

# **Policy Frames and Implementation Problems: The Case of Gender Mainstreaming**

## **State of the Art and Mapping of Competences in Austria**

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## State of the Art on Gender Equality Policies and Gender Mainstreaming in Austria

### Summary

Far from being a cross-sectional policy, gender mainstreaming efforts in Austria have so far concentrated almost exclusively on punctual labour market measures. Evaluations of gender mainstreaming are therefore restricted to the labour market or related areas, such as the income tax system. As there is little funding for feminist research in general, empirical research on gender mainstreaming and equality policy issues is underdeveloped and takes place mainly in the university setting. The few academic studies that have been undertaken lack empirically based reflections on the aims and strategies of gender mainstreaming in the Austrian political system. There is consensus among most of the authors that gender mainstreaming is to be viewed sceptically, that it must be complimented by traditional women's equality policies and that its effectiveness is dependent on the continuity of political will and consensus about its goal.

Gender equality policies in Austria developed slowly compared to other western European countries such as Germany. The reasons for the delayed development can be found in the particular setting of the political system, which has been characterised by the hermetic of a bipolar party system, monopoly-like interest organisations and the system of seeking consensus and conflict avoidance within the so-called "social partnership". Male bonding and networks have been forming an integral part of Austrian corporatism: these principles reinforced seclusion and male homogeneity, supporting and promoting fraternal male interests and excluding women and women's issues. Until the late 1970s, women's policy remained limited to issues of waged labour or family and children. Following this *initial stage*, women's equality policies *consolidated in the 1980s, expanded in the 1990s* and have *stagnated* with the new government coalition between the conservative People's Party (ÖVP) and the national populist Freedom Party (FPÖ).

During the initial phase the autonomous women's movement was relatively weak compared to the influence of party feminism, especially the women's organisation of the Socialist Party (SPÖ). Erosion of the social partnership, a secure parliamentary majority for the SPÖ, cooperation of both autonomous women's movement and the SPÖ women's organisation strengthened the number and assignments of women in government positions (two state secretariats for women's concerns were established). The consolidating phase of the 1980s was characterised by an institutionalisation of equal opportunity politics, revolving mainly around issues of abortion, equal pay, equal opportunity and discrimination. Women's politics expanded in the 1990s, women's issues were dealt with as cross-sectional responsibility by a "Federal Ministry for Women's Affairs", which had a small budget of its own for the first time. Austria achieved a political "Europeanisation" by adopting EU gender equality measures. The new political setting since 2000 resulted in cutting down resources and dissolving existing structures. These measures were officially legitimised by applying gender mainstreaming. Activities of the ministries labelled as gender mainstreaming vary strongly: apart from creating an

inter-ministerial working group, some ministries are hardly active at all, some have organised gender sensitivity trainings or published gender specific data.

Equality legislation in general has been stimulated by the influence of treaties under international law, although there are inconsistencies. Obligations under international labour treaties were incorporated into national jurisdiction relatively quickly, whereas more comprehensive steps to ensure *de facto* equality of women and men under CEDAW were taken only hesitantly. Obligations under European Union Law, however, were in most cases fulfilled without much delay; these obligations have also resulted in a more comprehensive equality policy efforts on the provincial levels. Still, efforts to pursue equality between women and men as set out in Articles 2 and 3 of the Treaty of Amsterdam by applying gender mainstreaming have not resulted in comprehensive changes of the unequal situation of women and men in Austrian society.

## 1. State of the Art on Gender Equality Policies and Gender Mainstreaming

In order to understand the “state of the art” of gender and women’s policies and gender mainstreaming in Austria, we draw on the history of the policy field in the context of the Austrian political system. In the first chapter (1.1) we describe the development of gender equality policy and gender mainstreaming in Austria in four stages since the 1970s. We want to point out the specific settings of a corporatist country, the barriers and problems to establish the policy field. We focus on actors in the field (like the women’s movement, women’s groups, parties, social partners and governments). The first chapter gives an overview of the institutional development in the policy field on the national, the provincial and the local level. Through this chapter, we intend to show continuities between women’s policy and gender mainstreaming as a political strategy. But we also intend to use this chapter to point out changes in the policy environment (changes in governments). The second chapter (1.2) focuses on the development of legislation in the field of gender equality policies. In this chapter, we describe the history of laws concerning gender equality, and show how the jurisdiction of the highest-level body of jurisdiction, the “Constitutional Court” has impacted legislation and led to amendments of the laws.

### 1.1 History of Austrian Gender Equality Policies and Gender Mainstreaming

Compared to other western European countries such as Germany, equal opportunity policies in Austria developed slowly (for an overview, see Sauer 2001). The causes for the slow development of equality policies are found in the structure of the political system. Since the end of the Second World War, the institutional framework of the Austrian political system has been characterised by a bipolar party system and by a high degree of centralisation, concentration and privilege of the monopoly-like interest organisations (Appelt 1995, 612)<sup>1</sup>. In the early post-war years, the restorative climate, the hermetic of the two “Lagerparteien” and the male centred system of social partnership excluded women from the parliamentary and the executive. It was not until 1966 that the first woman took a position in the Austrian government. The Austrian “corporate corporatism” (Neyer 1996, 88ff.) contrasts with Germany, and also with the “universalist” corporatism of Sweden (ibid., 95ff.) through a particularly intensive co-operation between social partnership, parties, and the bureaucracy. Common forms of networking are the “integration of the politically relevant groups in the respective interest organisations” (Tálos 1997, 443) and so-called “contingent mandates” on election lists for members of the social partnership. The representatives of organised interest groups take part in the pre-parliamentary policy process in multiple ways: through developing drafts for laws, assessing law making processes, and partially through implementing policies (ibid., 444ff.). Their influence beyond that is secured

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<sup>1</sup> The so-called system of social partnership includes employers' associations and labour unions; in Austria, additionally, the chamber of labour (*Bundesarbeiterkammer*), the chamber of industry (*Bundeswirtschaftskammer*) and the chamber of agriculture (*Bundeslandwirtschaftskammer*) belong to the social partnership.

through formal and informal interconnections with the decision makers in government and in the bureaucracy – in committees, commissions and bodies of the ministerial bureaucracy (Neyer 1995, 614).

These mechanisms strengthened the male-bonding structure of Austrian corporatism, which is much more gender-resistant than parliamentary bodies and parties. The networks are literally “manned”: until recently, women were not represented at all in positions relevant to decision making within the Austrian social partnership<sup>2</sup>. The space opened by social partnership discourse is organised on the principles of consensus and conflict avoidance, instead of majority rule (Czada 1992, 223). Exclusivity, seclusion, invisibility and secrecy (often in the sense of non-recorded material) are necessary conditions for consensual political negotiation. Usually such networks close themselves off from the outside because a certain degree of homogeneity – and in this case male homogeneity – is constitutive of the consensual procedure.

Yet not only the “manned-ness” of the tripartite negotiation network excluded women and women’s issues. The organised interests in the social partnership were “fraternal male interests” (Neyer 1997, 185). Interests which were not debatable in economic or waged labour discourses were negated. Women’s interests not fitting into this frame had a difficult time being put on the political agenda. Until the late 1970s, women’s policy was included in social or family policies and thus remained limited to questions of waged labour or family and children. The androcentric structure of social partnership excluded women’s issues from the political agenda, except abortion – a traditional part of the Social Democratic agenda since the 19<sup>th</sup> century (Köpl 2001).

This setting made the substantive representation of women in the policy process especially difficult, even though the number of women in political bodies has been increasing slowly since the seventies. How was women’s political “infiltration” in Austria at all possible? The history of Austrian women’s policies can be divided into four stages: the *initial stage* or *introductory phase* at the end of the seventies, the second *phase of consolidation* in the eighties and the third of *expansion* in the nineties (Siegmond-Ulrich 1994). The *last stage of institutional decline* started with the new government coalition between the conservative People’s Party (ÖVP) and the national populist Freedom party (FPÖ) in the year 2000.

### **Introductory stage: the seventies**

*The seventies* were characterised by the “Austrian way” of social-democratic reform politics, the “Austro-Keynesianism” (Gottweis 1997, 343). The social-democratic government initiated social modernisation “from above” with the well-known phenomenon of educational expansion and the stronger integration of women in the labour force. These policies were accompanied by an equality discourse. With the social-democratic governments in the seventies and eighties, the number of women in government was slowly increasing. In the first stage of Austrian equal opportunity politics, the Kreisky government increased the number of women

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<sup>2</sup> In 1994, the first woman was voted in as president of the federal chamber of labour (*Bundesarbeiterkammer*); and she was the first woman in the “Parity Commission for Wage and Price Issues”.

in government – in the beginning by enlarging the number of government positions (state secretaries). In 1979, seven women (of 23 members) were in the Austrian government, only two of them ministers<sup>3</sup>. This was the starting point for female representation on the government level. However, the gender division of labour was and still is working on the government level; the ministry of finance, like the ministry of social affairs, for instance, are male departments.

Since the seventies, the tripartite negotiation network is increasingly marked by dissent of the interest organisations. Organisational interest politics were weakened by an increasing party influence in the policy process. This erosion of the social partnership built the opportunity structure for equal opportunity policies and for the framing of the women's question in a gender, as well as social policy discourse. This change made the establishment of women's policy institutions possible. Yet without a women's movement as well as the social democratic party feminism<sup>4</sup>, this would have been almost unimaginable.

New social movements first arose at the beginning of the seventies, including the women's movement. In 1972, the first so-called autonomous women's group, the 'Platform of Autonomous Women' (*Aktion unabhängiger Frauen, AUF*), was founded in Vienna as a small group of women activists with a socialist background (Geiger/Hacker 1989, 35; Dick 1991, 38-51.). Yet, the Austrian movement only slowly mobilised, mainly around the issue of abortion. The social-democratic party proved itself open to the concerns of social movements. In the seventies the SPÖ "bundled together the hope for change, participation and reform" and channelled political protest (Gottweis 1997, 345 and 357). The new regulation in 1975, which outlawed abortion after the first trimester of pregnancy was, for instance, carried through by the Social-Democratic women's organisation. The women's movement at that time acted in close co-operation with women from the SPÖ (Köpl 1999, 65). The *introductory phase* of women's politics did not begin with a push for mobilisation of an "autonomous" women's movement around the issue of abortion as in Germany. In the mid-seventies, the "autonomous" anti-institutional movement remained relatively weak in comparison with party feminism.

1979 was a milestone year for women's politics in Austria. Not only was the "Equal Treatment Act" (*Gleichbehandlungsgesetz*, see 1.2) passed in 1979, but the first Women's Policy Agencies were also established. As accompaniment to the law, an "Equal Treatment Commission" of the social partners (*Gleichbehandlungskommission*) was founded within the ministry of social affairs. Although it should have played an active role, it did not possess the power of sanctions (Rosenberger 1998, 26). The debates surrounding the "Equal Treatment Act" of 1979 were indicators of the social partnership conflicts which were erupting and optimising the chances for the women's political agenda (Tálos 1997, 436). The anchoring of institutional women's politics in the administrative system, as well as the establishment of Women's Policy Agencies, initially met with strong opposition from within the SPÖ and the state administration. The erosion of the social partnership toward the end of the seventies, along with the co-operation of women from the Social-

<sup>3</sup> For a comparison: The government of 2000 had 16 members, five of them were women, one of the female members had a position as state secretary (Steininger 2001).

<sup>4</sup> The socialist party established a separate women's organisation already in the 19th century.

Democratic Party and the women's movement both, contributed to the formation of an opportunity structure in which women's questions could be discussed. The secure position of SPÖ's parliamentary majority in 1979 gave the SPÖ-women the possibility to lobby in favour of more women's policy agencies despite the social partnership's defence mechanisms that had previously hindered this development (Köpl 1999, 65)<sup>5</sup>. Moreover, they were able to strengthen their position in the government by assigning two state secretaries in charge of women's concerns – one for the “issues of working women” (Franziska Fast, SPÖ) and the other for “general women's issues” (Johanna Dohnal, SPÖ). The institutionalisation of two state secretaries was a signal towards the integration of women into the labour market and towards the recognition of women's politics as a special policy field.

The state secretary responsible for “issues of working women” was located in the Ministry of Social Welfare, where a women's department already existed. The state secretary for “general women's issues” was installed in the Federal Chancellery (ibid., 66). Johanna Dohnal, a well-known SPÖ feminist with strong backing from the party's women's organisation and the women's movement, was appointed to head the state secretariate. Yet the degree of institutionalisation still remained minimal, though on a rather high level of government. Women's politics, as Eva Kreisky states, followed a “paternalistic political model” during this phase (Kreisky 1998, 29): The Austrian constitution does not designate state secretaries as members of government. Instead, they are subordinates of the heads of the department – as it was the case with the federal chancellor for the state secretary of “general women's issues”, who was dependent on the good will of the federal chancellor (ibid.). The office was allotted a minimal amount of staff and received no independent budget. Nonetheless, the first phase of women's political institutionalisation in Austria women's policy was established at the end of the seventies as a political structure, although equipped with comparatively weak instruments.

### **Consolidation stage: the eighties**

This women's policy setting led to the “*consolidation phase*” of the eighties. In 1981, an initial program for the advancement of women in the federal civil service (*Frauenförderung im öffentlichen Dienst*) came into effect, which was extended in 1985 (Köpl 1999, 66; Kreisky/Walther 1990). In the same year, the “Equal Treatment Act” was amended (see 1.2). However, the “consolidation phase” of the eighties started off with a major set back. The transition to a “minor coalition” between the SPÖ and the ante-Haider FPÖ (Freedom Party) in 1983 resulted in a dissolution of the state secretary's office in the Ministry of Social Welfare. The agenda was partially transferred to the women's state secretary in the Federal Chancellery and to a women's affairs officer located in the Ministry of Social Welfare's department for “General Principles” (Köpl 1999, 66f.). The state secretary's resources were still sparse, although the secretary held a cross-sectional mandate, and remained high in the national political hierarchy. However, it had a purely advisory function, but had to be consulted for governmental issues related to women-related policies. In the early eighties, the Women's Policy Agency's main issues were abortion, equal pay, equal opportunity, and discrimination in the workplace.

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<sup>5</sup> The share of women in the National Assembly at the time was 9.8% (Steininger 1998, 285).

The state secretary served as a catalyst for the growing scene of women's projects in Austria. In the 1980s, the women's movement changed its strategies and focus, expanding and becoming more of a project-oriented movement (Geiger/Hacker 1989, 100). The projects, mostly state-subsidised by state institutions, for instance the Ministry of the Interior and Social Affairs and the City of Vienna, co-operated with the women's state secretary and with the Social Democratic administration in gaining funding for their work. The movement was critical of the Socialists in power, remaining sympathetic but distanced toward the left (Dick 1991, 214-215). The SPÖ women were mainly concerned with abortion and equal opportunity, while the autonomous women's movement primarily stressed issues of sexuality and violence against women (Geiger/Hacker 1989, 37-38.).

As of 1986, the "large coalition" between SPÖ and the conservative ÖVP (Austrian People's Party) once again created a comparatively conducive environment for the settlement process of social partnership. The greater influence of parties, primarily the newly formed parties of the Greens and the Liberal Forum (LIF) (the later in the nineties) led to a potential increase in the presence and influence of women in the framing of problems in a gender discourse. This was due to the fact that women had advanced to an important reservoir of votes as of the seventies. Naturally, the social partnership's decreasing influence on the political process did not mean an automatic increase in the parliament's status. Because of the increasing party-politicisation of political regulation and the decreasing role of interest group-settlement, the parliament became a "mere notary" for parties, organisations, and government negotiated compromises (Tálos 1997, 449).

The decade between 1985 and 1995 can be described as the "decade of institutional equal opportunity politics" (Köpl 1995, 592). The Equal Treatment Act was optimised in several amendments. In 1985, voluntary employer's contributions to social security and company vocational training were included in the discrimination ban (see 1.2). In 1990, the amendments suggested positive action for equal opportunity and a "Lawyer for Equal Treatment Issues" (*Anwältin für Gleichbehandlungsfragen*) was established. Austria completed a women's political "Europeanisation" (Falkner 1995, 417) – i.e. Austria adopted women's politics measures which were established in other EU-countries – and even became the "model student" in a European comparison.

As an effect of the women's political movement all Austrian parties have included a section on women's politics, gender equality (SPÖ) or women and men (ÖVP) in their party programs during the eighties and nineties. The programs reflect the different approaches to the gender question, which can be rather roughly labelled as an equality and labour oriented approach (SPÖ, Green Party), and a non-feminist difference approach, oriented on reproductive and population policies. (ÖVP, FPÖ). The Austrian parties adopted different recruitment models and therefore different models of promoting equal rights for women within the party structures. Three of the Austrian Parties in parliament (ÖVP, SPÖ, and Green Party/Grüne) adopted a women's quota for election lists and for party functions. The Green Party anchored a 50% quota for women in their statutes, the SPÖ has a 40% quota and the ÖVP adopted a quota of 33%. In the party statutes from 1998

the SPÖ refers to the equity of men and women, and binds all groups and committees within the party to a 40% minimum women membership. This quota should be realised in 2003. Besides the numbers of women on election lists, women must also be placed in positions on the election list where they will be likely to be elected. In comparison to the Green party, this regulation is rather weak. The statutes of the Green party prescribe a minimal quota of 50% women in all functions (§ 7.3). This quota is combined with the “zipper”-principle for election lists: There must be an alternation between men and women on every election list. The Freedom party hasn’t adopted a women’s quota and still is the party with the lowest number of female representatives.

### **Expansion stage: the nineties**

*The 1990s* was the period of growth, consolidation and expansion of women’s politics in Austria. In 1990, the state secretary for general women’s issues was restructured to become the “Federal Ministry of Women’s Affairs” due to the logistics of the new coalition in government. For the first time, the ministry was allotted its own budget. Its resources in 1992 and 1993 were 37 million ATS (2 688 895 Euros) per year<sup>6</sup>, which is rather low compared to other cross-sectional ministries. It was able to expand its staff and design three new sub-departments. The minister’s status also expanded beyond the previously limited advisory function, gaining a veto right in the Cabinet of Ministers as well as the power to initiate further political women’s initiatives. The Ministry still maintained its cross-sectional manner of work. Johanna Dohnal became the first Austrian Minister of Women’s Affairs. In 1995, Helga Konrad (SPÖ), not a committed feminist but more a Social Democrat from the party apparatus, succeeded Dohnal. In 1997, Barbara Prammer (SPÖ) took over the office. During the course of restructuring the federal government in 1997, the Ministry of Women’s Affairs also took on the field of consumer protection. A re-evaluation of the ministry resulted in the establishment of a separate woman’s section within the Ministry of Women’s Affairs and Consumer Questions in 1998. The minister still had a cross-sectional responsibility for women’s issues, she initiated and co-ordinated women’s policies, gathered information concerning women’s policy and initiated research on the situation of women in Austria (E.g. Frauenbericht 1995).

The constitutional court’s decision in the matter of the validity of different retirement ages for men and women – a man won a lawsuit claiming unequal treatment – was the motivation for passing a comprehensive “Equal Treatment Act” (Rosenberger 1997, 695) (see 1.2). In 1992 an “equal treatment package” was passed, which contained both an amendment of the equal treatment law and the “law for the report of the federal government to the parliament concerning the removal of disadvantages for women.” In 1993, the “Federal Act on Equal Treatment of Women and Men and on the Advancement of Women in the Civil Service” (Federal Equal Treatment Act/*Bundes-Gleichbehandlungsgesetz*) was enacted (see 1.2). The law established anti-discrimination regulations and stated explicit demands for supporting labour and educational relations in the federal government. In all areas in which women were under-represented, the percentage of women should be increased to 40%. All branches of the federal administration had to implement positive

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<sup>6</sup> Council of Europe, [www.coe.int/T/E/communication\\_and\\_Research/press](http://www.coe.int/T/E/communication_and_Research/press)

action towards women (*Frauenförderpläne*). Due to the “Federal Act on Equal Treatment of Women and Men and on the Advancement of Women” all ministries have implemented measures for the advancement of the status of women within the administration. Most of the ministries established working groups on questions of equal treatment and the promotion of women and they developed affirmative action plans for women within the ministry. But still the number of women in leading positions in the federal administration is rather low. At the same time, the “Federal Committee for Equality of Treatment” at the Federal Chancellery was established. The role of the Committee is to implement the law and to examine complaints and appeals concerning violations of the Act.

### **Equality policies on the provincial and local levels**

When Austria joined the EU, the provinces were forced to enact similar laws for the provincial administrations. The Austrian provinces (*Bundesländer*) were latecomers in equal opportunity politics with respect to the national level. The *Länder* and cities were reluctant to establish either equal opportunity institutions like women’s bureaus or ministries, nor did they adopt the federal equal opportunity law of 1979. With respect to quantitative political representation of women, the *Länder* level also lagged behind the national level. Provincial and local structures proved to be more “equal opportunity sceptical” than central structures (Rosenberger 1997, 692), and the provinces could not be forced to enact federal equal treatment legislation because of their constitutionally anchored provincial autonomy. While at a central-state level the “party politicisation” of politics in Austria opened the political space, the corporatist weave at provincial and community levels remained impenetrable for women’s political actors. The establishment of provincial equal opportunity laws resulted from a mixture of assimilation to international standards and the involvement of women in the parties: Under massive pressure from women in all fractions, in 1991 Salzburg became the first federal province to pass a women’s support program (Haller et al. 1993). Carinthia and Upper Austria followed in 1994. With the entry into the EU in 1995, federal provinces were also forced to enact equal treatment guidelines for public service. Vienna and Salzburg passed a provincial equal treatment law in 1996, Lower Austria, Styria, Tyrol and Burgenland in 1997. Vorarlberg still has no equal treatment legislation, rather a law for the “equal opportunities of women and men” which contains non-mandatory discretionary provisions (Rosenberger 1998, 11). It was only at the end of 1997 that the National Assembly enacted the regionalisation of the “Equal Treatment Advocates”: the federal provinces are now required to set up such offices (ibid., 26).

At the provincial level the women’s agendas are often docked onto already existing departments such as family, youth and health. In Vienna for instance, the agendas on women’s issues were added to the already existing departments responsible for family and social welfare, youth, sports and health. In the 1980s and early 1990s, the ministers responsible for women’s affairs in Vienna (*Stadträtin für Frauenangelegenheiten*), Christine Schirmer and Ingrid Smejkal, were SPÖ members. By 1987, only the province of Vienna had established an independent municipal office for the support of women, called the ‘Women’s Service Office,’ initiated by Christine Schirmer. This counselling agency concentrated on matters of violence. The tasks of the Vienna’s *Stadträtin* of Women’s Affairs were designed in a cross-sectional manner. Its main issues were

equal opportunity employment and violence against women, which included the installation of a crisis hotline (*Notruf*) and shelters for battered women. Since the nineties, women's departments and women's affairs officers have been set up in several larger cities. At the beginning of 1995 there were 14 women's affairs officers on municipal level in Austria (Köpl 1995, 600f.). This is a low number in comparison to Germany where the co-operation between women's groups and political and administrative institutions in cities and communities has been comparatively prolific.

### **Institutional decline: the new century**

In February 2000, the new conservative right-wing government dissolved the Federal Ministry of Women's Affairs. Women's issues were relocated, becoming a part of the Ministry of Social Welfare, Family and Generations. The ministry was headed by a male elective of the FPÖ partner in coalition. In the re-organisation of the government in 2003, the Ministry for Health and Women's Issues was established<sup>7</sup>. It is headed by Maria Rauch-Kallat from the ÖVP's women's organisation. According to the Treaty of Amsterdam, the Austrian Council of Ministers implemented structures and measures of gender mainstreaming in July 2000. Austria claims to apply a dual-track approach in equality policies, that is to implement gender mainstreaming as a method to reveal the structural obstacles against the active participation of women in all spheres of society and to sensitise policy makers for gender differences. On the other hand, existing women's policy machineries should not be dissolved. In other words: The main focus of women's policy in Austria are still positive actions for women. If this dual strategy will be effective is a future question. Feminist critiques of the new government show that resources of positive action and funding of women's projects are cut down – sometimes legitimised by reference to gender mainstreaming. The dissolution of the Federal Women's Ministry, the shift of the former "women's section," and the establishment of a non-feminist "men's section" within the new Ministry of Social Affairs and Generations in 2000 was legitimised with gender mainstreaming.

### **Gender Mainstreaming: consequences of the EU membership**

The adoption of gender mainstreaming as an instrument to increase gender sensitivity in all stages of the policy process and on all levels of the federal administration was leading to several activities in the ministries and administration. In summer 2000 an inter-ministerial working group for Gender Mainstreaming (IMAG Gender Mainstreaming) was formed. Its task is to watch, to advise and to co-ordinate the implementation of the gender mainstreaming strategy at the federal government level. The working group organises workshops and gender training. Up to now, the IMAG GM formed three working groups for evaluation of mainstreaming in projects and proposed bills, for the information on gender mainstreaming and for the consequences of gender mainstreaming with respect to financial and personnel resources. The results of the working groups are brought into the Council of Ministers. Due to the initiatives of the IMAG GM all ministries have at least adopted the language of gender mainstreaming and established a gender mainstreaming section on their websites. But as far as we can see, these measures are merely symbolic or lip service to the requested implementation of gender mainstreaming on the top level of the administration.

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<sup>7</sup> The women's agenda was transferred from the Ministry of Social Welfare and Generations on May 1st, 2003.

Most of the ministries started to implement gender mainstreaming by organising gender training by external experts according to the “top-down focus” of the gender mainstreaming approach. For instance: The Ministries of Justice and the Ministry for the Interior did not start the implementation of gender mainstreaming until now. In the Ministry of Agriculture, Forestry, Environment and Water Management, the “Division of Women’s Affairs” co-ordinated programs for women farmers. The issue was shifted to a working group on gender mainstreaming in 2002. Sport is still a male sphere in Austria, and supporting sport has the effect of privileging boys and men. The implementation process of gender mainstreaming in the Federal Ministry for Public Services and Sports, headed Federal Chancellor Wolfgang Schüssel, is still in its infancy. However, the yearly report on sport activities should have a section on women, and applications for funding must refer to gender mainstreaming.

Between 2000 and 2003 the ministry of Social Security and Generation was rather active in implementing gender mainstreaming, because it had the infrastructural resources of the women’s ministry (*Frauengrundsatzabteilung*). One of its initiatives was to generate gender specific data and statistics for further policies. Together with the so-called “future ministry” (now: Ministry for transport, innovation and technology) some research on gender specific statistics and gender specific differences in the fields of education, health, and income was funded (*Geschlechtsspezifische Disparitäten 2002*).

In the last couple of years the “Division for Labor Market Policy and Gender Equality” in the Ministry of Economic Affairs and Labour organises gender impact assessment according to the principles of gender mainstreaming. The employment guidelines of the European Union were transformed in the Austrian National Action Plan for Employment (NAP). The country applied the principle of gender mainstreaming in the NAPs of 1998 1999. The “GeM Coordination Unit” is the Austrian coordination unit for gender mainstreaming within the European Social Fund (ESF). It is an information platform, which focuses on gender mainstreaming and equal opportunities in the labor market. It provides, for instance, tool boxes for Gender Mainstreaming, organizes seminars, and publishes a newsletter.

The ministry of Finance is also active in implementing gender mainstreaming. In June 2000, CEDAW requested the Austrian government to ensure the evaluation of gender impact on the federal budget on a regular basis ([www.un.org/womenwatch/daw/cedaw](http://www.un.org/womenwatch/daw/cedaw)). In December 2001, the working group on gender mainstreaming in the ministry launched a report on “Is the Austrian tax system gender neutral?” (*Ist das österreichische Steuersystem tatsächlich geschlechtsneutral? 2001*). The report showed that the neutrally formulated Austrian taxation law has a male bias; reduction of taxes in high-income strata, for instance, privileges men, who make up 90% of the high income group. As one of the consequences, the ministry elaborates controlling procedures for tax reform as well as for the federal budget.

An active ministry concerning gender mainstreaming is the Federal Ministry for Education, Science and Culture. Its active nature is due to a long tradition in women’s politics within the ministry. The Working group on

gender mainstreaming in the ministry (established in 2001) elaborated several working papers (on schools, universities, research funding, gender sensitive language), which function as tools for gender sensitive policy implementation.

Until now, the activities in gender mainstreaming have not been evaluated and it is difficult to assess the results of these first steps. To give an example: The "Organisation Law for Universities" refers to the principles of gender mainstreaming; if this has any impact on the representation of women has not yet been evaluated.

## 1.2 Equality Legislation in Austria – An Overview

This chapter gives an overview of the historical development of gender equality legislation. Due to the structure of Austrian law, it is necessary to distinguish between equality legislation on the highest level (*constitutional level*) and on the level of "simple" laws (e.g. laws governing the *labour market, family and marriage law, penal law*) that are adopted, interpreted and implemented in accordance with constitutional provisions. Jurisdiction by the Constitutional Court assessing whether "simple" laws are in accordance with constitutionally guaranteed gender equality provisions is presented in this context to draw attention to the importance of the process of interpretation and its impact on legislation.

The earliest legislative efforts towards a more egalitarian status of women in Austria were undertaken due to obligations under *international law*. Obligations to prohibit discrimination on the basis of sex under Article 14 of the *European Convention of Human Rights*<sup>8</sup>, were incorporated into Austrian constitutional law in 1958. The ratification of the *UN Convention on the Elimination of All Kinds of Discrimination* (CEDAW) in 1982<sup>9</sup> obliged Austria to report to the CEDAW committee on a regular basis on the progress regarding *de jure* and *de facto* gender equality.<sup>10</sup> Since Austria's accession to the European Union, various obligations under European law regarding gender equality had to be incorporated into national law and thus generated and accelerated gender equality legislation.

### Constitutional level

Article 7 of the Federal Constitution Act (*Bundes-Verfassungsgesetz, B-VG*) addresses the right to equal treatment before the law. The last amendment in 1998 also imposes an obligation of federal, regional and local levels to pursue equality of men and women in practice and explicitly states that measures to promote equality in practice, e.g. quota, are in accordance with the law .

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<sup>8</sup> BGBl 1958/210.

<sup>9</sup> BGBl Nr. 443/1982.

<sup>10</sup> For an assessment of Austria's combined third, fourth and fifth periodic reports to CEDAW, (Sporrer 2002, 208-210).

The right to equality guaranteed in Article 7 has repeatedly been subject to interpretation by the Constitutional Court (*Verfassungsgerichtshof, VfGH*) in determining whether a particular legal provision is in accordance with constitutional law or not; the development of the relevant case law regarding prevailing legal conceptions of gender relations and its changes as interpreted by the Constitutional Court has been assessed by various studies (Holzleithner 2002, Ulrich 2002, Sporrer 1997, Aichhorn 1997). Ulrich (2002) criticises the *judicial restraint* approach of the Constitutional Court towards promoting gender equality; she finds that the Constitutional Court actually has been legitimising the consolidation of traditional gender roles between women and men by over-emphasising the role of the legislative power.

This assessment is taken up by Sporrer (2002, 228) with respect to CEDAW: she finds that the Constitutional Court has not interpreted Austrian law in accordance with obligations set out in CEDAW in its findings relevant for gender equality. She concludes that future decisions by the CEDAW Committee regarding individual complaints procedures under the Optional Protocol might help to clarify whether the freedom of the legislative power to actively promote gender equality or to abstain from such efforts is actually as comprehensive as the Constitutional Court has held in its findings. Regarding compatibility of paid work and reproductive work, in comparing several decisions, Sporrer (1997) sees a tendency of the Constitutional Court to “unburden” women of their professional lives if they are both gainfully employed and taking care of household/care work at the same time.

During the 1980s and 1990s, numerous findings<sup>11</sup> of the Constitutional Court in respect to equal treatment provisions in Austrian constitutional law had considerable consequences for the implementation of equality policies as embodied in legislation.

The *finding concerning retirement age* was one of the most disputed. The Constitutional Court found that the lower retirement age of women was not objectively justified anymore. Up to this finding, it had been generally recognised that women often disrupted their employment because of care work for children and elder family members and thus it was held as objectively justified that women were entitled to retirement five years earlier than men. As a consequence of this finding, the lower retirement ages of women were abolished; the general retirement age, sixty-five years, was to be the same for both men and women.<sup>12</sup> Apart from the general right to equality set out in Art 7 of the Austrian Constitution, legislative efforts to promote equality for women were adopted in federal legislation in the early 1970s, focusing on legislation concerning the *labour market*, as well as several changes in *marriage law*, *family law* and *penal law*.

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<sup>11</sup> The most influential ones being the finding concerning retirement age (*Pensionsaltererkenntnis* VfSlg 12568/1990), Finding concerning prohibition of women’s work at night (*Erkenntnis zum Frauennachtarbeitsverbot* VfSlg 11774/1988, 13038/1992), Findings concerning name law in marriage and name law of children born in wedlock (*Erkenntnisse zum Ehenamensrecht und Namensrecht der ehelichen Kinder* (VfSlg 10348/1985, 13661/1993, 15031/1997, 13661/1993).

<sup>12</sup> For detailed analyses of this finding in its context with other findings regarding gender equality, Sporrer (1997).

## Labour market legislation

The earliest efforts were undertaken due to obligations under international law. Two international treaties on equal pay, the *Convention on Equal Pay of Male and Female Workers for Equal Work*<sup>13</sup> and the *Convention No. 111 on Discrimination in Employment and Occupation*<sup>14</sup> of the International Labour Organization were incorporated into national law in 1953 and 1973, respectively. In 1979 the new Act on Protection of Maternity (*Mutterschutzgesetz*)<sup>15</sup> came into force, regulating maternity leave, as well as an Equal Treatment Act (*Gleichbehandlungsgesetz*).<sup>16</sup> Its range was restricted to the private sector only, thus not including public service. The aim was limited to creating equal pay; differentiation without justification was to be prohibited. An Equal Treatment Commission (*Gleichbehandlungskommission*) was established to address situations of discrimination and make suggestions on how to abide by the law. In 1985, the first of four amendments to the law extended anti-discrimination obligations beyond equal pay to include: voluntary social transfers, education and voluntary measures and it made the gender-neutral wording of job announcements compulsory, except in a few exempt cases.

In the year of 1990 the Parental Leave Act (*Eltern-Karenzurlaubsgesetz*)<sup>17</sup> opened the possibility for fathers to take parental leave; the Equal Treatment Act (*Gleichbehandlungsgesetz*)<sup>18</sup> was amended yet again. Apart from extending the anti-discrimination provisions, for the first time it included a special treatment provision – with regard to Article 4 of the CEDAW-Convention<sup>19</sup>. This amendment also opened the possibility of claiming compensation for discrimination suffered and established a Lawyer for Equal Treatment Questions (*Anwältin für Gleichbehandlungsfragen*).

Due to the Constitutional Court's finding concerning retirement age, the lower retirement age for women was raised to that of men, and in order to minimise the negative effects on women, a comprehensive package of equal treatment measures was decided upon in 1992 (*Arbeitsrechtliches Begleitgesetz*)<sup>20</sup>. Along with considerable extensions concerning maternity protection and parental leave provisions, for the first time sexual harassment was defined as discrimination on the basis of gender<sup>21</sup> within the amendment to the Equal Treatment Act. This amendment also opened the possibility to claim financial compensation from the employer and/or the perpetrator.

In a series of decisions, the Constitutional Court held that various acts bearing provisions which are discriminatory for women were in accordance with the right to equality addressed in Article 7 B-VG (Holzleithner 2002, 53-59). Therefore, numerous restrictions for women's night work as embodied in the Act on Women's

<sup>13</sup> BGBl Nr. 1953/36.

<sup>14</sup> BGBl Nr. 1973/111.

<sup>15</sup> BGBl Nr. 221/1979 as last amended by BGBl I Nr. 100/2002.

<sup>16</sup> BGBl Nr. 108/1978, as last amended by BGBl Nr. 129/2001. (Bei and Novak 1996, Bei 1998).

<sup>17</sup> BGBl Nr. 651/1989. (Schiffbänker 1997).

<sup>18</sup> BGBl Nr. 410.

<sup>19</sup> Temporary special measures to advance de facto equality of women and men. (Sporrer 1996).

<sup>20</sup> BGBl Nr. 1992/883. (Eichinger 1997).

<sup>21</sup> The definition of which is grounded upon the recommendation of the European Commission 92/131/EWG of November 27, 1991.

Night Work (*Frauennachtarbeitsgesetz*)<sup>22</sup> prevailed in Austria despite a ruling by the European Court of Justice of 1991<sup>23</sup> which found that legislation prohibiting night work by women was not compatible with European law. In 2002, these restrictions were finally abolished and superseded by much less restrictive regulations<sup>24</sup> consistent with European Law.

In 1993 a Federal Equal Treatment Act for the Public Service (*Bundes-Gleichbehandlungsgesetz für den öffentlichen Dienst*)<sup>25</sup> – that included universities,<sup>26</sup> – was finally passed, introducing special measures (quota) for the promotion of women in public service and establishing several institutions<sup>27</sup> responsible for the implementation of its provisions. (Fürst 1998). Due to their constitutional provincial autonomy, the *Bundesländer* had to adopt their own Provincial Equal Treatment Acts; except for the province of Vorarlberg, all provinces have adopted such acts.

In the context of the most recent attempts to integrate *gender mainstreaming* into the process of legislation, the reform of the organisation of universities<sup>28</sup> needs to be mentioned. Holzleithner (2002a, 30) states that – compared to the former gender equality standard within universities – reorganisation measures have resulted in diminished gender equality standards, despite gender mainstreaming efforts during the legislative process.

### **Marriage law, family law, penal law**

In *marriage and family law* legislation, the original legal model was the “head of the family”– model, with the head being explicitly the male spouse. Due to substantive reforms in marriage and family law in the 1970s, this model was changed into a model of “partnership” of both spouses in 1975.<sup>29</sup> However, numerous provisions constituting an unequal status of women, e.g. in the law regulating the right to bear a name (Reitmaier 2000), remained unaltered.

In the *penal law code* (*Strafgesetzbuch, StGB*)<sup>30</sup>, after a reform in 1974, abortion (§ 96, 97 StGB) is still generally prohibited but was constructed as having no legal consequences if carried out by a doctor after counselling up to the third month of pregnancy. Rape and sexual coercion in marriage and partnership were penalized in 1989 by a reform of the penal law code<sup>31</sup>.

<sup>22</sup> BGBl Nr. 237/1969, as last amended by BGBl I Nr. 37/2000.

<sup>23</sup> *Judgment of 25/07/1991, Criminal proceedings against Stoeckel* (C-345/89).

<sup>24</sup> BGBl I Nr. 122/2002.

<sup>25</sup> BGBl Nr. 100/1993, last amended by BGBl I Nr. 87/2001. (Bei and Novak 1996, Siegmund-Ulrich 1997).

<sup>26</sup> BGBl Nr. 805/1993, *Universitäts-Organisationsgesetz*.

<sup>27</sup> Federal Equal Treatment Commission (Bundes-Gleichbehandlungskommission), Equal Treatment Official (Gleichbehandlungsbeauftragte), Working Group for Equal Treatment Questions within Ministries, (Arbeitsgruppen für Gleichbehandlungsfragen in allen Ressorts), Interministerial Working Group (interministerielle Arbeitsgruppe).

<sup>28</sup> Act on Universities 2002, (Universitätsgesetz 2002), BGBl I Nr. 120/2002.

<sup>29</sup> For a critical assessment of marriage law, (Gimpl-Hinteregger 1997).

BGBl 1974/60 as last amended by BGBl I 134/2002.

<sup>31</sup> BGBl 242/1989. For recent discussions on reforms of the sexual penal law: (Schäffer-Ziegler2002),(Migutsch 2002), (Perner 1998), (Holzleithner 1997).

As for the problem of gender-based domestic violence, Austria adopted the Act on Protection Against Family Violence (*Gewaltschutzgesetz*)<sup>32</sup> in the 1990s, shifting the focus from the victim of domestic violence to the perpetrator. This Act makes it possible for the police to send the perpetrator away and prohibit his return. See Dearing (2000) Haller (2000), and Logar (1999). The approach resonated widely on both national and international levels, including acclaim by the CEDAW Committee; recently, Germany also adopted a law following the Austrian model.

As for implementation of sanctions against gender-based violence, it is important to mention that several offences, including rape within a marriage or partnership, are only persecuted if the wife or female partner actively requires that it be persecuted; furthermore, the judge can decide on lower sanction measures if the act of violence occurred within marriage or partnership (§§ 203, 41 of the penal law code *StGB*). In this context, the CEDAW Committee urged Austria, in its latest consideration of States reports,<sup>33</sup> to ensure ongoing education and sensitisation for law-enforcement officials and the judiciary.

### Concluding Comments

Despite formal constitutional equality guarantees, equality legislation in Austria was mostly initiated by obligations under international and European law. The Constitutional Court can be viewed as an essential actor in the legislative process in respect to either promoting or delaying gender equality efforts. Although Austria has been obliged to ensure both *de jure* and *de facto* equality of women and men since the CEDAW ratification in 1982, many legislative efforts have focused on a *de iure* approach; although more recent legislation such as the Parental Leave Act, the Federal Equal Treatment Act for Public Service, or the Act on Protection Against Family Violence adopted a strong *de facto* approach as well. Obligations to pursue gender equality under European law, as set out in Article 2 and 3 of the Treaty of Amsterdam, have resulted in legislation which is assessed as only partially successful thus far.

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Aichhorn, Ulrike. 1996. Das Ehescheidungsrecht. In *Frauen & Recht*, edited by Ulrike Aichhorn, 395-468. Wien: Springer.

<sup>32</sup> Sicherheitspolizeigesetz, BGBl 566/1991, last amended by BGBl I Nr. 146/1999, especially § 38a.

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## 2. State of the Art on Academic Studies on Gender Mainstreaming

### 2.1 Introduction

To this day, there are few academic studies on Gender Mainstreaming in Austria. Most studies are short analyses of gender mainstreaming policies combined with comments and political standpoints; on a more general level in a de-regulated society (Kubes-Hofmann 2002), in the context of former equality legislation and policies (Holzleithner 2002a, Rosenberger 2000), urban planning (Schmatzberger and Reidl 2002), and the reorganisation of universities (Moser 2001 and Seböck 2001). Holzleithner 2002a and Schmatzberger and Reidl include examples of best-practises of gender mainstreaming in Austria. The Austrian studies are lacking on the theoretical level. Empirically based reflections on the aims and strategies of gender mainstreaming in the Austrian political system are missing. Most of the authors are sceptical about gender mainstreaming. They agree that gender mainstreaming must be complimented by traditional women's equality policies in a *dual-track strategy*. Its effectiveness is dependent on political will and a consensus about its definition and goal. Knowledge about the causes for gender inequality is viewed as essential in most studies.

In *empirical studies*, the focus is clearly on the labour market (Naylon and Weber, 2000; Leitner 2001; Leitner and Wroblewski, 2000). Apart from the labour market, one empirical study by the Federal Ministry of Finances analyses the different effects of income-tax legislation on women and men (Arbeitsgemeinschaft für Gender Mainstreaming im Bundesministerium für Finanzen 2001).

*Analytical instruments* for planning gender mainstreaming measures are developed in Naylon and Weber 2000, 19ff, and Holzleithner 2002a 21ff ; otherwise, methodology and implementation of gender mainstreaming are hardly a topic in the Austrian literature.

The most common point of concern is that the deeper causes for gender inequality are not addressed by gender mainstreaming. If changes in policies and political institutions should not remain merely symptomatic and limited to one area of concern, they need to be accompanied by expertise, a broader political debate sensitising all actors for the causes of gender inequality and the goals of gender mainstreaming policies.

### 2.2 Academic Studies on Gender Mainstreaming in Austria

**Holzleithner, Elisabeth. 2002a.** Von der Gleichheit aller Bürger zum Gender Mainstreaming – ein Paradigmenwechsel?, in *Gender Studies: Denkachsen und Perspektiven der Geschlechterforschung*, herausgegeben von Bauer, Ingrid und Julia Neissl, Innsbruck et al.: Studienverlag. 17-33.

### Summary & Assessment:

Holzleithner analyses gender mainstreaming in the context of Austria's legislative efforts to promote equality of women in the 1990's and critically assesses how gender mainstreaming is implemented in the draft law on the reform of Austrian universities.

She states that gender mainstreaming was introduced for a number of reasons. Firstly, it was a simply necessity to introduce a new strategy since the conventional women's equality policies had not reached their goals. Secondly, it was meant to respond to the negative effects of the finding of the European Court of Justice concerning a quota for the advancement of de-facto equality of women (case *Kalanke vs. Freie Hansestadt Bremen*, where "rigid" quota were found to be against EU law and thus not permitted). Gender mainstreaming was to be a strategy that was supposed to find more supporters because of its less ideological, less radical approach. By using gender mainstreaming, more actors than before, especially in policy fields which remained unconcerned by traditional women's equality policies, would implement gender equality policies in a more consensual way. She stresses the essential nature of clearly pointing out the benefits of gender mainstreaming, and that it is equally important not to view it as abolishing traditional women's equality policies, but as supplementing them (*dual track* strategy).

Traditional women's equality policies give important input to gender mainstreaming, but gender mainstreaming has the advantage of conceptualising and formulating the problem and its possible solutions on a broader basis than before; to this end, it is necessary to be less militant and to talk about possible benefits. One of the dangers of implementation is that those who have to do it lack specific knowledge and tools; as an example, Holzleithner mentions the Gender Impact Assessment.

As for the Austrian context, the efforts of the Interministerial Working Group on Gender Mainstreaming are shortly presented, as well as a comparative analysis of the draft version and the adopted version of the Federal Act on the Organisation of Universities<sup>34</sup> law on the reform of Austrian universities. The assessment of the draft law is rather critical: in order to implement gender mainstreaming in universities, precise guidelines within the corresponding law are necessary; the draft version was "completely unacceptable" for gender equality goals because gender equality is neither explicitly mentioned among the tasks of universities, nor were organs assigned responsibilities or sanction mechanisms installed. In the final version of the law, however, at least a small modification resulting in a non-binding formulation of aiming at an increase of women in decision-making functions was introduced.

The result of her analyses states that the standard of equal treatment and advancement of women in universities has deteriorated.

Holzleithner's analysis is ambiguous. On the one hand, she stresses that gender mainstreaming was developed because of the failure of traditional equality policies; an advantage of gender mainstreaming is seen in its more consensual, less radical approach involving more actors. At the same time, she argues that gender mainstreaming needs to be combined with traditional women's equality policies in a *dual track* strategy since traditional women's equality policies have more potential for being politicised. Attention is drawn to the dangers of ineffective implementation due to insufficient knowledge of goals and tools; as for implementation of

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<sup>34</sup> BGBl I Nr. 120/2002.

gender mainstreaming in Austria, the draft law on the reform of Austrian universities is analysed as being ineffective to promote gender equality.

**Kubes-Hofmann, Ursula. 2002.** Gender Mainstreaming als Marktfaktor, in: Sic: Forum für Feministische Gangarten, 9:24-29.

Summary & Assessment:

Kubes-Hofmann analyses gender mainstreaming as a concept to achieve gender equality within an increasingly deregulated, global neo-liberal market. She postulates three core theses. The first thesis is that if gender mainstreaming is to achieve gender equality, this can only be done by political steering mechanisms which limit and monitor the dynamics of an increasingly free market dominated by competition, since women tend to be increasingly vulnerable to new “liberalised” conditions of a global market. Her second thesis maintains that since gender mainstreaming is a set of tools, which in itself is neither good nor bad, the definition of “gender” needs to be repositioned, taking its feminist-epistemological roots into account in order to avoid a de-politisation of gender mainstreaming, which results in the persistence of structuralized and sexualised violence against women. Her last thesis is that if gender mainstreaming is to be used as a concept for structural advancement of women, this should be done with clear awareness of the reason and the goal at which it is aimed. Ideas of modernity which are based on social-darwinist and eugenic concepts have been carrying particular importance in Austrian history and contemporary understanding of modernity. Therefore, gender mainstreaming should be used combining critical reflection and the reception of these concepts.

As a comment in a feminist magazine, this article offers a political standpoint rather than results of empirical research. It warns against a de-politisation of gender mainstreaming. It stresses the need for political monitoring and sanction mechanisms, and the importance of redefining the causes and the goals of gender mainstreaming in order to promote gender equality. Especially within the Austrian historical context, a critical reflection on what gender mainstreaming is to achieve in an increasingly neo-liberal society is essential.

**Schmatzberger, Alice und Sybille Reidl, (eds.) 2002.** *Gender Mainstreaming in der Stadtplanung*. Wien: Magistratsabteilung 18. 120 pages.

Summary & Assessment:

This study presents the results of various efforts to promote gender mainstreaming in urban development planning in Vienna, which ranges among the top group of European cities regarding the development and implementation of gender mainstreaming in urban planning. It presents pilot schemes of women-sensitive urban planning regarding residential building, traffic and safety planning.

The strength of gender mainstreaming is assessed as an incentive to think and act strategically, it is viewed as essential to find effective strategies for acceptance and backing by genuine political support. Its weaknesses are identified as psychological barriers, resources traps, and misleading labelling.

It is concluded that these pilot schemes have been successful in some areas, but that collecting further gender-specific data is needed. It argues for a dual strategy in equality policies: prevention through gender mainstreaming and belated repair activity with specific promotional measures for women.

**Arbeitsgemeinschaft für Gender Mainstreaming im Bundesministerium für Finanzen. 2001.** *Ist das österreichische Steuersystem tatsächlich „geschlechtsneutral“? Ergebnis eines Lohn- und Einkommenssteuervergleichs Männer-Frauen.* 9 pages.

<http://www.imag-gendermainstreaming.at/bmsg/imag/downloads/gender.pdf>

**Summary & Assessment:**

The report of the working group for gender mainstreaming in the Austrian Federal Ministry of Finance shows that even though the Austrian taxation system is formulated in a gender-neutral way, in practice it privileges men. Income tax and tax on wages were compared as to their effects on men and women; it was analysed whether gender gaps increased or diminished by income taxation, how men and women benefit differently from various provisions in taxation law, and from a possible reduction of rates.

The findings are that the gender gap after deducting income taxes diminishes slightly, but that social security deductions affect women more than men – while men have an average income which is 60% higher than women’s, they only pay 48% more for social security. Men also benefit more from income with lower taxation, such as bonuses, dismissal pay, and per-diem for commuters, and can claim much higher pro-rata-amounts to be tax-privileged than women. Women’s benefits from a reduction of rates are insignificant; they benefit most if the deductible amounts are increased.

The study concludes that if a tax reform is not to increase the gender gap, a reduction of tariff rates must be limited to the lower tariff rates (Tarifstufen) and be combined with raising deductible amounts.

**Leitner, Andrea. 2001.** The case of Austria. In *Gender Mainstreaming in the European Employment Strategy*, edited by Behning, Ute and Amparo Serrano Pascual. Brussels: European Trade Union Institute, 157-182.

**Summary & Assessment:**

The author states that it is difficult to assess to which extent the women’s situation has been changed by equal opportunity policies in Austria: although women’s employment has increased, the social security system still contains incentives leading women and men towards traditional gender roles as embodied in the male breadwinner-model; she views growing national efforts to increase labour market participation of

women as having been gradually adopted due to EU regulations, but states that there are still many obstacles in the social and legal framework, which are restricting employment strategies for equal opportunities for women.

The implementation of gender mainstreaming in Austria is seen as ambiguous; often used as a political slogan, the target of gender mainstreaming (as introduced by the European Union) is seen as a great challenge for Austrian politics, mainly focused on equal opportunity concepts in employment plans. A lack of discussion of the gender perspective is detected for other areas, for example in the tax reform of January 2000, which resulted in a tax reform more advantageous for people with higher incomes than for those with lower incomes, such as part-time or low-skilled workers, most of which are women.

While the measures adopted by the NAP refer to further integration of women into working life, there are scarcely any concrete compulsory measures to improve working conditions and to reduce the income gender gap and the segregation of the labour market.

Most of the measures can be considered to be the continuation of an equal opportunity policy introduced in Austria at the beginning of the 1990s. However, it is noted that gender mainstreaming has contributed to changing targets of policy on women, because in Austria, unlike in other countries, any efforts to increase labour market participation of women have always been subordinated to family policy.

The author finds that the growing discussion has not really helped to define the concept of gender mainstreaming in practical terms; she states that due to this fact, it is difficult to make statements which go beyond personal experience as to which concept has been adopted in Austria. This study concludes that efforts to introduce a gender perspective in private enterprises have had little impact. Also, political continuity is seen as the main criterion for the success of measures promoting the integration of women into the labour market, and that regulations preventing mothers from engaging in gainful employment have a negative effect on the positive trends of the NAP and are difficult to reverse.

This study emphasises that employment measures cannot really bring about changes in the general division of labour, but that public discussions could contribute to do so; the need for a precise definition of the goal of gender mainstreaming, as well as for extensive knowledge of the effects of gender discrimination shared by all actors involved is pointed out. It predicts that since the declared goal of employment policy is not supported by political agreement, as seen in the lack of coordination with other political areas (especially regarding the division of labour as obstacle to equal chances of women on the labour market) gender mainstreaming will continue to be severely restricted.

**Moser, Gabriele. 2001.** Die Genderdimension der Unireform, in: AGI, Arbeitskreis für Gleichbehandlungsfragen der Universität Innsbruck, 2:22-28.

Short comment on gender mainstreaming as used in the process of reorganising universities.

**Seböck, Martha. 2001.** Gender Mainstreaming an den vollrechtsfähigen Universitäten, in: AGI, Arbeitskreis für Gleichbehandlungsfragen der Universität Innsbruck, 2:32-34.

Short comment on gender mainstreaming as used in the process of reorganising universities.

**Hirschmüller, Karin. 2000.** Frauen in den österreichischen „Nationalen Aktionsplänen zu Beschäftigung“. In *Frauen und Ökonomie: Geld essen Kritik auf*, edited by Birge Kronendorfer, 169 - 176. Wien: Promedia.

Summary & Assessment:

Hirschmüller assesses the gender perspective in Austria's National Action Plans for Employment (NAP) of the years 1998 und 1999. She states that, contrary to the NAP 1998, Gender Mainstreaming was introduced in the NAP of 1999. As a consequence women became more visible, but this is mostly limited to analyses of the status quo, e.g. the gender-specific segregation of the labour market and lower income of women in general.

The study finds that on the implementation level, , these women-specific analyses carry little or no consequence at all; there are, for instance, no obligatory measures for the reduction of gender-specific income gaps. If there are recommendations for measures at all, they are mostly vague, not binding and lack a precise budget perspective. In some parts of the NAP of 1999, such as part III on the advancement of flexibility of employers and employees, as formulated by the social partners, a gender perspective is entirely missing. The situation of migrant women is mentioned neither in the guidelines nor in Austria's NAP.

Based on the assessment of several other studies, Hirschmüller predicts the following effects of the measures planned by Austria's NAP of 1999:

- Newly created jobs in the sector of social services could contribute to an increase of women's employment, along with additional child-care facilities.
- The problem of gender-specific horizontal and vertical job segregation can not be counteracted adequately by the measures proposed.
- Reducing general working hours in order to enable a more equal distribution of paid work and care work is assessed as being impossible. Recommendations for reducing overtime are vague and lack a gender-specific goal.

Throughout the analysis, the most persistent point of critique of gender mainstreaming in the Austrian NAP of 1999 is that the gender perspective has not been considered in various parts of the NAP, and that - if considered on the theoretical level – implementation measures proposed are vague, non-binding, and lack financial resources.

**Leitner, Andrea und Wroblewski, Angela (eds.) 2000.** Chancengleichheit und Gender Mainstreaming. Ergebnisse der begleitenden Evaluierung des österreichischen NAP. Wien: Institut für Höhere Studien. 104 pages.

Summary & Assessment:

The study presents results of the evaluation of equal opportunity measures of the Austrian National Action Plan for Employment (NAP) of 1999. It gives an overview of the situation of women on the Austrian labour market as well as an outline on the results of gender mainstreaming within the various policy areas of the NAP.

Starting from the baseline of the women's situation in the Austrian labour market, the study finds that employment of women has increased, but at the same time labour-market- specific women's problems have increased as well. While during the 1980s, the gender gap as shown in employment, unemployment and income numbers diminished, the 1990s showed an increase even with regards to income. The study finds that, despite political efforts, the overall situation of women in the labour market in comparison to that of men did not (or at least not significantly) improve in the 1990s.

The following points of concern were identified:

- Employment of women with children in need of care is still significantly below employment of women without children
- Integration of women into the labour market is often achieved by part-time employment, which means that these women are restricted to jobs with lower qualification, lacking career options and lower income.
- Women are threatened not only by unemployment more often, but also longer than men
- Qualification disparities of men and women have diminished, but are still a significant area of concern for elderly women.
- Income disparities between men and women have risen again in the 1990s
- The segregation of the labour market is persistent.

The study identifies the goal of gender mainstreaming, as embodied in the NAP, as promotion of employment opportunities of women, which means to increase employment as well as improving working conditions. According to the NAP, an increase in women's employment shall be reached by their better qualifications and the improvement of child-care facilities, although binding measures for the improvement of working conditions are still missing.

The evaluation shows clearly that equal opportunity considerations have mainly focused on qualification measures for unemployed women and improvements of childcare facilities, whereas in other policy areas, such as the development of entrepreneurial spirit and measures for the promotion of flexibility, a gender perspective of equal opportunities was not considered at all or considered insufficiently. The effects of considering a gender perspective in the various measures are expected to show positive results in some areas; but these results might also be dependent on a generally favourable economic situation. The sustainability of the measures used is deemed dependent on continuous political support.

Employment and labour market policies are viewed as inadequate instruments in reducing the unequal division of labour (paid work and unpaid reproductive work); but the public debate is viewed as helpful in contributing to the decrease of unequal workloads.

The report observes that Austrian equality policies have changed their objective: while Austria's previous efforts in respect to equal opportunities were shaped by family policy considerations more than by emancipatory considerations, increased employment of women has become an explicit and undisputed goal by adopting European policies. Still, gender mainstreaming has not been used consistently in the formulation and evaluation of equal opportunity policies; and the impact of gender mainstreaming on implementation measures is difficult to assess.

**Naylon, Isabel und Friederike Weber (eds.) 2000.** Gender Mainstreaming als Ansatz einer Politik der Gleichstellung am Arbeitsmarkt. Wien: Hofstätter. 59 pages.

#### Summary & Assessment:

In the context of European employment strategies, the authors present an overview of gender mainstreaming definitions as used by the Austrian Labour Market Service (AMS), its importance within European employment policies, its preconditions and context, methodological approaches, analytical instruments and specific implementation measures, including two "good-practice" examples on the provincial level in Germany and Wales.

For the preconditions and context of gender mainstreaming measures in general, it is stressed that a political consensus about the goal of equal opportunities for men and women is necessary: ambiguity as to the goal can be detrimental. It is particularly emphasised that gender mainstreaming must not be used to abolish specific positive actions for women, but that both strategies are interacting. For a successful implementation, access to specific methods and techniques are viewed as essential. A broad debate on how unequal opportunities of men and women developed and what exactly equal opportunities mean is necessary, including not only experts, but also actors in various fields and levels. It is emphasised that gender mainstreaming measures should be focused on the general context of labour market conditions, such as the improvement of child-care facilities.

It is mentioned that Austria included gender mainstreaming in its NAP of 1999. Austrian efforts to include gender mainstreaming in its NAP had positive results in supporting women in some areas of the labour market, but it is also concluded that promoting women does not necessarily result in more equal opportunities for men and women since the preconditions for inequality are stable or reproduced, respectively.

The study concludes that the gender mainstreaming measures set out in the Austrian NAP used by the Austrian Labour Market Service were mainly successful in the *individual support* of disadvantaged women but were less effective in fighting the *causes* for gender inequality. Due to its ambiguous position between providing individual support and promoting equal opportunities within an institutional setting, the National Labour Market Service views itself as incapable of generating such measures. Therefore, it is emphasised that more

general political measures sensitising for gender inequality are needed, provided that decision-makers share a common understanding of the goal of gender mainstreaming as well as political will to actively promote gender equality.

Considering the conclusion of this study, in which it is stated that the measures used by the Austrian Labour Market Service were less effective in fighting the causes for gender inequality, it remains doubtful whether these measures correspond to the principles of gender mainstreaming.

**Rosenberger, Sieglinde. 2000.** Gender Mainstreaming und Gleichstellungspolitik, in: *juridikum: zeitschrift im rechtsstaat*. 3, 136-138.

Comment by political scientist Sieglinde Rosenberger about the context of gender mainstreaming in gender equality policies in Austria. She assesses the potential of gender mainstreaming as valuable if it is not limited to labour market issues but rather extended to family policy and social policy.

### 3. Mapping of Competences

The community of social science researchers in Austria is rather small and there is little funding for feminist research in general. Gender mainstreaming and equality policy issues are hardly taken up by the larger research institutes; for these reasons, empirical research is underdeveloped and takes place mainly in the university setting.

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## 4. Bibliography

In this bibliography, the Austrian academic literature is divided into thirteen sections of different policy issues. Within these sections, authors are listed alphabetically, the latest publications are mentioned first. Publications before 1995 were included if relevant, especially in cases where academic discussion between 1995 and 2003 is lacking.

### 4.1 Gender Mainstreaming in Austria

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