

Gender Equality in the European Union: A Farce?

A Case Study on the Europeans Union's Influence in Central Europe

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Abstract

While the European Union's accession process for Central European countries continues and Gender Equality develops to a controversially discussed topic in society, the influence of the European Union on present and potential member states remains unclear. New Institutionalism theory provides a framework based on Institutions, Interests and Ideas highlighting tools and channels of the European Union for the exertion of its influence. Case studies on Hungary, Lithuania and Poland demonstrate the trends of gender (in-) equality indices developed by the United Nations and World Economic Forum between 1999 and 2009. The European Union influenced Gender Equality positively in Central Europe mainly through Legal Framework and Positive Conditionality. While Institutions and Interests rather introduce Gender Equality, Ideas anchors it in society through norms and values. Even better results for the development of Gender Equality in Central Europe could be reached if the European Union could achieve a higher degree of supranationality.

Key words: European Union, Gender Equality, Indices, Central Europe, New Institutionalism

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List of Abbreviations

CEE:	Central and Eastern Europe
EC:	European Community
ECJ:	European Court of Justice
ESF:	European Structural Funds
EU:	European Union
HDI:	Human Development Index
HDR:	Human Development Report
GDI:	Gender related Development Index
GEM:	Gender Empowerment Measurement
GGGI:	Global Gender Gap Index
GII:	Gender Inequality Index
ILO:	International Labor Organization
OECD:	Organization for Economic Co-Operation and Development
UN:	United Nations
UNDP:	United Nations Development Program
USSR:	Union of Soviet Socialist Republics

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1 The Influence of the European Union on Gender Equality

“Well, to paraphrase Simone de Beauvoir, I would say that: ‘This is still a man’s world’ – and Europe is no exception” (Wallström 2008, p. 3). The European Union (EU) considers itself as modern and forward-looking, vouching for human rights and democracy in Europe and the rest of the world. However, the EU is also confronted with gender inequality as Margot Wallström exemplifies: “At the speed at which the wage gap between men and women is closing, it will take another 70 years before everyone is paid the same money for the same job...which is by the way, a right enshrined in the EU Treaty of 1957...” (Wallström 2008, p. 2). It is correct that the EU put Gender Equality down on paper early on, but what has happened in practice since then?

Recent developments in 2011 give reason to believe that the situation of Gender Equality is improving. While France has introduced a law that binds large companies to reserve 40 % of boardroom positions to women, Belgium requires a minimum female representation for board of directors. Furthermore, Poland requests a set share of female candidates for political elections. Are those developments a consequence of the EU’s exertion of influence?

In 2004 the biggest EU accession round in history with Cyprus, Malta and 8 Central European countries as applicants took place. This provides a great opportunity to have a closer look on how the EU has shaped Gender Equality among its member states. It is convenient to put a focus on Central Europe as the different countries refer to a similar cultural and historical context.

Elman puts it well: “Examining the politics of the EU and the process of integration through the lens of social (in-) equality offers an innovative means of addressing central matters of state sovereignty, transnational power, intergovernmental prowess, transparency and social change” (Elman 2007, p. 2).

1.1 Outline

This thesis has been designed with the purpose to specifically answer the following two research questions:

Question 1: How did Gender Equality develop in Central Europe since 1999?

Question 2: How did the European Union influence Gender Equality in Central Europe?

While Question 1 focuses generally on the development of Gender Equality in Central Europe since 1999, Question 2 examines the influence of the EU on Gender Equality in Central Europe. Through answering both of the research questions it is possible to develop further interpretations and conclusions.

Chapter 1 provides an introduction of the topic, presents the outline of the thesis including the research questions and explains the methodology. From the approach of New Institutionalism the theoretical framework based on Institutions, Interests and Ideas is derived and presented in Chapter 2. It has the purpose to introduce the EU's potential tools and channels of influence on Gender Equality in selected member states. Chapter 3 defines the concept of Gender Equality and connects it to the socialist past in Central Europe in order to clarify prejudice, sort out wrong assumptions and provide basic knowledge as input for the further deeper analysis. In Chapter 4 the chosen framework Institutions, Interests and Ideas will be closely linked to the topic of Gender Equality. While Legal Framework and the European Court of Justice represent Institutions, the concepts of Positive Conditionality and Europeanization are related to Interests. Ideas furthermore refer to the sociological meaning of Europeanization and Gender Mainstreaming. Chapter 5 introduces the case study concept, considers Gender (In-) Equality indices with respect to the selected Central European countries for the time span 1999 – 2009 and provides an answer to the first research question. The results of this chapter will be applied to the further analysis of the EU's influence on Gender Equality in Central Europe in chapter 6 in order to answer the second research question. Chapter 7 summarizes the key findings, presents

final interpretations and conclusions and additionally addresses criticism and limitations of the thesis work and provides suggestions for further research.

1.2 Methodology

There are several methods of approaching research in political science, however given the scope of the research questions selected, the case study method has been chosen as the most appropriate tool. Firstly, “the method of structured, focused comparison” (George & Bennett 2005, p. 67) is suitable to analyze the research problem. This method is well structured as it starts with a transformation of the research object into specific research questions which will then be further applied to each single chosen case of the case study. It also takes into account that standardized data are available. The research objective of this thesis is the EU’s exertion of influence on Gender Equality in Central Europe. In order to analyze this issue, two specific research questions have been defined and will be applied to the individual cases of Hungary, Lithuania and Poland. This systematic comparison makes it possible to cumulate, generalize and link the findings to the broader case of Central Europe. The comparison is focused and narrowed down in terms of selected countries, time span and Gender (In-) Equality indices.

The chosen system with its predefined variables will be finally connected to the theory of New Institutionalism with its components Institutions, Interests and Ideas for further interpretations. Secondly, the choice of this method is supported by the argument that case studies are “the preferred strategy when ‘how’ or ‘why’ questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon with some real-life context” (Yin 1984, p. 13) which suits well the conditions of the two defined research questions of this thesis. In order to apply this methodology, various sources of research have been considered. Primary sources are legal texts, rulings of the European Court of Justice (ECJ) and indices from the United Nations (UN) and the World Economic Forum. Additionally, documents from the European Commission and other EU bodies as well as the annual reports on the progress of the EU candidate countries have been used. These sources are desirable as they provide an objective perspective on the topic and are considered to possess

sufficient quality. Secondary sources are represented through the wide range of specific literature providing scientific knowledge and insights on various topics that cannot be deduced from the primary sources and serve as a complement.

2 New Institutionalism

New Institutionalism is considered to be helpful in order to analyze influence through Institutions, Interests and Ideas. It provides a useful theoretical framework for the analysis of the EU's influence on Gender Equality as it establishes categories which allows an in depth discussion of different relevant dimensions. Developed from the theory of New Institutionalism, each individual categorization presents a strand of the approach itself. While the role of Institutions can be best linked to historical institutionalism, the discussion around Interests is enriched by insights of rational choice institutionalism (Hall & Taylor 1996, p. 5ff). Even though it might seem rather vague on the first sight, the discussion around Ideas will play a crucial role in Gender Equality on the national and international level. The framework of Ideas is inspired by the so-called sociological institutionalism, sometimes also named as normative institutionalism. However, not all scholars differentiate the various strands of New Institutionalism in that way. Hall and Taylor mention three streams within New Institutionalism: Historical Institutionalism, Rational Choice Institutionalism and Sociological Institutionalism (Hall & Taylor 1996, p. 5). A decade later Peters came up with a differentiation of no less than 7 approaches (Peters 2005, p. 23). As any theory, this approach is indeed not without disadvantages. Olsen for instance writes: "The New Institutionalism, nevertheless, has come in competing versions (...). Currently there is a cacophony of approaches called New Institutionalism and one result has been that it has become difficult to uphold an image of an unambiguous sequence of developments" (Olsen 2010, p. 35).

With respect to the case presented in this thesis the choice of Hall and Taylor seems most convincing and as the three streams correlate with the theoretical framework of the Institutions, Interests and Ideas approach. These serve the scope of the research questions best regarding the analysis of how the EU influences Gender Equality. If one sees the different strands of New Institutionalism pictured along a scale, Rational Choice Institutionalism which focuses on the behavior of rational actors and incentive structures is placed on one end while Sociological

Institutionalism, rooting in sociology and stressing the relevance of values and ideas within society, would most likely be placed on the other end of the scale. Historical Institutionalism can be seen in the middle which acknowledges both the calculus as well as the cultural approach and focuses on the concept of Path Dependency. Nevertheless in combination they are suitable to address the research questions concerned. The respective strengths of each individual strand of the New Institutionalism theory will be summed up and reflected in the framework of Institutions, Interests and Ideas.

2.1 Institutions

Institutions in social science are defined as human made: “As they were created by men and women, institutions order social, political, economic, and even cultural intercourse. Indeed institutions constitute the very basis for human interaction” (Badie et al. 2011, p. 1203). Despite the variation within the strands of New Institutionalism, all of them agree on the fact that “institutions do matter, and that they matter more than anything else that could be used to explain political decisions” (Peters 2005, p. 165). Specifically Historical Institutionalism provides explanations on the role of institutions; “The basic, and deceptively simple, idea is that the policy choices made when an institution is being formed, or when a policy is initiated, will have continuing and largely determinate influence over the policy far into the future” (Peters 2005, p. 71). Indeed, most attention is given to the concept of Path Dependency and unintended consequences. Mahoney argues, “Path dependency occurs when a contingent historical event triggers a subsequent sequence that follows a relatively deterministic pattern” (Mahoney 2000, p. 535). In contrary to Rational Choice Institutionalism which pictures politics “as a series of collective action dilemmas” (Hall and Taylor 1996, p. 12) and sees institutions as “the rules of the game in a society” (Hay 2006, p. 57), Historical Institutionalism views institutions as “legacy of historical processes” (Thelen 1999, p. 382). This means that the concept of Institutions can adopt various forms, even legal texts, as those have a manifested ongoing influence (Peters 2005, p.71). Furthermore the ECJ is highly important for the analysis of the institutional influence on Gender Equality. As it will be shown it has played a major role not

only following the path but rather defining it. Acknowledging the relevance of the European Commission and other bodies such as the European Parliament in legislative procedures regarding Gender Equality, it is more crucial to focus on the finally released legal texts and rulings of the ECJ due to their direct influencing character.

2.2 Interests

The second category, Interests, is based on a distinctly different view within the theoretical framework of New Institutionalism. Rational Choice Institutionalism puts the rational actor in the center of attention. Institutions are generally defined as “structures of incentives” (Badie et al. 2011, p. 1188), and North describes institutions as “the rules of the game in a society or, more formally ... the humanly divided constraints that shape human interaction” (North 1990, p. 3). Shepsle summarizes that “institutions are simply equilibrium ways of doing things” (Shepsle 2006, p. 26) and put in different words: institutions emerge when the rational individuals feel that there is a logical need (Peters 2005, p. 51, Hall & Taylor 1996, p. 13). Institutions are in that logic based on personal interests of the individual. Generally, Rational Choice Institutionalism follows the calculus approach, meaning that individuals have clear preferences and taste. They “behave entirely instrumentally so as to maximize the attainment of these preferences, and do so in a highly strategic manner that presumes extensive calculation” (Hall & Taylor 1996, p.10). In this context it is the individual’s interest to use the institution for its own utility maximization. Peters furthermore argues that individuals are incentivized to reduce uncertainty, respectively to cooperate (Peters 2005, p. 9). As individuals, in this case any national state, choose membership in the institution, institutions such as the EU have the power to shape and constrain individual behavior (Peters 2005, p. 48). Members of the selected institution will accept certain rules if they are convinced that overall benefits outweigh the costs or sacrifices. This incentive driven behavior is manifested in the Positive Conditionality concept. The meaning of Positive Conditionality becomes highly relevant as it incentivizes potentially interested member states during the EU accession process to adopt the predetermined rules.

2.3 Ideas

The central role of Ideas is based on Sociological Institutionalism which focuses on norms and values of social agents, using the ‘logic of appropriateness’ to explain attitude, a behavior prescribed for specific actors in specific situations (March & Olsen 2006). Institutions in this strand are seen as “a relatively enduring collection of prescribed behavioral rules and organized practices derived from collective identities and affiliations embedded in a structure of meaning and resources” (Olsen 2010, p. 36). Sociological Institutionalism is less concerned explaining how institutions arise but rather which form they take and how they interact with its members. Hall and Taylor’s definition of institution is therefore rather wide stating that institutions provide “frames of meaning guiding human action” (Hall & Taylor 1996, p. 14). This means that certain constitutive rules are developed, a repertoire of how to process in standard situation, which leads to the ‘logic of appropriateness’, norms and values shape reactions; “the institution influences the values of the components and the values then influence behavior” (Peters 2005, p. 148). In the sociological interpretation, the material well-being is not seen as the ultimate goal, but instead the individual’s identity in a socially appropriate manner. Organizations as well as its participants can be more socially accepted and valued if they embrace a particular kind of institutions (Hall & Taylor 1996, p. 13-17). Sociological Institutionalism does not argue that participants are not goal-oriented or rational, but even rational actions are not completely detached from socially embedded norms and values. For example, the sociological component of the Europeanization concept describes the implementation spill-over of the EU’s preset institutional norms and values on member states or even on any other national state outside of the EU. Another consciously selected tool of the EU is Gender Mainstreaming which serves the idea to implement stronger values and norms towards more Gender Equality within the societies of the member states.

3 Gender Equality in Central Europe

This chapter aims to explore the area of Gender Equality in Central Europe. Chapter 3.1 considers the difficult task of defining the concept of Gender Equality as this concept has a wide scope for various interpretations. Chapter 3.2 links Gender Equality to Central Europe in order to outline important characteristics within this specific cultural context. Finally, chapter 3.3 focuses on the EU accession process which represents a powerful tool of the EU to influence to influence applying member states aiming for the benefits of a potential membership.

3.1 The Concept of Gender Equality

Defining the term Gender Equality is an important and yet rather difficult task considering that definitions for the individual terms Gender and Equality differ quite a lot in literature. As such, a clear definition for Gender Equality as a combination of both is not easy to find. The same challenge applies to the majority of fixed political definitions which are rather “contested ideal notoriously open to a variety of interpretations” (Jagger 1990, p. 239). Jalusic states that equality be seen not only as a universal norm, but also as a general frame, a future goal or even a specific instrument (Jalusic 2009, p. 55). Equality can relate to a wide range of issues including, but not limited to race, religion and sexuality. In the 1980s when feminist research became more important, Equality was accompanied by an increasing dissatisfaction with the concept of sex. This concept was understood as “a dichotomous variable separating the categories of men and women” (Lovenduski 1998, p. 335). In the meanwhile a discussion around Gender arose, which was mainly understood as social construction of biological sex. In regards to the theme of this thesis, the definition of the European Commission will be used, which defines the term Gender as “the social differences or roles allotted to women and to men, roles that are learned as we are

growing up, change over time, and depend on our culture, ethnic origin, religion, education, class and the geographical, economic and political environment we live in. These models of behavior set the standard and influence that we are apart from our sex“ (European Commission 2004a). A common example is the differentiation between women giving birth (biologically determined) and the question of who raises the children which is not determined by biology (gendered behavior). In that way Gender is culturally influenced and varies at different periods, though always refers to a set of qualities and behaviors which are expected from both men and women. Furthermore Equality is defined as “treating all categories exactly the same (for example, when it comes to wages) and treating categories differently in recognition of their differences (maternity)” (European Commission 2004a). In summary, Gender Equality in the sense of the European Commission means “that the different behavior, aspirations and needs of women and men are equally valued and favored and do not give rise to different consequences that reinforce inequalities” (European Commission 2004a). After grounding and developing a useable definition due to consistency reasons one should bear in mind that it is not free from issues as far as the measurement of Gender Equality is concerned.

Gender Equality was already mentioned in the founding treaties of the European Coal and Steel Union in 1957 and the original idea of considering Gender Equality focused on the workforce and labor market. However, it was the UN that first played a major role in the development of Gender Equality and also initiated one of the milestones: the Fourth World Conference on Women held in Beijing in September 1995. The aim of the conference was “the advancement and empowerment of women in relation to women’s human rights, women and poverty, women and decision-making, the girl-child, violence against women and other areas of concern” (United Nations 1997). Around 190 government and 5,000 NGO representatives participated in the conference where 12 strategic objectives and actions were reached, ranging from women and the economy and education and training to women in power and decision making on international, national and regional level. The Declaration and Platform for Action which introduced the concept of Gender Mainstreaming in policies and programs was adopted by consensus. It was a relevant milestone as it is signified the first global recognition of Gender Inequality and additionally resulted in the implementation

of Gender Mainstreaming. As the outcome of the Beijing +10 review the Commission on the Status of Women adopted a Declaration that acknowledges the achievements and outlines the remaining obstacles (United Nations 2010). This whole process is unique in terms of international attention on the topic of women's right and empowerment of Gender Equality.

In 2005 the Presidency of the Council of the European Union released a report on the development made within the EU on this issue. The desired implementation of Gender Equality concepts on the national level was in turn manifested through several updates of the legal framework of the EU named *aquis communautaire*. Consequently various mechanisms, tools and bodies have been established such as independent research institutions, gender budgeting and additional personnel. However, three major challenges were identified. Firstly, the difference between Gender Equality and the empowerment of women needs to be highlighted with further concrete action steps needs to be developed for both areas. Secondly, all other kinds of inequalities regarding race, nationality, religion, minority, sexual orientation and so forth have to be taken into account while driving Gender Equality and vice versa. Thirdly, in order to establish effective gender policies both expertise on the measurement of progress regarding Gender Equality and new forms of democratic representation have to be found (Luxembourg Presidency 2005, p.7).

Thus it is evident that the UN was the initial driving force within the field of Gender Equality with the EU later becoming another key driver that quickly implemented the concept of Gender Mainstreaming. Gender Equality on the one side found more attention in the political environment and first action steps were defined, but on the other side it became also clear that difficulties regarding its progress measurement and tracking continue to exist.

3.2 The Situation in Central Europe

Considering the comprehensive definition of Gender Equality and its development introduced in chapter 3.1, the specific characteristics of Central Europe will be introduced and defined according to the theme of this thesis. Due to the socialist past, it is crucial to understand the meaning of Gender Equality in the context of

communism. While some scholars argue that Gender Equality was widely spread in Central Europe based on the existence of relatively high rates of the female labor force participation was widely spread in Central Europe, others conclude that the need of labor adumbrates the conscious choice of implementing a Gender Equality concept by the communist regimes. In order to gain a profound understanding around Gender Equality in Central Europe, the term Central Europe and apparent developments towards Gender Equality in socialist countries have to be explained further.

There are a selection of terms used in order to describe the geographical region in the Eastern part of the European continent. The Organization for Economic Co-operation and Development (OECD) defines the term Central and Eastern European countries (CEE) as the group of countries comprising Albania, Bulgaria, Croatia, the Czech Republic, Hungary, Poland, Romania, the Slovak Republic, Slovenia, and the three Baltic States: Estonia, Latvia and Lithuania (OECD 2011). Domsch et al. divide the countries of CEE into three groups along geographical and economical measurements. The first group includes the most advanced eight Central European countries known as transition countries and democracies with competitive economies: The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, the Slovak Republic and Slovenia. These countries became EU member states in 2004 and are labeled as Central Europe. The second group is comprised of Bulgaria and Romania which joined the EU in 2007, has been labeled as Eastern European Countries. The last group is represented by the Commonwealth of Independent States including “hybrid transitional states in which transition is stalled or in reversal” (Domsch et al. 2003, p. 11). While there are commonalities among those countries it will become evident during the case study that these countries differ in various ways. However, as Hungary, Lithuania and Poland based on their common communist history possess a representative character for the group of Central European countries and the specific term Central Europe will be considered from now on.

Discussing Gender Equality in Central Europe is relevant as gender policies in communist countries were quite unique. It is commonly accepted that socialism has left long-lasting implications for women in the social, political and economic environment. There are several cases in the respective countries that could be

easily interpreted as Gender Equality friendly where women in Central Europe were incentivized to join the labor market in contrast to the situation in Western European countries at the same time. The ratio of girls to boys consuming higher education, a female participation rate of 70 % as well as existing childcare and social benefits for mothers provide a superficial look appears to point in the direction of Gender Equality in Central Europe (Baer et al. 2008, p. 15). However, a deeper analysis provides additional evidence of a “double burden” meaning that despite full time employment women still carried the responsibility for the house, family work and care of children as well as the elderly (Klein 2006, p. 201). Furthermore both the male breadwinner model which depicts the man as the provider of the family and the patriarchy structures were never questioned in the respective countries. Overall, it has to be understood that despite of high female labor participation, well developed child care structures, maternity benefits, quotas in parliament, these were not the results of the desire for Gender Equality but instead by the need of labor. Ferge summarizes the discussion around the reasoning for this policy as either “the need of manpower for extensive industrialization; by the aspiration to hold down wages (so that only families with at least two earners could manage); or by the political will to exert maximum control over the population” (Ferge 1997, p. 161). Reliable statistics are rare as they were compiled by the authorities during times when self-censorship and political fears are likely to falsify the answers given.

Additionally it is relevant to mention that the representation of women in parliament dropped immediately from 30 % to 5 % on average after the fall of communism (Pascall & Lewis 2004, p. 388). This development underlines once more that Gender Equality in Central Europe was rather incorporated and interpreted by the communist state with certain motives than enhanced by civil society.

3.3 Accession to the European Union

As the communist era rather provides more contextual background information as opposed to concrete evidence in order to determine the extent of the EU’s influence on Gender Equality, it is required to focus on a time frame that is

closely linked to the process of EU accession. As the accession process provides the EU with a lot of power, a closer look on the situation before and after the EU accession of certain member states seems essential. Therefore it is necessary to introduce the basic developments regarding the EU accession process.

Article 49 in the Treaty of the European Union constitutes the legal basis for the accession of any European country. In order to be able to join though, the applicant country has to obey the principles of Article 6(1) which outlines the foundation of the EU: freedom, democracy, respect for human rights and fundamental freedoms as well as the rule of law. However, the relationship between the European Community (EC) by that time and the former communist countries was mainly characterized through the “the reluctance of the EC/EU¹ to offer membership” (Haughton 2007, p. 237). In 1989 the EC had constructed an economic aid program for Poland and Hungary abbreviated to PHARE (Poland Hungary Aid for the Reconstruction of the Economy). Between 1991 and 1997 budget and scope was expanded to include thirteen CEE countries (European Commission 2010a). Referring to the shared European values and norms stated in the founding treaties, the CEE countries asked the EC to present either clear guidelines for accession or a reasonable argument to exclude large parts of the European continent (Haughton 2007, p. 237). Among a range of explanations, Schimmelfennig argues that this situation led the EC to the creation of accession criteria in Copenhagen 1993 which was only meant as “a tactical concession to accommodate the CEE states” (Schimmelfennig 2003, p. 276). The compliance with the so-called Copenhagen Criteria represents the base for the opinion of the European Commission; they contain political criteria such as the “stability of the institution safeguarding democracy, the rule of law, human rights and respect for and protection of minorities” as well as economic criteria such as “existence of a viable market economy, the ability to respond to the pressure of competition and market force within the EU” (European Commission 2007).

Additionally a candidate country has to fulfill its obligation to implement the *acquis communautaire*, including the Union’s political, economic and monetary

¹ The terms EC and EU will be used interchangeable.

aims and be able to adapt to the administrative structure (European Commission 2007). At the Luxembourg European Council 1997 5 Central European states were invited to start accession negotiations (Estonia, Hungary, Poland, Slovenia and the Czech Republic), while 5 others (Bulgaria, Latvia, Lithuania, Romania and Slovakia) were not invited due to lacking reform processes. Hereby, the EU strengthened its credibility (Haughton 2007, p. 238) and through the exclusion of the second group even underpinned its conditionality (Schimmelfennig et al. 2005, p. 49). The European Commission monitored applying member states through the demand of annual reports stating the compliance with the EU membership criteria. On 1 May 2004 eight of these candidate countries joined, while Bulgaria and Romania followed in 2007.

Several scholars state that the power of the EU was on its peak just before opening the accession negotiations (Haughton 2007, p. 238) as the “external incentive” was given by the need to meet the Copenhagen criteria (Schimmelfennig et al. 2005, p. 92). It can be summarized that the EU accession process remains as a powerful tool to shape applying countries towards a more EU aligned policy on their respective national levels. Therefore, the EU accession process has to be considered when further analyzing the EU’s influence to drive certain policy areas further.

4 The European Union's Tools and Channels of Influence

This chapter 4 is divided in three main parts focusing on the tools and channels of the EU. Chapter 4.1 provides further insights on the tool Institutions with its channels Legal Framework and ECJ. Chapter 4.2 focuses on the tool Interests with the belonging channels Positive Conditionality and Europeanization. Finally, chapter 4.3 has a look at the tool Interests and examines the channels Europeanization once more from a different perspective and Gender Mainstreaming.

4.1 Institutions

In order to understand New Institutionalism one has to take a closer look at institutions. Focusing on the EU with its accession process there are several institutions such as the European Commission, the Council of the EU, the European Council, the European Parliament and the ECJ with lots of different responsibilities. Both the Commission and the Council of the EU play a major role in EU legislation. While the European Commission “proposes policy and ensures that the provisions of treaties and the decisions of the institutions are implemented properly”, the Council of the EU “must accept, amend or reject legislation and budgetary proposals” (Elman 2007, p. 21). Furthermore the European Parliament possesses unique power as it can approve or reject by absolute majority any type of proposal regarding legislation. In this case, the European Commission, the Council of the EU and the European Parliament are often labeled as the institutional triangle. Without neglecting the authorities of those bodies, the content of the legislation is, in this case, of higher interest than the process of legislation itself. The EU has various tools available to influence the development of certain topics such as the implementation and development of Gender Equality.

Legal Framework is a powerful channel to “have continuing and largely determinate influence over the policy far into the future” (Peters 2005, p. 71). Therefore an overview will be provided, stressing the major legislation steps concerning Gender Equality. Here, the ECJ as the major judiciary body will be also introduced since it has been playing a key role in determining the legal framework around Gender Equality.

4.1.1 Legal Framework

“Legislation is the driving force of Gender Equality in Europe and has helped to anchor Gender Equality as a key element of policy making in the Member States” (Women and men 2004). The power of law has been of high importance for the EU. Thus, it has to be differentiated between two kinds of legislation: the treaties and other legal documents such as regulations, directives and recommendations. They vary clearly in the degree with regard to how binding they are for member states.

As the treaties build the legal foundation of the EU, it is interesting to outline when and what they have dealt with regarding gender in general and Gender Equality in specific. To begin with, Gender Equality in form of the right of equal pay for equal work can be found in Article 119 in the Treaty of Rome in 1957. “Each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work” (Treaty of Rome, 1957). The Treaty of Amsterdam is of vital interest as the “ratification signaled European recognition of hitherto unaddressed responsibilities to mitigate discrimination” (Elman 2007, p. 4). Gender Equality was for the first time mentioned as a fundamental principle. Together, the Treaty of Amsterdam and the Treaty of Nice added articles 13, 137 and 141 (Consolidated Version of the Treaty establishing the European Community 2002) concerning the equality between men and women as well as non-discrimination. It is of special interest that Article 13 requires unanimity from the Council of the EU. Article 3, which is adjusted through the Treaty of Amsterdam, names activities in order to achieve the purpose of the Community and purports in 3.2 that “the Community shall aim to eliminate inequalities, and to promote equality, between men and women” (Consolidated Version of the Treaty establishing the

European Community 2002). In Nice also the Charter of Fundamental Rights of the European Union was signed. Article 23 states: “Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex” (Charter of the fundamental rights of the European Union 2000).

The Treaty of Lisbon² was signed in December 2007 and entered into force on 1 December 2009 after being ratified by all 27 member states. Already in the preamble equality is mentioned as a universal value. Article 1a is amended and states that: “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” (Treaty of Lisbon 2007).

In continuation of the article equality between men and women is mentioned as a common value among the Member States and non-discrimination is supported. According to Article 6.1 in the Treaty of Lisbon fundamental rights represent a cornerstone of the EU. By that they become superior to secondary law and remain at the same level at the treaties. The charter was an important step towards an increasing visibility of existing fundamental rights and helped to advance them. Article 21, 23, and 33 state amongst other prohibition of discrimination, equality between women and men as well as the rights of families in terms of social, economic and social protection (Charter of Fundamental Rights of European Union 2010). But even though the charter was granted treaty status, a protocol in the in the appendix provided opt-out options for both the UK and Poland.

Besides primary law in form of the treaties, secondary law has proven to be of high importance for the EU as well. There is a wide range of regulations, directives, proposals, resolutions and recommendations, however it has to be notified that regulations are the only form of secondary law as they have “binding legal force throughout every member state, on a par with national laws. National governments do not have to take action themselves to implement EU regulations” (European Commission 2011a). There are basically only two regulations that deal

² The unratified Treaty establishing a Constitution for Europe of 2004 is not relevant in this context.

with Gender Equality in a wider sense. They concern the establishment of the “European Monitoring Centre on Racism and Xenophobia” (Council of the European Union 1997) as well as the European Social Fund (European Parliament et al. 2006), however, they are not in the main focus of this thesis. Most commonly used instead are directives, which are binding only with a view to the objective to be achieved. Since 1975 there have been several directives on Gender Equality containing the principle of equal pay for men and women (Council of the European Communities 1975), the principle of equal treatment for men and women regarding access to employment, vocational training and promotion, and working conditions (Council of the European Communities 1976), matters of social security (Council of the European Communities 1986) as well as issues around pregnancy and parental leave (Council of the European Communities 1992). From 1997 on the directives referred to topics such as the burden of proof³ as well as several changes concerning equal treatment in employment and occupation. Directive 2006/54/EC (European Parliament et al. 2006c) is a dominating one as it recasts several other directives on inter alia equal pay for equal work, equal treatment for men and women as regards access to employment and occupational social security schemes. “Such a text should increase clarity and should modernize and simplify the provisions of some directives on equal treatment and pay between men and women, in order to make Gender Equality law more accessible for a broader public” (Prechal & Burri 2009, p. 1).

As for the interpretation of the legal status quo within the EU several authors argue that the Treaty of Lisbon clearly improved the status of Gender Equality, especially through providing more visibility to the topic generally (compare Bisio & Cataldi 2008; Koukoulis 2008; Ellis 2010). The placement very early on in the treaty and the inclusion of the charter is suggestive of a higher importance. While Gender Equality in the very early years has been mainly understood for instance as equal pay or anything remaining within the economic scope, topics such as domestic violence and the rights of families have been additionally considered. However, most of the secondary law concerning Gender Equality remains in the

³ Until then the claimant had to prove before a court or another competent authority that there has been a breach of the principle of equal treatment, now the respondent has to prove that there has been no breach. (Council Directive 97/80/EC).

format of directives and recommendations, which enhances the speculation of less interest or difficulties to agree on a common Gender Equality policy. Many scholars therefore wonder whether this could be called a success for feminists or other interest groups having an opinion on Gender Equality. A major issue is that Gender Equality for instance competes with other inequalities such as racism, national origin and religion for attention and prioritization in politics. This is reflected in a study of public officials which are in charge to promote Gender Equality within the EU, they are concerned whether “priority should be given to equality between women and men, given the other urgent need of other population groups (immigrants, the socially excluded, the disabled and so on)” (OPTEM in Elman 2007, p. 7). In that sense the theme of Gender Equality is facing threats from various sides as its relevance, importance and urgency in politics is still questioned. Furthermore most initiatives regarding Gender Equality are reflected in directives and recommendations which are not as binding as treaties and regulations. Some scholars argue that the differences in social systems and equality policies lead to the use of more flexible methods, aiming for a more effective adoption as those who were affected would also have a say in the implementation (compare Elman 2007; Falkner et al. 2005). Since the rather non-binding tools such as directives and recommendations leave room for interpreting Gender Equality, the ECJ can give clarity to any disagreement on request when a case got forwarded from member state.

4.1.2 European Court of Justice

Besides the treaties and various directives it is the ECJ which embodies a key player regarding juridical clarifications on various mattering topics such as harassment, sexual harassment and non-discrimination for instance. The case law as practiced by the ECJ has helped to interpret, define and develop fundamental rights further on. Around 10 % of the processes held by the ECJ are so-called infringement procedures which are linked to the responsibility of the European Commission to ensure a correctly application of EU law in every member state. If member states fail to apply EU law accordingly, the European Commission has the power to end the infringement and if considered necessary forward the matter to the ECJ (European Commission, 2011b). Considering a total of 170

infringement procedures at the ECJ “17 have dealt with matters of equality, 11 of which were successful” (Schott 2008, p. 39). Besides those processes, the ECJ receives the majority of cases from member states to clarify EU law. The decision of the ECJ then has to be applied at all national courts.

From nearly 200 judgments dealing with Gender Equality some selected cases demonstrate clearly how the ECJ interprets and defines European legislation and therefore shapes the reality for citizens in EU member states.

One of the first and most famous rulings is represented by the case *Defrenne vs. Sabena* (European Court of Justice 1976). This case demonstrates the potential of the ECJ and therefore also the influence of the EU on its member states. According to above mentioned article 119 of the Treaty of Rome, women were promised equal pay for equal work which was though not practiced in the member states even a decade after the ratification. In the first case *Defrenne vs. Belgian state* (European Court of Justice 1971) the matter was the exclusion of Mrs. Defrenne from the pension schemes which were extended only to the male flight crews of the Belgian airline company Sabena. The court ruled that social security schemes did not constitute under Article 119. In the second case *Defrenne vs. Sabena* sougning compensation for the sex-based wage differences, the court though ruled that this type of discrimination falls in the scope of Article 119. This jurisdiction is historical for several reasons. First of all member states could not rely on incorporating EU law and therefore claimed it lacked. Secondly, Article 119 has become the foundation of equal pay claims in national courts. Lastly, it can be argued that in between 1971 and 1976 a different view on Gender Equality became visible, potentially also caused by the UN’s first World Conference on Women in 1975. Through this specific judgment and by following this trend consequently the ECJ enhanced its prestige and relevance (Elman 2007, p. 30). Therefore it can be argued that the ECJ has a certain power to influence the reality of the member states.

Further rulings were *Macarthys Ltd vs Wendy Smith* (European Court of Justice 1980) when the ECJ ruled that in case of a woman replacing a man in the same position, she must receive the same payment. In more recent cases such as *Jenkins* (European Court of Justice 1981) and *Cadman* (European Court of Justice 2006) the ECJ was engaged in the questions of even objective justifications for differences in the payment and ruled that this difference usually still discriminates

women more than men. In *Cadman* the ECJ accepted the criterion of *anciennity*, the length of service, as admissible in the determining pay. In various cases the ECJ also ruled in favor of pregnant women and those on maternity leave, such as in the case of *Mahlburg* (European Court of Justice 2000a). It made clear that a pregnant woman, if she was the most qualified candidate, should be hired even though she might not be able to work in the specific department during her pregnancy and instead be employed elsewhere for the duration of the pregnancy. Concerning a pay rise, the ECJ decided that a pay rise during maternity leave must benefit the woman concerned. Another case which had far reaching consequences was the case of *Kreil* (European Court of Justice 2000b). In cases where access to specific professions was denied for women, the court ruled that the principle of equal treatment is broken. As a consequence the Federal Army of Germany had to open up for female soldiers. Several more cases demonstrate that the ECJ focuses solely on Gender Equality and not on promoting women. In the case *Kalanke* (European Court of Justice 1995) the ECJ decided that no automatic preference should be given to a female candidate if candidates of different sexes are equally qualified. This even refers to sectors where women are underrepresented. These few cases highlight which important role the ECJ plays in interpreting and defining EU law regarding Gender Equality (compare also Schott 2008). However, the ECJ also got criticized for its judgments. In one of the most recent cases the ECJ ruled that: “Directive 2004/113/EC1 prohibits all discrimination based on sex in the access to and supply of goods and services” (European Court of Justice 2011, p. 1), which for example also applies to the factor Gender in insurance calculations. This ruling of the ECJ had an enormous echo from the member states as it will heavily impact the insurance costs. It shows that the adaptation process towards more Gender Equality in the member states, also heavily influenced by the ECJ, is not without concerns as the reaction and implementation of new judgments might hit some of the member states sometimes even too fast and heavily.

4.2 Interests

In the light of Rational Choice Institutionalism rational actors with own specific interests are considered. Actors join institutions out of rational reasoning, in order to maximize their utility, which translated into the context of the EU means that member states have rational reasons to be part of the EU, as long as the benefits exceed the costs. This is specifically applicable to the accession process where member states mostly see clear incentives to become a part of the EU. At the same time the EU has a crucial interest to implement its own interests on the member states, respectively any candidate country. Positive Conditionality represents a powerful tool to incentivize others in order to get own interests fulfilled. The EU specifically uses Positive Conditionality to drive the Europeanization process further. Therefore, the concepts of Positive Conditionality and Europeanization will be introduced as they represent Interests-based tools of the EU.

4.2.1 Positive Conditionality

As the scope of this work targets the Central European countries, there is a great possibility to analyze the way in which the EU influenced the post-communist countries before the accession to the Union. Even though there is a range of potential tools, the EU focused on conditionality. While Negative Conditionality means that any non-fulfillment causes punishment or sanctions, the model of Positive Conditionality is based on the belief that support will enhance growth and progress (Veebel 2009, p. 209). Solana described this tool in the following way “we just ask the countries which are interested in participating in our structures to comply with our rules and to share our values” (Solana 2003).

In a wider sense conditionality is characterized as “a set of mutual arrangements by which a government takes, or promises to take, certain policy actions, in support of which an international financial institution or other agency will provide specified amounts of financial assistance” (Killick 1998, p. 6). There are various sets of differentiations and developments: On the one hand those which are designed for the cooperation with least developed countries, on the other hand the models which were amongst others developed by the EU in order to drive pre-

accession structural reforms. Veebel argues that Positive Conditionality all along the 1970s and 1980s has proven low efficiency while it increased its popularity in recent years (Veebel 2009, p. 209), which Killick refers back to “even lower cost-efficiency of military intervention measures compared to earlier periods, the multilateral nature of the international arena and a will to follow a non-violent line by some international actors” (Killick 1998, p. 9). Semsit on the other hand defines EU conditionality as a “rationalist bargaining model” where the benefits exceed the cost of domestic adoption. There are 4 key factors included: “the determinacy of conditions, the size and the speed of rewards, the credibility of conditionality and size of adoption costs” (Semsit 2009, p. 29). The European Commission puts it differently and states that “rigorous but fair conditionality is applied to all candidate and potential candidate countries” (European Commission 2006, p. 5).

There are important differences to be made: Ex post conditionality is often applied at treaties when member states have to ratify law or other decisions after the treaty is ratified, while ex ante conditionality has to be fulfilled in advance. Furthermore conditionality can be both: unilateral or multilateral. The EU specifically uses the multilateral approach. As stated above the complement of Positive Conditionality is Negative Conditionality which imposes threat to an existing situation if promises are not fulfilled. Positive Conditionality though is characterized through an ex ante nature. It is also known as the “method of the carrot” (Fierro 2003, p. 100). As it is asymmetric by nature, it is only likely to succeed if the benefits of the receiver are bigger than the adjustments needed (Schimmelfennig & Sedelmeier 2007, p. 89). In that sense, Positive Conditionality has been used extensively for the accession process with the expectation on the candidate countries to fulfill certain criteria in advance, inter alia the Copenhagen criteria, for the permission to join the EU. Countries have the choice to weigh the benefits versus the cost of adjustments. Looking at the actual accession of new countries and the list of candidate countries, benefits seem to prevail. Using the Positive Conditionality concept is a clear sign for a long-term vision of stability and prosperity, though one should not believe that it is only “a soft guiding framework – it is a strict system of structural support and control where not all participants qualify for the prize” (Veebel 2009, p. 224). The process of accession for the CEE countries was much tougher compared to the accession process of Spain, Portugal

and Greece for instance. The fifth round of accession was special in various ways, despite the fact that with twelve applicants⁴ not only the biggest number of new members would be adopted, but also the total number of member states would be excelled. This intense qualifying process filled the EU obviously with an increasing power. However, changing the institutional framework through the increase of member states in such an extensive manner goes also along with the danger of changing norms, values and behaviors of an established system. It is therefore worth mentioning that the EU reacted immediately. On the one hand there were no possibilities for new member states to opt-out; at the same time new regulations were found for inter alia joining the Euro zone, the Schengen area and so forth. On the other hand a so-called “hidden agenda” was referred to, requesting the accession states to not only fulfill the Copenhagen Criteria but also an agenda, which had not been part of the accession agreement. These hidden issues referred amongst others to non-citizen rights, labor migration and social security (European Commission 2003a). Throughout the fifth and sixth accession round, Positive Conditionality is therefore a powerful channel at a certain point of time, when the EU does not yet want to provide the advantages of a membership but has the sovereignty to ‘order’ the implementation of treaties and regulations. The implementation of the *aquis communautaire* is therefore seen as one of the major pillars of Positive Conditionality.

The EU enlargement process, Positive Conditionality and Europeanization are clearly interrelated. Positive Conditionality is a component of the Europeanization process, while the enlargement of the EU and the accompanied conditionality would be “limited, slow and weak” without Europeanization (Semsit 2009, p. 27).

4.2.2 Europeanization

Europeanization is a widely used term in sociology, economics, history and political science. The term describes a complex and wide ranging process focusing on the impact of European integration. Wallace outlines: “a European dimension becomes an embedded feature which frames politics and policy within

⁴ Romania and Bulgaria were given an extra time as they did not fulfill the criteria and joined finally in 2007 (European Commission 2003a).

the European states” (Wallace 2000, p. 370). Europeanization tends to summarize the whole adoption process which implies “new rules, procedures and practices” (Dirzu 2011, p. 53). This statement reflects the difficulty to categorize Europeanization as it from a Sociological Institutionalism perspective refers to values and norms while Rational Choice Institutionalism enforces the legal implementation and rational incentives to explain the compliance of national states with supranational norms. The process of Europeanization from a rational institutionalists approach is conceived as a question of how compliance beyond nation states can be achieved in the best possible way. While the ECJ pushes for legislative compliance of the member states through its citizens (Stone Sweet & Brunell 1998), the European Commission has the power to follow up on the implementation of treaty provisions and decisions. Thus, the EU possesses hard as well as soft mechanisms ranging from EU legislation and the work of the ECJ to soft monitoring and best practice sharing. In summary, it can be argued that Positive Conditionality and the rational choice interpretation of Europeanization seem rather interlinked whereas the interests of the member states are the precondition for the exertion of influence.

4.3 Ideas

Despite of all the rational-based factors of implementing Gender Equality into new member states, there is also the variant to transfer ideas. The engagement of the EU in Gender Equality is based on human rights and founding values, which it potentially also wants to transfer to member states. The discussion around a “European Folk” has taken up the issue of common norms and values at various occasions. Which tools does the EU possess in order to influence its candidate countries and member states in a rather “soft” way? As already described above the process of Europeanization has different aspects, while the implementation of law is clearly seen in respect to Rational Choice Institutionalism, the process of conveying ideas can more sufficiently be explained by Sociological Institutionalism. Furthermore, the EU has been a major driving force on implementing the concept of Gender Mainstreaming, taking the theme of Gender into all policy areas. Even though the concrete measurement of Ideas provokes

some difficulties, leaving out this aspect would minimize the understanding of both the influence of the EU and the scope of Gender Equality.

4.3.1 Europeanization

Europeanization in the interpretation of Sociological Institutionalism focuses on the normative functions and the logic of appropriateness. Borneman and Fowler see Europeanization mainly as an “accelerated process and a set of effects that are redefining forms of identification with territory and people hood” (Borneman and Fowler 1997, p. 489). In the sociological view as mentioned above, institutions matter and represent an order. They have various functions such as the regulatory function based on law, sanctions, processes and rules, as well as normative functions which refer to social obligations and the logic of appropriateness. Furthermore, there is also a cognitive function with mechanism such as “taken for grantedness” (Liebert 2003, p. 19). Sociological argumentation would add that systems of monitoring as such will increase the will of both, state and non state actors, to act in compliance with European norms. Another mechanism is framing policy, implying that change is also possible based on knowledge and as a result of “framing policy”. Framing is a crucial term with various meanings in that context. Liebert states three different possibilities: “European states create shared frames of references by framing common sets of beliefs and ideas, and creating common frameworks. Secondly a European framework could also be implemented by people in member states or thirdly, that local particularities look more striking once Europeanization puts a framework around. It has to be mentioned that Europeanization does not exclusively influence only EU countries” (Liebert 2003, p. 15). It does not prescribe concrete institutions, nor does it modify institutional opportunities and constraints. In the tradition of the sociological approach it instead achieves results through “altering the beliefs and expectations of domestic actors, thus indirectly affecting their preferences and strategies” (Knill & Lehmkuhl 1999, p. 2). Radelli’s definition directly refers to institutionalization; he defines Europeanization as a variety of “process of a) construction, b) diffusion and c) institutionalization of formal and informal rules, procedures, policy paradigms, stales, ‘ways of doing things’, and shared beliefs and norms which are first defined and consolidated in the EU policy process and

then incorporated in the logic of domestic (national and sub national) discourse, political structures and public policies“ (Radaelli 2004, p. 3). His definition of Europeanization is surprisingly close to the definition of Sociological Institutionalism, in which formal and informal rules, procedures and shared beliefs play a major role; the ‘ways of doing things’ can be directly translated into logic of appropriateness. In that sense Europeanization will fill the theoretical framework of Sociological Institutionalism, arguing that Ideas play a major role in the way the EU is influencing its member states.

4.3.2 Gender Mainstreaming

The process of Europeanization takes on the role of Ideas and values on a broad scale, whereas Gender Mainstreaming differs first of all through being a consciously developed process and secondly through focusing specifically on gender.

In 1996 the European Commission felt the urge for a further development step regarding Gender and introduced the concept of Gender Mainstreaming, following up on the Fourth World Conference on Women. Gender Mainstreaming is a “tool to better understand the causes of inequalities between women and men in our societies and come up with appropriate strategies to tackle them” (European Commission 2004a). Gender Mainstreaming is defined as “the (re-) organization, improvement, development and evaluation of policy processes, so that a Gender Equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making” (Council of Europe 1998). As Gender Equality policy mainly derived from the labor market, it became later clear to the EU that inequality falling outside of the labor market still influenced it. In order to benchmark the divergent labor market and social policies of the member states, the EU expanded its regulations outside of employment (Kakucs 2009, p. 39). The general idea is very obvious, though the direct implications of that strategy were not really understood. Therefore, the European Commission itself published a paper in 2004 where the body admits that Gender Mainstreaming “left many confused” (European Commission 2004a). The underlying strategy is to challenge conventional understanding of Gender and create an awareness which becomes a natural part of the thinking and

implementation process, especially in the policy field. While the above mentioned statements around Gender Mainstreaming sound help- and meaningful, the concept itself remains slippery. A practical application of Gender Mainstreaming was the integration into the European Structural Funds (ESF) and other financial programs resulted from the Treaty of Amsterdam. First and foremost, the Structural Funds⁵ within the EU target the equalization of regions and member states. As Gender becomes a criterion for the applications to this program, Gender Mainstreaming is more visible in the procedures of the ESF. Thus, the implications of Gender Mainstreaming remained on a rather superficial level. Meseke claims that there was a lack of clear data and objectives, leading to a marginalization of Gender Equality (Meseke 2008, p. 55). Secondly, the Social Fund⁶ is a part of the Structural Fund, focusing mainly on the European Employment Strategy and finances the program EQUAL that is built on fighting inequality and discrimination within the labor market. It was worked out in national plans in each member state. Among others pillar 4 of the program states the promotion of equal opportunities for men and women. Meseke considers the impact of EQUAL on a higher level with some positive expectations for the future (Meseke 2008, p. 59). Despite of the ESF and the program EQUAL, a community program on employment and solidarity called PROGRESS was established through a decision by the European Parliament and Council of the EU in 2006 (European Parliament et al. 2006b). Mutual learning, analyses, and support for the main players are the key elements. Until then activities including promotion of Gender Equality and non-discrimination were financed within different projects. However, from the proposed budget of EUR 683.250.000 Gender and Equality received only 12 % (European Commission 2010b).

Those programs show a practical application of Gender Mainstreaming in the EU. Under the framework of Institutions, Interests and Ideas Gender Mainstreaming, originally seen as a component of Ideas, becomes marginalized under Positive Conditionality and the logic of rational choice. If the member states fulfill among others the criteria of Gender Equality in their projects, they will receive money.

⁵ COM/2002/0748 final.

⁶ Regulation (EC) No 1784/1999 of the European Parliament and of the Council of 12 July 1999 on the European Social Fund.

As far as the introduction of the Gender Mainstreaming concept and the related funds are concerned, no measurements of success are introduced, the application area is widespread and incorrect as well as the responsibilities are vague. The European Commission is role modeling regarding Gender Equality without doubt, but the impact of Gender Mainstreaming on policymaking is still questionable. Concerning Central and Eastern European countries a challenge might occur according to the supranational approach to introduce the new idea of Gender Mainstreaming while Gender Equality is seen a past legacy of the socialist regime. The normative pressure of the EU in that case led to a minimalist attitude towards it (Kakucs 2009, p. 42). Whereas some commentators portray Gender Mainstreaming “broad and shallow”, suggesting that with equality as “everyone’s responsibility” it is “no one’s job“, others endorse it as a “broadening” of EU equality policies. In total, most agreed on that Gender Mainstreaming has not lived up to its potential (Elman 2007, p. 31). It can be summarized that the conscious decision to introduce the concept of Gender Mainstreaming on the EU level makes complete sense, however, clear and precise strategies towards a successful implementation are still missing.

5 Development of Gender Equality in Central Europe since 1999

The previous chapters have provided an insight on the influence of the EU through the theoretical framework of Institutions, Interests and Ideas. Furthermore the wide reaching concept of Gender Equality and its connection to the unique history of the Central European countries has been made. This chapter focuses on answering the first of the two research questions:

How did Gender Equality develop in Central Europe since 1999?

As presented above a case study is considered as a useful tool to answer questions regarding the “how” as in this first research question. Chapter 5.1 will introduce the parameters of this case study and provide specific information on the selection of countries as well as the selection of the time frame for this specific research design. While on the one hand there is always a danger of case studies to generalize too much when arguing from the specific, the closer look on Hungary, Lithuania and Poland can be seen as a suitable representative group of Central European countries to better understand the position of Central Europe in general. Time-wise it is interesting to have a closer look on the developments regarding Gender Equality in the years 1999 (before the EU accession), 2004 (at the EU accession) and 2009 (after the EU accession). Chapter 5.2 will present various indices developed by the UN and the World Economic Forum measuring Gender Equality in certain dimensions. Chapter 5.3 will outline the key findings of the case study to answer the first research question.

5.1 Case Study

The case will start with the introduction of the parameters for the design. Chapter 5.1.1 will present a very brief overview about the selected countries of Hungary,

Lithuania and Poland, representing diverse countries from Central Europe. Chapter 5.1.2 then will clarify the selection of a specific time frame, resulting in the chosen years 1999, 2004 and 2009 which is connected to the EU accession process of the selected countries in 2004.

5.1.1 Selection of Countries

Answering the concerns of a potential risk of case studies, a selection of Central European countries has to be chosen. The focus is hereby on selecting a range of countries which represent the diversity of Central Europe in any extent and allow critical representative transfer of arguments for the region Central Europe later on. Regarding this thesis three specific countries have been chosen: Hungary, Lithuania and Poland. The following section will provide an overview of the respective countries and reasons for their selection considering the theme of this thesis.



Table 1: Map of Europe

Source: European Commission

After the collapse of the communist system, already in 1989 the EU developed a program called PHARE which originally stood for Poland Hungary Aid for the Reconstruction of the Economy. The idea of this program was the support but also the contribution of new small and medium sized enterprises within Central Europe (European Commission 2010a). At this point of time this program seemed to be only applicable in Poland and Hungary, which resulted in its establishment within those two countries. To that extend it can be argued that Hungary and Poland were the first two countries which experienced direct support from the EU and vice versa, those two countries seemed to be of high interest for the EU already at that early stage with regard to potential membership criteria. What is furthermore common among Hungary and Poland is the fact that both are members of the OECD, Hungary joined in May 1996 and Poland joined in November 1996. Lithuania on the other hand has not become a member of the OECD yet (OECD 2011). However, Hungary and Poland still differ to a great extent as Lithuania does in comparison to those two.

Poland is the largest country in Central Europe but also over 1000 years old. During the 16th century it was one of the most powerful states in Europe and in 1791 the Commonwealth of Poland and Lithuania was found, owning the first written constitution on the European continent. From 1795 to 1918 Poland disappeared on the map as an independent state when it regained independence only for 20 years. After the end of the Second World War Poland became a satellite state of the Soviet Union which found its end after intense struggles in 1989 (European Commission 2004d). Its size in terms of population and the geographical situation of Poland made is of vital interest for the EU and the influence of the Catholic Church is well known.

Hungary was under Ottoman rule for about 145 years until the 17th century. Afterwards Hungary was a part of the Habsburg Monarchy which turned into the Austrian-Hungarian Dual Monarchy. Through World War I Hungary lost about 70 % of its territory and entered World War II on the side of Germany, but soon after the fascist regime the communist took over. The revolution in 1956 against the Soviet occupation attracted international attention, however it failed and Hungary only became an independent state after the collapse in 1989 (European

Commission 2004b). In terms of language, Hungary differs essentially from its Slavic neighbors, as part of the Ugrian subgroup of Uralic languages.

Lastly Lithuania represents the Baltic States in its uniqueness in terms of history, language and geographical situation. The Lithuanian state as the biggest of the three countries was only restored in 1918 and by that time in the hand of Poland. It was occupied three times by the Union of Soviet Socialist Republics (USSR), by Nazi Germany and finally again by the USSR whose occupation lasted until 1990. It finally regained independence in 1991 as the first of the three Baltic countries and joined the UN in the same year (European Commission 2004c). As Lithuania further on in history was part of the Swedish empire it is related to Gender Equality in the sense of the Nordic states in Europe.

Since Gender Equality derives quite much from a wide range of factors such as cultural and historical heritage, external influences, economic situation and many more, it is important to have the context of those countries in mind.

5.1.2 Selection of Time Span

A case study analysis does not only request a choice of countries but also a time frame. The relevance of the point of time, its relation to the other selected years and the availability of data is crucially important. As all of the chosen countries joined the EU in 2004, it is a likely choice. At the point of EU accession countries are expected to have fulfilled the accession based on the Copenhagen criteria in order to become officially a member state. Deriving from this starting point it makes sense to extent the view on the time before and after 2004 as far as possible in order to be able to measure the impact of various influences connected to the EU membership. In perspective of the availability of data however, 2009 seems to be the most promising compromise as not all data for 2010 can be collected at this point of time yet. Once the framework is 5 years into the future, it seems obvious to take the same framework and apply it to the past. In 1999 Hungary, Poland and Lithuania received official candidate status and started the negotiations. As it will be argued that the time is a quite important factor regarding the influence of the European Union, this framework seems suitable with first measurements in 1999

when all countries had only received candidate status, second measurements in 2004 when all chosen countries joined the EU and third measurements in 2009 due to the availability of last updated and complete data after the accession process.

5.2 Indices

In the following sequence various indices will be presented. The UN and the World Economic Forum provide specific data that will be further used for the later analysis. Despite of the UN and the World Economic Forum there are apparently numerous attempts to measure Gender Equality. The World Bank with its World Development Report provides a global view on Gender Equality and reasoning as well as statistics on health, participation in education and employment (World Bank 2011). However for the scope of the thesis work the indicators used are too general and little specific on the unique situation of the selected Central European countries for the analysis part. Little surprisingly Eurostat also provides data concerning gender and Gender Equality. However there is nothing such as a gender index, instead gender related data can be found in a wide range of topics from transport, industry, population and trade amongst others (European Commission 2011c). The difficulties and challenges of measuring Gender Equality become apparent at numerous parts of this chapter. The choice for the indices from the UN and the World Economic Forum however should outline deeper insights as this specific selection provides theme-oriented knowledge and interpretations of the measured results for the implications on Gender Equality.

5.2.1 United Nations

In order to understand the challenges measuring Gender Equality, a range of indices will be introduced. The UN has been a driving force in developing indices generally, measuring specifically development, poverty and gender inequality amongst others. As a first index the Human Development Index (HDI) will be introduced as it builds a foundation for other following indices. Human

development according to the HDI is measured by the following criteria: “1. A long and healthy life, as measured by life expectancy, 2. Knowledge as measured by the adult literacy rate and the combined primary, secondary and tertiary gross enrolment ratio and 3. A decent standard of living as measured by GDP per capita” (United Nations Development Program 2001). The index got introduced in 1990 in order to picture development around the globe. In 1995, just before the Beijing Platform for Action, two inequality measurements were introduced, the Gender-related Development Index (GDI) and the Gender Empowerment Measurement (GEM). The GDI in fact builds upon the HDI, elaborating Inequality on the base of those achievements. The basic assumption is a penalty for countries regarding existing intergroup equality of women and men. While the HDI assumes that the average measured is achieved by everybody independently from gender and ethnicity, the GDI bridges that gap. Anand and Sen state clearly that the underlying assumption is that if two countries achieve the same level of development, the country, which has a lower inequality level, should be preferred (Anand & Sen 1995). As the advantages of the GDI compared to the HDI are obvious in terms of gender relation, there are several drawbacks regarding this index. Most of the serious conceptual problems are related to the third part, the income, which causes most of the penalty. Bardhan and Klasen stress three major problems. Firstly, they argue that “the shares of income earned by males and females do not reliably measure the gender gaps in consumption or standards of living at the household level” (Bardhan & Klasen 1999, p. 992). Secondly, despite this poor correlation, they question the basic assumption that the share should be 50/50 in all households. Thirdly, they criticize that only earned income is counted in this calculation while in many parts of the world unpaid work and reproductive labor is not counted. They also see the GEM index as an improvement as it takes political and economic participation as well as power over economic resources into account (United Nations Development Program 2010, p. 90). Barshan and Klasen enhance that the GEM especially avoids the problem of one overriding factor as the income for the GDI. While the GDI focuses on the overall development, the GEM takes the female agency into account and is therefore less problematic. As most of the indicators trying to measure Gender Equality, the GEM also deals with the issue of entirely capturing the economic and political power of women. Consequently Barahan and Klasen criticize “the lack of power

of parliaments” as well as the focus on national governmental representation while local political and administrative levels as well as grassroots movements are neglected (Barshan & Klasen 1999, p. 1001). And thus the improvement, the GEM is still income dominated to an extent that countries with less income will never achieve a high score even with perfect Gender Equality in the other indicators (United Nations Development Program 2011). Therefore the UN introduced a new index, called the Gender Inequality Index (GII) in 2010, which replaced both GDI and GEM. It measures the inequality of women in three dimensions: reproductive health, empowerment and labor market. Despite of other indices, this one shows “loss in human development due to inequality between female and male achievements in these dimensions” (United Nations Development Program 2011). The index is available as far as sufficient quality of data is provided. The GII represents the effort of the United Nations Development Program (UNDP) to present a less critical index, while taking forward the increasing importance and acceptance of the former mentioned indicators. Income, which was the most criticized component of the other indices, is not part of the GII anymore.

The HDI represents the foundation of all indices and focuses on measuring human development in general. While this index on the one side does not include gender specific measurements, but on the other side presents human development within countries, it is worth mentioning it as it remains as a suitable reference point. The GDI and GEM belong to the group of indices considering specifically Gender (In-) Equality. Even though those indices possess some disadvantages, they come along with consistent data for covering a time frame from 1999 to 2007⁷ which includes the most actual data available. Therefore they are also considered in the later present tables. The GII finally is a qualitative index, but it lacks the availability of previous data due to the fact of its young implementation in 2010. Finally the values and rankings of the selected Central European countries will be presented for the chosen indices HDI, GDI and GEM:

⁷ The Human Development Report (HDR) presented in 2009 the data for 2007 as a time lag of two years is consistently needed for a qualitative data processing.

	Hungary			Lithuania			Poland		
	1999	2004	2007	1999	2004	2007	1999	2004	2007
HDI	36 0,829	35 0,869	43 0,879	47 0,803	41 0,857	46 0,870	38 0,828	37 0,862	41 0,880
GDI	35 0,826	30 0,867	37 0,879	43 0,801	35 0,856	42 0,869	36 0,826	33 0,859	39 0,877
GEM	41 0,493	41 0,560	52 0,590	45 0,474	25 0,635	40 0,628	32 0,518	30 0,610	38 0,631

Table 2: Gender Inequality Indices Source Human Development Report 2001, 2006, 2009

The table includes first of all a number representing the country's ranking followed by an index value that ranges from 0 to 1 whereas 1 stands for absolute Gender Equality and 0 stands for absolute gender inequality.

5.2.2 World Economic Forum

The World Economic Forum is another institution which started an initiative to measure Gender Inequality. It developed an own index in 2006 that gets published every year in the Global Gender Gap Report (GGGR). The index measures the access to resources and the possibilities for women in individual countries. This index differs from other indices, such as the ones from the UN, since it generates values for Gender Equality without being affected by other measurement criteria such as economic development. The index is built on four pillars: economic participation and opportunity, educational attainment, political empowerment and health and survival. As the results are listed individually this specific index has the advantage of recognizing disparities in the respective pillars. Analyzing the sources for the data, it consists mainly of the data from various UN organizations as well as the International Labor Office (ILO) and the CIA fact book. For the analysis of economic participation and opportunities, the following variables are used: female labor force, wage equality between men and women, a ratio of female legislators, senior official or manager and finally the ratio of female professional and technical workers to the male value. Education attainment contains ratios of women to men in primary-, secondary- and tertiary-level education as well as ratio of the female literacy rate to the male literacy rate while health and survival focuses on sex ratio at birth and healthy life expectancy.

Finally political empowerment is referred to as ratio of women to men in minister-level positions, as ratio of women to men in parliamentary positions and also as ratio of women to men in terms of years in executive office as prime minister or president in the last 50 years (Hausmann et al. 2006, p. 4).

One of the obvious disadvantages of this index in relation to the defined framework is the relative short existence. Therefore the index will hardly add any value in seeing the development of Gender Equality before the accession of the new member countries in 2004, but rather supports to interpret further trends and developments in the future from 2004 on.

2006	Hungary	Lithuania	Poland	2009	Hungary	Lithuania	Poland
Overall rank (score)	55 (0,6698)	21 (0,7077)	44 (0,6807)	Overall rank (score)	65 (0,6879)	30 (0,7175)	50 (0,6998)
Economic participation	48 (0,6402)	15 (0,7133)	50 (0,6352)	Economic participation	55 (0,6738)	18 (0,7481)	71 (0,6426)
Educational attainment	49 (0,9908)	24 (0,9979)	13 (0,9991)	Educational attainment	64 (0,9924)	54 (0,9946)	33 (0,9989)
Health and survival	36 (0,9791)	36 (0,9791)	36 (0,9791)	Health and survival	41 (0,9791)	41 (0,9791)	41 (0,9791)
Political empowerment	82 (0,0690)	39 (0,1405)	58 (0,1067)	Political empowerment	81 (0,1061)	54 (0,1483)	40 (0,1784)

Table 3: Global Gender Gap Index (GGGI)

Source: Hausmann et al. 2006/2009

Once again the table includes first of all a number representing the country's ranking followed by an index value that ranges from 0 to 1 whereas 1 stands for absolute Gender Equality and 0 stands for absolute gender inequality.

5.3 Key findings

As mentioned in the introduction of this chapter it is aimed to answer the first of the two research questions:

How did Gender Equality develop in Central Europe since 1999?

In order to do so one has to have a closer look on the presented case study and interpret the collected data. Before drawing specific conclusions for the development of Gender Equality in Central Europe since 1999 as such it is necessary to interpret the individual data for each selected country. Therefore, the cases of Hungary, Lithuania and Poland will be investigated and the results will be demonstrated consecutively. Methodically the results are based on a consolidation of the indices GDI, GEM and GGGI as they refer specifically to gender (in-) equality. While the GDI index measures health, education and income, the GEM takes economic participation, political participation and power over economic resources into account. The GGGI as the GEM measures economic participation, but differs finally from it as educational attainment as well as health and political empowerment are considered. For each country the developments will be shown graphically first and the conclusions will be drawn afterwards.

The case of Hungary

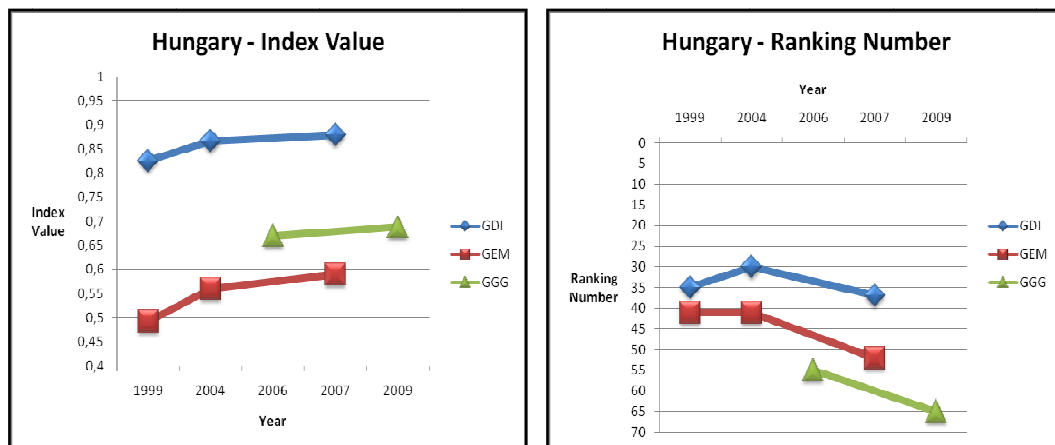


Table 4: Summary of Gender Equality indices for Hungary

Source: Own calculations based on UN and World Economic Forum

Looking at the index value for Hungary one can observe that the values for the GDI, GEM and GGGI increase continuously. The trend of each single index value looks similar. The GDI index value is relatively high compared to the index values of the GEM and GGGI. Furthermore it is obvious that there is a higher increase in value between 1999 and 2004 in comparison with the development of the following years.

While Hungary improves in ranking considering the GDI index between 1999 and 2004, it remains on the same level with regard to the GEM index until 2004. However, after 2004 Hungary loses continuously in ranking according to the development of all three indices.

It is peculiar that the GDI is relatively to the GEM and GGGI higher valued. The two components, economic participation and political empowerment, which are both reflected in the GEM and GGGI, but not considered in the GDI, seems to be rather weak concerning Gender Equality. The decrease in ranking can be interpreted as slower growth in comparison to other countries which can be supported by the fact that only 5 new countries were added during the whole time span.

The case of Lithuania

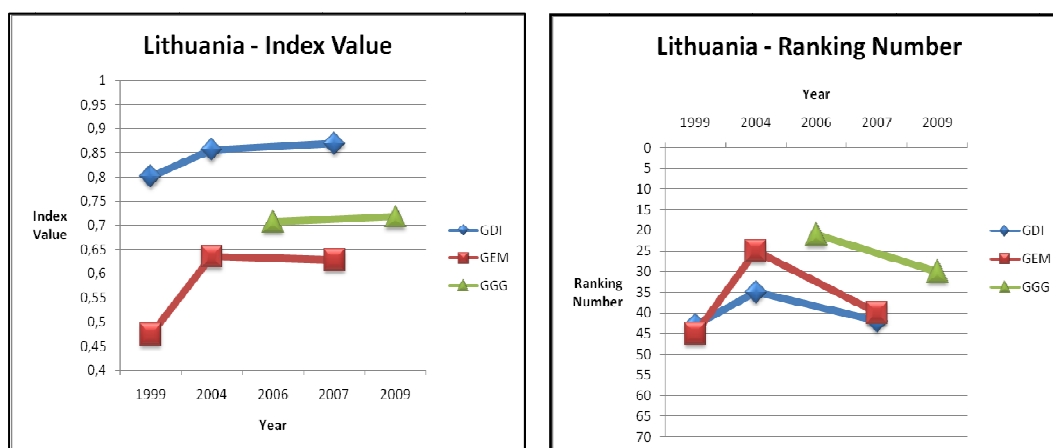


Table 5: Summary of Gender Equality indices for Lithuania

Source: Own calculations based on UN and World Economic Forum

With regard to the index values it can be observed that the values for the three indices of Lithuania show the same trends with two specific exceptions concerning the GEM. Firstly, the increase between 1999 and 2004 is quite immense, but secondly it decreases slightly afterwards. Looking at the ranking the increase in value of the GEM is reflected in a drastic improvement of the ranking number in 2004. However, as for Hungarian case it can be assumed that

Lithuania lost in ranking due to the fact that other countries developed relatively better.

It can be assumed that the negative development of the GEM after 2004 is connected to the decreased ratio of two indicators. Especially the seats of women held in parliament turned down while the share of female legislators, senior officials and managers decreased slightly, which is most likely related to political elections in Lithuania. Even though the HDI is not reflected in the graph it is worth mentioning that Lithuania has considerable high values and rankings in gender related indices compared to the rather low levels of value and ranking of the HDI.

The case of Poland

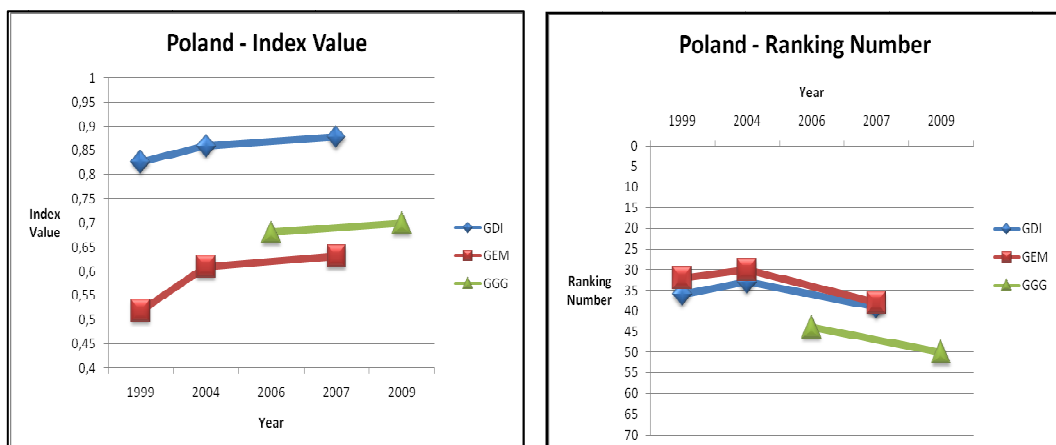


Table 6: Summary of Gender Equality indices for Poland

Source: Own calculations based on UN and World Economic Forum

Looking at Poland and the three index values the trends are quite similar to the ones for Hungary and Lithuania. All index values develop positively and a stronger increase can be viewed until 2004 whereas the curve flattens afterwards. A similar development compared to Hungary and Lithuania according to the ranking number applies to Poland.

Referring back to the first research question to be answered and considering the quite similar development of indices in terms of their index values and ranking

numbers, one can assume that Central European countries, despite their heterogeneous nature, show similar trends in the development of Gender Equality. As all index values of the three countries, besides the GEM of Lithuania between 2004 and 2007, increased continuously one can draw the conclusion that Gender Equality developed positively as the trends indicate explicitly.

Therefore, the first research question '*How did Gender Equality develop in Central Europe since 1999?*' can be answered. Gender Equality developed positively in Central Europe since 1999. The outcome serves as relevant input for the second research questions that will be addressed in the following chapter.

6 The European Union's Influence on Gender Equality in Central Europe

The main focus of chapter 6 is to evaluate the EU's influence on Gender Equality, specifically in Central Europe. The previous chapter 5 stated that Gender Equality developed positively in Central Europe since 1999 which was grounded on a variety of measurements from selected indices. Based on the positive developments in Central Europe it is of crucial interest to question if and how the EU influenced Gender Equality in this specific region. In order to do so the EU must possess a number of tools to assert its influence. Under the framework of New Institutionalism and its focus on Institutions, Interests and Ideas several possibilities of the EU derived to actively drive its mission towards an increasing influence sphere. As there is a high demand of nation states in Europe to join the EU it provides the EU with certain power and enables it to apply a couple of tools and channels to force its own interests over present members as well as over new candidate countries. Here, the tools of the New Institutionalism framework – Institutions, Interests and Ideas – offer a couple of channels for the EU to perform its influence. The tool Institutions provides the Legal Framework and the European Court of Justice as powerful channels, the tool Interests instead offers Positive Conditionality and Europeanization whereas the tool Ideas finally considers Gender Mainstreaming and Europeanization as well. In total, with the elaborated data from the case study, the influencing tools and channels of the EU and the knowledge on country-specific developments in Central Europe one is able to create a research framework that allows giving an answer to the second research question of this thesis which is as follows:

How did the EU influence Gender Equality in Central Europe?

Therefore, in a first step, the selection of Central European countries, as chosen in the former chapter, will be taken on. Chapter 6.1 analyzes the case of Hungary

while chapter 6.2 continues to have a closer look at the case of Lithuania. Last but not least the case of Poland will be investigated in chapter 6.3. A brief summary and final conclusion of the findings will be presented in chapter 6.4.

6.1 The Case of Hungary

With regard to Legal Framework the European Commission based on its report on Hungary's preparations for membership from 1999 states regarding equal treatment that "Hungarian legislation is already partially aligned with the *acquis* in this area" (European Commission 1999a, p. 45). Similar is the conclusion in 2002 when the European Commission stated a well alignment "however, further efforts are needed for awareness-raising campaigns, the training of judges and lawyers and the setting-up of a body for the promotion of equal treatment" (European Commission 2002a, p. 84). After the elections in 2002 the rather fragmented process changed and in 2003 Hungary adopted a uniform Act on Equal Treatment and Promotion of Equal Opportunities. It prohibits discrimination on several different grounds, also establishes an equality body with further reaching competencies than required (Sedelmeier 2009, p. 10). Equality in employment between men and women is sustainably implemented by Hungarian legislation. It can be stated that the *acquis communautaire* regarding the relevant parts for Gender Equality has been sufficiently imposed in Hungarian legislation which was also favored through the elections held in 2002.

With respect to the ECJ it can be argued, due to missing cases forwarded to this court, that no direct effects of influence could have been observed so far. However, it cannot be precluded that any potential indirect effects of European jurisdiction affected national judgments. With the implementation of the EU law the outstanding role of the European Commission becomes visible. As it strongly controls the conformity of norms the *acquis communautaire* got translated into national law.

Taken the data and findings from chapter 5 into account, the significant increase of the index values from 1999 to 2004 and the further ongoing stagnation of those values indicate Positive Conditionality with regard to the EU accession process of the studied countries. It exists as long as the benefits outweigh the costs

concerning the accession. Since Hungary achieved the alignment of national law with the *aquis communautaire* in close cooperation with and through the pressure of the EU closely before its EU accession, one can argue that the channel of Positive Conditionality took effect and impacted positively the development of Gender Equality.

While Europeanization in the sense of Rational Choice Institutionalism can be approved through the implementation of certain directives, the sociological interpretation of Europeanization remains more difficult. As the index developments demonstrate that not only economic participation as the most crucial influence area of the EU but also other areas such as educational attainment show positive trends, one might consider the possibility of Europeanization through a spill-over of EU norms and ideas.

The difficulties of measuring success can be also applied to Gender Mainstreaming. Here, the usage of the received EU funds for new developments regarding equal opportunities could provide further insights. It is peculiar that the equal opportunities issues were once again translated into questions relating mainly to the Roman minority. The concept of equal opportunities was not at all interpreted in a gender context since women were hereby only considered as a special subgroup and NGOs working with Gender/women Equality were placed as monitoring committees (Kakucs & Petö 2008, p. 178). This might raise doubts if Hungary really intended to develop Gender Mainstreaming or simply aimed to benefit from the provided funds.

In summary one can assume that the EU had an impact through the EU accession period as the implementation of the legislation was closely observed by the EU. To a certain extent improvements continued after the accession in 2004, however most of the concepts regarding Gender Equality were ignored or interpreted differently, not focusing on Gender specifically. Borrowing Prechal's and Burri's words, who conclude that "the resulting situation – with some simplification – is nearly perfect compliance in the law books, but a hesitant, fluctuating approach by law enforcement authorities and slow progress in reality" (Lehoczky 2009, p. 71), a positive trend can be stated, but skepticism still exists.

6.2 The Case of Lithuania

In terms of the legal framework, Lithuania's parliament, the Seimas, adopted the directive on equal opportunities for women and men already in 1998 and an ombudsman was appointed in 1999. However the European Commission stresses in its regular report on Lithuania's progress towards accession from 1999 that "Lithuania's capacity to enforce the social acquis once adopted still constitutes a source of concern" (European Commission 1999b, p. 45). In the report from 2000 the European Commission acknowledges the merits of the ombudsman improving effectively the implementation of legislation. Already then it is recognized that Lithuania is overall aligned with the *acquis communautaire* concerning equality between women and men (European Commission 2000a). In 2002 Lithuania was recognized as "Lithuania's legislation is now almost fully in line with the *acquis*" in regards to Gender Equality (European Commission 2002b, p. 84). Despite some smaller issues, overall, Lithuania's achievements in equal pay and equal treatment of women and men are very positive, given the outstanding experience of an ombudsman with its long-standing expertise in the area of Gender Equality (Sedelmeier 2009, p. 10). Davulis argues in a similar way, stating that: "The national labor legislation has traditionally been so heavily loaded with guarantees for women and persons raising children that some provisions may potentially be challenged by male employees" (Davulis 2009, p. 107). The Legal Framework seems rather strong, but it cannot be easily proved if not the already existing norms and values led to the implementation of Gender Equality friendly policies or if the EU finally pushed for it.

As in the case of Hungary no cases of Lithuanian court were forwarded to the ECJ and indirect influence from other judgments cannot be excluded.

Although the graphs indicate an immense influence of the EU through the channel of Positive Conditionality, one cannot be completely sure if the historical development of national law absorbs its power. However, it can neither be excluded that Lithuania got incentivized to develop Gender Equality in the light of the EU accession process. Furthermore it needs to be kept in mind that Lithuania originally was not granted candidate country status in the first round in 1999 due to slow developments, but still joined the EU together with the group of countries,

amongst others Hungary and Poland. This could indicate the willingness of reforms.

Europeanization in the sense of transferring EU norms and values is again difficult to measure. The early implementation of Gender Equality standards allows arguing that those promoted norms and values attached importance. Besides EU legislation, it is worth mentioning that Lithuania established a Women's Advancement Program already in 1996, so even much earlier before the EU accession process.

It can be stated that a high number of initiatives in Lithuania is aligned with Gender Mainstreaming covering a wide range of projects in the areas of employment, science, education, decision-making and violence. As all the ministries are involved, they have also created measurements for Gender Equality in their own policy fields. While the efforts of Lithuania have to be acknowledged, a crucial role however played the European Structural Funds, which sponsored the projects related to the labor market and reintegration of women.

Regarding its development Lithuania achieved much progress on promoting Gender Equality which is underlined by the index values and general positive trends. This could easily lead to the conclusion that the EU had a huge influence on the policymaking. However, the fact that historical developments already improved the field of Gender Equality quite early compared to the time period of the accession process it remains still a bit unclear how intense the influence of the EU finally has been. It is therefore difficult to clearly state the impact of the EU on Gender Equality developments in Lithuania, but some crucial tools such as the European Structural Funds pushed the country towards further progress as well.

6.3 The Case of Poland

The report of the European Commission on Poland's progress towards accession from 1999 stated: "Human Rights organizations' concerns about the need to make progress on national policies improving the treatment of women and providing support for the victims of spousal violence have not been addressed; indeed the

government cancelled a UN program in this field” (European Commission 1999c, p. 17). It remains unanswered and is repeated in the report from 2000: “The issue of equal treatment for women and men was highlighted in the 1998 and 1999 reports as requiring urgent attention” (European Commission 2000b, p. 57). In 2001 the European Commission acknowledged single improvements and some good progress, but as the institutional implementations as well as the alignment with the *aquis communautaire* were still not meeting the expectations, the legal framework is not sufficiently reflected in the Polish law yet. Furthermore it was stated that “actions should be undertaken to raise awareness of equal treatment for women and men, to improve the position of women in the labor market and to increase their representation in decision making” (European Commission 2001, p. 67). The European Commission recognized in the following year the establishment of a Government Plenipotentiary for Equal Status of Women and Men, the amendments of the Labor Code, while still requesting further changes concerning Gender Equality especially in the sense of parental leave. In the final report of 2003 it is contested that even though Poland has implemented most of the legal requirements concerning equal treatment of women and men, thus within the field of employment and social security more amendments need to be made. Furthermore it is stated that “the Office of the Plenipotentiary for Equal Status of Women and Men which has been established in 2001 needs to be reinforced both in terms of competencies and capacities” (European Commission 2003b, p. 40). In the legal review of Gender Equality in 2009, Zielinska concludes: “... when it comes to the transposition of particular EU concepts and regulations, despite several, consecutive amendments, they still show many inadequacies and deficiencies” (Zielinska 2009, p. 137). She refers to the overprotection of women through binding labor law such as the prohibition of certain activities by all women. Summarizing it can be said that the implementation and the alignment of national law along with the *aquis communautaire* have been followed on a minimum level, without the pressure of the EU Commission it seems likely that even less would have been achieved. In summary for the Legal Framework it can be concluded that Poland put minimum efforts on following the aimed Gender Equality policy developments of the EU.

With regard to the ECJ, as for the cases of Hungary and Lithuania, it can be noticed that no cases concerning Gender Equality were forwarded.

Based on this long lasting and difficult process between the EU and Poland, the EU's power of influence and its limiting character were revealed at the same time. Without the announcement of benefits of an EU accession Poland most probably would have not invested much in the development of Gender Equality related topics yet. The concept of Positive Conditionality seemed to have a rather strong impact on Poland, but it is still questionable if the results could be pushed to a sufficient level. Lohmann supports the argument "The EU worked as a real engine for Gender Equality during the period of accession process where joining the EU was treated as a priority by government" (Lohmann 2008, p. 189).

Europeanization remains rather difficult or even unlikely. The GGGI indicates some progress on the topic of Gender Equality concerning political empowerment, but educational attainment as well as health and survival remained on the same level.

While after the collapse of the communism various organizations and foundations entered the country with a clear democratization assignment, they saw their project completed when Poland joined the EU. That had several implications on the work of especially the small and women focused NGOs as it became more difficult for them to raise money. The ESF as described above provides funding for those organizations engaging in the topic of Gender Mainstreaming, but the administrative effort was enormous and led to a re-orientation of the NGOs to focus more closely on equal opportunities on the labor market rather than being involved in diverse Gender Mainstreaming projects. That clearly diminished the range of projects i.e. projects on women's reproductive rights, women's human rights and so forth (Lohmann 2008, p. 190).

The developments driven towards more Gender Equality in Poland were not really meeting the expectations of the EU. The EU accession process once again incentivized Poland to implement some changes in the Gender Equality policymaking and first political foundations could be established, but in the end Poland invested only a minimum amount of energy on liberalizing gender dominated fields. Therefore it can be argued that the EU with its powerful concept of Positive Conditionality achieved some progress, but development initiatives still take quite a long time and effort to find real acceptance and support.

6.4 Key Findings

The analysis of the three countries Hungary, Lithuania and Poland as a representative group of Central European countries provides further insights with respect to the EU's influence taking character on developing common Gender Equality policies and pushing for their implementation in national law of EU member states. The research framework consisting of Institutions, Interests and Ideas represents three major tools of the EU to exert its influence through various channels. The two major Institution-based channels are Legal Framework and the ECJ while Positive Conditionality and Europeanization belong to the Interests-based channels. Last but not least Europeanization once again and Gender Mainstreaming represent the two major Ideas-based channels.

While some of those channels had quite significant effects on the countries and could unfold their potential in this analysis, others probably could not as they did not come up with applicable results in this research frame.

Regarding the specific findings for each case it can be highlighted that Positive Conditionality and Legal Framework are the most impactful channels due to the EU accession process. While the ECJ could not make use of its capacity, Gender Mainstreaming tends to be rather used than intentionally lived as it provides access to EU funds. Europeanization is more likely connected to the developments caused by the Institutions- and Interests-based channels instead of provoking any effects by itself.

This finally highlights that the EU's influence on Gender Equality in Central Europe is mainly exerted through its Institutions- and Interests-based channels Legal Framework and Positive Conditionality, while Ideas-based channels are less effective.

Finally the key findings mentioned will be applied to the second research question *'How did the European Union influence Gender Equality in Central Europe?'* to provide an answer. Finally it can be stated that the EU influenced Gender Equality in Central Europe mainly through its two channels Legal Framework and Positive

Conditionality which represent the first two components, Institutions and Interests, of the introduced research framework.

7 Interpretation and Conclusion

This thesis is mainly built on two specific research questions which aim to develop an answer to the overall research problem regarding the influence of the EU on Gender Equality in Central Europe. Research question 1 '*How did Gender Equality develop in Central Europe since 1999?*' examines the development of Gender Equality within the representative group of Central European countries Hungary, Lithuania and Poland since 1999 through interpreting the trends of selected Gender (In-) Equality indices over time. As a result of the analysis it could be identified that changes regarding Gender Equality took a positive development within this region. These key findings serve as relevant and required input to move on to research question 2 '*How did the European Union influence Gender Equality in Central Europe?*' and form an answer. Based on the chosen framework of Institutions, Interests and Ideas specific channels of the EU to exert its influence on present and potential member states are introduced. Each of the selected countries is studied with regard to the channels Legal Framework, ECJ, Positive Conditionality, Europeanization and Gender Mainstreaming. Hereby, Legal Framework and Positive Conditionality are identified as the driving channels of the EU's influence on Gender Equality in Central Europe.

This final chapter now focuses on interpreting the presented key findings and drawing final conclusions. Firstly, two major aspects that leave room for deeper interpretation will be highlighted. One addresses the eclipsed aspect of ideas that could not sufficiently be outlined due to the limitation of the chosen method. Another one questions if the EU has tapped the full potential of its available tools and channels. Secondly, potential criticism will be presented and addressed. Thirdly, with regard to the scope of this thesis additional input for further research will be given. Last but not least the core insights will complete this thesis work.

The identified results of this thesis reflect one central discussion point concerning the relevance and importance of norms and values in discrepancy to the lack of

suitable measurements leading to a marginalization of Ideas-based channels. While the concepts of Institutions and Interests are relatively tangible and quite easy to monitor, the concept of Ideas is rather complex and difficult to analyze. Through the application of Institutions and Interests only it is not possible to sufficiently explain observed phenomena such as developments with regard to Gender Equality. This means in reverse that ideas are used to interpret remaining unexplained observations to provide a more detailed and complete picture on the situation. In the following some specific phenomena of this thesis work that pinpoint the exceptional position of Ideas will be presented.

One remarkable phenomenon is related to the relation of EU social policymaking and Gender Equality development. All Gender Equality policies are part of social policy. In this specific policy area EU member states have proven to be reluctant to accept any supranational policymaking. An examination of past tries of the EU to trigger social policy developments is counterattacked by the member states which “jealously protect their prerogatives in social policy” and are very reluctant to hand over control (Leibfried and Pierson 1995, p. 46). However, Gender Equality policy remains as an exception here as the findings of this thesis demonstrate that the EU is able to exert influence on Gender Equality as a part of social policymaking. This is contradictory. Some scholars argue that it might be due to the very basic principle of equal rights, which member states find difficult to reject. Others argue that the ideological benefits offset the economic costs (Vleuten 2007, p. 3). This leaves room for the assumption that the Ideas-based view including norms and values dominate.

Another observation is connected to the loyalty of member states to implement EU law, for example EU directives, even after their accession to the EU when the channel of Positive Conditionality is not effective any longer. This can be explained with the power of the channel Legal Framework, which however most probably functions only due to the fact that implemented norms and values are already established to trigger such a behavior. The alternative explanation that a risk of penalty causes the implementation of directives is rather weak.

Furthermore, the EU claims through its policymaking specific developments in certain areas of Gender Equality, however, as it can be seen from the development of GGGI index, also other areas improve. This once again leaves room for further

interpretation and could be connected to the Ideas-based aspects forming norms and values.

These three very specific examples have demonstrated that there is something beyond the relatively tangible measurements of institutions and interests, which may find explanations in Ideas.

After the closer look on the powerful tools and channels of the EU one can doubt and question whether the EU actually has tapped the full potential of them. With respect to the sovereignty of national states and through the legislative process EU member states exert influence on Gender Equality standards. While some of the member states claim for higher standards, others react opportunistically. As a consequence only the least common denominator is implemented which finally leads to the conclusion that the EU is limiting itself. Therefore, despite the existing powerful tools and channels, it can be argued that the highest possible standards for Gender Equality were not achieved. All in all it is assumed that the full potential of the channels and tools was not tapped. Besides the obvious limitations of those, the presented dilemma had a bigger impact on the standards of Gender Equality as they suffer from the insufficient supranational character of the EU.

Further on, basic criticism regarding this thesis work will be briefly addressed. The complexity of the Gender Equality term leads to a high number of broad and diverse definitions and a need for abstraction causing a deviation from the perfect. Well known limitations come along with the choice of the case study method. Regarding the data material it can be stated that the compression of information into indices does not cover the whole scope of the concept. For the chosen time span ranging from 1999 to 2009 no indicator is consistent with respect to those years. The generalization from the selected countries Hungary, Lithuania and Poland to Central Europe is critical, however based on the scope of this thesis it is not possible to analyze all European countries in such a deep manner which legitimates the representative selection. It cannot also be assured that more suitable indicators besides the chosen ones do exist.

The application of New Institutionalism on the EU can be questioned. Olsen for example argues that the “import of analytical tools, however, have come together with an increasing influx of who have used the EU as an empirical testing ground theoretical ideas and concepts originating elsewhere, and this influx has weakened conceptions of the EU as a sui generis phenomenon requiring its own analytical tools“ (Olsen 2010, p. 44). In addition it can be criticized that the channels Legal Framework, ECJ, Positive Conditionality, Europeanization and Gender Mainstreaming have been customized into the categories Institutions, Interests and Ideas.

Since a thesis is always limiting in general further research can be conducted to support the research of the chosen topic. As norms and values take time to get manifested it would be interesting to analyze those later on again to extract more suitable conclusions. Due to the fact that only member states have been taken into account for the analysis while norms and values are reflected within the societies, it would be worth it to include the civil society to achieve more adequate results. Finally, as for each thesis, it would be valuable to deepen the research through applying various research methods and view the topic from different perspectives more intensively.

The application of the framework Institutions, Interests and Ideas based on the New Institutionalism approach appears suitable. The analysis provides plausible indications for the EU’s exertion of influence through Institutions and Interests. Even though the impact of Ideas is not evident yet, its inclusion and mention remains highly relevant and logical. While Institutions and Interests trigger the introduction, only in addition with ideas Gender Equality can be grounded and anchored in the societies of the EU member states. This is also reflected by Solana who quoted “we just ask the countries which are interested in participating in our structures to comply with our rules and to share our values”. The overall goal of the EU is the manifestation of Gender Equality in norms and values to ensure that the concept is lived in everyday life and sustained.

For the achievement of higher standards Gender Equality would benefit from a higher degree of EU supranationality.

In the end, adverting to the question posed in the very beginning, the conclusion drawn from this thesis work states that albeit Gender Equality in the EU continues to face challenges, the term farce does not embrace the progress made. Consequently the term should be paraphrased: Gender Equality in the EU: An Incipency!

8 Executive Summary

Gender Equality is embedded in the basic principles of the EU reflected as early as in the Treaty of Rome 1957. Despite its early acknowledgement, a first look indicates not much progress achieved. With the biggest accession round of 2004, the Central European countries provide a welcomed opportunity to measure the EU's influence on its member states. A case study on the selected countries Hungary, Lithuania and Poland is conducted in order to deliver valuable insights on the EU's exertion of influence on Gender Equality in Central Europe.

For the main analysis two specific research questions have been defined: '*How did Gender Equality develop in Central Europe since 1999?*' and consecutively: '*How did the European Union influence Gender Equality in Central Europe?*'. The methodology of the case study with the predefined variables will be connected to the theory of New Institutionalism with its components Institutions, Interests and Ideas to derive further interpretations. This will be in specific applied to the individual cases of Hungary, Lithuania and Poland.

The concept of Institutions, Interests and Ideas is based on three different strands within the theory of New Institutionalism. While the role of Institutions can be best linked to Historical Institutionalism, the discussion around Interests is enriched by insights of Rational Choice Institutionalism. Even though it might seem rather vague on the first sight, the discussion around Ideas will play a crucial role for the development of Gender Equality on the national and international level. The framework of Ideas is inspired by the so-called Sociological Institutionalism.

Having established a theoretical setting for the analysis, more detailed background knowledge can be provided for the comprehensive term of Gender Equality. The following considerations have to be regarded in the light of the common communist past of the Central European countries as based on a superficial examination several tendencies in the respective countries could be easily interpreted as Gender Equality friendly. Women in Central Europe compared to their Western European colleagues were for example incentivized in various ways

to join the labor market. However, it has to be understood that despite of high female labor participation, well developed child care structures, maternity benefits, quotas in parliament, this condition was not caused by the aspiration of Gender Equality but instead by the need of labor. Relating this topic to the EU, the attention is concentrated on its started accession process. This process remains as a powerful tool to shape applying countries towards a more EU aligned policy on their respective national levels. Therefore, the EU accession process has to be considered when further analyzing the EU's influence to drive certain policy areas.

Prior to this the potential channels of Institutions, Interests and Ideas were introduced based on the enhancements of New Institutionalism. This frame is then filled with various potential channels of influence such as the Legal Framework and the European Court of Justice for the Institution-based approach, Positive Conditionality mainly for the Interests-based approach and Europeanization as well as Gender Mainstreaming for the Ideas-based approach.

In order to answer the first research question, it is necessary to interpret the individual data for each selected country. Methodically the results are based on a consolidation of the several United Nations Indices as well as of one additional one from the World Economic Forum, which all refer specifically to Gender (In-) Equality. Therefore, after investigating the cases of Hungary, Lithuania and Poland, it can be seen that Gender Equality develops positively in Central Europe since 1999. The outcome serves as relevant input for the second research question. Based on the positive developments in Central Europe it is of crucial interest to question if and how the EU influenced gender equality in this specific region. In order to do so the EU must possess channels and tools to assert its influence. Here, the tools of the New Institutional framework – Institutions, Interests and Ideas – offer a couple of channels to the EU to perform its influence as stated. While some of those channels had quite significant effects on the countries and could unfold their potential in this analysis, others probably could not as they did not come up with applicable results in this research frame. Regarding the specific findings for each case it can be highlighted that Positive Conditionality and Legal Framework are the most impactful channels due to the EU accession process. While the ECJ so far could not make use of its capacity, Gender Mainstreaming tends to be rather used than intentionally lived as it provides access to EU funds.

Europeanization is more likely connected to the developments caused by the Institutions- and Interests-based channels instead of provoking any effects by itself.

Insofar it is highlighted firstly that the EU's influence on Gender Equality in Central Europe is mainly exerted through its Institutions- and Interests-based channels Legal Framework and Positive Conditionality, while Ideas-based channels seem less effective. Even though the impact of Ideas is not evident yet, its inclusion and mention remains highly relevant and logical.

In summary it can be concluded that Institutions and Interests trigger the introduction, but only in addition with Ideas Gender Equality can be grounded and anchored in the societies of the EU member states. Furthermore it becomes evident that Gender Equality would benefit from a higher degree of EU's supranationality.

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