Gender Mainstreaming in the European Union: The Firework Effect

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ABSTRACT

In this paper, we analyse Gender Mainstreaming as a gender equality strategy and its implementation in the European Union, a fertile environment. We examine how incompatible resistances generate pressure points that hinder the road to equality. We see how, while the European Commission was actively taking action into gender equality, it was battling internal resistances in the European Court of Justice decisions. These types of resistances are extremely common in European institutions, and there is no active engagement in trying to overcome them. We discuss how there is a decreasing interest in implementation, shown by slimmer budgets and increasing cultural backlash after the global financial crisis. We argue that beyond the implementation problems, its character of soft law, the inability to find agents responsible for the application, the almost exclusive use in areas historically associated with gender issues, the danger of its use to the detriment of other policies of equality, minimum transformative effect (caused by lack of institutional reforms) and the contradictory results, the main problem is that it does not have a clear gender perspective.

Gender Mainstreaming is presented as a too all-encompassing and ambitious strategy. It is an empty concept in itself, deprived of any analysis of gender, gender relations, and their impact. As such, it becomes an abstract principle that does not consider structural inequalities in the decision-making process and institutions. Thus, the development of Gender Mainstreaming can be described as a "firework effect". In the 1990s, this policy represented the forefront of gender issues. The possibility of incorporating a gender perspective mainstreamed in all policies of the European Union was certainly attractive. However, trapped within the limits of its own ambition, it became another vehicle reproduction of inequalities entrenched within patriarchal institutions. All the noise and colours provided at first faded and, like a firework display, there was no permanence.

INTRODUCTION

Gender mainstreaming became very appealing to gender equality activists and organizations because of the novelty it entailed: including a gender perspective into every policy-making area (Rees, 1998; Squires, 2005; Walby, 2005). It was first introduced in the public policy arena in 1995 at the Fourth World Conference on Women as a general recommendation of the United Nations. Since then, official commitments have been made by many international organizations, including the European Union. Historically, the E.U. has been a fertile ground for feminist struggles (Shaw, 2000; Fraser, 2007; Woodward, 2012). Nevertheless, the implementation of Gender Mainstreaming produced uneven results as shown by extensive research on problems in

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impact, in budget allocation, accountability, institutionalization and discursive openness, among others (Rees, 1998; Braithwaite, 2000; Shaw, 2001; Mazey, 2002; Verloo, 2001; Stratigaki, 2005).

Gender Mainstreaming has been introduced around the world, from the United Nations to Latin America, Africa, and Asia, as a gender equality policy aimed at introducing a gender perspective in all areas of policy making. If it does not prove to be a successful strategy in a rather fertile environment such as the European Union, it could translate to disappointing implementations around the world. Although policy failures tend to be specific to the environment and context in which they are applied, it is important to analyse the causes of why Gender Mainstreaming has been watered down, especially if the problems arise from policy-making processes and an overall context of social and historical inequalities.

Analysing the problems of Gender Mainstreaming sets a basis to analyse the structural processes that reproduce inequalities. This paper is aimed at using the implementation of gender mainstreaming as a gender equality strategy to examine if the problems that resurface are caused by failures in the implementation (Mazey, 2000; Bretherton, 2001; Daly, 2005; Stratitaki, 2005) or if the underlying mechanisms generate resistances incompatible to achieve gender equality. To do so, we will first briefly present the development of Gender Mainstreaming both in the United Nations and in the European Union, to understand how the strategy responded to a time of international commitments to gender equality, which has been since slowly declining. Secondly, we will focus on Gender Mainstreaming in the European Union context, compared to other equality strategies previously displayed. Third, we will analyse the implementation of Gender Mainstreaming in the European Union to set out the different areas in which it is failing to achieve the proposed goals.

Studying the subjacent mechanisms that reproduce inequality through Gender Mainstreaming and the failure in reshaping social construction of gender will shed some light on the most important aspects of multi-level governance structures and institutions as to provide insights into structural changes.

Multiple debates concern the issues of multilevel governance and the European Union. In a world in which multi-level decision-making is constantly changing, the European Union serves as a model for other regional integration systems. Scholars describe policy-making in the European Union as a permanent exercise in multi-level governance (Bache, 2008). Multi-

level governance presents a different decision-making logic and assumptions than the overlapping and competing state networks. Some recognize an advantage in supranational decision-making for women's groups, as well as new opportunities to enter the decision-making domain. Prima facie, this could imply an opportunity to design new structures and institutions that do not reproduce power relations that sustain inequality. Still, resistance to the application of Gender Mainstreaming and other equality measures proves that, despite initial interest in equality, there are no profound radical changes to be made. Studies have shown that there is a failure in addressing gender in the democratization of European governance structures (Shaw, 2002), which translates into a lesser commitment towards Gender Mainstreaming in particular and gender equality in general (Mazey, 2002).

GENDER MAINSTREAMING IN THE U.N.
The concept of Gender Mainstreaming entered the international public policy arena in September 1995 at the Fourth World Conference on Women (Beijing, 1995). However, the idea of mainstreaming gender in public policies originated in the Third World Conference on Women - (Nairobi, 1985), which focused on the limited role of policy integration of gender equality in development policies. The belief that the benefits of overall development policies will eventually reach women proved problematic. In this context development initiatives started to visualize the incorporation of a gender perspective. Although the concept of Gender Mainstreaming still would not be devised, many major features were based on that conference, especially the inclusion of specific policies to promote the empowerment of women.

The issues raised in the Nairobi Conference were discussed in greater depth at the Fourth World Conference on Women (Beijing, 1995). At that meeting, a platform for action was concluded with a series of horizontal policies, including the development of methods of incorporating gender politics into national strategies. The document includes a description of what Gender Mainstreaming would eventually become: "Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective into all policies and programmes, so that, before decisions are taken, an analysis is made of the effects for women and men, respectively" (United Nations, 1996). In Beijing delegates from 189 countries signed a platform for global action for the integration of the gender perspective as head of global strategies for promoting equality.

At the 23rd United Nations General Extraordinary Assembly (New York 2000), the points discussed in Beijing 1995 came to the debate to launch a set of new strategies. The conference focused on the criticism from non-governmental organizations, the United Nations Organization itself and the European Union on the inaction of the actors involved. The result of the conference was far less promising than Beijing: the signed resolutions for the implementation of women's rights and equality were very similar to those previously signed in 1995. In other words, the results in the five years after Beijing were not as expected.

In 2005, the 40th session of the U.N. Commission on the status of women was held, with the primary objective of reviewing the implementation of the platforms for action in both Beijing 1995 and New York 2000 ("Beijing +5"). The results were again not very encouraging, and action strategies were re-evaluated.

The 50th Commission on the Status of Women of the United Nations (CSW) was held in New York from 27th February to 10th March 2006, and, among other things, the order of equal participation was included among women and men in decision-making processes at all levels. In the final document on the subject of "equal participation of women and men in the process of decision making," the European Union also established a German initiative, the need to implement educational plans with gender perspectives and the need to take into account the role of men and boys in promoting gender equality. This document provides a qualitative leap in the incorporation of the need to widen the gender perspective of men and boys.

In September 2015, world leaders drafted by consensus a new document called "Transforming our World: the 2030 Agenda for Sustainable Development" in which there is a compromise towards Gender Mainstreaming: "the systematic mainstreaming of a gender perspective in the implementation of the Agenda is crucial." However, there is no indication of a concrete plan or awareness development programme.

Despite not having the expected results, the U.N. continues to focus on Gender Mainstreaming strategy with the creation of U.N. Women in mid-2010, an entity for "Gender Equality and Empowerment of Women." As an intergovernmental organization, the United Nations has received criticism for its lack of enforcement, in that way, the failed objectives of Gender Mainstreaming may be part of a bigger problem in connection to international

organizations. Still, the fact remains that most members do not produce the data they compromised to collect, and U.N. resources are scarce. Gender Mainstreaming looks excellent on paper, but when translated into action, it falls short of its main objectives.

GENDER MAINSTREAMING IN THE EUROPEAN UNION.
The concept of Gender Mainstreaming appeared in the policies of the European Union for the first time in 1991 as a small and innovative element within the Third Action Programme on Equal Opportunities (1991-1996). However, during the execution of the Programme, Gender Mainstreaming went unnoticed. In the 1995 Beijing Conference, the European Union made a commitment to the principle of Gender Mainstreaming. Despite the adoption of a new strategy for the implementation of the Third Action Programme for Equal Opportunities and previous statements on equality of opportunity in the European Council in Essen in 1994, no institutional changes were made to the effective inclusion of a gender perspective. This story tells the tale of rhetoric without action that would later become common currency in the adoption of gender equality measures.

The official adoption of Gender Mainstreaming as a strategy came in 1995 with the incorporation of Sweden, Austria and Finland to the European Union. Concerning equality measures, these three countries provided a greater experience and, in turn, the European Commission for the first time since its creation incorporated five women. That Commission issued in the Communication 96/67 the first definition of the Gender Mainstreaming Strategy: "mobilizing all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situations of men and women (gender perspective)" ("Incorporating Equal Opportunities for Women and Men into all Community Policies and Activities." COM (96) 67. Brussels, 21st February 1996: Page 2). The Commission devised the strategy to achieve lasting changes in family structures, institutional practices, and organization of work and leisure time, personal development and independence of women.

In this context, the Commission established a "group of Commissioners on equal opportunities," and in 1995 proposed the Fourth Action Programme for Equal Opportunities for Men and Women (1996-2000). Gender Mainstreaming became the central theme of the programme, promoted by the Beijing Platform for Action 1995. The primary objective was to

encourage the integration of equal opportunities in the preparation, implementation and monitoring of policies and activities of the Union and the Member States. It was the first time that the description of Gender Mainstreaming incorporated the idea of crosscutting and extended to the national, regional and local levels. Among the most important points, there were some innovative features such as the reconciliation of family and professional life of women and men and mobilizing all people responsible for the economic and social life for equal opportunities.

Implementation started in early 1997 with the appointment of Gender Mainstreaming officers in twenty-nine different departments to develop policies that would account for a gender perspective. In this context, the European Commission "Gender Impact Guide" was published in 1997 to establish baselines for the implementation of the new strategy. It initially focused on two areas in particular: employment and social security. The European Parliament also echoed and formally adopted Gender Mainstreaming as a strategy in Resolution A4-0251/97, plus some other special measures to promote gender equality. In that document equal opportunities were recognized as "transversal priority of E.U. policies" (European Parliament, Resolution A4-0251/97, 18th July 1997), and in turn, included a request to the Commission to establish coordination structures for the implementation of the principle of mainstreaming and the incorporation of the discussion on gender equality in budgetary terms and data analysis.

This novel approach for equal opportunities was reflected and strengthened by the terms of the Amsterdam Treaty of 1997, which included several new provisions that strengthened the powers of the E.U. in the field of equal opportunities. The Amsterdam Treaty came into force in May 1999 and established equality of opportunity between women and men as one of the objectives to be achieved in the policies and programs of the Union. Article 2 determined that equality between men and women be a primary objective of the community, while Article 3 stated, "the community must seek to eliminate inequalities and promote equality between men and women." In turn, Article 141.4 allowed the use of specific benefits to the disadvantaged sex (partially in response to the judgments of the European Court Of Justice declaring the inapplicability of those rules - Kalanke and Marschall, more on that later). Although the Treaty provisions are not directly applicable, i.e., do not create legally enforceable rights; they represent a strong political commitment.

Nonetheless, despite the efforts of the European Commission and the European Parliament, there were early signs of resistance to equality measures between institutions in the European Union.

The Fifth Community Action Programme on Gender Equality (2001-2005) and the Sixth Community Action Programme on Gender Equality (2005-2009) include a dual approach that involves the combination of Gender Mainstreaming as community policy and specific actions designed to improve the status of women in society. With wider aims, such as providing assistance and institutional support for gender equality, the intention is to coordinate, support and finance the transnational horizontal implementation of activities in the fields of intervention of the Community strategy on gender equality.

Specifically, to promote and disseminate the values and practices underlying gender equality. In the years of implementation of these programmes, the Gender Mainstreaming objectives remained the same. The fact that there are no substantial changes in either the objectives or policies suggest at least certain shortcomings in the implementation of the initial strategies. It is also important to highlight the lack of support of member states for running equality reports, which should have been conducted since 2001 in member states of the European Union. Moreover, Decision 1554/2005 of the European Parliament and the Council amended Decision 2001/51/EC and established that the financial reference amount for the implementation of the Programme for the period 2001 to 2006 to be of EUR 61,5 million. It also assigned EUR 3,3 million to the period from 2004 to 2006; that is an 89% decrease in the last period. This clearly shows that engagement to the strategy was steadily decreasing, no changes were made but the money allocated was significantly reduced.

The Roadmap for Equality between Women and Men (2006-2010) of the European Commission introduced even broader concepts, such as the elimination of gender stereotypes in society. In turn, it advocated promoting the elimination of wage differentials between men and women (who remains one of the primary objectives of equality policies, with figures showing slight progress since 2000). It also called for improvements in the balance work-private life, the fight against human trafficking and support for gender budgeting and gender equal treatment both inside and outside the European Union. Nonetheless, no specific strategy or course of action was determined.

The Action Plan for Gender Equality and the Empowerment of Women (2010 - 2015) revives the Gender Mainstreaming and describes it as the "backbone" of gender equality in the European Union. The objectives and specific actions are not significantly different from previous strategies aside from reinforcing the idea of gender training, although no specific funds or possible ways in which actions could be implemented are specified.

The objectives of the Roadmap of the European Commission (2006-2010), the Action Plan for Gender Equality and the Empowerment of Women (2010-2015) and the Strategic Engagement for Gender Equality (2016-2019) are, despite some differences and new additions (such as the universality of equal treatment) similar to those outlined more than twenty years ago. Is the absence of significant changes in implementation a symbol of failure? Could we say that many of the goals that the strategy of Gender Mainstreaming targets is often unattainable? Or is it a problem of the strategy itself? There are some references to the need for educational reforms on gender issues and involvement in decision-making institutions. However, it is imperative to carry out an analysis of the real implementation problems that many of the empty definitions involved in a "low cost" strategy may entail ensuring the adoption and implementation of specific policies. The European Union should mobilize not only traditional networks of interests of women but also the entire policy-making machinery. These are the challenges that the European Union should be focusing on.

GENDER MAINSTREAMING IN CONTEXT: WHAT ARE WE MAINSTREAMING?
One of the major dilemmas in the implementation of Gender Mainstreaming was whether it was exclusive to other equality strategies, such as equal treatment in legislation and affirmative action, mainly. At this point, it is important to establish a conceptual distinction between the theoretical foundations of the strategies. Equal Treatment is based on a liberal conception of equality of opportunity in which formal equality is provided by equal access (Verloo, 2001). Nevertheless, although advocating for equal rights is an important first step to ending inequality, legislation alone is not sufficient to eliminate structural problems that disfavour women, and may even prove to be harmful. There are many advantages to legalization, mainly that it provides a framework for the discussion of inequality and that it generates a certain amount of accountability and entitlement through enforceability (judicial complaints become available, however, costly they may be.)

Moreover, specific equality measures, such as affirmative action, are based on the idea

that the concept of formal equality collides with a reality that structural inequalities deny access to certain rights. This strategy seeks to create conditions to balance the initial unfavourable conditions. Affirmative action measures aim at changing the social perception of women and allowing entry to areas that are institutionally out of reach.

Gender Mainstreaming was projected to generate a structural change in the system of reproduction of inequalities (Verloo, 2002), including all government stakeholders involved in the process of decision-making and the institutions themselves. In that sense, it would be a comprehensive strategy with medium and long-term objectives.

While Gender Mainstreaming has a much broader scope of action, affirmative action measures seek to increase female visibility in areas with deeply enrooted structural inequalities. Gender Mainstreaming is complementary to other strategies. In fact, Mackay and Bilton describe gender equality as a "three-legged stool" that requires all three: laws of equal opportunity, affirmative action and Gender Mainstreaming (Mackay and Bilton, 2003). Nonetheless, Stratigaki observes that the growth of Gender Mainstreaming policies during the 1990s was used as a vehicle for the elimination of affirmative action measures (Stratigaki, 2006). These decisions are based on the misbelief that the implementation of Gender Mainstreaming supposes a legal recognition of the inequalities. The rationale behind these decisions is fuelled by a shift in the social debate, as if by just recognizing a problem, it would become magically solved. In that sense, Woodward also warns about using Gender Mainstreaming to "dismantle the political machinery of women" through tearing down spaces for women to prioritize mainstreaming (Woodward, 2003). Guerrina notes that Gender Mainstreaming can silence women and remove gender from the political agenda by avoiding specific programs targeted to women (Guerrina, 2003).

Despite the possibility of using Gender Mainstreaming to demonstrate the inadequacy of traditional policies of equal opportunities, Mazey highlights the difficulty in implementation because of the cultural values that remain rooted in society (Mazey, 2002). The effectiveness of Gender Mainstreaming depends on the possibility of action at all levels of political decision and in various areas of society.

Stratigaki reaffirms the idea that Gender Mainstreaming complements but does not replace the above strategies; in fact, it identifies them as a necessary prerequisite for its proper

application. However, it recognizes the most innovative elements of Gender Mainstreaming as its worst weakness. This all-encompassing strategy will be able to act in all areas of policy-making, allowing the reproduction of inequalities rooted in institutional structures.

All of the different readings of Gender Mainstreaming, its application and meanings clearly show that there is no unequivocal definition on how Gender Mainstreaming should be implemented. What is worse, there is no apparent institutional reference as to how it should be. Some critics even suggest that Gender mainstreaming would only work in a gender-neutral world (Zalewski, 2010).

GENDER MAINSTREAMING: THE FIREWORK EFFECT.
More than twenty years after its appearance, Gender Mainstreaming is acknowledged in many sectors of government and non-governmental organizations. The fact that several international organizations, such as the International Labour Organization and the United Nations, have adopted Gender Mainstreaming as a gender equality strategy re-vindicates its implementation (Woodward, 2001). There is a basic level of institutionalization in the annual reports that states should present to the United Nations and the European Union on progress in Gender Mainstreaming.

The European Union works at the same time as a pilot-test and as a transfer agent of policies of member states in implementing Gender Mainstreaming measures. In this sense, the character of "soft policy" can be considered as a facilitator in networking policy learning and deliberation (Mazey, 2000). In some cases, they have developed new tools and welcomed political actors, specifically in the case of domestic violence prevention and awareness. Woodward points out that through training initiatives in gender, more men have become aware of gender inequalities (Woodward, 2008). In turn, the use Gender Mainstreaming has enabled new opportunities for discussion in areas that previously proved impervious to gender claims, such as in D.G. Trade (Directorate General for Trade of the European Commission).

Gender Mainstreaming as a policy has presented certain deficiencies in its application that make us wonder if it needs a closer look at what it is that is not working. We intend to delve into these problems from a public policy perspective into three parts, impact problems, discursive openness, and challenges on the institutionalization; and then analyse if, in fact, the problem that Gender Mainstreaming policy faces is that it lacks a clear gender perspective.

Impact Problems.

Gender mainstreaming was one of the fastest growing strategies in the 1990s and early 2000. Twenty years after its emergence, there is a decline in the "issue attention cycle" (Downs, 1972), the systematic cycle that takes place when the public interest in a particular topic increases and then dissipates. According to Downs, the key is finding enough political pressure to bring about a lasting institutional change. In the case of Gender Mainstreaming, despite running with the advantage that its approach is novel and is currently used in organizations worldwide (True, 2003), it fails to delve deeper into an institutional reform and even some authors warn that the support of the European Commission is in decline (Stratigaki, 2005). In turn, others determine that the impact of Gender Mainstreaming correlates with two variables: the presence of gender specialists in European Union institutions and the possibility for policies to generate a change (Mazey, 2002). Without the necessary political pressure and without achieving a profound institutional change, targets become empty of content, and implementation becomes even more challenging. One year after the expiry of the Action Plan for Gender Equality and the Empowerment of Women (2010-2015), many of the comprehensive measures proposed still do not have a successful application in practice.

Gender Mainstreaming not only competes with other resources but also challenges the status quo (at least in its definition), which makes for even fewer resources for implementation. Such was the case of the specific education budget for gender sensitivity that was withdrawn in 1996 because its objectives would be incorporated into the educational strategy "Socrates" (Stratigaki, 2005). This example illustrates how Gender Mainstreaming can be washed away by its implementation: since objectives would be magically "incorporated," there is no need for extra efforts, no need for extra spending. And, in that line of reasoning, many specific programmes were discontinued. Whenever there is an open challenge to the existing hierarchical relations, there is intrinsic resistance. Gender Mainstreaming as a strategy does not take those inherent oppositions into serious consideration and bases itself in a conflict-free environment. Not accounting for the efforts that changing social structures demands can be considered naive.

Institutionalization problems.

Much of the success of Gender Mainstreaming depends on the effective institutionalization of the

strategy in the different organizations within the European Union. That presupposes a radical change that acknowledges the creation of new mechanisms. Institutions structure political interactions, thus without modifications, the transformative effects of Gender Mainstreaming are minimal.

An analysis of the role of institutions in the development of policies in general and Gender Mainstreaming, in particular, concludes that there is a need to incorporate substantial changes in decision-making processes to get structural transformations (Mazey, 2002). Similarly, Lombardo highlights three fundamental changes to institutionalization: changes in the process, mechanisms, and actors (Lombardo, 2003). The first involves a total reconstruction from a gender perspective; incorporate awareness programs and more dialectic processes that integrate different voices in decision-making. The change in policy requires horizontal cooperation mechanisms in all areas and the use of appropriate tools to integrate the gender variable. Finally, new players should be approached, including gender equality experts and especially civil society, to open new channels of consultation. The implementation of Gender Mainstreaming in the European Union does not have a strong institutional presence. The institutions have, in fact, abrogated for the incorporation of the strategy as the Commission and Parliament, to try to incorporate certain cosmetic modifications without profound changes in decision-making mechanisms. On the other hand, there have been no visible changes either in the Council or the Court, two crucial organs for the functioning of the European system. In conclusion, the institutional aspect, Gender Mainstreaming policies have shown a minimum transformative effect.

A clear example of how these institutional resistances operate is the case of the European Court of Justice and the tensions created by three of its affirmative action decisions. In "Eckhard Kalanke v Freie Hansestadt Bremen" (17th October 1995), the ECJ invalidated the affirmative action measure established by the City of Bremen. The Court found that the "Bremen Law on Equal treatment for men and women in the public service," which provided a preference for women over equally qualified men in public sector jobs, violated the Equal Treatment Directive (76/207). The ruling is both short in length and in legal reasoning. It does not comprehend the struggles and the oppression of women and provides a very narrow interpretation of the Equal Treatment Directive (76/207), which clearly states its aims:

"removing existing inequality which affects women's opportunities." In the Kalanke decision, the ECJ clearly contradicts the spirit of both the European directive and the democratic law enacted by the people of the city of Bremen.

The ruling is disrespectful to the struggles of women in the European society and jeopardizes all affirmative action measures taken all across Europe. By establishing a tough standard and prioritizing the protection of the individual rights of those who do not benefit from the legislation, the ECJ takes a liberalistic perspective to affirmative action.

The ECJ found that rules that automatically give priority to women in sectors where they are under-represented implied discrimination on the grounds of sex. The problem lies with the "absolute" and "unconditional" priority for appointment since, in the wordings of the ECJ, "oversteps the limits of the exception in Article 2(4) of the Directive".

Affirmative action measures ought to be absolute and unconditional; if not, they wouldn't be necessary. The essence of affirmative action lies within the idea of underrepresentation and trying to balance the inequalities created by it. The ruling is not clear as to why or in which way the saving clause affects public policy. Nonetheless, from a liberalist perspective, it may indicate a certain sense of "respect" towards individual rights. Moreover, the ECJ takes a stand on equality of results and proscribes these measures because of the individual right to equal treatment.

In "*Hellmut Marschall v Land Nordheim-Westfalen*" (11th November 1997), the ECJ realizes that probably women and men do not have the same chances "because of prejudices and stereotypes" but still acts as if that determination of principles was not important enough to influence its decision. Nevertheless, the ruling in Marschall differs from Kalanke, given the fact that the German law provided a saving clause.

These saving clauses are detrimental to the whole aim of affirmative action measures. As we have said before, the whole objective of affirmative action is to give precedence to women in underrepresented areas. If there is a way in which the decisions can be appealed or at least undermined, the reason to be of the measures falls short. And, that is exactly what happens in this case.

The ECJ highlights the principle of strict interpretation in connection with the

measures, which "constitute a derogation from an individual right." That phrase summarizes how the ECJ understands and deals with affirmative action measures: as a flagrant violation of individual rights.

Due to this particular perspective, the ECJ's opinions on affirmative rights are narrow and do not take into account women's perspectives. The court allows for equality of results, as long as there is a savings clause: the ECJ reasoning is incomplete and fails to address the broader problems that underline affirmative action schemes in themselves.

In "*Abrahamsson and Anderson v Fogelqvist* "(2000), the University of Goteborg had a vacancy for the chair of the Hydrospheric Sciences department, specifying that affirmative action measures may be applied in the selection of candidates. Mr. Anderson, Mrs. Destoni, Mrs. Fogelqvist and Mrs. Abrahamson were considered for the post, taking into account their scientific background. By application of Regulations 1995/936, which allowed preference even in cases in which the female applicants did not have the same qualifications as the male candidates, Mrs. Destoni was appointed. However, she decided to withdraw her application. As a consequence, Mrs. Fogelqvist was chosen, despite some initial criticism from the board members. Mr. Anderson and Mrs. Abrahamsson appealed this decision.

The Abrahamson case tackles the biggest liberalist fear: affirmative actions in cases in which a candidate belonging to the unrepresented sex, with sufficient qualifications, is appointed in preference to a candidate of the opposite sex with "better" qualifications. At this point, we would like to mention that the standards of merit used to evaluate people are created by and for the ideal white man (Young, 1990). Young defines this as "the myth of merit." How to change the incentives in an established set of socially valuable features that are associated with manhood is one of the questions that provide a starting point to profound debates, which should be analysed when devising equality strategies.

It is important to address why these public policies play an important part in the struggle to eliminate gender inequalities in the workplace. The Swedish law carefully considers that, in an area of development in which women clearly do not have the same opportunities as men and are unrepresented, they need to be benefited. Statistically, women in science are scarcely represented. Studies show that the median salaries of women scientists with doctoral degrees were 20% lower than men's (and they represent a very low proportion

of general scientific doctoral degrees). Likewise, these studies show that women do not hold high-rank position jobs.

In a case in which both the University and the Swedish law agreed that the fact of low representation of women was a problem to be dealt with, the Court rules that the Swedish law is precluded by Article 2(4) of Directive 76/207 and is, in fact, disproportionate to the aim pursued.

Again, the ECJ recognizes that the "aim of the criteria is to achieve substantive, rather than formal, equality by reducing de facto inequalities which may arise in society," but still holds that these measures are disproportionate to the aim pursued. This makes us wonder, which other measures would not be disproportionate in fact? How can legislation move past the need for a "safety clause" that allows each individual to challenge appointments in affirmative action cases? The rulings of the ECJ are unaware of the elements of oppression and, in fact, dismantle every attempt to better the conditions for women in the workplace.

In "*Lommers v. Minister Van Landbouw*" (1999), the Dutch Ministry of Agriculture and Fisheries created nurseries for female staff. Mr. Lommers tried to use those nurseries for his child but was rejected, saying that nurseries would only be available for men in cases of emergencies. The ECJ held that the scheme was proportionate since it allowed women to have help while raising their children.

The Lommers case, in fact, emphasizes the ECJ's opinion on gender perspective. Not only the ECJ shows to be oblivious towards the issue of oppression, but also perpetuates a society in which women are thought to be caregivers for children. It seems to be very difficult to address the importance of gender oppression while the ECJ maintains a certain model of social behaviour and does not tackle a more broad definition of injustices and inequalities.

These rulings demonstrate that there are diverse readings between European institutions in connection to gender equality. If mainstreaming is failing to address the fact that the higher Court in the European Judicial system does not uphold the same gender perspective as other institutions (at least on the Recommendations and Strategy Plans for gender equality), and is blatantly disregarding laws intended to alleviate social injustices, the rest of the institutional framework remains under observation. These decisions were made after Gender Mainstreaming was in full force and effect, and there was growing tension

between the Court and the European Commission, tension that nonetheless remains unsolved because of the lack of institutional mechanisms to address them. These decisions are a red light to the overall context of gender equality in the European Union. How can a strategy that aims at incorporating a gender perspective in all areas of decision-making is effective if even in the higher institutions, there is no consensus?

Discursive openness.

Gender mainstreaming is a soft-law policy with no binding force. Developed in directives, work guidelines, and broad objectives, it implies a permanent reconstruction of its nature and meaning. Emanuela Lombardo and Petra Meier describe Gender Mainstreaming as an empty signifier (Lombardo and Meier, 2006) whose impact depends on the interpretation of whoever is in charge and if they have specific training or not. It is an approach with an extreme discursive opening (Squires 2005) that opens the game to different forms of interpretation. The danger is to become a "rhetoric without substance" not seeing concrete results of its implementation when translated into "a job for everybody = a job of nobody" (Stratigaki, 2005).

Lombardo and Meier emphasize that the process of Gender Mainstreaming be more easily adopted (and has a more visible impact) on issues where historically gender perspectives were introduced: family policies and unequal representation in politics. In turn, they show there are more feminist readings in areas where the European Union does not issue binding measures (Lombardo and Meier, 2006). According to these authors, there are five shifts required to get a feminist reading of Gender Mainstreaming. First, a deep analysis of the underlying causes of unequal relations between women and men (Walby, 1990). The second shift is based on the refocusing and incorporation of a gender perspective in the political agenda in all areas. The third one refers to political representation and the ability to challenge the male-oriented value criteria. Fourth, an institutional turn changes in the decision-making processes. This turn requires awareness of the mechanisms that cause and reproduce gender inequalities and devising new tools to tackle them (Lombardo and Meier, 2006). The latest shift to a feminist model of Gender Mainstreaming requires displacement and empowerment.

Lombardo and Meier try to analyse up to what extent these shifts can be detected in the policies of the European Union. After examining various policies, they conclude that there

is a lack of a comprehensive approach that addresses the interconnected causes that shape the unequal gender relations that result in disadvantages for women. After twenty years of implementation, the strategy has not yet achieved the third turn. Does mainstreaming a gender perspective make sense if there is no agreement over a clear conception of gender? There seems to be conflict over the definition of gender that translates to failures in the implementation. We would argue that even the first shift still has a problematic approach: in many ways, there is a lack of awareness of the historical, social and economic oppression, as referenced by the decisions of the European Court of Justice.

Furthermore, the European Union recognizes women as a homogeneous group, without any further reading of diversity, ethnicity, multicultural and class differences. It implements mechanisms that reproduce and consolidate this group called "women" mainly as primary caregivers (Lombardo and Meier, 2006). The debate on the various inequalities that permeate the category "woman" does not seem to be permeable to the policies of the European Union despite being one of the critical discussions. Two positions, in principle antagonistic, emerge. The first argues that in trying to amplify the spectrum to other inequalities, some resources allocated to gender mainstreaming may be lost. At the same time, it could dispel the focus from the causes of inequalities to competition on assigned priorities (Woodward, 2008). Moreover, some defend the idea that the result of the implementation of Gender Mainstreaming policies could be strengthened from prior coordination between various communities and initiatives (Squires, 2005). Again, the importance of the concept of gender used transpires. Understanding the category "gender" as a dispersed category to be analysed within other complex inequalities is one of the options analysis. Using the concept of gender, as a social construction and thus, a more ontological analysis could be another. However, these discussions go outside those carried out in the creation of gender policies of the European Union.

Gender Mainstreaming is a part of the debate between the concept of gender inequalities and the different policies. The question lies in whether the strategy raised may include ethnic, social, religious, sexual preferences and others. In that sense, the policies seem only to add a concise and comprehensive definition of "poverty" and "social exclusion" as generalizing concepts without further analysis.

For example, the Council of Europe defines gender equality through the need for participation of "both sexes in all spheres of public and private life" and clarifies that gender equality is not synonymous to similarity but means "accept and value the same way the differences between women and men and the different roles they have in society" (European Council 1998). Which are the different roles that women and men have in society? Who describes those roles? Where do non-conforming people belong? These are tacit debates where the concept of gender is addressed and should be discussed publicly. The Council of Europe on Gender Equality Strategy 2014-2017 does not express a definition of equality and even avoid reference to the words "sameness" and "difference." Again, the debate about what gender equality and what gender mainstreaming is diluted.

Squires proposed that with the creation of a diversity agenda, isolated groups could become united in a productive dialogue to end tensions between them (Squires, 2005). This dialogue could be an exercise in deliberative democracy to develop new projects and to transcend former dissents. However, the results so far are not promising. There is no evidence that the policy of Gender Mainstreaming has provided profound changes or the policy of the European Union or in gender relations.

Some understand Gender Mainstreaming as the reinvention or restructuring of feminism in the contemporary era. Walby describes five elements in its analysis:

- tension between gender equality and mainstream;
- differences between "equality", "difference" and "transformation";
- possible difference between the strategy used to achieve equality or equality as part of the process;
- relationship of gender inequality with the rest of inequalities,
- tension between democracy and expertise and the transnational nature of Gender Mainstreaming.

Walby recognizes a social construct that is defined through negotiation and contestation between feminism and a mainstream concept in complex adaptive systems. The idea is that equal opportunities policies carry their own limitations by employing male standards.

In labour policies, there are references to increasing the role of women in the job

market, but without referring to concrete changes in the domestic sphere that represent a challenge to male hierarchies in the distribution of power. Concerning inequalities in the field of politics, there are certain shifts towards a feminist Gender Mainstreaming configuration. However, these quantitative changes do not imply qualitative changes. Although a greater number of women are involved in decision-making processes, those structures respond to patriarchal institutions where political priorities maintain the status quo. The use of Gender Mainstreaming has not yet provided any insight on the need to review gender biased electoral systems.

CONCLUSION

Through the analysis of Gender Mainstreaming as a gender equality strategy, we have studied its implementation in the European Union, a fertile environment. In this study, we have seen how incompatible resistances are generating pressure points that make the road to equality more difficult.

Research has shown that Gender Mainstreaming is not working, at least that it is not presenting the results that were once expected. Although there are some that recognise Gender Mainstreaming as a slow revolution (Davids, Van Driel and Parren, 2014), overall support seems to be on the decline. In budgetary terms, gender equality measures get washed away.

One of the biggest problems of Gender Mainstreaming is that it does not address inherent conflict. In many cases, afraid of agitating waters and generating breaches in society, gender mainstreaming tries to move away from a history of inequality slowly. The strategy seems to be working rather poorly.

Conflict should be brought to the front page, to raise awareness, to be debated and to get on the right track towards equality finally. Education is the key to understanding oppression. An analysis of the role of gender education is a necessary step towards a true commitment to gender equality. A policy with a real commitment to gender equality should consider gender education and emphasize the understanding of gender as a construction and a permanent renegotiation.

Thinking about the inherent problems that are described, Gender Mainstreaming seems to rely on a previously accorded gender perspective. In other regions of the world, in which there is less awareness of the historical and cultural oppressions, it is even less likely that

gender mainstreaming would prove to be successful.

It is important to analyse the mechanisms in which gender inequality is reproduced within the European Union's political, institutional scheme, which Gender Mainstreaming has been failing to address. Global governance and new world orders provide a fresh opportunity to engage in serious programmes regarding gender equality that ought to be analysed in detail. There is a growing feminist critic to multilevel governance that focuses on the concealment of hierarchies, democratic accountability, and transparency.

We see how the European Commission was actively taking action into gender equality; at the same time, it was battling internal resistances in the European Court of Justice decisions. These types of resistances are extremely common in European institutions, as multiple evidence shows. However, they are not publicly dealt with. The search for gender equality is a revolutionary quest. It is revolutionary in the sense that it entails the rearranging and rethinking of all social, political and economic institutions and powers. Dissent is part of human expression, and it should be considered. Gender equality begins with an awareness of an oppressive situation. Institutional change should also begin through awareness. Implementing a gender perspective in all areas without awareness is like asking a hockey player to win a football world cup.

There is a decreasing interest in the implementation, in the peak year of 1997 and then decreasing in the 2000s and 2010s even more so after the economic crisis. The European Commission, the European Parliament, and the Council seem to be in a different position than the European Court of Justice. This one-sided conversation in which each institution goes along without debating causes and consequences generates unnecessary friction and does not comply with the resolution of conflicts.

Beyond the problems in the implementation of the policy, its character of soft law, the inability to find agents responsible for the application, the almost exclusive use in areas historically associated with gender issues, the danger of its use to the detriment of other policies of equality, minimum transformative effect (caused by lack of institutional reforms) and the contradictory results, the main problem is that it does not have a clear gender perspective.

Gender Mainstreaming is presented as a too all-encompassing and ambitious strategy.

It is an empty concept in itself, deprived of any analysis of gender, gender relations, and their impact. As such, it becomes an abstract principle that does not consider structural inequalities in the decision-making process and institutions.

The development of Gender Mainstreaming can be described as a "firework effect." In the 1990s, this policy represented the forefront of gender issues. The possibility of incorporating a gender perspective mainstreamed in all policies of the European Union was certainly attractive. However, trapped within the limits of its own ambition, it became another vehicle reproduction of inequalities entrenched within patriarchal institutions. All the noise and colours provided at first faded and, like a firework display, there was no permanence.

In this context, Gender Mainstreaming as a phenomenon should be analysed from its inception in the previous gender debates to urge action strategy from which it can generate equality policies with argumentative strength and concrete plans.

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