

# How Women in Europe where cheated on a new progressive EU Law on equality between women & men

by [Malin Björk](#)

Les femmes en Europe ont eu beau demander fermement une législation européenne progressiste, la proposition de directive sur l'égalité homme-femme en dehors du milieu du travail, prévue en novembre, a finalement été réduite à peau de chagrin. Voici l'histoire d'une proposition initialement progressiste qui fut mise à néant par le lobby de l'industrie et un manque de volonté politique des Etats membres.

## **It was all in the 'secret' proposal**

In the initial text the European Commission draftspersons had in many ways followed the structure and themes covered by the already existing EU 'racedirective' that prohibits discrimination on the grounds of race and/or ethnic origin. The new gender equality directive would be using the same legal basis (Article 13) as the 'race directive'. The initial draft proposal was a horizontal (overarching) directive covering areas such as equality in social protection and health care, social advantages, education, and access to goods and services. In addition the draftspersons in the Commission had added areas of particular importance to gender equality such as prohibition against sexdiscrimination in taxation and prohibition against sexism in advertising and media. All this was in the initial text while the proposal that will be presented to the public will have dropped all domains except 'Access to goods and services'. How did it happen ?

## **Non transparency...and full access for industry lobbyists ?**

The initial text being debated and referred to, and which was first released to the insurance industry, was an unofficial text - a 'non existing' proposal. This means that only through the right contacts one could get over a copy of the 'secret' text. In this context of complete non-transparency some actors have more access to 'confidential' texts than others...

First out to take all possible actions to stop the new directive was the insurance industry. They had privileged access to the proposal for several weeks during which they produced glossy studies on the impossibility to live by the principle of equality between women and men in their sector. From the insurance industry you can learn interesting things...

Did you for example know that women are a risk factor ? Because they live longer than men. Because some of them have children. Risk factors so serious that European private insurance companies are mobilised and armed to their teeth with reports, graphics, and powerpoint presentations on the subject ► ready to try to corner decision-makers at every possible occasion.

Not long after the insurance industry, the European Publishers Association (EPA) became involved. They were very - VERY - concerned that the proposed directive might prohibit sexism and incitement to sexual hatred in media and advertising. It was apparently not an argument strong enough that the same wording, but prohibiting racism and incitement to racial hatred, already exists in EU law. The responsible Commissioner, Anna Diamantopoulou, was attacked in sexist articles and portraits, and the UK yellow press yelled that 'Europe' wanted to suppress their page-3 girls (yes, thank you by the way..).

The publishing business made the corridors of the European Commission with an outdated and nonproblematised discourse about 'freedom of speech' - desperately trying to pretend that todays' media would be any different from other profit making companies !? I don't think that the few, more or less, serious public service run media that are still alive and kicking in Europe have much to fear of a prohibition against incitement to sexual hatred. But pornography is just too big business for the core of publishing corporations to see it questioned, or even see a case brought against them (by some angry feminists - yes !) and brought to trial in the European Court of Justice.

Journalists do not in a direct sense have the same commercial and advertising interests as does the publishing and media companies. And it is interesting to note that the European Federation of Journalists has not yet made a statement, and probably will not do so since there would be no consensus on the issue.

### **Resistance from within - a divided European Commission**

The decision by the Commission to adopt and release a proposal happens through complex negotiations between the different departments - Directorate Generals - of the Commission, and all proposals have to be adopted by the full college of Commissioners. In the case of the new proposal for a gender equality directive, the industry who enjoys privileged access, had been doing intense lobbying. Furthermore that gender equality issues are still often considered « uncomfortable », and remain severely down-prioritised for most within the European Commission. Maybe it is therefore not a surprise that many of the 20 European Commissioners were reluctant to adopt the proposed directive, and some actively worked against it. The latter is especially true for Commissioners Liikanen (Enterprise), De Palacio (Vice-President), Vitorino (Justice and Home affairs), and Patten (External relations). Unofficial information... of course

### **Lack of Political will among EU Member States**

In conclusion, the position of Commissioner Diamantopoulou was quite difficult. It would have been helpful or even strictly crucial at this stage that she received the support from the governments in Europe. The Commission is not insensitive to Member States' governments expectations. And here is the second problem. The Member States seemed even less interested than the Commission to see the proposal released into the public circuit of EU decisionmaking. Neither right-wing, nor socialist

governments in the EU Member States gave the Commissioner the support she would have needed to put forward a decent proposal. On the contrary I would guess. In Diamantopoulou's intervention in a public hearing in the Women's Rights Committee of the European Parliament on 10 September it already looked as if the Commission was prepared to surrender under of the pressure from publishing and advertising companies, and not propose the prohibition against sexist advertising. The Commissioner referred to a suddenly occurred "lack of legal basis". This of course is nothing more or less than a question of political interpretation - if there is a legal basis against racism in media, there is also a basis to legislate against sexism (Article 13, supported by article 2 in the Amsterdam Treaty).

Then in a carefully staged intervention in the European Parliament in mid-October, Diamantopoulou announced that the proposal would be reduced and would only deal with 'Access to goods and services'. This means that all other areas have been removed from the initial text ! The room was full of Members of European Parliament from all the political groups. Those who could - and should - have voiced their protests, critical questions, and comments, remained silent. The NGO observers without the right to speak - remained also in a silent state of incredibility.

### **Never to be debated in public !**

One can have different views on for example how far freedom of speech can be stretched, and other issues included in the initial draft proposal. And these views should of course be thoroughly discussed in the making of laws. However, the most acute problem is that the proposed directive was not even submitted into the open for a proper and transparent public debate among citizens, in elected assemblies, and by Member States' governments. Only a few privileged actors had access to the relatively progressive initial proposal, which will never reach the eyes of the greater public. And women citizens in Europe did not have enough time and resources to mass-mobilise in order to counteract those swift industry lobbyist that work best in obscurity and non transparency.

This is how women all across Europe were cheated, and will only be presented with a sectoral proposal that excludes most contagious issues, which would have been necessary to address in order to finally take one step further when it comes to EU gender equality law.

\*There was a revision of Directive 1976/276 in 2002.