

Gender Budgeting

Annex 2: The EU's gender equality legal and policy framework

The European Union is based on the rule of law^[1]. This means that every action taken by the EU is founded on treaties that have been approved voluntarily and democratically by all Member States. Treaties are legally binding agreements between Member States that set out EU objectives, rules for EU institutions, how decisions are made and the relationship between the EU and its Member States^[2].

Equality between women and men is recognised by the EU as a fundamental principle, a core value of the EU and a necessary condition for the achievement of the EU objectives of growth, employment and social cohesion.

Since 1996, the Commission has committed itself to a '**dual approach**' towards realising gender equality. This approach involves mainstreaming a gender perspective in all policies, while also implementing specific measures to eliminate, prevent or remedy gender inequalities. Both approaches go hand in hand, and one cannot replace the other. Gender mainstreaming is not a policy goal in itself, but a means to achieve gender equality.

Gender equality is a fundamental value of the EU enshrined in overarching EU legal and policy documents.

Articles 2 and 3(3) of the founding Treaty on European Union^[3] (TEU), Articles 21 and 23 of the Charter of Fundamental Rights^[4] and Article 8 of the Treaty on the Functioning of the European Union (TFEU)^[5] call for equality between women and men. Article 8 of the TFEU, for example, explicitly requires the Union to 'eliminate inequalities and promote equality between women and men through all its activities' (gender mainstreaming).

The Treaty of Lisbon^[6] includes a commitment to gender equality through Declaration 19,

annexed to the Final Act of the Intergovernmental Conference that adopted the treaty^[7].

The 2020–2025 gender equality strategy^[8] sets out policy objectives and actions towards a gender-equal Europe where ‘women and men, girls and boys in all their diversity, are free to pursue their chosen path of life, have equal opportunities to thrive and equally participate in and lead our European society’. Based on this commitment, action at Member State level and EU level will be taken in the following fields: ending gender-based violence, challenging gender stereotypes, closing gender gaps in the labour market, achieving equal participation across different sectors of the economy, addressing the gender pay and pension gap, closing the gender care gap, and achieving gender balance in decision-making and politics.

Implementation should be based on the dual approach of targeted measures to achieve gender equality, combined with strengthened gender mainstreaming and the intersectionality of gender with other grounds for discrimination. Progress made in the implementation of the strategy is to be monitored and reported to the European Parliament and the Council on an annual basis and serve as an **annual political stock-taking of progress made**. The strategy highlights that the Commission will **measure its expenditure** related to gender equality at programme level and use gender mainstreaming in its budget process.

The **European Pillar of Social Rights**^[9] lays down 20 key principles as a framework for convergence towards better living and working conditions across the EU. It is structured around three categories: equal opportunities and access to the labour market (including ‘key principle 2: gender equality’^[10]), fair working conditions, and social protection and inclusion. Linking these elements to the future implementation of EU funds, especially the ESF+, is meant to support the pillar’s implementation.

The EU has adopted six directives^[11] covering equality between women and men in the workplace, in self-employment, in access to goods and services, in social security, in pregnancy and maternity and on family-related leave and flexible working arrangements for parents and carers. Together they have progressively set a legal standard across Europe, ensuring a broad protection from discrimination. The **work-life balance directive**^[12] champions gender equality and focuses on delivering key elements of the European Pillar of Social Rights (key principle 9: work-life balance^[13]), through legal and policy measures.

It introduces minimum standards for family leave and flexible working arrangements for workers and promotes the equal sharing of caring responsibilities between parents to make both parents responsible and entitled when it comes to family care. It focuses mainly on a broad approach in order to address the under-representation of women in the labour market and aims at enabling parents (and other people with caring responsibilities) to better balance their work and family lives, while taking into account the gender equality aspect of sharing of such responsibilities between women and men. Furthermore, it is envisaged that good practices be shared with social partners and Member States through seminars under the mutual learning programme^[14].

Tackling the gender pay gap is a clear priority for the Commission. Article 157 of the TFEU requires Member States to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied. This is further supported in the Barcelona objectives^[15], which called on the Member States to remove disincentives to women's labour force participation by taking into account the demand for childcare services, in line with the national patterns of childcare provision, to increase its provision.

These efforts have recently been supported by the **Council conclusions of 2 December 2020**^[16], where the Council called upon the Member States to take steps to facilitate equal access to parental leave for women and men and the equal distribution between women and men of unpaid care work (including domestic work) and improve public infrastructure and the availability of external services to support equal sharing.

Based on the Charter of Fundamental Rights of the European Union and after the Commission communication 'EUROPE 2020: A strategy for smart, sustainable and inclusive growth'^[17], the **guidelines for employment policies of the Member States 2020/0030 (NLE)**^[18] integrate elements related to the consequences of the COVID-19 crisis, the green and digital transitions and the UN SDGs, and are to guide employment policy implementation in the EU and its Member States.

The convergence across the EU is renewed with a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets that are future oriented and responsive to economic change, the objectives of full employment and social progress, balanced growth, a high level of protection and improvement of the quality of the environment, as laid down in Article 3 of the TEU.

The 2021–2027 EU cohesion policy^[19] contributes to strengthening economic, social and territorial cohesion in the EU, one of its five objectives being ‘a more social and inclusive Europe’. The policy’s focus during this period remains sustainable economic competitiveness through research and innovation, the digital transition, the European Green Deal objectives and the promotion of **the European Pillar of Social Rights**^[20] with its 20 principles guiding towards ‘a strong social Europe that is fair, inclusive and full of opportunity’, with three specific targets to be reached by 2030 on employment, access to training and reducing the risk of poverty. In line with the pillar, the CPR^[21] sets out common rules for EU shared management funds, including **horizontal principles**.

This includes gender equality as ‘Member States and the Commission shall ensure that equality between men and women, gender mainstreaming and the integration of a gender perspective are taken into account and promoted throughout the preparation, implementation, monitoring, reporting and evaluation of programmes’ (Regulation (EU) 2021/1060, Article 9(2)). Thus, the implementation should be based on a **dual approach** for programmes whose main target is to achieve gender equality and/or programmes that are gender mainstreamed.

Beyond the EU, the SDGs adopted by all UN Member States in 2015 comprise 17 global goals aimed at ending poverty and other deprivations together with the implementation of strategies to improve health and education, reduce inequality and support economic growth. Climate change and the preservation of oceans and forests are also defined as important issues. Gender equality is a cross-cutting element of all 17 global goals and a stand-alone goal in its own right. SDG 5 – ‘Achieve gender equality and empower all women and girls’^[22] – aims specifically at objectives linked to the proposed tracking system at hand (indicated in bold letters). It highlights the need to:

- end all forms of discrimination against all women and girls everywhere;
- eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation;
- eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation;
- recognise and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate;
- ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life;
- ensure universal access to sexual and reproductive health and reproductive rights as agreed

in accordance with the programme of action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences;

undertake reforms to give women equal rights to economic resources, along with access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws;

enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women;

adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

Due to their commitment to the SDGs, countries must follow-up and review the progress made towards the goals and targets over the next 15 years. In order to provide such information, progress will have to be monitored via quality, accessible and timely data collection and review.

With particular relevance for this report, the SDG indicator 5.c.1 seeks to measure government efforts to track budget allocations for gender equality throughout the public finance management cycle and to make these publicly available. Indicator 5.c.1 aims to encourage governments to develop appropriate budget tracking and monitoring systems, and to commit to making information about allocations for gender equality readily available to the public^[23].

Footnotes

[1] This section is based on 'Tool 1: Connecting the EU funds with the EU's regulatory framework on gender equality' of EIGE's gender budgeting toolkit for the EU funds <https://eige.europa.eu/gender-mainstreaming/toolkits/gender-budgeting/le...>.

[2] https://europa.eu/european-union/law/treaties_en

[3] <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A12012M%2FTXT>

[4] <https://ec.europa.eu/info/aid-development-cooperation-fundamental-rights...>

[5] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

[6] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12007L%2FTXT>

[7] <http://www.europarl.europa.eu/factsheets/en/sheet/59/equality-between-me...>

[8] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>

[9] <https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-pe...>

[10] Key principle 2 (gender equality) specifies that 'Equality of treatment and opportunities between women and men must be ensured and fostered in all areas, including regarding participation in the labour market, terms and conditions of employment and career progression. Women and men have the right to equal pay for work of equal value.'

[11] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0152>

[12] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1158>

[13] Key principle 9 (work-life balance) specifies that 'Parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services. Women and men shall have equal access to special leaves of absence in order to fulfil their caring responsibilities and be encouraged to use them in a balanced way.'

[14] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DC0252>

[15] <https://op.europa.eu/en/publication-detail/-/publication/fb103a95-f680-4...>

[16] <https://www.consilium.europa.eu/media/47063/st13584-en20.pdf>

[17] <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN...>

[18] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2020:344:TOC>

[19] https://ec.europa.eu/regional_policy/en/2021_2027/

[20] <https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-pe...>

[21] <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1060...>

[22] <https://www.un.org/sustainabledevelopment/gender-equality/>

[23] Metadata on indicator 5.c.1, inter-agency and expert group on SDG indicators. Last updated: 30 January 2018
<https://unstats.un.org/sdgs/metadata/> and <https://unstats.un.org/sdgs/metadata/files/Metadata-05-0c-01.pdf> p. 2)