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**The EU and pay equality: women's cause
paladin or organised hypocrite?**

A journey through EU history milestones up to today

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Dedication

*To the people that in these years have taught me to search for questions
instead that for answers and accompanied me along the way.*

Table of contents

<u>0. Abstract</u>	<u>page 01</u>
<u>1. Introduction</u>	<u>page 03</u>
Presentation of the work	page 03
Framing of the issue	page 06
The Gender Pay Gap (GPG)	page 08
Women and gender	page 10
Objectives and Motivations of the work	page 11
Sources and Research Method	page 13
Concluding remarks	page 16
<u>2. Chapter one</u>	<u>page 18</u>
<u>Dealing with gender pay inequality</u>	
Introduction	page 18
Why the need to measure pay inequality in the EU?	page 19
The Gender Pay Gap indicator and its various layers	page 22
The GPG per economic sector	page 34
The overall earnings gap and the Gender Equality Index	page 37
The legal basis of the principle of equal pay in EU and its different interpretations by EU bodies	page 41
The economic irrationality of pay inequality and possible alternative scenarios	page 47
Conclusion	page 52
<u>3. Chapter two</u>	<u>page 55</u>
<u>Pay equality during EU milestone moments</u>	
Between economic needs and morality: the birth of the right to gender pay equality in the EU	page 58
The two-way effects on pay equality of the last EU enlargements	page 66
Family duties and pay equality in the Covid-19 pandemic: a trembling balance	page 78
Conclusion	page 88
<u>4. Concluding remarks</u>	<u>page 91</u>
Answer to the research question	page 91
Suggested solutions	page 95
Evaluation of the methodology	page 96
Value of the research	page 98
Study's limitations	page 100
Future developments and further study possibilities	page 102
<u>5. Summary</u>	<u>page 105</u>

6. Bibliography page 112

7. Acknowledgements page 121

Abstract

English

Has the EU been an entrepreneur in the field of gender pay equality? The current situation, with a stagnating GPG and COVID-19 which increases the issues faced by many women, can suggest a negative answer. However, the EU has also shown a real commitment to the issue from its inclusion in the EEC founding treaty with Art. 119, as highlighted by the preparatory works, to the most recent Work-Life Balance Directive. For this reason, this thesis chose the historical method to investigate EU behaviour in milestone moments of EU development, not necessarily related to pay equality, such as the EU enlargements towards Eastern Europe, and to try to shed light also on the EU mindset on the topic. A historical analysis of a long-lasting problem which continues to occupy Union's institutions from its foundation up to today. Since it would be impossible to analyse pay inequality without precisely defining it, the thesis tries to provide an accurate picture of reality, balancing, combining, and breaking down the most important statistical indicators. Moreover, the thesis presents a macroeconomic approach, to calculate the gap and the positive effects of its reduction on the situation at EU and MSs level. EU actions are evaluated against the backdrop of the widening of the Union's territory and the deepening of its competencies. The analysis demonstrate how the EU has played a fundamental role for pay equality, although with large space of improvement, especially regarding consistency.

Keywords: Pay equality, European Union, Gender Pay Gap, Rome Treaty, COVID-19

Italian

L'UE ha avuto un ruolo di primo piano riguardo la parità salariale tra uomo e donna? La situazione odierna, con un GPG stagnante e il COVID-19 che aumenta i problemi di molte donne, suggerirebbe una risposta negativa. Tuttavia, l'UE ha mostrato un impegno reale dalla sua inclusione del trattato fondativo della CEE con l'Art. 119, come sottolineato dai lavori preparatori, fino alla più recente direttiva 2019/1158. Perciò, questa tesi ha scelto il metodo storico per analizzare il comportamento dell'UE in momenti fondamentali del suo sviluppo, non necessariamente relazionati con la parità salariale, come l'ampliamento verso l'Est Europa, e per cercare di fare luce sull'ideologia dell'UE. Un'analisi storica di un problema duraturo che continua ad occupare le istituzioni europee dalla loro fondazione. Visto che sarebbe impossibile analizzare la disparità salariale senza definirla

precisamente, la tesi cerca di fornire un'accurata fotografia della realtà, bilanciando, combinando e scomponendo gli indicatori statistici più importanti. Inoltre, presenta un approccio macroeconomico per calcolare il divario e gli effetti positivi della sua riduzione sulla situazione europea e degli stati membri. Le azioni dell'UE sono valutate considerando l'espansione del territorio dell'Unione e l'allargarsi delle sue competenze. Lo studio dimostra come l'UE abbia ricoperto un ruolo fondamentale per la parità salariale anche se con molto spazio di miglioramento, soprattutto nella costanza.

Parole chiave: Parità salariale, Unione Europea, Gender Pay Gap, Trattato di Roma, COVID-19

1. Introduction

Presentation of the work

This thesis will present an analysis of the problem of equality between men and women in the labour market, from the point of view of pay disparity, often referred to as the Gender Pay Gap (GPG), in the European Union (EU). Since the thesis focuses only on equality of payment in the work dimension, all the other dimensions of equality would be treated only to the extent that they are in relation to the main topic. The concept of pay equality has been both a provision and an aim for the EU over the years. Indeed, it was enshrined in the Treaty on the Functioning of the European Union (TFEU) as the duty of every state and private company. However, it was clear from the beginning that it was not yet a characteristic of the EU, nor something easily achievable, at least not in every Member State (MS). For this reason, the EU institutions supported the treaty's provision, which gave a normative description of reality, with new policies, in the form of strategies and programs, in order to reach the goal¹. The importance placed on this objective varied greatly through the decades, decreasing during periods of crisis, such as the 2008 Economic Recession². Indeed, the geopolitical, economical and recently also environmental and sanitary situation intertwine themselves with the issue of pay equality. Therefore, all considerations will be put into context considering the widening of EU territory and the deepening of EU competencies.

Surely the situation of women in the EU has radically changed in this temporary arch but academia is divided about the evaluation of the degree of success of the various efforts. Some researchers are really critical³, while others offer a more balanced account⁴. In any case, all commentators agree on the fact that there is still a long way to go. Furthermore, this thesis will provide two different kinds of assessment of the EU's action in the field of pay equality. On the one hand, it will evaluate European policies, considering both the deepening of European competencies and the so-called "organised hypocrisy" of EU institutions⁵. On the other hand, it will show the positive evolution of the concept of equal pay in the Union from an economic requirement, through a value and programmatic principle, and finally also a

¹ Jacquot, 2015.

² Onaran, 2015, page 3.

³ Perruzzi, 2015.

⁴ Bell, 2011.

⁵ Knill *et al.*, 2020, pages 362-365.

social objective of the EU⁶. The time span considered for this research is approximately from 1957, year of the foundation of the European Economic Community (EEC) to 2022. The territorial limits of the research are the borders of the EU in the aforementioned period. The development of the pay equality principle is to be traced in the treaties of the EU from the Treaty of Rome to Maastricht, Amsterdam, Nice and Lisbon. Particular emphasis will be placed on the preparatory works of the Treaty of Rome, like the minutes of the conferences that preceded the ratification. The special attention given to this treaty is explained by the fact that it created the EEC enlarging the competences of the organisation, and that it was the first mention of the issue in an official EU document.

One of the most important indicators used to measure progress and setbacks in this route to gender equality is the GPG. The first chapter of this work would be in large part dedicated to decomposing it and describing its various parts, in order to better understand the underlying causes of this disparity⁷. In addition, other indicators will be introduced and analysed. The idea is to balance between obtaining a faithful portrait of reality and profiting from the qualities of synthetic statistical indicators in the comparison of data. The GPG is an extremely important index since it is used as an indicator in various policies for the enhancement of equality in the labour market⁸. Through the analysis of the GPG, the first chapter will also try to understand the phenomena responsible for hindering the alignment of women's salary⁹.

The second chapter will retrace the development of pay equality in European legislation from a principle necessary to ensure fair competition to a right. This shift configures itself in the path of the EU from a common market to an organisation with a broader scope, which also entails the protection and enhancement of Human Rights (HR), through the increase of the EU's competencies. The chapter will clarify different policies that have accompanied different conception of pay equality, focusing both on equality *de jure* and *de facto*¹⁰. Each conception of equality has to be evaluated in its strengths and limitations, taking into account how each of them contributes to the creation of the complete notion of this right but also entails some drawbacks. The nature of these approaches is at the same time cumulative and opposing. Indeed, no approach is enough by itself to tackle all the aspects of pay inequality,

⁶ Jacquot, 2015.

⁷ Becker, 2021.

⁸ European Commission, 2020a, pages 10-11.

⁹ Boll and Lagermann, 2019.

¹⁰ Jacquot, 2015.

but the same problem can be dealt with differently in accordance with the chosen approach, and there is a lively debate about the choice of the most effective one.

Both chapters will have more evaluative parts and try to analyse the effects and the scope of EU policies regarding pay equality in the general environment of equality in the employment sphere, and, finally, to grasp future tendencies. Although no research can predict the future, the synergies between the 2020-2025 Gender Equality Strategy¹¹ and COVID-19, and their foreseeable effects can be studied. Indeed, maintaining a historical approach, developments are always estimated against the socio-political situation and the contemporary changes in the EU, in the case of the most recent ones, placing particular emphasis ultimately on the effects of the pandemic. The evaluation of the situation is complex since each MS has a different standpoint, according to its conception of gender roles. Although the huge conquests of women from the occupational point of view from the 1950s onwards have not to be underestimated, it is necessary to point out the discrimination that women still face¹², even though the treaties contain clear provisions prescribing equality¹³.

In the following chapters, policies will be analysed from two points of view. First of all, the policy *per se*, looking at the type of policy, how innovative it is, and the importance placed on pay equality in that policy sector. Secondly, it will study how the policy is implemented and assess the results. Indeed, policies always have two levels of analysis. Their contents show if women are granted equal treatment and are adequately protected by the law. How strictly they are implemented and the consequences for breaching the law, contribute to demonstrating if women are really equal or if policies are only death letter. A shining example of that are what Spehar defines as the “facade democracies”¹⁴ of Western Balkans. Indeed, these countries introduced some provisions about equality in the labour market in their law with the scope of accessing the EU, however, activists denounced how the situation of women did not improve much. As a matter of fact, many reforms were only “façed policies” that did not provoke a real change in society. In fact, the claims of women activists were not much taken into consideration in the policymaking¹⁵.

¹¹ European Commission, 2020b.

¹² Il Fatto Quotidiano, 2020.

¹³ TFEU, 2012, Art. 157.

¹⁴ Spehar, 2012, page 157.

¹⁵ Spehar, 2012b.

Framing of the issue

The problem of pay equality is clearly related to the general problem of equality between genders in the labour market and beyond. A comprehensive account of the issue would be beyond the scope of this research. However, it will be analysed how the other discriminations that women face can hinder progress towards pay equality. Although the necessity of pay equality is almost unanimously recognised in politics and the civil society, the actions to tackle inequality have not always been so efficient. This situation is partially caused by the fact that inequality of salary is only sporadically the result of direct discrimination against women, and much more often the outcome of the disadvantaged role women have in society¹⁶. Indeed, women are in the majority of cases the primary carers of the people in need of the family¹⁷. For this reason, tackling pay inequality becomes more difficult, since it would need a complete reshaping of the conception of the role of the genders in society, and, possibly, even a redefinition of the concept of gender.

Pay equality has always been framed in different ways, which have often coexisted. At the beginning, being the European Community essentially a market, it was framed in terms of fair competition. The French delegation pressed for the introduction of Art.119 in the Rome Treaty. Indeed, French workers, especially in the sewing industry, had already obtained equality. French firms were therefore worried that the companies of other EEC countries, especially Italy, would have a competitive advantage since they paid female workers, who made up a large part of the workforce in that sector, less than male ones¹⁸. In any case, the norm was favourably welcomed by the Italian political class. The intervention of Parliament Member (MP) Pasini during the parliamentary debates prior to the authorization to the ratification of the treaty acknowledges the fact that a common market has to be equal in the provisions regulating the economy, such as the ones regarding pay equality between men and women. Furthermore, he adds that pay equality is a “moral imperative”¹⁹. Thus, it is possible to notice that a multiple framing of the issue, both as an economic and a moral necessity, was already present from the beginning of the European integration.

With the passing of time, the economic part of this conception has been maintained but has acquired new facets. Indeed, against the backdrop of an EU with an ageing population that

¹⁶ Boll and Lagermann, 2019, pages 102-103.

¹⁷ European Commission, 2018b.

¹⁸ Jacquot, 2015, pages 52-53.

¹⁹ Camera dei deputati, 1957, page 34009.

risks losing competitiveness in the world market, equal pay has been depicted as an efficient choice, to best exploit the available human capital²⁰, especially considering that women are on average more educated than men²¹. In addition to that, the idea of pay equality as a “moral imperative” has also been enhanced, configuring pay equality as a right that has to be protected as a representation of the Fundamental Right to gender equality²². As a matter of fact, there have been many critiques of the framing of the problem only as one of economic nature. Many politicians and activists believe that this manoeuvre should not be considered for its efficiency but that the focus should be protecting women²³. Although these two representations are always present, their weight and mix are constantly changing over time, with the economic explanation gaining importance in periods of crisis, when there are fewer resources available²⁴.

Lastly, gender mainstreaming, the most recent approach, supports a slightly different position. First of all, this theory refuses to openly label women as the underrepresented gender, highlighting the need to always protect the oppressed gender, whichever it is, and avoiding giving a clear definition of gender²⁵. Surely gender mainstreaming has the most ambitious objectives. It considers gender equality as an inviolable right, but it frames it differently from the other currents. Indeed, it sustains that every policy has a gender component, since it will influence gender in some ways, and this has to be acknowledged to make sure that all the new political decisions always sustain equality. Indeed, for gender mainstreaming it is not enough to create specific policies for gender equality, but all policies have to be scanned to make sure that they aim to protect and foster gender equality. On the one hand, this vision sustains that discussing gender equality is unavoidable in every policy context, therefore apparently taking it in high regard. On the other hand, this approach has also raised the critique that it risks jeopardising improvements, not giving clear definitions and prescriptions. Moreover, the absence of policies centred on the topic, makes it more difficult to assess progress, requiring new methods of judgement²⁶.

²⁰ Morais Maceira, 2017, page 178.

²¹ European Commission, 2020c, page 3.

²² CFREU, Art. 21.

²³ Pavan Wolf, 2022.

²⁴ Onaran, 2015, page 3.

²⁵ Jacquot, 2015, page 12.

²⁶ Jacquot, 2015, pages 76-77-79-80.

The Gender Pay Gap (GPG)

The Gender Pay Gap is an index that measures the difference in how much women are paid in an hour compared to men to do an equal work or a work of equal value²⁷, an inequality which has always been a reality in the EU²⁸. For research it is of paramount importance to be able to clearly estimate the situation. Obviously, the conditions change from state to state and even from one company or sector to the other. Nevertheless, it has been possible to gather a great amount of numerical data about the hourly wage of women in the world and to create a synthetic numerical index called the Gender Pay Gap. At aggregate level, it measures the percentage difference between the average hourly pay of women and that of men. There are also other indicators, some of which are even more complete than the GPG, such as the overall earnings gap²⁹. However, the GPG capacity to unite in a single number much information, makes it really useful for comparisons and it is, therefore, the most used index. The majority of studies use this index as a base and it is also used by the EU to evaluate the success of policies, compare between states and create new strategies and intervention plans³⁰. The importance of the index can be noticed by the fact that Eurostat gathers data about the GPG every two years, to always have up-to-date data³¹.

For all the aforementioned reasons, this research uses this indicator as its base, although acknowledging its limitations and trying to bridge the gaps with other indexes and collections of data³². It is highly important to highlight that the limitations of this instrument do not invalidate its value, but they are intrinsic to any synthetic and highly comparable index and that every indicator has its properties and limitations. In order to have a full picture of the situation it is important to understand how the GPG is calculated and to use more than one index. Indeed, the aim of this work is not to find the best index, but to use all the available data to create a strong foundation for further considerations. In addition, irrespective of the value of the index, its almost worldwide diffusion allows an efficient comparison between states³³.

²⁷ TFEU, 2012, Art. 157.

²⁸ Jacquot, 2015.

²⁹ European Commission, 2018b.

³⁰ European Commission, 2020b, pages 10-11.

³¹ Eurostat, 2020 and 2022a.

³² EIGE, 2021 and 2022.

³³ Testa, 2020.

The GPG “only” measures the difference in hourly pay. It neither considers any addition to that, such as bonuses or production awards, nor the number of hours worked. This is partly explained by the fact that in the EU it is illegal to pay a worker less because they work fewer hours, for example working part-time³⁴. The GPG is divided into “adjusted” and “unadjusted”. The adjusted GPG eliminates from the amount of data taken into account that part for which an explanation can be found³⁵. The fact that a clear reason can be found does not mean that it is not grounded on discriminatory bases. What remains from this “adjustment” are differences that do not seem to have any apparent reason unless the free choice of the person hiring the worker, which is to say direct discrimination. Although direct discrimination amounts only to a small part of the whole gap, it cannot be considered completely eradicated and it adds itself to the other parts of the gap, which are also discriminatory. The majority of the researchers prefers to use the “unadjusted” GPG to have a complete picture of the situation and also this work will be based on this indicator.

Since Eurostat collects data every two years, at the time of writing the last data available are from 2020. For this research the use of Eurostat data has been preferred, to ease comparison. The average gap in the EU is 13%, the MSs with the lowest GPG are Luxembourg (0.7%), Romania (2.4%), Slovenia (3.1%) and Italy (4.2%). On the contrary, the states with the highest gaps are Latvia (22.3%), Estonia (21.1%), Austria (18.9%) and Germany (18.3%)³⁶. These data are particularly interesting since they already take into account the effects of the first wave of the pandemic. With respect to the previous records, the overall GPG diminished by 1.1 % percentage points. In the last decade, the GPG has been constantly decreasing, starting from 15.7%³⁷. Although the last one was the greatest reduction in these ten years, the effects of the COVID-related crisis have to be considered. Indeed, the majority of the jobs lost were among low-skilled workers and women³⁸. For this reason, the situation could not be considered completely improved for women, and this data can be the result of fewer women working. In any case, it is possible to identify a permanent trend, which was not reversed by the pandemic. Comparing 2022 and 2020 data, it is to be noted that in Slovenia there was a huge fall in the gap of 9.3%. Luxembourg, Romania and Italy already had the lowest gaps, but in Romania and Italy the gap increased during the pandemic: in 2020 the gap was respectively 2.2% in Romania and 3.9% in Italy. Estonia, Austria and

³⁴ Jimena Quesada, 2016, page 9.

³⁵ Boll and Lagermann, 2019, page 102.

³⁶ Eurostat, 2022a.

³⁷ Eurostat, 2022a.

³⁸ Profeta, 2021 and Eurostat, 2020b.

Germany were already the countries with the highest GPG, respectively 21.8%, 20.4% and 20.1% in 2020, but in all these countries the gap decreased in this two-years period. Latvia became the county with the highest gap with an increase of 2.7 percentage points³⁹.

Women and gender

The concept of gender is strongly debated, and women cannot be considered a monolithic entity. For this reason, the most recent theories prefer to talk about gender mainstreaming, focusing on the influence of gender in general, and not of a specific one, on policies. Nevertheless, some critics argue that this vision can be a double-edged sword, making it easier to dilute the effort. For the sake of clarity in my research, above all in the historical part about periods when there was a different attitude about gender identity, I will use the words “men” and “women”, intended as focusing on the biological characteristics and above all on the social and cultural stereotypes associated with genders in Europe. Indeed, people that are born women are most of the time victims of the same stereotypes irrespective of the gender in which they identify. The often-additional discrimination transgender and non-binary people experience is beyond the scope of this research.

In relation to the previous point, it is important to underline the presence of intersectionality, which means that more factors of discriminations (gender, race, class, and others) can intertwine between themselves and be experienced by the same individual at once. These multiple oppressions have to be understood in their combination⁴⁰. This is the case also with pay inequality since women of disadvantaged categories are often subject to a wider pay gap. A shining example are immigrant women in the EU, which currently have a more disadvantaged position and they have also experienced fewer advances in the last decades⁴¹. Foreign women without EU citizenship, especially if of colour, and Roma women make up the most disadvantaged group, but also women from new MSs, especially the Western Balkans, who migrated towards the Western states of the Union may experience harder discrimination⁴². Analysing the specific intersection of discriminations that affects every subgroup of women will be impossible, for this reason, this research will focus on the issues that interest the gender as a whole and all the MSs, such as being the “second earner” and the

³⁹ European Commission, 2020c, page 2 and Eurostat, 2022a.

⁴⁰ Baylis *et al.*, 2016, page 539.

⁴¹ Schiekoff and Sprengholz, 2021, page 116-17.

⁴² Bell, 2011, page 634.

primary caregiver in the family⁴³. However, this work acknowledges that the situation of immigrant women, women of colour, and especially Roma women is far worse than the one of white women with EU citizenship⁴⁴.

Objectives and Motivations of the work

The objective of this thesis is to answer the question if the European Union has had up until now an entrepreneurial role in the field of pay equality. The effort of the Union has to be evaluated considering that pay inequality is a long-lasting issue, which started to be tackled with the first treaty establishing the EEC and is still present nowadays. This thesis intends to combine two prominent tendencies of current literature, trying to reconcile them. Some scholars have approached the question by asking themselves why inequality is still present in the EU and trying to answer by evaluating the effects of the various European policies. Another part of academia has focused on the ground question of defining equality, therefore describing the different components of the concept and its cumulative evolution that took place in the EU from the 1950s onwards, starting from the first dimension of equality *de jure*, then accompanied by equality *de facto* and finally by newest tendency of gender mainstreaming. Only by reconciling these two tendencies, it is possible to assess if the Union is actively taking up the role of a normative actor in this field, and which are its priorities.

The discussion of this issue results even more topical since for the first time in history the current situation has been influenced by a global pandemic, which has been a shocking event for European society as a whole, both from the health and the economic point of view. At the beginning of the phenomenon, some commentators awaited a reduction in the GPG. Moreover, they expected that, since many women worked in branches important in a pandemic, such as health and caregiving, the value of women's work in society would be increasingly recognized⁴⁵. Later, it became clear that the economic recession resulting from the pandemic would configure itself as what Profeta refers to as a “she-cession” since the majority of jobs were lost in the service industry, where the majority of occupied are women⁴⁶. Furthermore, the Green coalition in Germany denounced how women working in the health sector received only warm words for their effort but no contractual improvement⁴⁷.

⁴³ Auth, 2017, page 25.

⁴⁴ Schiekoff and Sprengholz, 2021 and European Commission, 2022c, page 60.

⁴⁵ Blaskó *et al.*, 2020, page 11.

⁴⁶ Profeta, 2021.

⁴⁷ Dpa, 2021.

However, it is possible to observe that the GPG decreased in the majority of EU MSs in the last couple of years. This demonstrates how the path toward pay equality is not straightforward and many developments are difficult to evaluate or can have contrasting effects at the same time. This is further accentuated by the decision-making process of the EU, which is always spitted between Union's competences and the independent space of manoeuvre of states, making it impossible to find single solutions.

The significant development witnessed in recent years has triggered the desire to renew the portrayal of this topic, to understand the role the EU played in such a difficult situation. In order to do it, a clear and comprehensive set of data was necessary, which are difficult to find in a single research, therefore it is fundamental to include in a unitary work different indicators that can inform each other. Moreover, in order to understand the current situation, it is necessary to evaluate the historical path of the EU in this matter, therefore analysing the merits and setbacks of its approaches, and to understand if the new tendencies are part of a harmonious course of action or if they are ground-breaking. The analysis of data over time is essential to uncover if the entrepreneurial role promoted by the EU in this subject is real.

Another interesting point is how the widening and deepening of the Union have influenced the tackling of the issue. While the influence of the deepening is enough clear, with the spillover effect which allowed the Union to take on always more responsibilities, there is almost a gap in the literature about the effect of the accession of new countries in the Union, especially regarding the East European countries that entered with the enlargements of 2004, 2007 and 2013, and are commonly regarded as "less performing". It is worth noticing that some of these countries, such as Latvia and Estonia have among the highest GPG, while others, such as Romania, have a really low gap, and also the employment rate of women changes considerably across states⁴⁸. Researchers have analysed how the EU has influenced these countries, obliging them to reform their laws regarding female employment and working as a protector of rights. However, as Spehar and Roth pointed out, the EU also accepted that many of these countries' reforms were less effective than they appeared, mostly because of the hypocritical approaches of these states⁴⁹.

On the other hand, regarding the influence that these countries had on pay equality in the EU after the accession, it may be expected, and also observed in the statistics, that the overall situation of the GPG in the Union worsened, since women in these countries faced on average more discriminations than in the West European countries, but only in the short run,

⁴⁸ Eurostat, 2022a and 2022b.

⁴⁹ Roth, 2008 and Spehar, 2019a and 2019b.

recovering afterwards⁵⁰. Furthermore, it may be maintained that the accession of these “new” countries to the EU had a positive value since the EU in that occasion actively took on the role of protector of women’s rights. Indeed, one of the major risks for women is that the issue of GPG loses prominence in the political and societal debate, as happened for example during the 2008 economic crisis. The role of protector and enhancer of rights that the EU performed during the process of accession maintained the debate alive and lively, assuring that the various parts of society focused on the issue and that the EU as a whole put effort in depicting itself as the guarantor of rights in the region and worldwide. This may be regarded as part of a larger debate about the type of influence powerful countries and organizations exercise on their sphere of influence. Zielonka (2008) argues that, while other powerful countries, such as China and Russia, use military power or economic dependence as leverage, the EU tries to show itself as normative power that brings the neighbouring countries to implement policy reforms with the promise of accession or partnership agreements. In this action the EU tries to present itself as an empire of rights that tries to export good governance⁵¹ and it is important to evaluate how this definition is in accordance with reality.

In conclusion, I have already expressed my huge interest in pay equality between genders, which also brought me to analyse it from different points of view during the course of my Master’s Degree and whose outcome researches are also listed in the biography. In addition, the topic is instrumental to study the deepening of the EU competencies throughout the decades from a common market to a *sui generis* organization, being pay equality an example of the spillover effect. It also poses important questions on the effects of the widening of the EU and on the impact that the entrepreneurship of the EU can have on neighbouring and candidate countries. Since the war in Ukraine has once more highlighted how the current international order is continuously shifting and has renewed the questions about multipolarity, this thesis would like to reflect on the role the EU wants to take upon itself. The entrepreneurial role of the EU in one of the fields of equality and Human Rights can be useful to evaluate if the EU can present itself as a guarantor of Human and Civil Rights.

Sources and Research Method

In order to understand the EU commitment to the cause, various sources will be analysed. First of all, the research will focus on the provisions of the treaties that include gender

⁵⁰ European Commission, 2003, page 32 and Eurostat 2006, 2008 and 2010.

⁵¹ Zielonka, 2008, page 472.

equality and then on the policies designed to obtain this aim. Furthermore, some economic policies, such as the various versions of the European Economic Strategy (EES) also mention gender equality to different extents⁵². Moreover, some milestone judgments of the European Court of Justice (ECJ) will be studied. These judgments have a complex nature. On the one hand, they are essential to see how the treaty provisions have been interpreted and employed. On the other hand, they mirror the attitude of the judges towards the issue and their interpretation of EU law. This point is important since the ECJ has been often accused of being too free in its interpretation of the law, almost creating new provisions through its jurisprudence. Although the Court's support to a spillover interpretation of the treaties can have a positive influence, if a non-elected body has too much power over legislation, it may also entail the risk of a democratic deficit⁵³. In addition to the analysis of primary sources, such as law texts and statistical data, secondary literature evaluates and puts into context the information gathered. Since both at political and academic level the conceptualization of pay equality and the resources and methods necessary to reach this aim have been evaluated differently over time, this thesis will be an informed account of the different tendencies evaluated against a historical background. Interviews of political exponents and activists also help in the conceptualization of policy developments.

This research will be based both on the quantitative and qualitative method. As a matter of fact, much data has been collected and analysed to compare between states and reconstruct the situation. Moreover, the Rome Treaty was scanned using keywords, such as “women” and “equality”. The frequency of these words can give important information on the importance placed on the issue. However, the bare numerical data need to be put into context and comprehended more deeply using the qualitative method. For instance, each appearance of the word in the analysed part of the treaties has been examined to understand how it was used. Moreover, the indexical data have been broken down to understand their components and have a better comprehension of their meaning. On the contrary, the case study method, such as collecting interviews or single cases, was almost not used in this research. As much as single instances can be exemplary, to understand the overall situation of a country or a region, they can also be misleading. The only instances of this method can be found in some activists' interviews and in the analysis of judgments of the ECJ, but the information was always contextualised to understand its broader implications. Indeed, it may be argued that these single cases have a more general and widespread value since they form part of the

⁵² Smith *et al.*, 2010.

⁵³ Wasserfallen, 2010, page 1143.

jurisprudence that can influence future judgments and also the development or the interpretation of European treaties and, more in general, laws.

This research argues that sociological and psychological approaches are necessary to understand the phenomenon of the GPG, which bases its continuity on the reiteration of prearranged schemes, more than on rational thinking⁵⁴. Indeed, it has been demonstrated that the most rational choice would be to include women in an equal way in the job market, since it would bring an increase up to 12% of the countries' GDP⁵⁵. Nevertheless, numerous laws, such as the various versions of the EES, seem to fail to fully recognise the positive potential of pay equality in the labour market, not focusing enough on it⁵⁶. Moreover, many commentators argued that another reason why rational thinking is ill-equipped to analyse pay equality is that it should be protected as a right irrespective of its economic efficiency⁵⁷. For these reasons, this research prefers a constructivist approach. It supports a holistic vision of reality, maintaining that people cannot be understood only as individual entities, but rather that their preferences result from their interaction with their surroundings. The socialisation of individuals in the social context creates normative beliefs and expectations regarding the roles of the actors, which are passed on from one generation to the other since early childhood. This pre-ordered behaviour is to be seen in individuals as well as in institutions⁵⁸. Furthermore, research on the EU cannot be separated from institutionalism, a branch of psychological approaches. This approach believes that, although the international arena is anarchic, states create institutions and accept to be bound by their rules, although it reduces their freedom, to avoid free-riding and foster cooperation⁵⁹. This is clearly visible in the enlargements of the EU. This connects with pay equality since accession was an important drive for Western Balkan states to rapidly change their laws about women's presence in the labour market⁶⁰.

The vision of states regarding pay equality varies synchronically and above all diachronically, as has been already demonstrated in the course of this introduction and will be further analysed in the following chapters. Therefore, the historical method is of paramount importance in this research. Indeed, an analysis of the current situation cannot be performed without looking at the historical evolution of the notion of pay equality in the labour market.

⁵⁴ Reus-Smit and Snidal, 2010.

⁵⁵ Morais Maceira, 2017, page 183.

⁵⁶ Smith *et al.*, 2010.

⁵⁷ Pavan Wolf, 2022.

⁵⁸ Reus-Smit and Snidal, 2010.

⁵⁹ Reus-Smit and Snidal, 2010.

⁶⁰ Auth, 2017.

Indeed, the concept of equal pay for both genders has always been present in the treaties of the EU since its foundation but has changed in meaning, fluctuating between more right-oriented and economic-grounded conceptions⁶¹. For the aforementioned reason, above all the second chapter of this thesis is organised in a historicistic fashion. Moreover, although delineating the context of every policy development is above the scope of this research, it is always important to keep in mind the historical and political environment in which the policy developments are born, to avoid ahistoricism⁶².

Concluding remarks

In conclusion, the aim of this research is to show if and to what extent the EU has had up until now an entrepreneurial role in the field of pay equality. The organisation of this work shows how equality of pay is a complex issue that has to be deeply understood. Moreover, it aims to demonstrate how this inequality is rooted in our society and intersected with other types of oppression, which make the fight against it less straightforward. Starting from the aforementioned premises, this research investigates whether the EU can be considered a ground-breaking experiment in tackling the pay equality issue at supranational level, since the conquests in this field have been reached by an international organization that covers almost a continent. This thesis maintains that the development pay equality has experienced in the EU has been quite remarkable, although not always linear. Indeed, even though it may be argued that every development is not sufficient as long as women are still oppressed, it is also necessary to evaluate the EU's position in comparison with the rest of the world⁶³. However, this progress has proved difficult to maintain since the gap between genders in the labour market is highly influenceable and varies according to the contextual situation. It appears therefore necessary that EU institutions secure the obtained improvements and make them more autonomous from the context, assuring that gender equality always preserves a prominent position among the EU's objectives. Furthermore, the fact that the GPG is so deeply influenced by the socioeconomic context requires that analyses of the situation are always up-to-date with the latest changes.

In addition, a large part of the first chapter is dedicated to methods of measuring the issue. It may seem independent from the situation in the EU, but it is of paramount importance to

⁶¹ Jacquot, 2015.

⁶² Reus-Smit and Snidal, 2010.

⁶³ Testa, 2020.

find effective solutions and to assess the grade of policies' success. As this thesis hopes to show, politics and academia should strive to obtain a clear picture of the issue, considering the different oppressions, stereotypes, and situations that mix together, to be able to tackle them at once without having unexpected outcomes. For this reason, it is so important to use reliable sources of data and to analyse them from the correct perspective, both at political and academic level. Moreover, the approach chosen for this work is a historical one since the GPG has been present since the Union's foundation and it would be impossible to understand the current situation without studying the evolution of pay equality over time. Lastly, the position the EU takes on this issue may give an insight on the role it wants to take in the international arena, therefore, it can be useful to define the kind of objectives this *sui generis* organisation will pursue.

2. Dealing with gender pay inequality

An effective picture of pay inequality in the EU. The legal and socio-economic configuration of the right to pay equality

Introduction

Women are generally discriminated in the labour market, examples of discrimination can be being paid less because of sex, being demoted after returning from maternity leave, or not been considered to work in some sectors or positions. Pay discrimination on grounds of sex for equal work or work of equal value is illegal in the EU according to article 157 of the TFEU, but the European Institute for Gender Equality (EIGE) has reported that there is no occupation in which women earn on average more than men¹. Since the scope of the overall thesis is to see if the EU acts as an entrepreneur in the field of pay equality between genders, the chapter analyses what are the aspects of pay inequality and how it can be measured from a quantitative and a qualitative point of view. Then, the scope of this chapter is to effectively define what pay equality is and how it has been read by EU institutions, which means what is the legal basis that gives to EU institutions the task of ensuring pay equality in the EU. Thus, this first chapter introduces different indicators and studies on the pay equality situation. Although it has some evaluative traits, the final aim of this merging of different accounts of the situation is to have a complete understanding of pay discrimination in the EU. These considerations are the unavoidable basis to analyse the action of the EU throughout time. Moreover, although the different policies of the EU institutions have not been described yet, the historical perspective of this chapter, which describes the current situation also comparing it with the past, may already be a partial answer to the research question. Nevertheless, it is important to remember that the final outcome is not the only important dimension to assess the entrepreneurship of an organisation, since it is influenced also by other factors, such as the world socio-economic context or how well the civil society accepts the norms.

The principle of equal pay is clearly a specific instance of the more general principle of equality between genders, which is valid in all fields. Being an expression of women independence, it clearly relates to other aspects of gender equality such as violence against women², but this chapter will try to focus, for what is possible, only on the issue of equal

¹ EIGE, 2017, page 7.

² EIGE, 2022, page 54.

remuneration of the working female population in their activity years. Although the EU established provisions to protect self-employed women, the majority of research and measurement refer to employees, and this chapter would not be an exception. Indeed, although there are many branches of study of the female situation in the labour market, for example about the difficulty women face in opening a business, pay discrimination refers for its nature to people that have a subordinate work agreement with various arrangements, such as standard contracts or *de facto* situations in family companies.

Why the need to measure pay inequality in the EU?

To understand the extent of pay discrimination between genders, various indicators can be used, each of them with its specificities, and they can be merged to obtain a more complete understanding of the issue. The Gender Pay Gap is an index that measures in percentage points the difference in average gross hourly earnings of female paid employees with respect to male ones to perform an equal work or work of equal value³. Eurostat gave a description of this indicator, stating that it shows through wage differences the disparity in opportunities between the two genders. It also highlights the risk of poverty of single parents' households and the difficulties in combining family and work requirements. Technically, these problems are not necessarily gendered, but in reality, they involve mostly women. Since this gap is a traditional problem of the EU, which the Union has not overcome in its 65 years of existence, it has become important to measure the gap in the workers' wage according to their gender⁴. The fact that the surveyed men and women perform the same work or work of equal value is at the basis of the indicator and a clear demonstration of discrimination, then the gap surveyed in each undertaking can be extended to form the sectoral GPG⁵. It is also possible to calculate an aggregate index of the pay difference of women with respect to men in a territorial unit, such as a country. As a result, it pictures the systemic economic difference or inequality in the wages of men and women and, as a consequence, their social and economic roles⁶. This type of measurement can show the general situation in a country, but it comprehends sectors with different logics, making the account potentially more biased⁷. It is also possible to compare the GPG situation in the EU to the worldwide one. In fact, the

³ Becker, 2021 and Eurostat Glossary in EIGE, 2017, page 33 and European Commission, 2020c, page 1.

⁴ Jimena Quesada, 2016, page 6.

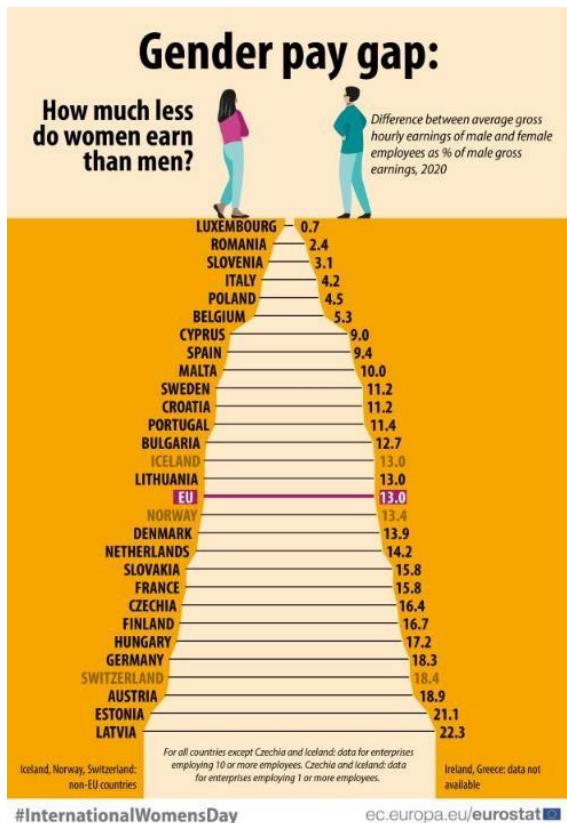
⁵ Testa, 2020.

⁶ European Commission, 2013 in EIGE, 2017, page 33.

⁷ Eurostat, 2022.

International Labour Associations (ILO) conducted a study on 70 nations, around 80% of the female world population, and women earn on average 20% less than men⁸.

⁹ Furthermore, experts have been working for many decades to better understand all the components of the gap and how they intertwine between each other and with other issues, relating or not with gender equality (intersectionality). In the EU, Eurostat aggregates the



data of the various national statistical agencies to calculate how much less women are paid with respect to men. As the picture shows, the GPG varies greatly among MSs, however, a low GPG does not necessarily equal high levels of equality, since the indicator is not able to grasp all labour inequalities between genders. Although also other bodies make their own calculation of the GPG, the data used in this thesis will be taken from Eurostat surveys since they are almost the only way to have uniform data for all the EU countries. Furthermore, they are updated every two years, and this allows to trace the development throughout time¹⁰. Currently in the EU women earn 13% less than men, so it would be as if

women worked without being paid for almost 2 months a year. For this reason, the EC has symbolically chosen the 15th of November as Equal Pay Day in the EU for 2022, as part of an initiative to draw attention to the GPG and the importance of pay transparency¹¹. Tellingly, the Equal Pay Day has not drastically changed in the last years, highlighting the slowness of the progress. In addition, almost 60% of graduates in the EU are women -2018 data, therefore women earn less, even though they are on average more educated¹². The GPG reaches 27% between women and men taking care of children and 21% between foreign-born women and men, further demonstrating how intersectionality hinders development¹³.

⁸ Testa, 2020.

⁹ Image: Eurostat, 2022d.

¹⁰ EIGE, 2021, page 37.

¹¹ European Commission, 2022b.

¹² European Commission, 2020c, page 2.

¹³ EIGE, 2021, page 34.

However, reaching a clear picture is further complicated by the fact that not all companies are surveyed¹⁴. Indeed, it is important to point out that the GPG calculation is based on the Structure of Earnings Survey (SES), a particular type of survey that excludes the entire agricultural sector, micro companies¹⁵, and all the workers of the public sector¹⁶. For example, each account of the GPG will not represent the micro companies of a country. As a result, in MSs with numerous micro companies, such as Italy, this hole weighs heavily in the statistics. It has also been noticed that, because of the construction of the indicator, the value of the GPG triples when passing from hourly to monthly earnings, making it difficult to really understand the extent of the gap¹⁷. Nevertheless, the measurement methodology based on SES was newly developed by the EU to obtain harmonised and comparable data across MSs, based on the unadjusted GPG (*cnf.* pag. 9), since the gap can be noticed in all the MSs irrespective of 30 years of legislation on the subject of equal pay, each country female employment level, their national welfare models and their legislation about equality¹⁸. The SES is an EU-wide enterprise sample survey able to link the level of remuneration with other characteristics, both on side of the worker, such as gender, age, length of service, level of education and type of occupation and on side of the employer like type of economic activity, size, and location of the company. The data collection in each MS is based on its legislation, but approximately surveys are published two years after the end of the reference period. Eurostat conducts various data collections on annual, biannual and four-yearly basis and with different coverages, such as by economic activity or company size. The earnings are measured for different time units: hourly, monthly and yearly. The GPG data are published by Eurostat every two years, other measurements provided by EU-SES are gross earnings, net earnings, tax rates and minimum wages. These sets of data are broken down to form other statistics, such as the Statistical Classification of Economic Activities in the European Community (NACE), statistics about the gap according to economic and financial control, namely public or private ownership, the company sector or the employees' average age¹⁹.

Even in countries with high female employment, the fact that the relative wages of women are lower can create a vicious circle, encouraging more women to abandon the job market and to stay home caring for unpaid tasks. This further strengthens stereotypes and gender

¹⁴ Becker, 2021.

¹⁵ According to the definition of Confindustria, micro companies are undertakings with less than 10 employees (Confindustria, 2022).

¹⁶ Rosti, 2022.

¹⁷ Rosti, 2022.

¹⁸ EIGE, 2017, page 7.

¹⁹ EIGE, 2017, page 17.

roles and diminishes women's social inclusion. Moreover, the less hours worked on average by women increase the gap, in addition to being a consequence for it²⁰. As the European Institute for Gender equality (EIGE) and the EC reported, there are various reasons to close the gap. Clearly the first one is the right to gender equality enshrined in the founding treaties of the Union. In addition, it has the economic effects of reducing poverty and social exclusion, generating a positive economic outcome. The positive result is further strengthened by the fact that women workers are more motivated and productive if their talent is recognised and it allows companies to benefit from the best capabilities available, irrespective of their gender, generating macroeconomic gains²¹. It has been possible to exactly calculate the loss in Gross Domestic Product (GDP) per capita as a consequence of the GPG. In 2013 it was estimated to reach peaks of 27% in some MS. Conversely, the Gender Equality Index developed by EIGE clearly establishes a positive correlation between gender pay equality and economic growth, namely GDP in EU MSs. As a matter of fact, the increased participation of women in paid work increases the GDP, reducing poverty and thus its burden on society, while at the same time widening the tax base²².

The Gender Pay Gap indicator and its various layers

It is worth underling that in countries where more women work, for example in Germany or Estonia, the gap in wages remains considerable: around 20%, while it is less than the half of that in countries like Romania and Italy²³. For this reason, it has been demonstrated that part of this higher pay gap is simply the result of a higher overall female employment rate rather than an index of more inequality. This situation is caused by the fact that women workers do not have the same distribution of male ones and tend to be “segregated” in branches with lower wages or less career chances²⁴. Indeed, in many MSs the works carried out predominantly by women offer lower salaries than the one performed predominantly by men, even when the same level of education or experience is needed²⁵. Nevertheless, the GPG is present in all sectors of the economy since women tend to earn less than man for the same job and sectoral segregation only worsen the situation at country level²⁶. In sum, although they

²⁰ EIGE, 2017, page 8.

²¹ EIGE, 2017, page 10.

²² EIGE, 2021, page 38.

²³ EIGE, 2019.

²⁴ European Commission, 2022c, page 30.

²⁵ European Commission, 2018b.

²⁶ European Commission, 2020c, page 4.

tend to be discriminated against with respect to their male counterparts²⁷, when data are aggregated per country the GPG in countries with a low female employment rate, such as Italy - 56% according to 2018 data, results to be low. Katharina Wrohlich, researcher at the German Institute for Economic Research, individuates the cause of this phenomenon in the fact that in these countries only women which have qualifications that are above the average tend to work, obtaining higher wages. Since the GPG calculation only takes into account occupied women, the picture appears distorted. For this reason, researchers such as Katharina Wrohlich and Julia Schmieder propose to compare between countries with a similar female employment rate, to minimise this distortion²⁸. In any case, it seems to be currently impossible to have a high female employment rate and a low GPG at the same time.

Furthermore, the majority of people that work with atypical employment contracts are women²⁹. Moreover, a greater share of women with respect to men works part time³⁰. This often causes that, in addition to earning less per month, they also suffer the additional discrimination of being paid per hour even less than other women, e.g. in Spain in 2013 the GPG between part-time workers was 33.7%³¹. Nevertheless, it is illegal in the EU. Indeed, already the wording of the treaties does not allow for discrimination on the basis of the number of hours worked in a day, and the *Framework Agreement on part-time Work* of 1997 explicitly states the illegality of such measures, setting forth that working part time cannot be the only reason to treat a worker in a less favourable manner. Even though the Framework Agreement is gender neutral³², it impacts women more since they make up the large majority of part-time workers. The ECJ has had a paramount importance in the definition of what concerns a discrimination against part-time workers. Indeed, it defined as reasonable that retirement pensions and paid annual leave are calculated *pro rata temporis*, meaning according to the time worked by the employee, otherwise it will configure itself as an unlawful advantage for the part-time worker. However, the hourly pay cannot differ between full- and part-time workers, since it has to be calculated on the type of work performed, on the necessary prerequisites to obtain that position, and on experience in the task; and not on the number of hours spent working³³. According to EIGE, men spend on average 40 hours a week in paid work, compared to the 34 hours of women. In the EU 31.3 % of women worked

²⁷ European Commission, 2020c, page 4.

²⁸ Becker, 2021.

²⁹ Boll *et al.*, 2019, pages 101 and 103.

³⁰ European Commission, 2020c, page 2.

³¹ EIGE, 2017, page 7.

³² Jimena Quesada, 2016, page 9.

³³ Jimena Quesada, 2016, page 10.

part time in 2018 compared to 8.7% of men. However, this data hides considerable variation among countries. In the West EU MSs, more women than the average work part time, while in the East EU MSs no more than 10% of women have a part-time job³⁴.

Research has also highlighted that in countries with a more equal division of unpaid labour³⁵ between men and women, the GPG tends to be lower³⁶. According to the *European Working Conditions Survey* conducted by Eurofound in 2015 women tend to spend on average one hour more than men in caring for adults and around five hours more than men in caring for children each week³⁷. Tellingly, the gender employment gap - 11,6% in the EU - increases proportionally with the increase of children in a household. Also the number of women working part-time increases with the number of children, univocally demonstrating that the care burden is still a female prerogative³⁸. Furthermore, women spend more than double the time than men doing houseworks³⁹. Consequently, women dedicate less time than men to paid work and are not considered as reliable working partners. Although it is illegal to pay less on an hourly base according to the hours worked, the perceived reduced reliability still contributes to the GPG⁴⁰. Being able to spend more time in paid activities could probably lower the discrimination and reduce work segregation. Moreover, in a survey conducted by Eurostat in 2016, 39% of the interviewed women of the EU28 answered that their main reason for deciding to remain off the job market is that they had to take care of children or incapacitated adults. On the contrary, this was the answer only for the 3% of the surveyed men⁴¹. Indeed, caregiving is considered a predominantly female activity all around Europe. The employment rate of mothers with children younger than six years old in 2018 was estimated to be 65,4% in 2018 against 91.5 % of fathers. Nevertheless, according to experts, protection laws expressly regarding female work could be double-edged. As a matter of fact, some of them tend to protect the *status quo*, without encouraging an equal share of family burdens and women's focusing on their career⁴². Indeed, in some countries with relatively high family-career compatibility, women enter the labour market since they can benefit from

³⁴ EIGE, 2019.

³⁵ With *unpaid labour* is intended the set of works that people are obliged to carry on at home and they are not paid for. This commonly entails caring for children and adults in need and doing housework. In Europe women tend to spend around 15 more hours per week in unpaid labour than men (European Commission, 2020c, page 3). This is a form of discrimination in itself, and it also causes that employers further penalise women, considering them less committed to work.

³⁶ Becker, 2021.

³⁷ European Commission, 2020c, page 3.

³⁸ Morais Maceira, 2021, page 3.

³⁹ European Commission, 2020c, page 3.

⁴⁰ European Commission, 2018b.

⁴¹ Eurostat, 2016 in Morais Maceira 2021, page 178.

⁴² EIGE, 2019.

the possibility of part-time work or typical employment contracts, but this comes at the price that women's wages are generally lower. Moreover, in countries with low female employment, some low paid jobs, like nursing elderly people, are usually performed outside the market, and this makes the gap decrease, but it also further reduces female employment statistics⁴³. A reconciliation between female wages and employment rate appears therefore necessary. It may be argued that this would create a virtuous cycle since women are more attracted to work if they have the prospect of higher pays.

In parallel, women also tend to be considered less for the assignment of bonuses and prizes. However, the GPG does not consider this difference, only focusing on hourly pay, but it is a clear indication of discrimination measured by the overall earnings gap. Furthermore, in some MSs, for example Bulgaria, experts noticed that overtime is generally paid less in highly female-segregated sectors⁴⁴. This issue is linked with the other paragraphs of this chapter because it demonstrates that calculating the pay gap on the hourly pay is not sufficient to understand all the layers of pay inequality and it is therefore necessary to find data and indexes to scientifically estimate also these other contributors to discrimination. Furthermore, the GPG has an influence on the pension gap, since women earn less and for this reason have less money to save and invest during their lifetime. The average pension gap in the EU is 30,1% - 2018 data - therefore it is possible to observe how a certain GPG results in a pension gap of around the double of its value⁴⁵. The GPG is higher among self-employed workers, namely standing at 45% at EU level, because self-employed women normally work in less profitable and more labour-intensive sectors, therefore they tend to be more inclined to falling into poverty. Furthermore, as the EC reported, a third of widows and lone parents are poor, the majority of which are women⁴⁶. In conclusion, according to 2019 EU27 data, women have 1,4% more chances of falling into poverty: 17.2 % of women are at risk of poverty against 15.8% of men⁴⁷.

Another explanation of the gap is represented by the fact that female workers tend to be more numerous in some sectors than in others. This phenomenon is called sectoral segregation, to represent the fact that for women it is more difficult to access some career paths. Indeed, women are overrepresented in branches of the economy with a low pay, like the service industry. The EC has estimated that around 24% of the GPG is the result of this

⁴³ Boll *et al.*, 2019, page 2.

⁴⁴ Foubert, 2011, page 25.

⁴⁵ European Commission, 2020c, page 4.

⁴⁶ EIGE, 2017, page 8-9.

⁴⁷ European Commission, 2020c, page 4.

overrepresentation of women in some undervalued sectors of the economy⁴⁸, being the main reason for the GPG in some EU countries⁴⁹. Moreover, sectoral segregation is good to explain the need for a qualitative cross-country evaluation of the GPG's values. Indeed, sectoral segregation decreases the gap in Italy, where only women with above-the-average study titles work, whereas in the UK sectoral segregation was reported to increase the gap. On the other hand, the different representation of genders among sectors is also the result of the free choice of individuals, for example about which study path to undertake. This difference has often been explained by society simply as resulting from the different inclinations of the two genders, but, as Rosti (2022) explains, the lasting character of these beliefs also brought women to accept them as true and to develop their behaviour accordingly⁵⁰.

This wide difference has caught the attention of researchers that now have been conducting research on experimental economics for more than 30 years. They have demonstrated how the label “sectoral segregation” is not wrong since women are discriminated against when trying to access some sectors as a result of stereotypes. Indeed, the researcher Pedro Bordalo, conducted some laboratory experiments about how gender stereotypes influence ideas about the ability of people in some knowledge categories. The outcome study of 2019 highlighted how women received *ceteris paribus*⁵¹ different answers about hiring, promotions and wages, even though they had the same productive characteristics of their male colleagues. The situation changed considerably when eliminating the gendered data, for example eliminating the name from the curricula, since the same characteristics are often valued less when held by a woman with respect to a man⁵². Although Rosti (2022) reports that the simple presence of more women in appraising bodies does not necessarily ensure a more equal treatment, citing as an example the queen bee syndrome⁵³, it has been statistically demonstrated that in companies with more women in the directory board women are promoted more easily and experience a lower GPG⁵⁴. This issue demonstrates that calculating the pay gap on the hourly pay is not sufficient to understand all the layers of pay inequality and it is therefore necessary to find data and indexes to scientifically estimate these other contributors to discrimination.

⁴⁸ European Commission, 2018a.

⁴⁹ Blaskó *et al.*, 2020, page 11.

⁵⁰ Rosti, 2022.

⁵¹ Latin phrase used in economics to mean “all things being equal”, which means considering all variables to be equal except the one surveyed.

⁵² Rosti, 2022.

⁵³ Expression used in psychology studies to refer to women that reached success in their workplace and obstacle other women in order to maintain their privilege (Rosti, 2022).

⁵⁴ EIGE, 2017, page 8.

Another cause of MSs' GPG is the so-called glass ceiling, a sort of invisible blockade, which impedes women to reach the leading positions of companies. Indeed, only 8% of top companies CEO in the EU are women⁵⁵. In addition, in every sector women seem to be unable to reach top positions⁵⁶. This invisible ceiling is caused first of all by stereotypes about men and women attitudes and aggravated by women's frequent career interruptions and part-time contracts to take care of the family. In their research Boll and Lagermann (2019) highlight the need to shorten female career breaks with flexible work arrangements⁵⁷. However, Smith and Villa (2010) underline how the project of providing almost overall schooling for children up to three years in the EU failed and the measures for gender equality in the EES are losing prominence over the years⁵⁸. Vertical segregation⁵⁹ may go unnoticed in isolated GPG analyses, which only considers the average hourly pay, but when looking at countries in an aggregate way, considering all working women, it becomes clearly noticeable that women earn less in aggregate also because they have more difficulties in having a career. Studying is not enough to give women good career chances. Indeed, more women than men (34% against 29%) in the EU have reached a tertiary education degree. When talking about lower education levels the difference is instead minimal. The aforementioned data refer to the general EU situation, but this difference is present in numerous EU country, showing that the phenomenon is widespread⁶⁰. Although women in the EU are on average more educated than men, there are still countries where the proportion of educated women with respect to men is really low. These uneducated women are often completely excluded from the job market with an employment rate of only 32%, exposing them to the risk of poverty and gender violence. The few highly educated women make up the majority of the female workforce with high employment rates and high salaries, distorting the picture given by the GPG⁶¹.

For the 2010 EU *Network's Report* 33 legal experts from the 27 MSs of the European Economic Agreement (EEA) and three EU candidate countries were interviewed through a questionnaire. Although the data are not the most recent ones, they are a deeper and more qualitative insight with respect to the ones collected by Eurostat every two years. The questions regarded the situation in the country, the legal framework, good practices and

⁵⁵ European Commission, 2018a.

⁵⁶ Boll *et al.*, 2019, page 105.

⁵⁷ Boll *et al.*, 2019, page 105.

⁵⁸ Smith *et al.*, 2010, page 530.

⁵⁹ Vertical segregation denotes the fact that women tend to be unable to reach top position, it is also called glass ceiling.

⁶⁰ Deutsche Bundesregierung, 2021.

⁶¹ EIGE, 2019.

enforcement problems of the various instruments of the MS equal pay legislation. This questionnaire partly subverted other studies, demonstrating that not every insight can be generalised to all EU countries. For example, only in Belgium and France the gap appears to be really low in sectors with very few women employed, for example constructions. Another example is Hungary, where the gap is higher in the public sector since there is less possibility to resort to non-reported payments⁶². This demonstrates that often the GPG intertwines with other issues of the various countries that can make the situation more difficult. Experts reported that equal pay has been inserted in the constitutions of various MSs, such as Italy and Greece, and in some cases, there are also acts of the parliament that constitute the obligation of equal pay for equal work or work of equal value. Experts also focused on the role of social partners and recognised that pay inequality does not seem to be their priority and that they prefer to focus on declarations and awareness raising programs than on real action. In the case of the Nordic countries the structure of collective bargaining even reproduces the gap, since sectors with a majority of female workers are disadvantaged in the negotiation of higher wages. However, the majority of MSs do not have any legal measure that obligates social partners to include equal pay in their collective agreements. On the contrary, France passed a law in 2001 to oblige social partners to negotiate on gender equality at work and in the labour market. In other states, like Austria, social partners are active and have spontaneously examined collective labour agreements to find any possible discriminatory provision. It appears therefore necessary that the EU tries to involve the social partners deeper, since it has been scientifically demonstrated that women have more difficulty even in collective bargaining. Furthermore, the application of the pay equality principle to collective agreement can be derived by the treaty provisions, and even directly from secondary legislation⁶³.

On the other hand, the instruments to control and bind employers to respect pay equality are more widespread. Several countries obliged at least the biggest undertakings to produce statistics about GPG and all the national Statistical Agencies can already produce them, in some cases even free of charge, e.g. Denmark. However, this improvement is not absolute since various former communist countries are moving back, allowing the release of pay information only in extreme cases. However, the EC and the European Parliament (EP) are strongly pushing to pass laws to increase pay transparency. Therefore, it is plausible that a variation will be noticed in the next years. Numerous countries have developed quite

⁶² Foubert, 2011, pages 2-3.

⁶³ Jimena Quesada, 2016, page 12.

extensive experience with tools to analyse pay systems and to compare work typologies to understand if pay evaluations systems are equal. The case of the Netherlands is particularly interesting since they developed the “Equal Pay Quick Scan” to scrutinise the data of a company to understand whether an investigation into the pay system is required. Notwithstanding the mentioned improvements in data collection, the action against the GPG encountered various obstacles. First, the high cost of legal assistance and proceedings. Indeed, most of the times alleged victims have to sustain the cost of the proceeding and it inevitably cause a decrease in the number of proceedings, in particular, if the claimant does not have hard evidence of discrimination. This is linked with the difficulty women still face in obtaining information about wages in their sector and company, which make it difficult for them to compare their pay with that of their colleagues. Nevertheless, in some cases claims can be brought on behalf of the victims by National Equality Bodies or trade unions free of charge. For example, in Italy or Bulgaria class actions were organised collecting the claims of various employees⁶⁴.

The gap tends to be inversely related with the magnitude of the company. This may be partially explained by the fact that big companies are subject to more control by the states, while little ones are not even surveyed. Moreover, big companies have to respect the law of all the countries in which they operate and are often in the spotlight, for this reason, they tend to maintain a more equitable treatment between genders⁶⁵. Furthermore, almost all companies that implemented the quota system are big companies⁶⁶. Moreover, as it may be expected, pay transparency helps in fighting the GPG since it allows employees to understand if they are being discriminated against, helping victims to asks for and obtain compensation, therefore easily accessible wages data ease the process of enforcing employees’ rights both at firm and court level. Although Eurostat’s GPG statistics do not reveal pay discrimination in the public sector, some countries decided to address the problem and in Norway it culminated in a pay rise of 3.3% (2010 data) in female dominated areas. The road is still long, for example, although the EU had fixed a minimum requirement of places for pre-schoolings, it appears that almost no MS reached the objective, and even if it had been reached, it would nevertheless not cover all EU kids, since the objective was rather low⁶⁷. The EC has therefore promoted adequate company policies about flexible working time arrangements⁶⁸.

⁶⁴ Foubert, 2011, page 21.

⁶⁵ Boll *et al.*, 2019, page 103.

⁶⁶ Marques da Silva, 2020.

⁶⁷ Smith *et al.*, 2010, page 530.

⁶⁸ European Commission, 2018a.

Meanwhile, in many MSs, such as Italy, after the crisis the state has allowed for a more flexible use of fixed-term contracts to increase female labour participation⁶⁹. This further demonstrates how in periods of crisis institutions often focus on creating more jobs than better jobs. The aforementioned policies could, on the one hand, improve the employment rate in countries with very low female participation to the labour market; on the other hand, they could condemn women to a sort of exploitation, not encouraging employers to offer better work arrangements to women.

All the previous considerations were referred to the GPG in general, but not all women experience the same gap with respect to their male counterparts. Indeed, the GPG grows with age, reaching the maximum level among people with more than 50 years. Indeed, people of both genders are reported to start with rather similar contracts, with the gap that increases with the passing of time⁷⁰. This is explained by the fact that women take more career breaks and experience more difficulties in pursuing a career, both in the actual job - such as the glass ceiling- and off the job, with social stereotypes encouraging them more to be “good mothers” than good workers. Moreover, the GPG widens with the study level, indeed the gap between graduates (29%) is almost double the one between people that only hold a diploma⁷¹. The GPG increases also with the hierarchy level, both at intersectoral level – e.g. between labourer and professional- and at intrasectoral level, e.g. between specialised and non-specialised labourer, with few exceptions. Although the smallest companies are not surveyed, the GPG is reported to be the highest in medium-sized companies and to fall considerably in macro-companies with more than a thousand employees. The GPG is also higher among temporary contracts⁷². In the EU women work with temporary contracts 2% more than men⁷³. Part of this difference may be explained with the fact that temporary contracts are more common at the beginning of the working life or after long interruptions.

The GPG can be divided in “unadjusted” and “adjusted”, in which the explicable parts are eliminated from the calculation⁷⁴. However, the fact that some parts of the gap have an explanation or are the result of a personal choice, does not automatically imply that they are not a consequence of discrimination. For example, explanations are strongly affected by the traditional conception of men as family’s breadwinners and women as primary carers. Indeed, the fact that the MSs where the traditional gender roles are stronger are also the same where

⁶⁹ Foubert, 2011, page 26.

⁷⁰ Rosti, 2022.

⁷¹ Rosti, 2022.

⁷² Rosti, 2022.

⁷³ EIGE, 2019.

⁷⁴ Boll *et al.*, 2019, page 2.

fewer women work, seems to establish a positive relationship between how much pre-ordered gender stereotypes afflict women and their work choices⁷⁵. In other words, the adjusted GPG considers only the unexplained part of the gap, which is the one that does not seem to be grounded in identifiable or observable characteristics. The parameters normally considered to differentiate between workers are length of service, working sector, type and level of occupation and level of education. Moreover, there is a part of the gap that seems to show a difference in bargain skills and obtaining promotions⁷⁶. However, it may be argued that it is influenced by women's the general place in society and in the labour market. In any case, a large part of the GPG cannot be explained. For example, the unexplained part of GPG was 6% in Germany in 2018⁷⁷. As Boll and Lagermann explained, in 2014 the gap was 14.2 %, of which only 4.8% was explicable⁷⁸. However, they highlight, women are paid less than men for the same characteristics, so that the gap cannot reach the zero level through the explanations⁷⁹. It appears to confirm that women are openly discriminated against for their gender. In conclusion, it is possible to partially explain the GPG, but not to justify it, therefore, most statistics use the “unadjusted” version of the GPG. Katarina Whrolich acutely defined the unadjusted GPG as a sort of picture of all the inequalities of the job market⁸⁰.

The GPG is a synthetic statistical indicator, which is therefore unable to detect discrimination, but it is the qualitative analysis of the data which allows researchers to give meaning to the differences it detects. In the period 2010-2014 has been observed that the explained part of the gap did not change much and that the greatest decrease has been in the unexplained part of the gap⁸¹. Since a large part of the explained GPG regards the equal sharing of housework, the stagnation of the explained gap could mean a partial unsuccess of EU measures. Nevertheless, the EU institutions created a potentially ground-breaking directive in 2019, the effects of which can only start to be appreciated between 2022 and 2023 since states have three years to transpose directives in their national legislation. On the other hand, the decrease in the unexplained GPG may demonstrate that the direct discrimination is decreasing. In addition, the EC maintains that the information and statistical data currently available are insufficient or not detailed enough. In addition to the already mentioned discrepancies and limitations, the EC raises the interesting point that the fact that a

⁷⁵ Becker, 2021.

⁷⁶ EIGE, 2017, page 8.

⁷⁷ Becker, 2021.

⁷⁸ Boll *et al.*, 2019, page 2.

⁷⁹ Boll *et al.*, 2019, page 2.

⁸⁰ Becker, 2021.

⁸¹ Boll *et al.*, 2019, page 102.

large part of the gap is still unexplained could mean that more analytical work is necessary to be able to identify a clear cause⁸². Clearly, the identification of its causes can help address this part of the issue, as the EC is already trying to do with the other explained parts, for example through the *Work-Life Balance Directive*⁸³. It is to point out that the right interpretation of the GPG is crucial, because some parts of the political sphere and the civil society offer biased interpretations of the reasons for the GPG and use them as a political instrument to their advantage⁸⁴. For this reason, it is particularly important to understand the various layers of the GPG and to educate the civil society, so that they are not misled by the difficult in understanding a synthetic indicator. It is also important that politicians are informed and used to work with this index, since only a correct interpretation of these numerical data can bring them to be able to create effective policies and correctly measure their outcomes.

After the first wave of the pandemic some researchers also in the EU expected the GPG to sharply decrease as a consequence of telework and the increased importance of care work. Indeed, working from home could help to equally share responsibilities. Moreover, numerous people working in hospitals, above all as nurses and social workers in the health service are women and it was argued they would benefit from the changes imposed by the pandemic. Indeed, their sector was the most important in coping with the pandemic and the importance of their contribution could stand out, in contrast with the past when they were socially not well recognised. Although research noticed that their contribution could increase their bargaining potential, it also recognised that already during the first wave, the highest price of the crisis was been paid by women in terms of job loss, career interruptions or dramatic increase in the workload, due to the increased care responsibilities, and this could have long-lasting effects on women's well-being and career⁸⁵. Although, the worst scenario did not manifest, since during the pandemic the gap continued to decrease in the EU at aggregate level and in many MSs, it is possible to observe that the pandemic strongly hit the service sector where many women work. Moreover, as denounced by the Green Coalition in Germany, the pandemic did not increase the consideration of hospital workers so much or at least did not bring profound and long-lasting changes⁸⁶.

⁸² European Commission, 2022b.

⁸³ Council of the European Union, 2019.

⁸⁴ Becker, 2021.

⁸⁵ Blaskó *et al.*, 2020, page 9.

⁸⁶ Dpa, 2021.

As a result, the decrease of the gap in the last years, although slightly more than normally observed, is in line with the one of previous periods, therefore it does not seem that teleworking had such a great influence in the short run, but it may be argued that longer periods are necessary to combat stereotypes⁸⁷. Furthermore, in 2022 ended the period at states' disposal to transpose the EU 2019 *Work-Life Balance* Directive. It aimed at freeing the productive potential of women, enabling them to enter the workforce. The directive provides men with “opportunities and incentives to take up parental leave”. Working parents will be facilitated in asking for flexible working arrangements, fathers will have 10 days of paid paternity leave, and 2 months of parental leave will become paid and non-transferable between parents. As in the case of all the other directives, if a MS has more generous policies, it can continue to apply them. However, some of the directive's provision have in their form a six-month prior service requirement only for men⁸⁸. In any case, this, united with teleworking, could potentially cause great improvements, or in any case pave the way for a more equal distribution of family burdens through non-transferable parental leave.

Various evaluations have calculated how much time will be needed to reach parity at this speed of development. The Italian newspaper *Il Fatto Quotidiano* in 2020 supposed that it would need 84 years⁸⁹. Moreover, comparing the most recent data with the ones from 2009, it is possible to observe that there have always been and still are countries where the gap is widening, but interestingly these countries are not the same in the two surveys⁹⁰. Foubert (2011)⁹¹ reported that in 2009 the gap was widening in Bulgaria, Latvia, Portugal and Slovakia, while now it is widening in Italy and Romania. The fact that the gap widens in different countries in different periods demonstrates that trends can always be reversed and that the conquest of the various MSs in this field cannot be considered as definitive, but they appear to be really fragile. Moreover, it is to point out that, apart from academic journals' articles, almost all the newspaper ones have been published around Equal Pay Day or Women's Day. On the one hand, it clearly demonstrates that huge efforts are still needed, so that this problem is not remembered by the public and treated by the media only around these days and so that the civil society strongly demands action by the political class. On the one hand, this demonstrates that, establishing these days, the EC and the other International Institutions have succeeded to bring the attention of people on this issue and raise awareness

⁸⁷ Eurostat, 2022b.

⁸⁸ Council of the European Union, 2019.

⁸⁹ *Il Fatto Quotidiano*, 2020.

⁹⁰ Foubert, 2011, page 30.

⁹¹ Foubert, 2011, page 30.

on the topic. In conclusion, the causes of the gap and the instruments to reach pay equality are diverse, and the situation is exacerbated by the fact that states implement EU directives and treaty obligations differently or take unilateral actions. These policies can become best practices and inspire other member states, such as the already mentioned Norwegian pay-rise in the female dominated branches of the public sector. However, from Foubert (2011)⁹² onwards experts agree on the fact that national governments are not doing enough.

The GPG per economic sector

The GPG varies not only between states, but also within, for example, it is also possible to calculate the GPG in a determined sector⁹³. Hedija (2017)⁹⁴ conducted a study covering also sectors not normally surveyed by Eurostat, such as agriculture, the public sector and defence. The largest GPG is observable in financial and insurance field. The method used to break down the GPG is the Oaxaca-Blinder decomposition method⁹⁵. Hedija (2017)⁹⁶ reports that the most important factor in the sectoral variation is the share of women in that sector and the private or public ownership of the undertakings. On the contrary, she maintains that the number of small companies or female managers is not significant in explaining the cross-sectoral variation, however these characteristics have an incidence at firm level, as demonstrated by other aforementioned studies. Moreover, decomposing the GPG, it is possible to observe that the degree that remains unexplained varies across states and even sectors, and it does not seem to relate with the overall extent of the gap. On the contrary, the type of ownership and the ratio of women to men in the sector influence the unexplained part of the GPG. The author maintains that it has been possible to witness a decrease of the unexplained part of the gap in sectors with a higher proportion of female managers and few small companies, however, the extent of the variation did not make it statistically significant because it was not possible to be sure that the variation was not due to chance⁹⁷. However, it is important to point out that Hedija's 2017 study⁹⁸ only refers to the unexplained part of the gap, since it has been demonstrated that an equal presence of women in the directive board of companies or the scale of the firms in a specific sector can have an influence on the overall

⁹² Foubert, 2011, page 30

⁹³ Rosti, 2022

⁹⁴ Hedija, 2017, page 1805.

⁹⁵ Hedija, 2017, page 1804.

⁹⁶ Hedija, 2017, page 1815.

⁹⁷ Hedija, 2017, page 1816.

⁹⁸ Hedija, 2017, page 1806.

gap. In any case, the unexplained part of the GPG was never at the advantage of women. The coefficient of variation between sectors varies among countries, apparently with no connection with the overall GPG of the country. Greece has the highest variation between sectors - 2017 data⁹⁹.

It has been observed that in sectors where public ownership is dominant the unexplained part of the gap is around 4% lower than in fully privatised sectors. This is explained by the fact that in the public sector single individuals, categories and even managers have less wage-setting power since states regulate the area of earning and state's laws¹⁰⁰ normally try to ensure equality. Moreover, anti-discrimination laws are normally more strictly applied in the public sector with respect to the private one. In highly segregated sectors, above all if the majority of the employees are women, the unexplained part of the gap is substantially higher. On the contrary, it reaches the lowest level in sectors with an equal share of men and women. The unexplained part of the gap in sectors where more of the 70% of workers are women tends to be double with respect to sectors where less than 30% are. The research hypothesises that the GPG is higher in sectors with many female workers since men need an incentive to work in sectors that are labelled as typically feminine, consequently obtaining higher wages. Furthermore, in sectors with a majority of female managers the overall gap is lower by about 4 percentage points with respect to sectors where less than 30% of managers are women¹⁰¹. As the research acknowledges this has been already demonstrated by various studies and this is the reason why quota systems have been implemented to various degrees in different economic sectors¹⁰². In the case of small companies, it can be argued that the average dimension of companies in a sector is directly proportional to the unexplained part of the GPG. Indeed, larger companies tend to have internal wage regulations, are often owned by foreigners' people, and operate in more than a country. This obliges companies to comply more strictly with anti-discrimination rules¹⁰³. Moreover, large companies are usually under more scrutiny of the press and compliance mechanisms and an infringement of the law would generate a greater scandal with wider consequences than it would for smaller companies.

⁹⁹ Hedija, 2017, page 1814.

¹⁰⁰ This is an example of functioning equality by law. Indeed, here the law of the states about wage regulation in the public sector ensures equality. This study demonstrates that in this case equality *de jure* is effective since a lower unexplained part of the gap is reported and these laws really have the effect of constraining individuals' power and wage variation.

¹⁰¹ Hedija, 2017, page 1815.

¹⁰² Hedija, 2017, page 1815 and Marques da Silva, 2020.

¹⁰³ Hedija, 2017, page 1817.

The GPG between agricultural workers is not surveyed by Eurostat. However, agriculture is an important sector of the EU economy, in which there is evidence of the GPG being remarkably strong¹⁰⁴. Since it was not possible to have comparable statistical data from Eurostat, this thesis approaches the issue with the case study method, considering the case of some female farmers in Germany, who also formed the feminist association *Equal-Pay-Beraterinnen* (female counsellor for equal pay), uncovering the difficult and uneven situation of women workers in agriculture¹⁰⁵. The presence of the gap has also been confirmed by Hedija's 2017 study about the GPG differences between sectors¹⁰⁶. In agriculture, women often work in family-managed firms, but they are mostly considered their husbands' "helpers". Even when they do not work in family companies, they are generally paid less than their male colleagues. Indeed, they are considered less performing since they are physically weaker and, therefore, they are the ones that are forced to stop working to take care of the children or other family members. Igrid Jaßen, member of the *Equal-Pay-Beraterinnen*, interviewed by *Die Zeit* firmly stated that the focus on strength should be shifted to one on training. This could easily solve women's "weakness problem" through a more efficient and scientific organisation of labour, which will bring better results transforming the field in a less labour-intensive sector. However, farmers' companies are often passed on from one generation to another and farmers are not keen to train themselves to modify their way of working¹⁰⁷.

The situation is worsened by the fact that often women that work in agriculture live really isolated and have no easy access to services or alternative job opportunities. Therefore, these women cannot benefit from childcare institutions, which are the base for closing the gap, since for career it is important to return to work quite soon after the birth of a child. Moreover, Petra Bentkämpfer, president of the association *Equal-Pay-Beraterinnen*, thinks that women in the agricultural sector usually are not aware of the fact that they are suffering a discrimination and therefore are more inclined to accept it. The association argues that it would be important that women committed to making their work more professional, for example learning how to manage agricultural firms. In this way, they would be able compete with their male colleagues, and also profit from other opportunities in other branches. Furthermore, they could find another job more easily if they lost or pause their career for a while, for example after childbirth. For this reason, this association tries to offer women real

¹⁰⁴ Schirmer, 2021.

¹⁰⁵ Schirmer, 2021.

¹⁰⁶ Hedija, 2017, pages 1808-1809.

¹⁰⁷ Schirmer, 2021.

opportunities of lifelong learning¹⁰⁸. Lifelong learning is particularly important for women since they tend to interrupt their career more often and, in the end, this can cause a skills divide that brings employers to choose male candidates because they are actually more prepared than female ones. Although this situation cannot be surveyed by the GPG, which compare people with equal qualifications, the fact that for women it is more difficult to remain up-to-date with the skills required by the job market concurs to the pay gap.

The overall earnings gap and the Gender Equality Index

It appears to be really difficult to solve the GPG, since it is tied with the endemic problem of women discrimination in society. Another index also developed by Eurostat to extend the entity of the data surveyed, is called overall earnings gap¹⁰⁹. It contains the GPG since it takes into account the difference in hourly payment, but also considers the lower employment rates and fewer hours spent on average in paid jobs by women. Indeed, women are often forced to abandon or diminish paid work because they have to perform other activities, on the contrary, this does not seem to be such a strong obligation in the case of men¹¹⁰. The lower employment rate is a consequence of the fact that some women choose not to work, but even among working women, they tend to take career breaks and periods off work more often than men and this influences their hourly pay when they return to the job market, diminishes their bargain possibilities, and also their future earnings and pensions¹¹¹. Moreover, the gender earnings gap is calculated as the average monthly income of people of working age. In 2018 the overall earnings gap in the EU was 36,2 %¹¹², therefore more than double the GPG and maintaining a similar ratio compared to the past¹¹³. This index gives a more accurate picture of how much women earn with respect to men, adding to the calculation other two important and influencing parameters. It could be argued that this index and the GPG are not in contrast but represents two different actions spheres for policymakers and reinforce each other. Indeed, the overall earnings gap demonstrates how politicians should try to increase women's occupational level and it reinforces the GPG finding that women have to be freed from part of the non-paid work burden, for example granting access to kindergartens.

¹⁰⁸ Schirmer, 2021.

¹⁰⁹ Rosti, 2022.

¹¹⁰ EIGE, 2021, page 34.

¹¹¹ European Commission, 2018c.

¹¹² Rosti, 2022.

¹¹³ European Commission, 2018c.

Although the GPG is part of the overall earnings gap, analysing it separately, what stands out is that some women are already in the job market, performing the same work as their male peers, but are paid around a quarter less. From the 2008 crisis the focus has been on creating more jobs and reaching full employment and not on creating better jobs. For this reason, although in the following years the employment rate, also of women, increased, the GPG improvement slowed down¹¹⁴. This explains why these two indexes have to be considered by researchers and policymakers in combination and not alternatively. Indeed, using them both allows to outdo the distortion of each of them: the GPG measures the quality of the jobs created, but the overall earnings gap makes sure a low GPG is not the result of a low women employment rate. For example, in 2018 the overall earnings gap was 36,2% for the EU, decreasing as the GPG. However, considering the Italian case, we can notice that the GPG in Italy has been rather low in the last years, always around 5%, but the gender overall earnings gap is 7 percentage points higher than the EU average - 2018 data¹¹⁵ and decreasing really slowly – only 0.7% since 2014¹¹⁶.

The EC released the *2022 Report on Gender Equality in the EU*. It highlights that the difference in pay has remained almost stagnant between 2018 and 2020, although women's expertise and participation have increased. In addition, the situation is even more worrying since the pandemic risks having a deep effect, because women face more earning losses than men if their job is displaced by COVID-19. The report points out that around 60% of minimum-wage earners in the EU are women and, therefore, policies that support minimum-wage earners could have a strong impact on equality enhancement by reducing women's poverty. It has been calculated that if all MSs fixed a minimum wage imposed by the law at 50% of the average wage, it could be possible to reduce the GPG of 5%¹¹⁷. This is a shining example of how a policy can have an important impact on gender, although not being focused on it, supporting the gender mainstreaming approach. Eurostat and the EC are not the only EU organisms producing reports about the gender pay equality in the MSs. EIGE regularly issues the Gender Equality Index, which measures the level of gender equality in the EU and since 2013 it has been recognised by EU institutions and MSs as a key indicator. The GPG and other measurements of equality in the labour market are part of this indicator. Moreover, it puts in relation indicators measuring other discriminations. The last available index has

¹¹⁴ Harcourt *et al.*, 2011, page 9.

¹¹⁵ Rosti, 2022.

¹¹⁶ European Commission, 2018c, page 1.

¹¹⁷ European Commission, 2022c, page 30.

been published in 2022 and tried to capture the effects of the COVID-19 pandemic on society, as did the 2021 one. Comparing both indexes, it is possible to understand that the pandemic had in general a negative impact on women, especially in the domains of work and money. The overall gender equality score in the EU is 68.6/100 but EIGE considers this result highly threatened by the pandemic. The Gender Equality Index is formed by specific subindexes for each domain, such as work and money. The subindexes use the GPG as one of the sources, and then give further insights in these domains¹¹⁸.

In the domain of work the Gender Equality Index scores is 71.7, with an increase of only 0.3 points in four years. In general, it is possible to observe that progress in all subdomains of work, such as participation and gender segregation has slowed down, remaining almost still in the last years¹¹⁹. For what it was possible to witness, COVID-19 did not improve the situation since it brought to the fore the really unequal sharing of unpaid activities in the family, by rapidly increasing care burdens for women. Moreover, it is likely to have prolonged effects on women employment prospects, since the effects of the pandemic are thought to last more on women than on men, as a result of increased care duties and gender segregation. According to EIGE's research, the latest gains of foreign-born women are even at risk of being erased¹²⁰. In the previous paragraphs it has already been possible to observe how participation in employment, the elimination of sectoral segregation and the efficient balance between family and work needs are essential to reach pay equality between men and women. The Gender Equality Index has analysed each of these categories evaluating its improvements and none of these categories has meliorated by more than 0.4 points since 2019 and participation even regressed¹²¹. The situation in the subfield of money is slightly different, with a score of 82.6 points¹²². Notwithstanding an overall growth, in 2021 a little fall in the economic situation category, which registers the poverty risk, slowed down the pace of improvement. The situation was expected to worsen since many women have decided to abandon their source of income to focus on care duties, for example when school closed down¹²³ causing what Profeta denominated the "she-cession"¹²⁴. In the end it has been possible to witness a stagnation¹²⁵. In the domain of money, the progress has been driven by

¹¹⁸ EIGE, 2022 page 38 and EIGE, 2021, page 30.

¹¹⁹ EIGE, 2022, page 25.

¹²⁰ EIGE, 2021, page 13.

¹²¹ EIGE, 2022, page 25.

¹²² EIGE, 2022, page 11.

¹²³ EIGE, 2021, page 14.

¹²⁴ Profeta, 2021, page 270.

¹²⁵ EIGE, 2022, page 30.

the subcategory of access to financial resources, meaning that, irrespective of the economic situation, it is becoming slowly easier for women to access financial resources¹²⁶. However, the poverty gender gap increased from 2010 to 2019 meaning that more and more women with respect to men tend to be poor. Even before the pandemic, women were more often in low paid or even unpaid temporary jobs. Not only gender segregation constrained them in low-paid sectors, but these sectors were also the ones most hit by the pandemic, which further aggravated the situation, causing women to lose their jobs or to have their working hours reduced. This change affected particularly young women aged 15-24 years old, many of which are employed in hospitality, retail and entertainment¹²⁷.

The Gender Equality Index in 2021 measured a difference not surveyed by GPG but which decreased women's pay equality for that specific period. Indeed, since spring 2020 MSs introduced various forms of income support for those hit by the pandemic, which were often tied with people's working sector, and women had more difficulties in accessing them, because of short or interrupted careers¹²⁸. Indeed, many women did not meet the eligibility criteria since they worked in mini-jobs, domestic or temporary contracts, which were excluded from the aid plan. Likewise, it is not a novelty that when women try to obtain sick leaves or unemployment aids their frequent career interruptions complicate the process¹²⁹. Since aids formed an important part of the wage of many employees in that period, it can be argued that the impediment in obtaining them widened the gender pay inequality¹³⁰. Therefore, although the GPG decreased during the pandemic, women's reduced access to pandemic financial support hindered a real equality development, bringing pay equality to stagnate in the last two-years period. This demonstrates that considering only the GPG is not enough to picture pay inequality. Furthermore, although it is necessary to calculate the GPG on fixed and observable parameters to allow comparability, it has always to be contextualised taking into account other possible aids from MSs or EU institution. The Gender Equality Index is useful in adding these dimensions. The fact that, according to the EIGE 2021 survey, EU born men in couples with children are the most likely to work full-time, while having children is a major cause of part-time work for women, demonstrates how care duties are still highly unevenly shared between parents¹³¹. It is to notice that the gender wage gap can be calculated also between men and women of a particular category, for example, the gap is

¹²⁶ EIGE, 2022, page 30.

¹²⁷ EIGE, 2021, page 40.

¹²⁸ EIGE, 2021, page 40.

¹²⁹ European Commission, 2022c, page 30.

¹³⁰ EIGE, 2021, page 40.

¹³¹ EIGE, 2021, page 52.

really stark between immigrant non-EU born women and men, with a lot of immigrant women not even working¹³². On the other hand, the gap between disabled women and men decreased in 2019¹³³. The 2021 edition of the Gender Equality Index was the first based on EU-27 data, and researchers maintained that some results could have been influenced by the United Kingdom leaving the EU¹³⁴. As always, these data have to be taken cautiously and further monitored since they can be the result of a short-term distortion and not a long-lasting improvement.

The legal basis of the principle of equal pay in EU and its different interpretations by EU bodies

Non-discrimination on ground of gender is a principle of EU law¹³⁵ and equal pay is a fundamental right at the basis of EU Social law. In addition, this principle has been enshrined in the treaties, becoming in all respects also a field of EU action and not only a competence of the single MS. Each EU institution acts differently in the field, for example the ECJ, focuses on equality *de jure* and operates on a case-law basis; while other institutions, such as the EC and the Council of the European Union, design new policies and monitor compliance, but all their actions stem from the same legal basis of EU treaties. Their action is consistent both with the EU economic competence, as the economic effects of pay equality will be widely discussed, and with its social competence. The ECJ has remarked on the simultaneous social and economic aim of pay equality in the *Defrenne v. Sebena* case of 1976. Although the case concerned the gender gap in retirement age and not hourly pay, it is easy to transpose the Court's consideration to the effects of pay equality. Moreover, the ECJ touched on the issue stressing the competitive disadvantage of the states that have already implemented the principle of pay equality with respect to the ones that still profit from having a low-cost work force¹³⁶. Although it cannot be denied that diminishing the labour costs can have positive effects on growth, more recent studies have demonstrated how this type of growth is not always sustainable and how increasing pay equality has better positive effects on economic performance and birth rates in developed economies¹³⁷. On the other hand, regarding the

¹³² Schieckoff *et al.*, 2021, page 276.

¹³³ EIGE, 2021, page 35.

¹³⁴ EIGE, 2021, page 35.

¹³⁵ EU law principles are the general foundations of EU law, which includes, among others, fundamental rights, proportionality, legal certainty, equality before the law, subsidiarity and the respect of the rule of law.

¹³⁶ Jimena Quesada, 2016, page 8.

¹³⁷ Morais Maceira, 2021, page 182.

social dimension of pay equality, the Court stressed the fact that the Union had already become more than a single market and had specific social obligations, among others, in the domain of pay equality, as the preamble of the Treaty Establishing the European Community (TEEC) and Art. 119¹³⁸ demonstrated. Is it possible to observe that the article stressed the necessity of maintaining this provision in the following treaties, understanding how this provision was something new with respect to the past that needed to be preserved to really cause a change in the contemporary situation. It is to highlight how the principle of “work for equal value” was not yet developed, and the treaty focused on “equal work”, so men and women accomplish exactly the same tasks. This vision is clearly more immediate and simpler to assess, however it really restricts the area of application of the law, since in most cases workers of a company or institutions do not have the exact same task or career path, although they have reached a similar position in a company¹³⁹.

For this reason, the EU institutions have considered necessary to add the lettering “work of equal value”, although it has complicated the assessment of discrimination. This demonstrates that the legislator noticed over time the need to make pay equality provisions clearer, to make them more effective. The addition to the previous wording was provided with the Treaty establishing the European Community (TEC), in its Amsterdam version¹⁴⁰. Art. 141 contains the first reference to “work of equal value” in paragraph one and three. Moreover, it not only states the need for pay equality, but recognises that the EU institutions, first of all the EU Council, need to adopt positive measures to really make this principle effective¹⁴¹. Pay discrimination is always expressed with respect to a male colleague performing a comparable job -the same or of equal value. However, treaty law and directives are rather vague on the requirements of “work of equal value” and judges often struggle to find a possible comparator that has the same tasks, the same education and a similar career path. There has been a certain amount of discussion regarding the criteria judges use to identify this comparator, which can sometime be too strict and make comparison impossible. However, it is certain that more pay transparency between workers will ease the situation, providing both the victim and the judges with clear and easily available information, without the need of an investigation. The current definition of GPG is based on this wording, since the comparison is among individuals performing equal jobs and not only exactly the same

¹³⁸ Art. 119 TEEC: “Each Member State shall in the course of the first stage ensure and subsequently maintain the application of the principle of equal remuneration for equal work as between men and women workers” (TEEC, 1957, Art.19).

¹³⁹ Jimena Quesada, 2016, page 6.

¹⁴⁰ Jimena Quesada, 2016, page 6.

¹⁴¹ TEC, 1997, Art. 141.

one as in the past. In addition, the ECJ clarified through its judgement *Defrenne v. Sebena* that the provisions about pay equality does not apply only between individuals and institutions, but also horizontally, which is to say between exponents of the civil society, such as inside undertakings. The Court clearly stated that this provision has to be interpreted as regulating each instance of remuneration, such as public authorities' action, collective agreements about paid work, and individual contracts¹⁴². Although the previous wordings did not exclude this interpretation, making it explicit has had an important effect on future claims about pay equality and has allowed the flourishing of actions and studies about GPG in various sectors of the economy.

Moreover, Art. 199 TEEC also explained what is intended with remuneration, which appears to be of paramount importance both for the application of the law and for the development of statistical indicators to measure possible differences. The treaty states that “(a) remuneration has to be calculated on the basis of the same unit of measurement; and (b) that remuneration for work at time-rates shall be the same for the same job”¹⁴³. It is worth highlighting that it set forth the illegality of discriminating people working part time. This definition of remuneration is the one used in the calculation of the GPG which measures workers' gross earnings in an hour of work in Euros. Furthermore, the TEC considers “pay” any remuneration, even not in cash¹⁴⁴, which is to say, any kind of payment or consideration the employee receives from its employer¹⁴⁵. As the aforementioned studies and indicators demonstrate, it is easier for men than for women to obtain any additional benefit to their wage, therefore also the scope of the treaties has been broadening to cover the issue. However, this is the part of pay inequality that remains less measured and recorded, for the difficulty in capturing it, for example, the GPG takes into account in its measurement only wages, also for simplicity of measurement and comparability. Nevertheless, it may be argued that it is indissolubly linked with other, more measurable aspects of equality in the labour market, such as career breaks and time spent at work. Therefore, it may be expected that also this aspect of inequality can be tackled with policies in the field of work-life balance and care burdens.

From Amsterdam onwards, the idea of how to tackle pay inequality drastically changed. Indeed, the treaty has allowed for positive discrimination of women in sectors where they are underrepresented to counterbalance the situation of inequity that hinders the affirmation of

¹⁴² Jimena Quesada, 2016, page 8.

¹⁴³ TEEC, 1957, Art. 119.

¹⁴⁴ TEC, 1997, Art. 141.

¹⁴⁵ Jimena Quesada, 2016, page 9.

women's potential in that branch. Before, the wording of the treaty had led to more restrictive interpretations by the ECJ, which had regarded as unlawful measures which automatically favoured the female candidates, even though women made up less than half of the workforce in a specific company sector¹⁴⁶. The use of the quota system to ensure equality will be further analysed in the following chapter, but this provision shows how the concept of pay equality has evolved over time. Therefore, each evaluation of an institutional action has to be based not only on its effects on the substantial equality between genders, but also on the legal bases of the time and on the space of manoeuvre they allowed. The ECJ judgement *Marschall* of 1997 clearly defined that the positive discrimination of a female candidate over a male one can be enacted only if they are equally qualified with respect to all the objectively measurable criteria regarding education, competence and professional performance. However, it interestingly adds that these objective criteria need to be non-discriminatory for the female candidate¹⁴⁷. Although it would be unlawful and unjust to prefer a less prepared candidate, it is worth noting that for women it is generally more difficult to obtain the qualifications and the career performance necessary to compete with male candidates, and this is largely the result of discrimination. It is currently possible to find the juridical basis of pay equality in the EU in Art. 157 of the version amended by the Lisbon Treaty of the TFEU, which amends Art. 141 TEC. The part about remuneration has remained practically unchanged since the Treaty of Rome and the last two parts of the Amsterdam treaty's article, which added benefits and other forms of payment to the concept of equal pay and allowed for positive measures to ensure equality are also present in Art. 157 TFEU. This is the most recent description of pay equality in an EU treaty and the current point of reference for this right as protected by the EU institution. It is the most complete provision ever about pay equality in the EU. With judgements *Caisse nationale des prestations familiales v Fjola Hliddal* and *Caisse nationale des prestations familiales v Pierre-Louis Bornand* of 2013 the ECJ has clarified Art. 157 meaning, stating that parental leave allowances have not to be regarded as a payment under EU law, but as social security benefits and are, therefore, outside the scope of the article¹⁴⁸. In addition, pay equality can be considered both a principle of EU Social Law and an EU Fundamental Right. It is ensured by the 2000 Charter of Fundamental Rights of the European

¹⁴⁶ Jimena Quesada, 2016, page 7.

¹⁴⁷ Jimena Quesada, 2016, page 6.

¹⁴⁸ Jimena Quesada, 2016, page 10.

Union (CFREU), namely in Art. 23, where it is explicitly listed among the actual expression of gender equality¹⁴⁹. The ECJ has also listed it among the founding principles of the EU.

The ECJ, through the judgement of the case *Margareth Kenny and Others* of 2013 has provided a sort of test of equality to detect the presence of discrimination¹⁵⁰. This, summed to aforementioned case-law instances, demonstrates the importance of the ECJ judgements in the definition of pay equality. *Margareth Kenny and Others* (2013) can be seen as the ultimate definition of pay discrimination, with a special focus on indirect discrimination, that makes up the larger part of pay discrimination and the most difficult to tackle. First of all, according to the criteria developed by the ECJ, employees' work has to result equal or of equal value considering its nature, the necessary requirements and the working condition. The ECJ case also gave to the employer the burden of proof to justify why there is a difference between the alleged victim of discrimination and the comparator, once the comparator has been established by the national Court. This element is fundamental for the actual implementation of equality. Indeed, a burden of proof too centred on the victim will discourage women to denounce discrimination, especially if they are in a fragile position. National judges have the important role of assessing discrimination, but they are confronted with the difficulty in finding a valid comparator. The comparator has to be identified on the basis of valid statistical data, covering a sufficiently large number of individuals to eliminate any possibility of biasing the judgement, basing it on short-term or fortuitous circumstances¹⁵¹. This case further demonstrates the importance of having statistics that are loyal to reality and of analysing them carefully to picture the situation correctly. Moreover, statistical data are critical for accurate policy formation.

Even notwithstanding the unlikelihood of the existence of a valid comparator, knowing the wage of each member of a large group of people in an equivalent situation remains particularly difficult, complicating the burden of persuasion¹⁵². This issue, which clearly relates with pay transparency, is an obstacle even before the proceeding, since workers are unable to check if they are being discriminated. Moreover, highlights that another major difficulty in ensuring pay equality is to find valid statistical data to adduce in proceeding about each economical sector¹⁵³, further supporting the need of academia to identify and merge statistical data, and to provide valid and up-to-date studies on the situation in the

¹⁴⁹ CFREU, 2000, Art.23.

¹⁵⁰ Jimena Quesada, 2016, page 11.

¹⁵¹ Jimena Quesada, 2016, page 11.

¹⁵² With the burden of persuasion in civil proceedings it is intended the responsibility of convincing the jury that a fact is true (Jimena Quesada, 2016, page 11).

¹⁵³ Jimena Quesada, 2016, page 11.

different fields. Improving pay transparency, data availability and accession appears therefore necessary to overcome this problem, which may stop proceedings from being brought before a Court. Furthermore, from the first ECJ's judgements up to now it may be seen that the comparator is considered valid only if chosen from the same company. This complicates the work of the Courts at any level, since it is unlikely that in the same undertaking there is a statistically significant number of male and female workers performing tasks comparable to the alleged victim's one. National courts are the most affected by this limitation, since every complaint is brought first of all in front of national courts that assess the validity of the statistics and the choice of the comparator and can make the burden of proof switch from one party to the other according to the development in the proceedings¹⁵⁴. Therefore, it appears necessary to extend the validity of the comparator beyond the company at least for small ones. It is possible to notice that the judgements of the ECJ are of the utmost importance for the interpretation and further development of EU law, but also national courts' role cannot be overlooked.

For law provisions to be actually effective and to enact the idea of a broader Social Europe, the collaboration between the EU and the Council of Europe is unavoidable. Secondly, the action of international institutions has to be supported by civil society's organisations since it is necessary to act simultaneously on different fronts: at national and multinational level, at political and civil level¹⁵⁵. Indeed, each action regarding pay equality is the result of a synergy between EU institutions and of their collaboration with the civil actors of the EU, such as social partners and trade unions, which have a fundamental role in salary negotiations. Social partners should not only unilaterally support the EU in obtaining pay equality, but some legal experts, such as the Advocate General Cruz Villalón, are convinced that the EU should protect autonomy in collective bargaining as a means to ensure gender equality in practice¹⁵⁶. Indeed, the quantity of collective bargains is reported to be inversely proportional to the GPG¹⁵⁷. Moreover, the role of social partners is acquiring always more importance, considering that the new shift of the EU to a soft law apparatus has placed more emphasis on their role in combating pay discrimination¹⁵⁸. The relevance given to social partners is in line with the Council of Europe system, where organisations have a participatory status and can submit complaints regarding the GPG to the European

¹⁵⁴ Jimena Quesada, 2016, page 11.

¹⁵⁵ Jimena Quesada, 2016, page 12.

¹⁵⁶ Jimena Quesada, 2016, page 12.

¹⁵⁷ Hedija, 2017, page 1806.

¹⁵⁸ Jimena Quesada, 2016, page 12.

Committee of Social Rights, which has recently allowed comparison outside the same company. Although the European Social Charter has been signed also by the EU MSs, and both article 151 TFEU and the CFREU Preamble make explicit reference to the Charter, the ECJ is not showing the will of adopting this wider standard of comparison. However, comparing the ECJ and the European Court of Human Rights, the first has always had a vanguard position on the issue of pay equality compared to the second, which recognised the right only later. Equal pay for women and men configures itself as a principle transversal to EU law, which imposes the positive obligation to promote it in all EU activities and resource allocation. Indeed, Art. 157 about equal pay, is supported by Art. 151 TFEU which protects worker's social rights in general¹⁵⁹. These articles are in line with the general principle of equality between genders, set forth in art 2 TEU, and equality in the common market, established by Art. 3.3. TEU¹⁶⁰. Moreover, the Union enacts its social vocation, among others, through the Structural Funds and the European Investment Bank, whose general provisions regarding the use of their financial instruments explicitly cite that they have to be used in consistency with EU provisions in the areas of employment and gender equality¹⁶¹.

The economic irrationality of pay inequality and possible alternative scenarios

The Union has committed to close the GPG since its foundation, however its persistence leads to believe that there are strong difficulties in addressing the issue and that institutions are not really aware of the full potential of acting in this domain. Analysing the economic inefficiency of pay inequality can put its endurance throughout time under another light. Although it may seem that the GPG generates a competitive advantage for countries that have high levels of inequality, this is outweighed by the cost it produces for society as a whole since it reduces production and it increases the probabilities that women will need to resort to social security, especially when they get old¹⁶². Since research has now vastly demonstrated the unreasonableness of maintaining the GPG from an economic point of view, the choices of many employers and politicians seem to be based more on stereotypes than on hard evidence. For this reason, it is important to raise awareness in the political class, and also in the general public, so that it could check on the actions of politicians. In 2017 EIGE conducted a study to demonstrate how reducing the gap between men and women's earnings, possibly united with

¹⁵⁹ TFEU, 2007, Art. 151 and Art. 157.

¹⁶⁰ TEU, 1992, Art. 3.3.

¹⁶¹ *Cfr.* Art. 2 (5) and 12 of Council Regulation (EC) No 1260/1999 (Jimena Quesada, 2016, page 17).

¹⁶² Testa, 2020.

increasing women contribution to STEM and to the labour market in general can foster growth (increase of the GDP per capita) in the EU. This, supported by a more equal distribution of paid and unpaid work, could also create a deep demographic change. Indeed, it is expected that it would raise natality rates, since a stable economic situation is a precondition to a sustainable demographic development¹⁶³, which is of paramount importance in an EU with an increasingly ageing population. In addition, diminishing the GPG would increase women's employment rates and productivity, and the productive potential of the economy in the longer run. Moreover, expanding the working population would inevitably cause an increase in the net contributions to the fiscal system, generating financial gains to states. Tellingly, no study about the macroeconomic implications of the GPG has suggested maintaining it. However, the increasing consensus on adding the economic dimensions to the social considerations about gender equality¹⁶⁴, is not intended to mean that it makes sense to protect rights only if they are economically beneficial, but to further show the unreasonableness of the GPG and the hidden discrimination under the explanations used to justify the GPG's statistics.

EIGE's study tries to predict the socio-economic impact of narrowing the gender gap in STEM graduations, labour market participation and GPG. The first two observations are beyond the scope of this research; therefore, it will only focus on the effects of the last one. Nevertheless, the study highlights that a more equal distribution of unpaid work is a necessary precondition for the happening of the other three changes and for the increase in fertility rates¹⁶⁵. It appears therefore clear that, in order to effectively respond to the GPG the EU should also act to enhance equality in family organisation, which is one of the most difficult spheres of intervention, being a private one. However, the EU is already trying to change the situation with the *Work-Life Balance* Directive, whose effects will initiate to be seen in 2023 after the three-years period states have to implement EC directives. EIGE's study uses the E3ME empirical macroeconomic model, widely recognised as suitable for modelling economic variation at European level, which was specifically adjusted to be able to provide outcomes both at EU28 and at individual MS level. It had already been used to assess the macroeconomic impacts of the EU's 2030 Environmental Targets and of the *Revised Energy Taxation* Directive. It is also able to photograph variations at sectoral level. A limitation of the model is that only the macroeconomic impacts can be noticed, therefore

¹⁶³ Morais Maceira, 2021, page 179.

¹⁶⁴ Morais Maceira, 2021, page 178.

¹⁶⁵ Morais Maceira, 2021, page 179.

microeconomic or qualitative observations are excluded from the study¹⁶⁶. Nevertheless, this particularly fits the cut of this research, which analyses conditions and changes that are widespread at EU level and not single cases with dubious influence on the general situation of pay equality in the EU.

In addition, clearly the model considers that women's situation improves to become more equal to that of men and not that men's situation worsens. As it has been already anticipated, the study demonstrated with clear evidence that gender equality would have highly positive consequences and increasing benefits on economic growth. This improvement is caused by the fact that it will solve some weaknesses of the EU economy, such as employment and productivity issues and the ageing population, which had already been noticed by the *Gender Equality Strategy 2020-2025*, acting on the disposable social group, women. Furthermore, the study demonstrates how changes in one domain can have spillover effects on others, accelerating changes in those domains or opening new possibilities of improvement. For example, more pay equality is highly probable to increase the number of women that enters the labour market, since it makes working more worthy, even considering the increased expenses for childcare. Moreover, lower employment rates and salaries make women more likely to fall into poverty, therefore increasing their earnings will reduce poverty, one of the key priorities of the *Europe 2020* strategy, which was not met also because of the pandemic, and will reduce the MSs public spending to support destitute people. Consequently, tackling more than one inequality factors at once would multiply the impact. It is important to point out that increasing labour market equality would also have a positive economic effect on men. Indeed, it is expected that it would create between 6.3 and 10.5 million new jobs within 2050, around the 30% of which for men. As a result, the overall employment rate in the EU is expected to rise by up to 3.5 percentage points, reaching almost 80%¹⁶⁷.

Always taking into account the period up to 2050, it is estimated that even reducing only pay inequality, without addressing the other issues, would increase MSs GDP. Gender equality policies have an impact on GDP even stronger than policies focused on the labour market or education. For the aforementioned period the 2016 *Study on the potential of education to cause macroeconomic imbalances and negative spillovers*, by O. Andruszkiewicz *et al.*, published by the EU Commission, predicts that boosting the educational achievement of people living in the EU would increase the GDP of 2,2%. Gender equality policies, such as addressing the GPG, are expected to generate a growth of at least

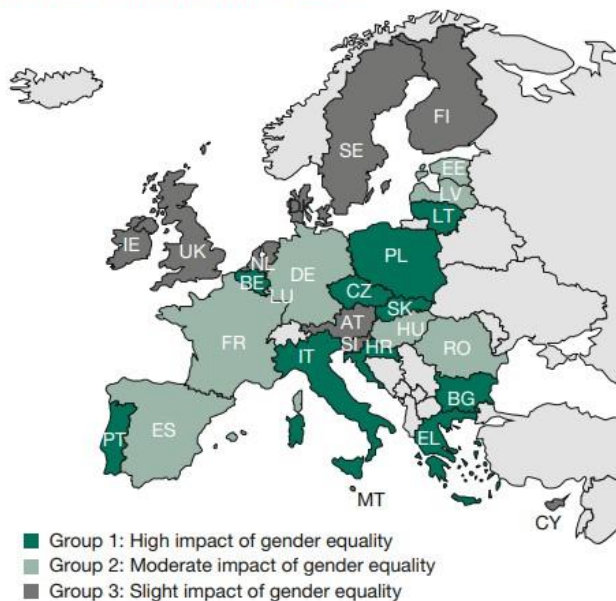
¹⁶⁶ Morais Maceira, 2021, page 179.

¹⁶⁷ Morais Maceira, 2021, page 181.

6.1%. In countertendency with the widespread stereotypical idea, increasing pay and therefore labour market participation will also increase fertility rates. EIGE calculated that the increase would be up to 8% by 2030¹⁶⁸. This would clearly increase the EU population, which is currently one of the smallest and quicker declining ones, providing long-term labour and fiscal supply. It may be deduced that it would create a virtuous cycle of increase in population and increase in employment rates, which would be essential since in the EU there will be more and more old people that are inactive and need to be sustained.

Following the general demand-offer macroeconomic rules, it may be deduced that pay equality will increase production, consequently lowering prices. The extra goods and services produced could be exploited domestically or open new pathways in the international markets, making the EU more competitive, without the need to reduce the quality for which EU products are renowned around the world. As a result, it will improve the trade balance, decreasing imports of at least 0.4%, while increasing exports of around the double within 2050. Furthermore, it could be expected that this renewed situation would attract private investments in the EU territory and companies, since they will become a more competitive

Impacts of gender equality: differences across member states in GDP in 2050



Source: European Institute for Gender Equality: Economic Benefits of Gender Inequality in the European Union, 2017.

choice. It is important to point out that maintaining and expanding the EU focus on export is in line with *Europe 2020 Strategy*¹⁶⁹, so policies with a positive influence on this aspect should be prioritised. This further demonstrates how it is impossible to really boost the economic situation without investing in pay equality and gender equality in general¹⁷⁰. In addition, no country will have negative repercussions from improving gender equality, but all will experience a GDP increase between 4% and 12% by 2050¹⁷¹.

Not all countries will have the same

¹⁶⁸ Morais Maceira, 2021, page 183.

¹⁶⁹ Morais Maceira, 2021, page 183.

¹⁷⁰ Morais Maceira, 2021, page 183.

¹⁷¹ Morais Maceira, 2021, page 183.

effects from improving gender equality¹⁷². The study highlights how the ultimate result will depend on the starting level, therefore some countries, like Italy or Belgium¹⁷³ are expected to have higher benefits than others. Overlapping the map of the expected GDP growth and the GPG one, it is possible to observe that the majority of countries that will benefit the most from equality improvement have a GPG which is below the EU average. This demonstrates how the GPG *per sé* is not enough to detect discrimination. Moreover, it shows how equality in the labour market, and therefore also pay equality, could have the capability of being one of the strongest drivers of post-pandemic economic recovery.

Moreover, since many of the countries that are currently putting less effort on gender pay equality appear to be among the less economically performing ones and improving pay equality has undeniable benefits on the economy, making it a priority would help them to keep up with the rest of the Union. In addition, because of its an important role in inclusive growth¹⁷⁴, it could be a fundamental instrument both for single countries and EU level institutions. The countries that will advance less are simply the ones that have already walked this path in the past and have therefore already experienced its effects, but all countries in the EU still have large room for improvement and will further economically gain from boosting gender equality, at least 4% of their current GDP. The EIGE's study takes into consideration also other representations of gender equality that are linked with pay equality¹⁷⁵. From what appears from GPG statistics, it seems currently impossible to have high female employment and low GPG at the same time¹⁷⁶. The challenge this study launches is to increase female labour market participation without worsening pay disparity, in order to obtain the improvements forecasted by the study and avoid the possible drawbacks. On the contrary, starting by improving pay equality would generate an incentive for women to work and it may be expected that, if women entered the job market for the increased salaries, it would break the aforementioned vicious cycle. The study estimates that fostering women participation in the labour market and ensuring pay equality will be enough to secure a female employment rate of around 75%, boosting inclusive growth¹⁷⁷.

¹⁷² Morais Maceira, 2021, page 182.

¹⁷³ Image: Morais Maceira, 2021 page 182.

¹⁷⁴ The term inclusive growth has a special additional connotation in the EU. Namely the EU should strive to diminish economic performance disparities among its regions and ensure that the economic gains reach the whole territory in a way as much as possible equal (Morais Maceira, 2021, page 183).

¹⁷⁵ Morais Maceira, 2021, page 178.

¹⁷⁶ Becker, 2021.

¹⁷⁷ Morais Maceira, 2021, page 183.

In conclusion, pay inequality and the other manifestations of gender inequality with which it is linked, leave a part of society's talent underutilised, affecting the economy at different levels, and diminishing economic opportunities, not only of women. To say the least, EIGE effectively demonstrated that improving pay equality will have large economic benefits on the EU, which will increase over time. Moreover, since increasing women wages would have a cascade effect on other inequalities, first of all pushing women's labour market participation, irrespective of their care duties, it is demonstrated that the persistence of a gender gap in remuneration is not only irrational but even counterproductive from a social and economic point of view. The research shows that, to allow the undervalued half of the population to really express their value, is necessary to continue to invest in gender equality with the strategies following *Europe 2020*. This will create a more inclusive economy, leading not only to more growth, but also to a new, more socially sustainable type of economic growth.

Conclusion

This chapter has placed great emphasis on decomposing the various pay equality indicators as a way to analyse the ground reasons under the difference they survey. The wage difference manifests itself in lower average hourly wages and monthly earnings, but they are often the result of other ground discriminations, such as the unequal division of care burdens. In addition, using different indicators provides a clearer description of reality and understanding the situation deeply is the only way to design policies able to change it. It has been demonstrated that EU policies and institutions have a great influence in this domain, especially economic ones. Furthermore, the importance of the collaboration between EU institutions and social partners has been highlighted. However, it has been observed that social actors historically do not appear to focus greatly on women or, at least, often prefer to focus on general requests and not to support the claims of a particular category, even though it is more marginalised. Regarding the part of the wage difference that remains still unexplained and its difference between states, several studies tried to understand its causes, and the majority of them underlined the influence of women unpaid duties. In particular, research stressed how childcare provisions may account for the closing of the gap in general, and also for the reduction of its unexplained part, demonstrating that probably an even larger part of the gap may be explained with the uneven share of care responsibilities. This

supposition is further corroborated by research's insight that women perceive a stronger social responsibility than men to take care of family members and the household. Another aspect, measured by statistics, is the fact that women tend to concentrate in different fields with respect to men, which offer less career opportunities and worse paid jobs. For these reasons, it is difficult to support the claim that such widespread tendencies are simply the result of a free choice, and are not influenced by stereotypes. Moreover, it has been noticed that women are still almost excluded by managing roles and they obtain promotions more difficultly. This further distances women from pay equality. Although, research acknowledges its limitations, for example the difficulty of having up-to-date data regarding each work branch and to gather detailed information about the real skills of employees, and that this could partially bias the data, the gap is too wide and widespread to be just the result of some research inaccuracy. Furthermore, the fact that almost all studies and surveys point in the same direction gives credibility to the findings of the single research work.

It has been possible to appreciate the enormous condensing capacity of the GPG, which accounts with a single number for the effects of a wide range of discriminations, but also the distortion it causes and the grey areas in the Eurostat analysis have been pointed out. For this reason, the overall earnings gap gives a more accurate picture of the real amount of discrimination women face in the field of pay equality. However, it is not enough to simply substitute the GPG, but the two indicators have to be used in combination. Indeed, the most important feature of the GPG is that it measures discrimination to perform the same work or a work of equal value. Furthermore, EIGE conducts a great work each year publishing a really detailed index about gender equality. The presented results are similar to the ones of the other surveys, but the fact that EIGE's reports highlights the different variables surveyed for each domain, allows to break down the other indexes. Moreover, EIGE's index links different parameters of gender equality, for example money with time and violence, showing how all the dimensions of equality are interconnected. Since the utmost majority of research, does not merge indicators, looking only to the GPG, this chapter aimed at adding this contribution to the state of the art.

The analysis demonstrated that, although in recent decades changes in the EU legislative, social and cultural *milieu* have increased the opportunities for women, boosting equality in the labour market,¹⁷⁸ pay inequality is still a reality and it is further reinforced by the structural discrimination women face, notwithstanding EU anti-discrimination law. Although

¹⁷⁸ Morais Maceira, 2021, page 178.

the wage gap represents a loss not only in terms of rights' protection, but also in talent exploitation, economic growth, tax revenues and fertility rates; stereotypical gender roles still suggest undervaluing women's work and present as advantageous operating this discrimination to decrease the labour costs. Moreover, this situation hinders fairness in the EU common market. Benefitting from the gains caused by pay equality appears to be of the foremost importance for an EU with an ageing population that is at risk of losing its prominent place in the international economy, due to emerging countries with greater GDP expansion and a constant population growth. However, all the economic considerations are only instrumental to show the groundlessness of gender stereotypes. In addition, pay equality is an important instrument to empower women and ensure that they could be independent and able to protect themselves and their children against violence and poverty. Pay equality is already a right enshrined in the EU treaties and a fundamental principle of EU social law, in line with the social responsibility of the Union. Therefore, EU policies in the field have a strong legal basis. The actual situation and EU policies have to be analysed against this backdrop. In conclusion, the EU, to be a real Union of rights and the bastion of civilisation it aspires to be, should protect and enhance the interest of all its people irrespective of their gender, and pay equality can be a starting point.

3. Pay equality during EU milestone moments

Ground-breaking changes in EU history and their effects on pay equality

The first chapter has analysed the current pay equality situation both from a socio-economic and a legislative point of view. Then, to answer the research question if the EU has been and is willing to be an entrepreneur in the field of pay equality, as it has depicted itself almost since its creation, it may be useful to analyse how the EU behaved in some crucial moments. Indeed, these periods could have the potential to really change the female situation in the labour market if the chance was not missed, but also risked jeopardising past efforts and slowing down future development. As Spehar (2012b) noted, there is an extreme number of policies and research about pay equality in the EU. However, it is not clear yet, which is the EU direction in the field and whether the policies are really effective or even counterproductive. It cannot be denied that the EU has undergone a process of widening and deepening of pay equality policies since its foundation¹. Nevertheless, the first chapter has widely demonstrated how the issue remains still elusive. For this reason, this chapter analyses some fundamental moments for pay equality in EU history, to try to identify a tendency and to answer if the Union has an entrepreneurial role in the field at this moment and if it has been an actually strong actor in the field.

Since the reference to equal pay was already present in the Rome Treaty, this chapter will first of all analyse the idea that accompanied the insertion of this provision in the treaty. Moreover, the analysis of the *travaux préparatoires* is of great interest to make a qualitative consideration about the perception of gender pay equality in that period. Secondly, the chapter takes into consideration the consequences of the last territorial enlargements on the gap. It was chosen to analyse the last ones since they are closer in time, and therefore, may still have some influence on the current situation; for the amount of discussion they generated, and for the fact that the starting point of these countries with respect to the rest of the Union was further away than the countries that accessed before. It could have been possible to choose numerous moments in EU history, since, as “gender mainstreaming” noted, everything is shaped by and in turn shapes gender. For this reason, this thesis chose the insertion of Art. 119 in the Rome Treaty as an example of deepening of the EU competencies and the foundation of EU competence over the issue. Then the Central and Eastern Europe (CEE) enlargement as one of the most recent developments and an example of widening of

¹ Spehar, 2012b, page 363.

EU power through extension of its territory. Finally, the COVID-19 pandemic has not only influenced all contemporary people and possibly future generations, but can give rise to many reflections since, unlike the previous ones, it was an unpredictable event. As a matter of fact, as Jacquot (2015) noted, the enlargements of EU borders and the extension of EU jurisdiction above areas and actors related to the common market are fundamental for the situation of women in Europe as well as for the European integration process as a whole². Clearly the milestone moments to be considered would be numerous and listing them all would be impossible. For this reason, this thesis focuses on a territorial expansion and a jurisdictional one. In addition, it will try to give an account of the influence of the pandemic. In this way, this research work will analyse the moment when it all started and the two most recent events which impacted gender pay equality: the expansion through Eastern Europe, and specifically the Western Balkans, and the pandemic. In the last case it is not already possible to give a comprehensive account of its effects, therefore, the thesis will confront the differences between the expectations and effects of this phenomenon.

Each subsection of this chapter will have an historical approach, analysing the events and the cause-effect relations in a chronological fashion, and then it will always try to evaluate if these moments were really turning points in gender equality policies and if their effects can be regarded as positive. This analysis will be based on surveys and statistical data, as described in the first chapter, as well as on primary literature, above all the treaties' texts and the preparatory works. Then, secondary legislation is fundamental to be able to evaluate these changes and the forces that animated them. Indeed, an effective union of secondary sources analysis and statistical data will allow to evaluate if the words of the political class and the impressions of the civil society, often reported in newspapers and websites/blogs, mirrored reality and if any discrepancy was caused by little awareness or a deliberate attempt to distort reality. In the first two subchapters some countries will be analysed more in depth than others. In the case of the Italian preparatory works the choice was given by the ease in finding the documents and the knowledge of the language. Moreover, the deeper knowledge of the Italian geopolitical situation of the time will allow to better place these discourses into perspective. Furthermore, in the second subchapter Croatia was chosen because it was the last state to access the EU and Macedonia since it began the negotiations together with Croatia, and before they also formed part of the same state, Yugoslavia, but their negotiations ended in a completely different way. Then, the case of Turkey cannot be ignored since it is a partner

² Jacquot, 2015, page 2.

of the utmost importance for the EU in the region, both for economic and stability purposes, since it has guided the transition in the Middle East after the fall of the Soviet Union, becoming an influential polity in the region and in the international scene³. Moreover, it is regaining importance with its actions in the negotiations between Ukraine and Russia. However, Turkish openness to EU values and standards has always been volatile and Turkish leadership has often resisted reforms proposals to meet EU eligibility criteria, notwithstanding affirming a firm interest to enter the EU. As a result, Turkey is one of the oldest candidate countries, but negotiations never really began. On the contrary, Hungary was one of the first states of the CEE to enter the Union.

In addition, 2019 marked an important step in the tackling of the pay equality issue, since the EC and the Council of the European Union understood that the problem could not be solved without redistributing care duties, above all the one related to childcare. Indeed, the *Work-Life Balance Directive* was issued. However, its effects, both short term and maybe long term, were changed and maybe jeopardised by the COVID pandemic, which obliged families to a quicker reorganisation, often to the disadvantage of women. The effects the pandemic had on family organisation seem to be the most long-lasting ones. Tellingly the EIGE 2021 Gender Equality Index Report focused on COVID-19 effects on health, while the 2022 one focused on family, indeed it is titled *Covid-19 pandemic and care*. The fact that now EIGE has moved its attention on these aspects demonstrates how the socio-economic aspects of the pandemic are the most durable ones. For this reason, analysing this topic is unavoidable. While it is certain that COVID-19 badly affected women, this part of the chapter will try to see in which relation it stays with the latest law provisions, and if they would be enough to overcome the current situation. Moreover, a topical question is if the pandemic has provided society with some means and knowledge to better divide care burdens, or at least contributed to maintain the problem in the spotlight, or if it overshadowed it.

Roth (2008) maintains that each historical conjuncture provides institutions and societies with “political opportunity structures”, some of which are “stable” and other “volatile”⁴ and, in any case, they have to be capitalised on. This chapter tries to answer the question if the EU institutions on the one hand, and the European and neighbouring countries’ societies on the other, capitalised correctly on these opportunities. Moreover, the chapter evaluates the magnitude of these opportunities and their stability. The analysis is further complicated by

³ Roth, 2008, page 199.

⁴ Roth, 2008, page 196.

the fact that in the EU some changes were not seen as opportunity-windows neither at their time nor are nowadays, but rather as risks. For this reason, the chapter tries to delineate how the various moments were described and to understand if some evaluations were the result of sincere judgments or deliberate misinterpretations to obtain advantages. However, this chapter argues that each political moment has its own characteristics and the only choice for the EU is to cope with them, avoiding immobilism, above all if it aspires to be a polity which leads the other ones by example⁵, diffusing rights.

Between economic needs and morality: the birth of the right to gender pay equality in the EU

As it has been described in the first chapter, Art. 119 of the Rome Treaty already contained a provision about gender equality. Therefore, the first ground-breaking moment for pay equality in the EU was the creation of the Union itself. Jacquot (2015) defines this article, the only one of the treaty to reference equality between genders, as the foundation of the EEC gender equality policy⁶. Indeed, this article was the only one at the moment of the entry into force of the Treaty of Rome and also for a long time thereafter, which supported an intervention of the EU in the area of gender equality⁷. Although less developed than the current one, it was already relatively complete, and a large part of the current provision has remained unchanged since that period. In order to better understand what brought the fathers of the EU to include this among the provisions of the EEC funding treaty, giving prominence to the matter in a period in which it was not so predictable, this thesis will proceed with a quantitative and qualitative analysis of the *travaux préparatoires* of the treaty. Taking into account each discussion in each of the founding countries will be impossible, therefore it has been chosen to analyse the discussions just before the ratification and the point of views of the Italian politicians. This choice was given by simplicity in the availability, language knowledge and by the place of ratification of the treaty.

Furthermore, adding to the study of the words of the Italian Members of the Parliament (MPs) the analysis provided by Jacquot in her 2015 book, it is possible to understand the real situation of pay equality in the Community and to weigh the treaty's contribution. In this way, it is possible to understand how much the words of the political class adhered to reality

⁵ Zielonka, 2008, page 484.

⁶ Jacquot, 2015, page 19.

⁷ Jacquot, 2015, page 2.

and if there was a decoupling between political words and actions⁸. The quantitative analysis consists in a scan of the documents to assess how many times some keywords, namely *women*, *equality*, *wage* and *parity* are repeated. It can be noticed that the frequency is not very high, but considerable for a founding treaty that needed to consider a wide range of topics. In addition, the qualitative analysis will allow to understand how the surveyed terms were used. First of all, the case of *women* is of particular interest because they are cited for two scopes: to label them as mothers, above all of the children of the motherland, and to talk about pay equality. Since, for example, chastity is listed among the principal virtues of a woman, the preparatory works cannot be considered a gender equal text, but it cannot be denied that the resulting treaty laid the foundation for pay equality. This demonstrates how pay equality was an important economic issue, which was considered influential for the fairness of the market. In total, the term *woman/women (donna/donne)* appears eight times, two of which with regard to the little pay of women workers and to a certain extent pay equality or at least an improvement of their wage.

Both the appearances of the word *women* are in the discourse of the MP Grilli, who was against the Italian accession to the EEC. He stated that it was an initiative of the European conservative élites, which intended to maintain workers under the dominance of the monopolistic and traditional forces and stop the renewal of economic structures, and he also compared the EEC alliance to the 2WW one. The preparatory works also talk about the textile sector, one of the major ones in Europe at that time, and one of the most important for this research since it employed the overwhelming majority of working women. Indeed, the treaty provision regarding pay equality was meant for the female workers of the textile industry, above all the Italian ones, which were paid far less than their male colleagues, while in France they had already reached the almost parity. However, Grilli denounced that the textile capitalists asked the EEC to reduce the allocations for the workers and even the workforce itself to cut expenses and make Italy more competitive. Moreover, Grilli acknowledged that women were the most hit group by the workers' exploitation. On the one hand, it is not difficult to imagine that company owners proposed measures of this kind, exploiting the need to make Italy more competitive. On the other hand, reading the preparatory works and text of the treaty, it cannot be denied that many provisions were in favour of the workers and, even though they vastly remained limited to *de jure* equality, without generating a *de facto* equality, they were the first step for change and the basis for

⁸ Knill *et al.*, 2020, page 375.

every following policy. In the end, Grilli, recognised that the majority of the Parliament would vote in favour of the accession and, therefore, he listed some general measures to protect workers that should be applied by the Community and by Italy, otherwise his party and the workers would oppose the accession. Lastly, Grilli said that workers and even female workers were already demonstrating against the low wages. The majority of Grilli's intervention regarded the general low wages of textile industry workers, but the fact that he openly stated that women wages are lower and that, for this reason, they are more exploited, is a first important step⁹.

Furthermore, the number of appearances of words like *worker* and *wage* give interesting insights on the dawning EEC. Indeed, on the one hand the EEC was first of all an economic community and the frequency of these terms demonstrates the importance given to the workforce by the MPs who voted for the treaty. On the other hand, it has to be acknowledged that the treaty needed to cover numerous and various topics. Regarding the word *worker/workers* this thesis takes into account only the female declination. The appearance of *lavoratori* (workers) is not considered since in Italian the masculine plural is used also to indicate groups formed by both men and women. Indeed, in the treaty the word *lavoratori* is used to indicate Italian workers but often even all European workers, irrespective of their gender. *Lavoratrice* appears only as the feminine declination of the adjective *working*, with regard to the whole working class. Only one appearance of the word *lavoratrici* (female workers) indicates female workers and not a plurality of working classes, but it does not regard pay equality¹⁰. The word *wage* (*stipendio*) does not concern pay equality in any appearance. Moreover, the case of the word *equality* (*parità*) is very interesting. The vice president D'Onofrio openly talked about pay equality and the MP Piccioni lists pay equality among the representations of the spirit of community that permeates the whole treaty. Furthermore, the fact that men and women should receive an equal wage is presented by the words of the Italian MP both as an economic necessity and, quite strongly, as a moral imperative. This demonstrates, at least in words, the commitment of the MPs regarding this topic.

Moreover, it is to be noted that this issue is brought to light both by members of the party who supported the Italian entrance into the EEC and by members of the ones who opposed it. For the first ones, the European commitment to equal wage was remarkable and accessing the Community was the only way to finally help Italian working women. On the contrary, the

⁹ Camera dei Deputati, 1957, pages 34629-34630.

¹⁰ Camera dei Deputati, 1957.

opposing parties, maintained that entering the EEC would damage working women, who would lose the rights they had obtained. Among these parties there were also the Socialist and Communist Italian Parties, which, according to their own statute should be focused on the rights of the working class¹¹. In any case, Art. 119 was inserted in the Treaty of Rome, and it was supposed to actually enter into force, at the latest, at the end of the first stage of the creation of the common market, which means around the end of 1961. However, it has remained ignored by MSs for a long time, at least until when the ECJ with its *Defrenne* rulings recognised its effects, although already in 1961 the EC had issued a recommendation to ask MSs to communicate the measures they had undertaken at national level regarding the issue¹². Furthermore, to a certain extent it may be argued that this article has partially remained dormant since the present because its implementation is still widely lacking.

From the previous observations it may be deduced that, scanning the preparatory works is useful to demonstrate that the issue was considered by the Italian Parliament. Indeed, since it was finally included in the text of the treaty, it can be deduced that the feeling of the need of a more social and equal Europe was shared in the founding states. The necessity of implementing this right and the fact that pay equality is correct is never put into doubt by the MPs' words, notwithstanding the situation, which is still not resolved nowadays. It is possible to maintain that the way in which pay equality was considered at that time, was not totally different from the contemporary one. The subsequent analysis will demonstrate that this right was heralded more for its fairness effects than as a social right, but, from the words of the Italian MPs and the wording of the treaty, it may be noted that there was already a social vocation in the way the EEC presented itself. As a result, the foundation of modern EU social policies is already to be found in the founding treaties, and not in a following complete change of EU. The MP Montagnana, also against the treaty, even stated that the only reasonable provisions are the ones concerning gender pay equality. Then he maintained that the principle is already present in the Italian law, but that it can be considered acknowledged only from the juridical point of view¹³. The MP Piccioni, who supported the treaty ratification, interestingly highlighted that the social measures were as important as the economic ones to generate the support to the treaty of the majority of the Parliament and took gender pay equality as an example¹⁴. It can be derived that all the political forces agreed, at least in words, with the principle of gender pay equality. Moreover, it can be argued that the inclusion of this

¹¹ Camera dei Deputati, 1957.

¹² Jacquot, 2015, page 25.

¹³ Camera dei Deputati, 1957, page 34021.

¹⁴ Camera dei Deputati, 1957, pages 34807-34808.

provision in the treaty partially obliged the single MSs and the Community as a whole to start to confront the problem and to begin to find possible solutions.

Furthermore, Jacquot underlines how the Treaty of Rome could be seen as the beginning of the whole EU integration process and of its competence on gender equality. Indeed, although the EEC had a predominantly economic scope, it was already possible to notice a social dimension of the European project. Indeed, Art. 119 was inserted in the first chapter of Title VIII entitled *Social Provisions*. However, Jacquot (2015) defines the representation of this article as a “foundational act” as mere mythology, because, although it may be considered as the basis which allowed all the subsequent gender equality development, it was added to the treaty primarily to reduce unfair competition among states¹⁵. Indeed, at that time any discrimination was considered for its possibility of constituting a competitive advantage. For this reason, since states aimed at creating a common market in which factors circulated freely without exacerbating competitive disadvantages, it was necessary to reach equality¹⁶. Therefore, Jacquot (2015) criticised the “mythical” status that Art. 119 has reached among some gender equality specialist, as the spring EU commitment to pay equality drinks from¹⁷.

Even though the fact that the only provision about gender equality regards pay, and thus took into consideration only working women, confirms Jacquot’s insight, it cannot be overlooked that many Italian MPs, from different parties, supported this provision, defining it as a just action for workers, who were often exploited in that period¹⁸. Moreover, it would be reductive to consider a whole chapter regarding social provisions as merely the result of economic convenience. In addition, irrespective of the intention with which it was designed, it paved the way to numerous policy interventions in the field of pay equality, which caused in any case an improvement of the situation. Although the type of provision and its degree of detailedness can be considered quite innovative for the time in which it was written and this article can be considered the source of future changes, its direct and immediate effects have not to be overestimated. Indeed, pay equality is still a problem in the EU and, since Art. 119 considered all types of remuneration, it is remarkable that there are still states where the overall earning gap is around 40%. Furthermore, the wording of the first article about pay equality did not contain, unlike the subsequent versions, any permission to implement positive actions at labour market level for the “underrepresented sex”¹⁹, considering only the

¹⁵ Jacquot, 2015, page 19.

¹⁶ Jacquot, 2015, pages 52-53.

¹⁷ Jacquot, 2015, page 22.

¹⁸ Camera dei Deputati, 1957.37

¹⁹ Jacquot, 2015, page 10.

waving of discrimination, so the guarantee of the right, and not its actual application. This corroborates the idea that the first conception of pay equality in the EU was an “equality of possibilities” more than an “equality of results”. Therefore, it represents a liberal interpretation of the equal pay principle, in which the single economic actor is free to benefit from this right. Moreover, pay equality is not only linked to fair competition, but also embedded in a liberal conception of the market where economic agents have no limit to their freedom of action²⁰. Therefore, it may be argued that Art. 119 mirrors the pressures the EU common market had since its birth, being in constant tension between the liberal theory and the social protection of market agents, performed through market-correcting measures. Indeed, it is anchored to the first model, but opens up new possibilities of intervention. This situation generated a fertile ground for the spillover effect of EU competences from the economic to the social sphere and for the evolution of the Union from a common market to a *sui generis* organisation.

Although it cannot be denied that the only provision about gender equality concerned the economic and competitive field, this is not so surprising, given that the EEC was indeed an economic community, and each additional provision, going beyond the common market, would be seen and actually configure itself as an undue interference in the MSs governance. As a result, all the social provisions contained in the treaty stemmed from the social costs that employers had to sustain and the distortion it would create if they were not equally distributed among states. Concerning the field of gender pay equality, it was France which strongly asked to oblige the other states, in particular Italy and Belgium, which had the lowest guarantees, to harmonise provisions. Otherwise, it would have been reluctant to abandon the post-war protectionism. France requests were analysed by a group of experts led by the future Nobel Prize winner Bertil Ohlin, to answer if a dismantling of trade barriers would have needed a harmonisation of social security regimes to avoid the exacerbating of unfair competition. As a matter of fact, the social foundation of the EEC common market was given more by this line of reasoning than by an actual interest for human and social rights. The year before the signing of the treaty, the group led by Ohlin provided a report demonstrating that a harmonisation from above would not have been necessary and the disparities would level themselves out with the market development. Experts thought that only a few elements could escape the market's “invisible hand” and possibly create distortions, one of which was pay inequality between genders. For this reason, France, where

²⁰ Jacquot, 2015, page 12.

conditions for female workers were particularly favourable, strongly supported and obtained the inclusion of the aforementioned article²¹. As it is possible to notice reading the minutes of the discussions that preceded the Italian ratification, also Italy had a provision for pay equality in its national law, but it was not respected differently from France²². The unfair competition was, rightfully, particularly feared by industrials of female-dominated sectors²³, above all the textile one, since in Italy, as it appears by the words of MP Grilli, female workers, for example in Valsesia (Piedmont), were even striking for their extremely low wages²⁴. If France would have been favoured by equal pay provisions, the opposite was true for other states, however, it was decided to make this concession to France to secure its participation in the Community. As a matter of fact, it was a turbulent period for the country that had participated in the Suez Canal crisis and the Algerian war. Moreover, it may be argued that, after the increasing female occupation from the war onwards, it had become increasingly difficult to oppose provisions regarding pay equality, at least from a legislative point of view.

The first version of the article is dated October 1956 and already contained the wording “equal work or work of equal value”²⁵ which would then be erased, and various years would be needed before the wording was re-established. The experts that needed to create the final version of the treaty were asked to make it compatible with Convention 100 of the ILO²⁶, adopted in 1951, in accordance with ILO preamble which established equal pay between genders for equal work.²⁷ This, on the one hand, allowed European policymakers to size down the scope of the article, but as a result, the text of the article is not as in accordance with the ILO 100 Convention as it could have been. On the other hand, it demonstrates that the EEC provision, although up-to-date and established in a moment when the right was not as widely accepted as now, was not exactly unprecedented, but rather in accordance with the legal environment developing both at national and international level. Furthermore, there was an important improvement between the first and the final version: the term *salary* was substituted with *pay*, whose meaning, as explained in the article itself, is not restricted to the hourly wage. Moreover, the final version of the article was placed firstly in a section about distortions to competition as Art. 46, and this clearly reveals the initial intent with which it

²¹ Jacquot, 2015, page 21

²² Camera dei Deputati, 1957.

²³ Jacquot, 2015, page 21.

²⁴ Camera dei Deputati, 1957, page 34630.

²⁵ Jacquot, 2015, page 22.

²⁶ Jacquot, 2015, page 22.

²⁷ Jacquot, 2015 page 188.

was designed. Then, it was moved to its final place as Art. 119 of Title VIII. Jacquot (2015) maintains that the choice was caused by the fact that this section was too short²⁸, but, since most likely the choice of the article to move was not accidental, it is possible to consider this a demonstration that policymakers understood the social potential of the article. Therefore, the story of the article itself demonstrates that the economic and social power of the article were intertwined since the beginning and could not be completely separated.

Clearly, the first aim of the negotiators was to create a treaty that would be signed by all the parties of the ECSC. Moreover, they tried to avoid social dumping, which means moving business to countries where the labour force costs less²⁹. In fact, the inclusion of Art. 119 in the Treaty of Rome is given by the fact that equal pay and equal treatment are consistent with market-making logics, because harmonising pay systems also levels out employers' social costs³⁰. Clearly, if countries would have had too diversified social laws, the single market and the elimination of customs would have considerably eased the practice. Moreover, by avoiding social dumping it is also possible to assure that governments do not initiate a downward race to diminish social protection or taxes to try to retain businesses in their territory³¹. It can be argued that it is impossible to build a common market without a social dimension, especially since, as stated in Art. 2 of the Treaty of Rome, the aim of the European common market is to accelerate the improvement of the standards of living. Therefore, the gender pay equality provision, as the whole common market project, intrinsically had a dual nature, as emphasised by the ECJ in its ruling of *Defrenne II*.³² Enshrining the principle of equal pay in primary law and even in the founding treaty of the EEC is a really powerful starting point and it has allowed the ECJ to develop a jurisprudence about equal pay and to support the wider social scope of the EU market. Nevertheless, the application of the principle was lacking at the time of the signing of the treaty³³, and it may be argued that its application is particularly flawed still nowadays. However, it is not the only case, since the Treaties set high standards of non-discrimination, but it has still not been erased in the EU territory.

In conclusion, it is possible to maintain that the principle of pay equality was inserted in the founding treaty of the EEC first of all to ensure economic fairness at the beginning of the single market. However, the Rome Treaty already began to present the Community as a

²⁸ Jacquot, 2015, page 22.

²⁹ Jacquot, 2015, page 22.

³⁰ Jacquot, 2015, page 11.

³¹ Jacquot, 2015, page 22.

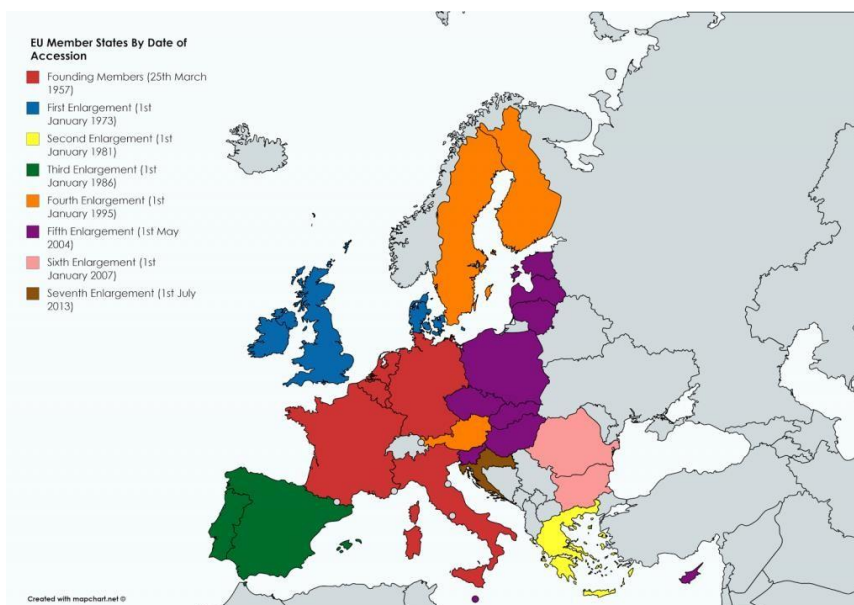
³² Jacquot, 2015, page 23.

³³ Jacquot, 2015, page 2.

defender of the rights of individuals and Art.119 included pay equality among them. Moreover, it is possible to notice some organisational hypocrisy³⁴ in the words of some Italian MPs that stated that pay equality was already a right in Italy which was taken in high regard, in accordance with Treaty law. In reality, as also the MP Grilli underlined, women in Italy were among the most exploited workers and in some sectors wages were generally really low. Indeed, as Jacquot (2015) underlines, Art.199 was added in particular for the Italian disparities in the textile sector. In addition, the majority of the MPs who touched the topic seemed to acknowledge that pay equality was not "only" a right but also a moral imperative, based on justice. Although it may vastly be regarded as a hypocritical entrepreneurship-in-words³⁵ approach, also given that practically no MPs were women, stating in official circumstances that pay equality is a justice imperative and that Europe must ensure the rights and the equality of the people of the founding states, that had now acquired EEC citizenship³⁶, laid the foundation for further developments. Indeed, the double nature of pay equality as an economic requirement and a right was particularly propitious for the spillover effect in the field, which widened the Union competences from economic to social ones.

The two-way effects on pay equality of the last EU enlargements

Each enlargement of the Union causes a change in the *status quo*. The new MSs have



normally undergone great changes in their legislation to align with EU law and will be influenced even more by the other MSs when they enter the Union and begin to have, among others, legislative, economic and cultural relationships with the other MSs. Moreover,

³⁴ Knill *et al.*, 2020, page 375.

³⁵ Knill *et al.*, 2020, page 365.

³⁶ Camera dei Deputati, 1957, page 34602.

it has not to be overlooked that also the previous MSs are influenced back by the new arrivals, and this is the reason why some enlargements caused greater debate than others. The last enlargements were to ex-Soviet and Balkan states. Polonia, Czech Republic, Hungary, Slovakia, Slovenia, Estonia, Latvia, Lithuania and Cyprus entered the Union in 2004, and Romania and Bulgaria in 2007. Finally, Croatia was the last country to become part of the Union in 2013³⁷. The situation of these countries was to a certain extent similar, and the same considerations can be extended to all the last three enlargements. Above all, the last MSs were considered less economically developed and also less culturally homogeneous with the rest of the Union, given the strong Russian influence. Apart from more identarian discussions, that are outside the scope of this research, it was feared that these enlargements could hinder the economic and social conquests of the Union, drawing it back on an aggregate basis. On the other hand, succeeding in bringing these states to the Union and making them commit to its values was considered a great step for them in the realm of freedom, and for the Union as a guarantor and a distributor of rights and liberties.

This thesis will first of all analyse the effects of these accessions in the domain of gender pay equality in the new MSs, evaluating conquests and fatigues of the process. This topic has already been widely discussed in the literature. For this reason, this research wants to bring a new contribution with an aspect that seems to have been forgotten by the literature. Indeed, also the newly accessed MSs have influenced in some way the older ones in this domain, as it was expected and, to some extent, feared. The thesis maintains that the effects of these new accessions were not entirely negative, neither from a statistical nor from an effective point of view, and that they had some projectile force. On the one hand, in some of these states, like Romania, only few women worked, with the ambiguous effect on the GPG described in the previous chapter. On the other hand, the gap between men and women performing the same job still tends to be higher in these states in many sectors and women tend to be highly segregated in the job market. However, comparing the 2006 (17.7%)³⁸, 2008 (17.6%)³⁹ and 2010 (15.8%)⁴⁰ EU GPG statistics it is possible to see that the trend of slow improvement at Union level was not subverted - it is important to remember that surveys are always based on data collected two years before they are issued. On the contrary, it is even possible to see a sharp decrease in the GPG in the 2010 survey. Moreover, as highlighted in chapter one, in Eastern EU countries less women tend to work part time than in Western EU countries. It has

³⁷ Image: [EU Member States By Date of Accession - Vivid Maps](#)

³⁸ Eurostat, 2022d.

³⁹ Foubert, 2010, page 5.

⁴⁰ Eurostat, 2022d.

a statistical effect, since women working part time are often paid less on an hourly basis, and it also has a practical significance, since these women dedicate to working the same time as their male colleagues. Moreover, as Women's Day and Equal Pay Day demonstrates, for this issue to be tackled, it is important that it remains among the priorities and the topics of interest of the political class and the civil society. The EU enlargements had exactly this effect, generating discussion in the society among the consequences of the enlargements and bringing issues to light. Moreover, the Union acted in the domain of pay equality and in the one of gender equality in general, demanding that these states unified their legislation to EU one, and this generated ferment at institutional level. The situation reinforced the picture of the Union as a herald of rights towards the East, favouring action and amplifying people's sense of belonging. This chapter will analyse if these sensations were also corroborated by reality, but in any case, the created sentiment was the correct one to generate change. The effects of these accessions were, therefore, mostly positive.

It is also possible to examine the effects of EU policy promotion on candidate countries such as the Republic of North Macedonia (RNM). The way in which the EU succeeded in changing the laws regarding pay equality of some these states demonstrates its power in this domain. Moreover, the accession of other countries in the Union contributes to making the Union an increasingly relevant actor in the field of pay equality in the world arena⁴¹. While it cannot be denied that the policies these states have implemented to access the EU have been beneficial for pay equality, there was a great gap between the supposed objectives and the steps enacted to reach them. This was caused first of all by the fact that these countries' political class was not used to gender equality legislation and did not know how to implement it⁴². Therefore, the legislative apparatus provided to these countries by the EU remained in part dead letter. Although this disjunction was wider in these acceding countries, also because of the corrupted and not trained political class, the difference between EU guidelines and national policy-implementation is a problem which has always accompanied the Union⁴³ as the other side of the coin of the ineffectiveness of ready-to-implement, one-size-fits-all policies. Moreover, in CEE countries it is possible to notice a tendency present also in Western EU: although there are some legal guarantees, social organisation hinders their full potential. In the case of Croatia and the RNM corruption and bigotry are among the greatest

⁴¹ Spehar, 2012b, page 362. To note that, although Croatia formally became an EU MS in 2013, the accession treaty was signed in 2011. Therefore, at the time of writing of the article it was correct to regard Croatia as a MS and the RNM as a candidate state.

⁴² Spehar, 2012b, page 363.

⁴³ Spehar, 2012b, page 264.

responsible for the drawbacks in the implementation of all the improvements proposed by the EU⁴⁴.

Moreover, Roth (2008) maintains that gender equality in the EU-15 had been focusing for years on equal treatment and equal opportunities for women and the accession of CEE countries created a new situation. The contemporaneity of the introduction of the “gender mainstreaming” approach with the 2004 and 2007 enlargements, suggests that the horizontal expansion of EU policies coincided with the expansion of EU boundaries, which consequently gave new fuel to equality policies. Although the problems in the application of “gender mainstreaming” are widely recognized, it has the potential of renewing the approach to gender equality, analysing the gender dimension of every new policy and potentially even changing EU agenda⁴⁵. Therefore, a shift towards “gender mainstreaming”, at least to try to increase EU action in the field, can only be regarded as positive. Indeed, at the time of the enlargements “gender mainstreaming” was unevenly implemented in the various MSs and by the EU institutions, and the accession of post-socialist democracies with their difficult situation regarding gender equality brought to light the contradictions and misalignments of equality policies⁴⁶. The following paragraphs will demonstrate how this realisation did not always bring to effective policy changes, but it increased the concern of feminist scholars and some social groups and, as a consequence, their pressure on the political class⁴⁷.

Furthermore, it cannot be denied that the new MSs, which exited a long period of socialism and state feminism, generated a great challenge to older ones. In the older MSs equal opportunities policies had developed gradually and more or less dynamically over the decades, aiming at reaching *de facto* equality. On the contrary, this kind of policies appeared *ex abrupto* in the political agenda of CEE countries due to international pressure. Therefore, policymakers organised a top-down implementation scheme to harmonise their legislative environment with the EU one, but to a certain extent resisted equal opportunities policies, justifying themselves with the fact that there were already equal opportunities laws in their states. However, it is to be noted that they could not openly dismiss the implementation of EU provisions, since, although pay equality policies were not among the most important standards, they were part of the requirements to be eligible for EU accession. Therefore, it was plausible that non-compliance could cause restrictions, sanctions or delay the accession

⁴⁴ Spehar, 2012, page 363.

⁴⁵ Roth, 2008, page 176-177.

⁴⁶ Roth, 2008, page 177.

⁴⁷ Roth, 2008, page 176 and Spehar, 2012b, page 375.

and none of the acceding countries appeared willing to leave this possibility open⁴⁸. Indeed, the Union monitors the changes in the acceding countries legislation to comply with the Union norms, and, for example, Croatia formally entered in the EU in 2013, while the RNM has not progressed much in the processes of accession. Moreover, considering the Hungarian situation by way of example, it is possible to notice that its legal apparatus already contained provisions about equal opportunities, therefore the harmonisation with EU law should have been smoother than in the case of Croatia and the RNM. Although Hungarian law provisions were really general, trying to cover all the possibilities of discrimination and none in particular, the political class resisted the integration of EU norms specifically related with gender and above all pay equality, justifying the attitude with the presence of this norms⁴⁹. As a result, the process was partially blocked in Hungary, since usually EU values were diffused in the new MSs through a top-down approach, but in Hungary the political class was reluctant to abandon state feminism, especially regarding employment⁵⁰.

Moreover, the case of Hungary is exemplary of the feelings that accompanied the EU accession in the acceding states: this change was always accompanied both by dreams of prosperity and great fears. For what concerns women, the feminist groups of the acceding states always had high hopes regarding the accession, often even expecting too quick developments, unlikely for an endemic problem⁵¹. On the other hand, the rest of women were often sceptical about EU integration, and in national elections tended to vote for parties that promised them to secure their access to goods, irrespective of the pro/anti-EU attitude of these parties⁵². In addition, it is to be noted that until the Greece, Spain and Portugal enlargement, the EU was rather accommodating regarding the meeting of the criteria, sustaining that the entrance in the Union would help the new members making the necessary changes. On the contrary, with the 2000s enlargements the EU started to require a serious commitment to reforms and even clear demonstrations that changes were being made. This shift, although criticised by some currently candidate countries, such as Turkey, should demonstrate that the fears of part of the EU political class and civil society that EU institutions would enlarge without taking into account the possible risks and jeopardising pay equality gains, appear to be mostly ill-founded and based on a lack of information⁵³. In contrast with this internal mindset, there were positive notes in how the EU managed the

⁴⁸ Roth, 2008, page 177.

⁴⁹ Roth, 2008, page 178.

⁵⁰ Roth, 2008, page 187.

⁵¹ Spehar, 2012b, page 370.

⁵² Roth, 2008, page 187.

⁵³ Roth, 2008, page 199.

process of accession. Indeed, gender equality was from the beginning one of the requirements to be considered eligible and this exercised a considerable pressure to begin the institutional change⁵⁴. Moreover, the EU tried to integrate the new MSs with the rest of the Union using mostly experts and bureaucrats as actors of the change. It had some good results, such as regarding female labour market participation, but they were partially downplayed by the reluctance of some governments, such as the Hungarian one, to promote positive action together with equal opportunities legislation, and in some cases measures were endorsed only at rhetorical level. However, Hungary met the minimum requirements for accession in 2004⁵⁵.

Ilona Ostner (2000) argues that gender equality policies, as part of social policies, have flourished during each step of European integration, but only if they were based on negative integration, while redistributive policies that required positive integration hardly developed⁵⁶. Although it may be argued that this situation is common to all European policies, since it is far easier to find consent on eliminating barriers than on positive integration, it may indeed be regarded as a huge drawback of EU pay equality policies, and it may be asserted that changing this mindset could be a turning point to finally dismantle pay inequality. Moreover, as Jacquot (2015) noted for the founding states, Spehar (2012b) cites empirical studies that demonstrate that CEE countries tended to develop pay equality policies more to obtain access to the EU market and the consequent economic gains, than for a real commitment to gender equality⁵⁷. Although it would be undoubtedly better, even though rather utopian, that the EU was able to instil in the acceding states a real adhesion to its values, and it still remains to be assessed how much these values are strong in the EU, the effects of economic leverage and soft power to promote rights have not to be downplayed, as the Marshall Plan widely demonstrated. However, the primary effect of this utilitarian vision of gender pay equality is that the implementation has been slow and inconsistent. Moreover, it is possible to maintain that also the EU commitment to spread EU values and social rights with the promise of accession was not caused only by a search for social justice, but above all by an attempt to assure peace in the region in order to stabilise EU economy and politics and possibly diminish illegal immigration, by securing these newly-born and still weak states⁵⁸. The accession of Croatia and the fluctuating relations with the other Western Balkan states, with

⁵⁴ Roth, 2008, page 187.

⁵⁵ Roth, 2008, page 188.

⁵⁶ Spehar, 2012b, page 364.

⁵⁷ Spehar, 2012b, page 365.

⁵⁸ Spehar, 2012b page 365.

the promise of a future membership, can be considered as part of the EU project of stabilisation and progressive integration of the countries of the region⁵⁹. Indeed, the Union made bombastic declarations about the fact that these states belonged to the Union, but then had to confront their weaknesses from the social and economic point of view. As a result, Croatia is the only state that accessed the Union so far, notwithstanding the strong desire of these countries' citizens to become part of the EU. Although the process of assimilation of a state is difficult and the effort has to be made both by the EU and by the candidate state, this situation suggests that the EU capacity of influencing policy change in the region, not only in the field of pay equality, is limited.

Specifically for what concerns women, the situation in Western Balkan states is really fragile and it may be expected that they will be a difficult terrain for the implementation of equality policies. On the one hand, the disintegration of Yugoslavia hardly hit women, on the other, gender equality, also in the economic field, is often considered one of the greatest successes of the Communist era since the regimes provided both genders with the same rights and duties from a constitutional point of view, and equality in paid employment was among the most applauded by the propaganda. However, gender segregation and wage gaps remained, also because the legislation was not gender-neutral and encouraged a traditional vision of gender and family roles. Spehar (2012b) maintains that these countries' feminist movements played an important role in making EU gender equality norms a theme of political debate and thus in integrating them in the national legal framework⁶⁰. Although upsides and limitations can be found in each domain of EU gender equality policy, this thesis will list only the ones related to pay equality and labour market participation, in accordance with the scope of the research. Since the advancement of gender equality was a paramount segment of EU conditionality for the accession to the Union and it required deep changes in the organisation of labour relations, for example, in both Croatia and the RNM EU gender equality legislation was transposed in laws and acts, and Committees and Commissions were created to proceed in the process of increasing equality⁶¹. A shining example of that is the *Unit for Gender Equality* created in 1997 by the government of the RNM as a taskforce of the Ministry of Labour and Social Policy. Moreover, the prospect of EU membership and the EU legislation on gender equality, and specifically pay equality, gave women movements more possibilities to be heard and to influence the government's policy. A Croatian female activist

⁵⁹ Spehar, 2012b, page 365.

⁶⁰ Spehar, 2012b, page 368.

⁶¹ Spehar, 2012b, page 369.

stated that, since EU membership was a priority for the Croatian government, it started to observe EU standards, implemented new laws, and listened to the demands of women organisations, even though it might not have shared their ideals⁶². In addition, these countries' feminist associations gained the possibility to apply for EU funding and access to EU bodies.

However, Macedonian female activists pointed out how the government committed to advanced policies, but in reality, they were never implemented. Interestingly, they underlined how the bad economic situation fostered gender discrimination and hindered women's possibility of affirming themselves in the work and social spheres. However, as it has been widely explained in chapter one, this attitude is in strong contrast with macroeconomic studies, which recommend improving gender equality as a way to overcome bad economic conjunctures. In both Croatia and the RNM, the effect of EU law in the daily life of citizens has been remarkably low and women still experience inequalities in jobs and wages, notwithstanding the considerable focus on gender equality present above all in Croatia. However, as a Croatian activist recognised some time might be needed until laws produce a real effect on society, causing a real change in cultural and social patterns rooted in society⁶³, which still influence even Western EU. In Croatia women make up the majority of unemployed people⁶⁴, however the GPG is not as low as expected. Indeed, it is 11.2%, so below the EU average, but only of 1.8 percentage points, and it is more than the double of the one of the MSs with the lowest GPGs⁶⁵. This is the worst possible scenario, since not only few women work, but the employed ones dominate low-paying professions, experience the "glass ceiling", and are paid less for the same work. As a result, even the more educated and performing women who enter the job market are not able to equally "race" with men.

Furthermore, the World Bank conducted a market assessment in the RNM in 2008 from which resulted that 83% of Macedonian GPG is unexplained⁶⁶. Although the majority of the GPG is unexplained in almost all countries, it may be argued that such a high percentage is an index of direct discrimination against women. In addition, the sectoral segregation is extremely high, with, for example, almost 90% of workers in the textile industry being women, and this industry is from time immemorial one of the worst-paying ones (*cnf.* Camera dei Deputati, 1957). Moreover, it has been estimated that only 10 % of Croatian

⁶² Spehar, 2012b, page 370.

⁶³ Spehar, 2012b, page 372.

⁶⁴ Spehar, 2012b, page 372.

⁶⁵ Eurostat, 2022.

⁶⁶ Spehar, 2012b, page 371.

collective agreements contain references to equal pay and less than 2% provide specific gender equality measures. Moreover, almost all these agreements just copied the equal pay provisions contained in the Labour Act⁶⁷. Nevertheless, a first step ahead has been made since both countries have implemented gender EU directives and also recommendations. In the RNM an Ombudsman was instituted to deal with cases regarding discrimination in the fields of pay and employment and a new legislative apparatus was passed. Nevertheless, the number of claims the Ombudsman has received over the years has been remarkably low, demonstrating that citizens are unaware of their rights.

Moreover, the process entails a basic limitation, which may be considered as intrinsic to the EU project, since it was noticed also by Jacquot (2015), already regarding the underlying values of the Treaty of Rome⁶⁸. Indeed, the EU project has been considered and criticised for its confinement within the boundaries of liberal individualism, which grants rights to individuals, but does not consistently dismantle the structural aspects of gender inequality by trying to change the notion of gender and the relationship between the social groups involved. For this reason, it has been accused of not changing the *status quo* of gender inequality in social, economic and political life substantially⁶⁹. However, Roth (2008) highlights that, the EU is primarily an economic polity and it is therefore normal that the most relevant aspects of gender equality are the ones connected to pay equality and social inclusion and that the majority of EU actions have the form of equal opportunities policies, nevertheless the way the EU influence extends beyond this narrow domain, using it as a stepping stone, should not be underestimated. Indeed, it is already possible to witness the profound changes caused by the EU to gender regimes through employment and social welfare regulations⁷⁰. And also pay equality policies can be considered a success of the spillover effect.

As a result, it appears that the EU should provide training about how to effectively implement the policies it suggests, follow ups and support the process of implementation, and raise awareness in the population as well as in the political class. In addition, activists maintain that the absence of clear penalties for the lack of implementation by states seriously hinders development⁷¹. Analysing the developments from the present perspective, it is possible to notice that Croatia has entered the Union and is being more and more involved in the social and economic Union, while negotiations with the RNM appear to be at a standstill.

⁶⁷ Spehar, 2012b, page 373.

⁶⁸ Jacquot, 2015, page 12.

⁶⁹ Spehar, 2012b, page 371 and Jacquot, 2015, page 12.

⁷⁰ Roth, 2008, page 175.

⁷¹ Spehar, 2012b, page 373.

The weight of the implementation of gender equality measures in this decision is hard to assess, but it should surely be taken into account. The same problem had been already witnessed with the previous 2004-2007 enlargements, where the EU had provided the acceding states with laws and standards, mostly based on equal opportunities, without acknowledging that equality before the law is not enough to secure actual equality, especially in countries where structural discrimination is strongly present. This can paradoxically cause the opposite effect of reinforcing gender discrimination⁷². This happened notwithstanding the fact that with the Luxembourg Summit of 1997 the EU had increased the demands for candidate countries, asking to report every year to the EC about developments in areas designated by the EU. This obliges candidate countries to implement a number of changes before being taken into consideration to access the EU and being given a date to formally start negotiations⁷³. All the countries considered in these paragraphs underwent this type of control and it blocked the negotiations for the RNM and Turkey. However, it remains to be assessed if EU control of countries' implementation is as strict as the Luxembourg Summit demanded. In any case, it may be sustained that both Croatia and the RNM have progressed substantially, and this view is shared also by women activists. Nevertheless, the inconsistent implementation and the fatigue in copying with the community requests, and the difference between the importance given to gender policies in the political discourse and in practice, suggest that these countries' political class was not really committed to diminish pay inequality, but was just trying to provide a nice picture to the EU and to foreign investors⁷⁴.

In addition, by defining gender equality as conditional to EU accession, it has been possible to witness that the EU is powerful enough to affect the structure of candidate countries. However, the EU was not always able to secure the desired change, such as in the case of Turkey, where female rights are undergoing a downward spiral⁷⁵. As a result, the EU has delayed Turkish negotiations for political criteria, notwithstanding Turkey's economic importance. Indeed, Turkish economic relations with the EU started in 1963⁷⁶. This demonstrates the importance the EU places on compliance with its political and social standards⁷⁷. Therefore, it appears that the EU has tied its economic leadership with a prominent role in the field of human and social rights and is trying to lead the region through

⁷² Roth, 2008, page 175-176

⁷³ Roth, 2008, page 196.

⁷⁴ Spehar, 2012b, page 375.

⁷⁵ Pavan Wolf, 2022.

⁷⁶ Roth, 2008, page 194.

⁷⁷ Roth, 2008, page 206.

institutional integration and rights' diffusion⁷⁸. Moreover, it appears that the EU has learned from the past and is approaching negotiations with Turkey in a different way, further corroborating the thesis of the positive influence of EU enlargements on gender equality, even in the field of negotiations. Indeed, although in the first decade of the 2000's Turkey had implemented some gender equality policies at national level, the implementation was contradictory and therefore the Union underlined how Turkish endorsement at international and national level was not enough and demanded a substantial application of gender equality norms. This was a new way of assessing candidate states compliance with EU norms and it may suggest that the EU is heading to a new and stricter direction⁷⁹. Furthermore, Selma Acuner, academic and member of the Turkish feminist association *Association to Support the Training of Women Candidates* commented that the issue of gender equality had the same relevance for EU accession as the case of Cyprus, which is a clear violation of state sovereignty⁸⁰.

Finally, analysing how acceding states have managed the integration of gender equality policies in their legal *milieu* and looking at how the EU has sponsored and sustained this change may allow to detect if Europe has taken up the role of gender equality entrepreneur in the Western Balkans, so if these new accessions have opened up new positive possibilities for the EU, to exercise a good influence on neighbouring countries and to be able to spread its values in the region and also to renew its internal commitment to gender equality though its confronting with other states. Moreover, the EU is already one of the world's largest donors of humanitarian aid and development assistance and the deepening of its competences and the widening of its territory are making it a more and more powerful gender equality actor, and this would be both a cause and a consequence of EU increasing presence in world politics⁸¹. The hopes were really high, and a first positive note is that gender pay equality was practically inserted in the conditionality to enter the EU. However, the fact that the Union accepted a widely flawed implementation and "façade democracies"⁸² demonstrates how equality was once more subordinate to economic and security prospects. Furthermore, it appears that the EU did not recognise the difference between "equality of rights", which was requested and supported, and "equality of results" that seemed to have been overlooked. As a result, men and women have the same rights according to the law, but they are not enabled to

⁷⁸ Zielonka, 2008, page 471.

⁷⁹ Roth, 2008, page 207.

⁸⁰ Roth, 2008, page 203.

⁸¹ Spehar, 2012a, page 157.

⁸² Spehar, 2012b, page 365.

reach the same results. In addition, even though acknowledging also the social dimension of the changes that are taking place in candidate countries would be fundamental to be able to affect them, the limits of the liberal individualism of the EU approach have already been described,⁸³. A change of approach would arguably also benefit women in Western MSs. Consequently, apart from the general idea that every action which “keeps the spark of gender equality alive” is positive, it may be argued that the effects of the new accessions on EU institutions were only partially positive, because the EU failed to completely commit to its role of rights’ promoter. However, it has to be acknowledged that the EU has gone a long way from inserting Art. 119 in the Treaty of Rome to becoming a polity that can influence and change gender relations in its territory and in its region⁸⁴.

Moreover, even focusing only on the first CEE countries to access the EU, for example Hungary which became a MS in 2004, Roth (2008) highlights how it is difficult to clearly establish the effects of the EU accession on gender equality, because this kind of policies aims to produce deep changes in the society that are seen in the long-run and normally have little short-term effects⁸⁵. Although this chapter has demonstrated that it may be useful to evaluate the initial commitment, it is possible that the attitude of the acceding state would meliorate while integrating with the rest of the Union. Roth’s 2008 research provides, among others, interesting insights about the improvements of gender equality in Hungary during the four years after the accession. However, the current situation in Hungary, with a GPG of 17.2% and the new restriction on abortion, which caused huge protests, demonstrates that even in the Union women’s situation cannot be considered secured and its influence on the neighbouring regions varies according to the internal female situation. Arguably, the EU may need a new enlargement to be able to recover its commitment to gender equality and to find again its role of gender equality polity by influencing the acceding states.

In conclusion, the ways and the reasons why the EU has tried to generate a change in the gender equality policies of acceding and candidate states, with pay equality being one of the utmost priorities; as well as the implementation of EU criteria by new MSs were far from perfect. However, recovering the question of this set of paragraphs, the widening of EU territory had some positive consequences on pay equality and women’s situation in general both inside and outside the EU. The improvements in the acceding states mostly regarded political reforms that eliminated some forms of discrimination. On the other hand, the

⁸³ Spehar, 2012b, page 375.

⁸⁴ Spehar, 2012a, page 157.

⁸⁵ Roth, 2008, page 175.

positive effects on former EU members were the fact that women issues remained prominent and that the EU reaffirmed its role as a protector of rights. The negotiations for EU accession also increased the exchanges between EU and extra-EU feminist groups, generating new ideas and giving political strength to these movements⁸⁶. Moreover, the EU GPG did not increase dramatically after the new accessions, but the trend of slow but stable diminution remained constant, demonstrating that these countries had neared their pay inequality situation to the one of the other MSs. Although each new accession would require its own analysis, the past experiences demonstrate that the EU pay equality situation would not suffer in any way neither from other enlargements of the EU territory nor from EU negotiations and/or agreements with candidate countries in the field of gender equality, social policy, or economy, if the same criteria are applied.

Family duties and pay equality in the Covid-19 pandemic: a trembling balance

Women have generally been more vulnerable to the risks of the pandemic, which can therefore be considered a “she-cession” (she + recession), which means a recession that mostly affected women⁸⁷. Although such an influential happening had clearly numerous effects in every field, the considerations on the effects of the COVID-19 pandemic on gender and pay equality cannot be avoided since they were sudden and destructive and above all, they will probably be perceived also by future generations. This subchapter decided to analyse a specific aspect of COVID relation with pay equality. Indeed, it is not possible anymore to deny that work-family balance and the equal sharing of care duties are the most important aspects to close the gap. Finally, shortly before the pandemic the EU institutions had begun to act in this domain. Then COVID-19 caused many challenges to the implementation of measures for pay equality and equal share of family duties, but it also pushed initiatives that could really be an opportunity to boost female equality and participation in the labour market, such as teleworking. Moreover, the event is of great analytical interest since it was unexpected and it may be argued that the entrepreneurial role of an organisation is measured by its objectives and long-term programs, but also by its choices when coping with difficulties, above all to test the stability of its commitment. Thus, this chapter will confront the policies created around 2019 such as the *Work-life Balance Directive* and the *Gender Equality Strategy 2020-2025*, with articles of newspapers and

⁸⁶ Roth, 2008 and Spehar, 2012a and 2012b.

⁸⁷ Profeta, 2020, page 270.

journals that described the situation during the pandemic or expressed determined hopes and predictions for the future. Lastly, all will be scrutinized through the lens of the 2022 EIGE Equality Index Report, which draws conclusions and tries to clarify the effects of the pandemic on gender equality almost three years after the first wave.

It may be argued that since a rather long time, it was clear to experts' groups, such as EIGE, and to EU institutions that one of the main reasons for the GPG was the unequal distribution of care duties, especially for what concerns the caring for children⁸⁸. This acknowledgement is clearly present in the last EU provisions regarding pay equality created before COVID-19, namely the *Work-Life Balance Directive* and the *Gender Equality Strategy 2020-2025*. The directive aimed to ease workers opportunities to have paid leaves for care reasons and to increase women participation in the labour market⁸⁹, because, as Marius-Constantin Budăi, Romania Minister of Labour and Social Justice, highlighted, these provisions are clearly linked to the closing of the GPG, as also the first chapter of this thesis has already clarified. Interestingly, in this case the EU searched a "equality of results"⁹⁰ and took a *de facto* equality approach, proposing clearer and more ready-to-implement plans. Moreover, there was probably a strong agreement of EU forces on this directive since it only took two years to arrive from the proposal to the publication in the Official Journal of the EU. The *Gender Equality Strategy* is revised every five years and considers various aspects of gender equality, and this thesis will take into account the ones related with pay equality and equal distribution of family duties. The pay equality issue is strongly present in the strategy, and it is clearly linked with the belief that the fundamental role of women is to take care of the family⁹¹. Indeed, the Strategy focuses on six fundamental points, many of which are related to pay equality, such as freedom from stereotypes, a gender equal economy, and "gender mainstreaming". Moreover, the strategy has a specific section on the "gender care gap"⁹².

After having acknowledged the situation, the EC proposes some actions to tackle the problem⁹³. On the one hand, it appears clear that a Strategy is not enough to tackle a problem so rooted in EU society, since the provisions are very general and there are no actual details on their implementation. Moreover, in the case of strategies, countries that fail to implement them receive no sanction. For this reason, it is worth considering if this strategy does not run the risk to be a kind of useless piece of legislation, which reiterates a principle that is already

⁸⁸ EIGE, 2019 and European Commission, 2020c, page 3.

⁸⁹ Council of the European Union, 2019.

⁹⁰ Roth, 2008, page 177.

⁹¹ European Commission, 2020, pages 5-6.

⁹² Deutsches Bundesregierung, 2021.

⁹³ European Commission, 2020b.

present in various forms in EU legislation, but it is not completely applied⁹⁴. On the other hand, strategies have the function to provide the direction the Union should take in the following years, fixing the medium-term objectives. Furthermore, strategies, differently from treaty provisions, do not simply state a principle, but list actions that need to be accomplished in a given period to reach their objectives. In this case the EC committed to revise the Barcelona targets to increase convergence among states and assure that educational structures are available from early childhood for all children of all MSs. Indeed, the Strategy anticipated the EC's proposal for a Child Guarantee and strongly linked it with the pay gap. In addition, the enactment of these changes will be financed by numerous sources, such as the InvestEU programme, the European Regional Development Fund, the European Social Fund Plus, and even the European Agricultural Fund for Rural Development. Finally, pay equality has a large space in the strategy, so it appears to be one of the major objectives of gender equality for the EU in this lustrum⁹⁵. The effectiveness of the proposed measures to close the gap is demonstrated by data, for example in Germany, Denmark and Sweden a similar quantity of women works, but in the North EU countries the GPG is lower of around 5 percentage points since they have already implemented measures to facilitate the equal share of family boundaries, for example paid paternity leaves⁹⁶.

The normal development of this legislation was drastically changed by the arrival of the pandemic in 2020, which, irrespective of the possible evaluations of the commitment of EU institutions, clearly changed the priorities, obliging states to take immediate and strong measures. Although the health risk was the most prominent one, it was clear from early on that the pandemic would also have strong social effects, especially for women, and that it was necessary to act to avoid everlasting damages. Therefore, this section will try to show how the EU reacted to the issue, if it was able to overcome it and respect its objectives. Moreover, it is to be noted that the pandemic caused not only problems to women and families, but the changes imposed by the pandemic could also provide some opportunities and this subchapter will check if EU institutions noticed and exploited them. Already in 2020, the EU Joint Research Centre understood the COVID-19 crisis potential for gender inequalities in Europe and issued a report. Tellingly, the most extended chapter of the report regards labour division between genders. Indeed, the increased quantity of sick people and the school closures incremented the care burden dramatically and for an indefinite period of time. Moreover, in

⁹⁴ Il Fatto Quotidiano, 2020.

⁹⁵ European Commission, 2020b, page 11-12.

⁹⁶ Martin, 2021.

many EU countries, grandparents' support is fundamental, but it was not an option during the pandemic. Experts warned that, on the basis of the contemporary gender norms, it was likely that women would take up most of these additional care duties⁹⁷ and they would need to sacrifice other aspects, such as work. Furthermore, during previous crisis, when work possibilities were scarce, were normally women who renounced to work, with long-lasting effects that lasted also after the crisis, and it was not expected that COVID would completely reshape the pattern. Therefore, it was feared that the increased responsibilities would push women to a breaking point both in their own well-being and in their long-term pay equality prospects.

However, the study introduced also some more positive scenarios, supported also by the increase in teleworking opportunities. Indeed, telework could reshape family work-life balance and increase female possibilities of participation in the labour market,⁹⁸ especially for women of rural and isolated areas, which have no big career opportunities and care services nearby. Furthermore, at first experts expected that the bargain power of workers in the care sector, such as hospitals and care facilities, which were mostly women, will increase as a result of the increased visibility and the shortage of workers in the sector⁹⁹. Also other commentators shared the view that, although women strong presence in the workforce of relevant sectors increased the pandemic influence on them, this could raise awareness on their business value and create a space for their demands of pay equality¹⁰⁰. In addition to the obvious importance of care work, numerous women worked in retail, such as pharmacy and grocery. Moreover, for women in these vital sectors teleworking was not a possibility and if their male partner was not in the same situation, it could cause a temporary inversion of gender roles¹⁰¹. However, if on the one hand women were overrepresented in vital occupations and often continued to physically go to work during the pandemic, on the other hand as many women, for example in the tourism sector, lost their job during the pandemic.

As a result, as the *Bundesvereinigung der Deutschen Arbeitgeberverbände* (German Employers' Association) recognised, the problem of balancing family and career for women was brought to the spotlight by the pandemic¹⁰². Teleworking was recommended during lockdowns, but it could also make work-family balance easier for women and men. Indeed, if also men would tend to work more often remotely, it was likely that they would take up more

⁹⁷ Blaskó *et al.*, 2020, page 5.

⁹⁸ Blaskó *et al.*, 2020, page 8.

⁹⁹ Blaskó *et al.*, 2020, page 11.

¹⁰⁰ Dpa, 2021.

¹⁰¹ Blaskó *et al.*, 2020, page 11.

¹⁰² Dpa, 2021.

care responsibilities, especially because people that can work from home generally have higher levels of education and are more open to an equal division of care labour. Nevertheless, researchers highlighted that long-term improvements were likely only if part of the new flexible working arrangements would remain even after the pandemic, generating new opportunities to balance work participation and care burdens¹⁰³. The effects of these new working arrangements could not be exactly predicted *ex ante*. Indeed, many researchers expected that working from home would induce more involvement of both partners in the family, however this hope was disregarded since the pre-existing differences caused asymmetric outcomes of the pandemic on genders. Indeed, it is not so straightforward as it may seem, that increasing the quantity of men working from home would be sufficient to generate change, since in many countries, like Italy, still more women than men teleworked. Nevertheless, even when both partners worked from home during the pandemic, the increased involvement of the male partner in family burdens was often negligible. In addition to the surveyed effects of this unequal division on the female employment rate, the increased burdens badly influenced fertility rates, further distancing women from the idea of having more children¹⁰⁴.

Furthermore, the current situation, described in chapter one, demonstrates that only a really limited part of COVID positive arrangements lasted after the pandemic. Not only did the situation not drastically change in the household, but the EU did not exploit the situation created by the pandemic to reinforce the program it was developing with its directive and strategy. On the contrary, although the EU widened its competences during the pandemic, for example to partially include health to obtain vaccines, it appeared that the pay equality issue fell down in the list of priorities. As a result, the GPG decrease between 2020 and 2022¹⁰⁵, appears to be strongly influenced by the widespread short-time work during the pandemic. In addition, as many forces, such as the *Grünen* in Germany, denounced, although women efforts gained more visibility during the pandemic, it did not increase their bargain potential¹⁰⁶, but they received only warm words¹⁰⁷. These considerations appear to be valid not only for Germany, but for the whole Union. Not only women did not obtain a better social and financial recognition¹⁰⁸, but EU institutions did not pressure MSs to acknowledge their demands after their effort. Confronting the post-pandemic situation with the worst

¹⁰³ Blaskó *et al.*, 2020, page 12.

¹⁰⁴ Profeta, 2021, page 271.

¹⁰⁵ Eurostat, 2022.

¹⁰⁶ Blaskó *et al.*, 2020, page 11.

¹⁰⁷ Dpa, 2021.

¹⁰⁸ Blaskó *et al.*, 2020, page 11.

scenario described in the 2020 report¹⁰⁹ may demonstrate if the EU was able to at least narrow the bad effects of the pandemic. In any case, it is worth highlighting that the directive and the strategy listed at the beginning of this section continued to be into force and MSs had to implement their provisions. Since the 3-years term to implement the directive finished in April 2022, it may be expected that its provisions could help mitigate the effects of the pandemic and maybe be able to revert the stereotypical gender roles in the family organisation.

As the worst-case scenario suggested, women, already confronted with the double burden of work and family, had to find a way to cope with the increased caring duties alone. Many of them, given their secondary contribution to the family balance, were forced to reduce working hours or completely give up paid work. When it was not possible to ask for a paid or unpaid leave, women were obliged to quit their jobs. It cannot be denied that also stereotypical gender norms played a role in this choice along with the economic rationale¹¹⁰. On the one hand, this situation reduced pay equality, on the other, the GPG continued to decrease since if less women work, especially from low-paying sectors, the statistical difference decreases. The 2020 study suggests that where teleworking was possible women did not have to formally reduce or interrupt their paid work, but it is not to take for granted that men took up part of the caring responsibilities. Therefore, the increased workload, united with the stress caused by the pandemic, hindered their wellbeing and also made them often less performing at work, further deteriorating their career possibilities and corroborating gender stereotypes. Moreover, their pause from paid work is likely to cause long-term adverse effects on women's pay equality, that last longer than the pandemic. Even when women were able to re-enter the labour market, they suffered a wage penalty, as in the case of motherhood, caused by the loss of human capital they experienced during the career break. Furthermore, specific groups of women were even more at risk during the pandemic. As a matter of fact, single parents, most of which are women, were more likely to abandon their work to be able to cope with care responsibilities¹¹¹. In addition, during this crisis, which was partially different from purely economic ones, the service sector, especially tourism and hospitality, which employ numerous women, was the most severely hit. The fact that women had more difficulties in accessing COVID aids since the requirements were discriminatory demonstrates that the EU did not have an entrepreneurial role in helping the more vulnerable

¹⁰⁹ Blaskó *et al.*, 2020, page 9.

¹¹⁰ Blaskó *et al.*, 2020, page 9.

¹¹¹ Blaskó *et al.*, 2020, page 10.

gender during the pandemic. Moreover, the fact that schools and kindergartens remained closed for long periods of time in many MSs, in some cases much more than any other productive activity, further corroborates the idea that gender (pay) equality was not a priority of the political class during the pandemic. In conclusion, it is possible to see that the worst-case scenario happened almost in its entirety¹¹².

Among the work-life organisation changes generated or accelerated by the pandemic, teleworking seems destined to last also after, at least in a hybrid form, since many workers have appreciated the increased flexibility it allows. Therefore, not only companies are beginning to offer this possibility, but governments are adopting laws in this domain or even implementing it themselves¹¹³. This new way of working could be listed among the possible opportunities that opened up during the pandemic to correct gender inequalities by reshaping the organisation of work and family life. However, it appears that the benefits of teleworking are equally shared between men and women, while women experience some specific drawbacks, especially the fact that only for them the time saved from commuting to the office is generally occupied by child caring¹¹⁴. Before the pandemic, Eurofund and ILO (2017) had proclaimed the objective of using teleworking to reduce gender inequalities, however, teleworking *per se* does not necessarily advance co-responsibility between fathers and mothers or increase equality at work. Indeed, during COVID-19, notwithstanding telework, in the EU more women than men have reduced their working hours, and, especially if with children up to middle-school age, have reported problems in staying focused, and in meeting the objectives imposed by their employer while also managing the increased care responsibilities. All this demonstrates that telework is neither an assurance of equal distribution of childcare responsibilities between parents nor a substitute for childcare services. Moreover, before COVID more women than men took up teleworking, but this choice was seen by employers as a sign of scarce reliability and job commitment¹¹⁵. During the pandemic the view about teleworking changed drastically and it is of paramount importance that this attitude is not erased now that working life is going back to normal, to be able to use this change as a weapon against gender pay discrimination.

If teleworking would prove useful to recover from the increase in gender gaps during the pandemic, it would be only through a combination of institutions and businesses interventions. It is fundamental to ensure that also men take up hybrid forms of work.

¹¹² Blaskó *et al.*, 2020, page 10.

¹¹³ Tomei, 2021 page 260.

¹¹⁴ Tomei, 2021, page 261.

¹¹⁵ Tomei, 2021 page 262.

According to Tomei (2021) a possibility could be obliging all employees to work remotely the same amount of time. If this choice rests first of all on undertakings, institutions, even at EU level, should develop norms about telework, to ensure that workers that choose this option are not discriminated against, even when they are mostly women. Otherwise, teleworking would only add itself to the work provisions that increase the father premium and the motherhood penalty¹¹⁶. A shining example of that is the fact that in some EU countries during the pandemic special parental leave schemes were implemented to avoid job losses, but often people working from home were not eligible, as if parents (or better mothers) could take care of children while teleworking. On the contrary, to avoid teleworking fostering stereotypes, the implementation of teleworking or flexible working arrangements should not delay the objectives regarding childcare services, such as the Barcelona targets, and parental leaves¹¹⁷.

Although the female employment rate, which also contributes to pay equality, was already lower than men's one in all EU MSs, the strong regional differences caused MSs to enter the pandemic with different situations, and, therefore, also its effects have been diversified. Indeed, in countries with high female employment rates, women have experienced a sizable COVID wage penalty. Although it may be expected that in more unequal EU countries, where less women worked, the pandemic would exacerbate inequalities less since women encountered less difficulties in coping with the additional burdens, research showed that COVID-19 actually deepened gaps especially in countries where they were more pronounced before the pandemic¹¹⁸. Moreover, governments pandemic-containment measures affected mostly female-segregated sectors. Although it cannot be denied that social distancing measures could not be avoided, even though they badly affected the service sector, it is to be noted that, after losing their job on the onset of the pandemic, women encountered more difficulties in re-entering the job market between the first two waves of the pandemic, although the EU was experiencing a partial economic recovery. Indeed, data shows that employments prospect in that period rose of 0.6% more for men than for women¹¹⁹.

¹¹⁶ With “father premium” it is intended that men are often awarded after becoming parents because of the idea that they are the breadwinners of the family and after the birth of a child they need to take home more money for the family. On the contrary, women often suffer a “motherhood penalty”. Indeed, when they dedicate less to work for caring after the newborn, their chances of career and future earnings reduce. However, even when they continue to have a good performance at work, they are not preferred for promotions for the diffused idea that they should be at home looking after their children, and it would be plausible that they decide to do so at any time, and, therefore, it would not be a wise decision to rely on them too much for work purposes.

¹¹⁷ Tomei, 2021, page 263.

¹¹⁸ Profeta, 2021, pages 272-2073.

¹¹⁹ Profeta, 2021, page 270.

Nevertheless, there are some good prospects for the development of norms regarding teleworking, mostly starting from EU countries and institutions. First of all, during the 2021 Italian presidency the G20 adopted some measures to regulate teleworking, namely a Ministerial Declaration and a roadmap, and even issued some policy recommendations specifically focused on the gender equal use of teleworking. Secondly, the European Economic and Social Committee (EESC), a consultative EU body, under the 2021 Portuguese Presidency of the EC issued an opinion with the intent of preventing teleworking from increasing the inequality in the balance of work and home duties between men and women¹²⁰. What results from the comparison between the aforementioned possible scenarios and the post-COVID reality is further confirmed by WTO, which maintains that the pandemic has caused great damages to pay equality. The WTO periodically calculates in how many years women would be paid equally according to the speed of improvement of that moment. In 2019 it was expected that it would take 95 years, while at the end of 2020, after the first year of COVID, the expectations changed to 135.6 years, and EU institutions were not able to mitigate this regression of decades. Moreover, even the WTO lists work-family balance among the causes of this lasting inequality, united with the lack of political representation. Moreover, the WTO report reiterates the observation that, independently from the fact that both partners in the couple worked from home, caring for children and incapacitated adults remained a predominantly feminine prerogative. Furthermore, the German newspaper *Der Spiegel* (2021) observes that the pandemic has demonstrated that it is necessary that EU institutions intervene in the field of work-life balance, because the situation would not level by itself. Therefore, it is necessary that the EU invests in increasing the caring structures, to allow women to re-enter the job market, in addition to providing them more chances of lifelong learning¹²¹. However, it is highly positive that during the pandemic the EU has continued to invest in policies for families¹²², since it demonstrates that it has individuated the cause of the problem and is decided to tackle it. On the other hand, the ineffectiveness of these policies rises questions on their contents and on the choice of tackling the problem with strategies and directives more than with ready-applicable provisions. Indeed, it remains to be assessed if it is a determinate choice which sympathizes with the conservative part of the EU and MSs institutions and hides EU unwillingness to act in the field.

¹²⁰ Tomei, 2021, page 263.

¹²¹ mmq/dpa/Reuters, 2021.

¹²² Profeta, 2021, page 272.

In addition to the broader policies developed before the pandemic, some others were designed by MSs during the first waves to cope with the situation, such as additional time for parental leave or baby-sitter vouchers. Although these measures and the diffusion of more flexible work arrangements, which accelerated because of the pandemic, were meant to support especially working women, they could be a double-edged sword. Indeed, they can help women entering the job market and men's involvement in childcare¹²³, but if they are exploited only by women, they could become a further cause of GPG, in the same way as part-time work. Furthermore, the pandemic has demonstrated that, for EU policies to be effective, EU institutions have to pressure MSs to support their initiatives. Indeed, it has been possible to witness that in MSs where less women worked, policymakers were more inclined to close schools and, although maybe it caused less organisational costs in the short run, in the longer run it proved detrimental for maternal employment and GPG¹²⁴. This situation demonstrates that countries where gender stereotypes are stronger, prefer to hold the *status quo* situation and avoid braver policies that would improve women's situation. Therefore, to secure the success of EU policies it is plausible that the Union would have to closely monitor MSs in their implementation, also to avoid the creation of other provisions that negatively counterbalance EU initiatives.

Concluding, during the COVID pandemic the EU showed the same attitude it had during other moments of crisis, such as the 2008 financial and economic crisis. Just after the peak of the crisis the EU started to focus on recovering and recreating the lost jobs, but paid little attention to the equality sphere, as demonstrated, for example, by the fact that women had more difficulties in obtaining aids¹²⁵. However, if the EU does not want to lose its prominence as a "regulatory empire" in its region¹²⁶, and its legitimacy to the eyes of its citizens, it is necessary that it learns how to maintain its objectives even in periods of crisis and to capitalise on the opportunities they create, especially because the rapid succession of COVID and the Russian invasion of Ukraine have demonstrated how crisis are still a characteristic of present times that the EU cannot avoid. As a matter of fact, to really be an entrepreneur in the field of pay equality it is necessary that the EU improves its crisis management, so that each crisis does not risk dismantling female conquests, but recovery time is shortened and the upswing made more efficient.

¹²³ Profeta, 2021, page 272.

¹²⁴ Profeta, 2021, page 272.

¹²⁵ EIGE, 2022.

¹²⁶ Zielonka, 2008, page 476.

Conclusion

In conclusion, this chapter has analysed if the EU institutions were able to seize each historical *momentum* to meliorate the pay equality situation, or if they were willing to do it. Clearly, each period has its own challenges, that can hinder development, such as in the case of the pandemic, but it is nevertheless possible to evaluate EU attitude in these situations, to understand if the EU only aims at showing itself as an entrepreneur in the field of pay equality or if it really is. In some cases, such as with the last enlargements, the question was also if the EU was able to convince the institutions of the candidate and acceding states to implement EU standards to combat pay inequality. Indeed, it is undeniable that all the analysed moments entailed specific challenges for the field, and assessing how the EU managed these situations can demonstrate if it really is an entrepreneur in the field. From the previous observations, it is possible to derive that often the actions of the EU were not completely effective. On the one hand, the EU was really capable in equality by law and created many laws regarding pay equality, demanding its application also in neighbouring states. However, there was often a lack of implementation of these new rules and one of the greatest failures of the EU was not being able, or willing, to check on the implementation and punish or train candidate countries to improve the situation. Moreover, there has been a decoupling of talk and action¹²⁷, since politicians from the foundation of the EEC onwards have always been really vocal in their support for pay equality, but the actions of the political class did not demonstrate this strong commitment.

However, it is also to be remembered that the EU took decisive steps in the field of pay equality. For example, by adding Art. 119 in the Rome Treaty it followed the pioneering position of the ILO, becoming one of the first polities to include the provision in its *milieu*. In addition, setting pay equality as a conditionality for the EU accession, it ensured that acceding states would take measures against the issue, including changing their legislative apparatus. It is to be noted that the EU is one of the few political entities that requires this type of respect of human and social rights to admit a country in its organisation or to stipulate an agreement with it. Furthermore, the *Work-Life Balance* directive is a cutting-edge provision, which tries to change the societal organisation and gender relations, in accordance with the “gender mainstreaming” vision of pay equality. All things considered, it is possible to state that the EU is a pioneering polity regarding pay equality and, although not in a

¹²⁷ Knill *et al.*, 2020, page 375.

constant way, the issue has always had a degree of importance in the EU agenda. Finally, considering also the first chapter, it is possible to see that the GPG has been steadily decreasing since the EU foundation, and therefore women's situation has meliorated.

Therefore, it has been demonstrated that pay equality, although it was not always acknowledged, has always been a topical issue in the EU, which cannot be divided from the events that marked the history of the organisation. It corroborates the idea of "gender mainstreaming" that each question is gendered, and that EU political action cannot be separated from the concept of gender. Hence, the judgment on the EU performance in the field cannot be too bad and it appears that the EU really aims at being a polity that leads by example and diffuse its laws and institutions¹²⁸. However, the last EIGE reports have demonstrated how the conquests in the field are trembling and the COVID-19 pandemic has put them at risk above all for the most fragile groups of women¹²⁹. Therefore, now it is important that the EU demonstrates that it has not abandoned its commitment to the cause. Moreover, internally the EU needs to finally speed up to close the toughest part of the gap and level the situation among its MSs. Furthermore, it needs to demonstrate once more its ability to influence neighbouring and candidate countries to help Turkish women maintaining their rights¹³⁰. As Roth (2008) highlights, each event in history, in addition to being intrinsically more or less favourable for pay equality, changes the *status quo* and opens up new possibilities¹³¹. The capacity required to the EU is to be able to exploit this space of manoeuvre to improve the situation and not to be passive in regard to the effects of the events. Thus, the EU has shown a moderately good performance in the field over the decades. The pandemic, as all the previous periods, has its own challenges, and the EU needs to cope with them to avoid losing its position.

In addition, to understand the actual role of the EU it is necessary not only to compare statistical data and reports, which give a qualitative description of such information; but also to study the texts of the treaties, the official communications of the EU institutions and the ECJ judgements. Moreover, it is also key to evaluate the preparatory works and the discussions that happened before the signing of a treaty. Indeed, although the treaty wording is the final result, negotiations are important to understand the character of a norm, the values with which it was conceived and why a certain wording was chosen. Furthermore, it has been possible to observe how the comments of the members of feminist groups are of paramount

¹²⁸ Zielonka, 2008, page 482.

¹²⁹ EIGE, 2021 and 2022.

¹³⁰ Pavan Wolf, 2022.

¹³¹ Roth, 2008, page 196.

importance to understand the EU direction¹³². As a matter of fact, they are formed by competent people and often have a fundamental role in lobbying the political class and raising awareness in the civil society. Therefore, their accounts are normally informed and less partial than the ones of politicians. Finally, considering also the point of view of informed groups of acceding countries allows to avoid an EU-centric approach, which risks distorting the evaluation of the actual improvements in the pay equality field. However, when considering feminist groups' judgement of the political action, it is necessary to take into account that it is not always thoughtful, but it is often biased by their expectations and hopes¹³³. As a result, the studies and observation of experts, and their conclusions and opinions on these bases, are of the utmost importance to be able to dissipate the fog and obtain a clearer picture of reality. Furthermore, this chapter is clearly characterised by an historical approach, since analysing the behaviour of EU institutions in the past also permits to contextualise the current situation and to better evaluate it. This process is fundamental to avoid ahistoricism and to correctly evaluate women's situation. It may be argued that it also allows to make predictions about future changes and about the EU position in relation to possible future developments. For example, the study of CEE enlargements has demonstrated that further EU enlargements in the region would probably improve women situation both in MSs as well as in acceding countries.

In sum, from the EU behaviour in the aforementioned cases it may be argued that, although the EU has really been entrepreneur in the field of pay equality, it has tried to depict its role as way broader than it really was. It may be maintained that reaffirming their position as protectors of rights in Europe may help EU institutions becoming more similar to how they like to depict themselves and would strengthen EU legitimation and identity. Moreover, although "gender mainstreaming" can be considered an utopian and complicated theory, and its long-term results need the cooperation of different political forces, taking it seriously into consideration appears to be the only possibility to be able to make the last needed changes, and not to repeat the errors of the past, such as being too superficial in the creation of norms and not helping enough the acceding states in their path towards EU standards. Therefore, "gender mainstreaming" appears once more as the only possibility to design actions that are not crippled and end up damaging European women¹³⁴.

¹³² Spehar, 2012a and 2012b, and Roth, 2008.

¹³³ Roth, 2008, page 197-98.

¹³⁴ Roth, 2008, page 175.

4. Concluding remarks

Answer to the research question

This thesis aimed at answering the question if the EU has been an entrepreneur in the field of pay equality and, above all, if it is still one. The reason that inspired this research was noting that, on the one hand, the GPG is still present and diminishing only slowly, especially during the pandemic. Although this thesis has shown that to exactly calculate pay inequality other data collections and considerations are needed in addition to GPG, the presence of a GPG in all states and its almost still value in the EU since years are enough to demonstrate that there is an inequality between men and women in the field of paid work that needs to be solved. On the other hand, it cannot be denied that the EU has always been a forerunner in the field, and its actions appear to be quite different, for example, from the ones of the “façade democracies”¹ described in chapter two. As a result, this discrepancy appeared difficult to picture and was worth further analysis to be able to judge the degree of entrepreneurship of the EU in the field. Another fundamental part of entrepreneurship is acting at the right time, otherwise actions, although powerful, can prove counterproductive. The thesis has tried to provide an answer by deeply explaining the current situation and the EU behaviour during the COVID pandemic; and comparing it with its past conduct, especially in two other milestones in EU history, namely the signing of the Rome Treaty and the last enlargements to Eastern Europe. In addition, this thesis filled an apparent gap in research by looking at how the past enlargements towards CEE countries affected the states that were already in the EU. This assessment is based on the effects of the policies proposed and implemented by the EU; by its actions, since it may happen that a scarce result was not only the fault of scarce EU commitment; and finally, by the EU willingness to operate in the field, trying to divide between the statements of commitment and the actual demonstrations of dedication.

The conclusion that can be derived from this observation is that pay equality has always had a place among EU policies, although with alternating fortune. As a matter of fact, the EU has always acted in this domain, protecting women’s right to equality in the labour market more and more over the years, and also thanks to this action it is possible to notice an improvement of the situation. However, it may also be observed that generally the entrepreneurial behaviour

¹ Spehar, 2012a, pag.1.

of the EU was not so consistent during the decades. Indeed, it alternated moments of strong action, as in the case of the Treaty of Rome, to moments of disinterest and scarce action, such as the period just after it, to then experience moments of renewed interest, such as in the case of the enlargements to the East. This inconsistency not only puts into doubt the EU real commitment to the cause but risks every time to disperse the reached results or to subordinate the maintenance and further development of equality to other issues, which may be more pressing in a certain moment, such as the 2008 financial crisis. Moreover, the current situation has undoubtedly demonstrated that the EU needs to improve its crisis management, so that its path of improvement does not stop or even regress in times of crisis. Given the recent pullback in its action, the EU cannot be totally considered an entrepreneur in the field of pay equality. Indeed, the pandemic caused a complete change of focus and priorities, and the EU has not been able to continue its reformatory work notwithstanding the situation. Furthermore, even considering the latest policies regarding pay equality, which set high standards and aimed at changing the societal organisation, the assessment of the current performance cannot be exactly positive. As a matter of fact, the EU's greatest challenge is not to be transported by events, but to act consciously even in difficult times, when it is most important to further protect pay equality. This change of behaviour is unavoidable since the latest times have demonstrated how the EU is not impenetrable to crises. On the contrary, the rapid succession of the COVID-19 pandemic and the war in Ukraine suggests that the frequency of these periods of tension is increasing.

In addition, this research work has demonstrated how the causes of the current inconsistent intervention of the EU institutions are various. First of all, some causes are internal to the institutions, which do not always decide to be forerunners in this field. Indeed, in many aspects of the issue the EU willingly limits its actions, refusing to be an entirely successful entrepreneur. Nevertheless, its behaviour often finds fertile terrain in the views of the civil society and MSs' political class, which support this way of action. Indeed, the relationship between the EU institutions on the one hand, and the MSs and civil society on the other is a two-ways one, in which each one influences the other, sustaining or opposing it. However, historically the EU, and especially some of its institutions, such as the EU Parliament and the ECJ, have kept a more progressive attitude, pushing the other actors to have a more advanced reading of current EU norms and to develop new ones to further protect the rights of the less represented parts of society. Given the current attitude and wave of conservatism spreading across Europe, now more than ever it is necessary that the EU institutions recover this role to lead change in the organisation to avoid drawbacks. Although a partial upswing of EU pre-

crisis attitude may be observed, it is possible to notice that the EU has not completely changed its course of action, even though it has received numerous worried reports about the destructive effects of COVID-19 on the GPG and the time needed to reach equality. It may be argued that this partial disinterest for women's cause may be due to the fact that the EU is currently experiencing other, more pressing problems, such as the gas supply scarcity after the Russian invasion of Ukraine. As a result, this situation may suggest that pay equality is tackled only in propitious periods. Nevertheless, to eradicate an endemic problem, it is necessary that the EU institutions are able to grant constant dedication to the domain. Moreover, this corroborates the hypothesis, already proposed in chapter two, that crises happen in rapid succession, and it would be impossible to wait the end of them all to finally act in other fields, such as pay equality. Furthermore, if the EU waits too much before acting there is a concrete risk that past conquests would be lost, and it would need to restart from a more backward step.

To evaluate EU entrepreneurship, it is necessary to evaluate the EU degree of competence in the field and therefore its space of manoeuvre. First of all, the insertion of Art. 119 in the Rome Treaty needs to be highlighted. Indeed, although the workforce is an important element of a Treaty regarding the elimination of customs, the treaty needed to cover a great number of issues, and it is noteworthy that policymakers decided to dedicate a part to pay equality. Moreover, EU competence is based on treaty law and women's rights and labour provisions are one of the many competences that are shared between the EU and the MS level. Therefore, deeply comprehending what treaty law provides for, can be useful to understand why the EU acted or is acting in a certain direction. The fundamental point of the current version of the provision, interpreted also thanks to the ECJ, is that in the EU men and women should be paid equally not only when performing the same work, but also a work of equal value. In practice, equal value is difficult to assess, but the ECJ has clarified that it is intended as a work where the same level of responsibility, experience and education are required. Moreover, up until now the comparison has to be made between people working in the same undertaking. This is a huge limitation, especially in countries with a prevalence of small companies. Other organisations, such as the COE have already overcome this limit, considering the workers of the same sector. Treaty law can be changed or updated, nevertheless, the protagonism of MSs in this process cannot be downplayed. For this reason, when searching the responsible entity for the limitations in EU action it is important to keep this scheme in mind.

To enshrine pay equality in the treaties is a quite powerful move, and the EU has also demonstrated to be able to act as a forerunner in the field when linking its economic agreements with pay equality. Even though the economic relevance of this provision cannot be ignored,

and it was the first reason why it was inserted in the treaty, this inclusion caused a renewed confrontation in the political class, above all in countries where pay equality was not well-spread, which makes it meaningful independently from the reason why it was first conceived. Moreover, this thesis upholds the vision that the provision was not inserted in the treaty only out of economic efficiency. Indeed, the article was quite detailed and part of an entire section regarding social protection. In addition, soon after the entry into force of the treaty, the EC began to request the application of this provision and that each state submitted a report explaining how the situation was improving. Furthermore, since EC has continued to request the application of the right even after years, when the effects of removing custom duties had already been assessed, its effort cannot only be related with the willingness of avoiding unfair competition. On the contrary, this article can be considered the steppingstone from where all pay equality law, and even a major part of the rest of non-discrimination and social law, departed both at treaty law and at secondary law level. The immediate effect of this article may therefore have been not so deep, but it surely strongly impacted EU configuration. More recently, various policies, especially related to work-life balance and equal share of family responsibilities, were designed and they raised both appreciation and critics. On the one hand, the treated topics were really up-to-date, and they configured themselves as a meaningful addition to the social dimension of the EU project. On the other hand, critics have lighted that EU institutions have once more chosen directives and strategies to tackle the problem, so types of policies that give only general norms which need to be adjusted to the specific national contest. This makes compliance assessment more difficult and creates differences between the various MSs, which inhibits improvement at EU level. Difference configures itself as an additional problem which the EU needs to tackle.

However, the EU has always liked to depict itself as an important actor in the field and, although its support to the cause cannot be denied, it is possible to notice some discrepancies between how the EU presents itself and the actual magnitude of its action. In sum, even though the EU has always had an active role in the field of pay equality both inside its borders and in neighbouring countries, to obtain a fully positive judgement it should improve its consistency and strengthen its action in times of crisis. All these examples effectively demonstrate that it will be too reductive to say that the EU has not been an entrepreneur in the field of pay equality so far. Even though the current situation clearly shows the limitations of EU action, it is possible to see that the EU has more or less constantly acted in the field during the years, and, therefore, its role cannot be neglected. However, the way in which the EU has reacted to the COVID-19 pandemic for what concerns pay equality, in strong contrast with its action shortly

before the outbreak of the pandemic, demonstrates the EU incapacity and, to a certain extent unwillingness, to adhere to its objectives in moments of crisis. This strongly worsen the judgment of EU entrepreneurship in the field since it makes all the conquests in the domain really fragile. What needs to be highlighted of the EU behaviour during the pandemic is that not only the EU did not focus on women's situation, but some of its actions were openly discriminatory against women. However, it has been underlined that, after the peak of the crisis, EU institutions timidly implemented some regulations in the field of remote work, to avoid it becoming a further instrument to distance women from pay equality. Therefore, the EU has undeniably played a crucial role in the field of pay equality, but there surely is large space of improvement.

Suggested solutions

The first chapter focused on the possible solutions that studies propose for the GPG and on the effects that a sensible reduction of the gap would have on EU society. This thesis tried to avoid the most obvious proposals to tackle the problem, which in any case have proved difficult to apply, such as simply raising women salaries or implementing gender quotes. Indeed, the research demonstrated that the most fundamental action to tackle the problem would be to rebalance the share of unpaid duties between men and women, especially the caring for children. It has recently become clear that this is one of the most important causes that hinders the closing of the GPG, and the EU has tried to act in this domain, although it is really difficult for an international organisation to be able to influence the private, family choices of its citizens. This point is clear to sector's experts, and it appears also to EU institutions, which have begun to act towards this objective. Although also the civil society is aware, at least in words, of the fact that a more equal sharing of responsibilities would help women's career and work-life balance, it appears that many people are still not so ready to act in this domain, as demonstrated by the COVID pandemic, when men spent a lot more time at home, but statistics show that they only sporadically helped their partners in the house and with children management.

Furthermore, the chapter cites studies that univocally demonstrate that reaching pay equality, or even just improving the current situation, would have large-scale benefits on the economy of every single EU state and of the organisation as whole. This idea is widely shared among scholars, but interestingly not much spread among the EU civil society and political class. This wide discrepancy appears difficult to justify and would need further research. As the first

chapter describes, the diminution in pay inequality would be at least proportional to the generated GDP improvement. It appears that improving pay equality is also one of the few ways to solve the diminishing natality rates in Europe. Indeed, providing women with the security of a good wage would make them more inclined to have more children. Once more, it goes in countertendency with the commonly shared idea that maternity should represent a penalty in women's wage since they dedicate less to work. Finally, the type of growth generated by this change would be far more sustainable than the one proposed by other models. It appears that it could be almost the only way in which the EU could newly lead growth. Indeed, it is already one of the most developed areas in the world, but now other subcontinents are fast keeping up, but with far less sustainable economic and work organisations, as it is common in developing countries. As a consequence, it is another way in which the EU could keep its dominance as herald of civil and human rights in the world, positively influencing also its neighbouring countries. Clearly, a more sustainable growth would benefit first of all the EU population.

Evaluation of the methodology

This research tried to use a variety of study methods to have an accurate picture of the situation, and sources of both primary and secondary literature, which explained the value of the collected data. As a matter of fact, the current and past situation was studied both through academic articles and newspaper, to use a variety of sources. Most importantly, the text of the Treaties has been analysed from various viewpoints. First, the current treaty law regarding pay equality was scrutinised. Secondly, the first chapter started with the first version of the treaty provision about pay equality and saw the evolution of this right in the treaties, and the facts or ECJ judgement that caused its advancement up to the current Lisbon Treaty configuration. It was also useful to confront political class's declarations and actions. The combination of these different texts was also used to have an idea both of the feelings about pay equality and the actual situation. Moreover, the thesis combined a wide use of statistics and the quantitative method, such as text scanning, with more qualitative approaches.

The whole thesis, and above all the second chapter, is based on the historical method, which describes past events linking them chronologically and highlighting their causes and consequences, and puts them into context to avoid ahistoricism or to judge past events with present sensibilities. Indeed, it tries to evaluate the EU attitude towards pay equality from the

way in which the EU behaved during important moments in EU history. These moments are not necessarily related with the GPG, but, as it has been widely discussed, each event has an effect on women's situation and the capacity of an organisation of recognising it and act accordingly may be very important to evaluate its commitment to the cause, even more than its actions openly directed to tackle the issue, as the selected moments clearly demonstrate. In addition, the second chapter looks at the preparatory works before the signing of the Rome treaty, especially the discussions of the Italian Parliament. Indeed, focusing on these works may help to understand the MPs' attitude and the reason why the provision was inserted in the treaty and designed in a certain way at the beginning. The text of the preparatory works was scanned to find the appearances of some keywords like "women", "equality" and "salary" (quantitative method) and then the appearances were analysed with the qualitative method, so reading the part of text they were inserted in, to discover the attitude with which these words were pronounced. The findings are that, even though the *travaux préparatoires* are not a gender-neutral text, since it clearly appears that women's most prominent role is having children for the fatherland, the GPG problem is clearly recognised and discussed. All the MPs seem to agree on the fact that workers' wages in Italy are extremely low and that it would be right that women and men were paid the same when performing the same work. Moreover, the number of appearances of the aforementioned words is an important indicator. On the one hand, it may be expected that women's rights were less developed since the treaty had to deal with various economic topics. On the other, it may be argued that it should have been given more prominence to a problem experienced by numerous working people.

In addition, the analysis of the pandemic period is based on a comparison between the expectations and hopes of experts at the beginning of the pandemic and what happened in reality. The thesis avoids judging the present, since finding accurate data is really difficult and the risk would be to base the judgment only on impressions. Therefore, it compares studies published during the first wave with the reality observed between the end of 2020 and 2021. Although some studies, like the EIGE one, refer to 2022, it is important to remember that most of the data were collected during previous periods due to the necessary time for collecting and elaborating them. It is possible to notice that the EU, when confronted with an unexpected and dangerous event like the pandemic, showed poor crisis management capacities for what concerns pay equality and even perhaps little willingness to act in this domain. As a matter of fact, aid attribution was discriminatory and, moreover, there was no specific aid for working women. This behaviour is in strong contrast with the just-before-crisis attitude, when EU institutions and above all the EC focused heavily on pay equality policy. In many other

occasions, the EU exploited the opportunity novelties created, trying to tie its actions to the respect of women rights, at least for what concerns equality by law and equal opportunities. For example, EU accession has always been conditional to a strong commitment to pay equality.

The first chapter analyses the current situation. It uses a combination of methods and sources. First of all, it analyses primary law, so the texts of the treaties, and part of ECJ judgements. Then it focuses heavily on various statistical data, mostly from Eurostat to grant comparability. The indexes taken into account are the GPG; EIGE's Gender Equality Index, in its domains related to the topic; and the overall earnings gap. The GPG is a synthetic indicator, whose value needs to be interpreted. Therefore, not only the numerical data are confronted to analyse the different situations in the various MSs, but all the data are also broken down thanks to experts' studies, to try to give a meaning to the score of the various EU MSs. Indeed, researchers have clearly demonstrated how analysing only the numerical data can be misleading and even bring to considerations contrary to reality. This more qualitative reading of the statistics is provided by both researchers and EU institutions, above all the EC. Among the bodies which collect these data the effort of EIGE is fundamental for the quantitative collection as well as for the qualitative analysis of data. Furthermore, since Eurostat's GPG statistics do not take into consideration agriculture, the case study method was used to collect some important cases which could give an idea of the field's situation. Indeed, the GPG has also some serious limitations and they have to be acknowledged to weight its capacity to accurately picture reality. A shining example of that is the fact it increases exponentially with the widening of the considered period.

Value of the research

Gender pay equality is a field that has already been widely studied since many years. The vastness of studies has touched various aspects of the problem, however, this research has not proved useless or a mere repetition of past studies. As the previous chapters have demonstrated, the issue is very complex and, for this reason, there are still gaps in this research field that need to be filled. A shining example of that is the fact that nowadays it is available more material than ever before, however, most of the research, even at EU level, tends to use only the GPG as a method of measurement. Tellingly, "GPG" has become a synonym of "pay inequality" and it has also been used throughout this thesis. Nevertheless, the first chapter has clearly explained how the GPG is, strictly speaking, a statistical indicator, which measures the "hourly pay of

women and men, performing the same work or work of equal value”², therefore it would be too restrictive to equal pay equality and GPG. Although there are very complete studies, like EIGE’s Gender Equality Report, most studies use this narrow point of view and therefore this thesis tried to picture the situation using a larger share of the available materials. Indeed, there are also other indicators, such as the overall earnings gap which gives a far more accurate picture, calculating all the gains women lose with respect to men, but it is only seldom used in research or policymaking.

Moreover, the fact that part of the GPG is still unexplained and, as the first chapter has showed, it is difficult to accurately picture the reality of the pay equality situation suggests that further research is still necessary. Finally, as long as the problem of pay inequality is still unsolved, it may be argued that continuous study and research are needed to provide possible feasible solutions and maintain high the attention on the topic. As a matter of fact, studies and observations on pay inequality are necessary to provide EU institutions and MSs’ political class with the information they need to design policies which can have the capacity of really solving the problem. A shining example of that was the introduction on Art. 119 in the Treaty of Rome, which was decided on the basis of the observation of the work group of the future Nobel-prize winner Bertil Ohlin. Obviously, it is not certain that politicians will decide based on experts’ studies, but continuing to provide them and make them available to the general public may be a starting point and cause that the civil society more strongly demands this behaviour by politicians.

From another perspective, it is possible to demonstrate the validity of this research, given that the moments analysed in chapter two have been carefully chosen based on the previously explained criteria. Furthermore, the statistics cited in chapter one are of undoubtable importance and reliability. Moreover, a concrete effort was made to maintain consistency by using only two sources, EIGE and Eurostat. In general, the thesis included only reliable sources, and proposed the works of a variety of scholars and experts from various nationalities and backgrounds, and in various languages, to avoid giving a partial account. In addition, throughout the chapters various hypotheses were made starting from the observation of reality and of the gap’s persistence, and they were then evaluated and demonstrated with the development of the research work. However, the thesis avoided basing its expectations on impressions, personal experiences, or resentment and always tried to balance the accounts of actors that could be less impartial. Above all, it specified when an actor could not be considered

² TFEU, 2012, Art. 157

completely reliable, although his/her opinion was important for the research. Finally, all the observations and subsequent conclusions were based on verifiable facts and in no instance personal opinions were used as a base or to corroborate instances. As a consequence, the reliability of this research has been demonstrated.

In addition, this field of analysis involves, to a certain extent, every social actor and this means that each of them has an opinion and directly acts toward an aim in the field. This vastity of agents, clearly shown in this research work, explain why continuous study cannot be avoided, and it is almost impossible to reach the saturation point in this field, given that each study can describe only a slice of this complex reality. Furthermore, the thesis has underlined various instances which demonstrate how the reality observed may be contrary to the one perceived by the large majority of society, such as in the case of the enlargements or the relationship between women's work and natality rates. Already the *travaux préparatoires* to the Rome treaty have demonstrated how these misjudgements are often shared also by insiders and professionals, which further clarifies the importance of conducting studies of this sort to provide them with real observations and help them basing their policies on actual social and economic appraisals. The willingness to bring forth this analysis was further corroborated by the fact that even research itself is divided on the evaluation of EU action in the field, with some researchers focusing on the lack of EU action and others that, although acknowledging that EU action was not perfect, focus on its positive consequences.

Study's limitations

It has to be acknowledged that the study entails some limitations. First of all, the fact that it has analysed into detail only few moments in the EU GPG history. However, it can be demonstrated that these moments have been cautiously chosen since their importance has been highlighted and the research always connects the single fact with its consequences and the preconditions that generated it, enabling to detect trends and disjunctures in EU action. Moreover, it tried to take into account facts of different nature, for instance some with positive and other with negative consequences; some predictable and other unpredictable, to be sure that all types of happening are covered. Most importantly, this thesis chose moments in which the focus was not pay equality, clearly demonstrating the hypothesis that each event or action is gendered since it has an effect on women. Moreover, the way in which the EU decides and "remembers" to act to tackle the problem when it is not the issue on the forefront can be considered one of the greatest representations of EU involvement in gender pay equality.

Furthermore, the decision of choosing the Italian preparatory works to the Treaty of Rome was given by operative reasons of knowledge of the language and of the contemporary socio-economic situation. Clearly, it would be interesting to widen the research to include the preparatory works of all the founding countries, but the Italian ones are particularly revealing since Italy was among the states with the worst female condition and for which Art. 119 was specifically designed.

In addition, the study has some intrinsic limitations, for example it was able to describe the situation during the COVID pandemic, but not the one just after, so to univocally respond to how COVID affected women. Indeed, at the time of writing data were not analysable yet. EUROSTAT publishes its data two years after the collection period, consequently most of the data currently used are from 2020-2021. Although it may be argued that the thesis could have described the current situation, it is of paramount importance to avoid partial visions and sharing of impressions not sustained by facts. Furthermore, the study was willingly limited to the EU territory, but it would be possible to expand it to other states or to compare different organisations. Some researchers, such as Katharina Whrolich³, argue that it would be more meaningful to study the GPG comparing countries similar from an economic and demographic point of view, to be able to understand the variables which affect pay equality, in which environments do some actions succeed, and why some countries have a lower inequality than others. Indeed, it has been demonstrated that, on the one hand, clear norms and application assessments by the EU are required. On the other, pay equality is strongly linked to the economic performance of a state and to its societal organisation (more/less conservative, historically liberal or ex-communist country). Therefore, it is necessary to adapt norms to the single state or region. Moreover, it appears necessary that part of the EU entrepreneurship focuses not only on promoting development in itself, but on bringing MSs to its side to be able to obtain the desired results.

Finally, this research had a macroeconomic approach, focusing on the repercussions of the GPG at MS or even EU level. Furthermore, almost all the data collected referred to the situation at MS or EU level. This thesis maintained that single cases, even though exemplary, were not suitable for the aim of this research, which aimed at describing the general women's situation and the effects of profound changes, such as EU enlargements, which affected the whole continent. The only instance, when a case study was used was to fill a gap in the GPG survey, which does not take into account the agricultural system. However, the single descriptive case

³ Becker, 2021.

was tied with the experience of a Germany-wide association, which ensured the case relevance at least at MS level. Nevertheless, it would surely be worth studying the problem from other perspectives which this study neglected, such as the GPG experienced by determined categories; or to deal with the problem with other approaches, such as the case study method, to understand, for example, the feelings and the consciousness of specific women about their situation.

Future developments and further study possibilities

There are still numerous possibilities to widen the approach to this field of study and, moreover, future changes will surely deeply impact women's situation. First of all, it is worth giving a brief overview of the most important expected future developments based on the current situation and of the improvement possibilities they may provide to the EU. Although it is neither possible to predict the future nor this research has this aim, it is indubitable that, looking at present and past behaviours, the analysis highlighted some trends that can suggest some possible lines of development at least for the closest future. As a matter of fact, the second chapter has demonstrated that enlargements or agreements with EU neighbouring countries would not be detrimental for women's situation in the EU. On the contrary, they would reinforce the interest and the action towards this issue. Since the thesis noted a trend common to all the last three enlargements, it is possible to presume that future enlargements or agreements will help pay equality both in the EU and in the acceding/neighbouring states. Negotiations will reinforce EU spirit as a herald of women's rights creating a favourable environment for action. Moreover, as in the case of Croatian and Macedonian activists, the dialogue between the EU and the candidate country will increase the support and funding of the women's associations of the latter, giving them the opportunity to interact with EU associations and institutions and helping them having a bigger impact on their society. At the moment, it is not possible to predict when the next enlargement would take place, but from the gender pay equality perspective, it should be welcomed as long as pay equality is included among the provisions accession is conditional to. Furthermore, the process of diffusion of pay equality in the new MSs can be meliorated if the EU demands real application of its provisions and not only an adjustment of the state laws, and if it regularly checks application, sanctioning not complying states.

In addition, from the previous observations, such as the analysis of the post-pandemic situation, it seems unlikely that the EU would revise its crisis management in the short run to

become more protective of women's rights. Indeed, women's rights seems to be neglected in periods of crisis, notwithstanding their effects on half of the EU population. However, it is necessary that the EU acknowledges how solving this endemic problem could have benefits on the more general overcoming of the moment of crisis. Indeed, as already the Treaty of Rome and the preliminary works demonstrated, ensuring women's participation and equality in the work field can have strong positive effects on economic performance, levelling out differences in development between states. Moreover, granting pay equality can help in solving other great problems of our society, like for example the decrease in birth rates. Research is unanimous about the positive effects of gender equality on the work field and on the economy in general. In addition, the observations made in neighbouring and acceding states have demonstrated how EU and MSs institutions have a paramount importance to this aim, but also the contribution of the civil society with the shared sentiment of involvement cannot be downplayed. Finally, the help of civil society organisations, such as unions and feminist groups is fundamental to obtain higher objectives. The case of the Croatian or even Turkish feminist groups have demonstrated how their support of the EU action and involvement in the process is unavoidable to secure real application of EU provisions in the country, to overcome one of the biggest problems of EU pay equality legislation, which is the fact that it mostly stops at legislative level. Moreover, they can be useful also for their influence on the civil society.

Although this thesis adds itself to a conspicuous quantity and variety of research, there are still various study possibilities and aspects that require a deeper analysis. Furthermore, since the socioeconomic situation is always evolving, it may be argued that also the events and situations that affect the GPG are always changing, opening up new study possibilities. The COVID pandemic, which unexpectedly changed the *status quo*, can be considered a shining example of that. For this reason, there is still the need of new studies on the subject, and it is fundamental to make sure that the studies on which new policies are based are always up to date, otherwise, policies will run the risk of being useless or even counterproductive. Moreover, a large part of the GPG is still unexplained and it can be argued that it is impossible to solve a problem whose causes are not known. Therefore, it would be of paramount importance to continue studying to explain the whole gap and be able to effectively tackle it. In addition, in 2022 ended the time span at states' disposal to implement the 2019 *Work-Life Balance Directive*. In the next years it would be interesting to monitor how the directive has been transposed in the various MSs' legislation and how it is being applied. In conclusion, this

research has shown a particular perspective of the gender pay equality issue and many more aspects remain to be further analysed.

5. Summary

Il fine di questa tesi è valutare se l'UE abbia avuto fino ad oggi un ruolo di primo piano nel campo della parità salariale tra uomo e donna e se possa essere un esempio per affrontare la questione a livello sovranazionale. Infatti, l'Unione cerca di mostrarsi come un'organizzazione che guida con l'esempio diffondendo i diritti ed è possibile notare la sua grande influenza sulla parità salariale. Tuttavia, dopo quasi 70 anni di legislazione sulla parità salariale il divario di genere persiste e appare diminuire solo lentamente. La valutazione dell'operato dell'UE viene svolta in due modi: tramite l'analisi della situazione attuale, come esito del percorso dell'Unione, e tramite lo studio del suo comportamento in alcuni momenti cruciali della sua storia per esaminare il suo operato nel corso del tempo.

I progressi dell'UE appaiono degni di nota, ma non sempre lineari e difficili da mantenere poiché fortemente influenzabili dal contesto. Inoltre, il processo decisionale dell'UE e il modo in cui le competenze sono divise tra le istituzioni dell'Unione e gli stati membri, rende difficile trovare soluzioni unitarie. Questa ricerca guarda all'evoluzione della norma nei trattati dalla versione del trattato di Roma fino alla configurazione di Lisbona, con i fatti o i giudizi della Corte di Giustizia dell'UE che hanno influenzato il suo sviluppo; e alle azioni dell'Unione per raggiungere tali obiettivi, considerando l'allargamento del suo territorio e delle competenze anche riguardo la parità salariale. Inoltre, si basa sul metodo storico, concentrandosi sui rapporti causa-effetto tra importanti momenti storici dell'UE e il gap salariale. Per capire quali siano i fenomeni che ostacolano l'equità sono stati raccolti molti dati tramite vari indici che sono sempre stati anche considerati qualitativamente. La ricerca si basa su fonti primarie, come testi legislativi, lavori preparatori ai trattati, sentenze della Corte di Giustizia dell'UE e le rilevazioni biennali dell'Eurostat; e secondarie, come le analisi di esperti e i commenti dei gruppi femministi. Considerando sia le azioni che si concentrano sull'equità *de iure* che *de facto*, è necessario valutare se l'UE abbia assunto un ruolo attivo o se si sia nascosta dietro un'ipocrisia organizzata, operando un disaccoppiamento istituzionalizzato tra le sue parole e le sue azioni. Per valutare l'impegno dell'Unione è necessario valutare il suo grado di competenza nel campo e quindi lo spazio di manovra. Successivamente, le politiche europee vanno valutate per il loro contenuto, ma anche per come viene supportata e controllata la loro implementazione. Norme chiare e controllo dell'UE sono necessari, ma serve anche adattare le norme al singolo caso affinché siano realmente efficaci. La tesi ha un taglio macroeconomico, in quanto punta ad analizzare gli effetti della disparità salariale a livello sistemico e non a focalizzarsi sui singoli casi. Inoltre, è stata dimostrata la grande influenza dell'organizzazione socioeconomica degli attori statali sulla parità salariale.

Anche se nei decenni il contesto legislativo, culturale e sociale europeo ha aumentato l'equità nel mercato del lavoro, le donne continuano a soffrire una discriminazione strutturale che si riflette anche nella disparità salariale. Il GPG, che è alla base delle politiche europee, nel 2022 si attestava al 13%, con grandi variazioni tra stati. La disomogeneità si configura come un problema aggiuntivo, poiché rende difficile trovare soluzioni unitarie. Il GPG è un indicatore sintetico che misura la differenza di salario lordo medio tra uomo e donna per lavoro uguale o di uguale valore. Questa ricerca prende in considerazione il dato a livello UE, ottenuto aggregando i singoli risultati. Questa differenza si lega al ruolo primario delle donne nella società come nutrici della famiglia e solo secondario di lavoratrici. Di conseguenza, il tasso di occupazione femminile è inferiore a quello maschile e più donne tendono a lavorare part-time e questo incide a sua volta sul GPG. In aggiunta, la disparità salariale può indurre più donne ad abbandonare il lavoro per focalizzarsi sui doveri familiari, anche se quasi il 60% dei laureati dell'UE sono donne. Il gap salariale è inversamente proporzionale al tasso di occupazione femminile, in quanto, nei Paesi con poche lavoratrici, solo le donne con un'alta formazione e buone prospettive intraprendono la carriera lavorativa. Questo risulta un'efficace dimostrazione di come il dato numerico da solo non sia sufficiente per descrivere il fenomeno nella sua totalità. Le lavoratrici tendono a essere "segregate" in settori con retribuzioni più scarse e meno possibilità di carriera, ma anche a guadagnare meno per lo stesso lavoro e a essere ancora quasi escluse dai ruoli dirigenziali. Queste differenze sono spesso il risultato di una divisione ineguale dei doveri familiari. Infatti, è irrealistico pensare che una tendenza così largamente diffusa sia solo il risultato di una libera scelta.

Questa situazione è aggravata dalla perdita di posti di lavoro della pandemia, ma il trend di lento miglioramento non è stato sovvertito e il GPG è sempre diminuito dalla fondazione dell'UE. Tuttavia, una parte del GPG rimane ancora senza una spiegazione. Sebbene anche la parte che si può chiarire sia il risultato di discriminazioni, il fatto che una parte del problema rimanga oscura rende praticamente impossibile risolverlo completamente. Gli studiosi ritengono però che una grande fetta di questa parte si possa chiarire ancora una volta con l'ineguale divisione dei doveri familiari. La maggior parte della ricerca guarda solo al GPG, ma combinandolo con il divario retributivo complessivo di genere, che calcola tutti i guadagni che le donne perdono rispetto agli uomini, si ha una fotografia più accurata della discriminazione salariale. L'indice sull'uguaglianza di genere dell'EIGE (nei suoi campi relazionati con l'argomento) dimostra come le differenti espressioni della parità di genere siano tutte connesse. Come si evince dalle rilevazioni dell'EIGE, aumentare i guadagni delle donne non le renderebbe solo più ricche, ma anche meno soggette alla violenza di genere e tutelerebbe il loro diritto alla salute. Unire le informazioni di vari indicatori è fondamentale per avere una rappresentazione chiara della situazione attuale, che è necessario per poter valutare l'impegno dell'Unione in questo campo.

La parità salariale ha fatto parte delle leggi dell'Unione fin dal Trattato di Roma, diventando un principio fondamentale della legge sociale europea, ma rimane ancora un obiettivo, la cui importanza ha subito variazioni nei decenni, diminuendo in periodi di crisi. Tuttavia, storicamente le istituzioni dell'UE hanno mantenuto un atteggiamento abbastanza progressista, spronando gli stati membri. Secondo il TFEU uomini e donne devono essere pagati equamente quando svolgono un lavoro uguale o di uguale valore. La valutazione dell'uguale valore del lavoro è complicata dal fatto che per la normativa europea, come sottolineato dalla Corte di Giustizia dell'UE, deve essere svolta all'interno della stessa azienda. Questo limita fortemente le possibilità di reale applicazione dell'articolo, soprattutto negli stati con molte piccole imprese. È inoltre importante sottolineare che il COE permette la comparazione tra lavoratori dello stesso settore. È possibile notare l'esistenza di una concezione economica e una sociale della parità salariale, che sono sempre state unite nel corso dei decenni. La concezione sociale sottolinea come la parità salariale vada tutelata in quanto espressione del diritto alla parità di genere. La concezione economica recentemente si è concentrata sull'efficienza della parità salariale, che permette di sfruttare appieno il capitale umano europeo. A seconda della situazione socioeconomica varia la lettura preponderante del problema.

La ricerca dimostra che un'azione fondamentale per risolvere il problema sarebbe ribilanciare la quantità di doveri non pagati tra uomini e donne. Raggiungere la parità salariale è un obiettivo di equità, e inoltre permette di ridurre i costi sociali e aumentare la produttività, la crescita economica e l'introito fiscale. Infatti, l'aumento della popolazione lavoratrice ridurrebbe i livelli generali di povertà e, pertanto, il peso che le persone bisognose hanno sullo stato e allargherebbe al contempo la popolazione tassabile. Si calcola che la diminuzione della disparità salariale sarebbe almeno proporzionale al miglioramento del PIL generato. Il miglioramento economico sarebbe più pronunciato negli stati che hanno una posizione più arretrata rispetto alla parità salariale. È importante sottolineare che la ricerca è pressoché unanime riguardo ai vantaggi economici della parità salariale. Inoltre, questo sarebbe uno dei pochi modi per risolvere il problema della diminuzione della natalità. Infatti, dare alle donne la sicurezza di un buono stipendio le renderebbe più inclini ad avere più figli. Quindi, beneficiare dei vantaggi causati dalla parità salariale appare essere insostituibile per un'Unione con una popolazione che sta invecchiando e che rischia di perdere il suo posto di primo piano nell'economia internazionale a discapito dei Paesi emergenti che hanno una maggiore crescita del PIL e un costante aumento della popolazione. Infine, il tipo di crescita generata da questo cambio sarebbe molto più sostenibile.

Ogni congiuntura storica cambia lo *status quo*, generando opportunità, più o meno durature, per le istituzioni e inoltre ogni evento è formato e forma a sua volta il concetto di genere. Ugualmente nessun attore sociale può ritenersi escluso dalla parità salariale. Per valutare l'impegno dell'UE, la

sua capacità di non essere passiva verso gli eventi può essere tanto importante quanto le sue politiche direttamente indirizzate alla parità di genere. L'inserimento dell'Articolo 119 nel trattato di Roma è la fondazione delle competenze dell'UE. L'analisi dei lavori preparatori mostra l'idea che accompagnò l'inserimento di questa norma nei trattati. Si sono analizzate parole chiave di questo testo come *donna*, *equità* e *salario*. Inizialmente la parità retributiva era considerata un requisito per assicurare la concorrenza leale tra gli stati della CEE, in quanto i Paesi che già la garantivano avrebbero subito la concorrenza di quelli più arretrati. Tuttavia, era già stata definita un "imperativo morale". Il trattato doveva definire molti temi economici, ma avrebbe potuto dare più prominenza a un problema di molta forza lavoro, la quale è fondamentale per lo sviluppo di un mercato comune. Dai lavori preparatori appare chiaramente la concezione che il ruolo più importante della donna sia avere figli per la patria, ma negli stessi documenti il divario salariale è apertamente riconosciuto e discusso.

L'Articolo 119 seguiva la posizione all'avanguardia dell'OIL e l'Unione diventò una delle prime organizzazioni a includere questa norma nella sua legislazione. Inoltre, l'articolo era dettagliato e parte di un'intera sezione riguardante la protezione sociale; quindi, anche la sua componente sociale non deve essere minimizzata. Pertanto, l'inclusione di questa norma causò un rinnovato confronto nella classe politica dei Paesi fondatori. È possibile notare il grande valore dell'inserimento di questa norma nel trattato dal fatto che la Commissione non smise mai di richiederne l'applicazione, anche quando la tenuta del mercato comune era stata ormai assicurata. L'importanza di sancire questo aspetto con l'articolo di un trattato non deve quindi essere sottovalutata. Inoltre, la norma fu inserita su consiglio del gruppo di lavoro guidato dall'economista Ohlin. Anche se lui sottolineò la possibile perdita economica generata dal gap salariale, è degno di nota che le istituzioni dell'UE si siano affidate ai pareri degli studiosi per redigere il trattato e dimostra come, fin da allora, gli esperti insistano sulla funzionalità della diminuzione della disparità come manovra economica.

Questa tesi studia le conseguenze delle ultime espansioni territoriali sul gap, in quanto questi stati partivano da una posizione piuttosto arretrata riguardo alla parità salariale rispetto al resto dell'Unione. Gli ampliamenti dell'UE dimostrano la sua volontà di esportare le sue norme tramite accordi con Paesi limitrofi, ma anche la disponibilità di questi ultimi ad accettarle per farne parte. L'accesso all'UE è sempre stato condizionale a un forte impegno per la parità salariale e con gli ultimi allargamenti l'Unione doveva convincere le istituzioni dei Paesi candidati ad implementare i suoi standards. Nel caso della parità salariale gli ampliamenti verso Est hanno dimostrato come il ruolo dell'UE abbia effetti positivi anche sugli stati membri poiché la questione rimane prioritaria nella discussione politica. Inoltre, si istaura un maggiore dialogo tra i gruppi femministi dell'UE e quelli degli stati candidati, che rafforza entrambi. Il loro contributo nel fare pressione e controllare l'operato

del governo è stato imprescindibile per la riuscita del processo di integrazione. In aggiunta, l'opportunità di presentarsi come un'organizzazione guida nella diffusione dei diritti a livello internazionale ha un'influenza positiva sul sentimento identitario europeo. L'UE ha avuto successo nella parità *de iure* e ha creato molte leggi riguardanti la parità salariale chiedendone l'applicazione anche ai Paesi limitrofi, legando gli accordi economici con la parità salariale.

L'UE, ponendola come condizione per l'accesso, assicura che gli stati candidati prendano misure contro il problema, incluso cambiare il loro apparato legislativo. L'UE è una delle poche entità politiche che richiede questo rispetto dei diritti per ammettere un Paese o per stipularvi un accordo. Esaminando le ultime negoziazioni, l'allineamento agli standards dell'Unione sulla parità di genere ha sicuramente influito sul diverso esito di quelle croate e della Repubblica della Macedonia del Nord. Tuttavia, è possibile notare che, anche se i "nuovi" stati hanno modificato le loro norme sulla parità salariale, l'implementazione delle stesse risulta carente. Il fatto che l'Unione non controlli e non punisca l'inadempienza, oltre a non dare effettivo supporto a questi stati nell'applicazione delle norme rende la sua azione zoppa, riducendone sensibilmente l'efficacia effettiva. Il processo di diffusione della parità salariale nei nuovi stati membri può essere migliorato se l'UE chiede una reale applicazione delle sue leggi, sanzionando gli stati che non rispondono, ma soprattutto appare necessario che l'UE formi la classe politica di questi stati sull'importanza dei suoi standards e su come applicarli. È possibile presumere che ulteriori allargamenti dell'UE o accordi migliorerebbero la parità salariale sia negli stati membri che in quelli che stanno accedendo, se questa è condizione necessaria per l'accesso. In aggiunta, le negoziazioni rafforzerebbero lo spirito dell'UE come araldo dei diritti delle donne, ovvero come si è dipinto praticamente dalla sua creazione.

Nel 2019 l'UE ha creato la direttiva *Work-Life Balance* capendo che per risolvere il problema andavano redistribuiti i doveri di assistenza familiare, soprattutto quelli legati ai bambini. È una legge all'avanguardia, che tenta di cambiare l'organizzazione sociale e le relazioni tra i generi. Da un lato gli argomenti trattati si configurano come delle aggiunte importanti alla dimensione sociale del progetto europeo. Dall'altro i critici hanno sottolineato come le istituzioni europee abbiano ancora una volta scelto una direttiva per affrontare il problema; limitandosi quindi a dare disposizioni generali che gli stati devono adattare al loro contesto. Gli ultimi rapporti EIGE hanno dimostrato come le conquiste nel campo siano tremolanti e la pandemia le abbia poste a rischio. Infatti, ha obbligato le famiglie a una veloce riorganizzazione, che è andata a svantaggio delle donne. Infatti, ha causato un'impennata dei doveri genitoriali, ma non un cambio degli schemi sociali che li rendono una prerogativa femminile. Questi effetti appaiono duraturi, infatti il *Gender Equality Report* dell'EIGE nel 2021 si era focalizzato sugli effetti della pandemia sulla salute e quello del 2022 sui suoi effetti sulla famiglia. Il COVID-19 ha una rilevanza particolare per l'analisi di questa tesi in

quanto era un evento inaspettato. Anche se non è ancora possibile dare una visione complessiva degli effetti della pandemia, la tesi confronta le differenze tra le aspettative degli studi pubblicati durante la prima ondata e la realtà tra la fine del 2020 e il 2021. Il modo in cui l'UE ha reagito alla pandemia per quanto concerne la parità salariale è in forte contrasto con la sua azione poco precedente e questo rende tutte le conquiste molto fragili, in quanto appaiono non indipendenti dal contesto.

Anche se alcune situazioni causate dalla pandemia collimavano con le aree di azione dell'UE, come il lavoro da remoto e l'equilibrio lavoro-famiglia, e nonostante il grande contributo delle molte donne impegnate nel sistema sanitario, non appare che l'UE abbia visto la pandemia come un'opportunità per migliorare la parità salariale. La pressione sul sistema sanitario ha causato un cambio di priorità e l'UE non è stata capace di continuare il suo lavoro di riforma, ridimensionandolo. Inoltre, l'attribuzione degli aiuti per i lavoratori durante la pandemia era discriminatoria. È anche verosimile che la massiccia perdita di posti di lavoro femminili abbia tenuto sotto controllo la disparità salariale. Tuttavia, dopo il picco della crisi le istituzioni europee hanno timidamente implementato alcune regolazioni del lavoro da remoto per evitare il suo diventare un ulteriore strumento di distanza tra le donne e l'equità salariale. Anche se l'UE si sta concentrando su problemi più pressanti, si può osservare un parziale ritorno all'atteggiamento pre-crisi. Tuttavia, dopo la pandemia non sembra che l'UE sia intenzionata a cambiare la sua gestione delle crisi, ma sarebbe necessario renderla più protettiva dei diritti delle donne affinché periodi difficili non fermino il percorso di miglioramento. Anche se la pandemia ha dimostrato ancora una volta come l'ineguale distribuzione dei doveri di assistenza familiare influisca sulle donne, rendendole fragili e più soggette agli effetti delle crisi, non sembra che l'UE voglia modificare in maniera netta il suo supporto alle famiglie. Inoltre, l'esperienza durante la pandemia, unita alla *Strategia per la Parità di Genere 2020-2025*, che indica gli obiettivi anche nel campo della parità salariale, può suggerirci la direzione che l'UE intraprenderà nel futuro più prossimo.

In conclusione, l'UE è un'entità politica pionieristica riguardo alla parità salariale, ma ha provato a dipingere il suo ruolo come più ampio di quanto realmente fosse. Anche se nei decenni il *milieu* europeo ha ridotto la diseguaglianza nel mercato del lavoro, la disparità salariale persiste ed è supportata dalle norme sociali. L'UE si è focalizzata con buoni risultati sulla parità *de iure* e di opportunità, incrementando la sua azione nel tempo. Appare inoltre che l'UE punti veramente ad affermare la sua posizione come protettrice dei diritti nel continente, diffondendo le sue leggi e istituzioni con l'esempio. Si può osservare che generalmente il comportamento dell'UE non è stato così coerente nel tempo, ma si sono alternati momenti di forte azione e di disinteresse, soprattutto in concomitanza con periodi di crisi. Inoltre, confrontando le dichiarazioni e le azioni della classe politica, si vede una discrepanza visto che i politici, fin dalla fondazione della CEE, sono sempre stati

molto fermi nei loro discorsi nel supporto della parità salariale, ma le azioni non hanno dimostrato questo forte impegno. Inoltre, l'UE ha spesso limitato la sua azione volontariamente. La parità salariale è affrontata solo in momenti favorevoli, è invece un problema endemico che richiederebbe un'azione costante. Quindi, è possibile vedere che l'UE ha continuato ad agire in questo campo, ma c'è largo spazio di miglioramento.

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