic minorities in accessing the labour market are not addressed by Member States, despite the fact that most Member States depend on individual labour market participation to sustain their pensions and benefits systems.

### ***Roma Women***

The Roma population constitutes the EU's largest ethnic minority group, estimated to include six million individuals. While the term Roma population is commonly used at policy level, it masks within-group diversity. Roma women experience some of the most pronounced forms of marginalisation and discrimination and they are often restrained from entering the public sphere, due to their obligations within the private sphere and persistent traditional values regarding the role of women in their communities.

### ***Women with disabilities***

Women and girls with disabilities make up 16 % of the total women population in the EU. Women with disabilities are between 0.5 and 10 times more likely to be discriminated against, as opposed to non-disabled women.

### ***Lesbian or bisexual women and transgender people***

Lesbian and bisexual women, as well as transgender people, are more likely to report being discriminated against on the basis of their gender than gay and bisexual men.

### ***Older women***

Women above the age of 65 still face specific and considerable discrimination — regarding their access to employment or in claiming reparation, in accessing courts and police stations — as they may not be aware of the services provided and may not perceive themselves as victims..

## **Useful initiatives:**

Respect for women's human rights and equal treatment has been a part of the activities of several human rights organisations within Member States and across the EU. The Estonian Human Rights Centre has run the project, Equal Treatment Network, during 2012–15 which seeks to promote equal treatment and to improve the protection against discrimination through networking and cooperation between civil society organisations and strategic advocacy. The Danish Institute for Human Rights (DIHR) published a new Status Report aiming to present the essential issues of human rights in Denmark. The themes prioritised in the DIHR Status report for 2013 focus on gender equality in Denmark. Moreover, the Department for Equal Treatment of the DIHR works on the development of methods for the promotion of equal treatment and non-discrimination, some of the toolboxes that have been developed in this field are the 'Diversity Wheel', 'The Diversity Lab' (for the private sector) and 'The Equality Lab' (for municipalities).



## ADVANCEMENTS AND OBSTACLES IN AREA I: HUMAN RIGHTS OF WOMEN

### ADVANCEMENTS

- The importance of ensuring equal access to justice has been recognised as a fundamental issue.
- The need to address multiple or intersectional discrimination has been recognised by some Member States.
- The need to support women survivors of violence has increasingly been recognised and has led to the adoption of more advanced measures and supporting mechanisms in some Member States.

### OBSTACLES

- Women and men do not have equal enjoyment of their rights.
- Women face institutional, economic and cultural barriers in getting access to justice.
- Women belonging to certain groups find it especially hard to get equal access to justice.
- Women victims of violence still face considerable obstacles to claiming redress.
- No comparative data or indicators have been developed to assess the progress of Member States in this area of concern.

## The way forward for the EU

- Develop indicators to assess the progress of Member States in the area of Human Rights of Women.
- Address obstacles that women and specifically victims of violence face, when claiming redress when their rights have been violated.
- Ensure equal access to justice for all women, by removing economic, cultural and (gendered) institutional barriers as a necessary precondition for women's human rights.
- Develop measures to ensure equal enjoyment of human rights by both women and men, to tackle multiple discrimination and intersectionality and to address the specific issues of women survivors of violence.

### European Institute for Gender Equality (EIGE)

The European Institute for Gender Equality (EIGE) is the EU knowledge centre on gender equality. EIGE supports policy-makers and all relevant institutions in their efforts to make equality between women and men a reality for all Europeans and beyond by providing them with specific expertise and comparable and reliable data on gender equality in Europe.

More information: <http://eige.europa.eu>

The Resource and Documentation Centre (RDC) of the European Institute for Gender Equality is an innovative and practical tool developed to assist in locating key resources on gender equality, to facilitate the exchange of knowledge among those with an interest in gender equality policies and practices and to offer an online space for discussion and debate.

More information: <http://eige.europa.eu/content/rdc>



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