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Poland's Labour Market Policy and Politics of Gender and the Accession to the European Union: Domestic Impediments to Europeanisation

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Preface

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List of Acronyms

ALMP	Active Labour Market Policy/ Programme
CCR	Commissioner for Civil Rights Protection
CEE	Central East Europe(an)
DWFPD	Department for Women, Family and the Prevention of Discrimination
ECJ	European Court of Justice
EES	European Employment Strategy
EMU	European Monetary Union
ESF	European Social Fund
EU	European Union
GPES	Government Plenipotentiary for Equal Status of Women and Men
HRD	National Strategy for Increasing Employment & Human Resources Development
JAP	Joint Assessment Paper
NAP	National Action Plan
NDP	National Development Plan
NGO	Non Governmental Organisation
NRP	National Reform Programme
OMC	Open Method of Coordination
OPZZ	All Poland Alliance of Trade Unions; in Polish: Ogólnopolskie Porozmienie Związków Zawodowych
PES	Public Employment Services
PHARE:	Poland Hungary Assistance for the Reconstruction of Economies
PIP	National Labour Inspectorate; in Polish: Państwowa Inspekcja Pracy
PKPP	Polish Confederation of Private Employers; in Polish: Polska Konfederacja Pracodawców Prywatnych
UKIE	Office of the Committee of European Integration; in Polish: Urząd Komitetu Integracji Europejskiej
WW	World War

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I. INTRODUCTION

Over a decade and a half ago Central East European (CEE) countries converted from authoritarian command economies to democratic market systems. In addition to the encompassing internal changes, they reoriented their external outlook away from the Soviet bloc towards integration with the European Union (EU)¹. Focusing on Poland, this dissertation contributes to filling the knowledge gap on the impact of a supra-national entity, in this case the EU, on national policy-making. There is a growing wealth of research on this topic regarding Western Europe, generally grouped under the scholarship of European integration and Europeanisation, but little is known about parallel developments in the CEE accession/ new member states. The transformation of the political, economic, and social spheres in Poland reached a critical juncture in 1989, and the accession to the EU took place on May 1st 2004. The main goal of this study is to highlight the multilevel social and political forces and actors which result from the exogenous events of the collapse of socialism, and – especially – from joining the ranks of the EU. This is to determine if and how these developments generate new sets of actors, institutional structures, and policies on the domestic level. Thus attention is paid to the mixture of internal and external factors in two distinct but interrelated settings — before and after EU accession, where the EU pressures range from specific institutional and policy prescriptions, through impact on the domestic opportunity structure, to the potential influence on the beliefs and expectations of national actors.

The study began with an interest in the impact of the EU employment regulations on gender relevant labour market policy in Poland. Does EU policy influence the nation state's policy content and policy-making in the labour market area concerned with women's employment in the stages of pre-accession and membership? What is the role of the domestic factors, actors and institutions, in mitigating the EU influence? Is the domestic institutional and actor configuration surrounding gender equality receptive to and capable of facilitating the top-down flow and stimulating change? Or is it resistant to the impetus from the EU and as such hinders reform? Furthermore, are the various processes, mechanisms, and effects different before and after the accession? What happened to the nine gender equality directives in the pre-

¹ The EU dates back and builds on three Communities: the European Coal and Steel Community (ECSC 1951), the European Economic Community and the European Atomic Energy Community (Euratom 1957); for reasons of convenience I use the current term 'European Union' throughout, even though it was only introduced by the Maastricht Treaty on European Union in 1992.

accession period? How does Poland's participation in the European Employment Strategy (EES), which encourages gender mainstreaming, shape its employment enabling measures for women? While during the pre-accession phase adoption of the *acquis communautaire* — the body of rules and obligations associated with membership in the EU including employment directives — was obligatory, full participation in the EES governed by the Open Method of Coordination (OMC) was not. Still, Poland has been reforming its policies and institutions towards taking part in the EES since the late 1990s. How do the different EU and domestic levels combine to produce a given policy output? Finally, what are the (preliminary) outcomes of policies directed at women's labour market participation? The following sections set the scene for the above questions by delineating the study and the research focus, explaining the choice of Poland, presenting gender as an analytical category, introducing the theoretical approach, and providing an overview of the remaining chapters.

1.1 The Study and the Research Focus

Accession of a nation state to the EU does influence domestic politics, politics and policies, flowing first from the accession criteria and second, from the state's engagement in the ensuing cross-level (national — EU and inter – national) activities. The Copenhagen European Council in 1993 developed a set of accession criteria for the CEE countries. These contained the achievement of stable democracy, functioning market economy, and the ability to adhere to the political, economic and monetary goals of the EU. All candidate countries were required to adopt and implement social, economic, and legal sections of Community legislation — the *acquis communautaire*. But what kind of impact in terms of depth and breadth of reform can be expected? Should EU accession and membership be synonymous with the revamping of national systems to mirror the developments at the supra-national level? Clearly, with the documented persistent divergence among the old member states in various policy areas, such interpretation would be wrong. Therefore, the questions on the effect of Poland's accession to the EU on the developments of labour market policies relevant to gender equality demands an appropriate theoretical framework allowing for proposing more precise relationships or hypotheses. Such a framework should be able to combine various levels of analysis (e.g. national and supra-national), account for the interaction between structure and agency, and capture the dynamism of socio-political developments in different environments (e.g. pre- and post- accession). As further

developed in section 1.4, I locate the Poland-specific questions and findings in the broader debates on the post-socialist transformation, welfare state development, its gender critique, and Europeanisation, all linked by the new institutionalist theory. The lessons drawn shed light on the applicability of concepts and theories developed for West European processes to a Central European post-socialist state.

The influence of the EU is a multi-faceted phenomenon. I will examine its evidence in employment policy substance and procedures. The first aspect concerns policy goals, means, or specific programmes employed, while the second considers tools, structures, institutions, and participating actors. Clearly, in the complex era of globalisation, EU–national interaction in policy-making is one of many. However, despite the long and high profile academic and political interest with the analytically different phenomena of globalisation and Europeanisation, the debate is unresolved. Authors disagree on what globalisation is, if it is new or old, and if it significantly changes the playing field for the economic, political and social actors. Similarly, as presented in the next chapter, discussions on EU integration and impact remain unsettled. The lack of conceptual clarity and empirical consistency is partly due to the varied assumptions and definitions used, and partly to the evolving character of the processes at hand. This work cannot solve these disputes, but it will point out their interconnectedness, as they directly and indirectly relate to the focus of this study.

The many theories of globalisation describe it as an ongoing process impacting on various dimensions of life and becoming a structure that contextualizes, facilitates, or limits human agency (Rosamond 2000). The core economies have restructured from industrial to post-industrial mode of production (Castells 1996) bringing about a shift in the form and organization of global capitalism and influencing labour markets by creating an imbalance of power between capital and labour and thus constraining policy options of national governments (Andrews 1994; Cerny 1994; Strange 1996; Beck 2000). Globalisation is a challenge to the life courses of individuals and to the national policies that shape them (Weymann 2003). The conditions for political intervention to amend the market have corroded, leading to a depoliticized economic order (Grant 1998) and to a common agenda to which nation states have to respond (Strange 1997). Accordingly, nation states converge, either via the homogenization of political and social structures and the curtailment of the welfare state (Castells 1996; Cerny 1996; Crouch and Streeck 1997; Held et al. 1999), or via a diffusion of values (Boli and Thomas 1997; Meyer et al. 1997). Therefore, globalisation points to increasingly

powerful structural constraints placed upon the policy-making activities of national governments. This is juxtaposed with the view that even though nation states face similar pressures, their responses need not be equal, and welfare state convergence is not an automatic process as various domestic politics and institutions do play a role in resisting homogenizing pressures when actors act upon unique policy preferences (Boix 1998; Garrett 1999; Hall and Soskice 2001; Swank 2002). This debate can be shifted from the global to the European level, where the EU is conceptualised in various ways. On the one hand, the EU is a site where global economic pressures and domestic politics play out. On the other, the EU is a supra-national actor, who intervenes in the economic and political forces and responds to the apparent threat of globalisation by becoming a ‘fully fledged supra-state’ (Walby 1999: 134). Therefore, the EU is seen as either the environment in which its member states face similar demands, or else it is the actor creating them. In other words, the EU is a reaction to- or an agent of globalisation (Wallace and Wallace 2000) and can buffer its members against globalising pressures and structure their various domestic policy-making arenas via integrationist processes.

In any case, accession of a country to the EU changes its macro structure and influences its multi-level processes relevant to governance, including labour market policy. Domestic policy-making consists of several layers: a central national government and a collection of sub-national, regional, or local (self-) governments. In the case of a transition state the system of governance includes not only the global economy, but also the authority of international institutions such as the World Bank or the International Monetary Fund requiring structural adjustments. In the period leading to accession and once a state joins the EU, another formal and in some policy areas hierarchical, layer of governance is added. There still remain the global and local contexts for policy decisions, but in addition, there is the new regional regulating body — the EU — constituting not ‘just’ a context for domestic policy-making but rather being ‘reminiscent of a domestic polity’ (Jupille and Caporaso 1999: 429). As shown throughout this work, the EU and its institutions form a powerful set of actors involved in specifying member states’ policy goals and the means of reaching them. The EU strategically delineates and protects the makeup of the economic and social space with the nation states’ crucial role in certain policy areas (Grant 1998; Rhodes 1998). For example in the single market or the European Monetary Union (EMU), the EU holds extensive policy powers, while in social policy the process is still country based, albeit increasingly limited in scope. For labour market policy, it boils down to the state’s

implementation of relevant directives and participation in the EES via the OMC and utilising its tools and financial resources, such as the European Social Fund (ESF).

Figure 1 Broad Policy-making Environment of EU Member States

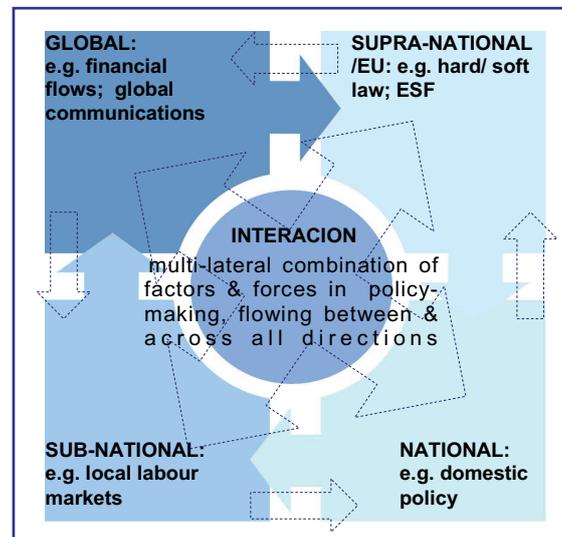
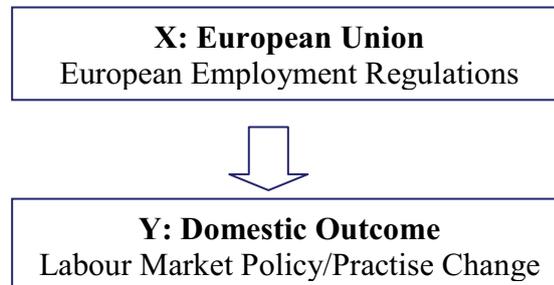


Figure 1 depicts the multi –level –directional –dimensional sources and contexts of the policy-making activity where interactions constituting the pieces of the puzzle combine in various ways. For instance, sub-national policies may respond directly to EU level policies, local actors may engage in horizontal cooperation with other local actors, or there may be a local policy response to regional economic events. All of these relationships matter to varying degrees at different points of time in their effect on society. These flows are not simply political, but also economic, technological and socio-cultural. Thus, the complexity and breadth of the policy–making environment for a state that has emerged from socialism and joined the EU is obvious. To retain analytical clarity I focus on EU – domestic interaction and examine if and how Poland’s accession to the EU brings about national policy reform, as represented by the top-down flow of the two right hand puzzle pieces in Figure 1, while the linkages to globalisation are not explicitly pursued. Likewise, the activities of the sub-national actors, although increasingly important, are accounted for as they enter the national policy-making scene.

Schematically, (Figure 2) the EU level politics and policies are treated as the independent variable (X) and the national level developments constitute the dependent variable (Y) — this relationship is explained in Chapter 2 on *Europeanisation*. Figure 2 should not imply that the EU directly engages in the Polish labour market policy-making, as a multitude of intervening factors interacts with the top-down EU flow in

producing the national outcome. In short, the macro view sees domestic change as triggered by the supra-national pressure from above, which passes through a domestic filter and thus mitigates its effects.

Figure 2 Influence of the EU on Domestic Policy at the Macro Level



More concretely, the EU regulations are operationalised through employment directives, the various Treaties, and the EES. The intervening variables are grouped under the concepts of the welfare state and the gender contract, explicated through meso-level sets of institutions, actors, ideas and culture resulting in a specific configuration of gendered citizenship rights. Finally, domestic change is made tangible via labour market policy and law reforms with implications for the functioning of women in the labour market. Consequently, this study departs from the focus on change within the nation state by shifting the lens towards the interaction between the supra-national and the national level. The focus is, therefore, not welfare state development or reform *per se*, but its institutional and actor configuration as it relates to the EU. Hence, the main research question is: *Are the domestic conditions – institutional and actor configuration – facilitating or hindering the impact of EU approach to gender equality on labour market policies in the stages of pre-accession and membership?* The ‘case’ in my study is thus the complex interaction between the supra-national exogenous impact and the national politics leading to the development of gendered domestic labour market policies in the pre- and post accession period. The study is problem driven. It focuses on the ‘What? Who? How? and Why?’ of policies relevant to women’s employment upon Poland’s accession to the EU: what is and is not changing, who participates in the political process, how it occurs, and why. The next section explains the choice of Poland as the case for my research. A detailed analysis of the historical development of domestic forces is presented in Chapter 5.

1.2 The choice of Poland for the Case Study

Why is Poland and its approach to labour market gender equality around the accession to the EU an interesting and important study topic? Poland represents a special case within the CEE countries. Despite many social, political and economic similarities with other states in the region, Poland's uniqueness can be noted either by taking a historical view of its socio-cultural trajectory, or by studying its current labour market difficulties. The historical perspective illuminates the institutionalisation of national values connected with the emergence of traditional gender ideology and its persistence until the present day. From the late 18th to the early 20th century, its territory and citizens were subject to foreign rule, and the goal of regaining independence became a top national priority pursued individually or through clandestine organisations. These circumstances have reinforced national ideals, which in turn gained support in the non-public spheres of the family and religion, and their combination has fostered the exceptional role of women – not only in the privacy of the home, but also for the higher good of the nation, through raising new generations of patriotic Poles versed in the national language, history, and Catholicism. Traditional conservative gender norms took a strong hold, and persist until the present day. A short period of independence, between World War (WW) I and II, did not establish a domestic configuration of actors and institutions as an alternative to the already entrenched socio-cultural trajectory. The end of WWII, however, brought about the drastic change of re-establishing Poland as a nation state, at the price of Soviet led socialism with its top-down approach to polity, society, and economy. The new system led to many social improvements, egalitarian ideals were proclaimed and high levels of female work activation achieved. In spite of the official gender equality ideology, the transformation of gender relations did not occur and formal equality did not translate into a factual one. In addition, the various benefits of socialism came at the obvious cost of democracy. Eventually, the rise of Solidarity led to the toppling of the communist party and to the acquisition by workers of social movement experience (Kramer 1995). Labour activism, the strength of the Catholic Church, porous borders allowing travel abroad, and the existence of private enterprise, were among the factors distinguishing Poland from other states in the region.

Since June 1989 with 'round table' discussions between the socialist government and the opposition, Poland began its transformation from state socialism to liberal democracy. At first Poland transformed more radically and rapidly than the other CEE countries (Ingham *et al.* 2001); by some accounts it ceased to be a transition state

and has become a ‘medium-sized, open, semi-developed economy, that has more in common with Italy or Spain than it has with Russia or China’ (Slay 2000: 69). Arguably, Polish political economy is not yet stabilised. The CEE transformation can be seen as rapid state formation that has not yet found a stable outcome, and it is too soon to say what kind of a model will in the end establish itself (Knyżewski 1998; Grzymała and Luong 2002). Similar claims can be made about the welfare state formation. The states in the CEE region are relatively weak and limited in their capacity to create predictable policy environments, or to regulate social and economic issues in a balanced way (Bruszt 2002). Considering the trajectory of social policy, the post-socialist years in the countries of the region display a high level of volatility and make categorizations difficult. As articulated by Standing ‘it is an era of socio-economic experimentation in which *all* forms of “welfare system” are being considered and to some extent tried, whether by design or as a consequence of a combination of *ad hoc* responses to specific crises and conflicting objectives’ (1996:225; original emphasis). Notably, in this highly transformative environment Poland’s socialist façade of gender equality toppled quite easily. The domestic change of the functioning of the polity, economy, and society resulted in reshuffling of actors and institutions and their priorities regarding gender relations: the state withdrew its socialist era support, and the civil society presents a mixed picture. Every four years national elections result in a u-turn in Polish politics with each successive government formed from the opposition to the previous one, so that both the left and the right wing parties govern in succession. In many policy areas, including those relevant to gender, there is a lack of consistency in addressing the acute labour market problems.

The changed conditions worsened women’s employment situation and female unemployment levels rose faster and persisted longer than those of men. The gendered wage gap improved slightly in the first phase, but the segregation in the labour market did not. Women’s higher human capital did not translate into improvements in wages or positions of authority, labour market discrimination has become more visible, political power decreased, while household and childcare duties have remained with women. Labour market participation rates have declined greatly in all transition countries, but Poland has been affected to a greater degree — its employment rate of working age population (15-64) in the accession year to the EU stood at 51.7 per cent and was the lowest among the old and new members. Also Poland’s unemployment levels are higher than in CEE and West European states; for 2004 unemployment rate of 18.8 per cent

was in fact the highest. Thus, Poland represents a particular challenge, especially in view of the full employment goal set by the Lisbon European Council in 2000 with the target of achieving 70 per cent total employment rate by the year 2010.

Similarly, the employment rate of women in Poland is very low indeed. In 2004 it was one of the lowest among EU countries — at 46.2 per cent it surpassed only Malta, Italy and Greece. Here again the Polish labour market trend affects the overall EU picture. The Lisbon target of women's employment rate to be achieved by 2010 is 60 per cent. Women's unemployment is another indicator of the extent of labour market difficulties. Although the EU does not set any clear targets on unemployment's reduction, this is a pressing concern given the severity of the problem affecting in Poland alone some 1, 568, 536 registered unemployed women at the end of 2004 (MGiP 2005) translating into 19.7 per cent — again the highest within the EU.

In the context of wide and deep domestic change, and the drastic labour market situation that followed, Poland applied for EU membership in April 1994, and joined the Union in May 2004. This process has introduced a strong new player to the domestic political, social and economic game — the EU — who provides an impulse and a direction to labour market equality issues, and stresses the need to reconcile family and work life and eliminate various gender gaps — elaborated in Chapter 4. The enlargement has included CEE countries with social, political, and economic circumstances and traditions very different from the incumbent member states. The double modernisation and transformation of the socialist bloc, first the fall of socialism and second EU membership, sets up an interesting empirical and theoretical puzzle. Modernisation endorses economic and social differentiation, individualisation of life courses and a change of culture, religious traditions, beliefs, norms and values (Weymann *et al.* 1999). In case of Poland, within the context of broad and deep changes the cultural baggage accumulated over the past decades and centuries, is still relevant today. The deep and comprehensive macro social change also influences the micro life course patterns as life is more self-determined but also brings higher risks (Weymann *et al.* 1999). This is evident on many dimensions in several post-socialist states. In terms of the labour market failure and increased risks associated with it, Poland stands out among the post-socialist accession group. Poland's entry into the ranks of EU can be seen as an impetus to achieve a more balanced domestic gender contract, a chance to reverse the deterioration occurring since the fall of socialism, especially that gender mainstreaming formed a part of EU accession criteria. But while joining the EU has

been a top political priority, the commitment to equal opportunities has not. In fact, combined problems associated with the decline in employment, rise of unemployment, and increasing inequality, complicated the prioritising of this policy area (Pollert 2000).

Interestingly, feminists in the West expected that with the rise of a 'civil society' in the post-socialist states, feminism would also come to the fore, but their expectations were not met (Watson 2000). If the legacy of socialist commitment to gender equality was strong, it would lead to the recent accession's contribution to strengthening gender equality at the EU level, as was in the case of the 1995 accession of Sweden or Finland. This, for the most part, has not been the case. In Poland, a multitude of factors account for why women's rights were not a politically salient question in the transformation period: historical, political, cultural, ideological and economic. What happens to women's position in the labour market, given the historical path of top-down structural constraints during the periods of statelessness and socialism with the ensuing implications for the development of civil society and a particular set of actors with clearly assigned social roles, when two exogenous shocks of system transformation and EU accession take place? The first event shook the position of women, the second brought about hopes for making up the losses and perhaps advancing the issue further than ever before. Accordingly, there are factors working in opposite directions. On the one hand, there are: the abandonment of the socialist rhetoric of gender equality; the absence of strong feminist tradition and organisation; the revival of nationalist and traditional values; and the difficult overall labour market situation. All these hinder progress in gender equality. On the other hand there are: the entirely new domestic context with new actors on the scene, like women's NGOs, engaging in the process where they can and do make a difference; women's expectations of gender equality based on the socialist tradition as key component of social policy; and finally the pressure from the EU in the form of directives and the EES.

It is therefore interesting to investigate how the approach to equal opportunities in the labour market in Poland developed, given the particular domestic context juxtaposed to the external pressure. As the theoretical debate in the next chapter indicates, it is not clear *a priori* how the mix of internal and external stimuli, incentives and disincentives, all combine to affect gender equality. Considering the pre-accession compulsory requirement of transposition of directives and the post-accession voluntary participation in the EES, how does the policy-making process compare given Poland's socialist legacy of top-down governance contrasted with declining unions, and an

absence of powerful employer associations? How are the challenges of policy-making and institution building met in the context of an economy far-off from the goals of the Lisbon strategy? The politics of gendered labour market policy may prove fertile ground for observing responses to opposing pressures, and for answers to the above questions, thus filling the existing knowledge gap.

Lastly, a close examination of developments in Poland may not only lead to a better empirical and theoretical understanding of the processes underway, but also to benefits – normative or political in nature. Poland is a large new member state, its working age population accounts for over half of the 2004 accession states, and its representatives in the governing bodies of the EU are numerically strong – e.g. 54 out of a total 732 Members of the European Parliament, 27 votes out of a total 321 for qualified majority procedures, or 21 out of a total 317 Economic and Social Committee members (Treaty of Accession 2003). Developments in Poland may prove relevant for the future direction of social policy in the wider context of the EU. This hypothesis may be an interesting focus of future research agenda, when Poland's status as an EU-level policy-taker is enhanced by that of a policy-maker.

1.3 Analysis of Labour Market Policy from a Gender Equality Perspective

This study adopts a gender equality analytical framework. As there is no single gender perspective that can be applied to the EU (Hoskyns 2004), and because it is neither politically nor theoretically resolved what is good for women (Borchorst and Siim 2002), the relevant debates are outlined here leading to the conclusion that within the prevalent organisation of welfare privileging employment-based citizenship, women's access to the labour market does indeed advance gender equality. Gender equality concerns women and men, and most patterns of social development have been detrimental to women, although gender relations vary in different national settings. Welfare regimes (outlined in Chapter 2) contour patterns of gender relations in their differential impact on women's and men's lives (Rubery 2001). The term 'gender relations' refers to the 'mutually constitutive structures and practices that produce gender differentiation, gender inequalities, and gender hierarchy' (Orloff 1996:52) including resources of goods and capacities, opportunities and financial assets, social roles and power relations – deriving from roles and influenced by the welfare state (Daly and Rake 2003). Gender discrimination and inequality emanate from such structural sources as the division of paid and unpaid labour, political power, and the

character of sexual relationships (Orloff 1996). Although gender equality applies to the broader societal context, I will focus on the policies enabling women access the labour market, and to function within it as well as men do, without implying that such functioning *should* take place on men's terms or fit the male standard. Thus, the interaction between women's employment and care responsibilities has implications for gender equality as equal opportunities (e.g. anti-discrimination, equal pay, affirmative action) and reconciliation of work and family (e.g. childcare services, leave provisions, working time) policies shape women's chances for economic autonomy.

Theoretical and practical understanding of gender equality is problematic. It has been defined by the United Nations Office of the Special Advisor on Gender Issues as the point of social development at which 'the rights, responsibilities, and opportunities of individuals will not be determined by the fact of being born male or female' (World Economic Forum 2005: 1). Considering such indicators as decision-making power, economic participation, economic opportunity, education and advancement, and health and well-being, not even the most progressive countries in the world have achieved gender equality (World Economic Forum 2005). Gender equality as a political and policy goal is related to the concept of a 'woman-friendly' state, one which 'does not force harder choices on women than on men, or permit unjust treatment on the basis of sex' (Hernes 1987:15). It is thus linked to the welfare state notion based on the idea of citizenship, with the state regulating and organizing the welfare of its citizens. Elaborated by T.H. Marshall (1964), citizenship is a status implying equality in rights and obligations, developed sequentially in civil, political, and social stages. Essentially, welfare states afford social citizenship rights, which include guarantees of minimum social and economic welfare. Social citizenship, in particular, has been recognized as the category that has evolved unequally where gender (as well as class and race) are concerned. Marshall's framework is implicitly based on a male norm, where the citizen is a man, and paid employment is the basis for citizenship rights (Pateman 1992). Western feminist theory and the women's movement have debated what the state should do to reduce male dominance (Orloff 1993). In essence, there are two approaches to advancing the status of women: equality and difference (Barrett 1987; Fraser 1994, 1997; Lister 1997; Crompton 1999; Daly 2000b; Huber and Stephens 2001).

Equality feminism campaigns for the equal access of women and men to social or professional positions. It assumes an equal distribution of power and responsibility and seeks absolute equality for women with men. Such social policies as

institutionalised care, parental leave, or equal pay arrangements, are all mechanisms for the attainment of gender equality. Here, the focus is on the interests of working women or on improving women's access to the labour market. Fraser's (1994 and 1997) universal breadwinner model reflects this stance, as it assumes gender equity in the workplace, and the capacity of all able adults to participate in the labour market. In this vision, women are enabled as citizen-workers. In contrast, difference feminism recognises that women and men perform different societal roles, and thus have different needs. These differences need to be accounted for in social institutions and policies. Policies recognising and rewarding the care-giving responsibilities of (chiefly) women, through awarding them an income and pension rights, are a possible means for the attainment of the gender equality goal. Fraser's (1994 and 1997) caregiver parity model presents carers with a possibility of supporting themselves and their families, without recourse to the market, or to enable them to combine part-time employment with part-time care. This makes a citizenship of care-giving equivalent to that of breadwinning.

Given the two variants, it is normatively problematic to assume that women are homogenous and share the same goals. Presenting women's interests as simply entering employment and receiving support to eliminate unpaid caring work does not fit with the interests of those who do not want to participate in paid work but prefer to continue their caring and domestic labour instead (Knijn 1994; Lewis 1997; Orloff 1997; Pfau-Effinger 1999b; Threlfall 2002). While the two versions of gender interests share the idea of economic independence, they differ in the means to its attainment either through employment or through the valuation of maternal labour in the state's support of full-time mothering. Here, independence implies the possibility of choice, equality and reciprocity (O'Connor 1993), but presents a problem of the feasibility (Hobson 1994; Orloff 1997) of any welfare state to provide the conditions for unconstrained options to mothers and fathers, to workers and carers, in how they allocate their time and labour. Moreover, the equality-difference dichotomy has been criticised as an inadequate conceptualisation of women's needs, as the male standard based on 'abstract individuals without family commitments' is not contested (Bacchi 1991: 83, cited in Lister 1994: 40). In societies organised along patriarchal lines, where unpaid work does not confer citizenship status equal to that of paid labour (Pateman 1989), neither equality nor difference is a sufficient platform for equity (Fraser 1994).

Often, women's movements combine the two approaches, and advocate the improved status of women as both workers and carers (Huber and Stephens 2001) so

that women can expect the same employment opportunities as men, even if they take advantages of the privileges and responsibilities tied to childbearing. A focus on the recognition of both similarity and difference is considered ideal for the attainment of gender equality (Zielińska 2002), as men and women are both the same and different (Cockburn 1991). As Lewis and Åström (1992) argue, Sweden approached equal treatment with full employment policies making it possible for women to be recognised as carers as well. Thus, 'equality' rather than 'difference' structures the Swedish welfare state, but the acknowledgment of difference has been embedded within the system where working women can make claims upon the state as mothers (Lewis and Åström 1992). Of Fraser's (1994, 1997) three visions for gender equity, the third universal caregiver model transcends the equality-difference divide. It envisions both men and women taking up part-time paid work and part-time care, combining shorter and flexible working hours with informal care, and locally organized but publicly supported care centres. This model seeks men to change their behaviour towards both work and care (Fraser 1997). In this vein social policy would shift the weight of welfare provision from the family to the state *and* from women to men (Orloff 1993; Sainsbury 1999). Measuring this ideal against empirical reality reveals that European women's behaviour in favour of paid employment has changed substantially, while men do not show any parallels towards unpaid care work (European Communities 2004).

If women are to fully develop their capacities, they need equal status in the private *and* public spheres to gain economic autonomy or economic citizenship (Kessler Harris 2003) and to be able to form and maintain autonomous households (Orloff 1993). A way of gaining such independence is labour force participation (Orloff 1993; O'Connor, Orloff, and Shaver 1999; Daly 2000a, 2000b). Equal access to paid work, together with equal pay, has been the core demand of women's movements for many decades (Hobson 1991, cited in Orloff 1993). Showing how paid employment leads to better entitlements than unpaid labour has been central to feminist analysis (Sainsbury 1994). In addition, women's independent income increases the financial equality within the household, enhances individual autonomy, provides some measure against poverty, constitutes a way of entering the public sphere and increases integration (Mayer 1994; Vogler and Pahl 1994; Martin 1995). By contrast, feminists have opposed conservative notions of women's interests solely within the context of the traditional family. Conservative and religious ideals promoting women as mothers and managers of the private sphere (and only there) are confining and subordinate women to men. Women's

care-related long-term absence from the labour market often leads to a loss of occupational status on re-entry, impacts their individual and household's life time income, and makes women dependent on men (Fagan and Rubery 1997).

Labour market policies enabling women's employment are therefore crucial from the point of view of women's interests. Moreover, the aim should include employment quality, as occupational subdivisions can reinforce a gendered division of labour, where – at each level of skill or qualification – women can be found in lower paid and lower status positions than men (Gottschall 1995). In addition, flexible working hours are important for family friendly employment, as there is a positive relationship between the availability of part-time jobs and growth in female employment (Fagan and Rubery 1997; Hemerjick 2002). Thus, to reduce gender inequality in the labour market and transform its hierarchical structure, policies need to be long lasting, comprehensive and considered in the context of other state interventions into women's lives, such as taxation or childcare provision. If gender equality is to be promoted through participation of women in paid work, policies need to address not only employment matters, but also care (Lewis 2003) as there is a positive relationship between state provision of parental leave and childcare and maternal employment rates (Fagan and Rubery 1997; O'Connor, Orloff and Shaver 1999). Studies find that national policy contexts influence the degree of employment continuity of mothers with young children (Fagan and Rubery 1997; Gottschall and Bird 2003) with implications spanning their lifetimes. Frequently, feminists turn to the argument that the main source of inequality is the difficulty of earning an income not for women in general, but for mothers in particular, emphasizing that parenting generates lasting inequality for women (Threlfall 2000). Thus, work and family reconciliation policies are of a special interest. Moreover, since there are obvious limits to how masculine female lives can become, men have to accept more feminine life courses themselves (Esping-Andersen 2002). In other words, there is a need to reconcile employment and fatherhood.

Gender equality in the labour market is not only crucial in view of women's interests, but has broader consequence, such as the challenges facing modern welfare states. After 1945 welfare state policies in the West were designed in conditions of mass production and mass consumption based on a traditional family with a typical full time male worker and a typical full time female unpaid homemaker. Since then, growth, full employment (and thus modest welfare needs), and national autonomy in the economic, political, and social realms have been replaced by labour market reorganization,

demographic shift, and economic integration (Rhodes 1998; Taylor-Gooby 2002). In the post-industrial societies, the shift of production from goods to services is coupled with significant social changes relevant to gender, especially the structure of the family and the mass entrance of women into paid employment (Clement and Myles 1994; Castells 1996). Female workers in lone- and dual-earner households encounter different risks than the previous male industrial worker, and thus need a new set of provisions to deal with those risks, especially as changing and unstable family forms do not allow for the continued welfare provision within the household. Long-term sustainability of pensions depends on high employment rates, and women's high educational attainment levels make tapping into their human capital potential desirable from the economic efficiency point of view. Given the current challenges, the sustainability of the welfare state depends on the high employment of women combined with their willingness and ability to have children — an argument pushing the issues of equality and equity to the top of the reform agenda (Myles and Quadagno 2002; Esping-Andersen 2002; Ferrera and Hemerijck 2003).

The EU recognises the challenges facing current welfare states and proposes a way to deal with them. The European Commission has underlined the importance of the labour force participation of all adults, to increase economic competitiveness in the EU, and the buzzwords of 'activation' and 'welfare-to-workfare' have gained prominence. These have been translated into government action in many EU states, including the UK (Powell 1999; Rake 2001), the Netherlands (Visser and Hemerijck 1997), or Denmark (Torfing 1999). In addition to the problem of ageing population and the sustainability of pension systems, the concern with social inclusion reinforces the view of employment as the best way of preventing poverty. Rather than designing social policy based on citizenship, the thrust is to move people off welfare, unemployment, or inactivity into work (Hantrais 2000; Threlfall 2002). This activating approach is tightly connected to women's labour force participation, and as such gender equality for labour market policies. The history of gender policy within the EU has been connected to the second-wave feminism in the West with women's groups accessing European policy-making bodies (Watson 2000; Hantrais 2000). The EU push for gender equality has made substantial progress since its starting point, and this work is continuing (Threlfall 2000). As Chapter 4 details, the EU equal opportunity policy originated in Article 119 of the Treaty of Rome (now Article 141 of the Treaty of Amsterdam) by specifying equal pay for equal work. Since the 1970s, the concern widened to include equal

treatment in access to employment, training, working conditions and social security (Hantrais 2000; Leibfried and Pierson 2000). In the 1980s, a new strategy was developed in order to reconcile paid work with family life promoting gender equality (Threlfall 2000). Over the next decades, such aspects as parental leave, childcare, positive action, and the gender mainstreaming principle have been addressed too.

How relevant is this West-focused discussion to Poland? Under socialism gender as a political or scholarly category has not gained the degree of importance or articulation from the bottom up as it has in Western Europe. A Polish sociologist claimed that ‘the overwhelming majority of all three generations of active sociologists of both sexes (...) views the subject with uniform disinclination — regarding it as a low-prestige field best treated as a joke’ (Sokołowska 1998: 64-5, in Watson 2000: 373). As Chapter 5 shows, state controlled women’s organisations did not engage in a critical discussion of the situation of women, of their interests as women in opposition to men, or of redefining their social roles — the transition from sex identity to gender identity did not take place (Titkow 1993) and women’s unfulfilled demands were blamed on the state rather than the prevailing gender order (Watson 1993). The lack of tradition in defining women’s interests together with organisational deficiencies did not allow post-socialist feminist groups to take on a substantial political role (Siemieńska 2002) especially in the early stages. Articulation of women’s interests is also hindered by a politically and culturally dominant Catholicism. Catholicism creates a public discourse accusing feminism of being at the one time too far to the left, in espousing communist ideals of equality and the right to abortion, and at the same time too far to the right, in supporting the values of self-interested capitalism (Hauser, Heyns, and Mansbridge 1993). In the end, women’s groups and individuals hesitate to use the label ‘feminist’ since under socialism the term was meaningless and now most people still do not understand it fully (Fuszara 2000b).

As the analysis in Chapter 5 suggests, gender relations in the socialist state were more egalitarian than in post-socialism. Social programmes and services made combining employment with family responsibilities more feasible, although the division of household work was still drawn along gender lines. Liberalisation of the political, economic and social system presented an opportunity to rearrange gender relations, but it seems that the new arrangement with more market and less state leads to even more difficulties in achieving gender equality. The post-socialist state bears stronger than before tensions between motherhood and employment: it does not provide incentives for

fathers to participate in the caring labour and does not facilitate successful participation in the paid labour force for all. Yet, women ‘expect by right equality in education and the workplace’ (Hauser *et al.* 1993), are preoccupied with ‘job security, employment stability and a living wage’, but not with the provision of benefits and services allowing them for reconciliation of working and non-working life (Hantrais and Ackers 2005: 209-10). Obviously, the minimum pre-condition to reconciliation of employment and private life is access to both of these spheres, and so the Western debates are not only highly relevant to the Polish context, but also begin to find articulation in the domestic academic, political, and activist debates.

Thus, in the East and West construction of citizenship rights, paid work is privileged over unpaid work and these gendered spheres are associated with inequality between women and men. Transformation of both areas is needed for this inequality to fade away, whereby the value of mothers and carers on the one hand and women’s labour force participation on the other hand would confer equal citizenship rights. Since paid employment in the European countries remains key to citizenship, I focus on the labour market route to gender equality via access to and a full integration with paid employment that can be reconciled with family life. Thus, equal treatment through state guaranteed equal rights for women and men, equal opportunities and reconciliation policies to achieve factual gender equality occupy the centre stage of my analysis. The EU is an important agent of change in governments and policy-making of individual West European member states (Wallace, H. 2000). The same assertion can be extended to the new members. EU accession requires reforms of political, economic, and legislative nature, with gender equality constituting an integral part of the *acquis communautaire* and thus having a potentially great deal to offer to women in Poland. This dissertation establishes how much exactly Polish female workers stand to gain.

1.4 The Choice of Theoretical Framework

I will now outline here the choice of theoretical framework, while detailed discussion follows in the next chapter. Selecting the right theoretical approach for the chosen empirical task has not been straightforward. This study set out to explain complex multi level processes occurring in the changing environment of transformation, and as such began as problem oriented open to various theoretical and analytical concepts that can deal with national and supra-national developments and their interaction. Four branches of academic literature are of particular concern. First, since I examine the impact of EU

policies on national ones, I will draw on the growing scholarship on Europeanisation. Second, as I am focusing on labour market policy, I will employ the debates on social policy and welfare state development. Third, as my concern is with gender equality and women's position within the labour market I draw on the feminist critique of the welfare state scholarship. Finally, given that Poland is the case chosen for this study, I analyse the socialist and post-socialist transformation literature with attention to social and labour market policy and gender.

Early EU studies regarded the EU as a dependent variable and questioned how it came into being. Although horizontal and vertical integration processes are ongoing, subsequent research moved towards a focus on the EU level impact on domestic developments often conceptualised as Europeanisation. European integration and Europeanisation are thus different processes. European integration is relevant to the ontological stage, to grasping the process of individual countries pooling their sovereignty at the level of the EU (Radaelli 2000) with the focus on the upward flow from the national to the EU level. Europeanisation is post-ontological in the sense that it concerns the outcomes and effects of already existing EU institutions (Radaelli 2000). This second conceptualisation considers the EU an independent variable exerting downward pressure from the EU to the domestic level. To account for domestic change induced by the EU, I will draw on the latter body of Europeanisation literature developed for Western states but directly applicable to policy-making in Poland as an applicant and a new member state. Europeanisation can explain only a fraction of the processes occurring on the national scene and as such, additional perspectives are brought in. The second relevant analytical stream is on the development of the welfare state, the labour market, their institutionalisation and policy change developed for industrialised political economies. I will analyse the welfare state in terms of provisions or interventions by the state to change social and market forces, resulting in either more or less (gender) equality. Although state action extends beyond employment to include taxation, education, health, or housing, employment is a significant component of welfare state policies and constitutes the central axis of my analysis. Third, attention to the gendered character of the labour market practice and policy leads to the discussion of patterns of women's (and men's) employment, and employment policies relevant to equality analysed with the tools developed by the feminist critique of the welfare state scholarship. Fourthly, since the mainstream welfare state debates and their gendered critiques were developed for mature democracies, they are supplemented by literature

devoted to the historical developments specific to Poland. What binds these four seemingly separate substantive fields is the wider theoretical approach of the new institutionalism, further separated into rational choice, sociological and historical variants. The concept of Europeanization is concerned with how institutionalisation of EU level rules or policies are transferred and fixed at the domestic level. The discussion of the origin and change of the welfare state links to the new institutionalist debates on the importance of power, rationality, preferences, interests, or identities (Korpi 2001) — as does the gender critique. It encompasses the institutions of state, market, and family, how they interact with stratification patterns in the labour market, and finally how social citizenship affects employment patterns. The literature on Poland's transformation from socialism establishes the degree of continuity and change, where the basic assumption of the Western institutionalisation scholarship assuming stable environment is considered in a highly transformative CEE context. The attention to institutions is set in the context of other variables — the political players with their interest and power statuses. Therefore, the institution-based approach is complemented with agency-based tradition and as such, the various analytical frameworks engage in the debate on agency versus structure. The analytical pluralism aids in accounting for Poland's process of change in the structural realm of supra- and national institutions, labour markets, gender relations and in the noting of the role of actors and agency in the ways these structures are negotiated and change implemented. I recognize the importance of both structure and agency without assigning an *a priori* primacy to one or the other.

1.5. Overview and Concluding Remarks

This introductory chapter has established how expansion of the EU, increased market integration, economic restructuring, and demographic and cultural shifts warrant a careful investigation into European labour market policies aimed at increasing women's employment. In the context of political, economic and social change, these questions are relevant to many spheres of public and private life. Analysis focusing on women's employment is particularly salient in contemporary Europe confronted with the move from a single to dual earner family model, and with the growing trend in lone parent (usually mother) households. Furthermore, women's employment is gaining currency because governments and businesses are beginning to recognise in this group an important source of an untapped labour power at times of an ageing population and

strained pension schemes. In addition, women demand more equality of access to employment and independence.

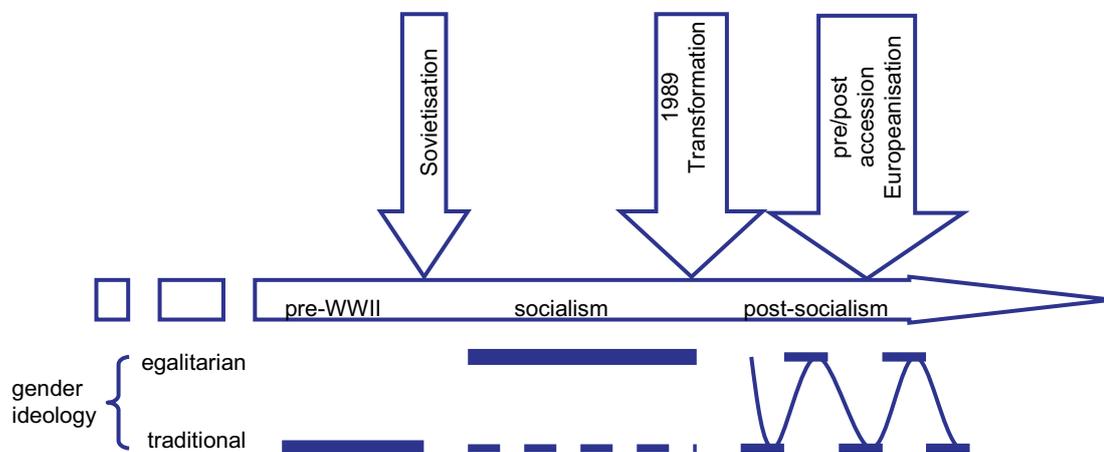
A study of labour market policy in this precise context sheds light on the more general question of national government sovereignty in the face of increasing internationalisation, especially in a case of a post-socialist accession state subject to these processes in a deep and broad sense. The topic of labour market policy is central to theorists, policy makers, and lay people alike. Theoretically, the theme is interesting from the standpoint of social change, its sources, processes and outcomes, the degree of state autonomy, and the mix of structure and agency involved. Empirically, economic restructuring and joining the EU create a difficult labour market situation calling for new policy responses. Politically, what matters is the effectiveness of policy in the face of changing social conditions (reaction of policy to major employment related problems), decision making autonomy of states, and finally, it is the question of social inclusion with the balance between the work and non-work activities of both men and women. Therefore, labour market policy in general, and in the area of women's employment in particular, is significant on its own, and also because it in turn re-shapes those areas of life that are not directly oriented to employment. Employment policy is tightly connected with other domains relevant to gender, and so policies that aim directly at employment also affect other spheres such as taxation, provision of benefits and services, fertility and sexuality, criminal justice (Walby 2004) to name a few. I will however focus on labour market issues, with reference to the other affected areas where appropriate.

Given the centrality of the above questions, research on the institutional developments pertinent to CEE countries' system change and EU accession is gradually emerging. Literature in this area deals with: macro-institutional development (Elster 1993; Batt and Wolczuk 1998; Elster, Offe and Preuss 1998); the reform of the executives (Błaszczuk 1998; Ágh 1999; Nunberg 1999; Goetz 2001; Lippert, Umbach and Wessels 2001; Żubek 2002; Fink-Hafner and Lajh 2003; Lippert and Umbach 2005); accession negotiations (Dora 1997; Avery and Fraser 1998; Schimmelfennig 1999; Biegaj 2000; Grabbe 1999 and 2001; Inotai 2001; Nowak-Far 2002; Nowak-Far and Michoński 2005); social policy (Vaughan-Whitehead 2000; Ferge and Juhasz 2004; Guillén and Palier 2004; Potůček 2004). Therefore, the substantive impact of EU accession on CEE countries' politics, policies, and polities is slowly growing, but we know comparatively little on the EU impact of accession on a transformation state. My

study, focusing on the domestic conditions – institutional and actor configuration – as facilitating or hindering the impact of EU approach to gender equality on labour market policies in the stages of pre-accession and membership, extends this debate further. First, studies on EU-level impact on the domestic-level in the pre- and post-accession stages in the same national setting are lacking. Such a research design allows holding certain domestic elements constant but varying the external pressure for reform through the different pre- and post- accession environments and thus assessing the interaction of domestic and supra-national factors and their relative weight. Second, studies of labour market gender equality policy-making are heavily biased towards old member states. Shifting the focus towards a new EU member allows assessing whether theories and processes relevant to the West can be applied to a country like Poland.

As the analysis in the following chapters shows, the accession of Poland to the EU is not a simple event and its impact on domestic labour market policies relevant to gender equality is just as complex. Figure 3 presents a graphical representation of the main contextual features relevant for this study.

Figure 3 Poland’s Gender Ideology Trajectory



Briefly, there are two dominant variants of gender ideology that have developed over time: a traditional conservative view of gender, and an egalitarian aim of gender equality. The traditional variant developed during the pre-WWII era, and was strongly supported at both formal and informal levels. This was interrupted by the exogenous shock of Soviet led socialism, where the official stance subscribed to a formal egalitarian ideology, but traditional norms still persisted, at informal levels. The next exogenous shock came with the 1989 collapse of socialism, which brought down the

state's support for gender equality and strengthened the traditional view, by bringing it out from the private to the public spheres. Since then the two models have co-existed, and successive governments have alternated in their pursuit of one versus the other, resulting in zigzagging gender politics and policies. The space between the egalitarian and traditional gender ideology is occupied by a range of values, and changes not only with partisan politics, but also by issue, where reproductive rights and labour market gender equality elicit differing responses. Afterwards, the exogenous pressure of pre- and post- accession Europeanisation provides support to the more egalitarian ideology, but the national and sub-national conservative alternative still persist. Thus, I argue that the traditional gender ideology is more highly institutionalised (on formal and informal levels) than the egalitarian model, and thus presents a strong obstacle to change.

My research is organised around the main argument that the socialist era failure to institutionalise the principle of gender equality at the informal levels made it difficult to achieve gender equality in the labour market during the post-socialist transformation, while Europeanisation of gender equality combined with domestic forces pressing for such a stance hold a potential for change. The success of Europeanisation of labour market policies pursuing gender equality depends on the support of domestic actors and institutions, especially in the post-accession stage. More specifically, accession to the EU provided an external shock to the domestic trajectory of gender ideology relevant to the development of labour market policies, but its impact varies before and after membership. In the pre-accession stage, the mechanism of conditionality and the adoption of gender *acquis* lead to a *moderate* level of domestic change accommodating EU demands. The 'hard' top-down pressure from the EU level renders *structure* more prominent than *agency*, where domestic political parties submit to EU demands regardless of their partisan preferences. However, this strong but partial and short lasting pressure led to a rapid change of formal rules, without taking any grip of informal norms, and as such, it did not transform the status quo. It therefore is consistent with the change mechanism following the logic of expected consequences (March and Olsen 1998), or coercive isomorphism (DiMaggio and Powell 1991). In the post-accession stage, without the mechanism of conditionality, the participation in the EES leads to a *low* level of domestic change in absorbing EU demands. The 'soft' top-down pressure from the EU, combined with a bottom-up stress on domestic solutions and cross-national learning, give more weight to *agency* rather than *structure*. Domestic political parties are not constrained by the institutionalisation of gender equality, and are

able to act according to partisan logic. However, actors are increasingly subject to learning and demands from European and sub-national partners. Although the exogenous pressure is weak, the EES process renders it comprehensive, continuous and potentially long term — as such presenting an opportunity to influence the informal rules and institutions and pursue more transformative reforms. Here, Europeanisation works through the logic of appropriateness (March and Olsen 1998), or via mimetic and normative isomorphism (DiMaggio and Powell 1991), where the iterative participation in the multi-level OMC governance can trigger a domestic response of commitment to gender equality, and thus increasing harmonisation of national policy to that of the EU.

Chapter 2 develops the conceptual framework for the analysis of the politics and content of labour market policy relevant to gender, drawing on feminist and mainstream work on the topic. First, I will describe the overarching theoretical framework of new institutionalism. Institutional claims that preferences and actions cannot be interpreted outside of the cultural and historical setting in which they are established, but should be understood as the product of past choices shaped by the institutional environment, are applied throughout. In the second part I make the theoretical concepts more specific through Europeanisation. Third, I will discuss the literature relevant to the welfare state development with its gendered critique. I then relate these debates to the Polish case. In Chapter 3, I describe the methodological issues relevant to this qualitative study, including the description of official documents issued at the EU and national levels, and the nature of expert interviews with governmental and non-governmental actors. Chapter 4 outlines the development of the EU approach to employment in general and with regard to gender in particular. Historically, nation states' organisation of welfare and employment has been detrimental to women's access to social protection. Early EU-level directives dealing with matters of employment and social insurance were passed to correct the domestic-level balance for economically active women. Measures developed in the 1990s expanded the coverage to issues related to men's and women's work and family reconciliation. The emergence of the EES and the OMC raised the profile of gender issues, and moved the EU role to 'softer' sights of influence, while adopting the concept of gender mainstreaming spreads the ideal of gender equality to all policy arenas. The chapter also considers the beginning of the relationship of Poland to the EU in the pre-membership stage and the potential impact of EU employment policy on national policy-making. It thus establishes the strength of top-down pressure from the EU level on the domestic, and their interaction.

Chapter 5 takes stock of how the Polish labour market has developed over the course of the twentieth century. It first sketches its evolution since the end of WWI, spanning some 20 years of independence. Second, it considers the socialist period covering five decades of the state's affiliation with, and dependence on, the Soviet realm. Finally, it describes the post 1989 transformation from a command to a free market economy. The chapter establishes whether in relation to women's position in the society there is a peculiar path and a particularly important set of actors, their interests and how these interplay over time. It explores the implications of state socialism on gender identity and interests and traces the institutionalisation of gender relations important to the status of women and men in contemporary Poland. Thus, it assesses the bottom-up factors relevant to the top-down Europeanisation pressure. Chapter 6 continues the themes from the two preceding chapters as it deals with the output of the factors and processes of EU—domestic interaction. It contains an empirical analysis of the content of gender related employment law and policy change as well as the process of reforms. It first tackles the transposition of nine gender equality directives. Since changes to the Labour Code enforced as of 1996, 2002, and 2004 were stimulated by the aspirations of joining the EU, the chapter confirms that the EU was a galvanising factor resulting in legislative process aligning Poland with the EU. Next, it considers a series of policy documents outlining the government's approach to gender in the labour market once Poland has joined the EU. Here a commitment to labour market equality issues gives way to seemingly more pressing problems plaguing the labour market. The chapter also assesses the relative importance of the various domestic and supra-national actors for the policies and politics surrounding men and women in Poland. Chapter 7 embarks on a preliminary evaluation of the outcome of labour market regulation, that is, the impact of the various gender relevant laws and policies in the recent years in Poland. As labour market reforms associated with the accession to the EU are relatively recent, this assessment is tentative. However, it is still useful in its evaluation of the current labour market position of women and men and in looking ahead to what the near future can potentially achieve in this area. Finally, the concluding Chapter 8 relates the empirical findings to the theoretical and conceptual discussion of the previous chapters. The Appendix provides some additional detailed information specific to Poland and to the accession process.

II. THEORIES, CONCEPTS, DEBATES

Theoretical and conceptual debates about the impact of the EU level on the national one and about domestic policy formation form the main focus of this chapter. Over the years, EU studies debates have pointed to various theoretical shortcomings in the field. The subject of EU enlargement has been ignored (Schimmelfennig and Sedelmeier 2002), or has only recently emerged (Wallace H. 2002), and its impact on the accession countries' social policy development has not been widely theorised (Lendvai 2004). However, there is no consensus whether further theorising of transition states joining the EU is required. On the one hand, to capture the complexity of the accession process and its impact on applicant and member states comprehensive theoretical frameworks are needed (Lendvai 2004). On the other hand, this is unnecessary, because mid-range theories dealing with institutions, domestic politics, inter-state bargaining, or Europeanisation might be sufficient (Sedelmeier 2001). Furthermore, separating theory development or testing from explaining real world empirical cases may lead to better explanation and accumulation of theory since complex cases can be only partially explained by any theory (Scharpf 1999b). Given the intricacies of reform and transition processes, a shared framework and a family of theories may be required (Ostrom 1999; Stinchcombe 1968 cited in Sabatier 1999) in order to clarify differences in assumptions and develop competing hypotheses leading to gathering of evidence in favour of one approach (Sabatier 1999). A pluralist theoretical attitude to the early stages of research of this still uncharted territory thus may prove beneficial.

Similarly, studies concerned with liberty, equality and justice in the life course or social policy traditions demand an integration of sociological, economic and socio-political perspectives (Weymann 1996b). For the most part sociology has not embraced the study of the EU (Walby 1999) and the new policy-making methods, such as the EES as an example of the OMC, are hard to grasp from a sociological stance (Barbier 2004). In contrast, political science has contributed to the development of the discipline. Initial EU studies have their roots in classical integration theory with two dominant strands: institutionalism and intergovernmentalism (see Börzel 1999; van Keulen 2002). European integration - the bottom-up building of the EU- began in the economic realm, but as the main goals of market integration are achieved, member states come under more political pressure to centralise market-correcting measures (Scharpf 2000). Member and applicant states are subject to an increasing array of enforceable EU

regulations and legislation, which shape or determine their reforms of the welfare state (Rhodes 1998). The top-down process is often referred to as Europeanisation. Although there are many good accounts of European policy processes, existing theories do not resolve the differences between neo-functional, realist, supra-national or intergovernmental traditions because of the lack of suitable conceptual tools to deal with the EU vis-à-vis member state multi-level interactions (Scharpf 2000). Consequently, for the purpose of my analysis I draw on elements of various theoretical and analytical traditions and scientific disciplines.

The following section delineates the institutional theoretical framework and its propositions, which bind together the remaining parts. New institutional theory applied to political behaviour points out that in politics institutions matter, that they matter in specific ways by giving primacy to either structure or agency in institution- or actor-based explanations, and suggests some mechanisms of change. Furthermore, individual preferences and actions cannot be interpreted outside of the cultural and historical setting in which they are established, but should be understood as the product of past choices shaped by the institutional environment. Following Weber, institutions structure behaviour but do not determine it, while subscribing to Durkheim it is social structure that has the ultimate influence (Immergut 1998; Aspinwall and Schneider 2000). In the second part of this chapter, the literature on Europeanisation advances the new institutionalist framework to account for the EU – member state interaction. Domestic policy-making in the gender relevant labour market upon Poland's accession to the EU is a concern of national and supra-national actors embedded in national and supra-national institutions. This supra-national impact is applied to the national setting through the welfare state concept in the third section. Connected to the new institutionalist framework, the welfare state embodies the key questions of sociological inquiry: the debate between structure and agency; the dynamic of macro and micro processes; social stratification and the related concepts of power, status, class, ethnicity, and gender; and more recently, the question of continuity and change. The goal of a welfare state is to protect citizens against mainly economic risks during their life course, such as old age, sickness, or unemployment. In this context, life chances increasingly depend on life course policies (Weymann 1996b; Gottschall and Bird 2003) so the link between the state and the welfare of its citizens remains crucial. The mainstream discussion is elaborated further through the gendered critique noting that gender (along with class and race) is a major organisational principle of welfare state development and

must be explicitly accounted for. Finally, the institution-based approach, which assumes a stable macro-institutional context, is applied to Poland, where the emergence and collapse of socialism and EU accession indicate a high capacity for reform of the macro-level institutions themselves.

2.1. The New Institutionalism and its Variants

Institutions are regarded the fundamental (DiMaggio and Powell 1991) and relatively stable components in social and political life (March and Olsen 1998; Olsen 2002). Institutions encompass equilibrium models of rational behaviour, formal political rules, international regimes, compliance procedures, communication channels, language codes, norms, conventions, human identity and behaviour, governments, markets, families, etc. (Hall 1986; North 1993/ 1998; Finnemore 1996; Immergut 1998; Ostrom 1999; Aspinwall and Schneider 2000). There are, therefore, institutional structures that are explicit, intentional, referring to an organisational entity, or implicit, internalised, adopted by various actors (Ostrom 1999; Aspinwall and Schneider 2000). I apply a wide concept of institutions consisting of the formal and informal structures, that is, in the sense of organisations (e.g. political party, government) and in reference to the shared concepts guided by rules, norms and strategies (e.g. 'appropriate' gender roles). In policy-making, a given structure of opportunities and constraints influences the strategies of group interests and their evaluations of options for political action (Immergut 1998). Governments, for example, may enable or block the mobilisation of certain interests, while culture, language and symbols can supply interpretative frames for action. Thus, institutions shape individual decisions and preferences (Hall 1986) and actors are influenced by the still wider cultural and societal setting (DiMaggio and Powell 1991). It is argued that formal institutions are influenced by the network of informal ones, that ideological commitment can stimulate or hinder norm-changing efforts, and that change takes time to solidify and ensure compliance (Knight and Ensminger 1998). As formal rules may change rapidly, informal norms can do so only gradually, implying that the transposition of formal political or economic arrangements developed in the Western contexts does not guarantee success in a different setting (North 1993/ 1998). Thus, policies advanced and institutionalised at the EU level may encounter obstacles to institutionalisation at the domestic level if the ideological distance between the formal and informal arrangements is too wide.

Institutionalisation refers to the process of the emergence of institutions and behaviour of individuals within them (March and Olsen 1998). It occurs when 'social processes, obligations, or actualities come to take on a rule-like status in social thought and action' (Meyer and Rowan 1991: 42) and it is a property and a process variable whereby transmission, maintenance, and resistance to cultural persistence all increase (Zucker 1991). A high degree of institutionalisation resists change or changes slower than non-institutionalisation, although internal contradictions or exogenous shocks can induce it (DiMaggio and Powell 1991; Powell 1991; Jepperson 1991). The impact of external pressure may be 'partial, inconsistent, or short-lived' if embraced strategically and only for as long as it serves the interest of the actors involved and lead to weak or incomplete institutionalisation (Powell 1991: 199). Agents can transmit external institutional change - like women's rights - and their success is furthered through institutionalised authority (Jepperson and Meyer 1991). Thus, the institutional framework stresses the role of institutions and institutionalisation in accounting for action within a society (March and Olsen 1998).

The new institutionalism is often divided into three theoretical and methodological variations: rational choice, historical, and sociological. Rational choice institutionalism aims at parsimonious explanations, claims that action is intentional and interest motivated, and predicts how rational actors behave in a given set of institutional opportunities or constraints (Thelen 1999; Aspinwall and Schneider 2000). As utility-maximisers, individuals are viewed rather independently of context, that is, the stress is on wilful actors versus the context within which they act (Aspinwall and Schneider 2000), but transaction costs in explaining the establishment of institutions are central (North 1993/1998). This tradition's hallmark is 'interest'. The theory is useful in defining the range of reasons actors have for action within a specific institutional incentive structure and predicting possible outcomes or anomalies (Scharpf 1997). Institutions play the role of an intervening variable (Koelble 1995) and institutional behaviour follows the logic of expected consequences reflecting differential empowerment or bargaining positions of actors (March and Olsen 1998). The shortcoming of rational choice institutionalism is its focus on equilibrium conditions and interests of actors as stable and consistent, which does not explain change well. However, when change occurs, it is facilitated by the low number of veto players (Tsebelis 1995, 1999, 2000) or veto points (Immergut 1990), or when power of reformers increases in relation to the status quo defenders (Cook and Levi 1990 cited in

Koelble 1995). In addition, rational choice theories over-stress the choice of actors in decision-making (Hall 1986). Applying rationalist institutionalism to Poland in the pre-accession period reflects that joining the EU was a top priority for domestic actors. The EU institutions provided the opportunity to reach that goal conditional on fulfilling a set of accession criteria, including the transposition of gender equality directives. Since the incentive of joining the Union was high, the theory suggests that satisfying these conditions was in the interest of utility maximising domestic actors, in spite of some high transactional costs. Thus, material incentives and conditionality largely account for the adoption of EU rules. The mechanism of change may be based on the logic of expected consequences. After accession, the preferences of domestic political actors are no longer constrained by conditionality, and thus they will not engage in the pursuit of gender equality policies if their costs are judged too high. Consequences of non-compliance no longer play a crucial role, and other mechanisms may come to the fore.

Historical institutionalism focuses on the evolution of institutions themselves viewed as structures or processes explained by outcomes, sometimes unintended, of choices and unique initial conditions (Thelen 1999). This tradition stresses phases in development, timing of events, and stages of political change relevant to a particular country at a particular time (Thelen 1999), thus it is less able to form generalisations. Often, hypotheses are developed inductively and the balance of complexity and parsimony is aimed for (Thelen and Steinmo 1992). Historical institutionalism is valuable in the analysis of institutional development and policy-making in noting the importance of the interplay between structure and agency (Koelble 1995). Structures and processes are underlined, and institutions are viewed in relational terms as they originate from – and are immersed in – the broader social and political context. As such, they can display a great deal of dynamism (Thelen and Steinmo 1992; Thelen 1999) where institutional settings mediate in political struggles (Ikenberry 1988 in Thelen and Steinmo 1992). Historical institutionalism benefits from sociology, especially from the work of Weber, stressing the themes of power and interests in the relations among politics, state and society (Immergut 1998). Institutions structure politics and shape individuals' actions, and as such can be conceived as independent variables (Koelble 1995), but are not the single cause of outcomes as political agency and choice play a crucial role in accounting for them. The impact of institutions can vary over time even within the same country, where changed political or socioeconomic context can: a) increase the importance of previously latent institutions; b) allow new actors to alter the

goals of existing institutions; c) shift the goals or strategies of old actors within existing institutions; and d) modify actors strategies in the context of changed institutions (Thelen and Steinmo 1992). While the trademark here is ‘path dependence’ suggesting inflexibility and lack of alternatives (Powell 1991) via the mechanism of increasing returns (Pierson 2000), change can still be accounted for. Novel ideas are influenced by the institutional context to which they are applied and thus facilitate or constrain policy initiatives (Weir 1992). The historical institutionalist is particularly suitable to studies of EU influence on member states, which is an unfolding process. This tradition would underline the role of domestic institutions in mediating the effect of EU induced political agency both in pre- and post- accession periods. Political actors would behave within a broader domestic context that has developed over time, and through path dependent mechanisms that either enhance or hinder gender equality agendas, so that the *acquis communautaire* is adopted in line with domestic conventions.

Sociological institutionalism is more specific and aims at a ‘thick description’ as it considers culturally framed actions, ideas, and identities stemming from culture-specific rules and norms. The key notion is the logic of appropriateness as actors behave in line with appropriate rules and procedures involving cognitive and ethical aspects, whereby political action is socially constructed (March and Olsen 1998; Schmidt 1999; Pollack 2004, 2005). Thus, agency and structure are tightly connected (Aspinwall and Schneider 2000) as in the concept of structuration (Giddens 1984), which recognises the impact of agency and of structure at the same time. The approach underlines long-term institutional effects, where institutions such as nationality or religion are internalised (Aspinwall and Schneider 2000), and cultural frames define accepted means and outcomes worthy of pursuit (DiMaggio and Powell 1991). Thus, institutions influence behaviour by providing actors with cognitive scripts or moral templates. While this tradition provides insights into actors’ reasons for action, its culture specific explanations may not be readily generalised and institutional models are unlikely to be transplanted wholly from one system to another.

Domestic change can occur by socialisation and learning, either via institutional isomorphism occurring when frequently interacting institutions develop similar forms and practices (DiMaggio and Powell 1983, 1991), or through agency-centred internalisation of norms and creation of new identities (Olsen 1996). Institutional isomorphic change leading to similarity of form and function works via three mechanisms. Coercive isomorphism is based on political influence, when dominant

institutions or cultural expectations in society exert formal and informal pressures of force, persuasion, or invitation. Mimetic isomorphism arises from a response to uncertainty when understanding of existing technologies, goals, or environments is poor, leading to modelling on successful or legitimate exemplars. Finally, normative isomorphism is connected to processes of professionalisation as policies and structures are reproduced throughout a given field (DiMaggio and Powell 1983). Organisations then become more homogenous with the structures in their environment through technical and exchange interdependencies (DiMaggio and Powell 1983; Meyer and Rowan 1991). In addition, increased isomorphism may flow from inducement strategies that provide incentives to conform, such as the fulfilment of specific conditions for the receipt of funds or other resources (Scott 1991). This is similar to the coercive variant and to rational choice institutionalism. Following sociological institutionalism, an EU level policy commitment to gender equality provides the structure for domestic political actors. This approach predicts the effects of EU on the domestic level where domestic institutions adapt as EU norms influence the behaviour of domestic political actors (Pollack 2004) or where socialisation and learning are modified by the presence of actors able to persuade policy makers to change their interests and identities. As Börzel and Risse (2000) summarise, these agents can take the form of epistemic communities with certain knowledge and a normative agenda (Haas 1992) or advocacy networks appealing to shared norms and identities (Keck and Sicking 1998). In spite of these pressures however, EU level developments may not find its mirror image in the Polish pre- or post-accession setting. National political culture of decision making and shared perception of appropriate behaviour (March and Olsen 1989) are relevant to domestic actors' responses to the EU set of gender equality rules and procedures, where the already institutionalised gender equality would facilitate EU equality policies, while its lack or institutionalisation of alternative ideology would hinder the process.

In sum, contexts matter and the debate on action or change should include structure, culture and agency (Koelble 1995). Explanations of social events, including public policy formation and outcomes, should consider the interactions among intentional actors interested in certain outcomes, which are structured by the surrounding institutional setting, such as the welfare state (Scharpf 1997; Goldthorpe 2000). Framing new institutionalism around EU-member state interactions, rational choice and historical accounts of EU note institutions' impact on the incentives for public or private actors, while in sociological accounts EU institutions influence the

national preferences and identities (Pollack 2005). Europeanisation literature makes these themes more explicit.

2.2 The EU and the Member State: Europeanisation

There are many definitions of Europeanisation (Buller and Gamble 2002; Bulmer and Lequesne 2002; Lodge 2002; Olsen 2002; Featherstone and Radaelli 2003) but certain components are shared among them. Europeanisation often entails a gradual process of policy formation and institutionalisation at the level of the EU and its integration at the domestic level polities, politics, or policies (Ladrech 1994; Börzel 1999; Börzel and Risse 2000; Radaelli 2000; Risse, Green Cowles, and Caporaso 2001; Bulmer and Radaelli 2004). More specifically, it contains a stage of ‘construction, diffusion, and institutionalisation’ of rules, norms, procedures, policy paradigms, which are first defined and fused at the EU level and in the next stage integrated into the domestic ‘discourse, political structures and public policies’ (Bulmer and Radaelli 2004: 4). It thus changes domestic politics in a way that EU political and economic events become part of the ‘organisational logic’ of national politics and policy-making (Ladrech 1994: 69). For instance, EU gender equality policies developed beyond the initial expectations of the member states and gathered support of societal actors from below, making retrenchment difficult (Pierson 1996; Pollack 2004). Hence, EU level institution building impacts the domestic level and accounts for nation state adaptation to the EU (Buller and Gamble 2002). Viewed as a process evolving over time, historical institutionalist analytical focus is pertinent, but the different mechanisms through which it may work also draw on the sociological and rationalist variants.

Theoretical modelling of EU impact on domestic policy is challenging because it is difficult to delineate cause and effect, thus obscuring the dependent and independent variables. Employing the concept of Europeanisation suggests that the EU gradually accumulates power over many policy areas (Börzel and Risse 2000; Wallace and Wallace 2000) including social policy, whereby Community regulations and court decisions restrict the sovereignty of the national state by limiting its control over domestic social policies (Pierson and Leibfried 1995; Leibfried and Pierson 2000). Conceptually then, Europeanisation can be viewed as an independent variable influencing domestic change. Practically, however, as most of the policy makers involved in developing EU policies are from the member states themselves, it would be misleading to see the influence of the EU as an independent or exogenous factor. Nation

state formulated policies are set in a shared European framework generating common rules, which are then transposed into the domestic settings (Wallace and Wallace 2000), or, policy is first uploaded then downloaded between the EU and the national levels (Börzel 2001), depicted in Figure 4. In addition to this cycle of interaction among national and supra-national levels, local or regional structures come into play making the process mutually constitutive (Wessels 1996). There is therefore an analytical distinction between European integration represented by the upwards movement from national to EU arena, and the consequence of this - Europeanisation - concerned with the downwards direction of the flow from EU to member state.

Figure 4 Broad Policy-Making Stages within the EU



Since this research focuses on the influence of the EU on policy-making in Poland, the second part of the policy cycle is considered – represented by the pair of squares (II and III) in Figure 4 – adopting a top-down perspective. I have not investigated the bottom-up processes – depicted by the pair of squares III and then again, I – which form a feedback loop between the domestic and EU policy-making locations (Börzel and Risse 2001; Green Cowles, Caporaso and Risse 2001). I take EU-wide policy as a starting point for three reasons. First, although each member state contributes to the policy synthesis process at the EU level, such contribution is likely to be altered at this stage due to the interactions with other participants in the negotiating procedure. A compilation of preferences and expertise of 15 or now 27 member states is prone to produce something that is substantially different from the original position of each of the participants. Second, according to the multi-level governance structure, such EU institutions as the Commission, the Court, and the Parliament have an impact on policy-making separate from the member states’ governments (Marks, Hooghe and Blank 1996). Although these bodies are composed of member state representatives, their responsibilities are issue or party rather than home country specific. Finally, because I ask whether accession to the EU has an effect on domestic labour market policy in relevance to women’s employment, I consider the case of a country during

accession and relatively short membership stages. This implies that Poland has not been a decision-making actor at the EU level prior to accession – a third reason for giving EU policy the status of an independent variable – especially in reference to conditionality (see below) branding the EU a policy maker and Poland a policy taker.

Studies suggest that the impact of Europeanisation is not pre-determined or inevitable, but likely to vary across time and space, and between material and not readily observable features like ideas, values, beliefs (Buller, Evans and James 2002). There is limited agreement on the degree of domestic change flowing from Europeanisation, ranging from claims that national systems do not undergo radical transformation and not converge onto a common model (Olsen 2002) to arguments that EU membership leads to deep national reform and convergence (Featherstone and Radaelli 2003). Europeanisation can bring about three different levels of domestic change: *absorption* – this is low level as member states incorporate EU solutions without substantial modifications; *accommodation* – a moderate level as member states accommodate EU pressure but do not alter the core features and collective understanding of processes and policies; and *transformation* – a high level in the member states who replace or fundamentally amend the existing set of policies, procedures, and institutions to fit the EU arrangements (Börzel and Risse 2000). For instance, considering areas of equal pay or equal treatment some member states have been the forerunners of change, others followed the pace according to legally required demands; others still delayed the implementation of directives, often in response to infringement proceedings (Hantrais 2000). With respect to the ‘softer’ OMC of governance, the EES, the impact on national policy also varies. Some make many changes, others only a few because they are either closely aligned with what is demanded of them, or because they find that more change is too costly or inappropriate (Trubek and Mosher 2003). In addition, policy fields matter in the success of implementation. On the one hand, EU directives and European Court of Justice (ECJ) rulings have imposed changes in workplace discrimination in Ireland, Britain, or Denmark; on the other hand, the governments of Ireland, Britain, or Germany have not intervened in unpaid work (Lewis 1993). Broadly, policy guidelines that are specific and less controversial are easier to adopt domestically versus more general and resisted reforms (Trubek and Mosher 2003).

Inconsistent empirical findings on the degree and direction of EU induced national change are coupled with differences in theoretical discussions among those

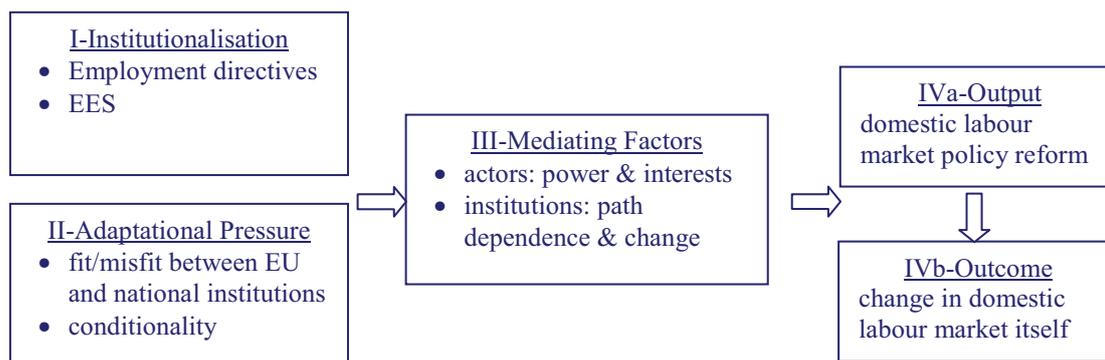
highlighting either institutional compatibility, or domestic opportunity structure, or belief systems of domestic actors (Knill and Lehmkuhl 1999; Knill 2001) as mechanisms of reform. With the EU as the causal factor, a degree of misfit (Börzel 1999; Duina 1999) or mismatch (Héritier, Knill and Mingers 1996) between domestic and EU policies and institutions is necessary for domestic reform as it creates pressure for change. In this vein, the advancement of gender equality has been greater in Britain than in France because of a greater institutional gap between British and EU arrangements (Caporaso and Jupille 2001). However, counter arguments suggest that major domestic transformation renders implementation of EU directives difficult, while reforms consistent with existing institutional arrangements tend to be successful. Thus, domestic institutional change is more likely where incremental rather than extensive change is demanded (Duina 1997; Knill and Lehmkuhl 1999).

Arguably, other factors, such as political leaders' will, public opinion towards the EU, or the efficiency of the state machinery, do not exert real influence over implementation (Duina 1997). To others, such factors matter, as in the case of assistance of public agencies to women's organisations in the UK furthering gender equality, while their lack in France impeding such processes (Caporaso and Jupille 2001). Also, a 90-case study on the transposition of directives in EU-15, country specific domestic factors, such as politics, preferences or ideology, were found to be important and not one single factor determined the outcome (Falkner et al. 2005). Adaptation pressures lead to EU stimulated domestic change of policy, politics or polity in the presence of domestic facilitating actors and institutions (Börzel and Risse 2000, 2001; Green Cowles, Caporaso and Risse 2001; Schimmelfennig and Sedelmeier 2002). Consequently, the institutional 'misfit' condition is insufficient for an explanation of EU impact on domestic reforms and must be refined by adding mediating factors, such as changing preferences and beliefs of agents and a changed opportunity structure. Therefore, the combination of institution- and agency-based arguments reflected in the discussed above three strands of institutionalism are linked in a complementary manner to explain the domestic impact of EU policies

Keeping this theoretical and empirical complexity in mind, I amend the discussions of Börzel and Risse (2000) and Risse, Green Cowles and Caporaso (2001), and open up boxes II and III of Figure 4, tailoring them to the study of labour market policy-making in Poland – before and after joining the EU. This yields a four-part sequence in investigating the domestic impact of EU, shown in Figure 5. Accordingly,

EU policy institutionalisation through employment directives and the EES, and adaptation pressure resulting from the degree of fit between domestic and EU levels are combined to form the first and second steps of analysis, in the third phase they are examined through the filter of domestic actors and institutions, and in the fourth the outcome and output are assessed.

Figure 5 Europeanisation of Employment Policy



In addition to the institutional factors such as veto points/players, facilitating formal institutions, organisational and policy-making culture, existing policies, an important component of the mediating factors box – the actors – needs further attention. National governments act on the basis of partisan political preferences and can implement substantial reforms, regardless of the degree of fit or misfit with EU policies. For example, Treib (2003) found that national actors do play a role in the process by either supporting or opposing EU demands based on their political preferences. When a government finds a particular directive incompatible with its political goals it is transposed incorrectly or late. Conversely, when a given directive is more suitable to the ruling party, its implementation is correct and timely (Treib 2003). Similar logic can be applied to participation in the EES, where it is not only important how much domestic change is required, but what the nature or direction of reform is and how it fits with the domestic configuration. In line with the discussion on the welfare state below, the support for labour market policies promoting gender equality tends to be stronger among Social Democratic than Conservative parties. The arguments of institutional fit and transaction costs are thus supplemented with agency, political ideology and power.

Therefore, the elements pertinent to Europeanisation, the institutionalisation of labour market policy at the EU level (I), the adaptational pressure between the domestic and EU setting (II), and the national mediating factors (III) form the analytical framework of the study (see Figure 5). The commitment to labour market gender

equality in terms of political, legal and social institutions at the EU level, generating authoritative rules, denotes the strength of the top-down flow and is described in Chapter 4. The degree of adaptational pressure in terms of the fit/misfit of the domestic labour market gender quality arrangements to EU policy proposals indicates the scope for possible change. If the domestic policy, law and institutions match or exceed EU goals and strategies, there is no pressure to adapt and no labour market reform is expected. If, however, domestic and EU structures and policies are not in line there is room for action analysed in Chapters 5 and 6. This tension may lead either to resistance hampering reforms or to mobilisation enhancing change. The outcome will hinge on the domestic distribution of interests and power and their place vis-à-vis the EU.

Europeanisation literature developed for Western Europe forms a template for experiences in other states (Goetz 2002). Why should the EU have any influence over the course of domestic change in Poland? The main mechanism before accession is conditionality. The process of joining the EU demands a transposition of a vast number of Community directives and regulations into national law. The *acquis communautaire* consists of about 80,000 pages which have to be translated and written into national law in a relatively short period (Grabbe 2001). This may involve a major institutional and administrative change required on the part of the applicant states and suggests a high cost of adaptation. The pressure to adapt is high as this is the pre-condition for the applicants to reach their overarching goal of joining the EU. The nature of this conditionality gives the EU much greater influence over the accession states than in the existing member states (Grabbe 1999) and so can be a powerful EU mechanism to shape their domestic level policies and organisations. The concept draws on the variants of new institutionalist propositions outlined earlier, where policy transfer tools closely relate to the theoretical mechanisms of institutional isomorphism via coercive routes (DiMaggio and Powell 1983). Through the lens of coercive isomorphism, conditionality entails the use by the EU of rewards and incentives in combination with sanctions or punishment to persuade candidate states to adopting a given policy model (Kubicek 2002). The rationalist model of conditionality predicts that the state adopts EU rules if the rewards are greater than adaptational costs. This cost-benefit calculation depends on the firmness of the conditions, the size and imminence of reaping the rewards, the credibility of incentives and sanctions, and the degree of the adoption costs (Schimmelfennig and Sedelmeier 2004). More specifically, conditionality works through the mechanisms of gate-keeping to further stages in negotiations, benchmarking

and monitoring, provision of legislative and institutional models, financial aid and technical assistance, and advice and twinning (Grabbe 2001).

Certain mechanisms elaborated for EU-15 should thus be even more effective for the accession group. For example, Lippert and Umbach (2005) argue that Europeanisation is crucial to the explanation of CEE states' administrative reforms and to abandoning their communist past. However, administrative transformation explicitly required by the EU (external pressure), and necessary for the day-to day national and supra-national interaction and absorption of EU funds (internal pressure) cannot be readily generalised to social policy developments, where the pressure to Europeanise is less intense and path dependent mechanisms are more entrenched. Accordingly, the views on the potential of the EU improving the commitment to gender equality in the applicant states are polarised. While gender equality in employment features in most EU reports or speeches, this does not mean that the commitment to the attainment of gender equality is strong or that these issues are understood (Rubery *et al.* 2004). Other arguments suggest that in relevance to the 2004 accession countries the social policy agenda came too late (Potůček 2004) as a decade of transformation influenced by other supra-national bodies had its effect on the policies focusing on the reduction of welfare spending (Pascall 2004). Thus, despite EU concern with gender beyond employment to include issues of time, care, political voice, reconciliation of paid employment with private life, or violence, the effects of accession may be overstated. Especially since the conditionality criteria are ambiguous and have developed in an uneven fashion (Grabbe 2001), or because the EU commitment to gender equality is doubted (Hoskyns 2000; Bretherton 2001; Rubery *et al.* 2004; Einhorn 2005). Evaluation studies suggest that the credibility factor of EU membership promise appears the most important in the cost-benefit analysis of the CEE governments as the *acquis* transposition has become the top policy priority, while adoption costs and veto players have not proved decisive (Schimmelfennig and Sedelmeier 2004). The implication of this for Poland is that if in the pre-accession stage the message of gender equality at the EU level is strong and unambiguous, then it should find reflection in domestic policy reforms. After accession, when the external incentives associated with conditionality are absent, domestic forces such as veto players, adoption costs may gain ground again, because externally induced changes are more likely to be challenged than if adopted via social learning or lesson-drawing (Schimmelfennig and Sedelmeier 2004).

Normative isomorphism or the social learning model – based on the arguments of the logic of appropriateness whereby actors internalise identities, values and norms (March and Olsen 1989) – predicts that actors choose the most legitimate or appropriate action leading to rule transfer. Thus, a state’s adoption of EU rules will be influenced by their appropriateness for the collective identity, norms and values. Mimetic isomorphism or the lesson-drawing model would predict domestic adoption of EU rules based on their expected ability to solve a particular domestic policy problem. Learning may become important where the EU does not act as a rule-making body and serves as a forum for idea and policy transfer between member states, as for example in the OMC process based on changing the cognitive frames used by policy makers (Bulmer and Radaelli 2004). For instance, cognitive Europeanisation (Guillén *et al.* 2002) whereby cognitive level change is evident in the way policy makers articulate and act on issues and new vocabulary, discourse or agendas emerge from the accession process (Lendvai 2004) may be further reinforced in the membership stage in participation in the EES. Here, the OMC promotes a problem-solving approach to policy-making and facilitates interaction between the EU and the domestic level and among member states. The OMC can further contribute to domestic change by inviting other actors to participate in the policy-making and implementing processes. Pressure from below via social partners may contribute to reaching the goal of gender equality (Einhorn 2005) especially when grass roots activism can link up with mainstream party politics. If the EU can affect the social construction of collective interests or if domestic actors are able to draw from the EU level to achieve this in the wider society, than there is potential for progress. This may be especially important at the implementing stages where actors committed to gender equality can oversee the process once it leaves the EU arena.

Conversely, participation in the EU policy-making with stress on subsidiarity and regional policy may clash with the more traditional governance methods if they prove too ‘sticky’ to change, at least in the immediate future. Learning may not necessarily benefit equal opportunities, but stress other dimensions of the employment strategy, as when for EU-15 the attention tends to focus more on employability and entrepreneurship, and less on equal opportunity (Jacobsson 2001). Also, the involvement of social partners in the EES in the EU-15 has been patchy, and for the new member states is predicted even more so because of their institutional underdevelopment (Celin 2003). Moreover, the minor presence of women at various political levels may inhibit the change of the dominant gendered hierarchies. This issue

is especially relevant to gender mainstreaming where the under-representation of women may slow the progress of gender equality (Einhorn 2005). So, the question whether the institutional and actor constellation in post-accession Poland is conducive to ‘women friendly’ policy-making remains central. In addition to the EU factor, domestic dynamics clustered around the concept of the welfare state interact to produce gender relevant labour market policies.

2.3 The Welfare State and Gender Regimes

The importance of the welfare state development is reflected in the many theoretical approaches explaining its emergence. Huber and Stephens (2001) recognize three major schools: the socio-economic ‘logic of industrialism’ (see Wilensky and Lebaux 1965; Wilensky 1975), the institutional ‘state centric’ (see Marshall 1964; Flora and Alber 1981; Weir, Orloff and Skocpol 1988; Schmidt 2002; Tsebelis 2002) and the power based ‘political class struggle’ (see Stephens 1979; Korpi 1983, 1989; Castles 1982; Esping-Andersen 1985, 1990). It is the political class struggle or the power resources theory that has received substantial scholarly attention over the last few decades. Accordingly, Western societies have two major power resources: capital and the right to vote and organise (Korpi 1985). The theory points to the unequal distribution of power between labour and capital to the advantage of capital, but power can be re-distributed and the way it is reallocated is the main factor leading to the variation in the form and size of welfare states. For instance, the ability of working class to mobilize its resources and enable the success of left parties leads to a strong and universalistic welfare state. In fact, partisan politics are seen as the most important factor in shaping welfare development (Huber and Stephens 2001). Esping-Andersen (1989) points to the nature of working class mobilisation, the class political coalition, and the historical legacy of the regime institutionalisation as salient to the process. The major claim in welfare state development is that strong governments, with good administrative capacity and institutional cohesion, produce strong welfare states, and that past policy choices are consequential for subsequent policy-making (Pierson 1996).

Esping-Andersen (1990) systematised the cross-national differences in welfare state structures into three ideal-types based on two dimensions: first, the degree of decommodification of individuals vis-à-vis the market, and second, the existing social stratifications and solidarities with the citizenship status modifying one’s class position. Considered within the interface of the state, market, and to a much lesser extent the

family, the variations on the two axes result in liberal, conservative and social-democratic types.² Thus, mainstream academic studies of the welfare state development focus on the relationship between the state and the economy, especially paid work and state policies allowing for decommodification of labour. Early feminist writings noted that welfare states contribute to the reproduction of unequal gender relations (O'Connor, Orloff, and Shaver 1999) and that the association between the state and gender is dynamic through institutionalisation of gender inequalities and practices in historically specific forms (Pringle and Watson 1992, based on Franzway *et al.* 1989). Thus, mainstream literature's focus on the state-market relations spurred a critical gender perspective for taking a male standard as a basis for discussion and a too narrow treatment of women as excluded from the labour market (O'Connor 1993; Orloff 1993, 1996; Sainsbury 1996, 1999; Daly 2000b). So, decommodification based on the idea of labour as a market commodity, allows for workers freedom from market dependence, but does not account for the many women engaged in unpaid labour at home and their circumstances for emancipation (Hobson 1991; Lewis 1992 and 2002; Orloff 1993; Sainsbury 1996). In comparison with men, women are at a disadvantage because of different labour market arrangements related to gender roles (Daly 2000b; Arts and Gelissen 2002) and as such attention to gender as a crucial welfare state dimension is warranted. More specifically, the critique concerns the focus on employed males while overlooking the experiences of women responsible for care labour.

Consequently, theorists have worked to incorporate gender into the welfare regime concept by noting that the organisation of state-market relations and the balance of power among labour, capital, and the state are relevant to gender, women's employment and family support systems (Orloff 1993; O'Connor 1993). Specifically, the issue of unpaid work (see Taylor Gooby 1991) allows for the expansion of the discussion of state-market relations by including the family. This is crucial because states depend on the family provision of welfare (Orloff 1993; Daly 2000b; Lewis 2002; Daly and Rake 2003) and such inclusion shows how welfare regimes are gendered, where most evident elements are the gendered division of labour, the family wage system, and the traditional marriage (Orloff 1996). The concept of the breadwinner model (Lewis 1992) illuminates the state's role in the gendered division of labour and explains women's second-class citizenship (Siim 2000). Policy regimes developed over

² Subsequently this work was expanded to include a Mediterranean/Latin Rim group by Leibfried, S. 1992.; Ferrera, M. 1996.; Bonoli, G. 1997.

time promote, to varying degrees, a model of a household with a male breadwinner and a female housewife (Lewis 1992). In its pure form the male breadwinner model assigns men to the paid economy, and women to non-paid domestic and caring duties, where either none or minimal state provisions are made for maternity leave and pay, the right to post-maternity work reinstatement, or childcare. Therefore, women's labour force participation is predicted to be low, as they privately make up for the deficiencies in the supply of social services. Variants of the male breadwinner model persist in all modern welfare states (Lewis 1992; Sainsbury 1994). Countries associated with its strong version tend to separate responsibilities between the public and private spheres, as in Britain, Ireland and Germany; while France falls under the modified category; and Sweden supporting high female employment, publicly funded childcare provision and individual taxation classifies as the weak type moving towards a dual breadwinner scenario (Lewis 1992). Although the male breadwinner model has been eroding, the shift to an individual one with financially independent partners in full-time work has not yet taken place (Lewis 2002). This cross-national and temporal variation suggests that social policy arrangements have a great impact on women's and men's lives.

Overall, the welfare state typology remains useful for some analyses sensitive to gender because the relationship between the degree of decommodification and the treatment of women as mothers or workers is, for the most part, consistent with the welfare state types (Lewis 1992; Arts and Gelissen 2002 based on Trifiletti 1999). In other analyses, especially those that focus on care or gender relations (O'Connor, Orloff and Shaver 1999; Sainsbury 1999; Daly and Rake 2003) or on part-time employment and women's earnings gender regimes and welfare regimes do not cluster in the same ways (Sainsbury 1999). The power resources tradition gains some support via arguments that the strength of women within the women's movements, political parties, or the state apparatus prove important for policies promoting their status (O'Connor, Orloff, and Shaver 1999; Sainsbury 1999; Huber and Stephens 2001). For instance, left-wing parties have been receptive to feminist activism and introduced childcare provisions, individual taxation, gender equality bodies, policies aiming at reducing the gender pay gap or at lowering the poverty rates of women and children (Sainsbury 1999). It is argued that the involvement of women in the parties creates pressures to adopt policies advancing women's status (Sainsbury 1999). However, the effect of women's mobilisation does not always result in successful policy outcomes (Myles and Quadagno 2002), as for example the strong women's movement in Britain did not

succeed in achieving its goals (Lewis 1992) while in France it was the pronatalist and conservative stance of employers that enabled the enactment of reconciliation policies (Pedersen 1993). Furthermore, gender equality reforms can be achieved gradually, by a range of compromises rather than political consensus. For instance, in Norway the demands of women to combine motherhood with employment were based on shared work and family obligations of both women and men, but the Norwegian policies were cautious and traditional family values persistent; the balance of gender equality was only improved by shifting policy focus towards men and emphasising fatherhood (Ellingsæter 1999). Hence, familial ideology helps to account for the social policies influencing the gendered division of labour (Sainsbury 1994) but does not determine it.

How do the various welfare state regimes fit with labour market policies with regard to the employment of women in the current economic, political, social, and demographic context? Governments respond to the changing roles of men and women (O'Connor, Orloff and Shaver 1999) although this response is not quick enough (Myles 1990) and it varies among the different regimes (Esping-Andersen 1996). The challenges among countries vary from high levels of female and child poverty to low levels of fertility signalling population ageing and decline. How these difficulties are dealt with depends on the types of mobilisation, political representation, and patterns of decision-making (Myles and Quadagno 2002). An illustration of the significance of the welfare state types on the relative position of men and women in the labour market are equal opportunities policies, although a singular treatment of employment policies is insufficient in dealing with female employment because of their care responsibilities. The main welfare state features are outlined broadly along the regime typology.

The social democratic policy logic is based on the legitimacy of the state to modify market forces and aim for social equality. Scandinavian countries achieved a high level of gender equality due to a bottom-up women's political mobilisation combined with its top-down institutionalisation (Hernes 1987). The model rests on the assumption of full participation in employment for both men and women, which enables high levels of tax revenue and low dependency levels. This is the only regime where social policy explicitly pursues women's independence through the combination of intervention in the household and in the labour market to benefit both the economy and citizens (Borchorst and Siim 2002). The incentives for men to take a portion of the parental leave, the supply of care facilities, and support for working mothers maximise birth rates and promote female employment rates (Korpi 2000; Esping Andersen 2002;

Ferrera and Hemerijck 2003). Such employment is often in long part-time positions for those with children below the school age (Lewis 2003). The state is able to improve the income and security of the feminised service sector and achieve low levels of poverty among women headed households. Such universal and generous approach results in more equity than the alternative solutions (Esping-Andersen 1996, 2002; Sainsbury 1994, 1999; Daly 2000b), but does not eliminate the gender pay gap, labour market segregation or the prevalence of women's part-time work (O'Connor 1993).

The policy logic of the continental regime, influenced by the Catholic doctrine, privileges the social insurance model based on work performance with benefits corresponding to contributions. France does not fit well with the other countries in the group, as the state supports women's high employment levels through reconciliation policies and childcare provision, and at the same time promotes their labour market exit to have more children (Martin 1995). For others in the cluster, e.g. Germany or Belgium, the organisation of the tax system, cash benefits and social services form a package supporting the male breadwinner family model (Leibfried and Ostner 1991; Lewis 1992; Fagan and Rubery 1997; Sainsbury 1999; Dingeldey 2001). In the continental countries, there is a shortage of care facilities, which hinders women's employment possibilities and entails a trade-off between employment and motherhood (Esping-Andersen 1996), as the family is the preferred provider of care (Lewis 1993; Sainsbury 1999). These states tend to disregard policies of affordable childcare, paid maternity and parental leaves, or the gender division of unpaid labour (Ferrera and Hemerijck 2003). In the long-term, the insufficient utilization of the female labour force potential and low fertility levels result in the undesirable population dependency ratio. In addition, women's short part-time employment or non-employment does not allow for their economic independence. The inability to increase labour market flexibility and meet the demands of women for economic autonomy is problematic, as a focus on maternal policies renders the continental model difficult to sustain (Esping-Andersen 1996).

The policy logic of the liberal welfare state gives primacy to the market and employment, and supports the privacy of the family. Wage inequality is high and various benefits low. There are fewer hurdles to the employment of women than in the conservative states (Sainsbury 1999) and so the high demand for private sector services goes hand in hand with high employment of women. Still, the state plays a minimal role in employment legislation and leaves much to the market generating bad jobs without

the parallel provision of employment and income security (Pollert 2000). Marital status plays a crucial role in the determination of women's entitlements to benefits (Sainsbury 1999). In the UK, especially in the New Labour era, the stress shifts towards work activation in fighting poverty, disadvantage, and social exclusion. Reconciling work and family is beginning to rise on the policy agenda, with a stress on the move from welfare to work (Ferrera and Hemerijck 2003). Liberal states do not address the issue in a uniform way, as the UK extended parental benefits to men who are now entitled to two weeks in respect of birth or adoption of a child, while in Ireland there are no provisions for a paternity leave except on the death of the mother (Plantenga and Remery 2005). Still, both countries do not provide incentives to encourage men to participate in care; thus, the transformation of gender relations is not targeted (Fagan and Rubery 1997).

Put in these terms, liberal and social-democratic states pursue women's employment, while the continental countries focus on the support of mothers' caring roles. There are thus alternative routes to the attainment of high employment rates of women: the Scandinavian way of high public sector employment and the public provision of social services or the liberal way of high private sector employment with the market provision of social services (Daly 2000a; Lewis 2003). However, not only access to employment, benefits, and services varies among these paths but also the nature of women's labour profile in terms of actual hours in paid employment, job quality or security. Nordic women are better able to secure economic independence, while women in the liberal and conservative models face greater dependence on the male breadwinner (Hobson 1990; Esping-Andersen 1996). Such traditional arrangements do not serve their interests well (Lewis 1992).

As the scholarship on the interaction of state, market, and family with the attention to gender mostly applies to Western states, it is important to widen the discussion to include a transition state. For a country like Poland, Pfau-Effinger's (1999a) claim of the role of culture and ideals in the construction and articulation of social rights becomes relevant, especially since social policy is influenced by the degree of women's employment, the strength of women's organizations and their political supporters (Huber and Stephens 2001). These considerations point to the complexities associated with mapping out processes occurring in an internally transforming state closely interacting with a supra-national level. So, can the Western discussion of the welfare state apply to Poland? There are at least three reservations against its mechanical application. First, the welfare state concept might be easier to employ in

contemporary Poland than the socialist period since the socialist regime and the welfare state are contradictory notions due to differences in the political, economic, and social organisation. Under socialism, the reign of the free market was not permitted and all the parts of the polity, economy, and society were centrally regulated. Therefore, the notions of labour de commodification or social solidarity and stratification do not carry across the two periods equally well. However, the concept is still useful if discussing the impact of the state on the labour market position and well being of its citizens as the policies of the command economy can be assessed from the perspective of promoting certain citizenship rights and a gender contract enmeshed within a particular cultural context. Second, while welfare state development in the West was synonymous with expansion, the welfare state formation in contemporary Poland involves two seemingly opposing processes. On the one hand, there is the dismantling of the social policy provisions secured by the socialist state (such as childcare services), and on the other hand, there is a development of new social policy areas (such as unemployment) previously not tackled. It is not clear whether these contradictory processes can be simply ascribed to 'recalibration' typical of the new politics of welfare (Pierson 1996 and 2001). Third, the use of the welfare state notion in reference to Poland is tricky because of its transitional status in its stages of post-socialism and pre-Europeanisation. Therefore, a straightforward application of frameworks developed for studies of Western welfare states is not entirely appropriate. However, it does not mean that welfare state scholarship is completely irrelevant, as it is helpful in tracing changes in specific policy areas. Thus, I have adapted the existing propositions to the changed circumstances emanating from globalisation, post-industrialism, or demographic change – all moderating the potency of the domestic forces so influential several decades ago.

Paradoxically, the socialist state turned Marshall's (1964) concept of citizenship on its head; considering civil, political and social rights, it was the last stage that was most fully developed. In brief, access to education, health care, employment and other services were widely available to all citizens, while civil and political rights were largely curtailed. Thus, as Chapter 5 describes, socialist women (and men) fared relatively well in terms of social citizenship rights (quality of the services and household level gender inequality aside) and in this respect Poland resembled the Scandinavian social democratic states. However, full equality in socialist Poland was never achieved, as the gendered division of unpaid labour meant that men did not participate in housework or childcare, gendered division of paid labour was prevalent,

and gender pay differentials were as high as in the West. Thus, the Polish case resembles that of Sweden, where the traditional family model co-existed with a more individual approach to men and women. The Swedish breadwinner model, although awarding women certain individual social rights, was still based on a traditional family ideology, and did not erode the gendered division of labour (Sainsbury 1994). In Sweden however, patterns of care were changing from private to public responsibilities (Sainsbury 1994), while in Poland the transition did not happen on any similar scale, and certain accomplishments of the socialist state did not survive into the new system.

Contemporary welfare state development in Poland occurs in different economic, political, and social conditions than that in the post-war Western Europe. The clear gains in civil and political rights have been accompanied by the curbing of the social dimension, and the retreat of the state from the provision of public services. This ‘seriously detracts specifically from women’s citizenship rights’ (Einhorn 1993: 44). Poland in transition has experienced an increase in the relevance of transfer income with families more reliant on state support than in the past. Still, most social transfers benefit the top income group, which corresponds to such states as France and Italy where public payments are to a large degree comprised of earnings related pensions (Rutkowski 1998). Moreover, the early post-socialist trends moving towards insurance-based assistance, an increased role of the Catholic Church, and the backing out of the state from many social policy areas resemble the continental model of welfare (Makkai 1994) or one that mixes a Bismarckian insurance with a Scandinavian type of state financing (Deacon 2000). Others see the trajectory following the liberal tradition (UNDP 1998). Plugging gender into the budding welfare state model further complicates this analysis. The continental variant is based on male citizenship, and full employment of male workers, while the Scandinavian social democratic or the liberal Anglo-Saxon type is based on high rates of employment of men and women (albeit on different terms) and neither of these contexts fits the Polish reality. Furthermore, adding on the issue of membership in the EU, and taking into account the European social model³ in conjunction with monetary constraints and austerity measures associated with joining the EMU, makes predictions on the nature of the welfare state still more uncertain. Given the prerequisite, for a generous welfare state of a long-term left-wing party

³ European states have distinct models of social welfare and one specific template shared by all states does not exist; but in spite of the competence over social policy remaining with the nation state, there is a common drive towards achieving a balance between economic and equity issues.

governing and a presence of strong unions (Huber and Stephens 2001), the conditions for its development are not present in Poland today. Nevertheless, the nation state and the type of a welfare model it stands for is a viable concept, but must be viewed in the context of direct and indirect sub- and supra- national pressures.

2.4. Overview and Concluding Remarks: Expected impact of EU on Poland's Employment Reforms

Are the domestic conditions – institutional and actor configuration – facilitating or hindering the impact of EU approach to gender equality on labour market policies in Poland? This chapter has outlined the theoretical and conceptual debates relevant to the institutionalisation of EU employment policies committed to gender equality at the domestic level (Europeanisation) and presented them in the context of empirical findings. Since views vary on the impact of EU policy on the national one, predicting its effectiveness in the context of system transformation, accession and new membership is inconclusive. As Chapter 4 describes, the EU has become an important force in gender issues and the establishment of equal opportunities legislation throughout Europe was a direct outcome of EU judicial and legislative action (Mazey 1998). Gender inequality has not been fully resolved in any of the 27 current EU member states. Indeed, there are incentives and disincentives to the implementation of gender equality policies at both the supra- and the national and sub-national levels, pointing to the importance of both the external pressure from the EU and to the domestic receptiveness in how this pressure is interpreted and applied (summarised in Table 1). Drawing on the new institutionalist arguments and the Europeanisation literature as well as on the gendered welfare state debates relevant to labour market policies, I examine the domestic and supra-national factors and the goodness of fit between domestic processes, policies, institutions, and actors with those at the EU level.

Based on the a) abandonment of socialist era commitment to policy and programmes promoting gender equality, and b) difficult labour market situation and the rhetoric of the necessity to prioritise, policy reforms towards greater gender equality are considered costly. Although there is some difference in such prioritising according to the orientation of the governing party, with the left-of-centre parties more likely to pursue labour market gender equality than the right-of-centre ones promoting large families with stay-at-home mothers. In addition, none of the post-transformation governments have thus far proposed a comprehensive gender equality strategy. The

preference of the governing administrations not to embark on transformative gender policies collides with the structural constraints of EU membership and its stance on gender equality. In this context, for the top-down impact to take hold on domestic ground there must be sufficient bottom-up actor and institutional support.

Table 1 Factors Facilitating and Inhibiting Gender Equality Policy Reform

Facilitators	Inhibitors
<p><u>exogenous</u></p> <ul style="list-style-type: none"> • clear, consistent, long term EU level commitment to gender equality <ul style="list-style-type: none"> ○ ideational ○ material • strong conditionality: <ul style="list-style-type: none"> ○ rigorous and accurate adaptation ○ and little/ no negotiation • iterative character of EU level policy cycles: possibility of learning/ progress <p><u>endogenous</u></p> <ul style="list-style-type: none"> • low to moderate degree of institutional misfit on gender equality <ul style="list-style-type: none"> ○ low transaction costs ○ high formal & informal institutionalisation ○ efficiency and commitment of state machinery ○ actors power, beliefs and interests supporting gender equality • system transformation and lack of high institutionalisation – search for new models/ solutions • irrelevance of domestic veto • possibility for cognitive change and learning in gender equality 	<p><u>exogenous</u></p> <ul style="list-style-type: none"> • unclear, inconsistent and short term EU commitment to gender equality policy <ul style="list-style-type: none"> ○ ideational ○ material • weak conditionality: <ul style="list-style-type: none"> ○ allowing for bargaining in policy areas that do not fit well with domestic context • iterative character of EU policy cycles: going through the motions <p><u>endogenous</u></p> <ul style="list-style-type: none"> • none or too large degree of institutional misfit on gender equality <ul style="list-style-type: none"> ○ high transaction costs ○ low formal & informal institutionalisation ○ inefficiency/ no commitment of state machinery ○ actors power, beliefs and interests opposing gender equality • path dependency and stickiness of existing institutionalised traditional arrangements – resistance to reform • importance of domestic veto • lack of cognitive change and learning in gender equality

For policy-making during the pre-membership phase, the presence of conditionality in combination with adaptational pressure should result in domestic adjustment regardless of government's resistance to change. *Structure* may be the more salient ingredient through sanctions in case of non-compliance, since actors cannot pursue their interests in such a highly constrained environment. The higher and clearer the EU commitment to gender equality, the more likely is the government to engage in

gender equality policy-making, at least at the formal level. After accession to the EU, the conditionality criteria are relaxed and so domestic change may or may not happen as it more heavily depends on the domestic mediating factors, including the political orientation of the government in power. I expect the reverse – *agency* may be the more salient component, because of the removal of conditionality and sanctions of non-compliance. Impulse from the EU level should still prove important, but not necessarily in its direct effect on the government, but rather via passing through other domestic actors and institutions able to pursue their interests in the now less constraining environment. The clear and high profile commitment to gender equality from the EU can galvanise the issue among certain sections of society, but these actors compete for power with others who, on various grounds, oppose the further pursuit of gender equality. Therefore, I hypothesise that the specific domestic power constellation of actors and institutions will influence whether labour market policy output *and* outcome achieve gender equality. In other words, the presence, power, and commitment of domestic institutions and actors supporting gender equality is crucial to the achievement of ‘women friendly’ labour market policies advocated by the EU and their implementation. Conversely, the lack of such institutions and actors, or their lack of commitment and power would not achieve them. This is relevant for pre- and post-accession stages in view of the claim that formal institutionalisation requires informal reinforcement for transformation to take place.

III. METHODOLOGY

The main questions of this study are concerned with the interaction of supra-national and domestic level in labour market policy-making. The EU influence on policy-making in Poland in the labour market area pertinent to women's employment in the stages of pre-accession and membership is at the centre of this analysis, but is considered in the context of domestic historical development. Keeping in mind Poland's socialist past and transition status, accession to the EU provides an external impulse to the institutional and actor configuration, and thus to the tradition of policy development. Are the domestic factors facilitating or hindering the EU impact on policy content and policy-making in the labour market area concerned with gender equality in the stages of pre-accession and membership? Are the various processes, mechanisms, and effects different before and after the accession? How do the different EU and domestic levels combine to produce a given policy output? Are there any detectable outcomes of policy reforms? These empirically and theoretically motivated questions spur a methodological one: how is it possible to determine whether the EU makes a difference in a policy area controlled by national actors and institutions? Investigating supra-national influence on domestic regulations in the labour market sphere concerned with women's employment necessarily involves an amalgam of analytical traditions and methods. The focus on multi-level interactions, institutional change, structure and agency, policy-making processes and content in different accession stages demand a qualitative approach. The general methodological concerns are outlined in the next section, while the specific method applied to this within-country comparative case study of documentary analysis of primary and secondary sources and expert interviews is discussed afterwards.

3.1. Methodological Considerations

Without doubt, good social science research and analysis should combine theoretical and empirical work through 'hypotheses that specify a causal model showing why and how a given constellation of factors could bring about the effect in question' together with 'empirical evidence that the effect predicted by the hypothesis is in fact being produced' (Scharpf 1997:28). Also, as argued by King, Keohane and Verba (1994), the goal of gaining knowledge through empirical research should be accompanied by rules of inference, whether descriptive, causal, qualitative or quantitative. However, the

causal effect of one social factor on another can only be established by running a social experiment in the same way that controlled scientific experiments are performed: the independent variable should be varied while all other factors held constant, and the effect of this variation needs to be measured in the dependent variable (King, Keohane and Verba 1994). A link between changes in the independent and the dependent variables would indicate a causal relationship. Researching complex social phenomena does not allow for such a precise laboratory experiment. This study's topic of EU effect on domestic policy encompasses variation at the independent variable level (pre- and post- accession conditions of compliance), as well as a multitude of changing domestic contexts at the dependent variable (labour market policy reform). This renders straightforward yet meaningful variable oriented analysis at the EU and domestic levels difficult.

Since the EU is *sui generis* – there is no other political, economic, or social body like it – the study of EU can benefit from comparisons with other entities only at higher levels of abstraction. So, does the study involving the EU fit into the $n = 1$ design only? Marks (1997) argues that a macro comparison of the EU is confined to the small- n design where statistical controls are either not possible or do not bring great benefits, although the explanatory leverage of qualitative comparison has a great potential. Moravcsik (1997) explains that the $n = 1$ problem does not apply solely to the EU, since all complex social interactions are unique. Generally, the number of cases for comparison can be increased by disaggregating cases to distinct elements within or between EU cases, an approach elaborated by King, Keohane and Verba (1994). This study reflects these discussions by mapping out how complex factors come together and interrelate in a specific event and lead to a specific outcome in two comparable environments before and after accession to the EU. Thus, the qualitative research design is dictated by the need to explore the topic as variables are not readily identifiable, theories come short in terms of explaining the processes at hand and need to be further developed (Creswell 1998). And, although my research design is case rather than variable oriented, it contains within-country temporal variation allowing zooming in on the causal effect of the EU via the mechanism of Europeanisation. The differentiations between the pre-accession and post-accession stages as well as the different power constellation of actors in the various periods assist in identifying the relevant domestic factors. Studying sweeping social transformations and multi level interactions in terms of structure and agency leads to the view of causality as a complex issue, where layers

of factors are associated with specific outcomes. Breaking this down to causally independent variables is difficult, as there are many factors related to the outcome in this particular case. Nevertheless, I will attempt to make descriptive, explanatory, and causal inferences about Europeanisation of labour market policy in Poland and extend them to more general scenarios. A comparative multi-country design would be of limited benefit at this stage for at least two reasons. First, the ratio of cases to variables would have still been too low to yield meaningful conclusions. Second, so far not enough empirical evidence on the policy developments relevant to the labour market and gender in transformation accession states has been collected to form meaningful hypothesis benefiting from a comparative design. Subsequent research, built on the empirical findings and theoretical implications of this and other studies, may be better suited to a cross-country comparative framework.

As outlined in the previous chapter, I would expect that in the pre-accession phase the presence of a strong external pressure – the structure provided by the EU – may be the more salient ingredient operating through the mechanism of compliance. Here a strong and clear EU commitment to gender equality is likely to lead to domestic policy-making aiming at achieving gender equality. In the post-accession stage I would expect the reverse – domestic political actors' agency may be the more prominent component, because of the removal of conditionality and sanctions of non-compliance. Impulse from the EU level may prove less important for the government, but still significant to the domestic actors in the now changed environment. The commitment to gender equality from the EU can still lend a spark to the issue, but without conditionality it may be crowded out by other concerns and actors. This theoretical expectation will be assessed against the data on the EU level approach to gender equality in labour market policies and the domestic configuration of the policies and politics at two stages of law and policy-making processes as well as their implementation. If the empirical material confirms the prediction, such consistency will lend some support for the analytical framework outlined throughout. However, the results will still be open to challenge since the evidence of consistency is not a strong proof of a causal relationship and must be subject to further study and analysis (see George and Bennett 2004). King, Keohane and Verba (1994) distinguish between research designs studying the effects of a certain independent variable and causes of a given empirical occurrence. This work's research design is partly forward looking in the sense that it first focuses on the search for the effects of the explanatory variables (the

EU factor), but also partly backward looking where I consider the dependent variable (gender policy-making and content) and work backward from that end of the hypothetical chain of causation. As such, the aim is to establish whether there are any effects of EU accession, and in their absence, what are the causes (other than EU) for the resulting policy-making.

In addition to the difficulties in ascertaining causality, the problem of generalisation is often debated. While some authors argue that generalisation from a case study work, although different from statistical analysis, is possible (Hammersley and Gomm 2002), a frequent objection to a case study is indeed its inability to produce propositions that can be generalised (see Gomm, Hammersley and Foster 2002). This can be contrasted with a claim that case study researchers are not required to supply generalisations but describe their case in order to capture its *unique* features (Lincoln and Guba 2002; Stake 2002). Nonetheless, theoretical gains do not have to be sacrificed, as the contribution can encompass the challenge or confirmation of standard theories, the generation of new hypothesis, or presentation of further conceptualisations and testable propositions. Furthermore, the specific case of Poland can be extended, on a more abstract level, to other similar accession states, while the policy and politics of gender can prove relevant to other contested fields in the politics of policy formation without claiming the existence of universal laws guiding social action.

Another obvious drawback of a case study approach is that usually the structural and institutional framework is fixed and the role of specific actors varying over time can be overestimated, as the researcher attributes more causal importance to these actors (Huber and Stephens 2001). On the one hand, my research design overcomes this weakness by situating the study in the context of a transforming structural and institutional framework by closely examining the situation of the first transition from socialism to a free market democracy, a second one during the accession to the EU, and a third one during the first years of membership. This allows for accounting for the constraining ways of the larger power distribution and institutional contexts shaping the preferences and strategies of actors relevant to labour market policy change in Poland. On the other hand, the transformation from socialism is a major obstacle because it creates difficulties in distinguishing between processes associated with democratisation, globalisation, and those related to integration with the EU. Clearly, detecting the influence of the EU is not straightforward, given the diffusion and interaction of processes occurring on many levels and driven by internal as well as external forces.

Policy-making in the CEE region has not occurred in isolation. For decades the various national governments had to take into account the influence of non-national institutions. And, from the moment of the decision to join the EU, all areas of political, economic, and social life were affected by this supra-national entity. This presents an additional difficulty in measuring the influence of the EU on domestic developments.

Nevertheless, it is still possible to identify certain events that would have not taken place in the absence of the EU. This, for example, is relevant to institutional developments, as when the accession to the EU has become a top political priority and expertise and responsibility for EU affairs concentrated at the highest political levels (Lippert et al. 2001). Disentangling the effect of Europeanisation can be achieved by considering alternative explanations as sources of change. Thus the historical view on the development of Poland's institutions and agents relevant to the labour market and consideration of policy and political developments outside of the directive implementation and EES participation allows assessing the relative impact of Europeanisation within the broader context. Here, the top-down logic of Europeanisation is complemented by tracing bottom level developments. Such shifting of the levels of analysis permits establishing whether Europeanisation is taking place, and to what extent this occurs. Further difficulty emanates from the different impact of the EU, where the potential influence can be both direct and indirect. Direct pressure is exerted through the fulfilment of the Copenhagen criteria as well as the transposition of the core legislation, like directives or the *acquis*. Indirect influences include soft law in the form of participation in the EES process and all its stages, or even less tangible developments such as cognitive change whereby the perceptions and attitudes towards social problems change along with the way of dealing with them (Radaelli 2000, cited in Guillén and Palier 2004). The indirect impact may be more difficult to detect, or more difficult to prove where it originated from, or both. The process-tracing method is useful here as it allows conducting an analysis of how processes occur through a narrative reconstruction, deductive reasoning, and attention to contingent details. It consists of identifying causal mechanisms or chains linking the independent variable with the observed effect, and as such is an appropriate tool for the task at hand. Consequently, this work aims at avoiding the fallacy of assuming a linear causal relationship between EU developments and domestic policy change by carefully tracing the processes at work. I will start by looking at the EU level developments, then focus

on the problems, resources and ideas of relevance to policy-makers and other actors involved at the domestic level, and finally examine how the two platforms interact.

In terms of the temporal boundaries relevant to the study, allocating the influence according to time lines, say years closer to the system change of 1989 as associated with that event, while years approaching the accession to the EU in 2004 as guided by this event may be artificial. One reason is that the first contacts between Poland and the EU have started already in 1989 by signing the trade and cooperation agreement and by implementing the Poland Hungary Assistance for the Reconstruction of Economies (PHARE) programme. The second reason is that the processes occurring in Poland may have been oriented to modernisation or democratisation and Europeanisation operating in the broader sense beyond 'EU Europeanisation' (Kohler-Koch 2000:12, cited in Lippert *et al.* 2001) at the same time. That is, both events may have interacted in the shaping of the domestic change, especially if their goals and ideals were shared. However, a temporal dimension may still prove useful in considering the degree of change in anticipation of membership. The EU pressure for adaptation of policy decisions and implementation increased in the candidate countries as they moved closer to accession (Lippert *et al.* 2001). Also, the promise of enlargement (realistic only in the later stages of candidates' relationship with the EU) should act as a more powerful incentive than the promise of association (relevant to the initial phases) (Schimmelfennig and Sedelmeier 2004). This would be especially relevant to a policy field where there is a discrepancy between the EU and domestic trends – gendered labour market policy seems such a field.

Consequently, this case study is a system bounded by time and place. The main analytical distinctions of the different periods are presented in Table 2. Essentially, I conducted an analysis of Poland's law and policy change in the pre-accession and membership stages. The pre-accession period covers the years of active preparation on the part of the Polish government, and other social actors involved in the process, to accede to the EU. Poland applied for EU membership in 1994, but accession negotiations between Poland and the European Commission began in 1998 and that is when the activities aligning the domestic framework with that of the EU became more intense and direct. Thus, although I concentrate on the years 1998-2004, I also note events leading up to this period, as they prove relevant to the development of domestic law and policy. The membership stage begins with the May 1st 2004 EU enlargement, and covers roughly three EES policy-making cycles: the development of policies in the

first three years of membership (last policy document analysed in this work was published by the Polish government in February 2007).

Table 2 Main Temporal Divisions of the Analysis

pre-1945	1945-1989 socialism	1989 – 1998 post-socialism	1998-2004 pre-accession	since 1.05.2004 post-accession
Historical outline of the domestic institutional and actor constellation	Outline of the domestic institutional and actor constellation during socialism	1989 Trade & Cooperation Agreement 1989 PHARE Programme 16.12.1991 Europe Agreement 1993 Copenhagen criteria 1997 Agenda 2000	31.3.1998 – 13.12.2002 Accession negotiations April 2003 – May 2004 Interim period of participation in EU institutions	Accession to the EU, since then participation in EES governed by OMC: 2004, 2005, and 2006 policy cycles

These two pre- and post- accession periods are associated with differential institutional contexts of Poland-EU interaction, and thus are likely to exhibit differential impact of Europeanisation working through varied dynamics. As outlined in the theoretical chapter, the first term of domestic implementation of the *acquis communautaire* is driven by Poland’s ambition to join the EU and resembles the logic of expected consequences (March and Olsen 1998) or works via coercive isomorphism (DiMaggio and Powell 1991) reinforced by the need to comply with the EU legislation, EC acts and assessments, and the rulings of the ECJ. In contrast, in the early membership stages and partaking in the EES Europeanisation may work through the logic of appropriateness (March and Olsen 1998) or via mimetic and normative isomorphism (DiMaggio and Powell 1991) where the iterative process of participation in the multi-level policy-making via the OMC triggers particular domestic response in increasing similarity of the national policy model with that of the EU. So, the independent variable differs between the two periods and may produce varied effects (through interaction with other domestic factors).

3.2. The Method and Data: Primary and Secondary Documents

Turning to methods of data collection, I have used the following two main sources of data: documentary and interviews. Documentary analysis focused on primary sources (EU and domestic government documents, reports, resolutions, legislation, policies,

programmes) and secondary sources (academic literature, specialised reports, media reports). So far studies related to the OMC and the EES have been based on limited material and rarely document exact causal mechanisms at work (Barbier 2005). Indeed, EU or domestic documents cannot be taken at face value and evaluation studies cannot link policy outcomes to the EES as a cause (Barbier 2005). In fact, Trubek and Mosher (2003) evaluate the first years of the EES process on the basis of official evaluation reports which do not give a full account of what is going on. The problem is that the documents used as the main sources of information are prepared by either the Commission or the member states, and thus represent a bias resulting from their engagement in diplomatic activities (de la Porte and Pochet 2002b). For instance, conducting an analysis based on the Joint Employment Reports is limited as these documents are an outcome of top-down and bottom-up flows where the EU and the member state officials engage in negotiations and dialogue leading to the final, published version. If the European Commission proposes a harsh reprimand and the member state negotiates a softer approach the end result is not quite representative of the real process but is concealed behind the softer terms instead. To illustrate, this has happened in case of Poland when it lagged in a certain gender related policy area in its first National Action Plan (NAP) for Employment for 2005. The Commission has taken a note of the fact, and if the process ended here one could deduce that Poland did not comply on this particular issue. However, the Polish side intervened and disagreed with the Commission and provided an explanation for its (in)action and demanded an alteration of the initial assessment (ML-DLM-2, 2005)⁴. When the EU agreed to that change in the final version of its evaluation, the conclusion on Poland's compliance based on the final document would have been wrong, because in this case the lack of a recommendation from the Commission does not mean that Poland is fully compliant but that it has successfully disputed this negative assessment.

Relying on official national government documentation and declarations may also limit the researcher's grasp of the full scale of events and actors involved. Again, studying the Polish NAPs for employment alone does not show much involvement in terms of gender programmes. Additional sources of information, for example a report by the office of the Government Plenipotentiary for Equal Status (GPES 2005), has shown the distribution of financial resources from the EU and development of specific

⁴ I have assigned codes to interview partners, explained in Table 4.

actions, programmes, and actors partaking in the promotion of gender equality in Poland. Conversely, the Joint Assessment Paper (JAP 2001)⁵ prepared by the Polish government and the Commission pointed to the existence of a policy contained in the National Action Plan for Women and to its implementation since 1997. The specific labour market policy goals were noted in dissemination of information on women's rights, management training designed specifically for women, or the development of a specific training system accessible to women and men on equal basis. Again, taking this document at face value would have been misleading. As the analysis conducted in Chapter 6 shows, the first phase of the NAP for Women was not implemented by the governing administration and only additional scrutiny of alternative reports and interviews with experts resulted in a more accurate assessment.

Certainly, reliance on official documents should not be abandoned completely, especially that there are ways of dealing with the quality of data problem. One is adopting a research design that relaxes the purely causal perspective but can still identify transformation in various areas (Barbier 2005). Another is seeking confirmation or disproof in other sources, documents, media and actors involved in the various processes, thus filling in the gaps and fortifying arguments. Therefore, employing multiple methods and sources of information is inspired by the technique of triangulation (Denzin 1989; Lincoln and Guba 1985; Merriam 1988; Creswell 1998). Consequently, this study's analysis of labour market reforms expands beyond the focus on NAPs for employment. It is complemented with other sources, such as reports issued by relevant ministries, offices, non-governmental organisations, trade unions or media. This way possible contradictions or omissions can be noted, and in some cases corrected by further analysis or inquiry. Also, findings from documents were cross-checked with follow-up emails or telephone calls. For example, the lack of participation of the Equal Status Office in the drafting of the 2007 NAP for employment was deduced from the participants list published in the document and confirmed with the relevant officials. The main sources and examples of documents collected between March 2003 and October 2007 are listed in Table 3. In terms of the supra-national level, the main EU level policy tools on Equal Opportunities are the various equality directives, the jurisdiction of the ECJ, the Medium Term Action Programmes, the Structural Funds, and the Employment Strategy, all interacting in producing a specific outcome.

⁵ Accession Partnerships require the Commission and the Polish government to carry out an Employment Policy Review for Poland's readiness progress for the EES, resulting in a Joint Assessment Paper.

Table 3 Overview of Main Documentary Primary and Secondary Data Sources

EU Level

Commission of the European Communities (CEC)

- Guidelines for the Employment Policies of the Member States – specifies the employment guidelines (some containing targets and deadlines) for the members states to include in their domestic labour market policy-making contained in the National Action Plans/ Reform Programmes – specified in Tables A6-8
- Agenda 2000 – Commission opinion on Poland’s application for membership in the EU, outlining a strategy of recommendations for the enlargement
- Progress on Implementation of the Joint Assessment Papers on Employment Policies in Candidate Countries - Employment and Social Affairs DG and the Polish Government’s assessment of employment policy for Poland’s progress towards readiness for the EES; identifying the most urgent labour market policy issues and agreeing a number of goals
- Series of Reports: Progress Report from the Commission on Progress towards Accession: Regular Report on Poland (1998 - 2002) and Comprehensive Monitoring Report on Poland’s Preparations for Membership (2003) - assess progress in adoption of the *acquis* on the basis of passed legislation relevant to each chapter of negotiations
- Annual Joint Employment Reports – after examination of NAPs and NRPs the Commission presents an annual progress report to the European Council, which examines employment chapters and together JER is issued, including country specific information.
- Annual Reports from the Commission: Equal Opportunities for Women and Men in the EU – consider the broader societal dimension of gender equality within the EU

European Council

- Presidency Conclusions for 1994-2004 – sections on employment and social policy outline the progression of EU approach to these areas

Council of the EU

- Labour market directives relevant for gender equality – 9 directives passed or amended between 1975 and 2002, described in detail in Table A5

Additional Web sources:

- EU Employment and Social Affairs
 - EIRO online
 - Eurostat
-

Domestic Level

Labour Code: Act of 26.06.1974 with subsequent changes: 2.02.1996; 19.11.1998; 24.08.2001; 14.11.2003; and other altering acts – the Labour Code is a key legislative act of labour law

Ministry of the Economy, Labour and Social Policy (various names over the years)

- Information on the State & Structure of Women’s Unemployment in 2004
- National Action Plan for Employment for 2005, 2006 - once a year each state develops a NAP containing actions and programmes taken in the employment field and those that will be tackled in the future; documents are debated at national and European levels and are approved by national parliaments
- National Reform Programmes (NRPs) 2005-2008 - replacing the NAPs; NRPs are drafted to cover three years, but can be amended by member states;
- Implementation of the National Action Plan -annual implementation reports that member states are required to submit within the EES
- National Strategy for Increasing Employment & Human Resources Development 2000-06

The Government Plenipotentiary for Equal Status Office (various names)

- National Action Plan for Women I (up to 2000) and II (2003-2005) – outlines the strategy

- of the government in various areas relevant to gender equality, including employment
- Government Information on the Implementation of NAP for Women – II Stage – reports on the various aspects of policy and programme implementations
- Gender and the Labour Code Conference proceedings – opinions of experts (governmental, academic, women’s activists) on Labour Code reforms

Council of Ministers

- Series of Programmes 1998-2003 on PL Preparations for EU Membership – provides the analyses of Community regulations and judgments of the ECJ, which served as a basis for the government’s annual programmes and timetable for reforms
- PL Negotiation Position in the Area of Employment and Social Policy – outlines the status quo of policy and its need for adaptation to the EU level, allows for assessing degree of fit
- Results of PL Membership Negotiations Report

Commissioner for Civil Rights

- Annual Reports – with sections on equal treatment, describing the cases of the Civil Rights Commissioner’s involvement and outcome
- Academic conference material on equal treatment of women and men in employment

National Labour Inspectorate (PIP)

- Annual Reports on PIP Activities – description and analysis of workplace inspections, workplace surveys and assessment of main problems in the labour market, including gender
- Equal Treatment of Women and Men in Work. Mobbing in Work Environments – report based on the agency’s inspections of workplace compliance/ violations of labour law with a specific attention to gender equality

GUS - Main Statistical Office

- Quarterly information on the Labour Market - basic statistical data and analysis
- Statistical Yearbooks: General and for Work/Labour

Office of the Committee for European Integration (UKIE)

- Report Series 1998 -2003 on the Implementation of Preparation Programmes for EU Membership – UKIE evaluation of acquis transposition in the pre-accession stage

Additional Web Sources:

- Online news portal Onet, and various online newspapers
 - Social partners websites: trade unions, business organisations, NGOs
 - CBOS – Centre for Public Opinion Studies, a range of reports on Public Opinion Surveys
-

This work focuses on the transposition of the nine directives related to labour market gender equality in the period leading to the 2004 accession and on the EES, with the remaining mechanisms noted only as they enter the employment policy-making arena, for example, with the reliance of the EES on the financial resources from the structural funds. The historical development of EU approach to employment and gender presented in Chapter 4 relies on primary (e.g. CEC Communications, Guidelines) and secondary (e.g. five year evaluation of the Lisbon Strategy – EC 2002) data issued at the EU level and on scholarly literature on the topic. During the accession stage the European Commission guided domestic developments in policy and institutions through such documents as Accession Partnerships or Regular Reports. These made financial aid conditional on implementing various stages in the process and graded the applicant

state's progress in particular fields. More concretely, the documents specified policy priorities and the timeline for their execution, as well as assessed what has been achieved and chose the next priorities. Based on these documents the European Council decided whether the applicant state can be admitted to the next stage of the accession process. The content analysis of the various Accession Partnerships and Regular Reports issued for Poland established what policy and institutional adjustment the European Commission deemed necessary for Poland to be able to become a member of the EU. Also, it determined how well the Polish side presented compliance with the criteria established at the EU level. Thus, the analysis here allows determining how the EU and national actors understand and present policy adjustment, but does not always allow for fully assessing the actual situation as there may be a gap between the official understanding or a presentation of a problem and its real nature. Consequently, where alternative assessments or reports are not available, the interpretation offered remains at the declarative level.

Bearing in mind the argument that the EU can impact domestic level commitment to gender equality if it is itself committed to the idea, I looked for references to gender in the aforementioned documents. The existence of references to gender and their specificity (e.g. clear and precise targets, actions, or deadlines) were assessed in the context of other issues which indicated the degree of importance of gender at the level of the EU. The domestic approach to gender equality was assessed from three angles: the supra- sub- and the national levels. For example, the European Commission's evaluations provided the top-down lens to the commitment and specific actions taken in the areas relevant to gender among domestic policy makers. The various changes to the Labour Code and legal acts passed by the parliament as well as commentaries of experts referring to these reforms delineated the national framing of the issue. These policy and law modifications were compared with the pre-reform scenario and assessed in view of EU demands. Then, I studied the various policy documents directly responding to the EES, that is the NAP 2005-2007, and the NRP 2005-2008 as well as other supporting documents, such as the National Strategy for Increasing Employment and Human Resources Development. Non-governmental documents and interviews supplemented this picture with a bottom-up appraisal.

3.3. The Method and Data: Expert Interviews

I used semi-structured qualitative research interviews to obtain new information, cross-check data, and fill in gaps where official document sources proved limited, and aimed at obtaining both factual and meaning level information. Interviews present methodological limits in terms of cognitive analysis of policies (Hassenteufel and Smith 2002, cited in Barbier 2005). The interviewed experts and policy-makers can use the interview as a forum to advance their own goals or misrepresent an actual course of events. All these make for cross-checking of the declarations necessary against other expert statements or various documents and the media. I employed purposeful sampling of individuals (rather than probability sampling as used in statistical inferences) so that the problem under examination could be illuminated further. The choice of experts (see Table 4) was guided by the research question and by the historical description of Poland's development over a span of a century presented in Chapter 5. Over many decades Poland has developed a peculiar path and particularly important actors. Their interests and interplay have entered a playing field involving a new level of influence – the EU – and interactions associated with the EU changed the bottom-up dynamic. Since my focus lies in reforms in policy and legislation, the obvious actors would be members of the various political parties. However, others have also become agents of legislation, transforming them into great sources of knowledge. A review of research literature and documents on the related topics was conducted prior to the interviews. I first established the major relevant actors and developments of the Polish policy-making scene, and then studied and developed the evolution of the EU approach to employment policy-making. These allowed for assessing the existing knowledge about the topic of my investigation and understanding of how to fill the knowledge gaps.

Face-to-face interviews were conducted with 16 experts, telephone interviews with further three, comprising: officials at the Ministry of Labour from the departments of Labour Law, Labour Market, and ESF Implementation, the Minister of Labour and Economy in office in the immediate pre-accession period, the staff of the Equal Status Office, a member of parliament active in the Parliamentary Group of Women, the staff of the office of the Commissioner for Civil Rights Protection, trade union representatives, and NGO activists (see Table 4). Interviews took place between August 2004 and July 2005, with follow up enquiries by phone or by email, and telephone interviews took place in May 2006. They were conducted in Polish, audio taped, and the quotations used were translated by the author. Interviews were conducted along an

interview guide focused on the themes of gender relations, women's employment, post-socialist transition, accession to the EU, politics and policy-making. They contained themes and specific questions, but at the same time were open to change of sequence and form to achieve a smooth interview interaction and obtain relevant data.

Table 4 Overview of Expert Interviews

Interview Partners, coded throughout the text: institutional affiliation and year of interview

- Ministry of Labour:
 - Minister of Labour and Economy in office in the immediate pre-accession period, straddling the political and administrative aspects of policy-making
 - Labour Law Department – civil servant lawyers engaged in interpretation of EU laws, regulations, and directives and their transposition into the Polish system from a technical/ legal (not political) perspective
 - Labour Market Department – civil servants engaged in labour market policy assessment and making related to the EES within the domestic arena as well as interacting with the EU level
 - Department of Implementing ESF- civil servants in charge of ESF monitoring and implementation
- Government Plenipotentiary of Equal Status – civil servant in the Labour Market Department, responsible for an overview of the legislative process and its compliance with equal status principle at stages: a) consultations with governmental departments, b) advising the committee of the Council of Ministers, c) issuing opinions to the Council of Ministers
- Parliamentary Group of Women – senator from a leftist party (SLD), chairperson of the parliamentary group, avid supporter of the Equal Status Act
- Commissioner for Civil Rights Protection – director of the Labour Law Team dealing with employment & unemployment conditions, discrimination, court cases, as well as retirement
- Trade unions – vice-chairpersons and personnel responsible for gender or women's issues
- Women's NGO – activists in regional (CEE) and national organizations working to ensure gender equality in social, economic, political, and legal areas, including employment, at the grassroots level as well as bottom up in interacting with local/central government

Examples of Guiding Interview Topics

- Brief history/context of the organisation/ department
- Brief background of the interview partner
- Assessment of the situation of men and women in the labour market
 - degree of equality; perception of discrimination, its symptoms and causes
 - awareness and will of political actors to transform the status quo: genesis of changes, the importance of gender equality principle in the organisation
 - consideration of actual solutions/ methods/ reforms for gender equality
 - political left-right approaches to labour market gender equality
- The influence of the EU on policy and legislation in Poland
 - perception of the necessity to implement EU law in Poland among policy actors
 - the ability to pass certain policy because of alignment with the EU – changed opportunity structure? power distribution?
 - consequences of possible opposition/non-compliance with the EU
 - importance of EU funds
- The Labour Code
 - legal changes, compliance
- Future outlook

Examples of guiding expert interview topics which were asked of all interview partners are provided in Table 4. Depending on their institutional affiliation or specific expertise, additional questions were posed. For example, ministry officials were asked about their internal and the national – EU activities. NGO activists were queried on their grassroots work, and on the nature of their involvement with governments. Trade unionists were asked about education efforts in gender equality in employment, or on the gap between law and practice. Given the political nature of the study in certain cases access to data and persons proved difficult. There were some challenges in initiating the contact with several experts due their positions within the government’s administration. Several individuals from the Ministry of Labour or Members of Parliament have not responded to enquiries, some declared that their areas of responsibilities do not match the topic of this study, while several others pointed to colleagues as in a better position to provide required expertise. Scheduling times for interview was especially cumbersome in certain instances when for example an official agreed to participate in an interview, chose a suitable date and time for a meeting, but had to cancel last minute due to internal work commitments. Re-scheduling proved difficult, especially in view of my base in Bremen and interviews taking place in Warsaw. Where possible, these difficulties were resolved satisfactorily, as in an interview with the Minister of Labour during a SASE conference in Budapest. However, certain obstacles were insurmountable - one interview was initially agreed on with a representative of an employers’ organisation, who then crossed over to the government administration and upon subsequent return to his previous position has stopped responding to email or telephone requests. This back and forth pursuit of a knowledgeable expert who could provide insight on many levels in the end took up substantial time resources and hampered the search for an alternative. To deal with this limitation, employers’ views were gathered from material published in the media, online, or conference proceedings.

3.4 Overview and Concluding Remarks

On the whole, although there are limits to the empirical material at hand and the identification of precise causal mechanisms of change (Barbier 2005), a combination of data sources and careful process tracing ensure a degree of certainty and inference presented in the analysis and concluding sections. The purposeful sampling strategy applied here focused on sources (documents and experts) presenting a wide variation of view-points, experiences, and engagement with gender related labour market policy. It

included politically and theoretically relevant material to provide an accurate description of occurring processes. The already discussed drawbacks of a case study design have to be considered against its benefits offering richness and depth of understanding of complex social phenomena which can focus on systems and actions of actors and account for both structure and agency (Feagin, Orum, and Sjoberg 1991).

To summarise, my research examines the development of a certain section of the welfare state in Poland instead of covering every area related to the concept (e.g. education, health, or tax policies) or to gender equality (e.g. reproductive rights). I principally examine labour market policy and legal level changes, and treat their implementation in a tentative manner. One reason is that legislation is a necessary (although not sufficient) pre-requisite for the achievement of a lasting improvement in the status of women (Huber and Stephens 2001). The other is the fact that the change I aim to capture and describe is recent and ongoing, and the societal level outcome is just coming to light. In short, the focus lies in the impact on the elements of policy process, on cognitive and normative frames, and on the actual policy content or output (the short-term results of programmes and policies) and less on the policy outcome (the long-term results). I provide an overall description of the policy direction and its logic together with specific examples that either support or detract from gender equality. The employed methods allow assessing (in Chapter 4) the main structural factors for domestic policy-making – the EU gender equality directives and the EES with gender equality as its overarching goal to be mainstreamed into all policies. Then I take stock (in Chapter 5) of the domestic structure and agency guided by the welfare state literature relevant for gendered outcomes: the balance of power among unions, employers, and the state; the nature of the labour market and women's position within it; the character of organised women's groups; gender roles; and demographic change. In the empirical Chapters 6 and 7, I engage in a within-country comparison and examine the logic in which institutions and actors operate following the sociological and rational institutionalist traditions, as they are relevant to the varying conditions of the pre- and post-accession policy-making, and historical institutionalism with its attention to path dependent processes in the domestic setting. Assessing progress is done on several levels: first, in light of Poland's historical development of policies and their (potential) outcomes; second, against the direction flowing from the EU, that is measuring the consistency of Polish law and policy with the Community law and policy; and third, by cursory international comparison of EU leaders and laggards in gender equality.

IV. THE GENESIS OF EU EMPLOYMENT POLICY AND GENDER: ‘HARD’ AND ‘SOFT’ LAW AND AN APPLICANT / NEW MEMBER STATE

This chapter establishes the EU stance on gender in employment, and thus the supra-national pressure applied to Poland in its applicant and new membership status. It sketches the development of employment policies at the EU level, and the way in which this area is relevant to labour market policy-making in Poland. It considers the historical evolution of EU level action, as well as the differences in emphasis and method that occurred over time. EU policy relevant to women’s rights has advanced through various tools and spheres. It is firmly based on the treaties, directives, communications and resolutions, action programmes, and cases of the ECJ. I focus on employment specific developments and do not cover the entire accomplishment of the EU on gender (see Tables A3-4 in the Appendix). The first section of this chapter describes employment related developments under the Community Method from a ‘hard’ law perspective, beginning with the Treaty of Rome, and the various directives related to labour market gender equality. The Community Method is dubbed ‘hard’ law because its application begins with uniform rules (decisions, regulations or directives) that EU member states must implement in a specified time frame; it provides for sanctions if the implementation is unsatisfactory. The transposition process involves the implementation of directives into national legislation in accordance with the procedures of the individual member states. Subsequently, new ‘softer’ ways of policy-making surfaced, moving away from top-down rules to more participatory relations. For example, the EU employment policy approach that emerged in the 1990s is referred to as ‘soft’ law, because uniform rules were replaced by guidelines, open ended and general, and there were no provisions for formal sanctions if those guidelines were not followed. The second part of the chapter describes in detail the evolution of the non-binding employment regulation, which emerged from the 1993 Delors White Paper, was operationalised a year later in Essen, formalised by the Employment title of the Treaty of Amsterdam, and realised through the Luxembourg process. From the birth of the EES, the section describes the use of the OMC, and the adoption of the gender mainstreaming approach. The main distinction between the ‘soft’ and ‘hard’ law approaches lies in the member states’ degree of involvement and compulsion in the policy process, where the adoption of very detailed directives is required, while

participation in the generally expressed EES leaves substantial room for manoeuvre. Through a gender lens, the third part offers an assessment of European-level policy on employment. The last, segment of the chapter relates employment policy-making on the European level to the national one, in the context of the 2004 enlargement, and Poland's accession to the EU.

4.1 Early Stages of Employment Policy: the Community Method

The EU has developed three types of law: decisions (administrative acts aimed at specific subjects, with limited impact), regulations (legal acts that do not have to become national laws), and directives (most powerful and commonly used legal tool) (Duina 1997). In the literature on social or employment policy, the Community Method refers to legislation that is mainly based on the development of directives by the European Commission and their endorsement by the European Council, with participation of the European Parliament. Sometimes this may be through a Social Dialogue, where top labour and management organisations prepare directives for the approval of the European Council (Trubek and Trubek 2003) (see Table A2 in the Appendix). In some areas, directives can be voted in by a qualified majority of states, while in other areas the decision must be unanimous. Upon the passing of a given directive on the European level, it must be transposed into national law by each member state within a specified time frame. After the transposition process, the laws are applied and enforced at the domestic level (Duina 1997). However, the outlined course of action does not always run smoothly. Implementation and practice of the equality directives in the EU member states are overseen by the European Commission and their data on Community law violation indicate that there are numerous implementation problems (Duina 1997; Treib 2003). The ECJ has been influential in social policy by bringing about change in the member states whose governments fail to transpose EU law (Bastian 1998) and litigation has been widely used, for instance in the United Kingdom, Ireland or the Netherlands (Rubery, Fagan and Maier 1997). In consequence, sometimes member states resist the transposition of particular directives by delaying, or by not completing, the transposition process, in the long run a blunt non-compliance is not possible. Arguably, 'naming and shaming' mechanisms and financial penalties ensure that in the end member states implement EU directives (Falkner et al. 2004).

As early as 1957, economic and social progress together with high level of employment and social protection have become an integral part of EU objectives when

they were set by the Treaty of Rome calling for a high level of employment and social protection (de la Porte and Pochet 2002b). Then, in the context of accomplishing a common market, they referred to such issues as workers' free movement and residence. In terms of gender, Article 119 of the Treaty of Rome introduced the principle of equal pay for equal work for women and men. Further developments took place in the 1970s when the EU tackled the promotion of gender equality, collective redundancies, transfer of enterprises, or employee protection in case of employer insolvency (Goetschy 1999). Legal cases considered by the ECJ invoked the provisions of Article 119, but focused only on the economic rights of women while their domestic role, or gender relations more generally, were not dealt with (Hoskyns 2004). Thus, from the beginning of EU policy concern with gender equality the emphasis lay in the economic dimension. Nevertheless, the EU directives relevant to the promotion of gender equality surrounding work and social security schemes regulate problems of equal pay, equal treatment at work and access to training and promotion opportunities, equality in social security, protection of pregnant workers, parental leave, or sexual discrimination. Table A5 lists, in a chronological order, the directives in force before the 2004 enlargement. These directives provide for the basic rights of male and female workers, and while they oblige the member states to adopt these laws into national frameworks, they do not demand their expansion, attainment of specific goals or reporting of results. In addition, they do not apply to other employment related areas, for example reconciliation of family and work life, where concerted action has increasingly become seen as desirable.

'Hard' law can be considered a good EU wide method, provisional on a) smooth agreement on directives at the EU level, b) their swift and full transposition into national law, and c) their effective enforcement; however there are barriers to further developments of the method. The spheres of social and employment policy continue to be the preserve of the member states, and further directives demanding more than minimum standards would be difficult to pass (Trubek and Mosher 2001). However, as the main goals of market integration have been attained and in order to deal with unemployment, social exclusion, imminent pension system crisis or social security reform, member states are under more political pressure to further centralise measures in such areas as labour (Scharpf 2000; Goetschy 2003; <http://europa.eu.int> 2005). When Europe was a less integrated entity, national governments possessed a wider choice in social policy-making instruments, by applying either demand or supply side mechanisms. The emergence of the EMU, common currency, competition law, and the

Stability and Growth Pact, have disabled some of the devices traditionally found in the toolboxes of nation states. Such methods as devaluating and adjusting national interest rates, large public spending on creation of public sector jobs, state subsidies to specific sectors or regulating mergers of industrial or financial groups could no longer be applied (Jenson and Pochet 2002; Scharpf 2002; Goetschy 2003; Trubek and Trubek 2003). Since neither monetary nor fiscal policies could be used to create jobs, the macro-economic policy mix of EMU was complemented with a debate on structural reforms in the employment sphere (<http://europa.eu.int> 2005). Thus, there is a tension between employment policy's need of supra-national synchronisation and its location within the exclusive territory of member states. Given this tension, the development of a 'softer' approach to EU coordination proves more suitable. It offers a way of overcoming the joint decision trap, where individual states wish for a closer social policy cooperation but are not prepared to engage in supra-national decision-making or regulation (Scharpf 1999a).

4.2 Towards 'Soft' Law: the European Employment Strategy

The EES emerged thus for economic and political reasons. In essence, the EU level employment policy approach began with the 1992 Treaty of Maastricht. Although the Treaty was primarily concerned with the EMU, social cohesion policies were also included, strengthening the European social model (CEC 2002a and 2002b). As such, the Treaty's Article 2 underscored high employment and social security, Article 118 the advancing employment by cooperation among member states and the Commission, Article 123 naming employment the chief objective of the European Social Fund (ESF), and Article 127 identified vocational training as vital to work reintegration (Goetschy 1999). Soon after, the EES began to take on a more concrete form when the European Commission under Jacques Delors issued the 'White Paper on Growth, Competitiveness and Employment: The Challenges and Ways Forward into the 21st Century' (CEC 1993). The document was a catalyst for putting employment on the EU level agenda (Goetschy 1999; Ashiagbor 2001; Trubek and Mosher 2001; de la Porte and Pochet 2002a). The paper was motivated by the concern over the scale and consequences of unemployment, and to deal with the problem called for a combination of macroeconomic and structural measures, including greater flexibility in the economy, more efficient labour markets, and open international environment (CEC 1993). Several priorities for action on jobs were identified: lifelong education and training, increased

flexibility, decentralization and initiative, lowering the cost of low skilled work, or revamping of employment policies. Sustained economic and employment intensive growth were crucial to labour market objectives, while gender issues were not explicitly addressed. Although individual member states were seen as the main actors responsible for measures most suitable to national contexts, the Community was to support them by providing a forum for a common strategy and to complement national processes with Community level action (CEC 1993). Following the White Paper, employment formed an integral part of the successive meetings of the European Council. As Table A6 in the Appendix details, this concern over high unemployment and low employment rates is emphasised throughout the years. The Delors Paper clearly represents a shift in method in dealing with employment, where *harmonisation* of policies via directives is now supplemented with EU level *coordination* of policies.

At the Essen European Council in 1994, the EES continued to take shape. The process was inspired by the OECD, although the employment procedure of the EU is more systematic through monitoring, mutual commitments, and peer pressure and has budgetary or sanction powers (Jacobsson 2001; Dostal 2004) making it distinct from other supra-national organizations. For the first time at the EU level an integrated employment strategy was embraced with short- and medium-term policy span. Inspired by the Delors Paper, the fight against unemployment became a chief long term goal for the Union, with five objectives for the member states: vocational training and lifelong learning; employment intensive growth; reducing the costs of low-wage labour; improving effectiveness of labour market policy by expanding active instruments, and developing measures to help the most vulnerable groups such as youth, long-term unemployed, women and older workers (European Council 1994). Thus, gender considerations enter more explicitly and from this point onwards gain in significance. The European Council advocated the transposition of recommendations into the national policies in each state, while the Labour and Social Affairs and Economic and Financial Affairs Councils and the Commission were to monitor employment trends and policies of governments and report annually on progress (European Council 1994). This process did not delegate a great deal of power to the EU, although it strengthened the debate on the employment crisis in Europe (Trubek and Mosher 2001) and its objectives were reinforced by the conclusions and resolutions of the successive meetings. For example, the following European Council in Madrid, in 1995 advanced the employment strategy further. There the Essen priorities of job creation as the principal goal for the

EU in economic, political, and social terms, together with combating unemployment and promoting equal opportunities became specific areas of action for the member states (European Council 1995). Later, in Dublin in 1996, a Declaration on Employment was elaborated, stressing macro economic policy conducive to growth and employment. The Commission and the member states were urged to develop monitoring and evaluating instruments for labour market policies and for identifying best practices, employment indicators and benchmarking procedures. Such information exchange leading to a consensus forming process is a key element of this voluntary system of governance (Jacobsson 1999). The Presidency Conclusions underline dedication to the progress of an integrated employment strategy, highlighting the need to integrate young people into work, prevent long-term unemployment, and to achieve equal opportunities for women and men (CEC 1996). Accordingly, the Irish Presidency drafted the bulk of the material used for creating the Employment Title of the Treaty of Amsterdam in 1997 (de la Porte and Pochet 2002 a) – the next advance of the EES.

During the Amsterdam European Council in 1997, the linkage between job creation, employability, and social cohesion was underscored. Again, employment goals identified above were reiterated. The Council also welcomed the new Title VIII on employment in the Treaty of Amsterdam (European Council 1997) thus decreeing the attainment of high level of employment a main concern for the EU (Goetschy 1999). The Employment Title (Articles 125 to 130) of the Treaty of Amsterdam compels each member state and the Community to develop a coordinated strategy for employment, to promote skilled, trained, and adaptable workforce, and to facilitate labour markets that effectively respond to economic change. As Article 128 specifies, each year the European Council should adopt employment conclusions based on the joint annual report of the Council and the Commission on the employment situation in the Community; the Council must develop guidelines, which the member states consider in their national employment policies, and subsequently provide the Council and the Commission with an annual report on their implementation; then the Council makes recommendations to each state, and coming full circle, the Council and the Commission prepare a joint annual report to the European Council on the implementation of the guidelines and on employment in the Community (Treaty of Amsterdam 1997). In addition, the Employment Title endorses the creation of an Employment Committee with an advisory mandate to the Labour and Social Affairs Council promoting coordination of policies. Thereby, employment matters remain with national

governments, but Community action is strengthened as ‘the level of constraint had just been ratcheted up, from talk to participation’ (Jenson and Pochet 2002: 6). Gender equality gains prominence through inclusion in the inventory of Community objectives. It appears as follows: in Articles 2 and 3 the need to eliminate inequality and promote equality; in Article 13 measures necessary to combat all forms of discrimination; in Article 137 permitting Council decisions based on qualified majority voting and co-decision with the European Parliament in relation to employment; in Article 141 compelling states to apply the principle of equal pay for work of equal value, equal opportunities and equal treatment of men and women in employment and occupational matters, and allowing affirmative action (Treaty of Amsterdam 1997). In this way, gender equality in EU policies on employment has been further institutionalised and its status clearly raised. Certainly, the Employment Title is seen as a turning point in a European approach to employment policy. Before the Treaty, labour market policy at the European level resembled traditional cooperation between states. While it was a responsibility of national governments, the Commission promoted collaboration between them, without any legal base for such action. Also, it was based on non-binding conclusions that lacked a long term and permanent structure. The Treaty still leaves the basic principle of national autonomy over employment policy unchanged, while the European Council and the Commission play a stronger role, the European Parliament is integrated further into the decision making, and contributions from the social partners are endorsed (<http://europa.eu.int> 2005).

The extraordinary session of the European Council in Luxembourg in November 1997 was another landmark in the EES evolution, where the Employment chapter was operationalised. The Luxembourg Jobs Summit further raised the profile of the EU employment policy as the European Council for the first time dedicated its session completely to employment, restated that unemployment is a common challenge because its high levels threaten social cohesion. The proposal aimed at inspiring convergence towards jointly agreed on, verifiable, and updated targets, while respecting different domestic circumstances among the member states (European Council 1997). The EES in its initial set of new labour market policies contained 19 guidelines organised under four pillars: improving employability; developing entrepreneurship and creation of jobs; promoting adaptability of businesses and employees; and promoting equal opportunities for men and women. Further details of the strategy are included in Table A7 in the Appendix. The specific Union-wide guidelines formed the coordinated strategy for

national employment policies and initiated a cycle consistent with the parameters specified in Article 128 of the Treaty of Amsterdam. In response to the employment guidelines once a year each state develops a National Action Plan (NAP), containing actions and programmes already taken in the employment field and those that will be tackled in the future. These documents are debated at national and European levels and are approved by national Parliaments. Identification of good practice is prominent in the process, which requires effective monitoring and assessment of employment policies based on common indicators (European Council 1997). The Commission and the Labour and Social Affairs Council compile national reports and assess progress, and the Labour and Social Affairs Council amends the guidelines and provides for new initiatives at the Community level (European Council 1997; de la Porte and Pochet 2004). However, the versions of guidelines adopted for implementation differ from the Commission's proposal. They tend to be watered down by the necessity to reach a majority on the Council and the Employment Committee, as the national governments hold influence over the commitments they are prepared to make (Watt 2004) and the Commission's aspirations of strengthening the EES and creating clear targets are curbed by national governments. The Council has the final veto, while the Commission is the agenda setting body (de la Porte and Pochet 2004) and the involvement of all social partners at all stages of the strategy is called for in order to strengthen the social dialogue (European Council 1997).

The next step in the EES came with the Cardiff European Council in 1998. Sound public finances and economic reform were deemed vital to successfully deal with globalisation, competitiveness, employment promotion, and inclusion. The Council's Action for Employment specified the creation of work opportunities, especially for the young and long-term unemployed, as necessary for an inclusive society. The necessity for further effort in developing comparable indicators of progress was also identified. The direction for future tasks should consider fostering skilled and adaptable workforce through lifelong learning, strengthening action on equal opportunities via mainstreaming equality between men and women in all employment policies (discussed further below), tackling discrimination, innovating in work organisation combining flexibility with security, reforming tax systems, and developing an entrepreneurship culture (European Council 1998). The articulation of gender equality and its mainstreaming enters thus the EES quite early on. A year later, the Cologne European Council gave form to the European Employment Pact, which gathers all the Union's

employment policy instruments, and arranges them under three streams: Luxembourg, Cardiff, and Cologne processes. Thereby, the efforts of coordinated employment strategy, economic reform, and macroeconomic dialogue form new interactions at and between national and EU levels (European Council 1999). These themes were advanced at the next meeting in Lisbon during the Portuguese Presidency in 2000.

In Lisbon several important changes were introduced: the focus on employment and unemployment was shifted to a broader economic and social concern, specific quantitative targets were defined, employment issues were made a part of every spring European Council, and the concept of the OMC was introduced and operationalised. The Union defined a new strategic goal ‘to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion’ (European Council 2000, paragraph 5). This objective was to be achieved through: a) better information society and Research and Development policies, structural reforms for competitiveness and innovation, and completing the internal market; b) modernisation of the social model, investment in people and fighting social exclusion; and c) supporting good economic outlook and growth prospects through macro-economic policies. The Council supplied employment rate targets to be achieved by the year 2010: 70 per cent for the Union as a whole, and 60 per cent for women (European Council 2000). Implementing the new strategy called for an improvement of existing processes with a strengthened role for the European Council devoted to economic and social affairs meeting each spring, together with the introduction of a new method, the OMC (European Council 2000).

The OMC drew its inspiration from the Luxembourg Council meeting in 1997 (Rodrigues 2001). The Lisbon Presidency Conclusions document (2000) identifies the OMC as the instrument of dissemination of best practice and achieving greater convergence towards EU targets. This method includes:

- fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in the short, medium and long terms;
- establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different Member States and sectors as a means of comparing best practices;
- translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences;
- periodic monitoring, evaluation and peer review organised as mutual learning processes.

(European Council 2000, paragraph 37)

Again, the principle of subsidiarity applies to this decentralised approach, calling for active involvement of the Union, member states, regional and local actors, social partners and civil society in various partnerships. The European Council assumes a guiding and coordinating role, it holds a meeting each spring dealing with economic and social issues, and it defines and updates common objectives and employment guidelines as well. The Commission issues reports on progress relying on agreed structural indicators, the Employment Committee supports the Council's work and fosters participation of social partners (European Council 2000). Social partners, such as trade unions, employer associations, NGOs and civil society are supposed to take part in the preparation and implementation stages of the national processes (de la Porte and Pochet 2002b). Thus, there are aspects that render the OMC different from previous 'soft' law methods. Borrás and Jacobsson (2004) note seven features: intergovernmental instead of a supra-national approach, political rather than administrative monitoring, clear and iterative process over an ad hoc one, systematic linking across policy areas versus the lack of it, interlinking of EU and national public action versus no explicit linkage, inviting social actors in place of no previous explicit invitations, and clearly aiming to develop a learning culture where such intentions were only tacit thus far. Basically, the intention of the OMC is to coordinate a learning process at the European level in order to spur an exchange and use of best practices, where benchmarking and management by objectives is encouraged by adapting European guidelines to national contexts (Rodrigues 2001). In addition, OMC can be combined or supplemented with other methods, such as the use of 'hard' law. It therefore offers flexibility, by proposing guidelines that are implemented by member states according to their own preferences. It operates in a decentralised way, where collective work brings together multiple types and levels of actors. The procedural routines foster learning and sharing of knowledge, and the lack of formal sanctions as replaced by peer assessment contributes to the learning and the spread of best practice (Dehousse 2002). Gradually, the OMC has been adapted to other policy areas, such as poverty and social inclusion, pensions, research and development, education, and migration (de la Porte and Pochet 2002b).

Employment themes developed over the years continue at the 2001 summit in Stockholm which was the first of the Annual Spring Meetings on economic and social questions. It restated that economic, employment, and social policies are related and mutually reinforcing, and further committed to full employment, especially facing the challenge of ageing population. The European Council has proposed the attainment of

intermediate targets for employment rates 67 per cent overall and 57 per cent for women by 2005, and the raising of average employment rate among older men and women (aged between 55 and 64) to reach 50 per cent by the year 2010. In essence, better working conditions contain equal opportunities for the disabled, gender equality, flexible work arrangements enabling reconciliation with personal life, lifelong learning, health and safety, worker involvement and diversity (European Council 2001).

Further progress explicitly furthering gender equality was made at the Barcelona Summit in 2002 where the theme of active welfare state encouraging people to work became dominant because employment was regarded the best remedy for social exclusion. The Lisbon goals can be achieved only by balancing economic and social efforts, while employability and activation continue as the main components of the strategy together with lifelong learning, quality in work, and gender equality. In addition to active ageing an important advancement was the establishment of childcare provision goals to reach at least 90 per cent coverage for children between three years old and school age, and at least 33 per cent for children three years of age and younger by the year 2010 (European Council 2002). This step enters the domain of work and family reconciliation and gives it quite concrete contours by providing specific goals and a timeline. This policy direction is a good example illustrating that a ‘softer’ method can reach an agreement in a case where the application of ‘hard’ law is limited.

The subsequent 2003 European Council meeting in Brussels noted Europe’s slowdown in growth and job creation, but reiterated the commitment to deliver reforms across the three dimensions of the Lisbon strategy. The Council pointed to the positive developments of the EES since its launch in 1997 and decided to make the Lisbon strategy simpler to achieve better implementation. The Council proposed to set up a European Employment Taskforce in charge of defining practical, direct, and effective reforms that would enable all member states to implement the revised strategy for employment. The four pillars of the employment guidelines set up in Luxembourg were changed into three overarching objectives of full employment, improving job quality and productivity, and strengthening social cohesion and inclusion (European Council 2003). The new, streamlined guidelines are defined within a time span of 2010 and stable until a mid term review in 2006 (CEC 2003b). The guidelines for 2003 are outlined in Table A8 in the Appendix. In the streamlined EES, equal opportunities between men and women no longer feature as one of four pillars, but as the sixth of ten guidelines. Again, member states are required to adopt a gender mainstreaming

approach across each of the ten priorities in addition to the sixth guideline. Steps are to be taken to encourage labour force participation of women, substantially reduce gender gaps in employment rates, unemployment rates and pay before the year 2010. Furthermore, the reconciliation of family and work life is stressed by encouraging sharing of responsibilities and assisting in return to work after absence, as well as reinforcing the childcare goals defined in 2000 (European Council 2003b).

The European Council meeting in Brussels in 2004 noted a mixture of success and failure in evaluating the four-year progress of the Lisbon Strategy. Although the goals and the process remain valid, the speed of reforms at the member state level must be increased to achieve the specified targets by the 2010 deadline. The Council pledged political will and capacity of Europe to fulfil its potential, where the delivery of more and better jobs is still the most urgent issue, and gender mainstreaming contributes to the achievement of the Lisbon objectives (European Council 2004). A five-year evaluation of the Lisbon Strategy pointed to need of refocusing the Strategy. Consequently, the EES has been reformed once again. In 2005, the guidelines for employment policies were merged with the broad guidelines for economic policies. Together these formed the Integrated Guidelines for Growth and Jobs for 2005-2008 (IGGJ) (CEC 2005c). Out of 24 guidelines, 17 to 24 are employment specific (see Table A9 in the Appendix).

Table 5 Evolution of Gender in the EES Guidelines 1998-2005

Goals and Quantitative Targets of 1998 Guidelines	2003 Reform	2005 Reform
Equal opportunities pillar (4)	Gender equality guideline (6) + gender mainstreaming	Gender mainstreaming
Reduce gender gap in unemployment rates by increasing employment of women	Encourage female labour market participation, achieve reduction in gender gaps: pay, employment, unemployment; achieve by 2010: 60% female employment	Increase female labour market participation, achieve reduction in gender gaps: pay, employment, unemployment; achieve by 2010: 60% female employment
Raise access to care services where needs are not met	To provide childcare by 2010 to at least 90 % of children between three years old and the mandatory school age and at least 33 % of children under three years of age	To provide childcare by 2010 to at least 90 % of children between three years old and the mandatory school age and at least 33 % of children under three years of age
Examine/ eliminate obstacles to return to paid workforce	Encourage sharing family and professional responsibilities and facilitate return to work after absence	Put in place right conditions for moving back to employment after a break

Source: based on the 1998, 2003, and 2005 Employment Guidelines
http://ec.europa.eu/employment_social/employment_strategy/guidelines_en.htm

The new format ceased to dedicate a separate guideline to gender equality, but kept the previously specified commitment to reduce the gender pay gap, and quantitative targets for the increase of employment rates (overall, female, older workers) and for the provision of childcare (see Table 5). Moreover, equal opportunities and fighting discrimination were noted as essential for progress, while gender mainstreaming and the support of gender equality should be ensured in all action. Procedurally, based on the IGGJ national governments are to produce National Reform Programmes (NRPs) replacing the NAPs. The NRPs are drafted to cover three years, but can be amended by member states each year. Governments are required to submit annual implementation reports, which are then analysed by the Council and the Commission, and finally the Commission issues an annual progress report (CEC 2005c).

Considering the overall development of the content of the EES, there are no fundamental modifications. The EES covers a wide spectrum of policies and encourages reforms of varying degrees. The attention to unemployment and employment rates has been consistent, and understood in the context of social cohesion and social exclusion. A change in the understanding of 'employment' can be detected, where initial stress on job (worker) flexibility has been supplemented with the notion of job security, and for the same reason, the quantity of jobs is accompanied by their quality (Jenson and Pochet 2002). There also is a growing emphasis on the upgrading of skills, participation in training and lifelong learning to assist existing and potential workers in active participation in a modern economy. The nation states and the social partners are invited to contribute to the upgrading of the human resources, and thus focus on the supply side of employment. Similarly, measures addressing the tax wedge on labour, contributing to making work pay, and increasing the attractiveness of jobs deal with the demand side of employment. Nevertheless, as Table 5 details, the various reforms brought mixed results in the attention to gender. The attention to gender equality enters explicitly in 1994 and slowly develops over the years, but this progress has been uneven. Lewis (2002) argues that the reorientation from the traditional male work-welfare model towards one of activation and responsibilities is simply generalised to women and ignores the gendered division of caring. However, at the EU level with its emerging stance on family and work reconciliation policies this claim has to be modified. There may be a different stress put on activation than reconciliation, but as this chapter shows, it is not the case that there is a complete lack of recognition of gender issues associated with the increase

of women's labour market activity. The equal opportunities perspective is seen as a crucial component of an effective employment policy regime and the full employment goal (Rubery 2001). Clearly, the forms of employment activation need to be contextualised and promoted in order to increase not only employment rates but also to lower the rates of various social risks. This is important as not all employment brings equal benefits. Flexible forms in particular carry positive and negative aspects of women's labour force participation. For example, self-employment may result in higher gender segregation, where women constitute a larger share of low-end employees, and are more exposed to the individualisation of market risks associated with the withdrawal of the family wage (Gottschall 2002; Gottschall and Kroos 2007). Flexible employment may contribute to the full employment objective, but segregation or precarious working conditions may impact negatively on attaining social inclusion (Rubery 2001). Within the EES, on the one hand, specific targets relevant to women's employment have been agreed on, such as the desired employment rate, or childcare services development. The provision of specific targets will potentially bring positive results as the nation states will have to consider these in their policies and can be evaluate on progress made or targets reached. On the other hand, the visibility of gender has been reduced by first eliminating the pillar structure and then by removing a separate gender equality guideline, retaining the gender mainstreaming requirement.

4.2.1 Gender Mainstreaming

The concept of gender mainstreaming was popularised by the 1995 United Nations Beijing World Conference on Women, in which the European Commission took an active part (Pollack and Hafner-Burton 2000) and understood its responsibility to implement the strategy (Rubery 2003). The approach was formally agreed to in 1996 when the European Commission issued a communication titled 'Incorporating Equal Opportunities for Women and Men into All Community Policies and Activities' (CEC 1996). The method prescribes an organized incorporation of gender issues in all policies, activities and governmental institutions. More specifically it:

Involves not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising 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 situation of men and women (gender perspective). This means systematically examining measures and policies and taking into account such possible effects when defining and implementing them.
(COM (96) 67final)

Thereby, the gender aspect is advocated to be a part of every EU policy process and must be considered and applied by all actors. Its legal base is established in the Amsterdam Treaty in the Articles: 2 on the promotion of equality between men and women, 3 on the elimination of inequalities; and in Article 23 (1) of the Charter of Fundamental Rights of the EU on equality in employment, work, and pay (based on http://ec.europa.eu/employment_social/equ_opp/gms_en.html 2005). In spite of its sound base, gender mainstreaming is not subject to legal enforcement mechanisms, as is the case with the equal opportunity directives. Gender mainstreaming moves beyond regarding equality in terms of equal treatment or equal opportunities, towards taking account of the gender impact of policies (Beveridge et al 2000; Pollack and Hafner-Burton 2000; Rees 2002; Rubery 2002). Whereas equal treatment assumes the *sameness* of women and men, and gives them the same rights, the equal opportunity approach assumes both a *sameness* and a *difference* between women and men, and relies on positive action to remedy the initial imbalances faced by the sexes. So far, it has not achieved this. As a new approach to equality, gender mainstreaming is rooted in the politics of difference, but shifts the focus from individuals and their disadvantages or rights to the systems or structures creating the imbalance (Rees 2002). To mainstream gender implies that not only should women's roles and behaviour be analysed, but also those of men in a long term and comprehensive manner. The method does not rest on adding women on to the existing context, but seeks to change that context and to facilitate women's and men's rights and obligations (Bretherton 2001; Rees 2002; Rubery 2002). It involves a complete re-evaluation of policy goals and implementation, and by applying it to policy-making in all spheres, gender mainstreaming can eventually contribute to changing gender relations in economic, social, and private domains (Liebert 2002; Rees 2002; Rubery 2002). The implicit goal of the approach is the restructuring of the traditional male breadwinner models assumed under the current employment systems and welfare regimes to better reflect the changing society as represented by the increased prevalence of dual earner models or single parent households (Rubery 2002). Therefore, the objective goes beyond giving women access to the labour market as it aims to transform the economic and social structures reinforcing the labour market system. It is also argued that while its application to tools and procedures is making progress, its conceptual or theoretical dimension is underdeveloped and from the point of social change, limited (Daly 2005).

The clear stress on gender equality attainment in EU-level legal texts and the requirement to take gender into account by all actors in all policy fields certainly displays a mobilised effort promising progress in that area. However, the gender mainstreaming approach has several potential ‘political will - type’ hurdles to overcome if it is to be used in policy-making and implementation. One is at the inter-governmental level of the Council where policy proposal must secure the support and a sufficient number of votes from the national governments. The next is at the supra-national level of the Commission, where most of Directorates General are inexperienced in applying gender perspectives. Another one is located at the level of the member states where the provisions of the EU are met with different degrees of commitment (Pollack and Hafner-Burton 2000; Liebert 2002; Daly 2005). Lower levels of government and social partners form further prospective barriers. Therefore, the mainstreaming method is a demanding exercise, as it requires from policy makers the adoption of a new political perspective. In addition, there is a need for conceptual change as in the acquisition of new expertise by training officials whose knowledge lies outside of gender issues, and the change of working methods as through the collection and consideration of sex disaggregated data or other specialised measures (Pollack and Hafner-Burton 2000). Consequently, assessing gender mainstreaming throughout all EU level policy-making yields various results. The strongest success of the Employment DG is contributed to the well-developed mobilizing structures in the form of women’s networks around equal opportunities, and to the unit’s primary responsibility for gender issues (Pollack and Hafner-Burton 2000). Its application at the domestic level is likely to be as uneven.

Worth mentioning is that the strategy of mainstreaming gender into policy-making and implementation has attracted some criticisms. It is feared that this tactic may lead to reducing positive action, to abandoning the creation of legally enforceable rights, or that the whole process takes on an integrationist form whereby a gender perspective is incorporated into existing policy process without changing the primary goals of the EU from a gender perspective (Pollack and Hafner-Burton 2000; Daly 2005). Gender mainstreaming is then considered complementary to specific gender equality policies, as gender equality measures start with a given gender gap and introduce ways of closing it, while gender mainstreaming begins with a given policy and introduces a gender perspective (Rubery 2002; Daly 2005). Although gender mainstreaming is a long-term process, and will continue to deliver a combination of triumph and failure, rather than quick results. Certain policy focus developments can be

detected already at the national level. In various countries gender mainstreaming policies emerge alongside equal treatment and opportunities measures (Daly 2005). The presence of gender mainstreaming and gender equality approaches in the NAPs for employment have been positive because certain countries, to various degrees, have put gender equality on the agenda by establishing mainstreaming mechanisms, improving infrastructure for gender equality, and making gender issues more explicit within the employment strategy (Rubery 2002). The Nordic states appear the champions in mainstreaming gender into various policies (Rees 2002; Rubery 2002) with Sweden being the only state that integrates gender equality across the full spectrum of procedures, policies, and administrative levels (Daly 2005).

4.3 Assessing the Europeanisation of Employment Policy

As Chapter 3 established, Europeanisation of national employment policies is difficult to gauge and it is not always easy to determine whether actions taken by member states would have happened without the influence from the EU. In the case of ‘hard’ law and its reliance on the directives, this task is a little more straightforward as nation states are required to make changes in response to EU demands. With the ‘soft’ law approach prominent in the EES, this is trickier. The description of the birth and progress of the EES reflects the aim of raising legitimacy of the Community action in employment by respecting national diversity, in advancing the attainment of the European social model, and inspiring the efficiency of employment policies at the national level. However, can the EES influence domestic policy change? After all OMC does not employ standardized rules or sanctions as the European Council’s recommendations are not legally binding, countries are not required to converge onto common objectives in an identical way, and multiple actors and multilevel governance render the policy-making process complex and clumsy (Goetschy 1999; 2003). Still, member states are obliged to participate in the process, study each other’s experiences, engage in dialogue, and may use solutions developed by others in national policy-making (de la Porte and Pochet 2002a; Trubek and Trubek 2003). Therefore, various mechanisms contribute to the impact of the EES, not in the least the EES institutionalisation through the provision of legitimate space for the participation of actors and their ideas and its cyclical process and relative constancy (Dehousse 2002; Jenson and Pochet 2002; Goetschy 2003). This forum allows for a number of instruments to facilitate impact: the input of social partners and civil society; the greater involvement of the member states in the rule

making process; technical expertise and the development of indicators for comparisons, evaluations and benchmarking, serving as common knowledge base and enabling dissemination; the emergence of Euro-discourse - the common language developed through the process; the development of a common way of thinking about employment; and the use of recommendations (Goetschy 1999 and 2003; Jacobsson 2001; Jenson and Pochet 2002; Knill and Lenschow 2002; Liebert 2002; Trubek and Trubek 2003).

In a review of the first five years of the EES the European Commission concluded that the strategy brought about significant policy change. While recognising the difficulty of establishing clear causality or the degree of influence, the evaluation stresses that there has been a 'significant degree of convergence of national employment policies towards the objectives and the guidelines defined under the EES' (CEC 2002a: 7). Among others, gender mainstreaming has been used in tackling various gender gaps and in providing childcare services to facilitate a better work and family life balance. The Employment and Social Policy Council also evaluated the EES in positive terms, confirming its impact in the context of economic growth and downturn and reinforcing the need for a stronger coordination between the social and economic dimensions (European Council 2002). The employment rate has gone up since the EES was introduced, the overall employment rate for EU-15 increased from 60.3 per cent in 1996 to 64.3 per cent in 2003; the average employment rate for women improved from 50.2 per cent in 1996 to 56 per cent in 2003. For EU-25 the corresponding numbers look somewhat lower, reaching in 2003 the rate of 62.9 per cent overall, and 55 per cent for women (CEC 2004c).

Moving to the national level, the successive EU Joint Employment Reports, evaluating NAPs, point to both shortcomings and achievements of individual states. A common criticism of the OMC is that it does not have a substantive impact (Zeitlin 2005) and that the EES is not yet well integrated into national or sub-national systems of labour market policy-making. The problems included consist of the uneven attention given to the four pillars, as more attention focused on employability and entrepreneurship and less on adaptability or equal opportunity (Jacobsson 2001), as well as the inadequate coordination among them, or slow policy progress in cases of the national teams having to specify their own targets (Goetschy 2002). The OMC has proved its contribution in facilitating partnerships and new working methods, and the participation of social partners at national level (CEC 2002a). Although the EES framework encourages the input of social partners at all phases, in most cases, the NAPs

are more governmental and relevant to a small number of ministries and officials than jointly created papers and thus social partners' participation seems inadequate (Jacobsson 2001; Goetschy 2003; de la Porte and Pochet 2004).

What can be established as the clear influence of the EES is member states' action in equal opportunities policies, especially in those countries where commitment to gender equality in public policy did not exist previously (Rubery 2002). The EU level strategy gave gender equality an impetus, especially by mainstreaming gender throughout the guidelines from 1999 onwards. Although gender gaps persist, progress has been made in employment and unemployment rates, labour market segregation, wages, and reconciliation of work and family life. More concretely, the employment rate of women increased (as mentioned above) and the gap in unemployment diminished from 12 to 9 per cent (CEC 2002a). Given the remaining gender gaps in all work related dimensions, further progress is called for, especially since member states do not sufficiently address the underlying factors of work related gender gaps (CEC 2004b). Nevertheless, the EES influence works through the equal opportunities pillar, the gender mainstreaming strategy of all the pillars, and through the recommendations of the Council related to equal opportunities reforms (Rubery et al 2003). In fact, equal opportunities pillar did lead to significant outcomes, where several member states attributed to the EES the setting up new institutions or reinforcing existing gender equality units within governments, or through the spreading of good practice. Thus, the EES not only succeeded in placing gender equality on the EU level, but also on the agenda of national governments. Interestingly, the degree of change on the national level is differentiated by the political commitment of the ruling party (Rubery 2003). Where change can be detected, most positive results are in the areas related to the supply side of labour. This includes: access of women to active labour market programmes, a more gender neutral tax system aiming at eliminating disincentives to women's employment, assistance to women entrepreneurs in setting up businesses, childcare provision, leave entitlements, and to a lesser extent in labour market segregation and pay differentials (Rubery 2002; 2003). Conversely, effective implementation of the gender mainstreaming principle is far from being realised in all member states, and only a few engage in sufficient monitoring of the gender equality policies' effects (CEC 2002b). Little progress has been achieved in equal opportunities in lifelong learning, or in areas pertaining to working time, flexibility and work organisation. Despite the attention given to the reduction of the gender pay gap at the

EU level, the member states have not matched this commitment on the national level (Rubery 2002; Goetschy 2003).

Further analysis suggests that aside from certain advantages of the EES to gender in social policy, there are some limitations attached to the process. For example, the lack of a specific description of what a more equal society means together with the OMC procedure of accounting for national contexts may lead to multiple solutions and without common criteria there is a risk of failure of the peer review process (Rubery 2003). A further deficit is a potential conflict of equal opportunity policies with the EES as a whole. To achieve gender equality a transformation of the labour market is needed, especially in relevance to pay, working time, or segregation. Where a changed behaviour of employers or labour unions is called for, “the EES is in effect powerless, and there is no general consensus that the EES should ‘intervene’ in areas deemed the prerogative of social partners and in particular of management” (Rubery 2003: 11). Therefore, without a strong involvement of the government, the prospect of workplace level change is dim. Another weakness lies in the commitment of certain political actors, especially changing national governments that influence both the national and the supra-national levels (Rubery 2003). Gender equality is a divisive political issue, and based on political alignments governments vary in their attitudes towards it. Yet another shortfall in the progression of the equal opportunities agenda is the lack of awareness and knowledge on the side of policy makers and analysts (Pollack and Hafner-Burton 2000; Rubery 2003).

Taken as a whole, the shortcomings of the OMC process, and by extension the EES, refer to procedural drawbacks related to limited transparency, lack of broad participation, insufficient integration into domestic policy-making, and inadequate emphasis on mutual learning (Zeitlin 2005). However, this negative assessment has to be set against the theoretical promise of the method. When compared to the ‘hard’ law tradition, the OMC has to be evaluated in tones that are more positive; it allows for a broader political space than the traditional Community method. If member states do use it in a systematic manner, it could be a useful addition to the traditional modes of governance, and could become an adequate European level response to national welfare state pressures (Scharpf 2000). The application of the OMC in the area of employment is not yet a mature procedure, and the question of its ultimate success remains open, especially in an enlarged EU composed of a very diverse group of now 27 states.

4.4. EU Enlargement, Employment Policy, and Gender

In the context of formal commitment to gender equality at the EU level, accession policies towards Poland (and other candidates) do not place a strong emphasis on gender. The Copenhagen European Council in 1993 developed a set of accession criteria for the CEE countries, which contained the achievement of a stable democracy, a functioning market economy, and the ability to adhere to the political, economic and monetary goals of the EU. All candidate countries were required to adopt and implement social, economic, and legal sections of Community legislation, the *acquis communautaire*, expressed in the Treaties, secondary legislation and the policies of the Union. Part of the legal *acquis* is social dialogue as it features in the texts of several directives, including those on labour law and discrimination. If functioning well, social dialogue and the involvement of social partners has the potential to become an effective tool for governing social policy (Vaughan-Whitehead 2000).

A broad pre-accession strategy was adopted at the Essen European Council in December 1994, and the Commission's White Paper (COM 95 163) on the preparation of candidate countries for integration into the internal market constituted part of it (CEC 1995). The document aimed at guiding the alignment of legislation in the fields of competition, social, and environmental policy in a 'balanced approach'. Social policy matters were discussed in an appendix and feature equal opportunities for men and women as one of five topics. Consideration of social policy within the White Paper focused on legislative aspects and the minimum provisions needed for internal market functioning (CEC 1995), making them subordinate to the economic theme. Nevertheless, the Paper stresses that the equal treatment directives are central to the internal market, describes the directives in force to the day, and underlines the fundamental importance of the principle of equality between men and women. The document also urges correct implementation of these directives allowing individuals the pursuit of their rights through an appropriate administrative or judicial system. It proposes the establishment of an administrative body within the national government with competencies of implementation and supervision of equality law. The document recognises that the system transformation in the CEE region caused a weakening of women's labour market position and urges the involvement of NGOs and trade unions to commit to equal rights (CEC 1995). Overall, while economic issues are prioritised within this Paper, the equality rhetoric is unambiguous.

In 1997, the Commission issued an 'Agenda 2000' communication outlining a strategy of recommendations for the enlargement of the EU and providing an Opinion document for each applicant state. The Opinion on Poland concluded that –regarding equal opportunity – the basic provisions of non-discrimination law between women and men were already reflected in legislation, although this principle is not always respected. The document briefly noted the considerable difference in pay between women and men and prompted for a legal regulation of parental leave (CEC 1997). Overall, the issue of gender equality was given very little attention in the Opinion on Poland or other applicant states. The lack of emphasis on gender in the Agenda 2000 has produced fears that the enlargement would weaken the EU social policy (Bretherton 2001).

The Nice social agenda (2000) suggested that the CEE states take on a strategic approach to employment policies corresponding to the EES. The candidates started participating in the EES through the Joint Assessments of Employment Policy Papers in order to align national employment policies with the EES (CEC 2004). First, the DG EMPL and the Polish government engaged in a policy review and have developed a Joint Assessment of Employment Priorities in Poland (JAP 2001) signed in January 2001 by the Minister of Labour and Social Policy on the Polish side, and by the European Commissioner for Employment and Social Affairs on the EU side. The document identified the most urgent labour market policy issues and agreed on a number of goals to adapt the national system towards participation in the EES. Among the concerns identified in the JAP is the existence of 'significant inequalities of opportunity as between men and women in the labour market (...) reflected in higher female unemployment (particularly long-term unemployment), and in the relatively lower earnings of women. These differences persist, despite generally higher levels of education among women than men' (JAP 2001: 12). Furthermore, the document calls to take gender inequality into account in labour market policy approaches. The assessment of the equal opportunities area led to recommendations of strengthening the anti-discrimination legislation by transposing the outstanding elements of the *acquis*, actively enforcing such legislation, and by the promotion of family-friendly organisation of work. The JAP concluded that equal opportunities formed one of nine labour market priorities needing reinforcement. In response to the realisation of JAP priorities, the Ministry of Labour and Social Policy has prepared two reports (2002 and 2003) listing various policy adjustments relevant to the transposition of gender equality

directives, executed by the reforms to the Labour Code and updating of legal acts (described in Chapter 5) and the establishment in 2001 of an equal status office (GPES). The 2003 report concluded that Poland has a system allowing the implementation of the EES, although it still requires reinforcement - foreseen in an Act on the promotion of employment and labour market institutions introducing more effective coordination mechanisms at local, regional, and national levels. The Commission's responses in the form of Communications on the progress in implementing the JAP (CEC 2003 d/e) echoed gender issues mentioned in the national reports, and did not elaborate on them.

By 2002 in the Barcelona European Council meeting the ministers of finance and foreign affairs and the heads of state or government from candidate countries participated to discuss the implementation of the Lisbon strategy. The Lisbon strategy was an incentive to implement major economic, social and environmental objectives in the candidate countries (European Council 2002). In addition, the representatives of the acceding countries participated in the European Council meeting in Brussels in March 2003. The acceding states were included for the first time in the Commission's Spring Report as they have begun implementing reforms and started participating in the OMC (European Council 2003). The accession countries were involved in the Employment Committee meetings and working groups as active observers until May 2004 in order to prepare for a full participation of 25 delegations after attaining membership in the EU (Employment Committee 2004). The new member states submitted their NAPs for the first time in 2004 (CEC 2004a).

The 2004 EU enlargement poses major challenges to the European labour market and employment policy. The employment situation in the accession countries has been much worse than that in the old member states bringing about more diversity and making unanimous decisions in the field of social policy by use of directives or regulations even more difficult than so far. Since OMC is a more flexible approach and thus inherently allows for greater diversity, with converging pressures alongside more unique solutions, it may prove a well-suited instrument in enlarged EU governance (Trubek 2003). Additionally, the EES, as part of the OMC, differs from the traditional Community Method of law transposition by its iterative character, medium term perspective, learning process, acceptance of diversity, lack of sanctions and thus may be advantageous to CEE states (Goetschy 2002). Arguably, the 2003 modifications of the EES placed the need on closer monitoring of reforms and were deemed adequate to face employment challenges in all, new and old, members by considering the greater

diversity of an enlarged EU (CEC 2004a). Shorter, more focused and strengthened recommendations have been designed to support reforms in the ten new member states and the ESF resources for the years 2004-05 allocated to facilitate them (CEC 2004b). In 2004, the European Commission identified the employment priorities for new member states. In light of the very difficult labour market situation in Poland, where the employment rate is among the lowest, and the unemployment rate among the highest in EU25, action in the areas of worker and enterprise adaptability, attracting people to the labour market, and human capital and lifelong learning investment were seen as most important. Women, as a separate labour market group, were mentioned only by noting their low employment and the need to improve access to part-time work (CEC 2004a).

4.5. Overview and Concluding Remarks

This chapter described European employment policies and their range of impact, from demanding compliance (by prescribing specific institutional developments in member states – as in the case of directives), through changing domestic opportunity structure – (via providing material and non-material resources), to influencing domestic beliefs and expectations without particular institutional impact (by engaging actors in iterative policy cycles enabling learning and transfer, like the EES). Consequently, assessing the development of labour market gender equality in the context of ‘hard’ and ‘soft’ law developed in the EU demands a nuanced approach. Taking a historical view reveals definite progress, as attention to gender in policy and law has increased over the years, both in its scope and scale. EU directives progressively cover wider areas related to the employment of women and men, and as such, touch on associated spheres like social insurance or family policy. The EES takes this even further. In addition to policy areas traditionally regarded as gender relevant, now all other matters are subject to the gender mainstreaming requirement. It is yet unclear whether gender mainstreaming can successfully replace the more specific action contained in the gender equality pillar or guidelines, as so far there has been limited success. Looking at the weight given to gender in EU labour market policy cross-sectionally, taken in the context of all other policy objectives it paints a more modest picture. The relationship between women’s formal employment and informal caring work has entered the policy debate, but the imbalance towards the economic dimension still remains. Other policy goals come to the fore, like more employment creation via strong economic growth, flexibilisation of labour market regimes, or increased competitiveness of enterprises and workers. These

policy objectives are not necessarily incompatible with labour market equality, but if pursued carelessly they may contribute to further increasing gender (and other) gaps.

All in all, the various EU institutions have declared a commitment to achieve gender equality, and urge individual member states to step up their efforts towards the attainment of this goal. The most recent example comes in the form of the 'Roadmap for equality between women and men 2006-2010' (CEC 2006b), which identifies the main areas of action for gender equality. These are: 1) achieving equal economic independence for women and men; 2) enhancing reconciliation of work, private, and family life; 3) promoting equal participation of women and men in decision-making; 4) eradicating gender based violence and trafficking; 5) eliminating gender stereotypes in society; 6) promoting of gender equality outside the EU, reinforcing the Commission's commitment to gender equality, and putting a strong emphasis on the member states to deliver on this demanding strategy. For Poland, the transposition of directives and participation in the EES introduce new rules into the national policy-making game. The first approach fosters the inclusion of EU level gendered thinking into domestic policy, and can be regarded as a formal norm change. The second, through its iterative action, may contribute to norms change and their eventual institutionalisation, either via internalisation or through rational calculation of the benefits of the new norms.

V. WOMEN AND THE LABOUR MARKET IN POLAND: A CENTURY OF PROGRESS AND REGRESS

In order to understand the current peculiar labour market situation and the development of policies in Poland, it is helpful to gain an appreciation for the historical development since the inter-war period by beginning the analysis in 1918 at the end of the First World War (WWI). I do not treat the era preceding WWI in detail as Poland for many decades was not a sovereign state. The country was partitioned three times between 1772 and 1795 by Austria, Prussia, and Russia, and each part of the Polish territory was subject to different political, legal, administrative, economic and cultural arrangements and developed in diverging ways. Only in 1918 Poland regained independence and embarked on a reconstructing process making this period formative for public and private life. Despite the gradual integration of the three systems, quick convergence of the regions was not attainable as many differences remained in place for years, and some (for example the degree of industrialisation) persist to the present day. The implications of such lack of cohesion point to the uneven conditions citizens faced over the decades. Bearing this differentiation in mind, however, this chapter describes the issues related to gender and the labour market in general and encompassing terms. A common background to this variation is the phenomenon of *Matka Polka* (Polish Mother) which emerged over the years and by the time Poland regained independence was firmly institutionalised at the societal level. This model, supported by the Catholic Church, assigned to women a mission to preserve and pass on to younger generations the national language, culture, and religion. Several 19th century uprisings, their repressions, and ensuing emigration created a situation in which women had to fill the roles of their absent (imprisoned, killed, or expatriated) men. The term developed to describe an ideal wife and/or mother of a soldier fighting for the country's independence. This task called for self-sacrifice in the name of the family and the nation and women's private troubles took a back seat in return for high status and prestige. Family and the home became the bastion of nationalism and patriotism, and raising children became a political matter, giving women a new cultural, social, and political importance (Titkow 1995). The main motive for the action of 19th century women was political and nation-preserving in nature, but varied according to class. Women from the nobility and intelligentsia were busy with preserving Polish culture and education,

bourgeois women pursued economic independence, and peasant and working class women fought for elementary rights to national language and religious practices (Renz 2000). Thus, women of different backgrounds shared some common interests against the political oppression of foreign rulers, rather than in the fight against the economic and political power of men. This traditional view created very strong ties among the family, religion and the nation, while breaking out of them was a taboo (Pietrow-Ennker 1992 in Titkow 1995). The national cause hindered the emergence of emancipation, and various duties of *Matka Polka* did not leave room for activities oriented towards advancing women-only interests. The question of equality was important for a narrow group of female intellectuals, but their goals were subordinate to the national goals (Titkow 1995). A contradictory pressure can thus be detected, where on the one hand, women are confined to the sphere of the family and therefore to the private domain; and on the other, their mission is of national magnitude, and thus a very public matter. The image of *Matka Polka* is invoked in Poland until the present day.

This chapter's focus and weight given to the specific issues in the different historical periods varies. Information about the earlier times is less detailed and does not cover all the relevant aspects. Most is known about the current post-socialist period, especially in its comparisons and contrasts with the socialist phase. These latest years are also the most relevant for Poland's accession to the EU. Additionally, varying emphasis on the labour market and gender aspects is dictated by the course of history in which different events and processes come to the fore, such as class or the changing relevance of given actors. Hence, each part of the chapter corresponds to any other only to a certain degree. The following sections have been arranged in a chronological order organised into three main historical parts: the inter-war era spanning from 1918 to 1939, the socialist times between 1945 and 1989, and finally the post-socialist phase from 1989 onwards. That said, a couple of caveats apply. First, on the one hand the periodic breaks ordered by the historical events mark systemic changes that alter the overall formal structure of opportunities and constraints for the relevant actors, so investigating the different periods on their own makes sense. On the other hand, these demarcations seem arbitrary at times, because together with sharp breaks there are numerous examples of continuity. Consequently, processes which began at one period and are uncharacteristic of that period continue into the next one and flourish there. Or vice versa, trends that were expected to arise at the transformation points came to the fore only several years later or not at all. Secondly, the themes refer to the labour market

position of women sometimes in a more and sometimes in a less direct way. Each section provides specific data on how women have fared in the labour market and how their status is connected to other factors, be they policies, institutions, or actors. Each section contains a description of relevant actors on the socio-political stage and their stance and actions towards women. As such, the segments examine the role and the power of the state, women's organisations and women's position *per se*, the view of the Catholic Church, and the outlook and actions of trade unions. After positioning the main players, close attention is given to the labour market situation and women's relationship with it. More specifically, I consider the levels of employment and unemployment, the employment structure, the attainment of human capital, the degree of reconciliation of work and family life, the level of income and its impact on pension benefits, and finally gender based labour market discrimination.

5.1 The Inter-war Period

In 1918 state reconstitution began with the need of creating and implementing a new legal system that would apply to all parts of Poland based on German, Austrian, Russian, French, and Polish legal traditions. This diversity was typical of other aspects of the reconstructing nation, as the society was characterised by a complex structure of economically based classes as well as differences based on ethnicity or religion. At the summit of the social hierarchy was the landowning class, followed by the owners of large enterprises, the intelligentsia, peasants and, although later than in the West, rapidly emerging working class (Jasinska-Kania 1989; Żarnowski 1989). The lower strata, especially peasants, were immersed in fatalism of religious character and attached great value to solidarity with the extended family (Wyemann 1996a, based on Thomas and Znaniecki 1918-1920). Thus, familial ideology surrounding the *Matka Polka* ideal established a strong base throughout societal layers. Another legacy of the pre-1918 era was a gendered public-private division. In all regions of partitioned Poland women did not have political rights equal to men, were not allowed to vote or run in elections for positions within the public administration. Some limited public exposure was permitted, as (unmarried) women could teach or work as clerics. Working class and peasant women actively participated in the labour market, but generally not in other areas of public life. Additionally, legal barriers to education especially on the tertiary level made it impossible for women to obtain necessary qualifications to hold high public office (Pietrzak 2000). Such a matrix of legal, institutional, economic and

cultural arrangements was a challenge for the new state, made the more difficult by the relatively short time of the inter-war period lasting twenty one years and framed by two World Wars. Nevertheless, important patterns began to form in the state's regulation of citizenship rights; in the emergence and institutionalisation of public actors, like the state, the Church, organised women's groups and the labour movement; and in the labour market.

5.1.1 Actor and Power Configuration

The development of women's citizenship rights in Poland does not fit neatly with Marshall's (1964) progression of civil, political, and social rights from the 18th to the 20th century. In Poland in November of 1918 the temporary government in its first year of the functioning proclaimed full equality of all citizens, according women equal political rights with men confirmed by the Constitution of 1921 (Chyra-Rolicz 1993; Żarnowska 2000). Women took advantage of their newly gained right and exercised agency by taking part in elections. In January 1919 as many as 66.9 per cent of the female electorate went to the polls (Żarnowska 2004). Gradually, the new state introduced a range of legislative acts into the legal order, and their adoption was guided by the principle of equal rights for women and men. The hitherto existing formal restrictions to the participation of women in political organisations such as parties, trade unions or governing structures were removed (Żarnowska 2004), but the implementation of such acts was incomplete (Wawrzykowska-Wierciochowa 1963). Women's access to politics was mostly visible among leftist groups, as some women were active in socialist, communist or peasant parties, which were more receptive to their activism and issues (Wawrzykowska-Wierciochowa 1963; Chyra-Rolicz 1993; Titkow 1995; Śliwa 1996). Still, women's political power was much lower than men's as throughout the inter-war period only between 2 to 4 per cent of women were members of the lower (*Sejm*) and upper (Senate) houses of parliament (Pietrzak 2000; Żarnowska 2004). The average woman in the parliament had higher education than her average male counterpart and she more likely came from the nobility or intelligentsia elite, in contrast to the more varied background of male members (Śliwa 1996; Żarnowska 2000). Female members of parliament tackled spheres relevant to the care of mother and child, social care, health, alcoholism, education and culture (Żarnowska 2000). Thus, even the women who managed to venture beyond the private sphere of the home remained within the stereotypically feminine domains. Another indication of a

weaker political power of women is their absence in high governing posts throughout the inter-war period, with a single exception in the 1918 temporary government (Wawrzykowska-Wierciochowa 1963).

Considering the women's movement, since the beginning of 1918 women participated in various demonstrations throughout the country, but their activities did not make radical claims, concentrating instead on raising the economic status of women without breaking the ties with family life or without attacking the privileged position of men (Chojnowski 1996). The legacy of long lasting partition resulted in inexperience with democratic institutions, organisations, and parties. Nevertheless, women joined organisations of cultural, professional, or political character. Many of these were dominated by men and changing the existing power imbalance was practically impossible, so women began establishing own associations (Chojnowski 1996). In inter-war Poland anywhere between 42 (Renz 2001) and 80 (Wawrzykowska-Wierciochowa 1963) women's organisations brought together members of varied background and social status.

Participation in public life of peasant women was not common, especially in the first years of state independence. They did not take part in the socio-political life of the village, did not participate in local elections, and did not belong to local councils (Mędrzecki 2000). The 1930s brought about significant changes in the activities of peasant women with initiatives aiming at engaging them in public life, for instance through the Circle of Rural Housewives active throughout the country side. It was established in 1877 and initially operated on a small scale (Malinowska 2001) but became more systematic over the years and from 560 centres in 1929, grew to 4,200 in 1937 rising to a membership of over 100,000 rural women (Mędrzecki 2000). Other peasant organisations began to take interests in the problems of rural women in the 1930s, but the trend did not gain a broad base before the eruption of WWII (Mędrzecki 2000).

Women's civil rights lagged behind their political rights and for a number of years three different civil codes practised in Poland restricted women's parental and property rights or the right of married women to employment (Wawrzykowska-Wierciochowa 1963) affecting their social and economic citizenship. Some regions, e.g. Silesia, were still based on the old German regulations, and stripped women of their professional positions as soon as they married (Pietrzak 2000). Unsurprisingly then, most working women, 71 per cent on a national scale, were not married (Mierzecki

2000). A strong tendency towards labour market deactivation of married women can thus be observed.

Social citizenship, based on a range of rights connected to economic welfare and security (Marshall 1964), made limited progress. One important improvement was women's access to education. The Polish government made elementary education mandatory and lifted the formal barriers to higher levels of education. In practice, however, some university circles restricted women's attainment of higher degrees and the pursuit of an academic career and many tertiary level schools accepted males before admitting females even with better academic records (Wawrzykowska-Wierciochowa 1963; Żarnowska 2000). Nevertheless, in 1937 women comprised 45 per cent of general high school graduates, 50 per cent of graduates from vocational schools, 35 per cent of teacher college graduates, and 27 per cent among university graduates (Pietrzak 2000). Clearly, women's response to the expanded educational rights has been substantial as soon as the legal base allowed for this, and as further sections show, this pattern becomes increasingly strong. Another factor reinforcing women's citizenship is participation in public life and the labour market facilitated by social services, like childcare. Since married women and mothers were not expected to engage in the public sphere, or were actively discouraged from doing so, the network of nurseries and pre-schools did not develop. An estimate suggests that in 1937 about 83,000 children attended pre-schools (Kurzynowski 1979, based on Graniewska 1971). Consequently, most children were cared for at home by domestic servants or nannies in the higher strata of the society and by mothers themselves or other family members in the rest of the population.

The onset of WWI changed the conditions for women of all European states. With men drafted to fight in the war, urban and rural women were temporarily required to fill their places and take over their breadwinning role. While in some western states (e.g. England or Germany) women were able to improve their position as labourers, Polish women encountered more obstacles (Wawrzykowska-Wierciochowa 1963). The situation in the cities was difficult due to high unemployment and the closures of many workplaces: companies damaged by war activities or those that were non-essential to the war ceased to exist. In order to ensure survival many jobless working class women returned to villages (Wawrzykowska-Wierciochowa 1963). Practically, both forces toward women's labour market activation as well as their de-activation were at work. Legally, first acts relevant to women's employment emerged in Europe in the second

half of the 19th century. Protective legislation developed rapidly after the 1919 Treaty of Versailles, which outlawed gender based wage discrimination and established the ILO that already in 1919 passed the convention of maternity protection and prohibited night work of women (Pietrzak 2000). Poland, as a signatory to the Treaty, was obliged to adopt its domestic law to that of the ILO. Women and men gained the same rights in entering employment contracts, working and vacation time, workplace health and safety, and social insurance (Pietrzak 2000). Thus, rules in the Polish employment law reflected the international standard of the day. As Pietrzak (2000) lists, a legal Act of 1924 banned the employment of women under strenuous or dangerous conditions, granted working women privileges related to pregnancy and birth, or obliged firms employing over 100 female workers to set up a nursery. In addition, the constitution enabled women to enter a wider array of professional fields, such as the legal profession, with the first female nominated a judge in 1929 (Pietrzak 2000). Therefore, some progressive developments that occurred during the period cannot be denied. The actual situation was far from conforming to legal regulations and many workers did not benefit from the provisions of the law. Contradictory forces either promoted or blocked putting the law into practice. While the setting up of the Labour Inspection and the labour courts furthered the provisions of law, the precarious labour market conditions of high unemployment and the fear of losing employment influenced many female workers not to pursue their legal rights, and the new regulations met with resistance of employers (Mierzecki 2000; Pietrzak 2000) – a situation resonating in Poland today.

In addition to the activities of the state and organised women's groups, the Catholic Church occupies a dominant position within the Polish society and its views are of considerable importance to gender developments. During partitions the Church provided the only place in which Poles could affirm their common identity through religious practices (Borowik 1997, cited in Leszczynska 2002). In the inter-war period nearly 65 per cent of the population within Poland's borders were classified as Roman-Catholic, and the numerical domination was reinforced by the government enacting laws privileging Catholicism over the minority religions (Bardach et al. 1976; Darczewska 1989). Using their superior status, various bishops often pressured or intervened with the government and the relationship between the state and the Church was harmonious (Gowin 1999). Other actors of the public scene were not as complacent with the situation. The privileged position of the Catholic Church prompted criticism from socialist and peasant activists and politicians, as well as representatives of national

and religious minorities and secular intelligentsia circles (Gowin 1999). The Church was involved in the public debate over the proper role for women, pushing for strengthening the traditional image of a woman not independent from the family and society, but striving to be a good wife and mother and concentrating her work on the household (Chyra-Rolicz 1993; Wapinski 1996). Such an agenda was pursued both formally and informally. Formal political engagement was facilitated by its privileged position and by active engagement of clergy of all ranks in politics, where in the first years of independence 32 priests were members of the lower house (Kumor and Obertynski 1979, in Leszczynska 2002) constituting 7.2 per cent of membership compared with at most 4 per cent of female parliamentarians. An evidence of parliamentary power of clergy was the opposition of priests-MPs to amendments proposed by female parliamentarians during sessions revising the out-dated civil code (Śliwa 1996). Consequently, civil rights of women were limited, when the Church blocked modernization of marital and family laws (Bardach *et al.* 1976; Żarnowska 2000) reinforcing thus the subservient role of women and the traditional patriarchal order. The clergy also engaged with the political parties representing national and Christian values and debated widely in the press (Darczewska 1989; Gawin in Żarnowska 2004). Aside from this formal direct political pressure, the Church engaged in informal actions. Frequent were incidences of clergymen rousing communities against female teachers who were out of line with Catholic norms or who displayed signs of independent thinking (Wawrzykowska-Wierciochowa 1963) making Catholicism an influential force opposed to the professional development of women (Cala, in Żarnowska 2004).

Turning to the labour movement, since 1919 the law guaranteed freedom in establishing workers' organisations, and only a court order could dissolve such associations. In 1928 there were 328 labour unions with about 800,000 members (down from 1,400,000 in 1921) (Bardach *et al.* 1976). With the greater participation of women in the labour market various professional organizations began to associate women of different occupations, such as medical doctors, lawyers, nurses or sales personnel (Chyra-Rolicz 1993). Labour unions took up women's issues and represented them in the fight for the right of women to enter a wider range of occupations and for equal pay for equal work. These efforts resulted, among others, in an eight hour working day, women's work protection legislation and regulation of youth employment, as well as improving female wages in some workplaces (Wawrzykowska-Wierciochowa 1963).

Working class women could only improve their situation when they organised, but their participation in labour associations was much lower than that of men, where for example in one federation women comprised only 11 per cent of rank and file members, and in other unions the situation was judged similar. In the 1930s, when the government curtailed activities of most labour organisations, women's issues had to take second place to the question of unions' existence. Labour abandoned activities aimed at awareness raising among women or propagating equal rights (Wawrzykowska-Wierciochowa 1963). Again, during difficult political or economic conditions the goal of improving or reaching gender equality recedes on the list of priorities.

5.1.2 The Labour Market

After WWI, most European states experienced a rise in women's labour market participation. To a certain degree this trend also emerged in Poland, where the absence or incapacity of men facilitated women's entry into the traditionally men's domains of economic, social, and sometimes political nature, and broadened the number of occupations for women (Żarnowska 2000). The new environment affected all social strata as they engaged with the economic sphere either by running the family business or estate or by becoming an employee (Mierzecki 2000). Most of the available data on women's employment in this period refer to urban women, or those commuting from villages to cities. It is difficult to discern how many rural women were formally employed and how many would qualify as either working on a family farm or as 'inactive'. Still, it is important to consider peasant women as they constituted a sizeable proportion of the population. Inter-war Poland was dominated by agricultural economy, nearly 70 per cent of Poles resided in rural areas, and many of them were actively working in households and family owned farms (Mędrzecki 2000; Żarnowska 2000) with a clear majority of peasants working on their own small farms (Mędrzecki 2000). The countryside was characterised by a patriarchal structure, where younger generations were subordinate to older ones, women to men, and men dominated in representing group interests or in contacts with the outside world (Mędrzecki 2000). Work was traditionally divided into men's and women's tasks, with exceptions around WWI when women were required to replace absent men. Another facilitating factor for women moving into men's tasks was advancing agricultural technology. However, the opposite trend of men performing women's jobs did not take place (Mędrzecki 2000).

Examining non-agricultural employment, gradually more women entered the labour market. In the first ten years of the new statehood the number of positions for women doubled, especially in manufacturing, trade, and civil service (Żarnowska 2000). Still, women in formal employment were a minority among the overall female population, where in 1931 only 25.7 per cent of women were employed (compared with 62 per cent men), and women comprised just over 31 per cent of the non-agricultural labour force, with similar percentage of female employees in white and blue collar jobs (Mierzecki 2000; Żarnowski 2000). There are no grounds on which to conclude that the participation of working class women in paid employment was based on a conscious drive towards emancipation or furthering personal aspirations outside the family. Rather, their engagement with the labour market was fuelled by the poor financial condition of a working class family, and paid work was an additional burden to women taking care of households and children (Mierzecki 2000). Emancipatory or feminist movements among the working class were still inconspicuous, however, certain elements of this began to emerge among younger women whose main reason for employment was independence from family (Mierzecki 2000). Young women lived in a new political and legal framework with gradually improving equal opportunities.

As mentioned above, higher education institutions opened more areas of study to women, albeit rarely on par with men. Nevertheless, improved access to education led to the growth of women's employment in white collar jobs, especially at lower levels. For example, in 1936 in the state educational system women comprised 100 per cent of pre-school teachers and 50 per cent of elementary school teachers, but only 10 per cent in higher education (Pietrzak 2000). The higher the post the more limited was women's access to it. Another occupational area attracting women was health care. In 1939 over 15 per cent of medical doctors were female (Żarnowski 2000), while other professions became feminized already by the early 1930s with women comprising almost 70 per cent of dentists and 90 per cent nurses (Wawrzykowska-Wierciochowa 1963). It would seem women were making in-roads into a variety of professional activities.

Women's wages were lower than those of their male colleagues, even in similar positions they often earned about 40 per cent less. For women with higher education the difference in earnings was even more pronounced and reached 50 per cent, mainly because women did not have access to management (Żarnowski 2000). The situation of the working class women was similar, as their earnings were about half of men's pay. Even in the feminised cloth industry women's hourly wages were 70 per cent of men's.

The uneven contribution of men and women to the household budget did not challenge the dominant traditional male breadwinning model (Mierzecki 2000).

Thus the inter-war period brought about professional changes for women in the white collar employment, where more and more women entered a wider range of professions. The limited opportunities for professional advancement nonetheless restricted their possibilities and the overall level of women's employment remained relatively low (Mierzecki 2000). It was conditioned by the few opportunities to obtain professional qualifications, difficulties in obtaining jobs in the precarious economy, and by the low motivation of women themselves (Titkow 1995; Żarnowska, 2004). Women were disadvantaged as they were the first to be let go, even from administrative positions of the budgetary sphere (Wawrzykowska-Wierciochowa 1963). The situation of agricultural, domestic, or manufacturing workers did not change as much as that of the white collar sector and when it did it mostly responded to economic cycles versus a broader social change (Żarnowski 2000). Clearly, the male breadwinner model was dominant with women comprising the reserve army of labour. The shifting attitudes of the younger generation and the potential push for deeper change was not realised because in 1939 the WWII broke out and completely reshuffled the issues and players at stake. Evidently, the inter-war period was characterised by the discord between the formally equal political, economic, and educational rights and the actual situation of women (Titkow 1995). Despite more female participation in education, the labour market and political life, women did not manage to realize their full potential possible by the legal framework of the time and functioned in the environment filled with reactionary forces. The set of laws implemented by the state was mitigated by cultural traditions, weak economy, and a balance of power unfavourable to women's significant advancement.

5.2 The Socialist Period

The political and labour market situation of the various actors and institutions during WWII is not described here primarily because of the extraordinary situation caused by the war. What needs to be mentioned, though, is the interwoven cultural theme of the ideal of *Matka Polka* that was revived during WWII, and similar missions as in the past were taken up by women, as they participated in the resistance movement as nurses, messengers, soldiers, and clandestine teachers of Polish history, language, and culture (Renz 2001). After the war and the struggle for power between the Soviet loyal

socialists and West oriented or nationalist parties, a non-democratic political order was installed. The transformations that ensued were radical in all life areas and varied in their intensity throughout the whole socialist period, until 1989. The alien socialist state imposed new images and definitions of model citizens, including appropriate gender roles. In essence, women's civil, political, and social rights were strengthened to approximate those of men, although this took place in a non-democratic sense and constrained women and men equally.

5.2.1 Actor and Power Configuration

The socialist governments in Poland sped up the process of towards gender equality, especially in legislation. Between 1946 and 1964 they lifted many existing regulations that were based on biological differences between women and men and discriminated against women in the labour market (Zielinska 2002). The official ideology embraced emancipation of women and the various constitutions of socialist states, often modelled on the Soviet one, introduced a separate regulation defining equal status of women (Jackowiak 1994). In principle, the laws and regulations gave women rights equal to those of men, where all Polish citizens were able to participate in political, economic, and social spheres as well as all were guaranteed a right to employment, pay, time off, social security, and public office holding (Zielinska 2002). In some aspects the socialist state was more progressive or advanced than the capitalist West, as for example in 1952 the first constitution of the Polish People's Republic granted women the right to equal pay, while similar legislations were passed in western democracies several years later: in Germany in 1955, or in the United States in 1963 (Einhorn 1993). Constitutional rights in socialist countries were largely declarative since the possibilities of litigation were limited (Zielinska 2002). Moreover, Polish legal regulations still contained discriminatory rules, such as the law of 1974 on maternity and sickness benefits, which granted paid leave for childcare to fathers only if the mother was incapable of providing care herself (Fuszara and Zielinska 1995). Creation of such institutions as the Central Administrative Court (1980), State Tribunal (1982), Constitutional Tribunal (1985), Commissioner for Civil Rights Protection (1987) increased the potential mandate and capacity to engage in processes guaranteeing Constitutional rights (Zielinska 2002). International agreements ratified by Poland, e.g. the Human Rights Pact in 1979 or the Convention on the Elimination of All Forms of Discrimination against Women in 1982, served as an additional impetus to observe

equal rights (Zielinska 2002). Thus the machinery enabling the implementation of law was put in place rather late, which was not conducive to narrowing the gap between formal and factual equality.

Aside from rights drawing on the similarities between sexes, the state introduced protective regulation in labour law related to difference. Examples of such regulation are the prohibition of performance of certain jobs particularly strenuous or detrimental to health, or special employment arrangements for pregnant or breastfeeding workers protecting the employment contract during maternity and childcare leaves (Zielinska 2002). By and large, the socialist ideology stressed participation in work outside the home as emancipating, and as such supported women as paid employees (Piotrowski 1963; Hauser et al. 1993; Pascall and Manning 2000). However, this assertion must be qualified by two remarks. First, the right of all to work did not translate automatically into equalities surrounding work – for instance men were excluded from some benefits related to family care and women were barred from certain occupational categories. Second, the official stance promoted by the party, the government and the state controlled media, fluctuated from clear efforts towards the increase of active female employment and equalization of women's and men's positions, through indifference and no active promotion of any roles, and finally to the slow down of professional activation of women by stressing their family role of a mother, wife, and caregiver as paramount (Piotrowski 1963). In essence, the early socialist state concerned with rebuilding and industrialising post-war Poland, promoted an image of woman as an employee first, in the mid 1950s, there was a shift by emphasising women as mothers, while in the 1960s the government supported women's employment if the workplaces were not filled by men (Piotrowski 1963; Sokół 2000; Heinen 2002). Therefore, the state's instrumental treatment of gender resulted in certain inconsistencies.

Calls for women to combine family and work activities required the state to implement reconciliation measures. Endorsement of women's employment in combination with motherhood was realised through paid maternity and childcare leave, and by developing subsidised childcare. The particular legislation packages and the coverage of such institutionalised care varied together with the different commitment of political forces to the idea of professional activation of women as the state closely coordinated its employment policy with family policy (Piotrowski 1963). Childcare

centres were less numerous in Poland than in the nearby countries⁶, but still in 1974 they covered nearly 50 per cent of children between 3 and 6 years of age (see Table 6).

Table 6 Coverage of Institutionalised Childcare in Poland in 1960 and 1974

Category	1960	1974
Number of nurseries (0-3)	948	1153
Number of children in nurseries	92 543	155 194
Percentage of children in nurseries	2.6	4.9
Number of pre schools (3-6)	10 031	31 791
Number of children in pre schools	476 484	1 099 555
Percentage of children in pre schools	16.6	49.9

Source GUS 1975; and Heinen 2002 based on Uscinska 1986

Other state and work benefits, although not aimed at eliminating gender inequalities, did facilitate reconciliation of women's roles as mothers and workers by minimizing the conflicts between professional and family responsibilities. While the state encouraged reproduction and occupational activity among women, it did not entice men to share childcare and housework, upholding thus the traditional division of labour within family and employment (Łobodzinska 2000). The gender question officially treated as resolved, in fact remained unresolved and the patriarchal family order unchallenged (Pascall and Manning 2000). As a result, gender equality was incomplete and superficial, and was not fully reflected in practice nor extended to the private sphere. Although, at times the socialist state treated gender more decisively: in 1986 it established The Office of the Government Plenipotentiary for Women's Affairs, aiming at equal status in government, political, economic, social, cultural arenas. Thus, the socialist state has been much more involved in the advancement of women within society than the inter-war governments. It created a set of laws which reconstituted the balance of power among various actors. Despite major limitations, women have moved closer than ever to the gender equality ideal. In line with the communist ideology, barriers to women's work were lifted together with inequalities in marital law (Renz 2001). Also, access to education was made much easier and women have obtained relatively high educational levels. Already in 1968 women's educational achievements have surpassed those of men (Heinen 2002). Higher human capital did not lead to higher incomes and positions of authority (Hauser et al. 1993).

⁶ e.g. GDR childcare centres accommodated about 80% of children up to 3 years old and 90% of 3 to 6 year olds (in Makkai, 1994 based on Eberhardt and Heinen, 1993; and Szalai, 1991)

Table 7 Participation of Women in the Sejm in the years 1952 -1989

Years	Percentage Female
1952-1956	17
1956-1961	4.0
1961-1965	13
1965-1969	12
1969-1972	13
1972-1976	16
1976-1980	20
1980-1985	23
1985-1989	20

Source: Fuszara, 2000c

As detailed in Table 7, participation of women in the Sejm throughout the period ranged from a low 4 per cent to a high 23 per cent (Fuszara 2000c). Although the participation of women in the parliament was much higher than in the pre-war era, it is deemed that the tactic of placing women in such positions was used as propaganda to demonstrate the achievement of gender equality. Real power and decisions relevant to the way the state functioned were not the parliament's prerogative but that of the Political Bureau of the Central Committee of the Party in which women were not well represented (Dukaczewska-Nałęcz 2001). Hence, the public presence of the token woman here and there did not reverse the balance of power privileging male players. Therefore under state socialism, the tactics of open confrontation and free expression were not readily available and the civil society as a whole was repressed, even if the need to question the tokenism of the party was in women's interest. Thus, the opportunities for women to understand, articulate and openly challenge gender relations of the existing status quo were lost (Titkow 1993). Consequently, in spite of the wide gap between theory and practice in equal status between men and women, grass roots movement aiming for equality did not evolve in parallel with the developments in the West. As a result, a complex situation has emerged where the state's imposition of what was desirable in the public sphere again reinforced the traditional role of the woman from the pre-modern times. The tradition of woman as the keeper of the family cultural heritage, religion – continued privately in people's homes and churches. Faced with issues of unity and common political struggle, gender issues could be seen as either too small or divisive, and thus inappropriate to articulate (Siemińska 2000).

Over the years the socialist state artificially imposed feminist-like ideology from above. This was branded as leftist and for the most part did not acquire a positive denotation in the wider society. There were two major women's organisations in Poland: The League of Women founded already in 1913 (since 1983 The League of

Polish Women) and The Circle of Rural Housewives that continued its existence since 1877 and was legalised in 1957 (Malinowska 2001). These associations were among the very few permitted by the government and were influenced by the party and other national authorities (Knothe 1995). The League's major goals were to promote women in social, political, economic and cultural life while the Circle engaged in economic and cultural activities among rural women (Malinowska 2001). In the 1980s independent women's associations began to emerge, at first informally as they had to wait until 1989 for registration (Einhorn 1993; Malinowska 2001). This is one example of a trend, whereby an event develops in spite of the hostile conditions specific to the era in which it arises, transcends the sharp break in history, and flourishes in the subsequent era.

The favourable conditions the Church enjoyed previously have vanished. After the war Polish borders were shifted to the west and resulted in a much less ethnically and religiously diverse society – it became almost monolithically Roman-Catholic and such a base could prove a fertile ground for the religion to prosper. However, because the socialist state subscribed to the Marxist ideology of achieving a secular society, it did not continue the kind of a close relationship with the Church as the pre-war governments. While the Church in the preceding period occupied an advantaged social and political space, under socialism it was unable to influence public policy-making in the same vein. It did however attempt to do so, as in an example from 1946 when the Episcopate's office issued a letter criticising, among other issues, the new marital law (Leszczyńska 2002). Surprisingly, for a long time the issue of abortion has not been a prevailing theme of Church-state relations until it emerged in 1988 (Millard 1994). Only then did the Church become very active in bringing an end to the liberal abortion laws. At times a sharp conflict emerged between the Episcopate and the governing bodies (Darczewska 1989), and in the early 1950s the socialist government attempted to limit its autonomy. The Church responded with resistance and fostering a close relationship with the masses through regular religious practices (Gowin 1999). In the end the Church retained a great deal of independence from the political system (Dudek and Gryz 2002) and once again proved a strong symbol of communal identity that united Polish society where the connection of religion to the nation became one of the reasons why communist ideology was not accepted in Poland (Gowin 1999). The atheist politics of the state were always at odds with the religiosity of the society at large (Dudek and Gryz 2002). The authority of the Church increased in the 1980s during the conflict between the socialist regime and Solidarity. Numerous clerics cooperated with the

opposition and turned religious gatherings into manifestations of national unity. Subsequently, priests participated in the mediations between the government and the opposition leading to the Round Table discussions in 1989 and eventually to the systemic change (Gowin 1999). Thus, the power of the Church throughout socialism was officially weaker than previously, but because of its opposition to the imposed socialist system it has gained broad societal support. The Church managed to nurture its relationship with the people until the rise of democracy, when it again could claim a more prominent place.

When it comes to trade unions, socialist Poland supported one federation which grouped over 20 branch unions and associated all employed people resulting in a nearly 100 per cent union density (Gardawski 2002a). This model for associating workers was rejected in 1980 with the founding of Solidarity. Solidarity was the first country-wide autonomous trade organisation gaining a membership of anywhere between 7 million (Gardawski 2002a) and 10 million (Kramer 1995) workers and was not only independent of the socialist state but also initially formally recognised by state officials. A year after its founding, martial law was imposed and Solidarity and other associated organisations were outlawed and remained so until 1989. Despite its illegal status, the union continued some of its operations underground (Kramer 1995). Solidarity was more typical of a social movement than a trade union (Gardawski 2002a), thus its activities were not only worker related, but also politically oriented by mobilising to bring about a greater socio-political change. Other unions loyal to the government were allowed to exist throughout this almost revolutionary period, and in 1984 established an All Poland Alliance of Trade Unions (OPZZ) assembling over 100 federations and associating over 5.6 million workers, constituting 45.5 per cent of all workers (Gardawski 2002a). OPZZ seemed to recognise the importance of dealing with issues relevant to women as it established a Commission of Women from the onset of its existence. Its members were elected every four years and met every quarter. The same cannot be said about Solidarity, whose rank and file membership in 1980 constituted about half of women, while only two females were part of the 18 member Inter-Factory Strike Committee. Next year, at the first national congress only seven per cent of the delegates were women (Dukaczewska-Nałęcz 2001) although women were active during the underground operations of the union. The political orientation of the organisation may be among the reasons why women's issues were not picked up by the activists focused on matters of state democracy, at least initially. Another may be the

acceptance of the traditional patriarchal order surviving beneath the socialist propaganda. The orientation of Solidarity activists closely affiliated with the Church lends support to this thesis.

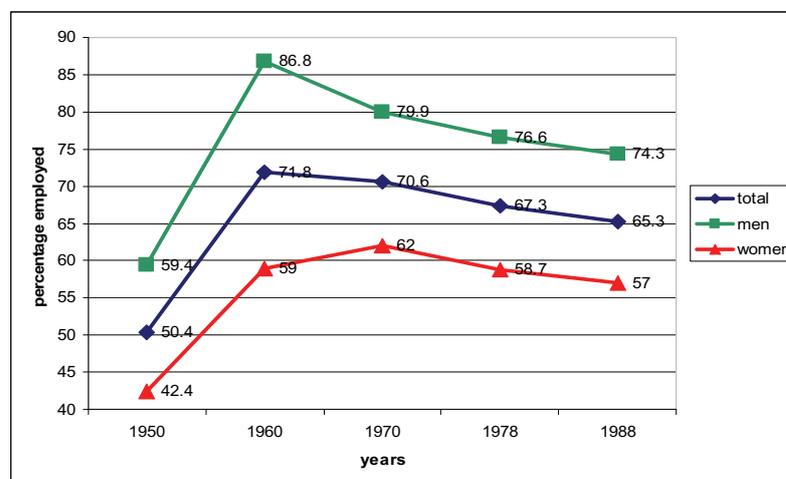
5.2.2 The Labour Market

Professional activation of women during socialism was achieved without their bottom-up initiative, but by the top-down pressure influenced by Marxist views that women's issues can be resolved through economic means and labour market activation is a necessary and sufficient condition for their emancipation (Einhorn 1993) and by the need for women's labour, where the re-building of the war damaged economy and the drive towards industrialization mandated an all working society with employment perceived as a civic duty (LaFont 2001). The command economy, characterised by low level and growth of wages and an excess demand for labour, resulted in labour shortages and no open unemployment (Brainerd 2000). These macro level factors were complemented by micro aspects, as from the standpoint of an individual or the family work was a necessity in the low income economy (Marody and Giza-Poleszczuk 2000). The pressures on women's labour force participation were egalitarian in character, as they affected women from all societal strata (Titkow 1995). On the whole, the employment of women was steadily growing both in numerical terms and as a proportion of the entire work force. In 1950 there were 1.5 million women working, while in 1974 the number reached 4.9 million (GUS 1975), while in relation to the entire workforce the percentages grew from 30.6 per cent in 1950 to 46 per cent in 1990 (Głogosz 2000; based on GUS 1998). Figure 6 illustrates the activity rates for the population of 15 years old and older, showing that overall employment peaked in 1960 at 71.8 per cent, while women's employment reached the highest point in 1970 at 62 per cent. And since unemployment officially did not exist, the specified activity rates reflect actual employment rates. Had the figures been limited at the upper end by the statutory retirement age, the percentages of the employed would have been even higher. According to census data the activity rate of working age women⁷ in the years 1950-1978 has grown constantly, from 63 per cent in 1950 to 73 in 1978, with an in-between peak of 74 per cent in 1970 (Kurzynowski 1986). Since part-time employment was rare, it can be said that the labour market activation of women was high, especially in

⁷ Age not specified by the author.

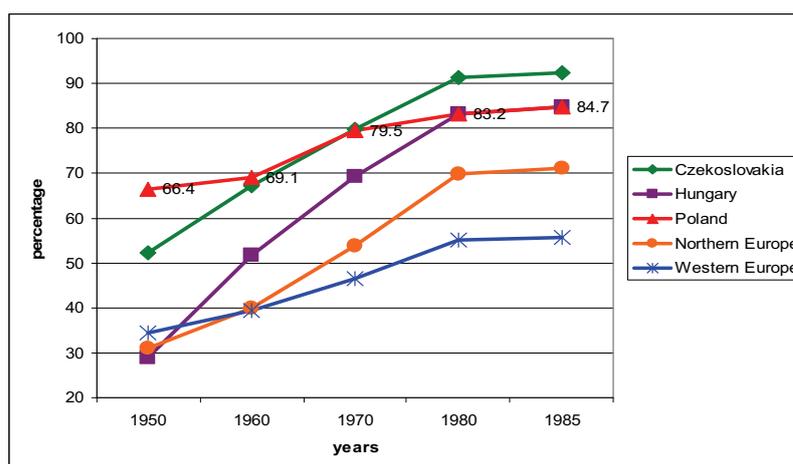
comparison with Western or even Nordic states. As Figure 7 shows, in the age category 40 to 44, CEE countries achieved higher activation than any other region in Europe.

Figure 6 Activity Rates in Poland in the years 1950-1988



Source: GUS, 1970, 1995, and 2004

Figure 7 Labour Force Participation Rate of Women 40-44 old, 1950 to 1985



Source: Jackman and Rutkowski 1994, based on Kornai 1992

Note: Northern Europe: Scandinavian countries; Western Europe: Austria, Belgium, France, FRG, Netherlands, Switzerland, Luxembourg, and UK

Since the inter-war period in Poland major changes occurred in married women's employment outside of agriculture. In 1931 about 6.2 per cent of married women worked in the non-agricultural sectors, in 1950 this increased to 13, and in 1982 to 75 per cent (Piotrowski 1963; Kurzynowski 1986). Thus, work and family life reconciliation have improved. Certainly, married women were no longer expected to give up employment outside the house. On the contrary, now the pressure was on combining the roles of wives/mothers and workers. Through protective legislation the state emphasized women's reproductive role over their productive potential, reinforcing the duality of the mother-worker status (Einhorn 1993). As the socialist state was firmly

based on active work participation, it provided work related benefits with retirement pensions, subsidised canteens, holiday resorts, sometimes transportation to work places and childcare all tied to work enterprises (Makkai 1994). With growing numbers of women in employment, their access to these subsidies was facilitated; other social services, such as education and health care, were available to all citizens for free.

Table 8 Employment of Women (%) in Select Sectors in 1974

Economy Branch	Percentage Female
Finances and Insurance	78.4
Health and Social Care	77.8
Trade	71.4
Education and Culture	70.9
Administration	57.0
Industry and Manufacturing	39.3
Agriculture (Individual, Owner)	33.0
Agriculture (Collectivised)	26.4

Source: GUS, 1975.

Most employment in socialist Poland was in the public sector, with private ownership limited to agriculture and small businesses. For example, in 1968 about 95 per cent of employment was in the public sector (based on GUS 1970). In some cases the distinction between employment in the public or private sector is blurry, as for example in the country side many farmers combined agricultural work on privately own farms together with state employment, as urbanisation and industrialisation created new work opportunities in the cities for both male and female peasants (Gorlach 2001). The rate of women's employment growth in various branches of the economy was most rapid in the years between 1950 and 1974, with the average employment growth for women higher than for men (GUS 1975). Table 8 specifies the sections of the economy in which the proportion of women was particularly high. For the most part women concentrated in the traditionally feminized sectors or occupations. When they entered male dominated areas, such as heavy industry, construction, or mining, their positions were mainly administrative or clerical (Einhorn 1993). Thus the occupational gender segregation continued to persist.

Another gender disparity typical of most economies is income. The command economy was characterised by centrally assigned wages on the basis of an occupational wage scale for specific industries with a narrow wage differential between occupations and was skewed towards manual workers, especially in the heavy industry. In spite of such centralisation of income, the gender pay gap was widespread. Female wages

tended to be 20 to 40 per cent lower compared to men even in the same positions (Marody and Giza-Poleszczuk 2000). As Einhorn (1993) reports, female lawyers earned 98 per cent of male lawyers earnings, female doctors about 72 per cent, administration clerks and managers about 68 per cent, and accountants just over 66 per cent. As in the Western economies, Polish women were overrepresented in the lower earning sectors (Brainerd 2000). In fact, gender was a higher predictor of earnings than education, work position, age, experience, or membership in the party (Siemieńska 1990).

Income earned during working life is generally reflected after retirement. Although during socialism the average male pensions were higher than the average female pensions, there was an element of redistribution. Because women retired at 60 and men at 65 years of age, they more often than men were out of the labour market during child raising years, and because women earned less money, such a blueprint resulted in increasing women's pensions above the level if strictly actuarial criteria of time worked and salaries earned were taken into account (Nowakowska and Swędrowska 2000; Wóycicka et al. 2003). The socialist state recognised the value of providing childcare and such a leave was equal to active employment in calculating pension benefits. In the end, with different retirement ages, women's average pension was at 75 per cent of the average men's pension, while at equal retirement age it reached 81 per cent (Wóycicka et al. 2003). Also, the earlier retirement age of women was legally a voluntary arrangement, treated as a right and not an obligation. Many working women did exercise this right. For example in 1970 the employment rate of women in the age category 55 to 59 was 68.1 per cent, but for the ages 60 to 64 it decreased to 51.1 per cent (GUS 2004). In the period considered, the different retirement age was not as important for pension levels as was the pre-retirement income level (MGiP 2004 website). This and other aspects of female labour force participation changed in the next era.

5.3 The Post-socialist Period

The year 1989 marked the end of socialism in Poland, resulting in the transformation of actor configuration present on the public scene and leading to a different nature of politics in general, and labour market policy-making in particular. The rules of the game have changed from a nearly totalitarian state and command economy to an evolving democracy where the government needs to find and renew sources of legitimacy and compete for power with other players. It is not surprising that the domestic change of

the functioning of the polity, economy, and society resulted in rearranging of actors and their priorities. Among others, independent trade unions, employer organisations, NGOs and the Church came to the fore and engaged in politics and policy-making on different terms than previously. In 1991 Poland adopted Acts on trade unions, on employers' organisations and on the resolution of industrial conflicts. In 1993 the Tripartite Commission for Socio-Economic matters was established creating a forum for social dialogue among the state, trade unions and employer organisations (MGiP 2004 website). In sharp contrast to socialism, high politics opened up to various actors. Still, in spite of the progress made, the institutionalisation of industrial relations is seen as low in a sense that unions and employers associations play a small part in enterprises (Kwiatkowski et al. 2001) and the status and activities of social partners and NGOs as junior to the government. The interests and influence of all actors are still evolving and it may take some time until the balance of power will settle, although their involvement in politics and policy-making in the forming years of a new democracy can be already noted.

5.3.1 Actor and Power Configuration

While the stance of the state on the position of women in the society has never been constant, its variation is most evident in the post 1989 years. In the inter-war period the government introduced some legislation advancing women, under socialism it appeared much more dedicated to gender equality (even if largely superficial) and women's professional activation, but after 1989 the official ideology has varied greatly depending on the political orientation of the party in power. At the beginning of the transformation the right leaning government pressed women to focus on their role as mothers in the private sphere of the home (Watson 1993; Fuszara 2000a) and went as far as advising women to return to households in order to make jobs available for men (Sasic Silovic 2000). This official stance is evident in the 1991 conversion of the Office for Women's Affairs to the Office of Undersecretary of State for Women and Family with new responsibilities for family, children and youth (Hauser et al. 1993). A change in the official discourse came with the change of the government. The governing coalition between the years 1993 and 1997 came from the left side of the political spectrum and was more involved in promoting equal opportunities, especially after the 1995 United Nations conference⁸ in Beijing. In 1997 the government developed a National Action

⁸ Fourth World Conference on Women, Beijing, China; September 1995

Plan (NAP) for Women for 1997-2000 (see Chapter 7). Moreover, new legal acts addressed gender equality, such as the Constitution of 1997 (Article 33) asserting equal rights for men and women in family, political, social and economic life, education, social security, public office holding, employment and promotion, with equal remuneration for equal work (Fuszara 2000a). Nonetheless, in practice equality in opportunity and equality in outcome left much to be desired. The state's course altered when in 1997 right-wing government with close ties to the Church was formed. This administration was clear in expressing its traditional views on the desirable women's roles. For example in a UN questionnaire, quoted in a report by Martynowicz (2000: 1), the government expressed a wish to:

...take steps aimed at improvement of women's situation that can be seen in its pro-family policy program (...) aimed at, among others, increased independence of families – that means women – as well as decreased number of single mothers through family and marital counselling centres (...)

and

In Poland, many discriminatory situations don't happen due to (...) very special belief in an exceptional role of a woman as mother and family supporter. Besides, egalitarian tendencies are very strong in Polish society and that is something women also enjoy.

Thus, the government made its position on the role of women as wives and mothers evident. It called on their centuries old mission of safeguarding families and sustaining national values - the ideal of *Matka Polka*. The state's regard of gender equality as unproblematic suggests not only a lack of will to do anything about its improvement, but certainly advocates the fading of women's independence outside of family contexts. Congruently, this administration's Office of the Plenipotentiary for Family put a stop to a project "Against Violence – Equalising Chances" on the grounds that 'offering help to women and children outside their family home contributes to the break up of that family' (Martynowicz 2000: 6). Likewise, the NAP for women 1997-2000 was not carried out (GPES 2004a) and this government questioned the need to introduce an equal status bill, to examine gender equality in the labour market (like pay equity) or to establish a political quota system. Instead, a Program for Pro-Family Policy was voted in (Martynowicz 2000). The position of this government above was incongruent with the trends occurring at the level of the EU.

Certainly, on the domestic arena the equal status office appears an expressive medium for government priorities and the role of women it promotes, because with the next change of administration in 2001 (left-wing coalition) the office conveys a

different message. This time its name is The Government Plenipotentiary for Equal Status of Women and Men (GPES) and the motto is ‘the propagation and realisation of the principle of equal treatment of women and men in all areas of social life and the counteraction of all expressions of discrimination based on gender’ (Kobiety OnLine 2004). According to the Council of Ministers Ordinance the duties include; implementing government’s equal status policies; conducting analyses and evaluations of the legal and social situations in terms of equal treatment of women and men and coordinating activities aiming at equal opportunities; issuing opinions on legal acts and other governmental documents in terms of their potential impact on gender (GPES-DLM, 2004). Hence, the state’s maxim became more attentive to gender, and its gender politics and policy more in accord with EU level developments.

With the parliamentary elections in September 2005 and a change of government from a left-wing to a right-wing orientation, the governmental office for equal status has been transformed yet again. It was dissolved shortly after the new government has formed in November 2005 and another stand-alone institution to take over its tasks has not been established. Instead, a new position within the reshuffled Ministry of Labour and Social Policy has been created: a deputy-minister running the Department for Women, Family and Prevention of Discrimination (DWFPD). The current arrangement isolates the office within one specific ministry, so while there is a degree of continuation of previous areas and activities, the same prestige and authority are not conveyed. The above examples show that the state’s promotion of a certain gender contract is continuously transforming. It varies in direction and emphasis given to the topic. The lack of consistency is evident when governing parties change and the politics and policy of gender fluctuate between progress and retreat.

The legislation directly related to the labour market has also gone through developmental stages. With unemployment being a new phenomenon in the post-socialist Poland, the state laid down legal foundations for labour market policy and facilitated its institutionalisation. Labour legislation established on the basis of the 1974 Labour Code was subject to several changes in the transition years. For example, the first Employment Act of December 1989, included in its regulations a definition of the term unemployed person, introduction of unemployment benefits, and compulsion of regional employment offices to take unemployment counteracting measures (Churski 2002). As expected, the adoption of the market economy led to many job losses of redundant workers in state owned enterprises and the initially high level of protection

quickly increased the expenditures on labour market policies (Kwiatkowski et al 2002). Eventually unemployment rates grew and remained high, restrictions were introduced to the registration as an unemployed person and to the length and amount of benefit claims. Due to these restrictions and to the growth of unemployment in the years between 1990 and 2002 the ratio of benefit recipients to the total of unemployed fell from nearly 79.2 per cent (Kwiatkowski et al 2002) to 16.7 per cent (Towalski 2003b). This has repercussions for the gender equality aspect of unemployment described further below.

The provision of sufficient, affordable, and good quality childcare is an aspect of reproductive freedom and is closely related to the labour market participation of women, as it affects the emerging pattern of women's professional activity rates in (Mickiewicz and Bell 2000). The policies of the post 1989 governments toward reconciliation of family and work life testify to retrenchment and stand in contrast to the socialist state. Many childcare facilities have been closed or privatised as already by mid 1991 some 40 to 60 per cent of nurseries (for children under 3 years of age) and pre-schools (for children in the age bracket 3-6) were closed (Titkow 1993). As Table 9 presents, between 1990 and 2004 nursery facilities decreased by over 70 per cent, number of children in nurseries diminished by more than 60 per cent. Also the number of pre-school facilities for the corresponding years has diminished by 37.1 per cent while the number of children attending pre-schools has decreased by only a few per cent. The numbers alone, however, paint an incomplete picture. Evaluating the ratio of children in institutionalised care against the population of children of a given age category shows mixed trends. On the one hand, there is a lower enrolment of children in nurseries from 4.2 to less than 1 per cent. On the other hand, there is a growing trend in enrolment of pre-schoolers of three to six year olds, and of six year olds. Therefore, the decline in nurseries is consistent with the decline of children benefiting from such services and with difficulties in access (availability and cost), while the overall pre-school attendance is affected by the lower overall population of 3 to 6 year old children and by the educational reform establishing age 6 as the mandatory school age entering the preparatory school year at grade '0' as of September 2004. Still, for both age categories Poland is far off the EU goal of childcare provision to reach by the year 2010 at least 33 per cent for children three years of age and younger, and at least 90 per cent coverage for children between three years old and mandatory school age (EC 2002).

Table 9 Coverage of Institutionalised Childcare in Poland, 1990, 2000 and 2004

Category (age)	1990	2000	2004
Number of nurseries (0-3)	1 412	396	377
Number of children in nurseries	116 500	47 800	45 875
Percentage of children in nurseries	4.2	2	.19
Number of pre schools (3-6)	12 308	8 501	7 746
Number of children in pre schools	856 600	885 400	831 900
Percentage of children in pre schools (3-6)	32.8	50	53.7
Percentage of children in pre schools (6)	46.7	97.2	98.1

Source: Olejniczuk-Merta 2003 based on GUS data; GUS 2005b

The decreasing number of day-care centres and their high cost create the necessity to provide for such services at home, and this responsibility falls mainly on women (Siemieńska 2000; Heinen 2002). Increased costs associated with childcare produce not only gender, but also class inequalities, where poorer families with many young children find such services unaffordable. Depending on choosing public or private day care and based on 2004 incomes, a minimum wage earner can pay anywhere between 23.5 and 82.4 per cent of his/her gross monthly income per child, while for an average wage earner the equivalent expenditure is between 8.5 and 30 per cent (based on MGIP 2005). Clearly, juxtaposing this situation against the one in the previous period shows mounting obstacles to women's participation in the labour market.

Maternity leave and benefits, first introduced in Poland in 1924, have been adjusted several times in the post transition years. In 1989 benefits provided for 16 weeks of leave on the birth of the first child at 100 per cent of mother's salary. In the post transition period the leave was extended first to 20 weeks, than to 26 weeks. In 2001 part of the leave (2 weeks) was also extended to fathers. In 2002 the maternity leave was cut back again to 16 weeks (Wóycicka et al 2003). While on the one hand the extension of maternity leave to about six months at full salary is good for easing the tension between motherhood and employment, on the other hand such arrangement may be seen as costly to employers and may increase the prevalence of statistical discrimination against female workers. These provisions beneficial during socialism are now viewed as detrimental since there no longer exists the guarantee of secure employment. The Commissioner for Civil Rights Protection repeatedly noted how some of the guarantees turned against women's interests. The rights created for different socio-economic conditions of labour market supporting full employment and dominated by state employment and a developed network of social services (Zielinska 2002). Now,

free market rules and a non public employer combined with difficult economic conditions result in increased precariousness of work, especially for female employees.

Childcare and raising leave and benefits were introduced in Poland in 1954 and 1968 respectively, however only in 1995 and 1996 (leftist government in power) were they extended to men on equal basis with women. In principle both parents have equal rights to this benefit at 80 per cent of the employee's income (Wóycicka et al. 2003), but there are no incentives for men to opt for such leave. Currently, the general trend of taking leave to bring up a child is declining and only about 2 per cent do take parental leave (Szemplińska 2000). The overall decline in parents exercising their right to time off is ascribed to their fear of losing employment in a precarious labour market situation and to low childcare allowance while on leave (Głogosz 2000). Also, the low incidence of fathers participating in childcare responsibilities is ascribed to the mentality of both employees and employers. While workers treat the take up of parental leave of fathers with ridicule and humour, employers do not support such arrangement in fear of 'losing the more qualified part of the workforce' (TU-OPZZ-2, 2005).

Turning to women and the women's movement, after 1989 the traditional role of *Matka Polka* was called on again by some political and public figures reinforced by the revival of patriarchal values and the increased vulnerability of men in the deteriorating economic climate (Sasic Silovic 2000). Contemporary political culture in Poland, with its traditional symbols, language and ideology, is still largely determined by men and so-called women's issues pertaining to childcare, health, or gender based labour market inequality must give place to collective interests of nationhood (Graham and Regulaska 1997). Thus, the overall acceptance of the traditional attitudes (with some exceptions) relates to the historical legacy of power relations. The alternative to this ideology emerged under socialism, but because feminist issues were artificially imposed from above, with the arrival of liberal democracy they became branded as communist (therefore bad) and rejected by the society. Today the role of political parties matters in this realm, with the right promoting conservative and the left more egalitarian ideals. Fuszara (2000b) classifies Polish political parties into three different groups. First, there are those groups who do not pay any attention to the specific needs of women. Second, there are parties who propose extended maternity leaves and part-time employment, and thus consider women as mothers and homemakers without equal consideration given to their paid employment potential or neglecting the role of males and their family obligations. And third, there are political associations who openly address such gender

dimensions as discrimination against women, reproductive rights, feminization of poverty, high unemployment among women, and assistance to single mothers.

Accordingly, the disproportionate number of women in politics is largely a result of the actions of politicians and their parties. The gatekeepers restrict women's access by placing only few of them on candidates' lists, and often in lower positions that generally do not succeed elections (Siemieńska 2002). Although participation in politics and power in socialist times did not have the same importance as it does now, the socialist state did at least put up a façade of women's political participation. Since then even the façade is gone. The Round Table discussions of 1989 were held by sixty participants, only one of them was a woman (Titkow 1993). The low percentage of women candidates on national election lists and their resulting under-representation in the Parliament and the executive limits their capabilities of impacting legislation (Fuszara 2000c). Table 10 details the proportion of women MPs in the years since 1989. Fuszara (2000b) argues that the meagre representation of women and their issues on the political scene flows from the prevailing presence of men in party politics, who do not allow female candidates to represent women's real concerns. She also notes that this coincides with gaining of real political power by these institutions. In Poland, and other post-communist states, after the removal of the official quota of allocating posts to representatives of both genders the proportion of women has been on the decline (except for the most recent term). This is in clear contrast to the developments in Western Europe (Fuszara 2000b).

Table 10 Participation of Women in the Parliament (Sejm and Senate), 1989 -2005

Years	Percentage Female
1989-1991	11.8
1991-1993	9.2
1993-1997	12.5
1997-2001	12.8
2001-2005	20.7
2005- Present	16.8

Source: based on PGW www.pgk.kluby.sejm.pl, and own calculations based on www.sejm.gov.pl

Other reasons for the disproportionate division of power among men and women are more complex, and relate to the legacy of power relations. Over the years feminist issues in the context of imposed socialism did not have a positive denotation in the wider society, thus were often discredited on the grounds of breaking with the unwanted socialist past. Making demands reminiscent of that past are illegitimate. Another argument regards the already mentioned issue of unity, of common political struggle

where gender issues could be seen as too small in the face of other problems (Siemieńska 2000).

A new avenue for the formation and articulation of politicised problems pertaining to women is the emergence of NGOs. Although NGOs that deal with women's issues are increasing their presence on the political arena in Poland, exceeding 200 in number (Lisowska 2000) or even reaching 300 (Fuszara 2005), they are seen as weak or ineffective (Graham and Regulska 1997) and their cooperation with the government as difficult (Fuszara 2000a; Jaruga-Nowacka 2000). A clear impetus for women's action in the first years of democracy was the changing legislation on women's abortion rights, resulting in organised opposition to the proposals on the Act on Abortion replacing the 1956 regulations (Knothe 1995). However, women's organisations in Poland differ in their agenda and constituency. Some identify with progressive and egalitarian trends, while others promote traditional roles and stress Christian values. Although the women's movement does not have a homogenous face, its emergence and growth is a real opportunity for women and other under-represented groups to stretch the boundaries of the public sphere, to engage in politics, and to strengthen their position vis-à-vis other players.

The Church in Poland is one of such players, which has engaged in public and political life throughout history. The fall of socialism was seen as victory of the opposition, an achievement impossible without the involvement of the Church (Gowin 1999; Korbonski 2000). In the newly established democratic state clergy continued the tradition of strong public presence and many of the new founded political parties referred to Christian values and included them in their programmes. Some concrete examples of Church activities include the decision of bringing religion back to the classroom and blocking sex education and condemning text books dealing with the subject (Korbonski 2000). Moreover, proposals and action towards a complete ban and criminalization of abortion have started already in 1988, where representatives of the Episcopate drafted a new law on the protection of unborn life. This proposed act banned abortion without exceptions and provided for a three-year jail term for the woman and the doctor who engage in abortion (Einhorn 1993). Moreover, the Church fights against the use of contraception with relentless determination (Nowakowska and Korzeniewska 2000). It thus plays a prominent role in reinforcing traditional gender roles and closely aligns itself with the political right (Martynowicz 2000) by opposing the Equal Status Act and the idea of women's emancipation (Fuszara and Zielinska 1995).

The actions of the Church, such as the conflict over abortion, demands of the inclusion of Christian values in the constitution and television and radio broadcasting, the engagement in parliamentary elections, or interference with staffing of some official posts spark controversies among the public (Gowin 1999; Korbonski 2000). Although the Church still holds a strong place, its image has deteriorated and societal support diminished (Korbonski 2000). The view and influence of the Church has not only direct relevance for the position of women in the society, but also an indirect one through supporting or opposing integration with the EU as an institution committed to gender equality. The Church has gone through phases in its views on Poland's accession to the EU. Pope John Paul II strongly encouraged Poland's integration with the West and since 1997 the Church began supporting Poland's EU membership (Leszczynska 2002).

Certainly, post-socialism brought about changes in workers' organisations. Solidarity was re-legalised in early 1989 and entered Round Table negotiations alongside OPZZ and the Polish United Workers Party (PZPR) on the side of the government, leading to the establishment of the first non-socialist government in August of that year. Many Solidarity activists became members of that government (Gardawski 2002a). The initial power of unions brought some protection of jobs in companies where privatisation agreements incorporated temporary bans on mass redundancies, but this power has been a diminishing political and economic force later on (Kramer 1995). In 1998 there were about 250 trade unions and the two large confederations OPZZ with some 4 million members and Solidarity with circa 1.5 million members (Kwiatkowski et al 2001). Currently in Poland there are three major union confederations: Solidarity, OPZZ, and FZZ (Forum of Trade Unions). In 2003 collectively they associated 1.9 million workers, a number representing an over 70 per cent decrease in membership over a period of ten years resulting in union density in the range of 10-19% (Carley 2004). Thus, trade unions are still an important public player, but their power has waned substantially.

Early on the pressure not to take up issues concerning women has been strong in the trade unions as women in the union were advised not to bring up potentially divisive concerns (Hauser et al. 1993). Still, a Women's Section in Solidarity was established as early as November 1989, trying to establish the ways in which their labour organisation could assist women in the transforming economic and political environment (Tarasiewicz 1999). Many problems facing women were identified, such as the traditional and stereotypical perception of gender roles, discrimination in access to

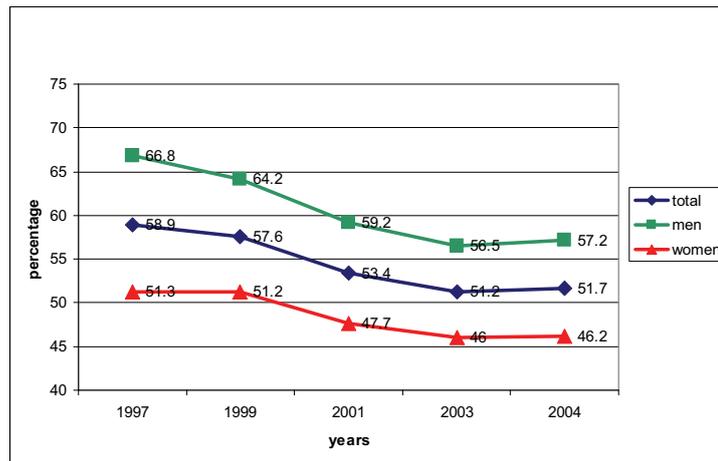
employment, promotion and pay, labour market segregation, reproductive rights, and the lack of affordable childcare facilities. The Women's Section demanded that Solidarity adopts a programme tackling each of these problems, but these requests were not accommodated (Tarasiewicz 1999). On the contrary, in the early 1990s Solidarity encouraged women to stay at home by proposing the introduction of a family wage whereby men would receive salary supplements for each child if their wives were not employed (Tarasiewicz 1999; Einhorn 1993). This was a clear call for reinstating the male breadwinner model. The women in the Section varied in their approach to gender issues, some saw them in more traditional, others in more progressive terms. In the end, the Section was de-legalised and accused of being a 'feminist organisation' (Tarasiewicz 1999). Shortly after, Solidarity does take on the issues relevant to women again, as in 1996 it established a Plenipotentiary for Women's Affairs responsible for monitoring laws and rights, raising their awareness and compliance. The Women's Section approved by the union's leaders does not, however, take up issues of abortion or contraception (Tarasiewicz 1999). Furthermore, women do not make it to the governing layers of Solidarity where their 42 per cent rank and file strength is not translated into offices of power, as women make up 9 per cent of delegates to congress, and 10 per cent of the executive (1999 ETUC data, reported in Sasa Silovic 2000).

In contrast, the Commission of Women established by OPZZ in the previous system, officially presents itself as committed to the achievement of equal status between women and men. The Commission is concerned with problems of social policy, labour market, and EU accession. It takes Scandinavian countries as a model for the reforms in social benefits, maternity leave, and family policy and cooperates with various institutions, such as the equal status office, universities, embassies, MPs from different countries, the ILO and the EU. The group's activities include cooperating with the government in amending the Labour Code in 2002, especially the part on gender equality or the organisation of a congress on sexual harassment at work aimed at raising the awareness of the issue among workers (TU-OPZZ-1, 2004). Notwithstanding these activities, their presence and visibility within the wider society is minimal. Additionally, the overall weakness of trade unions further dilutes concerns specific to women workers. Trade unions as a whole, therefore, do not respond to the new possibilities of achieving gender equality. Such a position is striking, given that women comprise a majority of rank and file members (nearly 52 per cent), and clearly dominate in such branch unions as education, administration, and trade (Gardawski 2002a).

5.3.2 The Labour Market

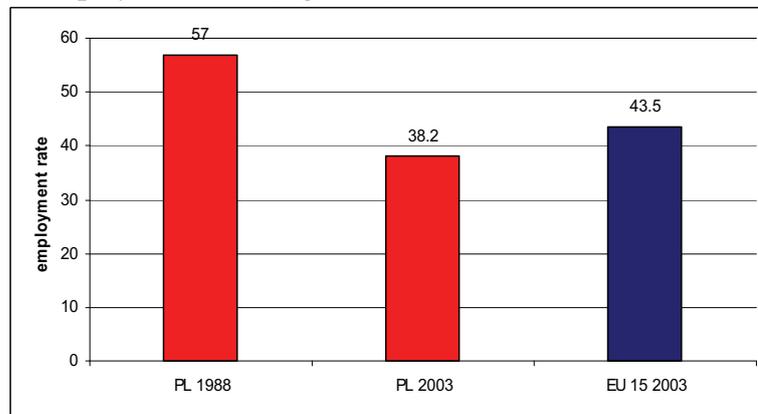
The overall labour market situation of the free market system has been detrimental to full employment. Labour force participation and the employment rates have declined sharply (see Figure 8). Although economic expansion and real GDP growth was increasing over the 1990s, it was mainly due to productivity growth and did not translate into new jobs. Productivity increases, in turn, were accompanied by drastic cuts in employment (Nesporova 2002). There has been a strong increase in non-employment and a steep rise of unemployment. The overall employment rate fell from about 70 per cent in the late 1980s to about 60 per cent by 1994, and the activity rate from an estimated 76 to 71 per cent (JAP 2001). In terms of actual persons in employment, the change is also telling: between 1992 and 2003 this dropped from circa 15.2 million to circa 13.6 million, in the context of a growing working age population (NAP 2005). Participation rates have also declined greatly in other transition countries, but Poland has been affected to a greater degree – its 2003 employment rate of 51.2 per cent of working age population is the lowest among EU-25. Similarly to the total employment situation, the employment rate of women is very low indeed (see Figure 8). In 2004 it was one of the lowest among EU countries - at 46 per cent it surpassed only Malta, Italy and Greece (Eurostat 2004). Clearly, the labour market situation in Poland is very difficult from many points of view: political, economic, and social. It is worse in relation to the socialist period, and to most EU states. As Figure 9 presents, employment rates of women age 15 and above (no upper limit) in pre-transformation Poland and currently, and the current rate for EU15 show that women's employment in Poland during the command economy was much higher than now, and as compared to present EU-15 average. In full-time equivalents Poland fared a little better in international context, especially if compared to Western Europe at the beginning of transformation. A 1994 survey found that in Poland 53 per cent of women over 18 work full-time, while the corresponding numbers in the Czech Republic were 79 per cent, in Hungary 59 per cent, in Great Britain 35 per cent, in Germany 37 per cent and in Sweden 38 per cent (Domanski 2002). The up-dated figures no longer confirm this advantage. Now full-time equivalent employment rates for women in Poland are 44.7 per cent, while the EU-15 average is higher and stands at 46.9 per cent (Eurostat 2004).

Figure 8 Employment Rate in Poland by Gender, 1997-2004



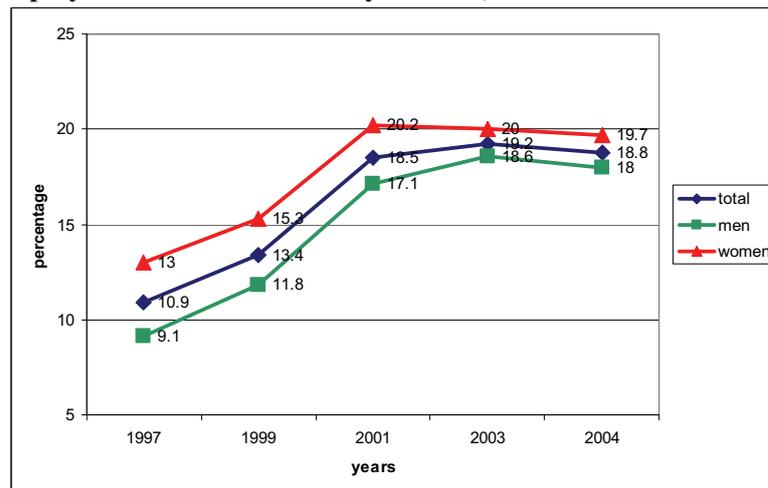
Source: Based on Eurostat data

Figure 9 Female Employment Rate (Age 15+)



Source: GUS 2004

Figure 10 Unemployment Rate in Poland by Gender, 1997-2004



Source: Based on Eurostat data.

Since the adoption of market economy, one of the most drastic labour market changes affecting both men and women has been a steep rise of unemployment and a

strong increase in non-employment (Gora 1997). Unemployment levels in Poland are higher than in its CEE neighbours' and higher than in West European states. As Figure 10 shows, unemployment strongly affected the Polish society as a whole, but touches women more than men. Already in September 1990 the number of jobless women exceeded the corresponding number for men (Ingham et al. 2001) and women experience higher unemployment rates for every year since then, as well as they make up higher proportion of the long term unemployed, and their non-employment rate is greater (Gora 1997). Clearly the demand for female workers is lower than for male workers (Fuszara 2000b) with unemployment becoming a new dimension of labour market gender inequality. In addition to gender, educational attainment is a variable affecting unemployment risk. Persons with lowest educational levels experience highest unemployment rates, in regards to the occupational structure the largest share of unemployment is observed in the industrial workers category (Kwiatkowski et al. 2001). Human capital thus strongly influences employment and unemployment, but in the recent years the incidence of unemployment with completed tertiary educational level has been on the rise (Gardawski 2002b).

Moving on to the employment structure, there are also significant changes if compared with the socialist era. Under the command economy most employment, whether male or female, was in the public sector. With the transition to the market economy via privatisation of state owned enterprises as well as setting up new ventures the public sector contracted and the private sector expanded. Still, more women than men find employment with the public sector (42.5 and 34.2 per cent, respectively), and more men than women are attached to the private sector (65.8 and 57.5 per cent, respectively) (Kołaczek 2001). Consequently, calls for and trends towards further privatisation or contraction of the public sector might be damaging to employment. In spite of lower wages public sector employment traditionally provides employment security (Towalski 2003a) and is more 'women friendly' (Balcerzak-Paradowska 2001). Therefore, further employment reductions in the public sector may translate into high losses especially for female employees.

The communist approach to women did not eradicate patriarchy and gender inequality or enable women to gain positions of real power (Graham and Regulska 1997) as men occupied the top professional positions – a situation that has not changed today (LaFont 2001). Throughout the CEE countries horizontal and vertical segregation was a norm, with women based in a narrower range of sectors and occupations. In

Poland such professions as medicine, legal areas, teaching, business and accounting became feminised, thus conveying lower status and commanding lower salaries than the male dominated occupations (Białecki and Heyns 1993; Towalski 2003a). The service sector is relatively underdeveloped where women tend to hold jobs that are poorly paid and low level, except in the financial sector, where female employment is substantial and attributed to their high qualifications (Pollert 2003). Overall employment in services was at 53 per cent of total employment in Poland, while in the EU-15 it is higher at 71.4 per cent (Eurostat 2004).

Table 11 Employment in Poland and EU-15 in 2003 (as % of total employment)

Category	PL	EU15
Services		
- overall	53.0	71.4
- men	42.8	60.5
- women	65.2	84.4
Industry		
- overall	28.6	24.6
- men	38.0	34.7
- women	17.2	12.5
Agriculture		
- overall	18.4	4.0
- men	19.1	4.8
- women	17.6	3.1

Source: Eurostat, 2004

The opportunities for farmers to combine farm work with outside agriculture employment did not survive the system transformation and massive labour surpluses surfaced in the country side (Gorlach 2001). The agricultural over-employment and hidden unemployment pose substantial challenges to the modernizing economy. In 2003 employment in agriculture in Poland is at 18.4 per cent of total employment, whereas the average situation in the EU-15 is 4 per cent (Eurostat 2004). If the structure of the economy and the employment patterns in Poland are moving towards the trends evident in the EU the employment levels of agriculture and services will adjust the most (see Table 11). At present, part-time employment differs from EU trends, as it has not been a widespread work arrangement in Poland, and the number of part-time positions is in short supply (Głogosz 2000). There are calls for the provision of more part-time work, but this carries both risks and benefits⁹. Part-time work shows a growing tendency, in

⁹ There are direct and indirect risks of part-time work. With low incomes it may lower family income to poverty line levels (Balcerzak-Paradowska, 2002). Also, it exposes women through unprotected jobs (Sasic Silovic, 2000) and may contribute to wider gender gaps in pay and pensions.

2003 it accounted for 10.5 per cent of total employment with women more likely to be employed part-time at 13.2 per cent than men at 8.2 per cent (Eurostat 2004).

Considering the effect of transition on gender based wage differentials it is difficult to come to a conclusion on the immediate impact of the systemic change in Poland (see Table 12). On the one hand, there is evidence that the gender pay gap between 1982 and 1991 has been stable at 68 per cent (Domański 1992). After 1991 changes in wages were multi-directional, where the overall distance in pay of higher ranked white collar workers increased, while for lower level employees in administration, trade and services, and low- and unqualified workers the pay differential has diminished (Domański 1992) with the implied net result of no change. Again, according to a countrywide study conducted in 1992 the gender pay gap still persists (at 72 per cent) after taking into account the complexity of the job, education, and job experience (Janicka 1995).

Table 12 Summary of Studies Estimating Gender Pay Gap Changes

Study	Pre-transition Ratio in % (Year)			Post-transition Ratio in % (Year)		
Domanski ('92, 98)	67.7 (1982)	67.8 (1987)		66.6 (1991)	55.9 (1992)	74.2 (1995)
Brainerd ('00)	68.0 (1985)	71.8 (1986)		81.2 (1992)		
Grajek ('01)	70.8 (1987)	72.3 (1988)	79.7 (1989)	82.2 (1990)	80.7 (1992)	78.0 (1995)
Newell&Reilly (01)	73.7 (1985)			79.0 (1992)	79.0 (1996)	

On the other hand there are reports that women's relative wage disadvantages have decreased as the mean gender earnings difference changed from 72 in 1986 to 81 per cent in 1992 (Brainerd 2000). Grajek (2001) confirms the general trend of the immediate post transformation drop in gender pay gap, but points to the fact that the bulk of the change occurred in 1989 when the state owned enterprises were reducing their labour costs. The jobs and wages of men were cut, and that along with a fraction of well educated women entering lucrative positions account for the narrowing of the wage differential. After 1992 this trend no longer continues (Grajek 2001). In fact ten years later, in 2002, the proportion of the monthly salary of women remains at about 83 per cent of men's salary (NAP 2005). In spite of comparable job related characteristics women continue to earn less. Thus, although the relative position has slightly improved, in real terms women's pay still has some catching up to do.

In contrast to the minor improvements in the pay gap, gender based differentials in pension benefits have increased. Over the transformation period there were several changes to the pension system, resulting in the increase of gender inequality in pension income (Wóycicka 2003). The changes in policy did not equalize the retirement age of

men and women. The official age remains 65 years for men and 60 for women, but the past socialist privilege in the now free market conditions often becomes a compulsion and a source of discrimination when employers cease an employment contract with a woman after she reaches retirement age even against her will (Paruszevska 2000; Zielinska 2002). And so, in 2002 the activity rate of women aged 55 to 59 was at 29.6 per cent (against 68.1 in 1970) while that of women aged 60 to 64 dropped to 13.8 per cent (against 51.1 in 1970)(GUS 2004). Clearly, older women do not have a strong attachment to the labour market. The earlier retirement age of women magnifies the negative outcomes for their pension benefits. On average, the post transformation reforms decrease women's pension to 57 per cent of men's pension with different retirement age (a drop from 75), and to 73 per cent if the retirement age is equal or even to 50 per cent (a drop from 81) (Wóycicka et al. 2003; Wóycicka 2003). Another change in the calculation of pensions relates to how periods of child raising leave are treated. Changes introduced in 1991 distinguish between active employment and child raising leave to the detriment of care providers by reducing their future pension. As of 2002 the base for calculating a contribution from the state budget to pensions was lowered to the level of care benefit (Wóycicka et al. 2003; Wóycicka 2003). Women's greater responsibilities and involvement in childcare activities during their productive and reproductive periods reinforce the gender inequality extending to post-retirement age.

Under the new rules pension benefits depend also on the status of unemployment. Those unemployed who receive benefits contribute to their pension fund, and those without benefits do not. Since more women than men make up the category of unemployed without benefits (their risk of long term unemployment is greater) their contributions to the pension funds are lower, and as such will translate into lower pensions upon retirement (Wóycicka et al. 2003). Regulations regarding minimum pensions may be insufficient in the curbing old age poverty, especially among women (Wóycicka 2003). Thus, the redistribution of pension income towards low-earners has been restricted and women's relative position further deteriorated both in relevance to the previous era as well in comparison with men. The pension reform has, however, some positive aspects. It improves the prospects of persons working part-time and gives a right of a spouse of at least retirement age to pension funds accrued in the second pillar in case of death or divorce (Wóycicka et al. 2003). Taking stock of the

labour market changes occurring since 1989 does seem to add up to a negative balance sheet for workers overall, but for female workers especially.

Can we speak of a discriminating labour market? The re-orientation of the system towards a free market caused changes in the demand for labour by skill or education, where the requirement for low skilled workers fell and those with high skills rose. Employment of persons with higher education credentials rose the fastest, followed by those with secondary vocational education, while the share of workers with the lowest education in aggregate employment fell from 25.7 per cent to 16.9 per cent between the years 1994-98 alone (Kwiatkowski et al 2001). Generally speaking, high skills and education have become major explanatory aspects of higher wages as well as best protective features of holding on to a job (Rutkowski 1998). These trends have not, however, managed to reverse the position of women in the labour market. Despite their higher human capital (GUS 2004) their employment rate is lower and they command lower incomes and positions of authority. On the one hand, greater educational attainment of women is a necessary trait for participation in political or executive professional careers (Fuszara 2000b). On the other, it is not a sufficient characteristic, as women still face more difficulties than men. A possible explanation of this conundrum is the behaviour of employers, who view women through their maternal and caring responsibilities and take into account higher costs associated with employing women having to fulfil these responsibilities (Balcerzak-Paradowska 2002). As Fuszara (2000) notes, the regulations intended to uphold equality did not in fact protect women from discrimination in the period of transformation. The current labour market situation is precarious, and women may be, and often are, discriminated against at the point of entry in order to prevent their potential higher cost to the employer. Men as fathers do not face the same danger, although the legal privileges of caring for children were extended to men.

The Commissioner for Civil Rights Protection has pointed to a conservative approach to equality between women and men in employment, where unequal employment opportunities generally go unnoticed (Wichrowksa-Janikowska 2000). There is a range of citizen's complaints of discriminatory practises. The Commissioner's office is approached in cases of lower pay of females for jobs of similar value, young women contact the office with the problem of not being able to secure employment, or in cases when employers still actively advertise for employees of specific age and sex. Watson (1993) reports that employers openly indicate a strong

preference for male workers where about two thirds of job vacancies advertised in job agencies prefer men. Another study (Hebda-Czaplicka and Kolaczek 2001) finds that gender based discrimination in access to work as well as surrounding employment and social insurance has increased over the 1990s. For example, unemployed women seeking employment were asked more often than unemployed men (54 versus 27 per cent) whether they had children (Kolaczek 2001). Furthermore, sometimes employers offer a job to a woman on a condition of her signing a statement that she will not use accorded to her by law paid childcare days while employed, or young female job candidates were required to provide a doctor's note stating they were not pregnant (Balcerzak Paradowska and Kolaczek 2001). Men are not expected to reconcile work with family life (Zielinska 2002). With such episodes quite common it is difficult to disregard direct labour market gender discrimination. But this does not concern only women and in some cases men are not treated equally either. For example men are often denied the possibility of a taking parental leave (Wichrowska-Janikowska 2000). Although 1996 changes to the Labour Code extended parental rights to include fathers, the interpretation of the law is not always consistent and in some circumstances differs according to whether it is the father or the mother applying for parental leave (Hintz 2000). However, as discussed previously and in Chapter 6, recent labour market policy developments clearly ban such discriminatory behaviour. Chapter 7 elaborates further on the labour market discrimination theme.

5.4 Overview and Concluding Remarks

This chapter has described the evolution of factors and actors relevant to the position of women in Poland in modern history and their relationship with the labour market. Analysing the various periods since the regaining of independence until the present day, allows for distinguishing the themes that weave throughout the whole period and for teasing out certain trends that are characteristic of each specific era. One theme which emerges relentlessly is the connection between the nation, the family, and religion. Religion and patriotism became almost synonymous, where an attack on religion could be seen as an attack on the nation. Catholic Church was the one institution in which Poles saw a preservation or continuity of national traditions and members of all classes and social groups identified themselves as both Catholic and Polish. Within this constellation women occupied a specific position carrying both responsibilities and rewards, as in the sacrificing but highly esteemed ideal of *Matka Polka*. Women's roles

and women's movement in Poland grew out of the responsibility for the family and the nation. This differed from the movements in other countries, especially in the West, as it united women of diverse backgrounds not around the opposition to the economic and political power of men, but around patriotic issues of defending everything that is Polish. On the question of gender, women in Poland are divided individually as well as organisationally, where the pursuit of change and progress exists in parallel to the preservation of tradition and the status quo.

Another theme persisting throughout the entire period is the discrepancy between the proclaimed and legal set of regulations and the actual situation of women in everyday public and private life – the decoupling of institutions and behaviour. While over time laws or policies have become progressively beneficial to women, the real situation tends to lag behind often without reaching the envisaged ideal at all. Considering the different eras in turn reveals some important differences. During the inter-war phase factual equality between men and women was not realised. The rebuilding of the political state and the set up of the welfare state did not challenge men's opposition to the idea of women in public life as the male political elites supported the stereotype of a woman with mainly maternal and family responsibilities. This predominant view was only slowly supplemented with one that gave women some more autonomy. Women did not gain an entry to leading functions in most political bodies, while women's associations did not turn into mass organisations and for the most part remained elite movements supported only in intelligentsia circles. Women's overall participation in public life gradually increased during this period through education and employment, although real levelling of men's and women's opportunities was far from realised. Gender equality was tackled more comprehensively after the WWII. Here real changes are visible in policy and politics as well as in their impact on everyday life. Though gender equality in its fullest sense has not been reached, the situation of women improved significantly in their entry to the public sphere through the increased opportunities in access to education, employment, and politics. Aside from the top down ideological doctrine two other factors created the pressure on women to enter paid employment: the need of the economy for workers, and the need to earn an income. However, the superficial achievements of the socialist state became easily uprooted during the system change of 1989 and thereafter. Clearly the transformation from socialism touched all areas of life and affected all citizens and the position of women has been redefined once again, partly by the deteriorated economic conditions

and partly by the response of the various actors on the public scene to the new situation. Consequently, the relatively stable labour market position gained by women under socialism and possible through the privileges allowing for the reconciliation of work and family life has become much more insecure. Not only were welfare state services retrenched, but new dangers emerged such as unemployment or open labour market discrimination. Given these new risks and obstacles and an institutionalisation of traditional rather than egalitarian gender ideology the Europeanisation of labour market gender equality is assessed in the following chapters.

VI. THE LABOUR MARKET POLICIES AND POLITICS OF GENDER AND THE ACCESSION TO THE EU

In this chapter I continue the theme of EU-wide evolution of laws and policies aiming at the achievement of labour market gender equality outlined in Chapter 4 and apply it to the national context developed in Chapter 5. Thus, the level of analysis fluctuates between the supra-national and a national one, and considers the interaction between them. The empirical analysis is divided into two main parts. First, I begin with the pre-accession period concerned mainly with the adoption of ‘hard’ law and then move on to the first 3 years of membership when the coordination of ‘soft’ law and policy takes precedence. As I argue in the following pages, accession to the EU proved a strong stimulus resulting in a legislative process aligning Polish legislation with that of the EU. For the labour market the bulk of the adjustment was performed in several stages (Boruta 1999; Hausner 2002¹⁰), mainly through changes to the Labour Code, enforced as of 1996, 2002 and 2004. The transposition of nine gender equality directives was required under the adoption of the *acquis communautaire* contained within the thirteenth negotiating chapter titled Employment and Social Policy, out of a total of thirty policy chapters negotiated between Poland and the European Commission before accession. The amended regulations establishing equality of rights and treatment of men and women and banning discrimination clearly reflect EU trends. The initial modifications were partial and transitional, with further changes responding to EU regulations. Second, I analyse a series of policy documents outlining the government’s short- and medium-term approach to gender in the labour market once Poland has joined the EU. European employment guidelines have been taken into consideration already in 1998 in the preparation of the National Strategy for Increasing Employment and Human Resources Development for 2000-2006 (HRD 2000-06), approved by the Council of Ministers in January 2000 (UKIE 2001). As a new member, Poland has so far submitted policy programmes relevant to three annual European Employment Strategy (EES) policy cycles: in 2004 its first National Action Plan for Employment for 2005 (NAP 2005), in the fall of 2005 its National Reform Programme for 2005-2008 (NRP 2005-08) with a separate detailed documents NAP 2006 and NAP 2007 and

¹⁰ I. Boruta (Deputy Minister, Ministry of Labour and Social Policy 1998-01; member of the negotiating team responsible for chapter XIII Social Policy and Employment, author of chapter IIa of the Labour Code (2002) on equal treatment); J. Hausner 2002 (Minister of the Economy and Labour 2001-05)

Annual Implementation Reports for 2005 and 2006. The first NAP 2005 was drafted according to ten employment guidelines, of which gender equality was in the sixth position, in the context of the requirement to mainstream gender throughout. The NRP 2005-08 and the NAPs 2006/ 2007 begin policy programming under the new format of the EES without a specific gender equality guideline, but with the gender mainstreaming principle still present.

6.1 Policy and Politics in the Pre-Accession Stage: Transposition of Directives

As Chapter 5 describes, parts of Polish legislation relevant to gender equality had been in place for several decades and were inherited from the socialist period. However, upon accession some other anti-discrimination regulations needed to be adjusted or expanded (see Table 13 for an overview). Consequently, the harmonization of Polish law with that of the EU has been tackled in several stages. For example, the 1996 Labour Code amendments banned discrimination and obliged the employer to respect the dignity of employees. Next the constitution of 1997 (Article 33) asserted equal rights for men and women in family, political, social and economic life, in particular in education, social security, public office holding, employment and promotion, with equal remuneration for equal work. Subsequently, the social security system was reformed in 1998. And finally, in 2001 (Act of 24th of August) and then again in 2003 (Act of 14th of November) further Labour Code revisions took place, coming into force in 2002 and 2004, respectively. The following sections describe the content and the process associated with the adjustment of the Polish legal framework to the standards developed in the EU.

6.1.1 Content of the Pre-Accession Alignment

To prepare for the transposition task in 1998 Polish government conducted detailed analyses of Community regulations and judgments of the ECJ, which served as a basis for the government's annual National Programmes for the Adoption of the Acquis and set timetables for reforms (CoM 1998). The analysis of the legal system was conducted by various ministerial departments and academic experts, and was consulted with experts from the European Commission and domestic social partners (UKIE 2000). In May 1999 the Council of Ministers adopted Poland's Negotiation Position in the Areas of Employment and Social Policy, pledging the implementation of the full *acquis communautaire* in this policy area by 31 December 2002 (CoM 1999). Negotiations of the Employment and Social Policy chapter were opened in September 1999 and

provisionally closed in June 2001 (CoM 2002), although the process of domestic transposition has started earlier and continued beyond that date since some Labour Code changes came into effect only when Poland joined the EU.

The Negotiation Position document asserts that the existing Polish legislation reflects the requirements of the Treaties and directives on equal treatment and that the relevant domestic acts require only slight adjustment and the government vowed to be fully prepared to take on the equal opportunities *acquis* judging that the alignment in this sphere does not require significant reforms. Based on the government's assessment, the adaptational 'misfit' exists, but does not seem particularly large. In similar vein, in a report negotiations results, the Council of Ministers (2002) concluded with full satisfaction that the pre-existing congruence of Polish and EU laws and expected progress until the accession ensure a trouble-free entrance into the EU social policy stream. Aside from transition periods requested for the health and safety field, social policy and employment chapter, including equal opportunities, was not deemed problematic. Table 13 lists changes needed in relevance to the equal opportunities field and results of their transposition into laws. Various UKIE (Office of the Committee for European Integration) reports point to transposition delays at the beginning of the exercise, but to a subsequent catching up on the approaching date of accession.

From the point of view of the Commission, the assessment of the status quo of social policy regulations in Poland in the pre-accession stage is less optimistic and points to a wider gap between domestic and Community laws, and as such a larger institutional 'misfit'. In Agenda 2000 (CEC 1997) the Commission assured to report regularly to the European Council on progress made by the candidate states, drawing on information from various sources such as the candidate states themselves, Council deliberations, European Parliament Reports, international organisations and NGOs. The Regular Reports issued between 1998 and 2003 (CEC 1998-2003) specific to Poland, assess progress in adoption of the *acquis* on the basis of passed legislation relevant to each chapter of negotiations. These made financial aid conditional on implementing various stages in the process and graded the applicant state's progress in particular fields, and thus reinforced conditionality. More concretely, the documents specified policy priorities and the timeline for their execution, assessed what has been achieved and listed the next priorities. Based on these documents the European Council decided whether the applicant state can be admitted to the next stage of the accession process.

Table 13 Transposition of EU Gender Equality Directives Relevant to Employment

Directive	Adjustment needed	Transposition results
75/117/EEC on equal pay for men and women	defining work of equal value; creating job valuation system; enabling law enforcement and legal recourse in disputes; introducing sanctions for discrimination; protecting persons seeking equal treatment from ending employment contract	legal regulations conform to the directive through the Constitution and the Labour Code (LC) changes in force from 2002
76/207/EEC on equal treatment in access to employment, training, promotion, working conditions; amended by 2002/73/EC	limiting employer's discretion in hiring, training, promotion; enabling law execution; removing upper ceiling of compensation of 6x monthly minimum wage; defining indirect discrimination; ban sex-specific job ads	the law guarantees principle of equality through the Constitution and the LC (2002), and removes upper ceiling of reparation for discrimination (LC 2004)
79/7/EEC equal treatment in social security	the rule upholding women's right to retirement at age 60 while men retire at 65 legally conforms to the directive	1998 anti-discrimination clause in the reform of the social security system
86/378/EEC on equal treatment in occupational social security schemes; amended by 96/97/EC	1999 reform of the Act of 22.08.1997 included major changes conforming to the directive	reforms of the social security system entering into force in 1999 comply with the directive
86/613/EEC on equal treatment in self-employment, incl. agriculture; protection in pregnancy and motherhood	for the most part adjustment is not necessary, changes to the Civil Code may be introduced to allow persons effective redress in courts	equal treatment principle of the Constitution, Act on Social Security System (1998) and Act on Economic Activity (1999), with later amendments, comply with the directive
92/85/EEC on the measures to encourage improvements in safety and health of pregnant workers, those who recently gave birth or are breastfeeding	introducing an option of paid leave for pregnant /breastfeeding worker whose transfer to a different job on health & safety grounds is not possible; individualised risk assessment, replacing a complete list of jobs forbidden to pregnant/breastfeeding women – different protection model from the existing one	LC 2002 and 2004, various Ordinances of the Council of Ministers (e.g. 1996, 1997, 1998) uphold the 'complete list'; compliance is not full from EU view of 'over-protection' or it is full and 'superior' from PL view
96/34/EC UNICE, CEEP, ETUC framework agreement on parental leave	establishing individual rights to parental leave for minimum 3 months; regulating leave of fathers; right to return to the same, or if not possible, to equivalent position after child birth	LC 2002/2004, the Act on Family, Care, and Child-care Benefits (1994) comply to the agreement; parallel right to leave covers the minimum; length of leave exceeds the minimum
97/80/EC on the burden of proof in case of discrimination	moving the burden of proof from the employee to the employer; defining indirect discrimination	LC 2002 meets the directive
97/81/EC UNICE, CEEP, ETUC part-time work framework agreement	introducing non-discrimination principle for part-time workers in relation to full-time workers	LC 2004 meets the directive

Sources: UKIE Reports: 1998 -2003; LC various editions; interviews

Already the 1998 Report notes that Poland fulfils the Copenhagen criteria of a) political stability and democracy, and b) a functioning market economy, but c) the ability to take on the obligations of membership is carefully acknowledged only in the 2002 Report. The recurring themes throughout the series are: the recognition of the successive governments' stance on joining the EU as a top political priority; the serious problem of corruption on various domestic levels; weak, but improving administrative and judicial capacity; and the problem of national policies and treatment relevant to women, as raised by human rights organisations. As assessed by the Commission, Poland has displayed a slow start but a subsequent acceleration of legislation adoption.

Turning to each successive annual report allows gauging how the Commission viewed Poland's efforts in the *acquis* adoption. For the equal opportunities field the first Report (1998) points out that equality principle is generally reflected in the law, but that implementation remains a significant problem. It further notes that the 1996 changes to the law are not consistent with the parental leave directive. The overall employment and social affairs section is reprimanded for little tangible progress and urged to increase efforts in health and safety, public health, labour, and equal opportunities, as well as in the reinforcement of such institutions as the National Labour Office and social dialogue. The next Report (1999) notes an impressive scope and depth in reforming the sectors of health, education, social security, and regional administration, but its evaluation of equal opportunities is the same as in the previous year, pointing to the discord between the state of law on paper and in practice, and to the need of establishing enforcement bodies. The overall assessment is negative as Poland has not made significant progress towards accession. The following Report (2000) recognises the complexity of equal opportunities, as overt discrimination is common, it notes the government's cancellation of a programme sponsored by the United Nations concerned with combating violence against women, but also notes that other aspects of women's rights are well protected. The Commission concludes that in terms of the objective measure of *acquis* adoption Poland has made no progress in this area. The subsequent Report (2001) points out that the issue of equal opportunities has been increasingly debated, that some legislative progress has been made, and that the recent parliamentary elections leading to a leftist coalition government have resulted in a marked increase of women representatives in both houses. Laws amending the Labour Code and other Acts have been adopted to align Polish legislation to the Community *acquis*, but further progress is called for, especially ensuring the institutional framework for implementing and enforcing the

laws. This Report also encourages actions to raise awareness of equal treatment for women and men, to improve women's labour market position, and to increase their representation in decision making. The next Report (2002) notes the provisional closure of the social policy and employment chapter negotiations. It points to Poland's participation in PHARE-funded programmes with gender equality among them. Also, it notes the establishment of the Government Plenipotentiary for Equal Status of Women and Men (GPES) in October 2001. In terms of equal treatment legislation, Labour Code changes largely bring Polish regulations in line with the *acquis*, but further alignment is necessary, e.g. of parental leave laws. This Report is also the first one in the series distinguishing the problem of unemployment rates by sex, where women's rates are higher than those of men. The final Report (2003) recommends further necessary alignments in the equal treatment area, such as the elimination of provisions aiming at protection of women but causing discrimination, or equalising pensionable age among civil servants. In view of the Commission, the GPES needs stronger competencies and capacities, and the enhancement of employment rates for women is pointed to for the first time in the series. Overall, equal opportunities have a limited presence in the Regular Reports. Their visibility increases somewhat as of 2001, when more space and more numerous issues are dedicated to the topic. However, the potential of including gender beyond the social policy and employment chapter has not been achieved.

The reports highlight a slow progress made by Poland in the gender equality legislation, point to implementation problems due to inadequate institutional capacity, with the welcomed, but insufficient in power and resources, establishment of the office for equal status. A possible reason for the lagging performance of Polish legislators in the area of equal opportunities is that the domestic reforms necessary to comply with EU legal framework in fact proved much wider and deeper than the government initially assessed. From the quantitative aspect, the amount of change required and planned was not large. Qualitatively, however, it represented a substantial adjustment. According to experts¹¹, in the equal opportunities area the Polish legal framework consisted of only a general form of regulations in comparison with Community law. Given Polish socio-political reality and the legal tradition and practice, basic constitutional guarantees have not been easily and directly applied. The general formula prohibiting discrimination was

¹¹ I. Boruta (see footnote 10); U. Nowakowska, Lawyer, Director of an NGO: Women's Rights Center (1999); J. Maciejewska, Advisor to the Minister of Labour and Social Policy (2000); J. Kasprzyk, MP (2002); experts from the Ministry of Labour, Department of Labour Law (ML-DLL, 2004).

insufficient for any kind of execution of rights if individuals felt they were discriminated against and wanted to seek redress. Thus, the existing framework was insufficient to ensure equality between women and men and necessitated reforms by the development of second order rules in the Labour Code and various Ordinances and Acts. Such changes may have significant social meaning as they largely affect employers, who thus far acted above the law by (see Chapter 7). The awareness of the potential threat of possible fines and a number of exemplary court cases may lead to changes in employers' behaviour and limit their discriminatory practises (Maciejewska 2000).

Although the transposition process was somewhat slow and half-hearted, for the most part it ensued smoothly and subsequent right- or left-leaning governments consequently pursued the goal of EU accession, and thus fulfilled the necessary requirements associated with the process. Still, some differences and shortcomings can be detected. Taking a closer look at the Pregnant Workers Directive (92/85/EEC) illuminates the transposition process, and underlines the differing philosophies of the political left and right on the matter. It also allows to distinguish between EU induced changes, and those that occurred due to domestic factors. As summarised in table A5 in the Appendix, this directive stipulates many work related issues for workers who are pregnant, have recently given birth, or are breastfeeding. The two main aspects of the directive concern a) the provision for maternity leave for an uninterrupted period of at least 14 weeks before and/or after delivery, of which 2 may occur before delivery, and b) the health and safety conditions for this group of workers based on an individual risk assessment. Historically, Poland has had a well established framework of protection of pregnant workers and the maternity leave and benefits were introduced already in 1924 (Wóycicka et al. 2003). Before the 1989 transformation, the regulations stipulated in the Labour Code (1974) provided for protection from dangerous working conditions of all pregnant workers and for 16 weeks of leave on the birth of the first child, 18 weeks for a second child and all successive births, and for 26 weeks in case of a multiple birth. The level of benefit was at 100 per cent of salary based on the last three months before the leave. As Table 13 summarises, during the accession process some adjustments in this field were still necessary. One such change referred to the introduction of a paid leave option for a worker from the specified group, who cannot perform her current job and whose transfer to a different job is not possible. Another one is the issue of an individualised risk assessment for performing certain jobs, allowing for each case to be

assessed individually and replacing a system of a pre-specified complete and closed list of jobs forbidden to all pregnant/breastfeeding women. In contrast, the length of the maternity leave was always compatible with the directive as it exceeded the minimum required and therefore did not need any changes.

Nevertheless, it is in the area of maternity leave length that most activity in the recent years can be noted. In the post-socialist period maternity leave and benefits were stable only until 1999, and nearing the accession they were adjusted several times. Changes to the maternity leave took place outside of the context of the directive transposition, as the minimum 14 week protection period has always been contained within the core of labour legislation. Still, reforms took place. Depending on the political orientation of the government in power they were geared either towards shortening of the leave and thus quick re-integration of women into the labour market, or towards lengthening it, implying mothers' exclusion from employment. Specifically, in 2000 under the right-wing AWS led government the maternity leave was extended to 20 weeks for the first and successive births, and to 30 weeks for a multiple birth. In 2001 it was further extended to 26 weeks, and 36 weeks, respective to the type of birth. In 2002, the new left-wing SLD led government cut back the leave again to 16 weeks at the birth of the first child, 18 weeks for each following birth, and 26 weeks in case of a multiple birth (LC 1974, with subsequent amendments). Looking ahead, the current right-wing PiS led coalition embarks on a pro-family policy stressing the traditional roles of women by proposing gradual extensions of the maternity leave.

A long maternity leave considered in terms of reconciliation of work and private life, is generally viewed as a positive development and its extension at full salary is good for easing the tension between parenthood and employment. But its impact should be regarded in the specific socio-economic context in which it is implemented, since in precarious labour market conditions such arrangement may be seen as costly to employers and may increase the prevalence of statistical discrimination against female workers. The generous maternity provisions beneficial during socialism are now viewed as detrimental since the guarantee of secure employment ceased to exist, as evidenced by the high female unemployment rates and a tendency to treat women as a secondary labour force. In Poland women are viewed as mothers first and workers second, while the opposite is true for men. This is evident not only in practice, but also in legislation. Since 2004 the mother must take at least 14 weeks of maternity leave, and the remainder *may* be transferred to the father. The father must apply in writing for the

unused portion of the maternity leave, and upon the agreement from his employer the mother may return to her work. Thus, mother's maternity leave is unquestionable in its own right, while father's privileges are optional and are granted only when the mother declines a portion of her own leave. In comparison, this situation has been remedied within the 96/34/EC framework agreement on parental leave. Childcare and raising leave and benefits were extended to men on equal basis with women before the accession negotiations, in 1995 and 1996. Several years later, the legal framing in the Labour Code of the right to childcare leave approximates the directive as it evolved from emphasising the rights of female workers as primary care givers by specifying their various rights and benefits and extending them to fathers only in the last paragraph (in force until 2003) to phrasing the parental rights of workers in a gender neutral way (as of 2004). However, maternity and parental leaves do not have the same status and do not convey the same benefits. While maternity leave is associated with the same level of recent salary, the benefits of the parental leave are not as generous and only low income families receive compensation. Thus, the incentives for either of the parents to use parental leave are lower, and there are no special arrangements to encourage men to participate. In sum, within the context of the Pregnant Workers Directive adjustments to the length of maternity and parental leaves were not required by the *acquis* adoption and the reforms were induced by domestic forces, most importantly the governing parties.

Turning to the adjustments demanded by the directive, namely the introduction of a paid leave option if a transfer to a different job is not possible and the issue of an individualised risk assessment, allows ascertaining the 'misfit' condition of EU induced domestic change together with the mechanism of conditionality. Changes to the Labour Code in force as of 2002 (Act of 24 August 2001) extend protection rights to breastfeeding workers and introduce the obligation of employers to grant a leave to a pregnant or breastfeeding employee who, on health and safety grounds, should be transferred to a different job but such transfer is not feasible. Thus, the first part of the adjustment of the Polish legal framework to the 92/85/EEC directive has been fulfilled. The same cannot be said about the second part of the alignment – the individual risk assessment necessary for the protection of workers who are pregnant, have recently given birth or are breastfeeding. According to the advisor to the Minister of Labour and Social Policy, J. Maciejewska (2000), the Polish protection system of pregnant workers is based on a set of regulations that apply to the group of pregnant women as a whole and contain a comprehensive list of jobs and tasks which are not permitted to pregnant

women, including night-time work. This list is compiled on the basis of risk measurements regulated by the Ministry of Health, and the employer is held responsible if an employee performs a listed task. The absolute prohibition of performing the jobs listed means that female workers are not allowed to perform them even if there is no individual risk to their health and safety or if they give their consent. In consequence, a complete and broad list of prohibited jobs and a compulsion to observe it unconditionally may discriminate against women by limiting their right to a free choice of profession, by limiting their professional potential without consideration of their individual abilities and needs. Conversely, the protection method contained in the directive can potentially ensure better treatment of individual workers by safeguarding those who cannot perform certain jobs without, at the same time, discriminating against those who are capable of their completion with no compromise to their health and safety.

The problem in implementing the directive completely, as identified by the Polish side, is the transposition cost. To assess each time the potential risks for individual pregnant or breastfeeding workers performing a specific job requires expert knowledge and resources, therefore the existing system relying on a comprehensive list of prohibited jobs is seen as more effective in practice (Maciejewska 2000). The European Commission disagrees with this view, and requests the elimination of the complete list of jobs forbidden to women and replacing it with an obligation of individual risk assessment for a given woman in a given job. In March 2000 Poland was asked to confirm that its rules do not comprise a source of discrimination, as general work prohibitions for pregnant women do not conform to the directive (Leiber 2005). In July 2002 (Dz. U. 127: 1091 and 1092) the Council of Ministers amended the legislation for the types of work which women in general, and pregnant and breastfeeding women in particular, are not allowed to perform. The new ordinance kept the principle of absolute prohibitions and specified certain levels of exposure to noise, vibration, ion radiation, and night time work. Thus, the scope of the protection did not represent a substantial change to the previous ordinance from 1996. The existing philosophy of the protection of pregnant workers, those who recently gave birth or are breastfeeding prevailed. If the Commission continues to view these as 'overprotective' and compromising the principle of non-discrimination, Poland may eventually face infringement proceedings.

6.1.2 The Process of the Pre-Accession Alignment

The Polish Permanent Representation to the EU was set up in 1990 and initially performed the channelling of information between the EU and the national government as well sustaining contacts with the representations of EU member states (Nowak-Far and Michonski 2005). In 1996 Poland established a Committee of European Integration (KIE) supported by an office dedicated to integration (UKIE), which was the main organisational unit coordinating the negotiation process (Nowak-Far and Michoński 2005). For instance, UKIE has prepared a series of reports to the Council of Ministers on the realisation of the government's programme of preparation for membership. The accession adjustment in terms of policy change and institutional adaptation was a drawn out process, which intensified in the late 1990s and finalised just as Poland entered the EU in 2004, save transitional periods in some policy areas.

The pre-accession transposition of the directives on gender equality in the labour market was led by the Ministry of Labour and the bulk of the adjustments took place during the 2001 and 2003 Labour Code reforms. However, Polish legislators looked up to the Community law even before the accession to the EU was a concrete possibility. The 1989 transformation sparked a need for different legal solutions as Poland has just emerged from a socialist system and had to quickly implement a new regulatory framework designed for the free market democracy. In certain areas home-grown responses to policy challenges did not exist and legal departments in the various Polish ministries have often modelled their drafts on the already existing European solutions, as in the case of the first Act on Employment of 1989 where expertise was sought from the directive on collective redundancies (ML-DLL, 2004). Such voluntary use of EU conventions for domestic regulations is a good example of policy transfer through learning, or mimetic isomorphism. Several years later, when accession to the EU was actively pursued, the transposition of laws from the EU was mandatory and learning from other member states was an integral part of the *acquis* adoption. The civil servants of the Labour Ministry's Law Department have followed other states' practices and experiences and learned from their 'mistakes' of how to transpose certain directives or their parts correctly. Also, numerous meetings and workshops on the EU level for the then applicant countries were organised. On such platforms ongoing working comments were given by the European Commission providing a chance to either explain the domestic context or adjust legislation proposals. So, before the final Labour Code changes were adopted, meetings in Brussels addressed stages of completed work and

commented on the phases that still needed to be achieved. The civil servants also monitored the relevant cases and verdicts of the ECJ. They followed the cases that referred to other member states and tried to take them into account in their work of adjusting the national legislation in the direction indicated by the ECJ (ML-DLL, 2004).

Besides the main drafting team within the ministry, participation of other actors was required for projects of modernising the existing or proposing entirely new legal acts. Thus, law and policy-making took place with the cooperation of the National Labour Office, the National Labour Inspectorate (PIP), other ministries and central administration departments, regional and local self-governments, trade unions and employer organisations, and at a later stage the GPES. In addition to the supra-national and national interactions, there were sub-national learning processes relevant to their work. Several times a month every lawyer covered a telephone shift facilitating a direct contact with workers, unionists, lawyers, or various offices inquiring about labour law changes. Such practise enabled the assessment of a given law in terms of clarity, formulation, and functionality, and whether it needed further refinements. This also helped to determine in which direction the potential amendments should be made. All the opinions and comments were collected and taken into consideration, and then a proposal of an act was passed on to the Council of Ministers (ML-DLL, 2004). According to the main negotiator of Chapter 13 Social Policy and Employment¹² this process took a lot of time, as the initial negotiations among the stakeholders turned into ‘fighting for every word’ before they arrived at the over-burdened *Sejm*. There it was considered by relevant parliamentary committees and finally voted on. The President’s signature sealed each new legal act (ML-DLL, 2004).

In addition to the direct consideration of the EU policy and standards there were also indirect influences, where EU laws provided justification for actions of domestic actors to pressure the government for reforms. For example, the office of the Commissioner for Civil Rights Protection has taken EU regulations into account when it instigated various investigations or requests for opinions from the Polish Constitutional Tribunal, as in the instance of ending discriminatory practices in compulsory job terminations of female civil servants who reached retirement age at 60 while male civil servants were permitted to work until they were 65. More generally, the office issues opinions on proposed changes to the Labour Code and reacts to government proposals

¹² Irena Boruta, based on OSKA interview 1999

of different reforms always keeping in mind EU laws and using them as argumentation in interventions (CCRP – DLL, 2005).

The EU indirect influence also occurred when domestic actors used the accession process to pursue ends consistent with their interests. For instance, women's organisations understanding that the accession was a priority for the government used this knowledge and adjusted their argumentation reflecting EU level trends and politics which was useful in persuading the government to give in to their demands. This was bottom-up mobilisation reaching upwards to the EU-level for additional legitimacy: 'we discovered that we have crazy possibilities of influencing policy change, and, of course, we have managed to achieve a few small victories (...) because our arguments were strong and based on EU directives' (NGO-K, 2004). As such, NGOs pressured the left-wing government to establish an equal status office and were successful in achieving certain adjustments to its form. This tactic was not always successful. The same NGOs were not able to use the EU as legitimating justification when the right-wing parties in power were unsympathetic to such negotiations. In one case, the NGOs by-passed the national level and appealed to the EU directly. For example on July 22nd 1998 some 19 Polish women's NGOs addressed a letter to the European Commission Task Force on Enlargement expressing hopes that through the accession process Poland will accept and implement European gender equality standards and protesting against the elimination of equal status policies from the government's agenda and the inadequacy of the views and actions of the then Government Plenipotentiary for Family Affairs. The NGOs articulated dissatisfaction with the inability to raise gender matters and pleaded for assistance in bringing this issue to the government's attention. The response from the European Commission of September 3rd 1998 reaffirmed to the NGOs that the EU 'pays great attention to issues related to equality of treatment for women and men' and that the obligation of applicant states to adopt the *acquis communautaire*, and thus equal opportunities framework, will be covered in the negotiations of Chapter 13.¹³

Thus, the accession process and the relevance of the EU to the domestic political arena changed the opportunity structure for the domestic agents. At the central administrative level studying and learning of policy content and procedures occurred in order to comply with the European regulations and the future avoidance of penalties. Other actors looked up to the EU in order to find new solutions for persisting labour

¹³ Both letters obtained from a Polish NGO: Federation for Women and Family Planning.

market problems and to persuade the national structures to adopt them in their policies and practices. Also, various national courts and the Supreme Court have begun the use of international, and especially EU, law in their sentencing justification¹⁴. These learning mechanisms operated in the context of misfit – the domestic situation was inadequately developed and the supra-national arrangements seemed to promise a ready made solution or at least a degree of guidance in finding one.

However, as the case of the 92/85/EEC directive suggests, misfit is neither a sufficient nor a necessary condition for domestic policy change. National reforms within the scope of this directive took place with and without the pressure from the EU, as domestic forces, i.e. the central government, proved decisive in the final content of the legal framework upon accession. Other actors, such as trade unions, employer organisations or non-governing political parties expressed their views but did not challenge the transposition process. In the opinion of a Solidarity representative, the new equality regulations were feared to mount more obstacles to the employment of women as a potential employer may consider employing female workers even more risky and costly than thus far (Wojdat 2002). In contrast, an OPZZ delegate saw gender equality legislation as a positive development, warranted in its own right and because they comply with the EU directives, but also feared whether the new obligation of the employer to provide paid leave for a pregnant or a breastfeeding worker whose transfer to a different job is not possible may prove too costly (Chrostek 2002). The comments from employers were consistent with their interests. Changes to the Labour Code debated in 2002 made the Polish legal framework a little more flexible and benefited employers. Their satisfaction was evident in a newspaper statement by Henryka Bochniarz, President of the Polish Confederation of Private Employers Lewiatan (PKPP), in which she pointed to the success of the social dialogue by arriving at a reasonable compromise with trade unions to which the minister of labour contributed as well (Rzeczpospolita 2002a). Labour Code changes coming into effect in 2004 and further aligning Polish legislation with that of the EU brought certain benefits to workers, and thus were criticised by employers. Among them anti-discrimination regulations and harassment, as well as the burden of proof rule:

When it comes to equality regulations there is a huge resistance on the employers' side. I don't know why they were so afraid to introduce such regulations. Nevertheless, the parliament still passed them. Maybe not in such a shape and form as we wished for, not with such restrictions as we would have liked; as it is in France, for example, with high

¹⁴ Teresa Romer, judge of the Supreme Court, OSKA interview by A.Grzybek and B.Limanowska (1999).

penalties of a few thousand Euros for breaking certain laws; but already this is something, some financial penalties, small in fact, but they are there. With small steps we are achieving large things (TU-OPZZ-1, 2004).

In spite of the clear preference of employers not to pass certain equality laws associated with higher production and organisational costs, the opposition to them was not strong enough to block the regulations from entering the Polish legal framework.

The changes to the length of the maternity leave took place outside of the directive requirements. Poland's legislative framework has always exceeded the EU stipulated minimum length, yet the successive governments still embarked on reforms in this area. These activities cannot be subsumed under the process of Europeanisation as they were driven by domestic forces alone. Where there was potential for Europeanisation to come into effect was in the reform of a 'complete' protection of workers covered by the directive towards an 'individual' system. Here there was a moderate degree of misfit between the existing domestic regulations and those contained in the directive. While the misfit did not appear large in quantitative terms as Poland boasted a very well developed system of protection for this group of workers, qualitatively the change was more substantial. A transformation to the philosophy of the protective system from a comprehensive coverage to an individualised approach together with the potential cost to employers obliged to perform an individual risk assessment proved too vast for domestic reform. The lack of strong opposition of domestic actors in the transposition of this directive suggests that it was not their power that prevented the government from complying fully, but that the state administration pursued its agenda successfully. In summary, the condition of misfit and the mechanism of compliance did not result in Poland's exact transposition of the directive.

Trying to understand why the compliance and misfit were insufficient in just a portion of one directive (92/85/EEC) may benefit from a comparison with another directive outside of the equal treatment and opportunities field which encountered some hiccups along the way. The adoption of the working time directive is an example of such a meandering journey through the Polish legislative system. According to Ministry of Labour experts (ML-DLL, 2004) the changes to the working time laws have begun in 1996 by aligning the Labour Code with other employment acts in force at the time. This however, did not conform to the EU regulations and so working time changes were drafted again in 2001 and secured the Parliament's approval. However, the proposed legislation was not adopted as it did not pass the next hurdle of the presidential consent. Once more, the issue was tackled in November 2003 and finally reached the appropriate

level of compliance required by the EU. In the end, the adoption of the directives in general was viewed imperative without any room for manoeuvre:

Here we have joined [the EU], the requirements of the European law – these of course have the priority - if something flows from European law there is no resistance. It is accepted that we are in the Union, or we are entering the Union, and this must be so. (ML-DLL, 2004)

Therefore, the adoption of the EU law is not questioned, and its superiority takes precedence over national law. Similarly in the case of the 76/207/EEC directive (amended by 2002/73/EC) it was sufficient for the Commission to note the wrong use of a maximum amount of fine in case of discrimination and based on this the law was further refined (ML-DLL, 2004). These events indicate that the mechanism of conditionality is a viable explanatory factor in policy transfer in the pre-accession state. The case of the 92/85/EEC directive is not necessarily a falsification of this mechanism if we can accept that the Polish side actually believes that its broader protection system is supreme to the usually minimalist EU solutions making Poland compliant:

And now with discrimination regulations we have aimed at most accurate transposition of the directives. When it comes to the equality between women and men it was always guaranteed in the Labour Code, but it was not as well developed with appropriate tools or it was not adhered to in practice. So we have adopted the [EU] laws and in principle it can be said that we conform. But how in practise will this be viewed? Will the European Commission determine that we have fallen short in some way? (ML-DLL, 2004)

Given that the European Commission has asked the Polish government to ensure that the ‘overprotective’ nature of this legislation does not ‘constitute a source of discrimination’ does not rule out that this is simply a difference in interpretation of the directive. This is especially as the Commission is quite vague in further stating its opinion on night work which ‘*might* – pending the European Court’s of Justice Case Law – be considered to go beyond the needs of maternity protection’ (EC 2000 cited in Leiber 2005, emphasis added). In the Regular Report of 2003 the Commission is not much more specific in suggesting that additional ‘legal adjustments are necessary in the area of equal treatment of women and men in employment and in social security, such as the removal of provisions aiming at protection of women in employment, yet leading to their discrimination’ (p. 40). The Commission indicates a course of action which Poland is expected to take, but it is more suggestive than compulsory in character as no deadlines, specific targets or consequences for not meeting them are provided. All in all, in substantive terms, the transposition of the nine gender relevant European directives appears to be completed, with the caveat that a part of one directive remains ambiguous.

As the discussion of reconciliation of work and family policy already suggested, the government's political will on gender equality is quite visible in the pre-accession process. Political will is also evident in the case of Poland's participation in the Equal Opportunities Action Programmes. The Programme for the years 1996-2000 was open to the candidate countries, and their various governments had the opportunity to apply for funding to participate in the process. Poland did not engage in this programme as the administration of the then Office for the Family and Women was not interested in participation (Boruta 1999, in OSKA interview). Several years later (2003) and a leftist government in place Poland has joined the Community Framework Strategy on Gender Equality 2001-2005 and awareness raising project supported by the Programme (CEC 2004d).

Another example of the importance of political will for domestic reform is the development of an Equal Status Act, which was designed by University of Warsaw academics in cooperation with the Parliamentary Group of Women. The project of this act was introduced for the first time to the *Sejm* dominated by the political left in 1996 with a substantial support of over 160 signatures from a range of members of parliament (MP-PGW, 2004). The parliamentary procedure requires a minimum of 15 signatures to propose any law, and support for it is likely to increase during debates and voting. The first draft was modelled on Norwegian regulations and aimed at creating mechanisms of implementation of existing equal treatment rights (Fuszara and Zielinska 1998) and included the establishment of a permanent, independent, central office for equal status (on similar basis to the apolitical Commissioner for Civil Rights), prohibition of direct and indirect discrimination, shifting the burden of proof in cases of discrimination onto the employer, or introducing a minimum 40 per cent quota for representatives of either sex in elected or appointed public administration or institutions (MP-PGW, 2004). The first reading of the draft took place in 1997. The discussion over the bill, although initially supported by many parliamentarians, created controversy and even doubts whether such solutions comply with EU norms (Fuszara and Zielinska 1998). The project was sent to relevant committees for revisions but due to upcoming parliamentary elections it was not finalised (Fuszara 2005).

A second introduction of the revised act to the *Sejm* occurred in 1998, when the political centre-right was in power and occupied the majority of the seats. There was still some support for the bill among the parliamentarians, but not in the centre-right government (MP-PGW, 2004). The government issued a negative opinion arguing that

in Poland gender discrimination does not occur, that there is no proof for gender based pay inequality, that gender parity is not practised in any of the EU members (Fuszara and Zielinska 1998) and that there is no need for a stand alone equal status office (MP-PGW, 2004). Moreover, existing constitutional guarantee of the principle of equality was seen as sufficient and extra legal acts as redundant (TU-S, 2004). These opinions were motivated by ideology rather than facts. The establishment of a permanent and independent equal status office was seen as crucial by parliamentarians involved in the project and by women's organisations for creating mechanisms guaranteeing constitutional rights. The need for a stable and independent body became evident after the government closed down the previously established office and projects directed at the promotion of women's wellbeing and shifted resources towards traditional pro-family policies, justifying this with the claim that a woman is a part of the family and not an autonomous subject. Consequently the proposed bill was dismissed in 1999 after the first reading (MP-PGW, 2004).

In the meantime accession to the EU demanded of Poland to supplement the existing Polish equal treatment and equal opportunities regulations by introducing certain new legislation partly overlapping with the unsuccessful Equal Status Act, such as defining the notion of indirect discrimination or the issue of the burden of proof when discrimination is suspected. As described above, these pieces of legislation were implemented along with other Labour Code changes in 2002 and 2004. In contrast to the Equal Status Act, the gender relevant reforms necessitated by the accession to the EU did not spark controversies in the parliament. Some politicians did not see the need of implementing new gender equality laws due to the fact that Polish constitution already contains legal guarantees between women and men, but this did not evolve into stormy discussions. There was only slight disagreement on the location of these regulations in the Labour Code. Somewhat more divisive was the question of indirect discrimination.¹⁵ The first parliamentary debate took place at night with a low interest of its members, most of who were not even present. The debate focused on the fact that the laws proposed by the government align the domestic framework with that of the EU and this argument was sufficient to pass the legislation. Additional justification pointed that equality between women and men is consistent with the constitution and thus with the overall norms of the Polish legal system (Fuszara 2005).

¹⁵ Teresa Liszcz, MP, 2002.

The changes induced by the EU did not cover all intentions of the authors and proponents of the Equal Status Act. A separate legislation was still deemed necessary to turn the office for equal status into a stable institution, to ensure the responsibility of the central government and local self-governments to combat all forms of discrimination, or to establish gender quota in various structures. While the legislative work over the bill was being carried out, the governing formation of the Catholic Church issued a letter to the Marshall of the *Sejm* expressing its concern over the legislation. Bishops underlined that ‘this ideological initiative takes up time and attention of members of parliament in such difficult period for our country’ and that ‘equality between women and men lies at the basis of human dignity present in the teachings of the Church’ but that ‘equality does not mean sameness in which the difference between mutually complementary sexes would be lost’. Further arguments pointed to the difficult labour market situation of high unemployment and a deep crisis of agriculture and given these problems ‘forcing through the parliament legislation demagogic in character which does not address the basic problems and expectations of the majority of citizens incites legitimate care and opposition’ (quoted by HLI, based on PAP 2004 and Onet 2004). So, a third version of the legislation was proposed to the *Sejm* in June 2005 but did not pass with 212 votes against and 187 for the bill (gazeta.pl 2005b).

Table 14 Equal Status Act Proposal and its Various Phases

Category	<u>Phase I:</u> 1997- 1 st Sejm reading	<u>Phase II</u> 1998 2 nd introduction	<i>Labour Code</i> 2001/03 <i>changes</i>	<u>Phase III</u> 2002- 3 rd introduction
Domestic power	left government and parliament majority	right government and parliament majority	<i>right, then left government / parliament</i>	left government and parliament majority
Support for legislation	wide multi-party - 160 signatures	moderate: 71 signatures	<i>little debate in the parliament</i>	parliament split: 187 Y, 212 N
EU pressure for gender equality laws	not immediate	growing but not immediate	<i>strong</i>	none after 2003 LC changes
Result	passed for further work in committees	dismissed in 1999	<i>pre-empted portions of the proposed Act</i>	dismissed in 2005

Mostly parliamentarians from the conservative parties opposed this legislation, and their debate illustrates opposition not only to equal opportunities solutions based on gender, but especially to sexual orientation. They used doctrinal arguments that the bill ‘equalises everyone with everything’ and moves clearly in ‘a soviet direction’, that it

‘makes allowances for homosexual unions’, is akin to ‘fodder served by feminists and other deviants’, that ‘it is not about gender equality but about promoting sexual deviance’ (gazeta.pl 2005b). An overview of the journey taken by the Equal Status Act is presented in Table 14.

As the table illustrates, the proposal for an equal status legislation has been addressed throughout the years by various government and parliamentary configurations. In the early stages there was clearly the strongest domestic need for such a regulation, as the existing legal framework did not fully regulate the sphere of gender equality. At this early point the awareness of the topic was quite low and the pressure from the EU to conform to Community standards was not imminent. Despite high domestic pressure and parliamentary support, the revised draft of the act was not ready before the end of the existing legislative term and thus not made into law. The next stage brought about lower support among the members of parliament and a strong disapproval of the government while the need to comply with EU gender equality directives did not reach its peak yet. Both the domestic and exogenous forces were not favourable to the passage of the law. The external adaptive pressure built up in the next few years when Poland was negotiating the terms of its accession to the EU and had to embark on domestic reforms. This period was captured by the changes made to the Labour Code. The first adjustment took place in 2001 with the centre-right parties in power but with an expert¹⁶ on the Community gender equality legislation responsible for employment and social policy alignment. The second set of reforms was passed in 2003 under the conditions of aligned internal and domestic forces conducive to change, namely the left-wing government and the approaching EU accession. These changes and the establishment of the office of the Government Plenipotentiary for Equal Status of Women and Men covered many aspects proposed by the earlier drafts on the equal status legislation and pre-empted its passage in the previous form. Nevertheless, a third generation of the equal status bill stressing permanent institutional guarantees of equal rights was introduced by the Senate as it was still regarded as needed by various political actors, for instance the Parliamentary Group of Women and the SLD-led government as expressed by the Prime Minister and his pledge to support it in the parliament (KPRM 2003). In the end the domestic support for the bill combined with

¹⁶ I.Boruta, see footnote 10.

considerable opposition to it and the lack of any EU force on the matter resulted in its failure to pass.

In summary, gender equality legislation was passed in Poland during governments composed of centre and right-wing parties (1997-2001) as well as the leftist coalition (2001-2005). This legislation, although proposed in the earlier periods, was most successful in the 2001 and 2003 adjustments to the Labour Code at the time when the adaptational pressure to conform to Community regulations was reaching its peak. Moreover, only the laws that were necessary for Poland to join the EU were adopted. Additional domestic proposals of establishing various anti-discriminatory mechanisms, including but not limited to gender, were dismissed. When legal proposals adjusting Polish laws to the EU regulations were 'improved on' by rounding them out or making them more encompassing 'in the end the results were not what was wished for, because where it is not clearly stated as an EU requirement here of course the parliament had the deciding voice' (ML-DLL, 2004). The resulting outcome points to the interaction of such causal factors as the sequence of events related to the strength of the EU push for domestic change combined with the strength and political will of the domestic actors – the political parties in government and the parliament. The direct role of the EU is especially highlighted when it comes to domestic progress on gender equality regulations, when the government and the parliament passed the necessary laws prior to accession. Thus, the shape and form of policy and regulations at the EU level matter for their reception domestically. Can the same be said about participation in 'softer' voluntary policy action as in the engagement with the EES?

6.2 Policy and Politics from Pre-Accession to Membership: The EES

In the years leading up to the accession to the EU, Poland has taken note of gender in the EES in various domestic policy and action. The HRD 2000-06 was approved by the Council of Ministers in January 2000 (government of the political right) and was the first policy document referring explicitly to the EES and its four pillars. Next, in September 2004, just over four months after joining the EU, Poland submitted its first NAP 2005 (government of the political left). The following year, in October 2005, Poland presented the NRP 2005-08 in its second full policy-making cycle. This document was developed by the outgoing leftist government but outlines priorities and targets relevant to the new administration. The next government (from the political right) has developed the NAP 2006 and 2007, subsumed under the NRP 2005-2008 and

serving as its annual concretisation by providing an analysis of the current labour market situation and specification of various labour market policy tasks planned for the year. Finally, Implementation Reports for 2005 and 2006 provide the government's assessment. All documents recognise that despite anti-discriminatory regulations and higher human capital women have lower labour market opportunities than men, but the amount of detail varies among them. Similarly, the emphasis varies on the proposed policy solutions to the general and gender specific labour market challenge. The preparation of the last documents benefit from building on the experience and expertise of the previous proposals, as the EES process is iterative and the OMC tool conducive to learning. Thus, the following section accounts for policy development under changing conditions: various degrees of domestic officials' experience with the EES process, changes to the EES itself, and for the national governments originating from opposing political camps and utilising the expertise of their office for equal status. All these factors can potentially influence the attention to gender equality in quantitative and qualitative terms. The following section traces the contents of policy over the course of three years, summarised in Table A10 in the Appendix.

6.2.1 The Content of the Alignment associated with Membership

The HRD 2000-06 general policy direction points to stimulation of job growth and human resources development, while equal opportunities policy is directed at women and at disabled persons. In section 6.2. *Women and family*, the government pledges to promote labour market gender equality through educational programmes and media campaigns and taking up the issue with labour and employer representatives. Policy aims to raise part-time employment for women and professional development courses for women returning to work after childbirth. All in all, the document provides an accurate, although limited, assessment of women's labour market position and proposes ways of dealing with gender discrimination. The projected actions are unspecific and limited in scope, institutions responsible for certain tasks, timetables, targets, or resources dedicated to putting the plan into action are not listed. The lack of concrete and measurable goals renders the implementation and evaluation of the policy extremely difficult, and makes the document declarative rather than strategic. In terms of furthering gender equality, its potential is limited. It is directed at women and aims at mothers' reconciliation of working and family lives through the promotion of part-time employment without the consideration of effects associated with the move from an

economy predominantly based on full-time work towards a scenario where women are encouraged to work part-time. Moreover, the relevance and participation of fathers is not recognised in this context and possible institutional changes, such as better access to childcare, are ignored. This early document scores rather poorly on the gender dimension, and gender mainstreaming is definitely lacking.

Turning to Poland's first policy programming document participating in the EES as a member state allows assessing the labour market priorities of the government. For 2005 they are: elimination of institutional obstacles to employment creation by improving the functioning of the labour market institutions, supporting adaptability of enterprises, and making employment more attractive; the advancement of active labour market policies at local and regional levels; the activation of the disadvantaged unemployed via training, vocational, and general development; and improvement of the institutional coordination and the transparency of decision making (NAP 2005). Overall, the character of labour market policy changed towards increasing employability and the promotion of economic activity, as well as accounting for regional and local diversity. In its Joint Employment Report (CEC 2005b) the European Commission issues nine specific recommendations to Poland, with female labour force participation and work and family life balance earning an 'Insufficient' mark. Considering in Guideline Six on gender equality explains why the low mark is warranted.

The NAP 2005 describes the situation of women in the labour market as worse than that of men with gender gaps in labour force participation rates, employment rates, unemployment rates, and pay levels – all occurring in spite of women's, on average, better education. Additionally, the development of childcare facilities is recognized as a basic requirement for reconciliation of work and family life. Accordingly, the government proposed two tasks for Guideline Six on gender equality, firstly to integrate and re-integrate women into employment, and secondly to promote anti-discrimination provisions of the labour law. The first task aims to comprehensively support women in the labour market, increasing their rate of employment and raising their employment and social status. The second aspires to develop complex information materials on the provisions of anti-discrimination law, and as such raise women's awareness thereof. The proposed actions are by all means important for the achievement of greater gender equality, but they are nevertheless treated in a superficial manner. The lack of a systematic and strategic approach is evident in proposing that 'promotional and training

activities shall be carried out to ensure equal opportunities for employment for both sexes' (NAP 2005 paragraph 169). Although attachments to the document specify the amounts of financial resources committed to the task, the time frame dedicated to its completion, and the implementing and reporting entities, no further details are given. It is unclear who should engage in such training, under what conditions, on what scale, and what results are expected. And again 'information concerning flexible forms of employment shall be disseminated to allow for reconciliation of occupational and family duties through implementation of various projects in this field' (NAP 2005 paragraph 169) does not point to any specific mechanisms of addressing the issue. Dissemination of information does not seem a sufficient requirement for increasing labour market opportunities for women. In addition, mentioning that actions will be taken towards spreading the practise of utilising care services for dependants does not commit the provision of more care services, or their subsidies, or whatever else can serve towards the desired outcome of work and family life reconciliation. In fact, Poland failed to provide data on both the existing situation and the national targets in the field of childcare (CEC 2005b). Without such data, neither goals themselves nor their attainment can be evaluated for the lack of a reliable 'measuring stick'. A related issue of equal sharing of family and work responsibilities between women and men is ignored. Thus, in terms of goals and mechanisms relevant to the guideline (aside from pledging to raise the level of female employment by 2.6 per cent over the course of four years) the proposal of research and analysis of women's situation as well as the awareness raising campaign are imprecise and seem to have come short in resolving the gender gaps pointed to in several instances in the document.

A nuanced assessment can be deducted from the annexes to the NAP 2005. Annex 2b details the amounts of financial resources dedicated to each task for three planning years (2004-2006). Most money is marked for job creation and entrepreneurship, human capital development and lifelong learning, and active measures. Guideline Six constitutes only 2.2 per cent of financial resources dedicated to the fulfilment of all tasks in the Plan. Most, 79.5 per cent, of the funds committed to this guideline are from the ESF. In this context, increasing gender equality does not place high on the list of priorities for the government, as it commits thirteen times less money

than the most prominent item¹⁷. Over three years together with the growth of the total amount, the budget for Guideline Six increases also from over € 19 to over 35 million.

Overall, the issue of achieving gender equality in relation to employment is addressed only partially and is not developed into coherent, concrete programmatic packages. It also seems that gender equality is a women's issue and the situation of men and their possible role in achieving equality is ignored. Guideline Six itself, as well as the entire document more generally, falls short of implementing gender mainstreaming by means of an organized incorporation of gender issues in all policies and governmental institutions. Gender mainstreaming has not emerged as a key concern of the authors of the NAP 2005, in fact there is no such thing as an assessment of possible impact of government's decisions on gender issues (ML-DLM, 2005). In Poland the steps taken in the direction of including gender issues were for the most part limited to consultations with the then existing GPES.

A report on the implementation of the NAP 2005 based on information collected from the institutions and departments responsible for its execution (MPiPS 2006) repeats labour market difficulties and includes women in the population of groups particularly affected. The overall evaluation points to mixed results of the employment plan. Certain examples are hard to assess, as in task 4.6 aiming at an increased access to education and the promotion of lifelong learning by establishment of some 13 000 of institutions, including alternative kindergarten centres. Contracts for cooperation were signed with 36 communes, 74 pre-school teachers and 27 specialists; 82 pre-schools were opened with 1074 children attending them. In spite of detailed results, it is tricky to evaluate this task because the overall target of 13 000 does not specify how many institutions were planned for in the various categories or what was the allocation of resources. Still, as 82 pre-school institutions do not constitute even 1 per cent out of the overall figure, it is difficult to deem the implementation of this task successful.

Moving to the two tasks specifically dedicated to gender equality, 6.1 seeking the vocational integration and re-integration of women and 6.2 planning the promotion of the anti-discrimination provisions of labour law, shows clearly negative results in terms of lack of progress. It also illustrates the importance of institutional continuity of the state machinery for gender equality. In the report on the implementation of the two tasks the curt comment reads 'task not implemented' (MPiPS 2006). Later sections of

¹⁷ For 2004 G2 on job creation & entrepreneurship commands € 252 257 000 and G6 € 19 497 000

the document note that the lack of action to disseminate the anti-discriminatory labour law is disconcerting and that these tasks were not carried out due to ‘formal reasons’ (MPiPS 2006). These formal reasons were based on the closure of the main institution responsible for the implementation of the tasks, the secretariat of the GPES, when the government changed. When the report on the policy implementation was prepared the ceased existence of this office was given as the reason for not implementing the task (ML-DLM-2b, 2006). However, additional inquiries revealed that the new body incorporated within the ministry - the Department for Women, Family and Counteracting Discrimination (DWFCD) – does continue some of the responsibilities of its predecessor covered by the two tasks. There were formal and procedural reasons for the delays in the previous institution’s implementation of the programme, and when these were finally overcome the office was closed by the incoming government. The new department took over the responsibilities of the old office for equal status and certain activities are continued. Some of the projects have been changed, others are new, but the task is being implemented. Because of the delays and changes, however, there are no reports of concrete actions or results available for analysis (ML-DM-ESF and ML-DI-ESF, 2006). This situation indicates several problems associated with pursuing gender equality policies, and is closely related to policy-making processes described in the next part. Various equal opportunities policy declarations are not only difficult to implement because of the behaviour of particular employers or employees under the so often cited difficult labour market conditions, but already fail at the central or local administrative levels. Discontinuity in governing administrations negatively impacts implementation, as the governments’ decisions over the central institutions responsible for the area of gender equality create volatility and instability. There is also the fact that different departments within the same ministry have different sets of information that points to poor coordination and the lack of cohesive, comprehensive approach to implementation and monitoring. Conceivably, the first round of the EES exercise still contained room for trial and error, and subsequent cycles may bring about more positive results. However, if certain gender goals and targets disappear even from the proclaimed policies, the chances of their pursuit seem even slimmer.

The next policy programme is contained within the Provisional NRP 2005-08, which identifies the main challenges as boosting economic growth and reducing unemployment. Accordingly, the Programme is divided among a) macro-economic and fiscal policy; b) micro-economic and structural policy; and c) labour market policy.

Consistently with the re-designed EES, Guidelines 17-23 (see Table A9 in the Appendix) deal with labour market issues. As described in Chapter 4, gender mainstreaming and the promotion of gender equality were deemed essential for economic and employment progress and so the employment policy guidelines stressed that they should be assured in all action taken. Does the Polish NRP 2005-08 account for this requirement in its policy and programmes? An assessment suggests that the attention to gender is patchy at best. Guideline 17 aims at achieving full employment, improving quality and productivity at work, and strengthening social and territorial cohesion. Annex 1 of the document provides some targets for dealing with the labour market difficulties, but these plans allow women's higher unemployment to persist as it is expected to diminish at a slower pace than the overall rate, and the employment rate of women is expected to grow at a lower pace than that for the total population. Moreover, the target female employment rate for 2006 in the NAP 2005 was 49.0 per cent, while the NRP 2005-08 has lowered this by 0.6 per cent to 48.4 per cent - this in the most recent context of overall employment growth signals a lower commitment to employment of women. Particularly disadvantaged groups are noted, but women do not constitute this category. The only consideration given to gender is by recognising that the level of women's labour market participation is 'unsatisfactory for reasons that include organisational and legal solutions' related to reconciliation of working and non-working activities. The document agrees that different retirement ages for women and men are detrimental to women through their 'considerably lower pension' (specific data are not provided) and that there is a need to change this. The results are foreseen in higher activity rates for older persons, but the only gender related remark consists of: 'increase in occupational activity (also for women)' and 'drafting of procedures to gradually raise women's retirement age to that of men'. Consideration of future equalising retirement ages between women and men is positive from a gender perspective, but the project has been considered several times in the past and so far has failed to gain parliamentary and societal approval. Other specific gender disaggregated data relevant to the labour market are not used in the NRP 2005-08, nor are they used for mainstreaming gender into policy-making and operation. The running of activating programmes for those at unemployment risk and the growth of social employment mandate the involvement of NGOs, the participation of the GPES is mentioned as well.

The limited attention to labour market gender equality deteriorates in the remaining sections of the NRP 2005-08. Guideline 18 concerns the promotion of a

lifecycle approach to work and so is relevant to the employment of women with care responsibilities, but the document does not explicitly address issues relevant to this guideline. Poor reconciliation of work and family life is mentioned only in passing. Similarly for childcare, the NRP 2005-08 completely ignores the topic although the NAP 2005 did recognise its low supply and pledged action towards spreading the practise of utilising care services for dependants. Guidelines 19 to 24 are likewise disappointing from a gender mainstreaming point of view, where a lack of references to mainstreaming, to gender differences and effects, to gender disaggregated data, targets or evaluations is glaring. In spite of the requirement to mainstream gender throughout all policies, the attention to gender already limited in the NAP 2005, has nearly disappeared from the NRP 2005-08. This coincides with the disappearance of a specific guideline dedicated to gender and, evidently, has not been a priority for state's policies.

An examination of a supporting document focused just on the year 2006 treats gender in a slightly more attentive manner. The NAP 2006 identifies an improvement of the overall labour market. Employment rate for the total population reached 55.2 per cent; it was lower for women at 48.1 per cent than for men at 62.9 per cent (GUS 2006). Unemployment is still a major problem: at the end of 2005 the overall rate was at 16.7 per cent, it was higher for women at 18.3 per cent than for men at 15.4 per cent. The NAP 2006 sets quantitative targets to be achieved by the end of the planning year to reach 54 per cent of overall employment and 47.6 for women, while for unemployment the target is 16 per cent overall and 17.5 per cent for women. These targets seem inconsistent, as they do not account for the fact that the labour market situation has improved already and that the total employment rates and those for women have already surpassed the 2006 goal. Nevertheless, Section 7 of the document, concerned with activation of persons at particular labour market disadvantage, is implicitly relevant to gender in aiming for increased possibility of flexible employment and care services for children and other persons requiring care. An explicit comment recognises that women caring for small children or other dependents are at risk of labour market exclusion – this is an improvement over the NRP 2005-08. Finally task 7.11 addresses the professional integration and re-integration of women. The foreseen effects over the course of a year include a 2 per cent increase in women's employment rate, a 3 per cent increase in self-employment take up, and an 8 per cent increase in participating in professional up-grading and training. The appearance of concrete targets tailored to women confirms the government's recognition that female (potential) workers require

support that is designed specifically for them. While such recognition is necessary for any activity in this area, financial resources dedicated to this sphere are less than 1 per cent of the NAP 2006 budget, of which 79.2 per cent is funded by the ESF. This then is but a small step in the right direction. Also, policies and programmes directed at women should account for the fact that they comprise the group primarily responsible for care. And so, Section 9 dedicated to the increased flexibility of employment forms in task 9.6 proposes to establish conditions for professional activation of persons raising children by spreading the use of alternative forms of pre-school education. The goal is to form such institutions especially in rural areas and is motivated by investment in human capital and increased employment of women. The numeral target proposes a creation of 155 of pre-school education centres. The financial allocation of resources towards the completion of the task commits about 1.2 per cent of resources from the overall NAP 2006 budget, of which 75 per cent is funded by the ESF.

Indeed, NAP 2006 provides some gender disaggregated data and targets and suggests several ways in which better reconciliation of work and family life for female workers can be achieved. These, however, fall short of gender mainstreaming. The labour market situation of women is not presented in a comprehensive manner, and the participation of fathers in care and family life is ignored. In terms of proportions, the NAP 2006 dedicates less than 1.9 per cent of its resources to tasks directly relevant to women's employment which is less than the 2.2 per cent in the NAP 2005. Nominally, the budget has increased from the planned € 35 million to about € 40 million. Furthermore, there is still a lack of specific actions taken by concrete actors. Aside from two ministries responsible for the application and monitoring stages, other organisations are pointed out in a very general manner. Stating that NGOs, PES offices or regional self-governments will participate in the implementation of the tasks is vague, non-committal, does not allow for identifying responsible persons or institutions, and certainly does not guarantee progress or success. Finally, not identifying or appointing any specific governmental office experienced in issues of gender and employment, such as the past GPES, to be involved in the management and monitoring of these tasks is a serious shortcoming. Unless an assumption can be made that the newly created Department for Women, Family and Counteracting Discrimination falls into the category of 'relevant departments', these tasks are at risk of little or none competent input on the gender dimension from the governing administration.

The Implementation Report 2006 consists of 11 sections, and chapter six is dedicated to reconciliation of work and family life. This is an important development, as it evidently responds to the criticism of the European Commission's 2006 Annual Progress Report on Growth and Jobs that reconciliation of work and family life has not been addressed previously. This points to the importance of the EC assessment as Poland takes it into consideration and attempts to remedy it in subsequent rounds. Thus, the cyclical nature of the EES can contribute to policy learning – even if incomplete or at a declarative level to begin with. Gender aspects of macro- and micro economic reforms are not discussed in the Report and gender is as invisible in the economic sections of this and past documents. The chapter on labour market policy contains 11 subsections and gender issues are treated in very sporadic manner in three of them: in recognising the importance of equalising retirement ages, in identifying women's care responsibilities affecting their weaker labour market positions, and in the call for a greater supply of flexible jobs for women. Although this document is somewhat more attentive to gender than previous ones, it does not mean that it applies the principle of gender equality. For example, flexible retirement schemes should lead to increased employment of older workers, and the appendix to the document indicates between 2004 and 2008 a growth in older women's employment rate from 21% to 22% (i.e. by 1%) and men's from 36% to 40% (i.e. by 4%). Thus, the employment gender gap is envisioned to grow from 15 to 18 per cent, instead of narrowing. Finally, the strategy envisions between 2004 and 2008 an increase of participation in non-standard forms of employment from 22.7% to 30% for temporary, and from 7.2% to 9% for part-time employment. Flexible forms of employment are noted for their lower cost to employers and the improvement of the overall labour market situation. This suggests that it may be precarious in nature, and although the idea of *flexicurity* is discussed, the benefits of flexibility for employers are highlighted while the security of workers is underdeveloped. Encouraging mainly women to consider atypical forms of employment further reinforces gender based labour market inequality. Viewing women through the prism of care and encouragement to take up such jobs supports the idea of women as the reserve labour force treated differently from male workers. The policy does not provide any detail whether specific groups of women will be targeted, but if inactive or unemployed women gain access to the labour market via such instruments, this may contribute to the narrowing of the various gender gaps. However, if women employed in full-time, permanent positions will 'downgrade' to these atypical forms of employment

the outcome would lead to the widening of employment related gender gaps. In the end the Report contains some gender specific policies, but makes very limited use of gender disaggregated statistics, and evidently does not apply gender mainstreaming.

A year later in NAP 2007 women are mentioned explicitly in the category of persons facing particular labour market difficulties, and especially those returning to the labour market after a child raising leave. Women's disadvantages are listed as: late labour market entry and early exit, lower activity rates during child bearing years, more difficult return to the labour market, employers' reluctance in hiring young mothers, difficult access to care services for children, and lower pay. Hence, there is a more explicit and detailed recognition of labour market gender inequality. Although NAP 2007 is quite detailed in its attention to women and makes cross-references to other policy documents, e.g. task 1.6 within the HRD, it still lacks the gender mainstreaming approach prescribed by the EU. For instance the task of multi-dimensional support to women to increase their employment rate and status through training, internships, support for new workplaces, entrepreneurship, promotion of both sexes in access to employment, propagation of flexible employment allowing for reconciliation of work and family life – this is quite developed and concretised through 260 projects with 30 thousand participants. As the qualitative goals appear quite ambitious the small number of participants is inadequate given the scale of the labour market challenges.

Analysing policy documents sequentially shows how the content of programmes and policy proposals evolve. Poland has still relatively little experience in the EES. Initially it engaged in the process as an observer, and thus far has actively participated in three annual cycles. This was associated with policy-making in view of the guidelines formulated at the EU level and learning the appropriate procedures involving a certain alignment in policy goals and means, their creation and presentation. The recognition of women's disadvantaged labour market position weaves throughout all the policy documents. In terms of labour market policy content relevant to the employment of women the first policy document, NAP 2005, did respond to Guideline 6 on gender equality by a specification of two policy tasks, allocation of financial resources to their implementation, and a provision of targets. The NRP 2005-08 responding to the next policy cycle in the changed format of the EES where a specific gender guideline was removed, but the requirement to mainstream gender was reinforced, brought about a near disappearance of the specificity of women's labour market position from the policy agenda. Increased employment and lower unemployment targets consider gender, but

the pursuit of reconciliation policies or explicit narrowing of the gender gaps are not tackled. In the Commission's assessment of the NRP (CEC 2006a) Poland comes short in indicating institutions responsible for implementation, timetables, budgetary implications and monitoring procedures, although some of the necessary detail appears subsequently in the NAPs. The Commission also notes that reconciliation of work and family life is not addressed in the Programme. Consequently, the NAP 2006 increases its effort with the reconciliation and flexible work discussions making gender more visible, but without translating it into improving gender equality. In view of the employment and gender equality challenges Poland's labour market policy approach is inadequate. The focus of creation of employment and reduction of unemployment may contribute to the narrowing of the gender gaps, but the narrowing of gaps is not regarded as a goal in its own right. The NAP 2007 is more detailed in its attention to women and notes that women's labour market situation is difficult, especially those returning to activity after a period of deactivation due to child caring duties. It repeats the aim of providing multi-dimensional support to women within the labour market. The issue of women's care responsibilities is recognised, but not dealt with. So, the removal of a specific gender equality guideline was detrimental to the visibility of gender in the policy approach, especially that the ambitious method of gender mainstreaming is not applied. If a degree of policy learning can be detected, it is still limited, especially by the lack of involvement of an equal status office in the recent documents. The process of EES participations confirms some of the content related patterns.

6.2.2 The Process of the Alignment associated with Membership

The current Polish employment act in force (Dz.U.No 164, item 1366) provides that the labour market policy should derive from a dialogue and collaboration with social partners. The NAP 2005, NRP 2005-08, and the NAPs 2006 and 2007 have been drafted by an inter-ministerial group coordinated by the Ministry of Economy and Labour (now Ministry of Labour and Social Policy) and guided by the Supreme Employment Council – an advisory body to the minister composed of representatives from trade unions, employers' organisations, governmental administration and territorial self-governments. Representatives from various ministries and state offices took part in the preparation of the document. In NAP 2005 consultations with the GPES took place as the working group of 26 included two people from the equal status office, but the extent to which

gender was taken into account was not considerable. There were opinions and comments issued by the equal status office, but in terms of the decisions taken by the government and consideration of their gendered effects ‘well, there is no such thing’ (ML-DLM-1, 2005). For the NRP 2005-08, in spite of the existence and activities of the GPES (now dissolved), the document does not explicate whether any gender equality bodies partook in the drafting and only once the office of the Plenipotentiary is mentioned as responsible for the implementing/monitoring stages. There have been some coordination and continuation problems linked to the ministry reshuffling and establishing an office for Women, Family and Counteracting Discrimination (DWFCD) in place of the previous one. Within the NRP framework, the NAP 2006 draft does not mention any representatives from the DWFCD among the members of the inter-departmental team. Similarly, the gender mainstreaming experts from the department do not figure in the 34-strong working group for NAP 2007, although the current gender mainstreaming officers provide input on human resources programmes and other policy areas and are active in domestic and international meetings and conference. Their lack of input in employment policy is thus surprising.

According to the NAPs and the NRP, the government encouraged discussions with various actors on national and sub-national levels. In May 2004, at the beginning stage of drafting the first document, directors of regional labour offices received relevant materials, in June social partners from the Tripartite Committee were notified of scheduled consultations and were requested to submit proposals of initiatives for inclusion in the document. Such consultations took place in July, and in August the draft was submitted for inter-ministerial and social consultations. In September it was approved by the Council of Ministers, and the government is obliged to report to the parliament on the results and the follow up of the strategy. As such, a practice of horizontal and vertical communication, if not coordination, has been set up. For example, within the framework of the NRP 2005-08 various ministries and public institutions took part in the designing of the programme, and a conference organised in June 2005 kicked off nation wide consultations with the participation of employer and employee organisations, academics and NGOs. The consultations with the European Commission representatives were accounted for in the final draft of the document. In terms of the annual documents, a draft version of the NAP 2006 was sent to employers’ organisations and trade unions as well as posted on the ministry’s website. Social partners had two opportunities to issue opinions and comments on the drafts of the

document, and according to the NAP 2006 these inputs were taken into consideration and partially implemented. The documents point to the necessity of increased cooperation with social partners and a stronger social dialogue with an involvement of trade unions and employers' associations, and as such imply that the existing level of cooperation is insufficient. Consequently, the NAP 2006 expresses hope that social partners will become more engaged in the future drafting of various parts of employment policy from the onset.

Despite a number of calls for the involvement of social partners, the policy documents developed in the recent years are chiefly a state property, where the government is the main author and the social partners only lend their voice to the various drafts of the policy proposals and are thus perceived more as censors than co-authors (ML-DLM-1 and ML-DLM-2, 2005). For instance, through the consultations and discussions of policies contained in the NAP 2005 social partners made demands for more precise formulations (from the unions) or calls for more liberalization (from the employers). Civil servants claim that there is much more room for improvement. A possible reason for this imbalance is an apparent lack of resources at unions' disposal that does not allow them to engage in the process on a more equal footing. The social partners did engage in discussions surrounding the NAPs, and generally supported these policies, however, they point to the lack of working relationship on the ground, or to the lack of alternatives to what the government proposes. From the point of view of unions, participation in the social dialogue or in the Tripartite Committee is not only hindered by an unequal resource base, but the political power of the participants. While, as a union representative noted, the setting up of the Tripartite Committee is 'our biggest achievement', its quality leaves much to be desired as it is 'a difficult process...the government ignores the Committee and the unions are not listened to'. The main problems concern the government's bypassing the forum when it comes to 'important' acts, or rushing through some projects and ignoring the norm of notifying the unions at least 30 days in advance but demanding an opinion within 4 or 5 days (TU-OPZZ-1, 2004). Obviously, both sides recognise the importance of social dialogue, both see that the process does not work perfectly, and both claim that there is room for improvement, but differ in the assessment of the root of the problem.

The employers' organisations have not been a powerful actor in Poland, although in the recent years there has been a clear strengthening of their profile leading to a more equal balance of power between the employer and worker associations (NAP

2006). There is an increasing importance of bilateral relations between the two social partners and such development is looked at favourably:

OPZZ tried to reach an agreement with employer organisations, this was modelled on the Scandinavian countries where the government is excluded and only labour unions and employers make deals, and this is how law is made. And here also my unit signed an agreement. It was well received within our circles that we were able to negotiate with employers because we saw what the government was proposing and [acted] in order to prevent it, because it was said that if employers and the unions reach a consensus than the government will back off. So, we did agree to a compromise (TU-OPZZ-1, 2004).

Notwithstanding several positive examples, it would be premature to conclude that the achievement of a social pact in Poland is imminent. The social dialogue is developing asymmetrically, where the central government is the strongest partner and the trade unions and employers' associations are much weaker in terms of material and organisational resources (ML-DLM-1, 2005) and the degree of coordination and coverage. Large scale privatisation and proliferation of small enterprises is not conducive to employers organising themselves and thus possibilities for social dialogue are limited on the national level, especially if compared with EU wide developments (TU-S, 2005). And then there is the question of the ideological distance and the political context, as the Minister of Labour observed:

As the chair of the Tripartite Commission I was systematically involved in consultations with all major projects and these were negotiated to secure social support and consensus. In 2003 I proposed solutions for labour and development, we negotiated a package over several months and basically reached an agreement, but then Solidarity backed off. Generally trade unions were unprepared to negotiate new solutions, even though the old arrangements were not working. Of course sometimes they cooperated, but in spite of great effort and patience, we did not achieve a real consensus. And not because of the employers saying 'no' for the sake of 'no', but because of the trade unions, especially Solidarity, saying 'no' for the sake of 'no'. It was the question of opposition to the government because Solidarity will not make any deals with the Reds¹⁸; this was about the political nature of that government (ML-M, 2005).

Thus, for the more conservative Solidarity dealing with a social-democratic government was an obstacle. For the OPZZ the opposite seemed to be a problem, that is, the conviction that the SLD government was moving away from its socialist base:

We have difficulties in reaching particular ministers or civil servants. Really, it is a lot of trouble despite this being a leftist government and we are a leftist organisation. We have tremendous difficulties in communicating with this government, in the execution of leftist ideals by the leftist government. Because this government is acting very much like the right, like liberals, and that is unacceptable. We speak out at a meeting with Miller or at a meeting with Hausner that this is not acceptable for a left-wing government to move away from leftist ideals and become so liberal and turn everything against the people, against working people (TU-OPZZ-1, 2004).

¹⁸ Reference to a government stemming from a post-communist party.

The Tripartite Commission has had a growing significance on the national level, while sector or supra-enterprise level (multi-establishment) agreements are not a common practice (NAP 2006). Collective agreements can only be negotiated in companies with trade union presence, which are more likely to be state owned or recently privatised enterprises. This is difficult to achieve as union density is low and decreasing. As of 2001 multi-establishments have to be registered with the Ministry of Labour. Until the end of 2005 there were only 165 such agreements registered and they covered various sections of the public sector (MPiPS website 2006). Single enterprise agreements are still more common, but their prevalence is diminishing. In 2004 there were 328 agreements concluded, while in 1996 the number reached 1,464. Thus, it is not surprising that institutionalisation of industrial relations is described as low in the sense that unions and employers' organisations play a rather small role in companies (Kwiatkowski et al. 2001), and when collective bargaining does occur, equal opportunities issues do not come to the fore (Gardawski, Towalski and Czarzasty 2003). The attitude of the trade unions towards gender issues is generally conservative. Certain individuals within the unions do take a stand for promoting gender equality, but overall this does not have a strong backing. Often, opinions of the progressive female leaders, whether from Solidarity or OPZZ, are underlined as private and not representative of the union (NGO-K, 2004). Women's Rights Centre has approached trade unions with proposals for cooperation, especially in the area of dissemination of knowledge and legal regulations regarding protection of women's rights, but these attempts were not met with interest (Nowakowska 2002). Moreover, gender issues if accepted, do not take priority as for unions the biggest challenge is to halt and reverse the trend of decreasing density. Thus securing members is the most important matter (TU-S, 2004).

In contrast to the limited impact of the social partners, the participation and involvement of the office of the GPES has been beneficial to increasing gender visibility in the policy process. This occurred via recommendations on policy direction, requesting the collection and compilation of gender disaggregated statistics from the Central Statistical Office, preparation of various gender related reports, organisation of conferences, cooperation with women's NGOs leading to the formation of links between the government and the third sector, and managing various ESF projects related to the improvement of gender equality in employment (GPES-DLM, 2004).

Also, owing to the activities of the two¹⁹ Plenipotentiaries through ‘spectacular projects drawing attention to the issue and activating women’s circles’ and by ‘being such an active fighter, not just politically or communicatively, but also with initiative’ gender equality has become more visible (ML-M, 2005). The website of this office contained information on events, conferences, programmes, competitions for funds and reports conducted by the office and external experts on a range of topics relevant to equal status. This website has certainly enabled other actors to engage in the various activities and benefit from the information provided, among them various women’s NGOs.

The position of NGOs dealing with the government was strengthened through the accession process and the involvement¹⁹ of NGOs in the policy and politics relevant to the labour market is visible. There are between 200 and 300 women’s NGOs in Poland, many of them take part in the various competitions for programmes funded largely by the ESF and ‘on a declarative level the government takes them seriously in an attempt to build civil society’ (ML-DLM-1, 2005). Cooperation of the government with NGOs has been developing ‘better and better’ as they are ‘very much involved in the debate’. The draft of the National Development Plan (NDP)²⁰ has received 1200 written opinions from NGOs and on the national scale the mobilisation of non-governmental actors was great, where environmental and women’s organisations were well prepared and elaborated most comprehensively (ML-M, 2005). The various policy proposals also point to NGOs as partners in the implementation of various tasks. The women’s NGOs were a strong supporter of the GPES by lending assistance in its development and cooperating closely in various capacities. The GPES in turn enabled a distribution of domestic and EU funds for their operation and provided a platform from which NGOs were able to form contacts with other governmental offices (NGO-K, 2004). Considering these instances where domestic actors committed to gender equality, such as women’s NGOs and the office for equal status, join in the pursuit of their goal, it is difficult to attribute the occurring process to the influences of the policy and politics of the EU. Links other than those connected to the flow of financial resources available for certain activities are not as obvious. However, there are some examples which point to the causal factors a little more clearly:

¹⁹ Minister Izabela Jaruga-Nowacka and Minister Magdalena Sroda.

²⁰ NDP is a medium (2004-06) and long term (2007-13) policy strategy prepared by the previous administration (2001-2005) and widely debated with central and regional units, economists, academics, trade unions, employers’ organisations, NGOs; of which NAPs for Employment are an integral part

The involvement of NGOs is for sure a positive result. Because the EU pressured for social dialogue, the government opened up. It was moving. Once UKIE organised some consulting or planning meeting and they said ‘we do not really know what to do with you [NGOs] but this is an EU requirement’ [for NGOs to be involved].

Or:

We went to the ministry for funding and the conversation was, well, I was pleasantly surprised. They said ‘we do not know much about gender matters, but we have to do it because these are the requirements, we must realise these programmes and we will gladly cooperate with you because you have the knowledge’. So, such a play with open cards was very clear and transparent (NGO-K, August 2004).

The cooperation of NGOs with government officials was not of consistent quality and worked at times smoothly, and at other times less so. Lack of experience of topics and processes and of existing models or codes of conduct resulted in a mixed success where some programmes and links flourished while others just died out. Another hindrance to a smooth collaboration between these bodies was that NGOs were not involved directly in certain units, but had to operate through the GPES. Also old habits of doing something for the sake of doing it on the part of civil servants led to some futile projects which from the start were doomed to fail:

An organisation distributing EU funds approached us about a project on the integration of women with the labour market. Big money involved. And they wanted to treat this very professionally through empirical testing and theoretical input from us. And the Polish government said ‘no, we are not interested in this – just do courses for women’. The money was available, a solid piece of work could have been done, but no, we have to do training courses – whether we need them or not (NGO-K, 2004).

The evaluation of the involvement of the third sector must be positive as its arguments were considered seriously by the governing administration where the discussion was ‘normal, to the point, and taken into account and we entered the same platform as the trade unions, the academic community, experts...so this is new’ (NGO-K, 2004).

Clearly, outside the keen participation of NGOs, the activities of the GPES and the Parliamentary Group of Women and the involvement of the academic community, other actors did not take gender issues on board. The government treated it in a rather cursory manner and adopted a minimalist approach, with some differences drawn along political lines. In the Polish context and the perceived need to prioritize, the pursuit of gender equality gives way to other, seemingly more pressing, social, economic, and political challenges. The theoretical promise of the OMC to inspire learning, policy transfer, and policy change so far has not fully realised. The OMC gives ‘mediocre results if there is no internal impulse, internal programme, a national heart and attitude towards it’ (ML-M, 2005). Without the push from within, the soft pressure from without leads to the policy exercise being carried out in a superficial way. In such an instance a

stronger, more hierarchical, more authoritarian structure with clear penalties is seen as potentially more effective (ML-DLM-2, 2005). Furthermore, domestic actors expect that the process of convergence in employment and equal status matters may be more successful if accompanied by concrete instructions from the EU, as the local democracy is believed too premature to achieve this. There is an expressed need for learning the mechanisms of effective action (NGO-K, 2004) since domestic practices are inadequate. Although such soft mechanisms exist, they are seen as ineffective and perhaps should be strengthened. But this of course would no longer fall under the premise of the OMC.

6.3 Overview and Concluding Remarks

This chapter focused on the substantive and procedural issues related to labour market policy-making in Poland in the several years prior to the accession to the EU and in the first two years as a member state. It addressed both, the adoption of the Community laws by transposing nine EU directives, and the engagement with three OMC cycles for employment – the EES. Accession to the EU, transposition of gender equality directives, participation in the EES, and access to the ESF with specific spending criteria have all influenced the visibility of gender in the public and policy discourse, as well as in labour market programmes. The successive employment and human resources development documents increasingly pay attention to gender and begin to use and define such English language concepts as *gender mainstreaming* or *flexicurity*. On the substantive level the adoption of EU equality directives and their transposition into the national legal system can be judged complete, save the 92/85/EEC directive on which the jury is still out. The adjustment process took some time, but the domestic law has been aligned with the European, and future communications from the Commission or the ECJ will verify the quality and the degree of this compliance. In the end the process can be described as relatively smooth, where the imperative of Poland joining the ranks of EU proved a potent incentive. The EU has certainly provided an impulse for domestic change, but the national reforms reached only the minimum stipulated by the accession requirements. In terms of the involvement of the various actors in politics and the law and policy-making process, there has certainly been a range of activities on various levels and interactions among different actors.

Figure 11 Key Actors in the Labour Market Alignment with the EU

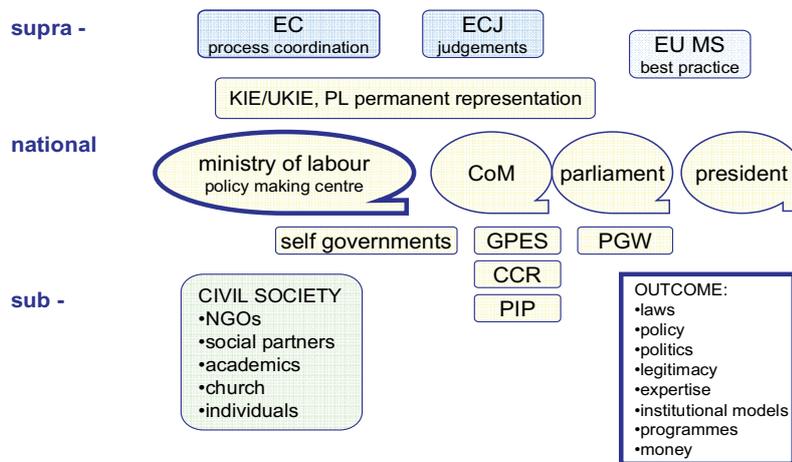


Figure 11 presents in a schematic way the position of the various actors who partook in the process resulting in interactions that were direct and indirect; uni-, bi- and multilateral; within and between levels; voluntary and compulsory; successful and unsuccessful. Thus, the EU and the nature of the accession process have provided a platform for action for various domestic actors, even though the national government remained the most potent partner of all.

Poland's participation in the EES demands a more nuanced evaluation. Substantively, the main goals of the EES are not disputed all the domestic stakeholders see the value in full employment, better work quality and productivity, and in the attainment of social cohesion and inclusion. But, as the participation in the EES via the OMC allows for flexibility in prioritising certain issues over others, this is exactly what the Polish policy-makers do. Given the difficult socio-economic situation, the urgent priorities are economic: raising employment levels and advancing entrepreneurship. Indeed, weighing among options is evident for instance in the concern over active aging giving way to creating jobs for the presently growing population of young people entering the labour market. Overall, the policy discourse and content moves towards a more active and preventative approach to unemployment, raising employment rates, and spreading the practice of lifelong learning. Less attention is given to spheres addressing active ageing, work and family life balance, or gender mainstreaming.

While policy learning of Polish labour market technocrats and policy-makers from the EU level and other member states is evident, domestic politics take a centre

stage especially in contested policy areas. The principle of gender equality is not embedded in Polish society and competes with traditional views on women, men and the family. This impacts such areas as pre-schooling of children, labour force participation of women, or men's involvement in housework or care. It also means that the principle of gender equality may take time to set in. Thus, in terms of procedure, given that Poland has a very limited experience and in light of other states' performance (e.g. as detailed in the draft JER for 2004/2005), it can be said that the exercise points to success on several dimensions. First, the NAP 2005 translates all ten European level guidelines into national and sub-national policies, and the NRP 2005-08 considers most of employment guidelines throughout the text. Second, the documents represent a degree of continuity over policy areas and time, as they complement some earlier programs such as the HRD 2000-06, and form an integral part of the comprehensive NDP for 2004-2006 and 2007-13. Third, the NAPs contain timetables, financial resources, and some actors responsible for the attainment of specific tasks. Fourth, the NAPs provide some specific targets, which can be used for verification and evaluation. Fifth, they engage governmental actors from different levels and areas, and as such create horizontal and vertical links. Sixth, they convey a clear message inviting social partners and the wider civil society to take part in policy-making and implementation. And seventh, the processes surrounding the drawing or the implementation of the policy plans facilitate learning opportunities.

Conversely, some areas of engagement with the EES via the OMC can be improved upon as the NAP 2005, the NRP 2005-08, and the NAPs fall short of their potential in several instances. First, a more specific treatment of guidelines and tasks would advance the rather declarative wishes to more programmatic and accountable action. Second, the documents' relationship to other policy documents and the continuity of the policy process is in jeopardy due to the change of the government, as the post socialist era shows that politics matter and a more conservative administration may retreat from realisation of the strategy or parts thereof (as touched on in the following chapter). Third, the provision of timetables, allocation of resources, agents responsible for tasks, and reporting bodies could be strengthened with more details to secure better follow through and accountability. Fourth, in many instances specific targets and goals are not provided, and the existing situation not accounted for. Fifth, the relationship with social partners is not a partnership among equals, and links with sub-national levels of government are fragmented. Seventh, learning opportunities are

limited by time constraints and the speed of the participation in the cycle, as actors do not have sufficient resources on European, national, or sub-national levels.

In brief, legal and policy reforms have made some progress in the advancement of gender equality related to men's and women's participation in the labour market. Using the lens of multi-level governance or the mixed economy of welfare allows noticing developments on the sub national level. Thus, the EU spark from above and the local response from below create a reinforcing bracket in which the national government operates. Continuation of these interactions may have a positive impact on future developments. However, the just adequate pre-accession changes and the much more modest developments in Poland's first three years as a fully fledged member of the EU leave much to be desired. Given the limited record in the legal and policy frameworks the issue of implementation comes to the fore. This is preliminarily assessed in the following chapter.

VII. THE IMPLEMENTATION OF THE LABOUR MARKET LAWS AND POLICIES: DOMESTIC GENDER POLITICS

Transposition of EU-level gender equality directives and policy-making within the EES are outputs of Poland's interaction with the EU level. This chapter considers the preliminary outcomes of these processes assessed within the context of the domestic developmental path. Addressing the issue of implementation and effectiveness of labour laws and employment policies in achieving its goals on the ground level is a complicated affair. High hopes accompanied the accession process where domestic actors saw potential in improving the Polish legal framework by aligning it with EU standards, as in the following:

Yes, for sure EU played a role. Accession itself, to the Union, was important, because we are bound by directives, rules, to adjust the law. Although in many cases we have a choice, where we regulate based on our own law. But, adjusting our law to the EU is for us a chance for equalising standards of living, equalising laws, so that in Europe we all have the same securities (TU-OPZZ-1, 2004).

Have these hopes been fulfilled? Many experts²¹ claim (and the previous chapter confirmed) that the laws in Poland are good, where norms of equality introduced by various ILO conventions and EU directives are reflected in the constitution, the Labour Code, and other acts and regulations. However, while these appear adequate, their implementation leaves much to be desired as there is a substantial gap between labour market regulations and practice. Certain norms regarding gender based discrimination are new and just becoming to work, but still on the ground level there is not much difference between the old and the new legal environment (NGO-WRC, 2004). The Labour Code is breached routinely and the culture of abiding by labour law is very low (Kasprzyk 2002). For instance, during job interviews young women are asked questions related to pregnancies or potential childcare leaves (TU-OPZZ-2, 2005). What is the extent of gender based labour market discrimination and how can it be accounted for?

7.1 Prevalence of Discrimination within the Labour Market

Within the Polish legal system there is no one particular institution responsible for the enforcement of gender equality in employment, although the National Labour Inspectorate (PIP) is charged with the task of supervision and inspection of the observance of the general labour law, including laws relevant to gender equality.

²¹ Based on interviews: CCRP-DLL, TU-S, ML-DLL; J. Kasprzyk, (2002)

Institutional incapacity is visible not only in the general lack of resources, but how these resources are used. The ratio of labour inspectors per enterprise in Poland is comparable to the average ratio in the EU, but the number of inspections per year differs widely between about 80 visits in Poland and 300 in the EU (Regular Report 1998). Part of this disparity can be attributed to differences in productivity due to logistics, such as computerisation or transport and communications, which can lead to a lower efficiency of inspectors in Poland. Another reason may be a different breadth of tasks connected to this job. In addition to law enforcement duties, the PIP also engages in awareness raising and preventative measures as it organises training courses and labour law counselling, and cooperates with trade unions and employers' organisations in prevention of breaches of the law (PIP 2005a). Nevertheless, the current situation of law enforcement is unsatisfactory, although the PIP employs a variety of tools, such as reprimands and decisions to rectify infringements, monetary fines, as well as notifying the prosecutor's office to instigate legal proceedings (PIP 2005a).

In its inspections, the PIP finds that non-payment of wages (on time, or altogether) is a persistent and extensive problem while gender based discriminatory practises do not stand out in the wider context (PIP 2005a). PIP inspections (1998 and 1999) focused specifically on various aspects of gender discrimination, and especially on pay discrimination. Assessments of larger companies (employing over 50 persons), covering 14,490 employees in the first year and 15 336 employees in the following, did not find even one case in which the system of wage setting was based on other than objective criteria (Hintz 2000). In 2004 the PIP inspected 150 enterprises and concluded that women comprise a minority among management (35 per cent) which is somewhat more pronounced in the private sector (PIP 2005b). This discrepancy was attributed to the cultural reasons viewing women through the traditional role of caring for the family, as the study found that women are four times more likely than men to use the annual 2-day childcare leave. The use of parental leave is also higher among women (5 per cent) than men (0.05 per cent) and it diminishes at the managerial level for both women and men. In terms of pay, the principle of equal treatment was least practiced at higher professional levels, where in 2003 women's pay was 20.7 per cent lower than men's pay. The national pay gap between men and women in Poland is low by international standards. The hourly pay gap in 2003 has been estimated at 15 per cent for EU-25, while it was 11 per cent for Poland (EC 2005b, based on ECHP Eurostat); the average monthly gross pay differential the gap stood at 16.4 per cent in 2004 (GUS 2005a). In

short, the position of men and women in the workplace varies on several criteria. Considering the overall situation in 2004, the PIP received 94 complaints of employment discrimination, of which 20 were judged warranted and a further 4 partially warranted. There were eight complaints of sexual harassment; four of them were deemed without cause and two were directed to the courts (PIP 2005b). For an economy with nearly 15 million workers, these numbers do not appear large. But sexual harassment is a new concept in the Polish labour law and its application just begins to take place.

Interestingly, law is sometimes broken in multi-national establishments which have strong gender equality policies in other countries, but do not practise similar standards in Poland. For example, a UK-Dutch company has been praised for its gender equality policies in Ireland²² while in Poland it did not handle a case of sexual harassment well. A female employee issued a complaint about repeated incidents of harassment to the multi-national's office abroad and the investigation was handled by the Warsaw based branch. A director of the human resources division called a meeting with the two individuals involved, and in the complainant's presence asked the accused if he has harassed her. The reply was 'no', which resulted in a statement from the firm that the allegations of harassment were not substantiated. The woman lost her job, while the accused man remained employed although this was not the first sexual harassment accusation directed at him.²³ This example shows how the standards of the company-wide code of conduct and gender policies have not been consistently applied across the border. Domestic 'ways of doing things' were more prominent than the established formal rules of the international organisation. The discord between the application of external norms and the lack of their institutionalisation at the lower levels is evident.

As gender equality laws affect men as well as women, there were some cases where men were not able to exercise their right to equal treatment. In 2003 the Inspectorate conducted checks of 730 companies, and in six of them found that male workers were not granted permission to the unused portion of the mothers' maternity leave, which they were legally entitled to (PIP 2004). Also women's NGOs receive comments from men that they feel discriminated against or ignored because all the discussions and activities surround women's rights only. However, female activists

²² Frank Fahey, Minister for State with responsibility for Equality in Ireland, in a presentation at the launch of 'Gender Equality: a step ahead. A roadmap for the future.' 4-5 May 2006, Brussels.

²³ Based on U. Nowakowska, Director of Women's Rights Centre, interviewed by A.Kublik (2002b).

underline that the attainment of equal status is relevant to both men and women and, where appropriate, actions focus on male rights also. For example, women parliamentarians fought for reform to child raising leave regulations so that men's parental rights become firmly embedded in the law, while men themselves did not organise around this issue (MP-PGW, 2004). Indeed, certain instances, such as access to parental leave, put men in a weaker position and some men feel discriminated against because they do not have activists fighting for their rights or men's NGOs equivalent to women's NGOs. On the one hand, such claims are seen as ironic as it is 'women who have organised themselves and did that by themselves, no one just gave it to them', on the other, these calls are recognised as a cry for help since men do not know where to seek assistance specific to their problems (NGO-WRC, 2004).

On the country-wide scale the PIP investigations of workers' rights infringements do not seem extensive. The examples of gender based discrimination are rare, but more and more people, lay people or lawyers, are becoming interested in the topic (ML-DLL, 2004). The PIP recognises that the development of laws regulating discrimination created certain new tools which allow for dealing with discriminatory practices that have existed for a long time. However, the precarious labour market situation combined with a limited knowledge of the law dictate to what degree these mechanisms are being used and such cases coming to the fore (PIP 2005b). Not surprisingly, public opinion surveys indicate that a substantial proportion of the population thinks that women in Poland face discrimination. In a 2000 survey of women, 69 per cent were of the opinion that women are discriminated against (ARC Rynek i Opinia 2000). According to CBOS 2002 study, 41 per cent of respondents believe that women are discriminated against and have worse opportunities in comparison with men. More women (50 per cent) than men (32 per cent) share such an opinion (CBOS 2002). Sexual harassment alone was experienced by 17.1 per cent of respondents in 2003, with 22 per cent of such situations occurring in the workplace, and persons being harassed equally often by a boss as by a colleague. Four times more women than men experienced repeated sexual harassment (Gazeta 2005a, based on CBOS). In 2006 another survey considered the prevalence of employment related discrimination of pregnant women and mothers of small children. Respondents were asked whether in their workplace various discriminatory practices occur. The results confirmed a higher rate of incidence than that registered in the official reports of the PIP, specifically: blocking women's return to work after childcare leave (19 per cent),

firing women who frequently used sick leave to look after children (12 per cent), employing pregnant workers in harmful working conditions (10 per cent), not allowing breastfeeding workers to take a legally permitted feeding break (9 per cent), firing pregnant workers (6 per cent), and not granting a child-raising leave to mothers with small children (6 per cent) (CBOS 2006b). From employer's point of view it is evident in everyday practice that discrimination occurs, and so the problem lies in how hidden this phenomenon is. It takes place under the assumption that women will not file a grievance and will not talk about such difficult problems (Kasprzyk 2002). Clearly, the mechanisms to implement the provisions of regulations are faulty or insufficient.

7.2 Reasons for the Gap in Labour Law and Enforcement

The problem of law enforcement plaguing the Polish labour market since the transformation from socialism is complex²⁴. This discrepancy between actual discrimination in the labour market and the number of cases officially registered is associated with several factors. First, the precarious labour market is seen as the major obstacle to the adherence to labour laws and respect of workers' rights. The improvement of gender equality is not only dependent on the right set of labour law and policy, but also on good economic growth necessary for the creation of new jobs and lowering unemployment levels. All the experts interviewed, whether government officials, trade union representatives, or NGO activists, pointed to the fact that good laws and policies are insufficient in advancing the situation of workers overall, or women in particular. Court cases referring to the violation of equal status are sporadic not because breaches of law do not take place, but because the climate for its execution is unfavourable. In the context of high unemployment levels and a general lack of jobs, the problem of gender equality gives way to other labour market concerns. Public opinion surveys indicate that 78 per cent of respondents assess the general labour market situation in negative terms, 69 per cent are of the opinion that there are no jobs available in their region or that it is extremely difficult to find one, and 41 per cent of employees regard the risk of losing employment as serious (CBOS 2006a). Trade unionists concur that the labour market situation gives employers an upper hand, especially since the consequences for breaking the law are trivial (TU-OPZZ-1, 2004). It is not unusual for individuals who have been discriminated against or harassed not to

²⁴ Interviews: CCRP-DLL, ML-DLL, ML-DLM-1, TU-OPZZ-1 and -2, TU-S, NGO-K, NGO-WRC

demand that their rights and position be rectified as they fear losing their job. The risk of on the job repercussions paralyses employees, while such mechanisms do not operate among employers. Workers say ‘at least I still have a job’ and it is the *labour market* rather than the *Labour Code* that is in command (TU-S, 2004; TU-OPZZ-2, 2005). Indeed, the precarious labour market situation works in two ways. It prevents the workers from seeking execution of their rights yet creates an atmosphere of lawlessness allowing employers to stretch the limits or break the law.

The awareness of labour laws is the second complex reason for the discrepancy between regulations and practise. The implementation of the reformed laws is complicated by the fact that some of these changes introduced entirely new concepts into the Polish legal framework, such as sexual harassment. Assuming that all relevant actors know the problem of discrimination, including police officers, prosecutors, judges or victims themselves, is illusory (Boruta 1999 in OSKA interview). The degree of knowledge of the laws varies, as some employees know their rights and are able to assess their situation, others are not able to do so and do not identify certain events as discrimination or harassment (NGO-CWR, 2004). A similar situation concerns employers, especially in small and medium sized enterprises which do not have specialised human resources departments. When someone opens a small business there are many different regulatory systems involved in addition to labour law, like taxation, social insurance, etc. Often the law is broken not because of ill will of employers but because of insufficient knowledge of all aspects of the law. The underlying problems here include the limited capacity of small firm owners to absorb the breadth of the regulations and the fact that in the post-transformation years the law has been changed very often and there is a lack of stability and continuity which makes it difficult to keep up with what is legal and what is not (CCRP-DLM, 2005). This situation may improve in the future, as there are efforts underway to re-codify labour laws and make them more coherent.

Issues related to gender equality and the promotion of equal opportunities may have such a low resonance within the Polish society, because many people do not understand or identify with the concept and its application in practice. It is possible that the wider society is indifferent due to a lack of a national debate and a lack of arguments in such a debate. And when a debate does take place it is at a level not relevant or not appropriate for an average citizen, for instance:

...women's communities have written an elaborate piece, in my opinion this was too intellectual, conflict over big things and without any sense. They should fight for seemingly less important but more effective changes rather than for it all. So in all these meetings when you hear 'gender mainstreaming' or 'gender budgeting' (...) they think that someone will understand them. In an international setting the gender studies community has built a strong position and [Polish activists] would like the same. This is Poland! We have to do it more effectively, more pragmatically. It is about turning the world upside down. Turning the world takes time, and not because someone agrees to change policy or laws. A moral revolution will not work here, but a certain process that would lead to social change (ML-M, 2005).

On the societal level then certain terms, like gender mainstreaming, are not well understood, and therefore cannot be supported. One of the problems is in the name itself as it does not easily translate into the Polish language. Another is that it is difficult to make it more concrete. It is seen as a slogan that does not have the linguistic support and associated terminology of similar concepts which would make it more accessible to the general public (ML-M, 2005). Training and educational effort is needed to make the concept clear – a pre-requisite to its application. But, work on the ground is not all that easy. For example women's NGOs who focus on concrete tasks and operations experience difficulties in the day-to-day dealings with the local self-governments because of ideological differences:

Women's organisations are disliked because we fight for equal status, for the right to a voice, for equal pay, for benefits, for the right to abortion, for access to contraception. So, if the government will change to more conservative this will become more difficult. And it already is. They respect our work, but only to a certain degree. Some things we are not allowed to do. For example, in some competitions for projects the conservative pro-family organisations win, not us (NGO-WRC, 2004).

Therefore, for the pursuit of certain equality programmes it is not only important to elaborate policies at the central, national level, but also to enable sub-national actors to implement them. Because of the differences between the conservative and progressive ideology in how gender equality is perceived, various actors pursue opposing agendas directed at women. Although in the view of women's NGOs the situation is far from ideal, the climate for such organisations has improved owing to the EU accession and the knowledge that at the EU level the third sector is a serious partner in action (NGO-WRC and NGO-K, 2004). This change is felt more concretely, as there are more opportunities for accessing financial resources and for creating pan-European contacts which make it easier to secure partners in other EU states (NGO-CWR, 2004).

Sometimes the lack of awareness and sensitivity to gender equality and sexual harassment is mixed with an indifferent or unprofessional attitude towards the issue, which is the third reason for the law-practice gap. This is especially striking when it

occurs within structures that are expected to be trained and predisposed to deal with such matters. To illustrate, there was a widely publicised case of sexual harassment which involved a female employee and her male boss. In 2000 the woman reported to the prosecutor's office unwanted sexual advances and inappropriate physical contact by her superior and a subsequent non-renewal of her temporary employment contract. This complaint was supported by eye-witness accounts given by her colleagues, and acknowledged by the firm in which those involved were employed. Yet, the following year the case was dismissed. The prosecution's justification for not pressing charges against the perpetrator was that this was not considered a case of sexual harassment because the woman was 'touched through her pants and since she was fully clothed no harm was done' and because 'touching through clothing is not considered sexual harassment' (Gazeta 2002b; TU-OPZZ-1 and TU-S, 2004). While at the time sexual harassment was not yet clearly defined and regulated by the Labour Code, other regulations in the Labour and Penal Codes were sufficient to prosecute the case²⁵. Polish labour law introduced regulations protecting victims of harassment in 1996, although subsequent changes specifying what constitutes sexual harassment and the repercussions for such conduct were introduced in 2001 and 2003. In the end the case was considered by a Labour Court, and while there was no doubt in the court's opinion that sexual harassment took place, the victim was not awarded any reparation from the company as 'the firm was not responsible for the conduct of its employees'²⁶.

In essence, many cases do not manage to reach the court because law practitioners, police officers and prosecutors, do not know what constitutes sexual harassment and often abandon investigations at the early stages²⁷. In other cases they are unwilling to interpret them as such, as evidenced by comments directed at women who feel they have been discriminated against or have experienced sexual harassment such as 'you should have looked for another job' or 'you should have been a good girl'(NGO-WRC, 2004). NGO activists find these remarks scandalous, and point to instances of incompetence or lack of good will on the part of prosecutors or judges in not allowing certain evidence or witnesses in court, or in the misplacement of crucial documents. Thus, regardless of the existing laws, in certain cases there is the human element which prevents their execution (NGO-WRC, 2004). Especially in small

²⁵ Andrzej Rogoyski, lawyer specialising in sexual harassment cases, Gazeta interview (2002a).

²⁶ J. Naumann, lawyer representing the firm in which this case took place, Gazeta article (2005d)

²⁷ J. Warylewski, Penal Law Department, University of Gdansk, Gazeta interview (2002a).

communities, where employment alternatives are limited and news travel fast, the label of trouble-maker may hinder continued or alternative employment and exacerbate an already serious situation. This is compounded by an institutional problem of the length of court proceedings where some cases take several years to conclude. Such a drawn out process may prevent an employee to seek resolution through the courts, especially that continuing to work in a given establishment or finding another job may not be feasible (TU-S, 2004). On a more positive note, there has been an increase in the rate of concluded cases in the labour courts between the years 2000 and 2004 by 50.7 per cent (Adam Smith Centre Report 2006). As the number of cases flowing to courts depends, in part, on the attitude of the society towards the legal system, taking cases to the court in Poland is avoided, as Poles do not treat courts as institutions which will resolve their problems and only very determined people seek their rights through litigation²⁸. Here again the situation is changing, as in the years 2000-2004 labour courts have registered a nearly 30 per cent increase of incoming cases (Adam Smith Centre Report 2006).

Governmental policies have addressed some of the problems plaguing the legal system. For example, within the PHARE programme the Ministry of Justice has conducted a series of introductory seminars to EU laws for Polish judges with the participation of judges from France. These seminars included the topic of discrimination²⁹. The GPES staff were involved in a PHARE funded training for judges and prosecutors and deemed it a great success (GPES-DLM, 2004). However, the experiences of a women's NGO involved in the training of police officers and judges in gender sensitive techniques for dealing with victims of discrimination, violence or harassment, were mixed. The police force was quite open to such training, while judges and prosecutors did not want to accept this education as they considered themselves 'knowledgeable enough' (NGO-WRC, 2004). Clearly, the above examples (and many other reported by media) point to the contrary.

Accession to the EU allowed for labour market discrimination or sexual harassment to surface and talking about these issues via different awareness raising campaigns empowers individuals to act on their knowledge: 'all of the sudden a woman knows more and demands more' (NGO-WRC, 2004). Likewise, women parliamentarians have debated gender labour market discrimination since the early 1990s and engaged in a range of activities towards raising societal awareness. A

²⁸ Irena Boruta, 2002.

²⁹ Iwona Luka-Kliszcz, judge, Common Courts Department Deputy Director, Ministry of Justice, 2002

successful endeavour was the establishment of a forum of cooperation with various NGOs which was facilitated by the then office for Women and Family. After this office was changed in 1997 with the change of the government to focus on issues of the family (without separate attention to women) this link was severed. Still, the Parliamentary Group of Women cooperated with some 200 women's organisations and noted positive results in influencing the level of awareness in the wider society (MP-PGW, 2004).

Certainly, accession to the EU has contributed to the visibility of gender in various circles. Awareness of gender equality increased among parliamentarians who began to view women and their participation in public life through different lenses. A degree of change in the attitude and awareness of gender and approach to equality among administrators and politicians resulting from the interactions with EU institutions or other member states was noted by activists in women's organisations:

There has been a change of attitude among civil servants that these certain standards [gender equality] must be taken into consideration that they cannot be joked about. As I am active in the women's movement since 1995 I see an unbelievable change in the mentality of politicians (...) it does not mean that they are enthusiasts [of gender equality] but they know that to conform to some political correctness they cannot laugh about this (NGO-K, 2004).

What mattered were not only the decisions and opinions flowing from the European level and the obligation to observe them, but also the recognition that certain programmes are associated with access to the European financial resources which can bring great benefits to the Polish economy and society. This situation has developed while social democratic parties occupied the majority of the seats in the *Sejm*. Their political programmes coincided with those promoted at the EU level considering equal status on various grounds (MP-PGW, 2004). Still, in spite of noticeable improvement, large gaps in knowledge remained. As mentioned earlier the idea of gender mainstreaming is not a well understood concept among Polish policy-makers or civil servants. There is a lack of understanding of the problem among various departments, but also a refusal of action and a shortage of resources dedicated to the area. In such a climate it is difficult to pursue a concerted approach to advance equality. For example, the office of the equal status requested information from various departments on the topic of implementing programmes specifically designed for women and gender equality but some 70 per cent of responses to the inquiries were judged 'useless' (GPES-DLM, 2004). The situation does not show any signs for improvement as the current parliament consists of a greater percentage of populist or conservative parties who are, or until recently have been, Euro-sceptic and hold conservative social views.

Although the current gender mainstreaming experts within the Department for Women, Family and the Prevention of Discrimination (DWFPD) are very active in promoting gender mainstreaming across various policies and are ‘fighting until [they] drop’, they are not always successful in securing results (e-mail communication, 03.2007). So, the level of awareness of gender equality and the degree of political will to promote and implement the principle of equal status (based on gender and otherwise) at the executive level is uneven, and at the parliamentary one has diminished³⁰. Overall, the results of better knowledge of equality issues are mixed. Some actors appear well informed about the letter of the law, the policy direction and the factual situation, others are not. On the ground level, it seems, there is still little visible progress (TU-S and GPES-DLM, 2004). Clearly, to advance the principle of equality in employment the awareness raising activities need to be sustained in order to reach wider circles and achieve a long lasting impact. For this a specialised and committed institutional body able to coordinate various policies and activities on the national and subnational levels proves necessary, particularly in the context of the two competing cultural models of gender roles.

The cultural and normative aspects feature as the fourth multifaceted aspect concerning the gap between laws and their execution. Polish society missed the discussion of what women’s rights mean or what discrimination is. Because of a socialist system such discussion did not take place for some forty years, and this setback is clearly visible in the Polish society today (Jaruga-Nowacka 2002). Consequently, there are two competing views on women’s roles. One is associated with the family, with looking after the household and caring for children and other family members. The other one assigns women a more independent role and gives them the right to decide on the shape of their life in the private and professional spheres (MP-PGW, 2004). Public opinion surveys suggest that nearly half of society claims that women who work professionally are respected more than women who do not, 43 per cent do not see any difference in status between the two groups, while only 4 per cent consider housewives commanding higher prestige (CBOS 2003). Thus, the majority of people (92 per cent) consider women’s employment as more or equally worthy to their family responsibilities, while 67 per cent of respondents note the need for better reconciliation of the two spheres. Only 7 per cent of respondents propose a greater role for fathers in

³⁰ In a resolution by European Parliament (15.06.06) Poland (among others) is reprimanded for rousing intolerance, racism, xenophobia, homophobia, anti-Semitism. Many Polish politicians deem it unfair.

their participation in a portion of maternity leave (CBOS 2006b). Another survey of women (ARC Rynek i Opinia 2000) finds that over 78 per cent of respondents think that women should be employed and be financially independent, while 38 per cent would stop working if their husband would earn a sufficiently high income. Congruently, there are two types of women's organisations engaged in sometimes opposing activities. Two different reports prepared for the UN Beijing conference on women in 1995 attest to the two strong visions on women in the Polish society. A report prepared by a group of NGOs associated with the Catholic currents claimed that women in Poland are respected due to their important role of the guardian of the family (*Matka Polka*) and that they are not discriminated against. In contrast, the NGOs associated with the feminist activities promoting equal opportunities between women and men argued that indeed Polish women face discrimination in public and private life: in economic, political, and social spheres (MP-PGW, 2004). Given the split of opinions on women's roles, their place, and therefore their citizenship rights, issues of violence or discrimination are difficult to express. If labour market gender equality rights are not deeply entrenched, based on the accepted belief that a woman's place is at home, actions taken towards their execution may be seen as illegitimate. Victims may be reluctant to come forward with their problems because of embarrassment, of fear that people may find what has happened to them, and because they may not be taken seriously. Frequently, employers and co-workers treat gender equality matters somewhat light-heartedly. This attitude affects also men, as when an occasional father requests a parental leave he is considered jokingly or unfavourably by behaving outside of the prescribed social norm for a breadwinning male or by causing 'organisational problems' for the company (TU-OPZZ-2, 2005)

Yet another reason for why the implementation of existing laws and policies or creation of effective mechanisms enabling their execution in practise is so inadequate is the lack of political will on various decision making levels and the resistance of those who hold positions of power. This is quite evident in examining the actions (or lack thereof) of the governing administration – a weaving theme through gender equality matters. The development and implementation of the National Action Plans for Women (NAPs) phase I and II are illustrative of this. In 1997 the office for Family and Women has developed a NAP for Women I in response to the final documents of the Fourth United Nations World Conference on Women in Beijing 1995 and its Declaration – Platform for Action. The NAP for Women I adopts the priorities of the Beijing

Declaration to execute changes relevant to gender equality. The document, as a set of tasks for the government, is directed to central and local administration units, but also considers cooperation with other public institutions, research centres, NGOs, local self governments, trade union confederations, and the media.

Table 15 Women and the Economy Chapter in the NAP for Women I

Strategic Objective	Actions
Creating conditions for the realisation of economic rights of women and their economic independence, including access to employment, adequate working conditions and control over economic means.	<ul style="list-style-type: none"> • Adopt & enact laws prohibiting gender discrimination in the LM, employment, promotion • Create and enforce legal norms ensuring equal pay for work of equal value • Legislate & implement equal opportunities policy • Implement the principle of equal treatment in social insurance, improve working conditions
Creating conditions for equal access of women to resources, employment, market, products and trade.	<ul style="list-style-type: none"> • Increase rural women's income generating opportunities: equal access to productive resources, control over resources, land, credit, capital, ownership • Support the development of small enterprises run by women and self employed women • Support newly established small firms, cooperatives, other possibilities to enable women move from public to private sector, also in rural areas
Creating conditions for the development of business services and access to markets, information and technology, especially for low income women.	<ul style="list-style-type: none"> • Pursue policy supporting business organisations, NGOs, cooperatives, local organisations, women's self-help groups to ensure services for women-entrepreneurs in urban and rural regions. • Create equal conditions for the realisation of local initiatives and entrepreneurship of women/ men. • Prevent excessive and socially unsound income differentiation of households • Strengthen organisational instruments benefiting equal opportunities in the labour market
Creating conditions allowing for reconciliation of family and professional roles.	<ul style="list-style-type: none"> • Enable women & men reconcile family /professional roles and create conditions for job protection • Develop flexible forms of employment/working time
Eliminating feminisation of poverty.	<ul style="list-style-type: none"> • Develop and use in social policy a system of indicators allowing for the analysis of the state and dynamics of female poverty

Source: GPFW 1997, NAP for Women I.

Women and the Economy forms one of ten sections of this policy paper. Table 15 presents the main goals relevant to the labour market sphere, where the economic dimension consisting of specific goals and actions is quite detailed and the NAP for Women I further lists specific tasks related to the actions, agents responsible for the implementation, and the expected timeline. In the context of other chapters in the document, the strategy is comprehensive and consistent not only with the Beijing

Declaration, but also with EU standards for labour market gender equality. So, if implemented, the policy package would have aligned Poland with the EU quite some time before the accession and the mechanism of conditionality. However, due to the change of the government from a left-wing to a right-wing coalition its implementation did not take place (SKRSP 2000; GPES and NGO-K, 2004; GPES 2004a/2005).

Table 16 Economic Activity of Women Chapter in the NAP for Women II

Strategic Objective	Actions
Elimination of discrimination of women in the labour market	<ul style="list-style-type: none"> • Enforce anti-discrimination legislation in employment and working conditions • Eliminate gender based labour market segregation and segmentation • Cooperate with employer / employee organisations
Counteracting unemployment and increasing women's access to employment	<ul style="list-style-type: none"> • Develop women's opportunities and capacities in the labour market • Support women's entrepreneurship • Develop system of care for children and other dependants • Minimise the size of grey economy
Counteracting feminisation of poverty	<ul style="list-style-type: none"> • Identify high risk groups

Source: NAP for Women II (2003)

After the establishment of the Government Plenipotentiary for Equal Status of Women and Men (GPES), the office began to work on the second stage of the programme for advancing gender equality. General activities of the NAP for Women II Stage for the years 2003-05 covered awareness raising campaigns of labour laws and workers rights and education and training of lawyers, judges, police officers, prosecutors, trade union representatives, employer organisations, labour inspectors, NGO representatives and government officials. The strategic objectives and the actions devised for the Economic Activity of Women section are presented in Table 16. Educational programmes as well as dissemination and support for positive action in implementing a standard for non-discrimination of women in terms of pay featured among the elimination of gender labour market segregation, the promotion of equal participation of women and men in decision making, the eradication of stereotypes in women's and men's gender roles, or the raising of awareness among employers and employees in the area of equal status of women and men in the labour market. On the

whole, the programme aimed to implement a gender mainstreaming approach to governmental policy-making and implementation and comprised of tasks corresponding to the fourth pillar of the EES (GPES 2005). By the end of August 2004 about 65 per cent of the various tasks of the programme were implemented (GPES 2005). After the programme's completion, the then plenipotentiary, minister Magdalena Sroda, has proposed a meeting with officials at the Ministry of Labour to discuss a third implementation stage. But this meeting did not come to effect (ML-DLM-3) due to the institutional changes associated with the change of the government. In effect policies aimed at greater gender equality in the labour market are either pursued or abandoned, depending on which parties form the government. This, in turn, creates a climate which is either conducive or hindering to law enforcement, and thus has an impact on the severity of labour market inequality.

Another sphere in the political resistance to remedying the existing gender imbalance is the opposition to the issue of gradual introduction of quota ensuring a more equal distribution of political appointments. On the higher decision making levels this resistance is seen as motivated by 'men who are afraid to lose power and thus do not support these acts guaranteeing equal status, equal rights' (MP-PGW, 2004). The difference of opinion on the quota issue runs along the familiar left-right divide, as only leftist parties (SLD, UP, UW) have introduced minimum levels of women's participation in politics and placed a quota of a minimum 30 per cent of women on the candidate lists for parliamentary elections (MP-PGW, 2004). However, when it comes to quota the actual situation is a little more complicated than the unwillingness to share power of people at the top. This strong opposition to gender quota, although softening, is mirrored in the wider society. Public opinion polls conducted in 1997 and 2002 show that support for legally defined quota has grown from 21 to 33 per cent, while the opposition has decreased from 63 to 56 per cent in the respective years (CBOS 2002). At times women themselves oppose various 'positive action' solutions as these are reminiscent of the top-down approach characteristic of the socialist era and its symbolic or superficial attempt to display gender equality without its actual achievement. To illustrate, at a certain firm with a vast majority of female workers was conducting collective agreement negotiations. A legal advisor suggested that a clause be included in the agreement to make professional advancement easier for women through equal opportunities in access to professional training. The suggestion was motivated by the fact that, more often than not, young men were participating in such career advancing

mechanisms. A clause in the collective agreement could have made the scenario more balanced so that women and men would have been equally represented in training schemes. The female workers involved in the negotiations refused this proposal as they 'did not want to be differentiated in any way and did not see the reason why they should have been evaluated on any other aspects than the job they performed' (TU-S, 2004). Therefore, although public opinion survey respondents support the involvement of the government plenipotentiary in achieving a greater proportion of women in managerial positions (67 per cent of women and 44 per cent of men) and a greater participation of women in public life (64 per cent of women and 50 per cent of men) (CBOS 2002), gender quotas are not readily approved.

Institutional (in)capacity at various levels of governance and implementation also contributes to the discrepancy between regulations and practise. Although the Polish core executive has evolved away from the socialist style of governing, various systemic, political, and organisational legacies have constrained its policy-making capacity (Żubek 2001). In the post-socialist period governments have changed quite often, as the majority or minority coalitions found it at times too difficult to co-govern (see Table A11 in the Appendix). Frequent alterations, however minor or major, make it difficult to continue on course of particular policies. Certainly, the political scene is gradually crystallising as it develops away from the division along the dissident (Solidarity based) versus ex-communist lines towards programmatic differentiation, which may lead to more cohesion of the system (Żubek 2001). Nonetheless, many shortcomings remain. Adaptation of countless new legal rules and policy directions in a short time frame may be a contributing factor to the difficulties in the implementation process in the context of general lack of resources. The problem begins already at the policy-making stage. National civil servants express concern over time pressure and deadlines they cannot control. Members of the government administration, in addition to their everyday responsibilities, were given new tasks associated with the accession to the EU and complained that their human resources were insufficient to handle the amount of work required. Thus, civil servants working to deadlines could tackle only the most urgent priorities at any given time. The amount of documents and procedures that they have to take into account has greatly increased and sometimes the lack of technical knowledge or foreign languages makes their work so much less efficient (ML-DLM-2, 2005). In view of Swedish officials such pace and the time pressure are needed in order to keep the momentum of NAP developments (Jacobsson 1999), but such speed

and pressure may also result in policies that are not well thought out or consulted, and therefore unrealistic to implement.

The institutional incapacity spreads beyond the policy-making structures to the levels of policy implementation. Administrative decentralisation embarked on in 1999 facilitated a stronger role for the regions. Regional consultations took place at the drafting stage of the policy plans and in follow up meetings. Also, each region was required to develop its own action plan based on the national guidance and via consultations with social partners (ML-M, 2005). So, a positive decentralised trend is visible here. However, this decentralisation does not yet function well, as there is a lack of links between and among various administrative units (ML-DLM-1, 2005). It seems that the public administration ‘oscillates chaotically between centralisation and decentralisation, between a sector based approach vs. a horizontal approach, between central government vs. local government’ giving the impression of a ‘bureaucratic anarchy’ (Hausner 2005). Ministries and ministers change quite often, not only during post-election re-shuffling but also within a given term. This hampers the cooperation of social partners and non-governmental bodies with the various offices as with personnel changes the established relationships have to be built from scratch (TU-OPZZ-1, 2005).

Administration and implementation of labour market policies is largely dependent on the Public Employment Services (PES) and counteracting unemployment features as one of the priorities for the government. The structure of the PES in Poland has evolved from the initial responsibilities for the registration of unemployed persons and handling the distribution of unemployment and income support benefits to wider tasks including work mediation and implementation of active labour market programmes (ALMPs). So far for both active and passive labour market policies there has been an insufficient supply of resources. First, there is a decline in the proportion of the unemployed persons with the right to claim unemployment benefits. At the end of 2000 such a right had 25.7 per cent of men and 15.9 per cent of women, but in 2004 this has decreased to 17 and 11.6 per cent, respectively (MGiP 2005e). Thus, passive labour market policies cover ever smaller proportion of the unemployed population, and women have lower access to them. And second, ALMPs have not been prioritised either. In 1997 the Polish government allocated only about 0.3 per cent of GDP on ALMPs, which constituted about 15 per cent of total labour market programme spending. In comparison to the EU such allocation of funds in Poland is much too low (EU-15 average is 1.1 and 36 per cent, respectively) in both real and relative terms,

given the fact that Poland has much lower GDP and much higher unemployment levels (Krynska 2001). Moreover in 2004 only 117 special programmes were initiated, which aimed at activation of persons particularly at risk of exclusion from the labour market compared with 257 programs in the previous year. They covered 2 514 unemployed persons – 5 628 less than in the previous year. Among them were 1 028 women (decline of 1 584), (MGiP 2005). A positive development is the 15.9 per cent increase to the Labour Fund in the 2005 budget thanks to which the resources for activation allowances, integration benefits and ALMPs will increase (EEO 2005).

The administrative decentralisation affected the PES functioning. In the post-reform years a double edged problem emerged in terms of coordination and institutional capacity. First, Poland has 16 *voivodship*³¹ and over 350 *poviat*³² labour offices in addition to their various branches (NRP 2005-08). With the fragmentation of tasks and responsibilities to the regions large regional disparities and a lack of central coordination emerged and the system does not function well in the absence of meaningful links among the different centres and organs of administration. A legal act on the employment promotion and labour market institutions (Dz.U. 2004) considered the problem and proposed measures to increase the cohesion of the system by re-introducing a degree of central control. But, ‘a coordinating office by the Minister was supposed to be established, but because of lack of resources this did not happen... now it is difficult to say to what degree and how well the new model will be implemented’ (ML-DLM-1, 2005). And second, the PES human resources are inadequate given the reality of the Polish labour market and in comparison with EU-wide standards. In Poland at the end of 2004 one employment intermediary was responsible for about 1 850 unemployed (2 385 in 2003 – CASE/UNDP 2004), while in the EU the average ratio is about one employment officer to about 300 unemployed persons (NRP 2005-08). Moreover, the level of qualifications of the PES staff is inadequate given a high staff turnover of about 50 per cent and a nearly 25 per cent of staff comprised of participants in the public intervention schemes (CASE/UNDP 2004). Given such volatility and the lack of specialised education (fewer than 50 per cent have a university degree – NRP 2005-08) the degree of professionalism required for the implementation of labour market policies promoting an individualised approach is insufficient.

³¹ Regional administrative units.

³² Local administrative units.

In light of the severe labour market problems, the under-funded and understaffed PES provide inadequate level of support. Not only is there a lack of official data on the national and local labour market needs which makes assessments, and thus effective action, difficult to execute, but also without the government's help a large portion of the unemployed have little chance of finding work on their own (NRP2005-08). Thus, a paradox is evident in the unemployed persons' dependency on the PES facilitation in leaving unemployment yet the inability of the offices to provide adequate levels of assistance. For instance, in 2003 there was one job counsellor for 7 101 unemployed persons, about 40 per cent of counsellors did not possess specialised training, and only about 8 per cent of all unemployed used job counselling services (CASE/UNDP 2004). Slowly, the institutional capacity is improving. On the one hand policy change focuses on the re-vamping of the PES themselves, and on the other hand new laws permit private and not-for-profit organisations to take over some of the labour offices' tasks and engage in work mediation, training, or counselling (Act of 20.04.2004). Modernisation and restructuring of the PES by staff training, increasing the number of employment agencies, and developing performance indicators, will potentially improve their services. But this is not a straightforward and quick process. As confirmed in interviews (TU-OPZZ-1, ML-DLM-1), the offices should have been aligned with certain European standards and using programs accessing information on European labour markets as of May 1st 2004, but months later they were still engaged in training. Obviously, it may take several years until real improvements can be noted.

The institutional and policy discontinuity concerns spheres of the administration sprawling over to the office of the GPES. As I have already argued in Chapter 5, government priorities and the prescribed social roles of women and men are expressed and promoted through the existence and mandate of an office in charge of gender relevant areas. In the current chapter the familiar story continues:

Every time when the Plenipotentiary's office is established it is the government deciding what area or scope of action this office covered. In 1997 it was for the family and the Minister thought that the family is the most important unit, and a woman as a member of a family is only seen in this way. For the first time in 2001 the Plenipotentiary was for equal status of women and men. And we are very committed to this because, according to EU requirements, equal status should be institutionally guaranteed (MP-PGW, 2004).

Therefore, the Government Plenipotentiary for the Family (1997-2001) was not active in the pursuit of gender equality and the lack of its political will was seen by women's organisations in Poland as the main reason for not implementing the NAP for

Women I (SKRSP 2000). In contrast, the GPES functioning in the years 2001-05 has been an active advocate for gender equality and other aspects relevant to equal status, as its scope of responsibilities was broadened to combating discrimination based on race, ethnic origin, religion and beliefs, age and sexual orientation (GPES 2004a). It engaged in awareness raising, data collection or commissioning, training of bureaucrats on issues relevant to gender, issuing opinions on policy proposals as well as monitoring government's actions. As mentioned already, its work closely reflected policy promoting greater labour market equality contained in the EES. At the initiative of the plenipotentiary for equal status a List of Jobs Forbidden to Women was changed to A List of Jobs Especially Arduous or Detrimental to Women's Health narrowing the protection and the health and safety of pregnant or post-natal women from the whole population of women (GPES 2004a). Implementation and monitoring of the second NAP for Women for 2003-05 was another one, where a permanent team of 48 experts comprised of public administration and NGO representatives was in charge of development of evaluative indicators and the preparation of a monitoring report (GPES 2004a). The office of the plenipotentiary has proposed a range of topics for inspections and preventative actions performed by the PIP. The office of the GPES established in 2001 has been dissolved in November 2005 and part of its competencies taken over by a newly formed DWFPD. This office does not continue the NAP for Women and attention to gender shifted from equality between men and women towards wider concerns and emphasis on family issues. The original Plenipotentiary's website has been removed together with various reports and awareness raising material it contained. Material available on a previous office's site dedicated to monitoring gender issues³³ financed by a PHARE project has been inaccessible in the first couple of years of the new office functioning, although some of it has been finally published in a hard copy and there are plans to update it online. The new website³⁴ presents ongoing activities; it is becoming gradually more informative and in addition to family matters contains information on current events, programmes financed by the ESF, the equal opportunities year, Community projects, and some information on gender mainstreaming. But overall, the content of the new internet sight has a broader, family oriented content. This, in many respects deteriorating situation, has developed in the context of Poland receiving substantial financial resources from the ESF that demand a gender mainstreaming

³³ www.monitoring.rownystatus.gov.pl/rskim

³⁴ [www.kobieta.gov.pl](http://www.kobieta.gov.pl;); www.rodzina.gov.pl

approach to their utilisation. Gradually the impact of EU money is becoming visible, as the website lists 7 projects related to the ESF: 1) flexible forms of employment, 2) how to change men's attitudes, 3) ESF helps in activation of Polish women, 4) Polish women in the labour market, 5) promotion of anti-discriminatory labour laws, 6) different roles same opportunities – monitoring of equal status, 7) multi-dimensional diagnosis of women's labour market situation. More details on these are provided in the relevant sections below. In addition Community Projects are mentioned: 1) Community programme for employment and social solidarity – PROGRESS, 2) gender mainstreaming in labour market institutions, 3) man at work – towards gender equality, 4) implementation of gender mainstreaming – EU project for new member states. The European Year of Equal Opportunities 2007 is included also.

The GPES was an important institution contributing to the visibility of gender in the various stages of policy-making as well as the implementation and monitoring processes. To benefit from the financial instruments of the Community, Poland was required to prepare a National Development Programme (NDP) for the years 2004-06 and 2007-13. This strategy document, coordinated by the SLD-led government, outlined the goals, priorities, and institutional framework of the government's action and served as the platform for negotiating with the European Commission the size of financial support from the structural funds (Szczepański 2002). It contained policy proposals and programmes for various branches of the economy, polity, and society and aims for assuring policy continuity. The NDP was widely debated to ensure societal support. In addition to the national debate there were regional conferences and meetings, with the involvement of local and regional administration, advisory bodies, academics, employers' organisations, trade unions, NGOs, and the media (Hausner 2005). The GPES has contributed to the NDP which took gender into consideration and included it in various elements (ML-M, June 2005). One of the key values of the NDP is pro-family policy based on raising fertility rates, ensuring adequate child development, and promoting a partnership family model. The Programme's principles of good governance include ensuring equal rights and opportunities for all citizens (Hausner 2005). However, the new administration is highly critical of the previous government and its policies and vows to implement a completely new order in Poland. According to reports in the press, the new government has decided that the existing NDP will not be implemented. Instead of adjusting it to its own programme, the government abandoned the document altogether. A new development strategy is being prepared, but it is not

clear yet what it will contain as it is ‘written quietly within a bureaucrat’s office’ and it is doubted whether ‘in such a short period something good can come out of it’, especially since a lot of work and engagement was invested in the creation of the original document³⁵. Some commentators are disappointed with such a development and say that the plan was not a political development but a result of shared ideas and expectations of all who participated in its development (Rzeczpospolita 2006). Therefore, such a complete turnaround seems to undermine the efforts and wishes of many.

In its activities, the GPES office cooperated with various actors on a range of policy issues. It has organised conferences focused on labour law adjustment with the participation of representatives from other member states (ML-DLL, 2004). For instance, collaboration with the National Council of Radio and Television Broadcasting and a research institute on gender equality in Denmark has led to awareness raising conferences and training sessions on women’s rights for the media (GPES 2004a). The office also claimed a very good relationship with NGOs. This cooperation included financial support of those organisations who partook in competitions for various projects (GPES-DLM, 2004). The positive assessment was mutual, as women’s NGOs appreciated the existence and support of the GPES. In addition to access to financial resources, they recognised the importance of representation of women’s interests in politics and of the attention given to the third sector (NGO-CWR and NGO-K, 2004). The working relationship with trade unions was not as fruitful, although the office together with OPZZ commissioned a survey by PIP about the prevalence of gender based discrimination (GPES 2004a). Seemingly, the office experienced the least rapport with employer associations for whom antidiscrimination laws promoted by the office are inconvenient (GPES-DLM, 2004).³⁶

As past events show, recent changes to the Plenipotentiary’s office and its jurisdiction also reflect the government’s policy and politics towards women. For one, dissolving a stand alone specialised office headed by a minister and mandated by the Prime Minister’s Chancellery and replacing it with a department contained within just one ministry and headed by a deputy minister, does take away from its profile in terms of status and visibility, and thus runs the risk of diminishing the visibility of equal status

³⁵ R. Baniak – an expert from an employer’s organisation, quoted in Rzeczpospolita 2006

³⁶ But, employers’ organisations start to take gender on board, e.g. in June 2006 the Polish Confederation of Private Employers Lewiatan organised a conference ‘Equal Opportunities - Higher Productivity’.

matters. For another, it lowers the potential for access to all the governmental ministries and offices (in addition to non-governmental institutions) and thus the propagation of the gender mainstreaming approach to policy-making in a broad and encompassing manner. For example, the previous office gathered information from all relevant governmental departments to issue a report on their realisation of gender mainstreaming (GPES-DLM, 2004) but currently such activities are not taking place (ML-DLM-3 and ML-DWFPD, 2006). Moreover, the institution and personnel changes may hamper the collaboration of the government with the third sector. NGO representatives observe that in the past, when the office focused predominantly on issues of family, the room for action was very limited and certain objectives were impossible to achieve. Conversely, when the office for equal status was dedicated to equality between women and men, the possibilities for collaboration have increased (NGO-K, NGO-WRC, 2004). The current deputy minister directing the office, Joanna Kluzik-Rostkowska, declares a pragmatic approach to cooperation with NGOs and pledges support to any organisation dealing with the labour market problems of women and reconciliation of family and working lives. Whatever the ideology of a given organisation, grass roots work beneficial to women and the family has a chance to gain the ministry's support. The main goals of the department are facilitating women's access to the labour market, access of children to education, and well functioning forms of childcare. Other issues, like sexual orientation, are deemed private and not for the government to deal with.³⁷ Although this office confirms the existence of discrimination and a weaker position of women in the labour market which is in sharp contrast to the politics of earlier governments of the political right, a change of course over the policies of the left is still evident here. The previous GPES took a broader approach to the pursuit of equality than the current one both in terms of targeted areas as well as policy scope. Within the framework of NAP for Women there were 12 regional plenipotentiaries for equal status appointed out of 16 administrative regions (GPES 2004a), after the change of the government the DWFPD website indicates eight such positions. Furthermore, during the previous administration within a PHARE twinning project in each ministry there were equal status cells. Currently no such departments exist except in the Ministry of Labour and Social Policy (email communication ML-DWFPD, July 2006).

³⁷ J. Kluzik-Rostkowska in an OSKA interview by M.Chincz (2006).

To recapitulate, the volatility of the machinery for women's affairs or equal status is evident in its changes from the onset: 1986 – establishment of the Government Plenipotentiary for Women; 1991 – for Women and the Family; 1995 – for Family and Women; 1997 – for the Family; 2001 – for Equal Status for Women and Men; and finally in 2005 – for Women, Family, and Prevention of Discrimination. The lack of continuity and stability of a central institution dedicated to equality matters, gender related and otherwise, renders the policy approach unpredictable and highly dependent on the political will of the governing administration. In turn, the uneven policies and politics of gender impact the day-to-day operations of various institutions engaged in the implementation of equal opportunities programmes.

7.3 Future Outlook for the Implementation of Labour Market Regulations

Clearly, reforms and development of labour market institutions require a long term and multidimensional approach in order to make the system efficient and successful in the implementation of policies and laws. As an official of the Ministry of Labour and Social Policy recognised, Poland's accession to the EU presented a great opportunity for a fast and balanced socio-economic development, due to the support of European structural funds (Szczepanski 2002). In particular the financial instrument of the EES – the ESF – aimed at human resources development, increased employability, entrepreneurship and equal opportunities, provides financial resources for the realisation of various programmes. For instance, in the first programming phase for the years 2004-2006 money from the ESF support a Community Initiative EQUAL (henceforth EQUAL). EQUAL is a learning platform dedicated to studying new ways of attaining the goals of the European Employment Strategy and Social Inclusion Process of tackling labour market discrimination and inequality. The emphasis is on innovative approaches and active co-operation between member states (CEC 2003c).

For the years 2004-08 there were 107 projects approved over five themes, with 13 partnerships falling under Theme G: Reconciliation of family and professional life and reintegration of men and women who left the labour market by developing more flexible and effective forms of work organisation and support services (107 Development Partnerships in Poland 2005). These programmes aim to develop creative solutions allowing for combining professional and family life through institutions dedicated to child and other dependant care, training schemes, and flexible forms of employment. A three stage approach of forming diverse partnerships between

governmental and non-governmental organizations on regional or local levels (action 1), carrying out the programmes (action 2), and spreading the results with implications for their application on a wider scale (action 3), contains a real potential for the creation of models and viable solutions relevant to labour market problems specific to Poland (NGO-K, 2004). The programmes are still underway and results from actions 1 and 2 have recently been debated for mainstreaming foreseen in action 3. Thus, it is too early for their final evaluation, although tentative observations can already be made. The main goal for the National Thematic Network for topic G is the creation of favourable conditions for carers enabling their return to- or preventing their exclusion from the labour market. Out of 11 realised partnership projects there may be seven potential results (innovative solutions) which correspond to different problems associated with reconciliation of work and family life, considered for a wider usage. The first result aspires to the integration or re-integration of carers into the labour market through a creation of local coalition of institutions responsible for various stages of activation, and thus for the progress of a client from one stage to the next. The second one aims at a policy change allowing for a parallel use of care and rehabilitation services in case of disabled children, so that their parents have a better chance of entering the labour market. The third considers more flexible opening hours of childcare centres so that they are more practical for working parents. The fourth concerns the establishment of an annual nation-wide competition for a firm of equal opportunities. The fifth seeks to work out a model of management in an equal opportunities firm, consisting of a) Gender Index Audit identifying firm level policies detrimental to gender equality, b) Good Practice Guide containing a collection of best solutions for the attainment of gender equality, and c) Training Model enabling the transfer of practical knowledge in equality management. The sixth refers to developing legal, informational, and technical aspects surrounding flexible forms of employment and directed at both employers and employees. And finally, the seventh result aims to establish a mechanism creating an E-centre for Job Promotion as a place of tele-work for unemployed lone parents combined with care-centres for their children. In addition two other aspects may be included. The first proposes developing training in gender mainstreaming consisting of establishing a certified group of experts. An already existing training programme and the expertise of 4 coaches are expanded through the intake of new potential coaches, who will eventually engage in educational activities aimed at all partnerships within EQUAL. The developed training module and the expertise of coaches can be used by other

institutions implementing structural funds in Poland as well as other bodies interested in pursuing equal opportunities policy. The second proposal refers to regulating the question of women entrepreneurs and their maternity leave benefits (based on a proposal for a strategy for Theme G – e-mail communication June 2006).

In brief, the thematic coverage of the results developed through EQUAL partnerships proposed for mainstreaming in the wider setting is comprehensive and adequate to the conditions of the Polish labour market. Clearly, the stress on increasing gender mainstreaming expertise and the knowledge among employers and employees via popularisation of good practise strengthen the softer issue associated with awareness raising, while policy change and institutional aspects reinforce gender equality implementation through more tangible developments. So, this initial assessment points to positive results from a qualitative perspective. In terms of a more quantitative evaluation it is, again, too soon to assess the impact, since even EQUAL coordinators do not have exact data on how many persons participated successfully in the various programmes (email communication June 2006). However, the breakdown of EQUAL budget does reveal some information. The distribution of financial resources for the period 2004-2006 among 6 different areas shows that Equal Opportunities secured only 9 per cent of the entire budget, and gave way to such themes as Employability (33.8 per cent), Entrepreneurship (27.4 per cent), or Adaptability (21.1 per cent) (www.ec.europa.eu). While it is likely that women will benefit from all the other schemes, it is difficult to predict how these will affect the balance of gender equality.

Returning to the wider context, certainly institutional capacity and continuity are important for policy implementation, assisting thus the reinforcement of existing laws. In terms of assuring implementation of the policies and programmes laid out in the NAP 2005 and the NRP 2005-08, both documents being consistent with the NDP 2004-06 and 2007-13, the previous government engaged in collaboration among several ministries, social partners, self governments or the academic community, in drawing up the policy programmes. In addition to the comprehensive treatment of the proposed employment plans, policy consistency was addressed by making sure that the various proposals were in line with other policy fields covered by the NDP 2004-06 and 2007-13. The medium and longer term time outline aimed at securing continuity, and wide consultations with various actors tried to reach consensus of all those involved in the subsequent implementation. After parliamentary elections in October 2005 the new minority government based on a conservative party Law and Justice (PiS) failed to form

a coalition with the second largest party the Civic Platform (PO) and sought and gained support from two other conservative and populist parties in the parliament, Self-Defence (Samoobrona) and the League of Polish Families (LPR) (see Table A12 in the Appendix). Initially the three parties signed a document called a ‘Stabilisation Pact’ with the two supporting parties allowing the government to introduce and pass various Acts in the parliament, and eventually a governing coalition was formed among them.

Judging from the content of the Pact and from government action thus far, women are viewed in the context of the family and gender equality as such is not a separate policy goal. In its exposé to the parliament³⁸, the second prime minister of this coalition – Jaroslaw Kaczynski – declared that a family based on marriage between women and men is the fundament of Polish social life and as such it will be defended. This view is consistent with the teachings of the Church on women’s roles, as expressed by the head of the Catholic Church in Poland³⁹. Accordingly, Polish women should follow the ideal of God’s Mother, and through their love and wisdom aim at improving the world. Women should be brave and loving, working hard, and weep for the sins of their son’s and husband’s – *Matka Polka* yet again. In contrast, the feminist movement is criticised for demolishing social structures, for not noticing women’s dignity, and for politicising the issues and aiming at the exploitation of women by women in order to serve the possessive ideas of men. In his exposé the prime minister stressed that the Church is a depository of a common system of values in Poland and to attack this institution is to attack the fundamentals of Polish national life. Thus a commitment of the top political layers to traditional social values cannot be denied.

Although it is true that almost all Poles declare association with the Catholic Church, 97 per cent declare that they are believers and 58 per cent regularly participate in religious practices (CBOS 2005), at the same time a good portion of society is of the opinion that the Church should have less of an influence on what is going on in Poland (45 per cent) and especially that it should refrain from politics (85 per cent) (CBOS 2004). In other words, Polish society identifies itself with the Church spiritually, but it also indicates a preference for the separation between state and religion. The lack of such separation is especially vivid during the governments of conservative parties. For instance, the former Chief of Staff of the President’s Chancellery stated that the idea of a coalition among the governing PiS, Samoobrona, and LPR was supported by a

³⁸ Exposé presented to the Sejm July 19th 2006, www.onet.pl, based on PAP and TVN 24

³⁹ Cardinal Jozef Glemp in a homily in Czestochowa on 14.08.2005, reported in Gazeta.pl 15.08.2005.

cardinal who raised the topic with the president, or when a possibility of early elections was discussed the same cardinal suggested that their timing would interfere with a planned visit from the pope (Onet, based on Gazeta Wyborcza 2006). The engagement of Church officials with politics is also noted in attempts to influence political choices of lay persons, as in the call of an archbishop during a radio transmitted mass to vote in the self-government elections for specific candidates because:

These elections are not political. We [the Church] have the right to engage. Political [elections] are only those to the parliament and for the president. And that is when we are neutral, of which you are aware. But here we have the right to even point out [the right candidate] with our finger. And we will do so. (quoted in Onet.pl, based on Zycie Warszawy, 12.06.2006)

Obviously, the Church features prominently in the political life in Poland. It is considered a serious and respected actor by the conservative parties, and it does not shy away from giving opinions on a variety of topics and from exerting influence on many aspects of private and public life of Polish society.

Returning to the Stabilisation Pact, a policy proposal considered lowering of the mandatory age of children entering school in the preparation year from 6 to 5 year olds. The goal of this reform has been described as equalising educational opportunities of children, especially from rural areas and small towns. Such a change would bring potential benefits not only to children but also to the employment situation of women, as mothers who look after their young children at home may be able to return to the labour market a year sooner than thus far. In the end the policy promise remains unfulfilled due to ‘financial reasons and other priorities’ reported by the minister of education who also stated that that pre-school education should be for parents to decide (www.onet.pl, based on PAP 2006). In Poland pre-school facilities are organised and financed by the local self- governments. In November 2006 the central government decided to shift 700 million Euros away from the self-governments to the budget of the Ministry of Education to finance after school programmes in the years 2007-13 (www.onet.pl). Thus, localities were deprived of resources that could have been used for setting up new facilities, and instead centrally administered distribution promises to expand the offer of already existing ones. While the expansion of after school programmes is positive, weighing it in the context of prioritising the needs of women with pre-school age children (whose labour market access is most difficult) makes it questionable. Also, central management of finances may be inefficient a) from the point

of view of local needs, and b) media report fears that the ministry will not be able to spend the funds efficiently.

Another policy change of the Pact already considered passed in the parliament, was lengthening the maternity leave from 16 week period upon the birth of the first child to an 18 week leave in the first year, and gradually longer in future years (to eventually 26 weeks according to a Family Policy Project drafted by the DWFPD). Such policies may bring about mixed outcomes for women. On the one hand longer maternity leaves make it easier for women to reconcile work and family life as women have more time to look after their newborns and are guaranteed by law a return to work based on conditions no worse than before maternity leave. On the other hand, focusing the policy on mothers only and ignoring the role of the father in the parenting process may be detrimental to women of childbearing age and limit their access to the labour market, and thus wages. The employers association PKPP Lewiatan warns that already women are perceived as those with a higher risk of absenteeism and this leads to their discrimination at the point of entry to the labour market, or to temporary or the grey economy employment. To ease the situation of women the organisation proposes to make one week of paternal leave compulsory for fathers (www.prywatni.pl).

The Pact mentions also plans to implement an insurance system for care benefits of older persons requiring care. Although this is motivated by the demographic changes associated with ageing of the society, there is a potential for benefiting women as primary carers. The proposal suggests monetary benefits (and does not mention the provision of care services) to those requiring care, which may result in either financially rewarding the thus far unpaid female family members performing caring duties or enable the persons requiring care to obtain it in the market and again fuel the potential incomes of women-carers. Time will show how much the PiS led government will be able to achieve and how its policies will affect labour market gender equality.

7.4 Overview and Concluding Remarks

At the beginning of this chapter I asked whether gender equality regulations and policies worked out in EU may be inappropriate for a new member like Poland. I have briefly examined what does not work and why. If anything, this chapter has shown that there is a great degree of continuity in the ways gender equality laws and practices have been approached in Poland in the recent years. Just like during the socialist period, the post-socialist era is characterised by relatively good and improving legal regulations for

the attainment of labour market gender equality contrasted with huge implementation problems and persisting inequalities between women and men. The preliminary assessment of the implementation of labour laws and policies as well as recent changes in policy direction present a picture of complex and evolving interrelationships in which the EU influence filtered through domestic factors loses its potency displayed at the level of law and policy-making in the pre-accession years. Clearly, changes to law alone did not bring about changes in practice. But, I would still argue that an appropriate legal framework is an essential minimum to implement change on a societal level. Reinforced by policies focused on the strengthening of institutional mechanisms and tools assisting implementation, such a legal framework has a potential for a better application. Thus, the gender equality framework developed at the EU may not be as much as inappropriate for Poland, but perhaps insufficient given the level of awareness of equal opportunities matters, or too irrelevant if flowing from the top-down direction only and unable to penetrate to further vertical and horizontal spheres. The recently developed framework of gender equality standards created supra-nationally and imposed on the central government needs acceptance and reinforcement from the national and sub-national levels. These, however, have proved inconsistent in the post-socialist period.

Table 17 Key Factors Relevant for Gender Equality Policy Implementation

Group of Factors	Inhibitors	Facilitators
legal framework	laws existing only on paper	tools enabling law execution
awareness of laws and gender issues	knowledge gaps: employers, employees, legal community	awareness raising campaigns and media engagement
cultural attitude towards gender roles	persistence of traditional views: women in family, home and care domains, men as breadwinners	development of alternatives: a partnership model and more options for women and men
political will	hostility and lack of good will, resistance of power holding actors	political commitment to gender equality
competency of law enforcement	lack of expertise in labour market gender equality (e.g. new laws)	education campaigns and specialised training
financial resources and institutional capacity	low priority of gender among other labour market and social challenges; discontinuity in institutionalisation of gender equality; incomplete use of EU financial and resources and expertise	higher budget for EO in labour market programmes and other programmes on gender equality; stable central institution dedicated to gender equality with access to all levels/ branches of government and social partners (e.g. GPES); EU policy direction and funds for specific programmes
firm specific behaviour	double standards in domestic branches of multi-nationals;	copy good practice from abroad; domestic actions increasing attention to gender equality
policy commitment and continuity	policy volatility dependent on the ideology of governing parties	development of a minimum continuous commitment

The buffering of the central government is especially prominent here, expressed via their constant re- and de-institutionalisation of the gender equality machinery. Conservative parties at the steering wheel take on a form of a very fine filter and so the EU gender equality politics and policies have difficulties of trickling through down to the lower levels. Social democratic parties increase the filter's porous properties and increase the EU influence on the national and sub-national platforms. In Table 17 I show the key inhibitors and facilitators related to the issue of implementation of gender equality standards in Poland. A paradox evident in the post-accession years is that the EU can and does influence the legal sphere in terms of laws and regulations, but for a better balance between the position of women and men it is in the spheres other than the legal framework that change and support are now needed. Labour market policy, programmes, the spreading of good practise, and compliance with the existing laws are the necessary components of making gender equality work. In those areas, however, the EU does not have the same level of influence as it is domestic actors and institutions that in the end do or do not use the legal framework in place. Now it is up to the national governments, regional self-governments, social partners, NGOs and individuals to take gender on board. The EU can galvanise these actors which may change the actual status quo, but it cannot put the laws into everyday life directly. What is needed is the political and ideological consent at all levels and spheres. Whether this can be achieved in the medium to long term will depend on the trajectory of the domestic development and the willingness and potential of domestic actors to use the EU as a resource in the achievement of a better gender balance in the labour market.

VIII. CONCLUSIONS

Embarking on my study, I was interested in establishing how accession to the EU influenced Poland's labour market policies from the point of view of gender equality. I asked whether domestic conditions – institutional and actor configuration – facilitate or hinder the impact of the EU. The nature of the research question and guidance from the Europeanisation debate led to the conceptualisation of the EU-level as an independent variable as it exerts pressure on national policy-making mitigated by domestic institutions and actors (intervening variables) and causes change. Thus, focusing on the EU impact on national policy-making such analytical ordering of variables is appropriate, especially if viewed in a short term perspective and with a narrow focus on gender equality directives or on the EES framework. However, altering the research question by switching the focus to development of gender equality policies within the national arena, taking a longer historical view, broadening the scope of analysis beyond the 'hard' and 'soft' EU policy tools to include national and sub-national developments, the status of the EU as independent variable changes to that of an intervening one, while the domestic policy actors and institutions take the place of the independent variables. This is especially evident at the lower levels relevant to the implementation of formal rules.

The EU approach to labour market gender equality consists of the two main complementary 'hard' and 'soft' law procedures and Poland, like all other EU member states, is subject to both. While the adaptation of 'hard' law was more relevant in the pre-accession period and adopting the *acquis communautaire* before entering in the EU ranks, engagement with 'soft' law processes is more prominent for the new member participating in policy coordination in a less compulsory fashion. The process tracing approach contextualised in domestic cultural and historical pathways focused on an assessment of the EU impact in the policy content (policy goals, means, programmes) and the policy-making practice (structures, institutions, participating actors). I expected to find that domestic conditions would influence whether labour market policy-making, -output, and -outcome adopt an approach of gender equality. The presence of domestic actors and institutions supporting egalitarian scenarios was predicted to aid in the Europeanisation of gender mainstreaming, while the lack of such support would hinder the process. The main finding of my research comprises of a paradox. On the one hand, the strong impact of the EU through 'hard' law in the pre-accession period influenced

domestic labour market policy reforms relevant to gender as domestic actors and institutions responded favourably to the supra-national impulse rendering their opposition to- or lack of support of gender equity irrelevant. These reforms are largely limited to the formal level and even such a powerful exogenous event as the accession to the EU has not transformed the deeply institutionalised traditional gender ideology. On the other hand, the 'soft' law impact is much less visible in terms of policy change, and the domestic actors and institutions resist supra-national pressure for mainstreaming gender into labour market policies. I still emphasise the positive aspects of the EES. To resolve this contradiction I shifted the analysis from short term output and policy *content* towards a long term potential of policy *process* making the EES more suitable to comprehensive or even eventually transformative reforms in the Polish case. For the EU advocated approach to gender in labour market policies to succeed, the dominant domestic politics and socio-cultural traditions must internalise and institutionalise the egalitarian norms throughout the formal and informal networks. Participation in the EES may encourage learning, socialisation, and cognitive change towards narrowing the ideological distance between domestic and supra-national views, between formal and informal institutions which, in turn, will stimulate Europeanisation of gender equality or mainstreaming in domestic labour market policies.

8.1 The Heavy Weight of Poland's Domestic Baggage upon Entering the EU

In terms of domestic welfare state institutional development upon the 2004 accession to the EU both the socialist and post-socialist phases are highly relevant. In the post-war era Poland experienced some 50 years of relative stability. Although there were periods of conflict and the political establishment lacked legitimacy and societal support, there were no drastic ideological swings or power upheavals. The state was the most powerful actor, the development of civil society was discouraged, and social policy has roughly stayed a steady course. Three basic pillars supported the socialist regime: full employment, wide universal social insurance, and a broad provision of services often tied to the place of employment. Thus, the policies of employment maximization upheld the system in a relative equilibrium and prevented a creation of large social dependencies. The official emphasis laid on the role of work and gender equality resulted in strong pressures on women to enter full-time paid employment. Consequently, female labour force participation was higher than- and different from that in Western Europe. For the post-socialist transformation I have assessed the relevance

of several factors which have been found pertinent to gendered outcomes in any given state: the balance of power among unions, employers, and the state; the nature of the labour market; the character of organised women's groups; the culture, ideology and discourse of gender roles, including motherhood; or demographic change. I have drawn on the analytical approach of the power resources theory, considering the school's assertion that politics matter in a way that:

existing power relations, public opinion, policy configurations, and institutional arrangements limit what any sitting government can do, but that the governments do have a measure of political choice and that a sequence of governments with a political coloring different from that which had been dominant in the past can move a social protection system onto a new path (Huber and Stephens 2001: 3)

The above argument is relevant to long established welfare states that are expected to behave in a path dependent way, although change is not a foreign concept to welfare state development especially in the apparent era of austerity, retrenchment, recalibration, or activation. Accordingly, western literature on state policy identifies three orders of change: first-order change modifies the settings of policy instruments without changes made to instruments or goals of policy; second-order change alters both settings and instruments; and third-order change consists of shifts in the setting, instruments and goals of policies (Hall 1993). It is the third-order change which is political in character, involves a broader range of actors, marks a major departure from the past policy course, and takes place only every few decades. In welfare state reform cutbacks are especially difficult to achieve. While welfare state expansion consisted of passing popular policies in the context of undeveloped interest groups, welfare state retrenchment would involve unpopular policies in the climate of entrenched networks and interest groups. The policy feedback mechanism strengthens the position of certain political actors, who then defend the policies beneficial to them (Pierson 1993, 1996).

This theoretical reasoning of welfare state change was developed for mature and established democracies. For Poland the circumstances are clearly different. Here the welfare state retrenchment in terms of removing social policies and programmes reconciling working and family lives of women took place at a highly transformative period, when the first post-socialist governments were able to obtain wide support from the society even when this meant the enactment of some unpopular policies. Moreover, the balance of power after 1989 was not conducive to the pursuit of women's cause. The set of policies enacted to benefit women during socialism did not empower women's interest groups and when the social support system collapsed it was the male

dominated trade unions who held most of the electoral and governing power. The rising influence of the Church with its traditional view on the role of women created a climate where such cuts as the closures of pre-schools or lay-offs from privatising enterprises were compatible with asking women to remain in the households and giving up the limited number of jobs for the sake of men. In addition, the new policies were welcomed by those women who were tired of the compulsion to work and preferred to focus on the domestic sphere instead. The systemic 1989 change was of a completely different calibre than the third-order paradigm changes occurring within stable systems. Clearly the 'welfare state' package benefiting women during the socialist era was not locked in a path dependent sense as the transformation brought about a nearly complete upheaval of the status quo and the following years continued on a more erratic course. These arguments speak against using West-specific concepts in a transformation context. Taking each relevant factor separately still allows illuminating the processes at hand even or especially if they are different than in mature welfare states. It is still possible to ask how the domestic factors of the labour market situation, the balance of power, the character of women's organisation, culture and demographic trends played out in the shaping of gender equality in Poland. So, while the factors associated with welfare state building need to be adjusted to the socialist and post-socialist transformation contexts, results in the degree of commodification, social stratification or the gender sensitive breadwinner models or defamilialisation concepts are highly relevant.

The fall of socialism and the transition from a command to market economy changed the contours of the Polish labour market regime. The State's support of full employment and the provision of services have faded away and the increasing dependency of large number of citizens on the under-financed state budget created instability and insecurity. Recent years have witnessed a relatively strong and improving legal framework protecting workers rights, policy moving from stress on passive towards active measures, drastically lowered (but as of 2005 gradually improving) labour market participation, rather weak collective power, presence of various political actors with varying influence over policy and politics in the context of an overriding authority of the state, and an improving economic capacity. However, the overall labour market situation is precarious and, as Chapters 5-7 established, women hold a much weaker labour market position than men. Thus the nature of the labour market is more detrimental than conducive to the development of sound equality policy.

A Danish example does seem to suggest that high levels of unemployment do not have to result in the neglect of equal opportunities in the labour market. In the 1970s Denmark experienced economic recession, high unemployment and the retrenchment of the welfare state, while women's employment rate has grown over the next 15 years or so (Sainsbury 1999). Such an approach shows that economic crisis does not have to undercut women's access to work and that their mobilisation can avert the weakening of their labour market position (Dahlerup 1993 in Sainsbury 1999). Therefore, a difficult economic situation does not have to determine labour market politics.

Turning to the distribution of power among the various domestic actors, a strong central government can act on its preferences, while a more dispersed system of power may be more receptive to social agents. Dispersion of power facilitates active interest organisations, while those in which power is concentrated suppress the development of interest groups (Wilson 1973). Generally, the broad patterns of state-society relations change slowly, but Poland, like the rest of the CEE region, has undergone a revolution which rapidly transformed the state from highly centralised locus of power to its greater dispersion. State building goes on in Poland with strong incentives to adopt international standards (Grzymala and Luong 2002), although some trends are difficult to change. For example, executive officials in the public administration are highly politicised because their recruitment is based on party affiliation. Civil service reforms implemented since 1999 have not brought substantial changes as of yet (Regular Report 2003), and so the work of ministries is heavily influenced by the governing parties which is especially vivid during the present governing coalition. The government may seem to be the most meaningful decision-maker in the social policy area, even though some 15 years of politics and policy-making with governing parties changing from left to right every four years displays relative instability against half a century of socialism. Consequently, the direction of social policy has not been deeply entrenched as the political left and right sharpen their increasingly distinct views.

The importance of the ruling party's programme is evident when social policy and the question of zigzagging gender equality are considered against the context of macroeconomic restructuring. Polish macroeconomic reforms tell a successful story of the post-1989 transformation. While the reform efforts corresponded to the parliamentary elections cycles, it is only the pace rather than the overall direction that varies since there is a clear vision among policymakers about the path of reforms and the long-term economic model to aim for, namely a stable market economy

(Kozarzewski, Radziwill and Walewski 2004). Given the drastic labour market situation of lasting high unemployment and increasing poverty and inequality, the goal of creating efficient labour market institutions and the right mix of labour market and social policies has been integral to the policy agenda since the beginning of the transformation. The successive governments have made reduction of unemployment one of their top priorities. Where they differed, however, was in the role of women in the process. Labour market policies and the question of gender equality and the gender contract display pronounced differences of party politics (see Table 18).

Table 18 Key gender developments during of the post-socialist government

Government: years in power and political orientation	Key gender relevant policies and politics
1993-1997 : Left	<ul style="list-style-type: none"> • Plenipotentiary for Women and Family cooperates with NGOs leading to the 1995 Beijing conference on women • development of NAP for Women I (1997-2000) • 1996 labour code changes, e.g. equal treatment of women and men, parental leave for fathers, ban on discrimination
1997-2001: Right	<ul style="list-style-type: none"> • change of name and office of the Plenipotentiary for Family and Women, severed cooperation of government with NGOs • government ceased implementation of NAP for Women I • women's rights removed from social policy agenda, e.g. • 2001 EU aligning labour code changes, e.g. equal treatment in hiring and firing, definition of indirect discrimination, burden of proof shifted to employer • NSIE HRD 2000-06
2001-2005: Left	<ul style="list-style-type: none"> • established Plenipotentiary for Equal Status of Women and Men, cooperation with NGOs • development and implementation of a second NAP for women 2003-05 • 2003 labour code changes, e.g. broadening discrimination ban to wider criteria, definition of direct discrimination and sexual harassment, removing upper limit of compensation to victims of discrimination • participation in the Framework Community Strategy for Gender Equality 2001-2005 • NAP 2005 • NRP 2005-2006 • EQUAL development
2005-Present: Right	<ul style="list-style-type: none"> • closure of the GPES → establishment of DWFPD • NAP 2006 • proposals for longer maternity leave

Source: Based on GPES 2004a, and Chapters 5 and 6

This situation may be connected to the fact that in Poland gender equality policy is considered less of a social policy, and more of an ideological one, and frequent ideological changes at the top are reflected in the approach to gender roles and policies

that reinforce them. The strategies vary between politics of equity associated with the political left and aiming at furthering the interests of working women and improving their access to the labour market, and politics of difference connected with traditional beliefs and the politics of the conservative right stressing the primary role of women as carers. Gender policy is one of the areas in which frequent change reverses progressive steps, and vice-versa, resulting in the lack of distinct and enduring gender policy logic. The pattern of a lack of staying power of leftist governments in Poland and the weak standing of gender equality matters on the political agenda is consistent with the argument that party politics matter for gender equality policies. Women's interests are advanced best where social democratic political sphere and strong autonomous organisations support the women's movement (O'Connor, Orloff and Shaver 1999; Huber and Stephens 2001). Moreover, institutions in the social democratic environment prove so successful in the shaping of the social construction and expression of gender interests that other (non-leftist) political parties cannot dispute established women's rights (Hobson 1998). In Spain the women's movement benefited from four consecutive governments supportive of gender equality (Threlfall 1996) and the socialists' commitment to place women in positions of power led to their higher presence in government, and further to the expansion of lasting equality policies (Linos 2003). In Poland, gender policies are frail as the volatile governance of left-wing parties has not managed to practise strong and long lasting equality politics. Whatever gets done during one administration, tends to be un-done by the next one.

One of the mechanisms through which political parties make their mark is the institutionalisation of their programmatic preferences through, for instance, the establishment of a women's machinery. As argued by authors (e.g. Caporaso and Jupille 2001) the existence of an autonomous public body competent in issues pertaining to gender equality matters for domestic change in the way gender issues are approached. A high degree of specialisation of such an institution may lead to a greater influence than if a multifunctional agency with a wider set of responsibilities (such as a labour inspectorate) adds gender equality to its repertoire. The presence of formal institutions which supply actors with resources, both material and non-material, allows for the exploitation of new opportunities by empowering these actors to effect change. For example the assistance of public agencies to women's organisations in the UK furthered gender equality in the country, while in France the lack of such institutions impeded the implementation of gender equality policies (Caporaso and Jupille 2001).

Patterns similar to those found in France and the UK can be noted in Poland during the changes to the scope and scale of the office of the government plenipotentiary for women's issues. When a left-wing government is in power the office has better visibility and actively pursues gender equality policy. With the governments of right-wing parties the emphasis changes to focus on more traditional roles of women as care takers, or drops the woman question altogether. As the analysis in the preceding chapters shows, the equal status office is a relevant actor in the domestic power play in gender politics. But its limited institutionalisation makes it highly volatile to changing political moods of the various governing parties.

Experiences of other accession countries parallel the developments in Poland. For instance, the influence of the accession process on gender equality policy in Hungary was mixed, as harmonization of legislation and institutional development were successful, while policies and enforcement mechanisms were affected to a lesser degree. Thus, Hungary's gender equality policy is fragmented and policymakers rarely take note of gender mainstreaming (Ferge and Juhasz 2004; Krizsán and Zentai 2006). Another echoing process surrounds the national machinery for gender equality. Hungary has established a Secretariat for Women's Policy in 1995 during a socialist-liberal government, which in 1998 was changed in name and demoted in the hierarchical structure when a conservative government assumed power, and revived again in 2002 by the left-wing administration that eventually turned it into an Equal Opportunity Minister's Office (Krizsán and Zentai 2006). In Hungary, as in Poland, policy-makers are at best indifferent to the gender equality issue, the area of gender studies is a relatively recent phenomenon and it does not manage to enter policy discussions. Thus, institutionalisation of state feminism is especially salient in the transformation context.

In addition, Hungary, unlike Poland, has a relatively weak network of women's NGOs who rarely contribute to the policy process (Krizsán and Zentai 2006) although this country experienced a rapid increase in the number of civil organisations (Ferge and Juhasz 2004). The relative power of non-state institutional actors contributes to the politics and policies of gender, the actors of different levels engage in complex bargaining to achieve the desired outcome. The social partners in Poland are neither overly strong nor interested players in the game pertaining to women's employment. The cohesiveness of the labour movement characteristic of the 1970s and 1980s protests did not emerge in the post-socialist era (Kramer 1995). On the contrary, internal fragmentation and external opposition among the two largest union confederations, the

OPZZ and Solidarity, is quite glaring. Likewise, the development of large private capital and therefore of strong employers' organisations has also not been yet achieved. Consequently, the social partners do not have enough power to pursue them vis-à-vis the government (if these are not pooled with other national or supra-national actors). Institutional structures and legacies of relatively strong (but politically volatile) governments, and relatively weak and disinterested trade unions and corporatist bodies do not sum up to a context supportive of women's incorporation into the political system and their influence over the policy agenda. Women's absence from the policy-making processes prevents the inclusion of their interests and concerns the social programmes. Although women's presence in high politics in Poland is not equitable to that of men, activities at the level of women's organisations are quite prominent.

Certainly women's NGOs have taken gender equality on their agenda. The character of organised women's groups is important because the existence of a strong and mobilised women's movement should lead to adaptation of gender equality solutions, while a weak one in relation to other social actors and organisations with different interests may not succeed (Caporaso and Jupille 2001). As Chapter 5 described, the state socialism prevented and disallowed articulation of women's rights (among other citizenship rights) from below. The private sphere of family and friends took the place of the civil society, it gained importance and respect, and its separation from the public sphere was underlined. The reign of the traditional family with distinct male and female roles was accepted where despite objective disadvantage of women in private and public roles, the situation was acknowledged as natural reinforcing the solidarity among the private people against the public authorities creating the 'Us' versus 'Them' dichotomy (Marody 1990, 1991). In society's eyes the official public sphere was illegitimate, and so the politics of support or the promotion of equality of women stayed at a superficial level and were not transmitted to the level of the family. The divisions grouped loyalties around 'private' against the 'public' and not around 'women's issues' against 'men's issues'. Paradoxically, participation of women in employment has given them a degree of financial independence from their husbands, but did not affect the domestic balance of power or distribution of household labour. Under socialism women were 'naturally' responsible for family and domestic matters. In the stage of transition from socialism to democracy the dominant cultural ideals about women's role within the family and society dating back to the years of lost statehood and cultivated privately were officially brought to the front. Dormant or

subdued during socialism they were now tapped into by the actors who found them useful: the Church, some political parties, or traditional women's associations. Once the state-socialism collapsed, nationalist ideologies used this public-private distinction and elevated the private sphere of the family to the foreground. This occurred in Poland as well as in other transition states in the region (Einhorn 1993) consistent with the argument that institutions that endure shocks and changes of an evolutionary process result from long gestation (North 1993/ 1998) and as such transforming the status quo is not straightforward. And so, women's groups in Poland today are divided in articulating and representing women's interests and pursue gender equality and equal opportunities ideals alongside those associated with the Catholic Church or conservative parties. This often deep divide between the views on the ideal gender roles hinders the establishment of consistent gender policies.

The two competing models for a gender regime are deeply embedded in the culture, ideology, and discourse. They exist in parallel spaces and sometimes collide with each other. The wider public reflects the range of views on gender relations, for instance, in 2000 some 38 per cent respondents to public opinion surveys supported a partnership family model where men and women equally share professional and family responsibilities, while 42 per cent preferred a male breadwinner model (CBOS 2000). The persistence of the two-track gender politics points to another paradox related to the socialist period. The socialist state compelled women to full-time participation in the labour market and women carried a double burden often more severe than women in the West. After the systemic change many of them welcomed the shift of ideology emphasising their familial-only instead of dual roles. This has certainly occurred in Hungary as many women there have voluntarily left the labour market, and to a lesser extent in Poland. Thus, the policies of the welfare state and culture are interconnected in complex ways creating a framework for agency and structure where a change at the level of gender culture can affect welfare state change (Pfau-Effinger 1999). But the 'cultural' change occurring in Poland is not yet complete. Although history has a cross cutting influence, traditional views on gender roles prominent in post-socialist years do not encompass the entire society, and are supplemented or replaced with more egalitarian models as gender awareness in the 'Western' (as opposed to socialist) sense is growing. This culture, ideology and discourse of 'appropriate' gender roles are pertinent to the zigzagging policy outcomes. Adding the pattern of demographic change evidenced by ageing Polish society and declining population growth (change in natural

increase from 4.1 in 1990 to -0.1 in 2005) contribute to the emphasis on pro-family policies and motherhood. For now the various contradictions and conflicts are still working themselves out domestically, and in the context of membership in the EU new supra-national factors gain importance or modify the existing domestic balance.

8.2 Results of the Domestic Interaction with the EU

The Polish position towards the EU and the idea of integration has evolved towards a positive and constructive stance in favour of closer cooperation (notwithstanding the current government's stance on the Constitution Treaty). However, at the point of accession the distance between rhetoric and practice was quite large due to capabilities of putting good will into action, as in the area of expensive welfare policy solutions judged by the Polish foreign ministry as impossible to implement (Trzaskowski 2002). In terms of accession negotiations, neither the Association Agreements nor the Regular Reports placed a strong emphasis on social policy, especially if viewed in the context of economic policy. The lack of consistent attention to gender equality and its mainstreaming in the documents associated with the accession process signalled a faint EU commitment to these issues. Adoption of the various directives ensured only the minimum standards required, and only at the level of legislation. This resulted in the failure of establishing the European social model at the accession stage as the effect of Europeanisation was diluted by the European Commission's lack of a sustained and coherent articulation of the commitment to gender equality. In other words, as I stress below, accession to the EU has been a strong stimulus in the domestic legislative effort, but had there been a stronger impulse from the EU, Poland's response to it would have likely been commensurately larger.

Certainly, the transposition record of the equal treatment and equal opportunities directives lends substantial support to the Europeanisation thesis that domestic change is driven by the top-down forces flowing from the EU-level and galvanising national reforms. It has been argued that the existence of multiple veto players decreases the potential for policy change (Tsebelis 1995). If many actors have the power to influence policy implementation it may be difficult to build a necessary domestic consensus to see a reform process through to the end, as there are many potential moments for vetoing a given proposal. Such a scenario can slow or impede the Europeanisation. Under the current 1997 constitution Poland is a parliamentary system with semi-presidential elements (Brzezinski 2000) where the core executive operates vis-à-vis such veto

players as the two chamber parliament, the *Sejm* and the Senate, and the president – each with a power to veto reforms. However, in the pre-accession stage Poland's aspirations of joining the EU and the fulfilment of accession criteria as the only way-in have made domestic vetoes irrelevant. The legislation that had to be passed in order to join the EU was passed, and that which was not required by the accession criteria stumbled on various blocks (e.g. the equal status bill discussed in Chapter 6).

Also a certain degree of misfit is seen as a logical pre-condition if domestic change is to be attributed to Europeanising processes. However, domestic change can also occur if there is no misfit – in such cases national reforms are driven by processes unrelated to Europeanisation. The transposition of the nine gender equality directives also supports conditionality as a powerful tool for the EU induced domestic change. The power asymmetry between an aspiring candidate and the EU has, for the most part, resulted in good compliance of the candidate. However, as the example of the Pregnant Workers Directive illustrates, national governments can circumvent EU regulations – at least in the short term, that is, until the EC initiates infringement proceedings. Accordingly, The Annual Report 2004 of the Court of Justice of the European Communities records the main judicial activity of the Court of Justice and the Court of First Instance. In 2004 for completed court cases – judgments concerning failure of a member state to fulfil its obligations - out of the 144 total infringements declared, the new states did not account for any of the overall number and for 2004 did not have any new cases of actions against them for failing to fulfil their obligations. Furthermore, according to the website of The Court of Justice, there have been no cases brought against Poland until the end of March 2006, confirming thus Poland's compliance.

The transposition of the EU gender equality directives certainly strengthens individual rights of working women and men. But, Poland does not have a strong litigating culture. The gradual construction of a legal infrastructure enabled the protection of citizens' rights and increased the potential to guarantee constitutional rights together with the reforms of the Labour Code and the passing of new legislative acts improving the possibility of individual rights attainment. However, as discussed in Chapter 7, this is a complex matter intertwined with the realities of a precarious labour market situation and a lack of connection between top-down processes and grass roots action. Given the variation in individual rights development among the long-standing EU member states, such as France and the UK (Caporaso and Jupille 2001), it is difficult to predict the final outcome in Poland. If the situation in Poland advances

along a path similar to that of the UK, the domestic and European courts can promote progress in gender equality and individual rights. However, in case the Polish course of development will resemble the French example a limited change to the structure of individual rights can be expected.

If we accept the claim that the accession process has an executive bias (Grabbe 2001; Żubek 2002; Lendvai 2004) whereby the transposition of the *acquis* was a de-politicised non-negotiable administrative exercise, than the policy, law, and institutional developments of a largely bureaucratic nature do not necessarily result in the emergence and sound grounding in a new and shared value system. This suggests a legitimacy deficit and a fragility of the newly implemented structure. Could the EES be the right tool to address this shortcoming? The three rounds of the participation in the EES can only provide a limited scope for the assessment of the developments, although embedding them in the context of socialism and post-socialism strengthens the leverage for the comparison and sets the stage for further analysis of the forthcoming cycles. Already some impact of the EES on the domestic labour market policy content and making can be detected. The process has led to the adoption from the EU of certain language, concepts, or goals into the national policy. The new social policy model that is emerging moves away from the accent on passive welfare support to a strategy promoting activation first on a declarative and gradually on a programmatic level. Certainly, to a greater or lesser extent, such concepts have been adopted as labour market activation, employability, and entrepreneurship; the concern with social exclusion in connection to participation in the labour market; the idea of lifelong learning; or labour market discrimination and sexual harassment. Some of these have been accepted quite easily and are not disputed. For example, policy-makers agree on the value of labour market activation. Other notions are much less prominent, and in the context of the overall plans and programmes for employment receive only scant attention. The policies directed at labour market gender equality fall into this bracket.

Therefore, in terms of gender the *substantive* impact of the EES does not seem large. But the policy documents, first the NAP 2005, second the NRP2005-2008, and third the NAPs 2006 and 2007, have not ignored gender equality completely. The recognition of women's weaker position in the labour market and the difficulties they face in reconciliation of family and working life is a necessary minimum for the state to do anything about it. While for the moment its policy promise is scant, the iterative nature of the EES *process*, the continued assessments by the Commission, comparisons

with peers, and engagement of the sub-national actors dedicated to the advancement of gender equality all hold a promise for improvement. Following March and Olsen (1989: 86), any major reform is likely to fail but repetitive articulation of ideas and arguments over a longer time span can make a difference. Also, the procedural demands of the employment policy-making cycles, that is, the requirement of drafting policy plans by a specific deadline, involving a certain group of participants, and addressing specific issues, make it possible to hold the Polish government accountable for the policy direction and the success of its implementation. However, pushing gender to the level of mainstreaming in all policy areas and stages will be a much harder task given that so far Poland has not displayed any interest or action towards it. As the empirical analysis has shown, gender mainstreaming has not been adopted for the lack of various ingredients at one time or another, most importantly the political will, the establishment of lasting gender equality policy, the existence and mandate of a gender equality state mechanism (like the government plenipotentiary), the level of knowledge on the actual situation and the existence of sex-segregated statistics, strong and united women's movement, or the presence of other powerful state and non-state actors committed to gender equality.

The degree and speed of behavioural and attitudinal change towards women's roles are influenced by the wider policy environment or the conditions within the labour market. The EU has accommodated the entrance of new policy actors with whom the various government officials have to collaborate (Mazey 1998). The degree of empowerment of these societal actors is an important domestic factor influencing the success of Europeanisation. The systemic change of 1989 resulted in a distribution of power within the Polish society where trade unions, employers, and civil society organisations have gain the right to exist and function in the public space. A changed political opportunity structure of access to state institutions, stable political coalitions and connections to allies (Tarrow 1983) may contribute to the improvement of gender equality. Europeanisation and participation in the OMC processes have further encouraged civil society's participation in power, evident in the calls for contribution to policy-making and implementing stages. The engagement of social partners in governing is still modest, but it is no longer marginalised or outlawed. Consequently, Polish policy-making in the area of employment approaches the model of multi-level governance where different levels of governance interact through the involvement of the Commission, the state on the national level, sub-national actors, and social partners.

Involvement of a variety of actors can contribute to a national debate and learning. There has been a large gap in the Polish debate on EU related issues, where the various governments and presidents have developed certain positions on the topic, while the debate within the political parties, NGOs, or experts and public authorities has been weaker (Trzaskowski 2002). However, this situation is changing as media and political parties have become more vocal in their stance towards the EU. The domestic debate is somewhat livelier on issues that are closer to home. In terms of general and gender specific labour market issues, the Tripartite Commission is one such platform for dialogue, debates take place in the parliament, media, NGOs, or Church. Topics like pay discrimination, sexual harassment, or retirement age begin to spread beyond the narrow circles of academics and NGO activists to encompass the wider society. There is evidence that the national debate is being changed directly by the EU as different actors use it as a legitimising factor, or more recently in nationalist arguments rebelling against the direction from Brussels. The EU influence is also indirect, as debates surround passed laws and policies inspired by the supra-national level. New information can lead to re-evaluation of existing norms, while existing ideology can slow social norm change as it influences social actors' assessment of the possible behaviours (Knight and Ensminger 1998). Thus the concepts of gender mainstreaming come against traditional Church supported models of a 'good man' and a 'good woman'.

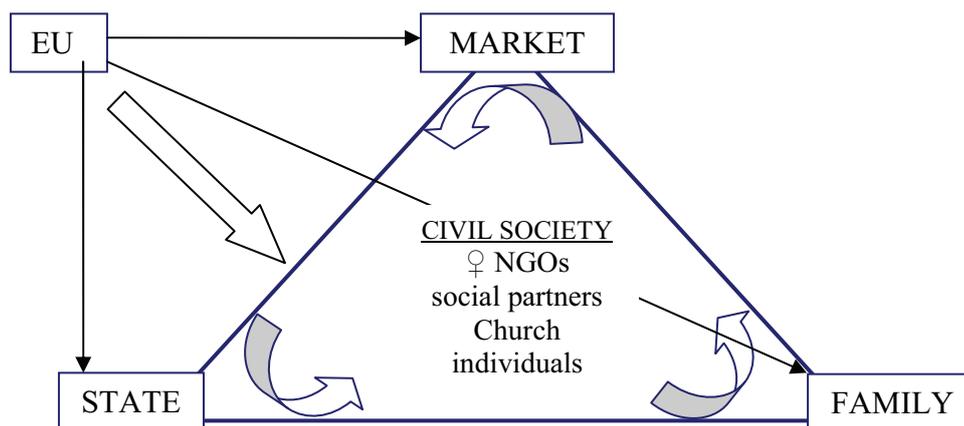
Gender interests are socially constructed and changes in gender power relations can be achieved through changing consciousness and preferences of the population. As Huber and Stephens (2001) show, it is the long term governing of a party via its effect on the preferences and the constellation of actors, that is critical for welfare state development, and as such for the form of policies relevant to women. Could a constant commitment to gender equality at the EU level inspire learning, and as such consciousness and preferences of national governing actors? Surely, in the present political climate in Poland this seems quite a leap. EU level socialisation and learning can be modified by the presence of actors able to persuade policy makers to change their interests and identities. As Börzel and Risse (2000) summarise, these agents can take the form of epistemic communities (Haas 1992) or advocacy networks (Keck and Sikkink 1998). In Poland such bodies as the Supreme Employment Council or the Committee for Social Monitoring, in addition to the already mentioned Tripartite Commission, all contribute to the development of modern and progressive norms and values at various levels of Polish society.

Policy change studies often focus on national processes and note that policy-making results from puzzling: judging the nature and severity of problems at hand, setting priorities and detecting effective responses; and of power: rallying political and societal backing for particular solutions (Heclo 1974). Welfare reforms result from policy learning where the consequences of past policies in combination with new information lead actors to deliberately adjust either the goals or the techniques of policies to attain better results (Hall 1993). Policy learning can be triggered by crises, when critical junctures offer opportunities for policy change (Wood 2001) although failures are insufficient for policy change. Political direction of the government and the pressure of domestic institutions influence the process (Hemerijck 2002). However, as evidence shows (for Poland and other members) the domestic sphere within EU states does not develop in a vacuum and the interaction with the EU must be accounted for. European frames of reference enter to complement the national policy framework and national policy is framed in consideration of common problems (Jacobsson 2002). The empirical discussion testifies to this in policy content and process in Poland.

What is, then, the EU effect on the national welfare triangle of state-market-family? As the gender sensitive literature on the Western welfare state suggests, the way gender figures in the national institutional triangle leads to a specific understanding of family, gender roles, and gender equality. The elements of the state-market-family are interconnected and any change in one influences change in others, where altering the institutional framework leads to either more or less equality. Social and labour market policies can impact the conditions allowing women to reconcile work and family by dividing the provision of services in the private sphere between women and men, and in the public sphere between the market and the state. The dual role of women in formal and informal work is seen as a major factor in upholding gender-based inequalities (Einhorn 1993; Orloff 1996). Especially the notion that women (and not men) are responsible for care is a strong normative assumption hindering their employment. As many women do want to participate in paid work, the contribution of mothers to the labour market needs to be supplemented with the proportionate contribution of fathers to family. Even in the more gender equal states like Norway, a real behavioural shift of men has not taken place. Although men dedicate more time to care in increasing numbers, owing to the father quota in leave policies, the worker-carer function is still performed by women (Ellingsaeter 1999).

How does adding an outer layer of the EU to the national triangle of state-market-family affect national welfare systems? How is the EU equality policy filtered through a given welfare and gender regime? The EU can influence the existing opportunity structure (Hobson 2000) and adaptive pressures together with a favourable set of domestic structures (Cowles, Caporaso and Risse 2001). Thus, domestic change in gender equality may occur via Europeanisation. The analysis in the previous chapters shows that any of the state-market-family sides can be influenced directly or indirectly by the EU in terms of laws, policies, politics, resources, culture, norms, or ideas. The EU encourages a shift in emphasis on the provision of welfare in such areas as childcare: by creating more accessible facilities and thus moving care away from the family (women) towards national governments, local authorities, the social partners, or NGOs; education and training: by improving access and quality, encouraging investment of firms in the modernisation of skills; overall and female employment levels: by changes to tax policies, retirement schemes, job quality, making work pay, etc. An emphasis on increasing the role of social partners in making and implementing social policy supplements the state-market-family institutional welfare state configuration with that of the third sector. Civil society organisations and individuals fill in the space between and among the three sides of the welfare state triangle and participate in the interaction on the domestic and supra-national level (see Figure 12).

Figure 12 The EU Impact on the Domestic Welfare State Triangle



Thus, an intervention model becomes evident: there is a certain welfare state developing in Poland, but the EU intervention affects its developmental course. It does not determine it, as the domestic institutions and actors retain substantial control and shape the way in which EU demands are met, especially in the post-accession years. It

does add a new quality which contributes to the end result. In the Polish case, the domestic structures have been judged inadequate for the progress of gender equality. However, they are not static and the new interaction with EU through the various mechanisms identified above (e.g. learning, policy transfer, power sharing with sub-national actors) may shift the balance towards a more positive scenario in a medium to long-term. A cursory comparison with other accession states supports the moderate intervention model. For the Czech Republic, the EU has influenced institutional capacity building and at a later stage domestic social policy priorities began reflecting the goals contained in the Lisbon Strategy (Potůček 2004). For Hungary the harmonisation of legislation and institutional development were also successful (Ferge and Juhasz 2004).

8.3 Overview and Concluding Remarks

My argument is primarily that the socialist era failure to institutionalise gender equality at the informal levels made it difficult to uphold it during the post-socialist transformation, while Europeanisation of gender equality combined with domestic forces pressing for such a stance present a potential for change. Therefore, the success of Europeanisation of labour market policies pursuing gender equality depends on the support of domestic actors and institutions, especially in the post-accession stage. Accession to the EU provided an external shock to the domestic trajectory of gender ideology relevant to the development of labour market policies, but its impact varies before and during membership. In the pre-accession stage, the mechanism of conditionality and the adoption of gender *acquis* lead to a *moderate* or *second-order* domestic change accommodating EU demands. The ‘hard’ top-down pressure from the EU renders *structure* prominent, where domestic political parties submit to EU demands regardless of their partisan preferences. However, this strong but partial and short lasting pressure led to a rapid change of formal rules consistent with the logic of expected consequences or coercive isomorphism, without taking any grip of informal norms, and as such, it did not transform the status quo. In the post-accession stage, without the mechanism of conditionality, the participation in the EES leads to a *low* or *first-order* domestic change in absorbing EU demands. The ‘soft’ top-down pressure from the EU, combined with a bottom-up stress on domestic solutions and cross-national learning, give more weight to *agency*. Domestic political parties are not constrained by the institutionalisation of gender equality, and are able to act according

to partisan logic. However, actors are increasingly subject to learning and demands from European and sub-national partners. Although the exogenous pressure is weak, the EES process renders it comprehensive, continuous and potentially long term — as such presenting an opportunity to influence the informal rules and institutions and pursue more transformative reforms or third-order change. Here, Europeanisation works through the logic of appropriateness, or via mimetic and normative isomorphism, where the iterative participation in the OMC governance can trigger a domestic commitment to gender equality, and thus increase harmonisation of national policy with that of the EU.

Explaining complex phenomena of multi level interactions, exogenous shocks, and internal transformation cannot rely on simple explanations. The various theoretical strands brought in are not necessarily incompatible, but confirm that different environments make one mechanism or the other appropriate for a given goal at a given time. At an abstract level, cultural determinist or rational choice approaches cannot singularly account for the complex interactions of actors and events covered in this work. Culture and institutions are necessary for human interaction, but human action cannot be explained by culture alone, by automatic following of prescribed rules and norms. Likewise, actors' self-interested and rational views do not explain all action. Both cultural and rational utility maximising factors combine in the account of policy development. Thus the framework of actor-centred institutionalism (Scharpf 1997) assigning equal role to the strategic actions and interactions of purposeful actors and to the institutional structures that define opportunities and constraints is supported. Or, sociologically speaking, the agents and their contexts co-determine the playing out of events as they simultaneously evolve in an inter-dependent fashion. This dissertation finds parallels with the institutional perspective according to which: a) stability of political institutions can be achieved with organisations interested in their perpetuation; b) the change of institutions and belief systems is necessary for successful reform; c) the development of norms and behaviour reinforcing new rules is a long process, and when legitimising mechanisms are lacking polities display instability (North 1993/1998).

The complexity and multidimensionality of the accession process impacts various areas and levels. In the Polish case it has certainly contributed to the increase of awareness (and not yet transformation) of political and social actors, their participation in discourse, the process of policy-making and its content, as well as the institutional landscape. The top-down influence of the EU is confirmed, but it is modified by an array of domestic factors. The degree of Europeanisation of policies relevant to gender

in terms of politics, policy, and outcome is noticeable, albeit small. The Europeanisation process continues as does the development of domestic forces. A complementary alignment of the two dimensions has the potential of moving gender equality further. Others have argued that in terms of social policy in general (Ferge and Juhasz 2004; Potůček 2004) and gender in particular (Bretherton 2001) the recent enlargement has missed a chance for raising the standard of gender equality in the CEE states, as they only adopted the minimum required legal framework as the issue of gender equality appeared rather late on the agenda of entry negotiations to the EU, with greater priority given to institutional development, political and economic reforms. I disagree with the bleakness of this assessment. In light of the region's past experience with the failure of implementing and cementing of unidirectional top down measures, I argue that the accession has not failed, but instead kick-started a process requiring a deeper multi-dimensional overhaul engaging structures from below in addition to those from above. As Chapter 4 established, 'hard' and 'soft' law methods are complementary. Adoption of the gender equality laws has improved the legal framework, but it could only do that. Implementation of the laws and improving equality lies in domains not covered by the directives. Participation in the various OMC processes is one such platform which may serve the attainment of gender equality from both above and below. A softer domestic change of cognitive process is needed to make the improved legal framework function properly. Such development takes time and political will that must be provided at the domestic level. Thus, the complementarities of the pre- and post-accession engagement in labour market policy-making should not be forgotten.

The time span considered by this study is relatively short, especially if considering policy formation, change, and impact. What sort of long-term outcome can be expected? Perhaps the experiences of past EU enlargements can be instructive. In general terms, Portugal and Spain have conducted deep institutional, social and cultural reforms where European integration and democratisation were complementary (Guillén and Álvarez 2004; Royo 2006). In terms of the development of the welfare state, the Mediterranean countries have progressed from the time they entered the EU. This influence was noted when Spain, Portugal, or Greece entered the EU as well as continued in a long term perspective (Guillén and Palier 2004). The impact of accession was thus concrete and lasting. Also, EU membership led to attitudinal changes influencing the political culture in the Iberian countries and the drive towards modernisation and consolidation of democracy. Portuguese and Spanish policy makers

were influenced by the perspective of joining the EU and adopting the *acquis communautaire*, and benefited from the financial resources contributing to growth, wealth, and employment (Guillén and Álvarez 2004; Royo 2006). Similarly, Greek welfare state reforms have resulted from the interplay of domestic and EU level politics, where EU influence is particularly visible in several policy areas where there has been a goodness of fit between domestic and EU dimensions (Sotiropoulos 2004). Clearly, past accession processes were judged successful. What lies ahead for the new members?

In the Czech Republic the government is the strongest social policy agent, while trade unions and employer organisations are respected partners. This is especially successful with social democratic governments, as those are more likely to initiate and carry out dialogue with the social partners (Potůček 2004). In Hungary the social dialogue is organised nationally, but its quality depends by the policy of ruling governments (Ferge and Juhasz 2004) suggesting its principal position in Hungarian politics. While the CEE countries strengthened both the central administration and the civil society power base, in comparison to the old EU members their domestic structures appear relatively weak. As such, the accession countries may not be able to resist the trend supporting the unrestrained rule of the market at the cost of involvement of the state in buffering market failures and further increase the East-West welfare state gap (Ferge and Juhasz 2004). The accession to the EU of Poland, Czech Republic, or Hungary differs from past experiences, both in terms of the nature of accessing countries and the nature of the EU itself. Thus, lessons from previous enlargements can be applied if certain conditions are fulfilled. The presence of institutional capabilities and the acceptance of a European social model (Guillén and Palier 2004), that is institutional and political factors, are the main components in CEE social policy catching-up with EU wide standards. This hypothesis must be settled by future research.

There are several possible lines of further research flowing from the present study. One would be researching the impact of Europeanisation on social policy beyond gender concerns in the labour market. Education, health care, pension systems, or social assistance may all identify different factors relevant to Europeanisation as they occupy varying domestic and European political spaces. Poland has not yet established a tradition of consensual democracy like those existing in Western Europe. Social consensus is still being negotiated and party lines divide the identification of goals and allocation of resources among various policy fields. Such divisions in the overall social policy sphere may run in different directions than in the case of labour market and

women's employment. Comparing the different policy areas may prove fruitful in identifying the factors associated with policy development of a transformation state and contribute to a more general hypothesis establishing the conditions of EU influence on domestic policy-making depending on how contested a given policy area is. Another possibility is a comparative study of labour market gender equality developments in other CEE accession states, which share a number of common characteristics but at the same time display important differences. For example Poland, Hungary and the Czech Republic are often grouped together for sharing a similar socialist past with comparable structures of power and control mechanisms and social organisation. They had developed a similar welfare type characterised by institutionalised care, centralised and funded education and health care, and the provision of benefits tied to work enterprises. There have however also been important social, economic and political differences. Post 1989 the situation has changed radically for all the states in the region, and again a combination of divergent and similar developments took place. The CEE states faced similar conditions for accessing the EU and participation in the EES via the OMC. Given the socialist past and the design of the EES and the OMC for Western EU members, the question remains how well the new member states can participate in these processes and to what degree they can achieve the ambitious goals set at the European level? What is the balance of domestic and supra-national factors leading to the specific policy arrangements, given their mix of parallel and distinct paths of development? Yet another line of research would involve the other coin of Europeanisation, that is, the uploading side of policy process. I have focused the relationship between EU policies and domestic developments as a one way and top-down causal process. So far the new member states have had to transpose European laws into national legal frameworks and engage in coordinated policy-making at the EU level defined and developed over the course of several years before accession. Poland has been downloading policies in both pre- and post- accession stages. A continued participation in the OMC will likely shift the balance slightly more towards a two-way interaction, in which policy up-loading can take place in addition to the existing down-loading. In the membership stage the main research questions would shift to the contribution of the new member states to EU level policy-making and to the shaping of the European Social Model.

APPENDIX

Table A1 Evolution of the European Union and its Enlargements

Year	Event	Term used
1951	The Treaty of Paris establishing the European Coal and Steel Community (ECSC) Founding members: Belgium, Federal Republic of Germany, France, Italy, Luxembourg, Netherlands	European Community
1957	The Treaty of Rome establishing the European Economic Community (EEC)	
1957	Another Treaty signed in Rome establishing the European Atomic Energy Community (Euratom)	
1973	Enlargement: Denmark, Ireland, United Kingdom	
1981	Enlargement: Greece	
1986	Enlargement: Portugal, Spain	
1992	Treaty on European Union signed in Maastricht	
1995	Enlargement: Austria, Finland, Sweden	European Union
2004	Enlargement: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia	

Source: based on http://ec.europa.eu/enlargement/enlargement_process/past_enlargements/index_en.htm

Table A2 Institutions of the European Union

Institution	Basic features
European Parliament (EP)	<ul style="list-style-type: none"> • EP elected in June 2004: 732 members from 25 EU countries, almost one third (222) are women • elected every five years • main task: to pass European laws, shared with Council of the EU • Parliament and Council also share the responsibility for approving the EU's €100 billion annual budget • has the power to dismiss the European Commission • Members of the EP (MEPs) sit in seven Europe-wide political groups, the largest are the centre-right European People's Party (Christian Democrats), Socialists, Liberals and Greens • main meetings are held in Strasbourg, others in Brussels • EP elects the European Ombudsman, who investigates citizens' complaints about the EU institutions
European Commission (EC)	<ul style="list-style-type: none"> • consists of 25 members, one from each EU country • the President and members of the Commission are appointed for a five year period, coinciding with the term of the EP • drafts proposals for new European laws and presents them to the EP and the Council of the EU • main executive body, manages the day-to-day business of implementing EU policies and spending EU funds • monitors the compliance with the European treaties and laws • can initiate court proceedings against member states • the President of the Commission is chosen by EU governments and endorsed by the EP • commissioners are nominated by their national governments in consultation with the in-coming President, and must be approved by the EP; they do not represent their home countries, but have responsibility for a particular EU policy
Council of the European Union (formerly Council of Ministers)	<ul style="list-style-type: none"> • consists of ministers from the national governments of all the EU countries; meetings are attended by whichever ministers are responsible for a given topic: foreign ministers, ministers of the economy and finance, ministers of agriculture, etc • shares with EP the responsibility for passing laws and making policy decisions • main responsibility for EU action in the common foreign and security policy, and some justice and freedom issues • number of votes in the Council reflect member states' population size, but weigh in favour of smaller states • most decisions taken by majority vote, sensitive issues (e.g. taxation, immigration, foreign/ security policy) by unanimity • member states heads of state meet at the European Council up to four times a year, these 'summit' meetings set overall EU policy
European Court of Justice (ECJ)	<ul style="list-style-type: none"> • located in Luxembourg, one judge from each member country • overseeing unambiguous interpretation & application of EU law • ensuring national courts' consistent rulings on the same issues • making sure that EU member states and institutions do what the law requires them to do

Source: based on http://europa.eu.int/abc/panorama/howorganised/index_en.htm

Table A3 Treaty and charter development of the social dimension

Political act	Social dimension
Treaty establishing the European Economic Community, signed in Rome, 1957	Market driven political philosophy, social dimension seen as a result of economic integration; social provisions of the treaty (12 of 248 articles) did not set precise policy goals; provisions were made for equal pay and free movement of labour.
Council of Europe adopts the Social Charter, 1961	The charter guarantees a range of fundamental rights for workers and citizens, families, mothers, and children to social, legal and economic protection.
Council of Ministers resolution concerning a social action programme, 1974	The resolution stated that economic expansion should not be an end in itself but should lead to the improvement of the quality of life. Such goals were defined: full and better employment, improvement of living and working conditions, increased participation of management and labour in decisions.
Single European Act, signed in Luxembourg and at The Hague, 1986	A new article 118a (supplement to 118 of EEC Treaty) underlined working environment and health and safety, decision making in this area to be done by qualified majority voting, thus increasing the potential of reaching agreements.
Community Charter of the Fundamental Social Rights of Workers, 1989	The Charter referred mostly to workers and did not have a force of law, but was a declaration leaving implementation decisions to member states (UK opt-out). The document reaffirmed the assurance of equal treatment and the development of equal opportunities for women and men.
Treaty on European Union, signed in Maastricht, 1992	Agreement on Social Policy was annexed to the treaty. Article 1 identified goals of employment promotion, improved living and working conditions, social protection, social dialogue, human resources development, combating exclusion. Article 2 assigned a role to the Community in health and safety, working conditions, information and workers' consultation, equality between women and men, integration of those excluded from the labour market; and empowered the Council to adopt by the use of directives minimum requirements for gradual implementation, taking into account the conditions in each member state.
Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed in Amsterdam, 1997	Following UK opt-in, the Agreement on Social Policy was included in the main part of the consolidated treaty in title XI on social policy, education, vocational training and youth. A new article 13 enabled action combating various forms of discrimination, a new paragraph added to article 141 (EEC: 119) on equal pay for equal work or work of equal value, giving this policy a legal base. Addition of title VIII on employment, (articles 125-30), delineated goals and responsibilities of member states and the Union in cooperation and coordination of action in employment, including a pillar on strengthening equal opportunities policies.

Source: Based on Hantrais 2000

Table A4 Equal Opportunities Action Programmes

1982-1985	Stressed the necessity of implementing equal opportunities by positive action programmes enabling women to overcome their relatively worse position, and developing a more equal distribution of family responsibilities.
1986-1990	Focused on the consolidation of the legal rights of individuals and promoted positive action to prevail over the non-legal obstacles in attaining equal opportunities.
1991-1995	Promoted better use of women's abilities in the process of European development; pointed to the need for reconciliation of family and professional life; and provided for incorporation of equality into mainstream policy at EU and national levels. Developed partnership between the Union, national governments, regional and local bodies, and NGOs.
1996-2000	Further defined gender mainstreaming by stressing the integration of equal opportunities in preparing, implementing, and monitoring all policies and activities of the EU and member states. Continued the practise of partnership involving the Commission, social partners, national and regional authorities, and NGOs.
2001-2006	Addressed the promotion and dissemination of values and practices underlying gender equality; the improvement of understanding of issues related to gender equality: direct and indirect gender discrimination and multiple discrimination against women; the development of the capacity of players to promote gender equality effectively, via the exchange of information and good practice and networking at Community level.

Source: Based on: European Communities 1995-2006 http://europe.eu.int/pol/index_en.htm; Hantrais 2002

Table A5 EU Directives Related to Gender Equality at Work

Directive	Key aims and provisions
75/117/EEC on principle of equal pay for men and women	eliminate discrimination in remuneration for same work or for work of equal value on grounds of sex; MS to abolish discriminating laws, regulations, collective agreements, other administrative provisions
76/207/EEC on implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions	discrimination not allowed on grounds of sex, direct or indirect, especially by reference to marital/family status (except where sex constitutes determining factor based on nature or context of activity); there should be no discrimination in access to jobs, vocational guidance, training/ retraining, working conditions; provisions for protection of women due to pregnancy/ maternity, those aimed at removing inequalities affecting women's opportunities are permitted; MS to abolish discriminating laws, regulations, collective agreements, administrative provisions
79/7/EEC on progressive implementation of the principle of equal treatment for men and women in matters of social security	introduces principle of equal treatment in social security schemes, applies to working population including those whose activity is interrupted, people seeking employment, retired or disabled and self employed; there should be no discrimination in relevance to sex in scope of schemes and access to them, obligation and calculation of contribution, calculation of benefits and conditions ruling benefit duration and retention; MS may exclude determination of pensionable age, advantages to those raising children, or spousal entitlements
86/378/EEC on implementation of the principle of equal treatment for men and women in occupational social security schemes	applies to working population including self employed, those whose activity is interrupted, seeking employment, retired or disabled and those claiming under them; to occupational schemes (not governed by 79/7/EEC) providing protection against risks of sickness, invalidity, old age, industrial accidents, occupational disease, unemployment; bans discrimination based on sex in: scope of schemes and conditions of access, obligation to pay and calculation of contributions, calculation of benefits and conditions governing duration and retention of entitlement to them; allows for protection of women in maternity; lists 10 provisions based on sex (e.g. different retirement ages) contrary to principle of equal treatment
86/613/EEC the principle of equal treatment between men and women, in self-employed capacity, including agriculture, and on protection of self-employed women during pregnancy and motherhood	defines 'self-employed worker'; covers spouses who are not employees or partners but participate in activities of self-employed worker; principle implies absence of discrimination on grounds of sex; MS to recognize work of spouses; access to services supplying temporary replacements for national social services or entitlement to cash benefits during work interruptions related to pregnancy or motherhood for female self-employed and wives of self-employed workers
92/85/EEC on measures to encourage improvements in safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding	Commission to issue guidelines on chemical, physical and biological agents and industrial processes dangerous for health & safety; employer or health & safety service must determine nature, degree and duration of risk exposure; workers to be notified of results and measures involving health & safety; adjust working conditions/hours, where not feasible, move worker to another job/ grant leave; pregnant and breastfeeding worker may not be obliged to risk of exposure to agents & working conditions listed; MS to ensure that workers are not obliged to perform night work during pregnancy/following child birth; maternity leave must be for an uninterrupted period of at least 14 weeks before and/or after delivery, 2 may occur before delivery; pregnant workers have right to leave from work without loss of pay to enable ante-natal examinations (if taking place during working hours); women may not be dismissed for reasons related to their condition from beginning of pregnancy to end of period of leave from work, in event of dismissal employer must give good grounds in writing; employment rights of employment contract, including payment and/or allowance for workers who are pregnant, recently given birth, and breastfeeding must be ensured

<p>96/34/EC on framework agreement on parental leave concluded by UNICE, CEEP, and ETUC</p>	<p>male & female workers to have individual entitlement to parental leave (birth or adoption) to take care of child for at least three months; MS and/or social partners to protect workers against dismissal on grounds of application for, or taking of, parental leave; workers to have right to return to same/equivalent job after parental leave; maintenance of rights acquired by worker on date parental leave starts; MS and/or social partners to allow workers to take time off from work for unforeseeable reasons due to family emergency</p>
<p>96/97/EC, amending 86/378/EEC, on the implementation of the principle of equal treatment for men and women in occupational social security schemes</p>	<p>occupational social security schemes defined, applies to working population, including self-employed, workers whose activity is interrupted, those seeking employment, retired and disabled, and those claiming under them; principle of equal treatment implies no discrimination based on sex in: scope of schemes and conditions of access to them; obligation to pay contributions and calculation of contributions; calculation of benefits and conditions governing duration and retention of entitlement to benefits; provision enabling men and women to benefit from flexible retirement age system is not incompatible</p>
<p>97/80/EC on burden of proof in case of discrimination based on sex</p>	<p>principle of equal treatment means absence of any discrimination based on sex, direct or indirect; indirect discrimination exists where apparently neutral provision, criterion or practice disproportionately disadvantages members of one sex, unless the aim pursued is objectively justified and the means of achieving it are appropriate and necessary; applies to: situations covered by Article 141 (ex-Article 119) of the EC Treaty and Directives 75/117/EEC, 76/207/EEC, 92/85/EEC and 96/34/EC, and any civil/ administrative procedure, except out-of-court procedures; MS to ensure that, where plaintiff establishes facts from which discrimination may be presumed to exist, it is for defendant to prove that there has been no contravention of principle of equality</p>
<p>10) 97/81/EC concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and ETUC</p>	<p>agreement to eliminate discrimination against part-time workers and improve quality of part-time work, to facilitate development of voluntary part-time work and flexible working time taking into account needs of employers and workers; part-time workers shall not be treated less favourably than full-time workers, unless different treatment is justified on objective grounds; MS after consultation with social partners may make access to particular conditions of employment subject to period of service, time worked or earnings qualifications; should identify and eliminate obstacles to part-time work; worker's refusal to transfer from full- to part-time work or vice versa should not constitute reason for dismissal; employers should consider: requests by workers to transfer from full- to part-time work; requests to transfer from part- to full-time work or to increase working time; provision of information on availability of part- and full-time jobs; facilitate access to part-time work at all levels of enterprise; provision of information to workers' representatives about part-time work</p>
<p>11) 2002/73/EC, amending 76/207/EEC, on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions</p>	<p>for the first time at Community level definition of sexual harassment given, describing situations where any form of unwanted verbal, non-verbal, physical conduct of sexual nature occurs, with the purpose or effect of violating dignity of person, in particular when creating intimidating, hostile, degrading, humiliating, offensive environment; as sexual harassment is a form of discrimination based on sex, it is prohibited; there is no a priori ceiling on the reparation of the injured side; employers are encouraged to prevent sexual harassment; women returning from maternity leave are entitled to return to same/equivalent job with no worse conditions; difference of treatment may be lawful if the sex constitutes a genuine/ determining occupational requirement</p>

Sources: based on: <http://europa.eu.int/celex>, http://europa.eu.int/comm/employment_social, and <http://europa.eu.int/scadplus>

Table A6 The EES Development Milestones

EES Milestone	Details
1992 Treaty of Maastricht	EMU related; social cohesion included; Article 2: high employment & social security, Article 118: advancing employment member states and Commission action, Article 123: employment the chief objective of the ESF; Article 127 :vocational training as vital to work reintegration
1993 Delors White Paper on Growth, Competitiveness & Employment	concern over scale & consequences of unemployment: macroeconomic & structural measures, including greater flexibility in the economy, more efficient labour markets, and open international environment; lifelong education & training, increased flexibility, decentralization & initiative, lowering the cost of low skilled work, revamping employment policies
1994 Essen European Council	first time integrated employment strategy embraced short- and medium-term policy span; fight against unemployment a chief long term goal; five objectives: vocational training & lifelong learning, employment intensive growth, reduce costs of low-wage labour, improve effectiveness of labour market policy via active instruments, help the most vulnerable: youth, long-term unemployed, women & older workers - gender enters more explicitly; transposition of recommendations into national policies, while Labour & Social Affairs and Economic & Financial Affairs Councils and Commission to monitor trends & policies and report annually on progress
1995 Madrid European Council	advances Essen priorities of job creation as principal EU goal in economic, political, & social terms, with combating unemployment & promoting equal opportunities as specific areas of action
1996 Dublin European Council	Declaration on Employment: macro economic policy conducive to growth & employment as main priority and challenge for the EU; development of monitoring & evaluating instruments for labour market policies; and for identifying best practices, employment indicators and benchmarking procedures; need to integrate young people into work, prevent long term unemployment, and achieve equal opportunities for women and men; preparing material for Employment Title of the Amsterdam Treaty
1997 Amsterdam European Council	job creation, employability, social cohesion linked; maintain employment momentum; promote employment & reduce unemployment for young, low skilled & long-term unemployed; welcomed Title VIII in the Treaty of Amsterdam - attainment of high employment main EU concern
1997 Treaty of Amsterdam Employment Title	to develop a coordinated strategy for employment, promote skilled, trained, adaptable workforce, & facilitate labour markets that effectively respond to economic change; Article 128: employment strategy; Gender equality: one of Community objectives; Articles 2 & 3: eradicate inequality & promote equality; Article 13: combat discrimination; Article 141: equal pay for work of equal value, equal opportunities & equal treatment in employment & occupational matters, allows affirmative action - gender equality further institutionalised & its status raised
1997 Luxembourg Jobs Summit	the EES: 19 guidelines organised under 4 pillars: improving employability, developing entrepreneurship & creation of jobs, promotion of adaptability of businesses & employees, and promotion of equal opportunities for men & women (see Table A7)
1998 Cardiff European Council	economic reform & employment promotion requires further effort to promote growth, prosperity, jobs & social inclusion: public finances & economic reform; creation of work opportunities: for young & long-term unemployed, need for further developing indicators; future tasks: fostering skilled & adaptable workforce through lifelong learning, strengthening equal opportunities via mainstreaming equality between men & women, tackling discrimination, work organisation combining flexibility & security, reforming tax systems, developing an entrepreneurship culture
1999 Cologne European Council	Employment Pact: gathers all Union's employment policy instruments & arranges them under: Luxembourg, Cardiff, and Cologne processes; further increase of employment rates still a top priority for Europe
2000 Lisbon European Council	most urgent problems: high unemployment, low employment (women & older workers), high social welfare & pension expenditures, inflexible labour markets,

	insufficiently developed service sector, ineffective public employment services, skill shortages; focus on employment & unemployment shifted to broader economic & social concern; quantitative targets for 2010 defined: total employment rate at 70%, female 60%; OMC introduced and operationalised; new strategic goal to become the most competitive and dynamic knowledge-based economy in the world
2001 Stockholm European Council	economic, employment, and social policies are related and mutually reinforcing; commitment to of full employment, proposed intermediate targets for employment rates: 67% total, 57% women, by 2005; . raising employment rate among older men & women (55 -d 64) to reach 50% by 2010; enhancing digital and IT skills, promoting education & lifelong learning, worker mobility, improving quality in work; better working conditions: equal opportunities for disabled, gender equality, flexible work to reconcile with personal life, lifelong learning, health & safety, worker involvement and diversity
2002 Barcelona European Council	active welfare state encouraging work became dominant: employment the best remedy for social exclusion; the EES process: consolidating and simplifying; need for stronger role and responsibility of social partners; employability and activation continue with lifelong learning, quality in work, and gender equality; goal of childcare provision to reach at least 90 % coverage for children between 3 and school age, and at least 33% for children three years of age and younger by 2010
2003 Brussels European Council	reiterated commitment to Lisbon strategy reforms; decided to make the it simpler: the four pillars changed into 3 objectives of full employment, improving job quality & productivity, and strengthening social cohesion & inclusion; new are presented in 10 points (see Table A8); equal opportunities between men and women no longer 1 of 4 pillars, but 6th of 10 guidelines; requirement to adopt a gender mainstreaming approach across each of the priorities
2004 Brussels European Council	noted a mixture of success and shortages in evaluating the four year progress of the Lisbon Strategy; the goals and the process remain valid, the speed of reforms must be increased to achieve the 2010 targets; pledged political will and capacity of Europe to fulfil its potential, delivery of more and better jobs urgent, and gender mainstreaming contributes to the Lisbon objectives
2005 Brussels European Council	employment guidelines were merged with broad guidelines for economic policies & formed Integrated Guidelines for Growth & Jobs 2005-2008; out of 24: 17-24 are employment specific (Table A9); new format ceased to dedicate separate guideline on gender equality but kept commitment to reduce gender pay gap & quantitative targets for employment rates (overall, female, older workers), for childcare provision (see Table 5); equal opportunities and fighting discrimination noted as essential for progress; gender mainstreaming & support of gender equality to be ensured in all action; procedurally, national governments to produce NRPs replacing NAPs; drafted to cover 3 years, can be amended annually; also required to submit annual implementation reports: analysed by Council & Commission, European Commission issues progress reports

Sources: European Council Presidency Conclusions: 1994 – 2005; Goetschy 1999; CEC 1993/2002/2005c; Treaty of Amsterdam 1997

Table A7 The 1998 European Employment Strategy Guidelines

Pillar	Guidelines for Particular Policy Actions
Employability	<p>tackling youth unemployment, preventing long term unemployment:</p> <ul style="list-style-type: none"> • young unemployed offered new start before 6 months of unemployment: training, retraining, work practice, job, other employability measure (1) • unemployed adults offered fresh start before 12 months of unemployment by one of above means or individual vocational guidance (2) <p>transition from passive to active measures: unemployed to seek training</p> <ul style="list-style-type: none"> • increase active measures to improve employability; fix a target of achieving the average of the three most successful MS, and at least 20% (3) <p>encouraging partnership approach</p> <ul style="list-style-type: none"> • social partners urged to conclude agreements increasing training, work experience, traineeships or other measures to promote employability (4) • MS and social partners to develop lifelong training (5) <p>easing transitions from school to work</p> <ul style="list-style-type: none"> • improve quality of school systems to reduce number of early drop outs (6) • equip young people with ability to adapt to technological and economic changes and skills relevant to labour market, by developing apprenticeship training (7)
Entrepreneurship	<p>making it easier to start up/run business</p> <ul style="list-style-type: none"> • reduce overhead costs and administrative burdens for businesses, especially SMEs, in particular when hiring (8) • encourage self-employment by reforming tax and social security regimes (9) <p>exploiting opportunities for job creation</p> <ul style="list-style-type: none"> • investigate possibilities of job creation at local level in social economy and new activities not yet satisfied by market, and examine/reduce obstacles (10) <p>making taxation more employment friendly</p> <ul style="list-style-type: none"> • set target for reducing tax and fiscal pressure on labour and non-wage labour costs, without jeopardizing public finances / social security schemes; examine introducing tax on energy/ pollutant emissions or other tax measure (11) • examine (no obligation) advisability of reducing VAT on labour-intensive services not exposed to cross-border competition (12)
Adaptability	<p>modernizing work organization</p> <ul style="list-style-type: none"> • social partners to negotiate agreements to modernize organization of work, incl. flexible work, achieve balance between flexibility and security; may cover working time as annual figure, reduction of working hours/ overtime, p-t work, lifelong training and career breaks (13) • examine more adaptable contracts; those but with security and higher occupational status, compatible with needs of business (14) <p>supporting adaptability in enterprises</p> <ul style="list-style-type: none"> • re-examine obstacles, in particular tax, to investment in human resources and provide for tax/other incentives for development of in-house training; examine new regulations so that they will contribute to reducing barriers to employment and helping labour market adapt to structural change (15)
Equal Opportunities	<p>tackling gender gaps</p> <ul style="list-style-type: none"> • reduce gap in unemployment rates between women and men by actively supporting increased employment of women and act to reverse under-representation of women in certain sectors and occupations and their over-representation in others (16) <p>reconciling work and family life</p> <ul style="list-style-type: none"> • raise levels of access to care services where needs are not met (17) <p>facilitating return to work</p> <ul style="list-style-type: none"> • give attention to women, and men, considering return to paid workforce after absence and examine eliminating obstacles to such return (18) <p>promoting integration of people with disabilities into working life</p> <ul style="list-style-type: none"> • give attention to problems people with disabilities in participating in work (19)

Source: based on the 1998 Employment Guidelines
http://ec.europa.eu/employment_social/employment_strategy/guidelines_en.htm

Table A8 The 2003 European Employment Strategy Guidelines

Guideline	Particular Policy Actions
1. active/ preventative measures for the unemployed and inactive	<p>Develop active/preventative measures to prevent long-term unemployment, promote employment integration</p> <p>a) jobseekers to benefit from: early identification of needs, services: advice, guidance, job search assistance, personalised action plans;</p> <p>b) offer jobseekers access to measures to enhance employability and integration, attention to people facing greatest difficulties:</p> <ul style="list-style-type: none"> • every unemployed offered a new start before reaching 6 months of unemployment (young people) and 12 months (adults) in form of training, retraining, work practice, job, other employability measure, combined with job search • by 2010: 25 % of long-term unemployed participate in active measure (as above) , with aim of achieving average of 3 most advanced MS; <p>c) modernise and strengthen labour market institutions</p> <p>d) ensure regular evaluation of effectiveness and efficiency of labour market programmes and review them accordingly</p>
2. job creation and entrepreneurship	<p>Encourage creation of more/better jobs by entrepreneurship, innovation, investment capacity, favourable business environment. Attention to job creation potential of new enterprises, service sector, R & D. Policy will focus on:</p> <ul style="list-style-type: none"> • simplify and reduce administrative/ regulatory burden for business start-ups and SMEs and staff hiring, facilitate access to capital for start-ups, new and existing SMEs and high growth and job creation potential firms • promote education and training in entrepreneurial and management skills and providing support
3. address change and promote adaptability and mobility in the labour market	<p>Facilitate adaptability of workers/firms, take account of flexibility and security, emphasise role of social partners. Review/reform restrictive employment laws for groups with difficult labour market access, develop social dialogue, foster corporate social responsibility, promote:</p> <ul style="list-style-type: none"> • diversity of contractual/working arrangements, including working time, favouring career progression, better balance between work and private life and between flexibility and security • access for workers, in particular low skilled, to training • better working conditions, including health and safety, reduce the incidence rate of accidents at work and of occupational diseases • design and disseminate innovative, sustainable forms of work, which support labour productivity and quality at work • anticipate and manage economic change and restructuring <p>Address labour shortages/bottlenecks: promote occupational / geographic mobility, implement skills & mobility action plan, improve recognition & transparency of qualifications/ transferability of social security & pension rights, provide incentives in tax / benefit systems, account for immigration. Promote transparency of employment and training at national and European level to support job matching. By 2005, jobseekers throughout the EU to be able to consult all job vacancies advertised through MS employment services.</p>
4. promote development of human capital and lifelong learning	<p>Implement lifelong learning; improve quality/efficiency of education to: equip all with skills for modern workforce in knowledge-based society, permit career development, and reduce skills mismatch / bottlenecks. Policies aim to achieve by 2010:</p> <ul style="list-style-type: none"> • at least 85 % of 22-year olds: completed upper secondary education • EU average participation in lifelong learning at least 12.5 % of adult working-age population (25 to 64 age group) <p>Policies aim to increase investment in human resources. Importance of higher investment in training by enterprises to promote productivity, competitiveness, active ageing.</p>

5. increase labour supply and promote active ageing	<p>Promote availability of employment opportunities to support economic growth, employment, account for labour mobility:</p> <ul style="list-style-type: none"> • increase labour market participation: use potential of all groups via comprehensive approach: jobs availability/attractiveness, making work pay, raising skills, providing adequate support measures • promote active ageing: access to training, health and safety at work, innovative and flexible forms of work, eliminate incentives for early labour market exit, encourage employers to employ older workers <p>To achieve by 2010: increase by five years, at EU level, of the average exit age from the labour market (estimated at 59.9 in 2001). Important role of social partners. National targets to be consistent with EU and account for national circumstances, consider labour supply from immigration.</p>
6. gender equality	<p>Through integrated approach -gender mainstreaming and specific actions - encourage female labour market participation and reduce gender gaps: employment and unemployment rates, pay by 2010. Crucial role of social partners. Policies to achieve by 2010:</p> <ul style="list-style-type: none"> • reduce pay gap via multi-faceted approach addressing underlying factors, including segregation, education, training, job classifications, pay systems, awareness-raising, transparency • reconcile work and private life through provision of care services for children and other dependants, encourage sharing of family and professional responsibilities and facilitate return to work after absence; provide childcare to at least 90 % of children between 3 years old and mandatory school age and at least 33 % of children under 3.
7. promote integration of and combat discrimination against people at a disadvantage	<p>Foster integration of people with labour market difficulties (early school leavers, low-skilled, people with disabilities, immigrants, ethnic minorities) by developing employability, increasing job opportunities, preventing discrimination against them. Policies will aim to achieve by 2010:</p> <ul style="list-style-type: none"> • EU average rate of no more than 10 % early school leavers, • reduction in each MS in the unemployment gaps for people at a disadvantage, according to national targets and definitions • reduction in each MS in the unemployment gaps between non-EU and EU nationals, according to national targets
8. make work pay through incentives to enhance work attractiveness	<p>Reform financial incentives to make work attractive, encourage people to seek, take up, remain in work. Reduce number of working poor: review/reform tax and benefit systems to eliminate unemployment, poverty, inactivity traps; encourage participation of women, low-skilled, older workers, people with disabilities.</p> <p>Preserving adequate protection, review rates and benefit duration; ensure effective benefit management, with respect to link with job search, access to activation measures, individual situation; consider provision of in-work benefits; eliminate inactivity traps. Policies will aim at achieving by 2010:</p> <ul style="list-style-type: none"> • reduction in high marginal effective tax rates • tax burden on low paid workers
9. transform undeclared work into regular employment	<p>Develop and implement actions to eliminate undeclared work, combine simplification of business environment, remove disincentives and provide incentives in tax and benefits, improve law enforcement and application of sanctions. Undertake necessary efforts at national and EU level to measure the problem and progress achieved at national level.</p>
10. address regional employment disparities	<p>Reduce regional employment and unemployment disparities. Support potential for job creation at local level, including social economy, and partnerships between all relevant actors. MS will:</p> <ul style="list-style-type: none"> • promote conditions for private sector activity & investment in lagging regions • ensure that public support in regions lagging behind focuses on investment in human and knowledge capital and infrastructure

Source: based on 2003 Adopted Employment Guidelines
http://ec.europa.eu/employment_social/employment_strategy/guidelines_en.htm

Table A9 The 2005 European Employment Strategy Guidelines

Guideline	Content
17. Implement employment policies aiming at full employment, improving quality & productivity at work, strengthening social / territorial cohesion	To contribute to employment rate for the EU of 70% overall, at least 60% for women and of 50% for older (55 to 64) by 2010; to reduce unemployment and inactivity. Consider setting national employment rate targets. Priorities: <ul style="list-style-type: none"> • attract and retain more people in employment, increase labour supply, modernise social protection systems • improve adaptability of workers and enterprises • increase investment in human capital through better education and skills
18. Promote a lifecycle approach to work	<ul style="list-style-type: none"> • renew endeavour to build employment pathways for young people, reduce youth unemployment as called for in the Youth Pact • action to increase female participation and reduce gender gaps in employment, unemployment and pay • better reconciliation of work and private life and provision of accessible and affordable childcare facilities and care for other dependants • support active ageing: appropriate working conditions, improved (occupational) health status, adequate incentives to work, discourage early retirement • social protection systems: pensions and healthcare, their social adequacy, financial sustainability and responsiveness to changing needs to support participation and better retention in employment, longer working lives
19. Ensure inclusive labour market, enhance work attractiveness, make work pay, including disadvantaged, inactive	<ul style="list-style-type: none"> • active/ preventive labour market measures: early identification of needs, job search assistance, guidance and training as part of personalised action plans, provision of social services to support inclusion of those furthest away from the labour market, contribute to the eradication of poverty • review of incentives/disincentives of tax & benefit systems, including management & conditionality of benefits and a reduction of marginal effective tax rates, whilst ensuring social protection • new sources of jobs in services, notably at local level
20. Improve matching of labour market needs	<ul style="list-style-type: none"> • modernisation/ strengthening of labour market institutions, greater transparency of employment and training opportunities at national/ European level - removing obstacles to mobility for workers across EU • better anticipation of skill needs, labour market shortages and bottlenecks • appropriate management of economic migration
21. Promote flexibility with employment security and reduce labour market segmentation, having due regard to the role of social partners	<ul style="list-style-type: none"> • adaptation of employment legislation, reviewing different contractual and working time arrangements • addressing undeclared work • better anticipation/ positive management of change: economic restructuring, trade opening, to minimise social cost, facilitate adaptation • promotion/ dissemination of innovative, adaptable forms of work organisation, to improve quality and productivity, health and safety • support transitions in occupational status: training, self-employment, business creation, geographic mobility
22. Ensure empl. friendly labour cost developments, wage-setting mechanisms	<ul style="list-style-type: none"> • encourage social partners to set the framework for wage bargaining to reflect productivity/ labour market challenges, to avoid gender pay gaps • review the impact on employment of non-wage labour costs and adjust structure and level, especially to reduce tax burden on the low-paid
23. Expand and improve investment in human capital	<ul style="list-style-type: none"> • inclusive education and training policies, facilitate access to initial vocational, secondary, higher education, apprenticeships and entrepreneurship training • reduce the number of early school leavers • lifelong learning strategies open to all in schools, businesses, public authorities and households according to European agreements, including incentives and cost-sharing mechanisms, to enhance participation in continuous and workplace training throughout the life-cycle, especially for low-skilled and older workers

24. Adapt education and training systems in response to new competence requirements	<ul style="list-style-type: none"> • raise and ensure attractiveness, openness and quality of education and training, broaden supply of education and training, ensure flexible learning pathways, enlarge possibilities for students mobility • ease/ diversify access to education, training, knowledge by working time organisation, family support services, vocational guidance, cost-sharing • respond to new occupational needs, key competences, future skill requirements by improving definition and transparency of qualifications, their recognition and validation of non-formal and informal learning
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Source: based on 2005 Adopted Employment Guidelines,
http://ec.europa.eu/employment_social/employment_strategy/guidelines_en.htm

Table A10 Visibility of Gender in Poland's Participation in the EES 2004-2007

Policy Document	Extent of Attention to Gender
HRD 2000-06	<ul style="list-style-type: none"> • recognises that despite anti-discriminatory laws & higher human capital women have lower LM opportunities; inequality is expressed in higher unemployment and lower employment rates, lower pay (gap between 6 and 35%, depending on occupation) and a double risk of losing employment due to enterprise reasons → equal opportunities directed at women (and the disabled) • section 6.2. <i>Women and family</i>: promote LM gender equality through educational programmes / media campaigns, work with labour & employer representatives • raising part time employment for women, professional development courses for women returning to the labour market after childbirth • accurate, but limited assessment of women's labour market position and ways of dealing with discrimination: <ul style="list-style-type: none"> ○ unspecific and limited in scope ○ lack of detail on responsible agents, timetables, targets, allocation of resources ○ directed at women – no attention to men & family • lack of gender mainstreaming
NAP 2005	<ul style="list-style-type: none"> • describes LM situation of women as worse than men's, points to gender gaps in LFP rates, employment & unemployment rates, pay levels – all occurring in spite of women's better education; childcare facilities as basic for reconciliation of work & family • target: raise employment rate of women from 46.4% in 2002 (47.9 in 2003) to 49 % in 2006 • gender equality in G6 (of 10) and consists of two tasks: <ul style="list-style-type: none"> ○ integrate & re-integrate women into employment ○ promote anti-discrimination provisions of law • lists financial resources (2.2 % of all resources in the Plan), time frame, implementing & reporting agencies • lack of detail on mechanism, actors, conditions, scale, results • no data on existing situation/goal for childcare • lack of gender mainstreaming
Implementation Report on NAP 2005	<ul style="list-style-type: none"> • repeats unemployment as main LM problem, especially among women, includes women in particularly difficult group • mixed evaluation: <ul style="list-style-type: none"> ○ task 4.6 (education & lifelong learning) establishment of kindergarten centres: 82 preschools with 1074 children ○ 6.1 (vocational integration / re-integration of women) & 6.2 (promotion of anti-discrimination law): negative results - 'task not implemented' • lack of gender mainstreaming
NRP 2005-2008	<ul style="list-style-type: none"> • divided into a) macro-economic and fiscal policy; b) micro-economic and structural policy; and c) labour market policy; Gs 17-23 for employment (see Table A9) • participation of GPES mentioned • childcare ignored • G17 (full employment): contains gender disaggregated data/targets: <ul style="list-style-type: none"> ○ overall unemployment: 16.0% in 2006, 14.6% in 2007; women's unemployment: 17.5% in 2006, 16% in 2007; ○ overall employment: 53.0% in 2006, 55.0% in 2007; women's employment: 46.6% in 2006, 48.4% in 2007 • Gs 18-24 do not refer to gender • gender mainstreaming: limited to recognition of employment & unemployment by sex; quantitative targets by sex; note of retirement differences by sex
NAP 2006	<ul style="list-style-type: none"> • identifies improvement in LM: total employment rates reached 55.2%; lower

	<p>for women at 48.1% than men 62.9%</p> <ul style="list-style-type: none"> • unemployment still major problem: overall 16.7%, higher for women 18.3% than for men at 15.4% • sets targets for end of year: employment 54% overall, 47.6% for women; unemployment: 16% overall, 17.5 % for women • activation of persons at particular disadvantage implicitly refers to gender in the consideration increased flexible employment and care services for children and other persons requiring care • task 7.11 on professional integration and re-integration of women; foreseen effects over the course of the year include a 2% increase in employment rate, a 3% increase taking up self-employment, and an 8% increase in participating in professional up-grading & training • less than 1% of overall NAP budget, of which 79.2 % funded by ESF • task 9.6 to establish conditions for professional activation of persons raising children via alternative forms of pre-school education, especially in rural areas; numeral target: creation of 155 of pre-school centres, financial allocation commits about 1.2% of NAP budget, of which 75% is funded by the ESF • more detailed on institutions involved with implementation and monitoring, still a mixture of concrete and non-specified organisations • provides some gender disaggregated data & targets and suggests better reconciliation of work and family life for female workers , but falls short of gender mainstreaming
Implementation Report on NRP 2006	<ul style="list-style-type: none"> • gender in macro- and micro economic reforms not discussed • LM: 11 sections, 6th on reconciliation of work & family life • gender in: equalising retirement ages, identifying women's care responsibilities, the call for grater supply of flexible jobs for women • envisions for 2004-08 increase of participation in non-standard employment: 22.7% to 30% for temporary, 7.2% to 9% for part time • attention to gender present, but contradictory trends for equality
NAP 2007	<ul style="list-style-type: none"> • women mentioned as facing particular LM difficulties, especially returning to the labour market after a child raising leave • disadvantages are listed as: late LM entry and early exit, lower activity rates during child bearing/ raising years, difficult return to the LM, employers' reluctance in hiring young mothers, difficult access to care services for children, and lower pay • refers to task 1.6 within the HRD on multi-dimensional support to women to increase their employment rate and status through training, internships, support for new workplaces, entrepreneurship, promotion of both sexes in access to employment, propagation of flexible employment allowing for reconciliation of work and family life • more explicit and detailed recognition of LM gender inequality, issue of women's care responsibilities is recognised, but not dealt with • some attention to gender in disaggregated statistics or goals, but the method of gender mainstreaming not applied

Table A11 Poland's Parliaments, Presidents and Governments in the years 1989-2007

Sejm (Lower House) 460 MPs major clubs' seats	Senate: 100 Senators major clubs' seats	President	Prime Minister (parties in government)
<u>1989-1991</u> contractual: partly- democratic	<u>1989-1991</u> civic parliamentary club	Wojciech Jaruzelski 1989-1990	<u>Tadeusz Mazowiecki</u> 12.09.1989-12.01.1991 (Solidarity, PSL, SD)
<u>1991-1993</u> SLD 59, UD 57, PSL 49, PPL 48, KPN 47, ZChN 42, KP 28, NSZZ Solidarnosc 26, PC 23	<u>1991-1993</u> UD 22, ZChN 12, NSZZ Solidarnosc 11, PC 9, PSL 9, Independent 8	Lech Wałęsa 1990-1995	<u>Jan Krzysztof Bielecki</u> 12.01.1991-23.12.1991 (KLD, PC, ZChN, UD, SD) <u>Jan Olszewski</u> 23.12.1991-10.07.1992 (PC, KPN, PSL, ZChN, KLD) <u>Hanna Suchocka</u> 11.07.1992 -26. 10.1993 (UD, KLD, ZChN, PChD, PSL-PL)
<u>1993-1997</u> SLD 168, PSL 127, UW 65, UP 33, AWS 15	<u>1993-1997</u> SLD 37, PSL 35, NSZZ Solidarnosc 12	Aleksander Kwasniewski 1995-2000	<u>Waldemar Pawlak</u> 26.10.1993 - 6.03.1995 (PSL, SLD) <u>Józef Oleksy</u> 7.03.1995 - 7.02.1996 (PSL, SLD) <u>Włodzimierz Cimoszewicz</u> 7.02.1996 - 31.10.1997 (PSL, SLD)
<u>1997-2001</u> SLD 162, AWS 134, UW 47, PSL 26, PiS 18, SKL 18	<u>1997-2001</u> AWS 51, SLD 28		Jerzy Buzek 31.10.1997-19.10.2001 (AWS, UW – until 06. 2000)
<u>2001-2005</u> SLD 148, PO 56 PiS 45, PSL 40 SDPL 32, Samoobrona 31, LPR 19, UP 11	<u>2001-2005</u> SLD-UP 75, Senate Block 14	Aleksander Kwasniewski 2000-2005	<u>Leszek Miller</u> 19.10.2001 - 02.05.2004 (SLD, PSL- until March 2003) <u>Marek Belka</u> 02.05.2004 - 31.10.2005 (SLD)
<u>2005-Present</u> PiS 155, PO 133 Samoobrona 56 SLD 55, LPR 34 PSL 25	<u>2005-Present</u> PiS 26 PO 25 LPR 7 Samoobrona 3	Lech Kaczyński 2005-Present	Kazimierz Marcinkiewicz (PiS, LPR, Samoobrona) 31.10.2005 - 14.07.2006 Jarosław Kaczyński 14.07.2006 - Present

Source: compilation based on: www.kprm.gov.pl, www.sejm.pl, www.senat.gov.pl

Table A12 Major Past and Present Parties in Poland

Party	Main Features and Programme
Akcja Wyborcza Solidarność (AWS) Electoral Action Solidarity	1996; coalition of 30 parties (liberals, conservatives & Christian democrats); national Christian, democratic, independent traditions in social and political life, pro-family policy, support of EU accession; 2001 changed to AWS Prawicy (of the Right)
Liga Polskich Rodzin (LPR) League of Polish Families	2001; populist, based on national-Catholic core; disassociation with EU, economy nationalisation, fight corruption, change of constitution to include reference to God, moral life according to Church teaching, ban on abortion/ euthanasia
Platforma Obywatelska (PO) Civic Platform	2001; liberal-conservative, Solidarity base; free market economy, limited state intervention, tax cuts, linear tax, flexible Labour Code benefiting employers, reform of education, limits bureaucracy, increase private ownership, integration with international structures, ban on abortion/ euthanasia
Polskie Stronnictwo Ludowe (PSL) People's Party	1990; agricultural constituency/ interests; state interventionism, especially in agriculture, against: abortion/ euthanasia, legalisation of homosexual relationships
Prawo i Sprawiedliwość (PiS) Law and Justice	2001; centre-right, conservative; fight against corruption & crime, stricter penalties for criminals, purify intelligence and security services, ban abortion/ euthanasia, guarantee social minima, intervention of state into economy
Samobrona Self-Defence	1992; based on agricultural trade union; left-wing populist; for national sovereignty; nationalisation of the economy, against integration with the EU, subsidies for farmers, increasing social spending, interventionist state, abortion/ euthanasia ban
Socjaldemokracja Polska (SDPL) Polish Social Democracy	2004; honest / transparent state, competent government, fight with corruption, improvement of quality & cohesion of the legal system, reform of health & education, fight with unemployment, equality & freedom of citizens (including equality between women / men), embracing globalisation and modern Europe; separation of church & state, access to abortion
Sojusz Lewicy Demokratycznej (SLD) Democratic Left Alliance	in current form since 1999, but based on wide social-democratic base of organisations connected with Socjaldemokracja PL (1990) formed from communist party (PZPR); left wing; free market & democracy, separation of state & religion, access to abortion, registration of homosexual relationships, big welfare state – free education & health care for all
Unia Pracy (UP) Labour Union	founded in 1992 from Solidarność Pracy (Solidarity Labour) & Ruch Demokratyczno Społeczny (Socio-Democratic Movement); left-wing/socialist; modelled on European socio-democratic left, promotes social freedom and equality, and equal opportunities for all, religious and tolerance
Unia Wolności (UW) (former Unia Demokratyczna)	1990; centrist, based on Solidarity, embraces liberal values for the economy and society; free market, lower taxes to spur economic activity /competitiveness, and lower unemployment, promotes private property development, limited role for the state, development of education, research & development
Partia Demokratyczna	2005; UW & UD; development of civil society, decentralisation of power, support of rural areas, environmental care, health reform, pro-family policy based on reconciliation, poverty prevention, gender equality, lower & simpler taxes

Sources: based on www.polityka.mbps.pl, www.sld.org.pl, www.uw.org.pl, www.demokracyi.pl

Figure A1: Left-Right Political Spectrum of Major Parties and their Attitude towards the EU

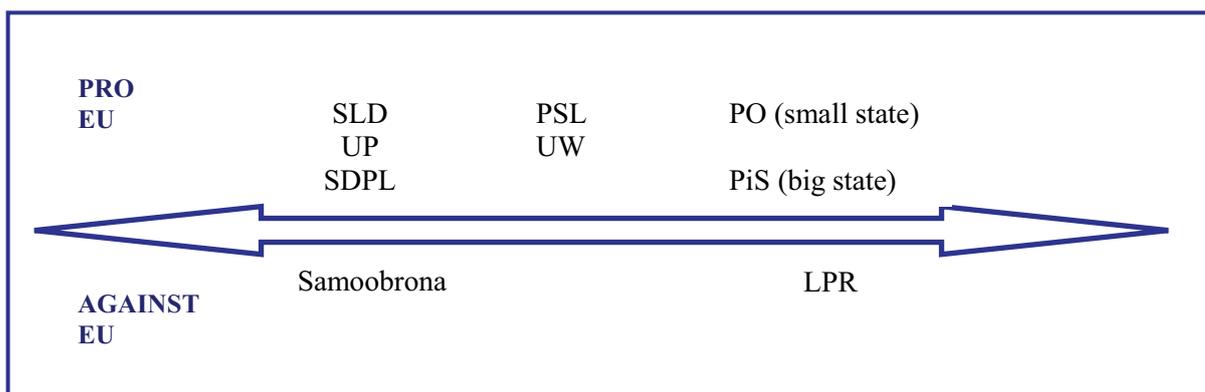


Table A13 Poland's Accession Process

Event	Details
Onset of Diplomatic Relations	1988 PL and EEC begin negotiation Trade & Cooperation Agreement signed in 1989
PL Mission in Brussels	established in 1989
PHARE Programme	established by EU Council Regulation in 1989; initiative initially designed for grant assistance to PL and HU to support economic transformation
Europe Agreement	signed 16.12.1991; enforced 01.02.1994; enhanced association agreement: formed the basis for institutional relations, institutionalised political dialogue, constituted free trade area
Copenhagen Criteria	in 1993 criteria for membership established: a) stability of institutions guaranteeing democracy, the rule of law, human rights and protection of minorities; b) existence of functioning market economy and the capacity to face competitive market pressure within the Union; c) ability to take on the obligations of membership
Application for Accession	05.04.1994
Agenda 2000	July 1997: opinions of the European Commission on applications for membership, on which basis the Council unanimously decides to open negotiations for accession
Negotiations of Chapters	March 1998-December 2003; the Commission proposes, the Council adopts (unanimous) positions of the Union versus the applicant
Signing of Accession Treaty	16.04.2003 at the Summit in Athens applicant and the Union agree on a Draft Treaty of Accession,
EU Accession Referendum in PL	07-08.06.2003. Turn-out: 58.85%, Yes: 77.45/ No: 22.55
Accession as Member State	01.05. 2004; the AT comes into effect, the applicant becomes a Member State

Source: based on UKIE 2004

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