

SIG on Gender Equality

According to the *Strategy for Gender Equality 2020-2025* (COM 2020 - 152 final), gender mainstreaming should be the watchword. However, when it comes to giving substance to this slogan, the results are still lacking.

The **Special Interest Group (SIG) on Gender Equality** that we propose to launch aims to investigate the real possibilities of making gender mainstreaming effective by starting from two crucial areas for EU policies: *green transition* on the one hand and *artificial intelligence* on the other.

1. Green Transition and gender mainstreaming

Environmental sustainability and gender equality represent essential objectives to achieve the enormous task of shifting the global economy to more sustainable models. Nonetheless, the processes related to these two objectives are rarely considered in terms of their connections and mutual interferences ⁽¹⁾. With the ecological transition ongoing, a claim arose for a transition that could be “just” ⁽²⁾, by preventing possible negative effects of this great transformation from impacting on vulnerable groups of society, including women. Although a common thought is that there can never be climate justice as long as there is no equality between men and women, a need for researchers exploring the interconnection between these different dimensions is arising ⁽³⁾, especially in a comparative law perspective.

In 2022, the Commission’s *Advisory Committee on Equal Opportunities for Women and Men* has released an *Opinion on the gender equality dimensions of climate change* ⁽⁴⁾ focusing the attention on some primary issues such as:

- Developing gender analysis, data and research,
- Fostering policy coherence and inclusiveness,
- Developing Gender budgeting,
- Increase women’s participation and leadership,
- Strengthening gender-transformative climate finance, women’s access to technologies and “green jobs”.

In May 2023, the Intergovernmental Panel on Climate Change (IPCC) has produced a report ⁽⁵⁾ confirming the weakness of strategies and politics dealing with the ecological transition worldwide, when it comes to the gender dimension. Fundamental questions about equity and justice in the ecological transition include gender and intersectionality and broader critiques of who participates in the planning

⁽¹⁾ On the employment implications of the transition towards a green economy on women see L. RUSTICO, M. TIRABOSCHI, *Employment prospects in the green economy: myth and reality*, in *International Journal of Comparative Labour Law and Industrial Relations*, 26, 4, 2010, 369-387. A valuable interpretative framework is offered by A. ZBYSZEWSKA, *Regulating Work with People and “Nature” in Mind: Feminist Reflections*, in *Comparative Labor Law and Policy Journal*, 40 (1), 2018, 9-28.

⁽²⁾ D. J. DOOREY, *A Law of Just Transitions? Putting Labor Law to Work on Climate Change*, Osgoode Legal Studies Research Paper Series, 2016.

⁽³⁾ S. FREDMAN, *Greening the Workforce: A Feminist Perspective*, in *International Journal of Comparative Labour Law and Industrial Relations*, 39 (3) 2023, 337-358.

⁽⁴⁾ Available at: https://commission.europa.eu/document/download/1588ce1b-2c5d-4ccb-a878-96cfda783bd7_en?filename=opinion_gender_equality_climate_change_2022_en.pdf

⁽⁵⁾ L. AGUILAR REVELO, C. TAN, J. OCAMPO, *Gender considerations in the IPCC Sixth assessment report (AR6)*, IPCC, May 2023.

and implementation of the adaptation process, who receives investments, who and what benefit from them.

Organizations such the European Institute for Gender Equality (EIGE) have now begun to pay attention to the gender-environment nexus. In 2023 the EIGE included indicators related to this issue in the elaboration of the well-known *Gender Equality Index*. The perspective remains very strict, if we consider that this effort resulted in monitoring women's conditions in just two sectors (the energy and transport sector), and in providing updates related to the gender balance in climate change and environment decision making.

At the present, the most common areas where a gender aspect is integrated in environmental policy-making worldwide are the following: protecting women from adverse conditions due to climate change; promoting their empowerment in agriculture and forestry; increasing their participation in decision-making in environment-related sectors; and, promoting their access to *green entrepreneurship* and *green jobs*.

As for the latter, several countries integrate gender considerations in various ways, with developing green job growth incentives and policies, education and the promotion of women in male-dominated industries being the ones most frequently used; in many cases, countries follow tailored programming in enhancing women's empowerment and labour access to environment-related sectors. But a very few countries collect gender-disaggregated environmental data, consider the gender impacts of environmental subsidies awarded to sectors such as energy, transport, mining, agriculture, fisheries, etc..., or consider women's and men's different needs and user patterns of infrastructure ⁽⁶⁾. The same measures adopted to mitigate social consequences of the ecological transition risk to exacerbate gender discriminations and inequalities among workers, if they are not linked to comprehensive strategies aimed at reducing structural inequalities, addressing the problem of unequal distribution of informal care work, reducing segregation and pushing employment in women dominated sectors.

This inattention at a normative level reflects the absence of a clear framing of the problem in the scientific and grey literature: because ecological transition processes' interpretations, in most cases, maintain traditional notions of progress, growth, development, work, and gender, they are less vehicles for a social transformation.

2. Artificial intelligence and gender discrimination

That artificial intelligence can perpetuate gender inequality is now the focus of much of the literature ⁽⁷⁾.

⁽⁶⁾ OECD, *EPOC Survey on integrating gender in environmental policies. Reporting on key findings*, 10 December 2020.

⁽⁷⁾ Lütz, Fabian. "Gender equality and artificial intelligence in Europe. Addressing direct and indirect impacts of algorithms on gender-based discrimination." ERA Forum. Vol. 23. No. 1. Berlin/Heidelberg: Springer Berlin Heidelberg, 2022; Allen, R., Masters, D.: "Artificial intelligence: the right to protection from discrimination caused by algorithms, machine learning and automated decision-making". ERA Forum. Vol. 20, 585–598, Berlin/Heidelberg: Springer Berlin Heidelberg, 2020; Munarini, M. (2022) 'New perspectives on the mitigation of gender bias in AI by EU regulations', *Peace Human Rights Governance*, 6(2), 111-136; Fournier-Tombs, Eleonore. "A women's rights perspective on safe artificial intelligence inside the United Nations." *Handbook of Critical Studies of Artificial Intelligence*. Edward Elgar Publishing, 2023. 481-492; Lacroux, Alain, and Christelle Martin-Lacroux. "L'Intelligence artificielle au service de la lutte contre les discriminations dans le recrutement: nouvelles promesses et nouveaux risques." *Revue management et avenir* 2 (2021): 121-142; Marques, Julie. "Le principe de justice dans la gouvernance de l'Intelligence artificielle au prisme du genre, de classe et de race. Instruments, définitions et limites." *Terminal. Technologie de l'information, culture & société* 132-133 (2022); Falletti, Elena, *Discriminazione algoritmica, Una prospettiva comparata*, Torino, Giappichelli, 2022.

The increasing use of AI systems in the world of work has accelerated the search for the best policy and regulatory options and the EU is working to achieve this goal. The *White Paper on Artificial Intelligence - A European approach to excellence and trust* (COM 2020 - 65 final) acknowledges that AI entails a number of potential risks, such as gender-based discrimination. That is why a gender perspective should be integrated into policy efforts to avoid negative consequences and ensure that AI systems do not perpetuate or amplify gender inequalities in the EU.

Nonetheless, extensive knowledge gaps in respect of the links between the AI and gender equality still exist.

In 2020 the Commission's *Advisory Committee on Equal Opportunities for Women and Men* released an "Opinion on Artificial Intelligence" ⁽⁸⁾ that highlights how the challenge lies in identifying potential risks to achieving gender equality and exploring corresponding solutions. In particular, the problem seems to lie not so much in the emergence of completely new forms of discrimination or problems for gender equality, but rather in the fact that decision-making is automated, hidden and removed from the citizens, who benefit or are affected by such decisions.

In the same year, UNESCO dealt with the question of *Artificial Intelligence and Gender Equality*, issuing some key-findings ⁽⁹⁾ and suggesting principles to be introduced in order to guarantee a gender perspective on AI and in its development, focusing on awareness, education and skills.

In 2022, the *European Institute for Gender Equality* (EIGE) published a Report: *Artificial intelligence, platform work and gender equality* ⁽¹⁰⁾, where the attention is drawn to the following aspects:

- women face a slightly higher risk of job loss due to automation,
- demand for AI talent grows, yet women are largely under-represented,
- AI technologies enable new ways to reproduce gender stereotypes and gender-based violence in the labour market and beyond.

In 2023, the *Council of Europe*, in turn, published a "Study on the impact of artificial intelligence systems, their potential for promoting equality, including gender equality, and the risks they may cause in relation to non-discrimination" ⁽¹¹⁾, which investigates the discriminatory risks of algorithmic technologies, the specific legal responses to algorithmic discrimination that can be offered by the Council of Europe, and the potential of these technologies for promoting equality, including gender equality. The Study, in particular, investigates on:

- the issues of machine bias and how algorithmic technologies can lead to discrimination,
- the strengths and shortcomings of the legal framework that can be relied on to address algorithmic discrimination,

⁽⁸⁾ Available at: https://commission.europa.eu/publications/opinions-advisory-committee-equal-opportunities-women-and-men_en

⁽⁹⁾ Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000374174>

⁽¹⁰⁾ Available at: <https://eige.europa.eu/publications-resources/publications/artificial-intelligence-platform-work-and-gender-equality-report>

⁽¹¹⁾ Available at: <https://edoc.coe.int/en/artificial-intelligence/11649-study-on-the-impact-of-artificial-intelligence-systems-their-potential-for-promoting-equality-including-gender-equality-and-the-risks-they-may-cause-in-relation-to-non-discrimination.html>

- what a positive action and positive obligations can be used to tackle algorithmic discrimination from its social roots to its manifestations in technological deployments in a transformative manner.

In the document entitled: Analysis of the final compromise text with a view to agreement on the *Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts*, “gender equality” appears to be a constant concern of the EU legislator. But how will this concern be implemented?

3. The general objectives of SIG will be to:

- Exploring the *gender-environment nexus* and the *gender-AI* nexus in a comparative perspective
- Analyzing existing initiatives by adopting a four dimensional conception of the right to substantial equality: redressing gendered disadvantage (the redistributive dimension); addressing stigma, stereotyping, prejudice and violence (the recognition dimension); facilitating women’s voice and participation (the participative dimension); accommodating difference and achieving structural change (the transformative dimension) ⁽¹²⁾.

Specific actions will include:

1. mapping and analysis of international literature on the project issues and launching seminars of discussion with experts and possible publication of results;
2. selection of good practices in a comparative law perspective;
3. consider cooperation with other institutional actors to promote participation in research calls;
4. formulation of policy recommendations.

¹² S. FREDMAN, *Greening the Workforce: A Feminist Perspective*, in *International Journal of Comparative Labour Law and Industrial Relations*, 39 (3) 2023, 337-358.