

GENDER AND LAW IN PRACTICE AND PROFESSION



Court of Justice of the European Union



Overview

Introduction to the topic:

“The Impact of Gender Perspective on Legal Profession - Useful or Harmful?”

- 1. The current state of under-representation of women in high profile judicial functions**
- 2. The contribution of the European Court of Justice and the EU legislator to gender equality**
- 3. The possible impact of the composition of the bench in terms of gender equality**

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**1. The current under-representation of women in
International Justice and Academia**

**Court of Justice of the EU: 7 women out of 38
Judges and Advocates General**

**General Court of the EU: 2021 - 16 out of 51; 2016 -
12 out of 50**

**national nomination procedures: e.g. Germany: less
than 20% of law professors are female;
1990 -- three out of 400 in the German Association
of Professors of Public Law**



1. The current under-representation of women in International Justice and Academia

Reasons for the Underrepresentation

- ❑ Prejudice**
- ❑ Bad framework conditions and traditional work allocation prevents women from engaging in high profile judicial and academic careers from the outset – and then, when it comes to nomination procedures for institutions such as the ECJ, they are not there to run for nomination**



**1. The current under-representation of women in
International Justice and Academia**

Remedies against Underrepresentation

(1) good and affordable all-day-childcare-structures

**(2) fair wages for people working in the care- and
nursing-sectors**

**(3) a taxation system that allows to set off costs for
childcare and housekeeping against tax liability and
that encourages both partners to work (family-
splitting)**



**1. The current under-representation of women in
International Justice and Academia**

Remedies against Underrepresentation

CJEU - good framework conditions - Under the highly qualified legal secretaries of the ECJ we meanwhile have 43% women (72/170)/37% at the GC (50/136).

**Need to empower especially young women and students like you, to be confident about their potential and opportunities;
prevent women from auto-limiting themselves, which often starts at a very young age.**



2. The promotion of women's rights by the European Court of Justice and the EU Legislator

1950s - Art. 119 EEC - equal pay for male and female workers for equal work or work of equal value

Background: France's fear of competitive disadvantages due to its "politique nataliste"

Law: Art. 3 TEU, Art. 8, 19 TFEU, Art. 23 Charter; "anti-discrimination" directive (2004)

CJEU: very progressive, factual discriminations, part time workers, working mothers

"Test-Achats" (2011) - Unisex insurance rates



**3. Do women judges make the difference
in terms of substantive output?**

Objectivity of the law?

US Supreme Court (1872): “[t]he natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life”, including that of an attorney.

German Federal Constitutional Court (1977): “in granting a tax reduction for domestic help expenses, mothers who take care of their own children’s education might feel disadvantaged”.



Conclusion

Impact of Gender Perspective on Legal Profession is Useful and Necessary

- ❑ **to avoid stereotyped thinking**
- ❑ **in order to have a full perspective of all aspects of the situation sub judice, that is for the quality of judgments**
- ❑ **European Court of Human Rights/ECtHR Strasbourg (2019), re quotas for women candidates in elections: a pronounced imbalance between men and women in politics could jeopardize the very legitimacy of democracy**



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Thank you for your Attention!

