



Clarification about different wording in Directives 2024/1499 and 2024/1500 regarding the concept of “gender” and “equality” mainstreaming and of “intersectional discrimination”.

This background paper presents how the Commission services understand the Directives. It does not encroach on the Court of Justice's competence for interpreting EU law.

“Gender” and “equality” mainstreaming

Article 5(2) of Directive (EU) 2024/1500 provides:

*“Member States shall ensure that equality bodies are empowered to carry out activities to prevent discrimination and to promote equal treatment as derived from Directives 2006/54/EC and 2010/41/EU. Such activities may, inter alia, include promoting positive action and **gender mainstreaming** among public and private entities, (...).*

Recital 41 also refers to “gender” mainstreaming.

Article 5(2) of Directive 2024/1499 provides:

*“Member States shall ensure that equality bodies are empowered to carry out activities to prevent discrimination and to promote equal treatment as derived from Directives 79/7/EEC, 2000/43/EC, 2000/78/EC and 2004/113/EC. Such activities may, inter alia, include promoting positive action and **equality mainstreaming** among public and private entities, (...).”*

Recital 42 also refer to “equality” mainstreaming.



Article 10 of the Treaty on the Functioning of the European Union provides that *“In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”*.

Article 8 of the Treaty on the Functioning of the European Union provides that *“In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women”*.

Analysis

The Treaty requires the Union to combat discrimination based on all grounds in defining and implementing its policies and activities. The Treaty furthermore requires to eliminate inequalities, and promote equality, between women and men in all its activities.

EIGE's thesaurus¹ defines gender mainstreaming as the *“systematic consideration of the differences between the conditions, situations and needs of women and men in all policies and actions.”*

By analogy, “equality” mainstreaming consist in systematically considering in all policies and actions, the differences between the conditions, situations and needs of people of a certain sex, “race”/ethnicity, religion or belief, disability, age or sexual orientation compared with those outside those groups with the aim of combating discrimination. As Article 10 TFEU covers all the grounds of discrimination, the notion of “equality” mainstreaming thus also encompasses the ground of sex.

Despite the use of a single word, “equality”, the following specificities have to be taken into account when engaging in equality mainstreaming as the groups of people concerned do not constitute a single homogeneous group:

¹ See [gender mainstreaming | European Institute for Gender Equality \(europa.eu\)](#) and relevant links



- (i) the specificities of each group of people falling under one (or more) of the grounds mentioned above,
- (ii) the specificities of any subgroup of people sharing the same type of protected characteristic and
- (iii) the specificities linked to possible intersections between the above grounds.

For example, among people with a different “racial” or ethnic origin than the majority of the population in the European Union, the subgroups of Roma and people from African descend could have some common situations and needs but they could also have different ones depending on the policy concerned (situation under ii). Similarly, Roma women could also be in different situations and have different needs than Roma men (situation under iii).

Intersectional discrimination

When it comes to intersectionality, the different wording in Directives 2024/1499 and 2024/1500 only reflects the different scope of the two Directives and the different grounds covered.

Article 5(2) of Directive (EU) 2024/1500 provides:

*“Member States shall ensure that equality bodies are empowered to carry out activities to prevent discrimination and to promote equal treatment as derived from Directives 2006/54/EC and 2010/41/EU. (...). In carrying out such activities, equality bodies can take into consideration specific situations of disadvantage resulting from intersectional discrimination, which is understood as **discrimination based on a combination of sex and one or more of the grounds protected under Directive 79/7/EEC, 2000/43/EC, 2000/78/EC or 2004/113/EC.**”*



Recital 15 refers to “*intersectional discrimination, which is understood as discrimination based on a combination of sex and any other ground or grounds of discrimination protected under Directives 79/7/EEC, 2000/43/EC, 2000/78/EC or 2004/113/EC*”.

Article 5(2) of Directive 2024/1499 provides:

“Member States shall ensure that equality bodies are empowered to carry out activities to prevent discrimination and to promote equal treatment as derived from Directives 79/7/EEC, 2000/43/EC, 2000/78/EC and 2004/113/EC. (...). In carrying out such activities, equality bodies can take into consideration specific situations of disadvantage resulting from **intersectional discrimination, which is understood as discrimination based on a combination of grounds protected under Directives 79/7/EEC, 2000/43/EC, 2000/78/EC or 2004/113/EC.**”

Recital 16 also refers to “*intersectional discrimination, which is understood as discrimination based on a combination of grounds of discrimination protected under Directives 79/7/EEC, 2000/43/EC, 2000/78/EC or 2004/113/EC.*”