
OPINION

Feminist diplomacy and the European Union: Priorities for the French Presidency of the European Union

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The French version of this document was drafted in accordance with the recommendations on the use of the feminine and the masculine in the “Practical guide for public communication without gender stereotypes” (HCE, 2021).

This guide can be found on our website: haut-conseil-egalite.gouv.fr

However, for reasons of simplification, a single dot is used to mark the feminine plural.

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INTRODUCTION

France will hold the Presidency of the Council of the European Union in the first half of 2022.

This is an important institutional responsibility. During these six months, France will chair and organise the meetings of the Council of the European Union, which shares legislative and budgetary power with the European Parliament. It will convey the Council's positions and defend its interests before the other European institutions, in particular Parliament and the Commission.

It is also a major political responsibility: the responsibility to advance the EU's legislative agenda, in line with the agenda of the "presidency trio" (France, Czech Republic, Sweden), and the responsibility to build momentum for the issues it considers important for the European Union. During this presidency, France will enjoy increased visibility.

At the time of writing (May 2021), efforts to define the priorities of the French presidency are still ongoing.

At the same time, the "Conference on the Future of Europe", a citizen consultation process on the challenges of tomorrow's European Union, coordinated by the three European institutions (Council, Commission, Parliament), has just begun [9 May], and its conclusions should be finalised during the French Presidency of the European Union (PFUE).

What is the Presidency of the Council of the European Union?

The Council of the European Union shares legislative and budgetary power with the European Parliament and enters into international agreements on behalf of the EU. It is within the Council that national ministers from all EU countries meet to negotiate and adopt legislative acts, together with the European Parliament, and to coordinate the policies of the Union.

The Council does not have any fixed members: it includes ministers of each Member State depending on the subject being discussed. These ministers meet in one of ten configurations based on the relevant policy area (agriculture and fisheries, economic and financial affairs, justice and home affairs, etc.).

The Presidency of the Council is held in turn by each Member State for a period of six months. During this period, the presidency chairs meetings at all levels within the Council, thereby helping to ensure the continuity of the EU's work.

The Member States holding the presidency work closely together in groups of three, called "trios". The trio sets long-term goals and develops a common agenda that lays out the topics and major issues for the Council to address over an eighteen-month period. Based on this agenda, each of the three countries draws up its own, more detailed six-month agenda. France forms a presidency trio with the Czech Republic (second half of 2022) and Sweden (first half of 2023). France's previous EU presidency was in 2008.

In anticipation of this milestone, the HCE wished to offer its input and, with this opinion, analyse the issues it considers important and suggest courses of action, so that gender equality and women's rights can run throughout the agenda of the French presidency of the European Union, in line with the feminist diplomacy commitments made by France since 2018.

This analysis by the HCE follows on from its work on feminist diplomacy ¹. In its report, the HCE conducted an initial assessment of French feminist diplomacy and made recommendations to strengthen its implementation. In order for this policy to truly transform social relations and power, the HCE called for women's rights to be placed at the centre of French external action, in every area (politics, trade and the economy, development, culture, environment, education, defence and security policy, etc.), including in bodies not dedicated to gender issues, and at each stage of the process (from design to evaluation). It also emphasised the importance of allocating the necessary resources to this policy, involving women fully in the process in order to achieve parity, providing greater support to feminist organisations in their struggles, and strengthening policy coherence.

To carry out its work, the HCE consulted the Secretary of State for European Affairs and conducted hearings with representatives of the French government (Secretary General for European Affairs, Directorate General for Social Cohesion), as well as associations and representatives of European organisations (European Institute for Gender Equality, EIGE; Members of the European Parliament; the UN Women Brussels office).

For the High Council for Gender Equality, the PFUE represents a key moment and an opportunity for France to implement and promote its commitments to feminist diplomacy and affirm that women's rights and gender equality are central to the European project.

In this opinion, the HCE will review the context surrounding the PFUE (part 1), before laying out its priority issues and possible courses of action (part 2).

1 - HCE, "Feminist diplomacy: from an inspiring slogan to a real catalyst of change?" 29 October 2020: <https://www.haut-conseil-egalite.gouv.fr/enjeux-europeens-et-internationaux/actualites/article/la-diplomatie-feministe-d-un-slogan-mobilisateur-a-une-veritable-dynamique-de-1621>
"Key indicators for feminist diplomacy", 10 March 2021: <https://www.haut-conseil-egalite.gouv.fr/enjeux-europeens-et-internationaux/actualites/article/indicateurs-cles-de-la-diplomatie-feministe>.

I. A critical context that calls for a strong presidency in favour of women's rights and gender equality

It is difficult to know what exactly the situation will be for Europe and even the world in January 2022. However, some certainties remain:

- The economic, social and societal effects of the pandemic, and perhaps the pandemic itself, will always be present, with women bearing the brunt of these effects.
- This period has seen both feminist action and advances in women's rights, as well as threats and pushback.

1. Rights under assault within the European Union

Gender equality is an essential value of the EU enshrined in the Treaty on European Union (art. 2 and 3.3), a fundamental right enshrined in the Charter of Fundamental Rights (art. 21 and 23), and a key principle of the European Pillar of Social Rights.

Gender equality in the treaties and basic texts

Treaty on European Union - Article 2: "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. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

Treaty on European Union - Article 3-3: "It [the Union] shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child."

Charter of Fundamental Rights - Article 21. Non-discrimination: "1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited."

Article 23. Equality between women and men: "Equality between women and men 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 favour of the under-represented sex."

Treaty on the Functioning of the European Union - Article 8: "In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women."

The European Pillar of Social Rights - Adopted in 2017, the European Pillar of Social Rights includes twenty social principles regarding equal opportunities, access to the labour market, working conditions,

social protection and inclusion. Gender equality is one of these 20 key principles (Chapter I: “Equal opportunities and access to the labour market”). The European Pillar of Social Rights is not legally binding, but it does set out a common framework for the social rights of European citizens. A European Pillar of Social Rights Action Plan was presented by the European Commission in March 2021 and approved at the Porto Summit in May 2021.

The European Union has robust legislation on equal treatment between men and women. Significant progress has been made, particularly in terms of women’s employment and equality in the workplace. However, according to the 2020 Gender Equality Index of the European Institute for Gender Equality (EIGE), no country in the Union has yet achieved gender equality, and progress is slow. At this rate, it would take more than 60 years for it to happen. There are also considerable differences between Member States: Sweden tops EIGE’s Gender Equality Index with 83.8 points, while Greece (52.2 points) and Hungary (53 points) occupy the bottom spots ². A 2014 survey by the EU Fundamental Rights Agency showed that one in three women had experienced physical or sexual violence, and that 55% of women in the EU had experienced sexual harassment.

The European strategic framework for gender equality

EU guidelines for gender equality are set out in three main strategies and action plans for gender mainstreaming in the Union’s internal and external policies. Since December 2019, the European Commission has also had a Commissioner for Equality (Helena Dalli).

- **The Gender Equality Strategy (2020-2025)**³: Adopted in March 2020, this strategy sets out the priorities of the European Commission for the period 2020-2025 and includes 5 main pillars (being free from violence and stereotypes; thriving in a gender-equal economy; leading equally throughout society; gender mainstreaming and an intersectional perspective in EU policies; funding actions to make progress in gender equality in the EU). It is based on a dual approach of targeted measures, combined with “strengthened gender mainstreaming [...] in all stages of policy design in all EU policy areas, internal and external.”

2 - <https://eige.europa.eu/gender-equality-index/2020/compare-countries>

3 - European Commission, “A Union of Equality: Gender Equality Strategy 2020-2025”, 03/03/2020: <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:52020DC0152&from=FR>

- **The European Union Action Plan on Gender Equality and Women’s Empowerment in External Action, 2021-2025 (GAP III)**⁴: Adopted in November 2020, this action plan specifically requires 85% of all new actions throughout external relations to contribute to gender equality and women’s empowerment by 2025 (in 2019, 65%).
- **The European Union Action Plan on Women, Peace and Security (2019-2024)**⁵, which sets out 6 key priority areas: i) prevention, ii) protection, and iii) relief and recovery; and three cross-cutting principles: iv) women’s participation; v) gender mainstreaming and vi) leading by example.

Despite these commitments, women’s rights are under assault by ultra-conservative governments in some EU Member States, particularly when it comes to sexual and reproductive rights (limits on the right to abortion, the elimination of sex education, etc.). These governments profess to uphold “*traditional family values*” while contesting the concept of “*gender*” based on an antiquated conception of femininity and masculinity, or in defence of a national identity. Women’s rights are in decline in these Member States.

Both Poland and Hungary are signatories to the “Geneva Consensus Declaration”, an initiative launched by President Trump in October 2020⁶, which counts some 32 countries as signatories and formalises their opposition to abortion⁷ and their support for “traditional family values”. In Poland, President Duda’s Law and Justice Party (PiS), in power since 2015, has severely restricted the right to abortion following a decision by the Constitutional Court in October 2020 to eliminate the exception for cases of severe foetal malformation (which accounted for 95% of legal abortions). At the same time, subsidies for women’s rights associations have been severely curtailed or even eliminated.

Several proposals relating to women’s rights are currently blocked within the European Union, due to the obstruction of certain Member States:

- **EU ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence** (known as the Istanbul Convention⁸): the EU signed the Istanbul Convention in June 2017 but has not yet ratified it due to opposition from some Member States. Six Member States have not yet ratified the Convention (Bulgaria, Hungary, Latvia, Lithuania, Slovakia, Czech Republic). Poland, which has ratified it, has signalled that it may withdraw. Moreover, outside the EU, Turkey set a precedent by announcing its withdrawal in March 2021.
- **The draft legislative directive on quotas for women on the boards of listed companies**: the directive, which was passed by Parliament on 20 November 2013, was debated three times in the Council of the European Union without reaching a consensus.

4 - European Commission, “European Union Action Plan on Gender Equality (GAP III)”, 25/11/2020: <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:52020JC0017&from=FR>

5 - Council of the European Union, “European Union Action Plan on Women, Peace and Security 2019-2024”, July 2019: <https://data.consilium.europa.eu/doc/document/ST-11031-2019-INIT/en/pdf>

6 - The new American president, Joe Biden, withdrew his country from the initiative in January 2021.

7 - “There is no international right to abortion, nor any international obligation on the part of states to finance or facilitate abortion”, Geneva Consensus Declaration.

8 - <https://www.coe.int/en/web/istanbul-convention/home>

2. The disproportionate impact of the Covid-19 pandemic on women and women's rights

The Covid-19 pandemic and the accompanying social and economic crises are worsening pre-existing inequalities between men and women, and have caused gender equality around the world to fall behind by 36 years, according to the latest World Economic Forum annual report⁹.

In its 2021 Report on Gender Equality in the EU¹⁰, the European Commission found that the Covid-19 pandemic had exacerbated gender inequalities and undermined the gains made in recent years, pointing to a surge in domestic violence, limitations on access to sexual and reproductive health and rights, a lack of women's representation and inclusion in the media and in decision-making bodies related to the pandemic, and the negative effects of lockdown measures on women's share of household work. In the labour market, women are overrepresented in the sectors most affected by the crisis, and often undervalued (retail, hospitality, care work, etc.). They are likely to be excluded from burgeoning sectors (particularly digital), which are largely male-dominated.

Key figures on the pandemic's impact on women

A surge in domestic violence: The World Health Organisation (WHO) reports a 60% increase in emergency calls from women who have suffered or were threatened with violence by their partner, compared to April 2019 (in the Europe zone)¹¹.

Limited access to sexual and reproductive rights (contraception, abortion, etc.):

According to the International Planned Parenthood Federation (IPPF) European Network¹², almost all of its 18 member organisations surveyed (94%) reported a decrease in the number and frequency of sexual and reproductive health services between March and April 2020 (due to competition with other health sectors given higher priority, a lack of staff and/or access difficulties due to the lockdowns).

Over-representation of women in the sectors most affected by the crisis: 76% of healthcare workers, 82% of cashiers and 95% of cleaning or home help staff are women. Women also had more difficulties re-entering the labour market during the partial recovery in summer of 2020, with employment rates rising by 1.4% for men but only by 0.8% for women between the second and the third quarter 2020¹³.

Unequal sharing of household work: women spent, on average, 62 hours per week caring for children (36 hours for men) and 23 hours per week doing household tasks (15 hours for men)¹⁴.

A lack of women in the media and decision-making bodies: in 87 countries, including 17 in the EU, national Covid-19 task forces were 85.2% led by men¹⁵.

3. Strong expectations regarding a feminist French EU presidency

Given this context, the High Council for Gender Equality believes that the PFUE represents a key moment and an opportunity for France to implement and promote its commitments to feminist diplomacy and affirm that women's rights and gender equality are central to the European project.

9 - <https://fr.weforum.org/press/2021/03/l-egalite-femmes-hommes-recule-dune-generation-a-cause-de-la-pandemie-selon-une-nouvelle-etude/>

10 - European Commission, Report on Gender Equality (2021): https://ec.europa.eu/info/files/2021-report-on-gender-equality-in-the-eu_en

11 - <https://news.un.org/fr/story/2020/05/1068282>

12 - <https://www.ippfen.org/sites/ippfen/files/2020-04/Sexual%20and%20Reproductive%20Health%20during%20the%20COVID-19%20pandemic.pdf>

13 - European Commission, 2021 Report on Gender Equality in the EU, p.21-36:

https://ec.europa.eu/info/sites/default/files/aid_development_cooperation_fundamental_rights/annual_report_ge_2021_printable_en_0.pdf

14 - *Ibid.*

15 - *Op. cit.* p.37-46

The current moment is difficult, constrained as it is by the pandemic and its many effects, by the ecological crisis, and by conservative advances. But it can and must be a time for awareness, change and ambition. No doubt this is the reason why those interviewed by the HCE expressed high expectations for **France to take strong, even aggressive stance toward women's rights and gender equality during its presidency, and to support European and extra-European feminist movements.** These expectations were reinforced by France's shift toward feminist diplomacy since 2018, its hosting of the "Generation Equality Forum" in July 2021, together with UN Women and the government of Mexico, and its attempts to position itself during this event as a champion for sexual and reproductive rights.

At the time of writing, the HCE does not know how the French president sees the PFUE in terms of objectives and strategy, as his agenda will be presented to the European Parliament in January 2022. However, a statement to the Council of Ministers on 4 November 2020 announced that the French Presidency of the EU would revolve around three concepts: "recovery, strength, sense of belonging". The HCE notes that this statement, which presents the initial foundations for the PFUE, makes no mention of equality and women's rights at this stage. It also points out that the task force on the challenges of the French Presidency of the European Union, established in March 2021, includes twelve members from academia, but does not include any experts in gender equality and women's rights. It further notes that these issues were almost absent from the president's opening speech at the Conference on the Future of Europe (9 May 2021).

During its hearings in April 2021, the HCE found that France's primary strategy would be to seek consensus and avoid excessively divisive subjects. The HCE is well aware that the EU presidency is not about defending the positions or interests of the country that is presiding, but about considering the interests of every State. But it also knows that the EU, throughout its history, has pushed itself forward by confronting disagreements. Advancing the rights of women, all women, regardless of nationality, is part of this process. From this angle, the European Union in recent decades has been an important factor in advancing gender equality in the countries that make it up, forcing them to tackle it more quickly and more effectively than they wanted. The legitimate desire to involve all EU Member States, including those that are drifting away from one of the major advances of the last fifty years, must not undermine our determination to forcefully defend all of these rights.

It is also important to show that feminist diplomacy, which is advocated by several countries (some of which are members of the EU), is not only a rallying cry, but a policy whose implementation requires innovation and boldness. When it comes to the issues of gender equality and women's empowerment, we are in a paradoxical situation, marked both by setbacks and fierce opposition and by a growing push for women's rights in many countries. This issue of equality, freedom and women's rights has revealed the situation in which the European Union finds itself, and the choices it must make: either to narrow its focus to the lowest common denominator, or to continue on a dynamic path, both internally and vis-à-vis the world.

In this context, several strategies are possible for the PFUE: firstly, working in conjunction with the presidency trio (for France: the Czech Republic and Sweden, another country that advocates for feminist diplomacy). On certain topics, it may also consider forming action coalitions with States that champion women's rights (Sweden, Finland, Denmark, the Netherlands), as well as Member States that are sensitive to this issue, even if they do not take on the mantle of feminist diplomacy (particularly Germany, which has a special relationship with central Europe).

Recommendation:

With women's rights facing pushback in the European Union, due in part to the Covid-19 pandemic and the resulting economic and social crises, as well as attacks by reactionary governments, the HCE calls on France to make equality, freedom and women's rights a political priority for its presidency.

It urges it to clearly incorporate this priority in the agenda of the French Presidency of the European Union, as well as in the common agenda of the presidency trio (France, Czech Republic, Sweden). A joint statement by the trio on gender equality and women's rights could also be adopted.

II. Priorities and courses of action for a feminist PFUE

A policy of equality and women's rights requires both specific measures and an integrated, cross-cutting approach that incorporates a gender perspective in all policies. As part of its EU Presidency, and in view of the current context, the High Council for Gender Equality believes that France should first pursue three major objectives for gender equality and women's rights, in line with this dual approach:

1. Affirming that women's rights, including sexual and reproductive rights and the fight against sexual and gender-based violence, are a democratic issue and a non-negotiable value of the EU

Making women's rights, including sexual and reproductive rights, an essential component of the rule of law

Women's rights, and in particular sexual and reproductive rights, are under assault within the European Union itself. The issue of sexual and reproductive rights (the right to abortion, contraception, sex education, etc.) is essential, and France has shown on multiple occasions that it is highly committed to it. The European Union as a whole is too. But this is not the case for some of the countries that make it up. While one Member State (Malta) prohibits abortion completely (a situation that currently remains unchanged), some Member States are trying to reverse long-established rights, like Poland. But the last few months have revealed the huge difference between the positions of the Polish government and those of tens of thousands of Poles demonstrating for the right to abortion. The EU is honour-bound not to abandon them, and the French presidency should focus on achieving results in this area. As Ireland showed by legalising abortion in 2018, change is possible.

"The European Union is a community of values, the foundation of which is respect for fundamental rights and freedom, and to undermine these is to weaken the European project itself; sexual and reproductive health and rights are essential for the development of an egalitarian and just society. And access to legal and safe abortion is an integral part of these fundamental rights."

Statement by the Minister for Europe and Foreign Affairs on 10 November 2020 (response to a question in the National Assembly)

The argument against an effective right to abortion in all EU countries is well known: sexual and reproductive rights are associated with health, and health does not fall within the EU's competence, but that of each Member State under the principle of subsidiarity. Leaving things as they are would only encourage further deadlock. However, there are at least two ways out of it: recognising sexual and reproductive rights for what they are (i.e. human rights), or making health an EU competence.

Making sexual and reproductive rights a legal issue

The first way is also the fairest, the most consistent and the most forward-looking: establishing that **sexual and reproductive rights are not a health issue but a legal issue**, as stated in several international texts. **These rights should be affirmed as an integral part of human rights and explicitly included in the definition of the rule of law.** The rule of law is one of the founding values of the European Union, enshrined in Article 2 of the Treaty on European Union¹⁶. The European Union has adopted a restrictive reading centred on four pillars, as indicated in the European Commission's 2020 Rule of Law Report: judicial systems, anti-corruption frameworks, institutional checks and balances and media freedom and pluralism. These criteria are appropriate but insufficient. Human rights, and therefore women's rights, which include the right to abortion and all sexual and reproductive rights, must be explicitly included. This is a necessary and urgent step.

What is the rule of law?

"The rule of law is enshrined in Article 2 of the Treaty on European Union as one of the common values for all Member States. Under the rule of law, all public powers always act within the constraints set out by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts. The rule of law includes principles such as legality, implying a transparent, accountable, democratic and pluralistic process for enacting laws; legal certainty; prohibiting the arbitrary exercise of executive power; effective judicial protection by independent and impartial courts, effective judicial review including respect for fundamental rights; separation of powers; and equality before the law. These principles have been recognised by the European Court of Justice and the European Court of Human Rights. In addition, the Council of Europe has developed standards and issued opinions and recommendations which provide well-established guidance to promote and uphold the rule of law."¹⁷

EU funding should also be made conditional on the fulfilment of these rights. The mechanism that links disbursement of EU funding for Member States to respect for the rule of law, created in December 2020, is limited to this very restrictive definition of the rule of law based on the four criteria. It does not currently include fundamental rights and women's rights. These criteria should be broadened so that this sanction mechanism can be triggered against Member States that flout women's rights.

Additionally, pending modifications to these criteria, Article 7 of the Treaty on European Union could be invoked against these Member States for violating EU values, or the rule of law conditionality mechanism could be triggered based on existing criteria. At the same time, support should be given to feminist movements in Member States where these rights are under assault, in particular by supplying adequate funding under the "Rights and values" programme (1.5 billion euros), and in non-Member States through the European Neighbourhood, Development and International Cooperation Instrument (NDICI - 70 billion euros).

¹⁶ - Article 2 TEU: "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. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

¹⁷ - European Commission, "2020 Rule of Law Report. The rule of law situation in the European Union", 30/09/2020, p.1

Finally, deliberations during the Conference on the Future of Europe should be an opportunity to consider ways to incorporate sexual and reproductive rights into the Charter of Fundamental Rights of the European Union and Article 2 of the TEU, and to make respect for these rights a criterion for membership in the European Union¹⁸.

Bringing health issues under EU competence

Another possible strategy would be for health issues to fall under EU competence.

If sexual and reproductive rights were to continue to be considered exclusively as a health matter—which is not the HCE’s conception of it, as we have previously stated—then health should to be brought fully under EU competence¹⁹. With the pandemic and the purchase of COVID-19 vaccines, the EU has stepped up its action in this area, and the idea of a unified EU health policy is gaining ground. In such a case, sexual and reproductive rights would then fall under the EU.

Strengthening the role of gender equality and women’s rights within the Council: Creating a dedicated Council configuration composed of ministers for gender equality

The Council is currently made up of ten specific configurations, composed of ministers from the twenty-seven Member States depending on the subject being discussed (“Agriculture and fisheries”, “Competitiveness”, “Justice and home affairs”, “Employment, social policy, health and consumer affairs”, “Transport, telecommunications and energy”, “Environment”, “General affairs”, “Foreign affairs”, “Economic and financial affairs”, “Education, youth and culture”). Gender equality issues are discussed within the “Employment, social policy, health and consumer affairs” council (EPSCO). They currently have no dedicated forum within the Council.

The HCE supports the European Parliament resolution of 17 December 2020²⁰ and calls for the creation of a dedicated Council configuration, composed of ministers and State secretaries from the 27 Member States responsible for gender equality, to ensure that gender equality issues are debated at the highest political level and to strengthen their inclusion in all EU policies and legislation.

A dedicated council for gender equality and women’s rights issues would aid in the exchange of good practices between Member States, and would be a preliminary step toward the upward harmonisation of women’s rights within the European Union, as proposed in the draft “most favoured European woman clause”. This clause, which was championed by Gisèle Halimi and taken up in 2019 by the Secretary of State for Women’s Rights and several MEPs (under the Simone Veil Pact), encourages Member States to adopt the most progressive legislation already in force elsewhere in Europe.

Strengthening European legislation to combat gender-based and sexual violence

Violence against women is a violation of fundamental rights and one of the main obstacles to achieving gender equality.

The High Council for Gender Equality calls on the European Union and all Member States to ratify the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women

¹⁸ - Article 49 TEU: “Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.”

¹⁹ - Article 168 of the Treaty on the Functioning of the EU (TFEU) provides that the EU may take action to encourage cooperation and coordination between Member States on health matters.

²⁰ - European Parliament resolution of 17 December 2020 on the need for a dedicated Council configuration on gender equality:
https://www.europarl.europa.eu/doceo/document/TA-9-2020-12-17_FR.html#sdocta20

and domestic violence). It calls for action to support the Commission's forthcoming draft directive (end of 2021) should the ratification process continue to stall, in order to align European legislation with the Istanbul Convention and harmonise existing laws and policies in the Member States. The European directive should include measures to combat sexual exploitation, prostitution and online violence.

The High Council for Gender Equality also pledges to continue supporting the Spotlight initiative, a partnership between the European Union and the United Nations aimed at eliminating all forms of violence against women by 2030.

Recommendations:

- **Affirm that women's rights, including sexual and reproductive rights, are an essential component of the rule of law and a non-negotiable value of the European Union, including in bilateral relations with non-Member States:**
 - Incorporate a requirement to respect women's rights, including sexual and reproductive rights, in the rule of law conditionality mechanism adopted in December 2020, and in the annual report on the rule of law in the European Union.
 - Pending this change, denounce and take action against Member States that flout women's rights (invoke Article 7 of the Treaty on European Union against them for violating EU values, or trigger the rule of law conditionality mechanism based on other criteria).
 - During the Conference on the Future of Europe, consider ways to incorporate sexual and reproductive rights into the Charter of Fundamental Rights of the European Union and Article 2 of the TEU, and to make respect for these rights a criterion for membership in the European Union.
 - Support feminist movements in Member States where these rights are under assault, in particular by supplying adequate funding under the "Rights and values" programme (1.5 billion euros), and in non-Member States through the European Neighbourhood, Development and International Cooperation Instrument (NDICI - 70 billion euros).
- **Strengthen European legislation to combat sexual and gender-based violence:**
 - Encourage the European Union and all Member States to ratify the Istanbul Convention.
 - Support the European Commission's directive on gender-based and sexual violence due to be proposed at the end of 2021, in order to strengthen measures aimed at ending the continuum of violence, and to align existing European legislation with the standards of the Istanbul Convention.
- **Strengthen the role of gender equality and women's rights within the Council:**
 - Allow the creation of a dedicated Council configuration for equality and women's rights, composed of ministers and secretaries of state responsible for equality and women's rights, in order to aid in the exchange of good practices and facilitate the upward harmonisation of women's rights in the European Union, as well as the mainstreaming of gender equality in all EU policies and legislation.

2. Putting women and women's rights at the heart of the economic and social recovery

Putting women's rights at the heart of the recovery plans

In 2022, the economic and social recovery will be a key issue for European countries.

Women, as has been abundantly documented, have been at the forefront of the fight against the Covid-19 pandemic and are disproportionately suffering the consequences of this crisis, particularly disadvantaged women and women with insecure jobs, often in care work. In order to remedy this situation and, in the words of UN Secretary General Antonio Guterres, prevent women from becoming “the face of the steep economic downturn caused by the pandemic”, it is essential that European recovery plans (“Next Generation EU”, 750 billion euros) and the budget (Multiannual Financial Framework 2021-2027, 1.074 trillion euros), which have considerable funds, take into account the specific situations and needs of women, incorporate measures to strengthen their rights, and include more women in their design and implementation.

From the start of the pandemic, the European Union has recognised women's role in the crisis, and has pledged to include them in all recovery and crisis resolution plans²¹. The European Recovery and Resilience Facility, a 672.5 billion euro package at the heart of the “NextGenerationEU” recovery mechanism, is designed to help Member States cope with the economic and social consequences of the crisis. Its regulation specifies that “gender equality should be taken into account throughout the preparation and implementation of national recovery and resilience plans (RRPs).”

The HCE notes, however, that the European Recovery and Resilience Facility does not set any gender equality objectives, either qualitative or quantitative, unlike the environmental and digital commitments, which are subject to strict targets and placed at the centre of the EU recovery plan. In order to receive EU funds, 37% of expenditures in the national recovery and resilience plans (RRPs) must go toward climate objectives, and at least 20% toward the digital sector, a predominantly male industry. Gender equality is also not mentioned as such in the six pillars of the Recovery and Resilience Facility. The HCE nevertheless notes that a review report on its implementation is expected no later than 31 July 2022, during the PFUE, which should describe how the plans combat gender inequality. This report should be an opportunity to ensure that these issues are incorporated into EU recovery plans, particularly by ensuring that funding for the green and digital transitions also benefits women (by increasing their participation in these sectors, including in education programmes), initiating a discussion on care work and predominantly female sectors, which are undervalued and underpaid, and conducting a gender analysis of all planned funding.

The HCE also calls for women to be fully included in crisis resolution plans. In 87 countries, including 17 in the EU, national Covid-19 task forces were 85.2% led by men. This same phenomenon was observed among experts invited onto media programmes.

Supporting gender mainstreaming in all EU policies and the establishment of gender-responsive budgeting

More broadly, and in accordance with Article 8 of the Treaty on the Functioning of the EU, gender equality and women's rights should not only be subject to dedicated measures, but should also be incorporated into all stages of EU policy-making, including the entire budgetary process. The EU Gender Equality Strategy 2020-2025 adopts this dual approach²².

21 - Statement by 145 UN Member States and the EU in April 2020 in response to the UN Secretary General's call: <https://www.unwomen.org/-/media/headquarters/attachments/sections/news%20and%20events/stories/2020/answering-the-secretary-generals-call-on-Covid-19.pdf>

22 - “The implementation of this strategy will be based on the dual approach of targeted measures to achieve gender equality, combined with strengthened gender mainstreaming.”
“A Union of Equality: Gender Equality Strategy 2020-2025”, *op.cit.* p.2

The HCE notes that gender is mainstreamed in several financial instruments, particularly in the European structural funds, and it believes that this approach should be systematised so that gender equality is taken into account in all programmes funded by the European Union, and to ensure that women and men receive their fair share of public spending at all levels.

The European Court of Auditors, which just issued an audit on 26 May 2021 (*“Gender mainstreaming in the EU budget: time to turn words into action”*²³), has found that gender equality is not sufficiently incorporated into the EU budget. Of the 58 spending programmes in the 2014-2020 budget, only four included objectives explicitly linked to gender, and only five were provided with gender-related indicators (29 indicators out of a total of more than 1,000 indicators). In the Commission’s proposals for the 2021-2027 budget, only 10 of these 29 indicators were maintained. The Court of Auditors reiterated that *“gender-responsive budgeting is not just about funding explicit gender-equality initiatives. It is about understanding the impact of budgetary and policy decisions on gender-equality goals, and using this information to adjust for inequalities by introducing changes to public expenditure and revenue.”* It recommends systematically analysing all EU policies and programmes through a gender equality lens, setting up dedicated objectives and indicators (as is already the case for the environment), and strengthening assessments.

The HCE calls for action to support gender mainstreaming in all EU policies and establish gender-responsive budgeting within the EU. It notes the Commission’s pledge, as part of the EU Gender Equality Strategy 2020-2025, to set up a methodology to measure gender-related expenditure in the Multiannual Financial Framework 2021-2027, the first step in the implementation of gender budgeting or gender-sensitive budgeting.

Definition of a gender budgeting by the Council of Europe²⁴

Gender budgeting is an application of gender mainstreaming in the budgetary process. It means a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures in order to promote gender equality. In short, gender budgeting is a strategy and process with the long-term goal of achieving gender equality.

Implementing gender budgeting also requires collecting and analysing gender data. To this end, the HCE finds that funding should be increased for the EIGE, which is currently the smallest and least funded of the EU institutes, with a budget of 54 million euros provided under the multiannual budget 2021-2027, one-fifth the average budget of European agencies.

In line with the objectives of the EU's equality strategy, France must maintain a cross-cutting approach to women's rights issues. Whatever political priorities are chosen by the PFUE (digital transition, green transition, etc.), each of these policies must be gender responsive.

Supporting the adoption of current directives in order to increase equality in the workplace and initiate a discussion on care work

The HCE urges the government to support the current draft European directives on equality in the workplace, and to facilitate their adoption:

- The Pay Transparency Directive, proposed by the Commission in March 2021, which requires employers to report on gender pay gaps and provides access to justice and compensation for victims of pay discrimination.

*The gender pay gap in the EU is 15.7%²⁵.
The gender pension gap in the EU is 30.1%²⁶.*

- The directive on improving the gender balance on boards of directors, which sets a minimum objective of 40% presence of the under-represented sex among the non-executive members of boards of directors, and which the Commission is considering reviving, since the directive has stalled since 2012.

In addition to these legislative proposals, which were included in the European Pillar of Social Rights Action Plan adopted at the Porto Summit in May 2021, the EU should give broader consideration to the challenges of care work, which is performed mainly by women and is largely undervalued.

24 - Council of Europe, "Gender budgeting: practical implementation", April 2009, p.5: <https://rm.coe.int/1680599886>

25 - European Commission, "A Union of Equality: Gender Equality Strategy 2020-2025", 03/03/2020, p. 13: <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:52020DC0152&from=FR>

26 - *Ibid.*

Recommendations:

- Put gender equality and women's rights at the heart of European recovery plans, which will require:
 - Ensuring in particular that funding for the green and digital transitions, which involve male-dominated sectors, also benefits women, by increasing their participation in these sectors, including in education programmes.
 - Initiating a discussion on care work and sectors that are predominantly female and undervalued.
 - Conducting a gender analysis of all planned funding.
 - Including clear and ambitious targets with gender equality indicators in European recovery plans, and in particular in the EU Recovery and Resilience Facility, so that funding is also used to strengthen gender equality (with specific and cross-cutting measures).
 - Proposing the creation of a taskforce on gender mainstreaming in the Recovery and Resilience Facility and national recovery plans, particularly to review its planned implementation in July 2022.
 - Ensuring that women participate meaningfully in key decision-making bodies on the economic recovery.
- Support gender mainstreaming in all EU policies and the establishment of gender-responsive budgeting:
 - Ensure the implementation of the EU Gender Equality Strategy (2020-2025) and adopt Council conclusions on the implementation and accountability of the EU equality strategy.
 - Include the issues of gender equality and women's rights in all negotiations, Council conclusions and texts under discussion during the French EU presidency, including in the new Common Agricultural Policy (which accounts for approximately one third of the 2021-2027 budget).
 - Organise a meeting of finance ministers from the 27 Member States to discuss the inclusion of equality issues in the Multiannual Financial Framework and the recovery plans, in line with the recommendations of the European Court of Auditors report on "Gender mainstreaming in the EU budget: time to turn words into action" (published May 2021).
 - Promote increased funding for the EIGE, which collects and analyses gender data.
- Support the adoption of current directives on equality in the workplace (Pay Transparency Directive; directive on improving the gender balance on boards of directors).
- Go the extra mile and organise a high-level meeting during the PFUE to discuss care work issues.

3. Adopting a policy of feminist diplomacy for the EU

Implementing the Action Plan on Gender Equality in External Action (GAP III)—a concrete action plan for feminist diplomacy in the EU—and securing the necessary funding

Although not specifically named as such, feminist diplomacy is at the heart of the European Union's new Action Plan on Gender Equality (GAP III), adopted in November 2020. The third Action Plan on Gender Equality, which is part of the EU Gender Equality Strategy 2020-2025, provides the EU with a strategy for its external action.

The plan makes the promotion of equality a priority for all EU external policies and actions, including trade policy, migration policy, humanitarian aid and research and development. It promotes a transformative approach (i.e. one that “aims to shift gender-power relations, for a positive change of the paradigm(s) that produce discriminations and inequalities”), an intersectional approach that takes into account multiple forms of inequality and discrimination, and a rights-based approach.

In terms of funding, it requires **85% of all new EU actions throughout external relations** to contribute to gender equality and women's empowerment by 2025. This percentage was 65% in 2019.

It urges close consultation with Member States, civil society organisations and women's rights activists and focuses on key thematic areas, including fighting against gender-based violence and promoting the economic, social and political empowerment of women; sexual and reproductive health and rights; gender equality in education; and women's access to leadership responsibilities. It also fully integrates the EU policy framework on Women, Peace and Security, and brings the gender perspective to new policy areas, such as the green transition and the digital transformation.

The French Presidency of the EU will need to implement this feminist action plan throughout EU foreign policy (including trade policy, migration policy and humanitarian aid) and ensure available funding (in order to avoid a reallocation of funding away from gender equality, as has been observed in other crisis contexts). In conjunction with the European Commission and civil society organisations, it could organise an assessment of the implementation of the GAP III action plan one year after its adoption, and propose Council conclusions on its implementation.

It will also need to implement the EU Action Plan on Women, Peace and Security (2019-2024), by fulfilling these commitments both in the Member States and in missions and operations conducted under the Common Security and Defence Policy (CSDP), as well as in EU regional programmes and partnerships. The primary goal is to increase women's involvement in all issues relating to peace and security, “as rights-holders, peacebuilders and decision-makers for peace and security, democracy and the rule of law, and promote their access to justice and basic services”²⁷. According to the United Nations annual report on women, peace and security (2020), women represented on average 13% of negotiators, 6% of mediators and 6% of signatories in peace processes between 1992 and 2019. In addition, the proportion of peace agreements with gender equality provisions fell from 14% in 1995 to just 22% in 2019²⁸.

27 - European Union Action Plan on Gender Equality (GAP III), 25/11/2020

28 - Report of the UN Secretary-General on Women, Peace and Security (September 2020) <https://undocs.org/fr/S/2020/946>

Affirming EU solidarity with feminist activists who are victims of repression

In some European countries and in many countries around the world, activists for women's rights, freedom and equality suffer various forms of repression, ranging from imprisonment to torture and even death. It is important for the EU to affirm its solidarity with these activists and provide concrete support, both diplomatically and financially. This issue should be one of the pillars of a feminist PFUE.

Following through on the Generation Equality Forum

Together with UN Women and Mexico, France is co-hosting the Generation Equality Forum, a global gathering to promote gender equality, which will take place from 30 June to 2 July 2021 following the anniversary of the Beijing World Conference on Women (1995). Several Member States and the Commission are taking part in action coalitions set up for this event, and will adopt commitments backed by funding in order to advance these issues.

The PFUE will need to follow through on the Generation Equality Forum by tracking the commitments made by the European Union and its Member States, for example through a high-level follow-up conference, in order to determine whether the commitments made by the Member States and the European Union during the forum are being achieved.

Recommendations:

- **Adopt a policy of feminist diplomacy for the European Union:**
 - Organise a high-level conference of the 27 Member States on the topic of EU feminist diplomacy.
 - Push the Member States and the Commission to implement the GAP III action plan—a concrete action plan for EU feminist diplomacy—and ensure that budgets are allocated in line with objectives (85% of all new EU external actions must contribute to gender equality and the empowerment of women and girls by 2025). In conjunction with the European Commission and civil society organisations, organise an assessment of GAP III's implementation one year after its adoption, and propose Council conclusions on its implementation.
 - Ensure the implementation of the EU Action Plan on Women, Peace and Security (2019-2024), by fulfilling these commitments in missions and operations conducted under the Common Security and Defence Policy (CSDP), as well as in EU regional programmes and partnerships.
 - Promote economic and trade-related external action that mainstreams equality and women's rights, including gender mainstreaming in trade agreements and treaties, as recommended by the European Parliament's 2018 report on gender equality in European Union trade agreements (2017/2015 (INI))²⁹.
 - Encourage Member States to nominate female candidates for all positions within the European External Action Service (EEAS), including senior management and heads of mission and operation for the CSDP.
- Follow through on the Generation Equality Forum by tracking the commitments made by the European Union and its Member States and organising a high-level follow-up conference, to ensure the accountability and implementation of the commitments made by the Member States

29 - https://www.europarl.europa.eu/doceo/document/A-8-2018-0023_FR.html

and the European Union during the event.

- Consult, support and protect civil society organisations that promote women's rights, sexual and reproductive rights and gender equality, as well as feminist activists who are victims of repression.

CONCLUSION

To ensure the PFUE is resolutely committed to gender equality and women's rights, in addition to its three major objectives for the European Union, France will need to lead by example during its presidency, by ensuring gender parity on French delegations and panels, providing funding for gender equality, and consulting and supporting civil society organisations, in particular those that advocate for feminism and women's rights.

Returning to the three concepts we mentioned previously ("strength, recovery, sense of belonging"), which France has chosen as objectives and symbols for its future EU presidency, the High Council for Gender Equality believes this three-pronged agenda can only be achieved if rights and gender equality are made central to the European project.

If by "strength" we mean not domination, but the ability to act, to tackle the complexity of the moment, prepare for the future, and empower ourselves to achieve independence and sovereignty as a union, then there can be no strength without gender equality, without freedom and autonomy for women, the primary hallmark of which is control over one's body.

The "recovery" can and must work for everyone, which requires making space for women, whatever the field or issue, without treating the male perspective as neutral and/or universal.

If "belonging" refers to membership in the European Union, then while this certainly involves notions of history, culture, and language, it is primarily about political principles, which must be affirmed not only in word but in deed. Women's rights are among these founding principles, and must urgently be linked with membership in the EU.

The European Union is sometimes rightly, and often wrongly, attacked: wrongly because certain faults and shortcomings are attributed to the EU which are mainly the responsibility of the States that make it up. The future French presidency could and should be a democratic moment, a moment that unifies and even harmonises the European Parliament, Commission and Council. The cause of women's rights is a cause that justifies and deserves this harmonisation. And if this cannot be accomplished immediately, then it is up to certain leading States to lift up the whole of Europe, using the "most favoured European woman clause" as a model. This is precisely the role that France can play, with firmness and conviction.

ACKNOWLEDGEMENTS

This opinion was produced by the “European and International Issues” Committee of the High Council for Gender Equality, with the assistance of non-council members and the support of the General Secretariat of the HCE. Thank you to all of these people.

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