Europeanization and the “Needle’s Eye”: The Transformation of Employment Policy in Germany

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Abstract
What have been the impacts of Europeanization in European Union (EU) member states in the domain of employment policy from a gender perspective? The essay explores this question for one of the traditional “male breadwinner–female caretaker” gender policy regimes in the EU—the case of Germany. Since German women’s employment status is behind the status of women in many other EU countries, it has been expected that the impact of EC equal opportunity and equal treatment norms on domestic policy change has remained minimal (Ostner & Lewis, 1995). This, however, is not the case any more. On the contrary, it is argued that Europeanization, although against considerable domestic resistances and with delays, helps to “gender” German public employment policy, namely in three respects: with respect to underlying gender norms, regarding the distinction of gender specific target groups and scope, and the introduction of innovative gender-sensitive policy instruments. This claim is illustrated by three examples. An explanation for these shifts is developed that accounts for member state change despite misfits with EU norms, not as a consequence of legal compliance mechanisms, but as an outcome of a combination of three mechanisms—the politicization of controversial issues, shifts in dominant discourses, and political advocacy building—conducive to the “gendering” of Europeanization.

EUROPEANIZATION AND THE DOMESTIC “NEEDLE’S EYE”

Europeanization is understood here as the development of common legal norms and policy frameworks for regulating equal opportunities and equal treatment for women and men in the area of employment by European Union (EU) member states. It has been argued that the efficiency of European gender equality norms was hampered by domestic-level “needle’s eyes” that prevented member states from converging toward common frameworks (Ostner & Lewis, 1995). We have further developed this argument elsewhere (Liebert, 2003a, 2003b), claiming that these contingencies depended on three types of domestic constraints. Generally, the transposition of supranational norms and policies in domestic realms will be constrained by member states’ democratic systems to the extent to which they decentralize decision-making power institutionally. For instance, the Westminster model of majoritarian democracy and unitary state structures will make decision making and policy change easier. By contrast, the consensus model of democracy and the federal state renders

1This article draws on and further develops findings from the research group, “Public discourses, gender equality and European Governance,” at the University of Bremen, Germany, and, in particular, on Kodré & Müller, 2003; Liebert, 2002, 2003a, 2003b, 2003c.
decision making more fragmented and, hence, will make policy change more difficult. A second, less visible type of domestic impediment to empowering EU equal opportunity, equal treatment, and antidiscrimination norms comes from the gender policy regimes in member states. Ostner and Lewis have formulated the “needle’s eye” thesis, suggesting that obstacles to better compliance derive from the clashes between the German “strong male breadwinner” gender policy regime and EC equal opportunity and equal treatment norms. They claim that since member states are culturally and politically diverse, gender policies must pass first through a supranational and then a domestic filter. “Thus gender-related policies must pass through two separate ‘needle’s eyes’ to be discussed, adopted, and implemented. . . . The welfare regime of each member state and the gender order underlying it constitute the other needle’s eye that influences how EU-directives are implemented. . . . Member states. . . are likely to resist new policies that challenge existing national patterns” (Ostner & Lewis, 1995, p. 161).

Their argument suggests that member policymakers will resist, delay, or minimize the implementation of EU gender equality norms in the degree to which domestic employment policies are premised on gender regimes divergent from EU norms. Such “misfits” may adopt two different forms. On the one hand, employment policy in the context of gender policy regimes that support the male breadwinner–female family caretaker model will clash with supranational norms for promoting equal opportunities and equal treatment to the extent that it is premised on traditional beliefs about the inevitably inegalitarian nature of women’s and men’s roles in the division of societal labor. On the other hand, public policy oriented toward more gender-neutral gender regimes will clash with positive measures for promoting gender equality. Although both share egalitarian norms, gender-neutral policy conceptions will ignore gender-biased institutional contexts within which labor markets are embedded that help to reproduce hierarchies between women and men in the real world of employment.

It is therefore plausible to expect national gender policy regimes in the EU to hamper effective policy change toward supranational norms of equal opportunities and equal treatment for contrary reasons: either because of deeply rooted inegalitarian belief systems or, where egalitarian views prevail, because of the ignorance of persisting gender inequalities. The question is whether, given these “misfits” between the EU and

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2Like the other articles in this symposium, this article uses the term “gender policy regime,” as it has come to be adopted in the literature on gender and welfare states (e.g., Ostner & Lewis, 1995). It combines general social norms about gender relations of a given country, often referred to as “gender orders,” and the way those gender roles underpin and are in turn affected by general social policy arrangements, or gender welfare state regimes. See Mazur’s treatment of the gender policy regime concept in this volume for an overview of the large comparative feminist literature that uses the concept.
member states, Europeanization may nevertheless promote gender equal-
ity norms and enhance the transformation of domestic employment
regimes. My claim is that the EC/EU in the expansion of its social dimen-
sion has deployed a variety of resources and developed mechanisms for
overcoming these domestic resistances toward policy change. European
governance in areas of positive integration, such as social and employ-
ment regulation, does not only rely on hierarchical mechanisms, such as
legal acts, directives, and enforcement mechanisms for promoting equal
opportunities and equal treatment of women and men. To some limited
extent, European governance employs also material incentives, and, more
importantly, a range of “soft” mechanisms that are based on knowledge
and seek to promote social learning, such as the “open method of policy
coordination,” and horizontal exchanges of “best practices” conducive to
reforming domestic policy in line with EU gender equality norms (Liebert,
2003a).

The article explores the case of the Federal Republic of Germany (FRG)
with its prevailing norms of a “male breadwinner with full-time employ-
ment” and a “female caretaker without or with only marginally paid
employment,” both deeply rooted in institutional and cultural settings.
Nevertheless, policies regulating gender equality in the labor market have
changed considerably in the course of Europeanization. The first section
starts with the specific resistances toward equal opportunity and equal
treatment norms that characterize the German employment regime.
Second, I summarize three levels of changes that German employment
policies have incurred over the past decade: (1) at the normative level,
where previously gender indifferent, formal notions of equality were
recast as explicitly gendered norms; (2) at the strategic level, where
women have become constitutive target groups, for instance in the Euro-
peanization of the armed forces, or in “trafficking,” more than in antiha-
rassment policies; and (3) at the level of policy instruments, where gender
mainstreaming was introduced as a major policy innovation. The con-
cluding section addresses the impact of the European Court of Justice for
the politicization of gender issues in German public policy discourse to
explore frame shifts and policy learning by policymakers as mechanisms
for explaining why—at least in some respects—German national policy
was transformed by supranational gender equality norms.

THE GERMAN GENDER POLICY REGIME AND EU EQUAL
OPPORTUNITY NORMS

In the framework of comparative gender studies of the welfare state, the
Federal Republic of Germany is classified as a traditional gender regime,
based on the “strong male breadwinner/female caregiver model” (Ostner,
1995; Sainsbury, 1996). Germany stands in contrast to Nordic countries
with egalitarian models that are oriented toward a “dual breadwinner”
or even toward a “dual breadwinner/dual caregiver” norm. As Meyer’s article in this symposium discussed, the Basic Law (Grundgesetz) adopted by the West German Federal Republic in 1949 introduced the principle that men and women are equal in formal terms. However, during the 1950s, conservative policymakers succeeded in re-establishing the traditional institution of the “housewife marriage,” based on a division of labor between the male breadwinner and the female caregiver. This societal norm of substantial gender inequality became deeply embedded in the West German gender regime. By contrast, the EEC’s approach to developing working women’s rights emphasized egalitarian principles from the beginning. Starting with the principle of “equal pay for equal work” in the Treaty of Rome of 1957, and continuing with ten directives on equal opportunities and equal treatment that were adopted between 1975 and 2002, German policymakers found themselves in a position marked by a sizable misfit between EC norms and the traditional gender regime institutionalized in West Germany.

After 1949, a large range of federal and regional policies and institutions reproduced the gendered division of work that characterized the German welfare state, with changes introduced only during those terms and in regions where the Social Democrats and the Green party were in government. Accordingly, a pattern of social identities was constructed as either “feminine” or “masculine,” with corresponding definitions of gender-specific interests and behaviors. A manifestation of the gendered division of work can be seen in the disparity between the labor market participation rates of women and men. In 1983, the female employment rate was 45%, whereas the rate for men was 75%. In the new Federal Republic of unified Germany, created in the year following the fall of the Berlin wall in 1990, these disparities declined, but largely as a consequence of the much higher female employment rate in the former German Democratic Republic (Kodré & Müller, 2003). Between 1991 and 1996 the female employment rate in the old federal states remained virtually constant, whereas in the new states it dropped by 4.6%. Since the male employment rate declined at a similar speed in both the East and the West during this period (West: from 71.8% to 68.9%; East: from 76.3% to 68.6%), the gender disparity between men and women in employment participation in the new states fell from 24.1% to 20.9%.

In the course of unification, the West German norms for the regulation of gender relations were expanded to the new East German federal states (Länder). But the mere adoption of the formal institutions did not nullify the East-West differences in the practices of gendered divisions of work. In unified Germany the old West German model of the male breadwinner/female caregiver (or supplementary earner) has come to coexist with

3In the new federal states, the female employment rate fell from more than 90% to 61.2% between 1989 and 1991. In 1990, the female unemployment rate rose to 56% (Geissler, 1991, p. 23).
the dual-earner model that evolved in the former German Democratic Republic. Convergence was limited, and the divergence between East and West with respect to the meanings of gender equality and the practices of gender relations has remained.

Since 1958, in an unprecedented process of supranational gender policy integration, the European Community has expanded its framework of norms and instruments for regulating equal opportunities and equal treatment for women and men in member states, with legal acts comprising ten directives, more than 180 preliminary rulings by the European Court of Justice, as well as softer instruments, such as action programs. “Gender mainstreaming” was enshrined in the Amsterdam Treaty (1997) as the most promising strategy for developing gender equality without resorting to legal tools. In this process, the European Commission adopted a definition of gender equality as “a situation in which all individuals can develop their capabilities and can make choices without being constrained by gender stereotypes or restrictive roles; and where different behaviors, goals and needs of women and men are equally recognized, valued and promoted” (European Commission, 1998, p. 33). Equality policy, accordingly, is understood as the set of public policies that seek to promote gender equality as a societal value and norm, by adopting equitable programs and measures.

Vis-à-vis the pressures of legal integration, member states are expected to comply with supranational norms. In Germany, the story of adaptation was notably deviant. Although the EC put Germany repeatedly under pressure—taking recourse to legal sanctions, or at least to the threat of sanctions—German action to bring gender policy in line with European egalitarian gender norms showed a considerable reluctance. If legislative adaptations to EC-directives were not delayed, they aimed at fitting the EC’s equal treatment provisions as much as possible into the German framework of gendered patterns of labor market fragmentation. As a consequence, between 1970 and 2000, one quarter of the European Court of Justice’s (ECJ) rulings in the domain of gender equality concerned subject matters presented by German courts, the vast majority of them relating to conflicts about equal pay and equal treatment. During the same period, the European Commission initiated several infringement procedures against the German government because of its failure to introduce legislation for implementing the Equal Treatment Directive, one of which was concluded. Nevertheless, German legislators continued to delay the implementation of EC norms of equal treatment.

Only after German Unification in 1990, after two decades of stalemate, did the federal government change federal and regional policy to meet EC requirements. Most notably, for the first time, EC-gender issues and the need for adaptation became the subject of public controversy. Until 1995, the EU did not figure in any gender policy debate, neither in public nor in parliamentary committees. After 1992, the European Court of Justice helped to make German labor law reforms more contentious, pro-
voking in at least three instances major public policy controversy (Kodré & Müller, 2003): the issue of “protective legislation” in relation to night work of women that domestic legislators were required, but resisted to lift in response to the EU’s equal treatment directive of 1976; the issue of “positive measures” in favor of women, namely quotas and their automatic application in some Länder, against which the ECJ objected in its Kalanke ruling in 1995; and, finally, the European Court of Justice’s decision on the “Kreil case,” issued in 2000, that required Germany to extend the scope of EC “equal treatment” norms beyond the public civil service and the private labor market, and to make also the military accessible to women seeking gainful employment.

Paradoxically, it was the ECJ’s Kalanke ruling of 1995 on the use of quotas in German hiring practices at the regional level that served the function of a catalyst attracting the awareness of attentive publics to the EU’s gender equality policy, apparently to the detriment of women. It contributed to politicizing the EU among women's policy advocates in Germany at the federal and especially at the regional level, although in ways overwhelmingly critical of the European Union. On the other hand, the German government had used the exemption clause contained in the EC’s 1976 directive on equal treatment for women and men to also justify discriminatory protective measures against women, as in the case of the German armed forces, where women were excluded from the rank and file, with the exception of the music and sanitary corps. In both cases, domestic legislators with respect to European gender equality norms had formally complied, avoiding incorporating the egalitarian meaning of these norms. A scrutiny of parliamentary debates on labor law reforms transposing EU gender equality directives into national law shows that the relevant issues were redefined in gender-neutral terminology. Thus, for instance, “sexual harassment” at the workplace in dominant discourse developed by German public policymakers has been termed “mobbing” (Zippel, 2001). Only from the second half of the 1990s on, as the articles by Koch and Vogt and Zwingel in this volume show, did German employment policy discourse begin to move toward closer correspondence with EC gender norms and frames. In particular, the expansion of gender mainstreaming from supranational institutions and regional governments to the German Federal Government after 1999 gave rise to heated public policy controversy, splitting policymakers as much as women’s interest organizations and representatives (Liebert, 2002).

TRANSFORMATIONS IN GERMAN EMPLOYMENT POLICY

Over the past twenty-five years, the underperformance of German policymakers regarding the transposition of EC gender equality norms was variable. Described by the number of years between the adoption of EC directives or the case law issued by the ECJ, and the passing of corre-
sponding domestic provisions, implementation was most protracted in the sector of equal pay and equal treatment of women and men at work, while it was more efficient in the “maternalist” domains of social security for women and protection of pregnant workers. I will qualify domestic policy change resulting from Europeanization as a “transformation” if one of the following three criteria applies: (1) if basic gender equality norms that inform employment policy are reinterpreted; (2) if at the strategic level, gender-based constituencies that are mentioned as primary target groups are redefined; or (3) if at the instrumental level, new policy instruments are introduced as major innovation.

First, at the normative level, the FRG had to lift the domestic protective norm regarding the prohibition for women to work night shifts as a requirement of the EC Equal Treatment Directive of 1976. During the 1980s, the West German government had tried to argue that a ban on women working night shifts in industry would not contravene the directive. However, in a number of decisions (for instance, *Habermann-Beltermann v. AWO*, 1994) the ECJ made clear that this argument was not acceptable by EC norms. In 1992, the *Bundesverfassungsgericht* (Federal Constitutional Court) ruled that such a ban did in fact discriminate against women. Consequently, in 1994 German legislation was changed to permit women to work night shifts in industry under certain circumstances.

Second, at the strategic level, the German government was called to widen the scope of application of equal treatment norms for women and men, by opening the German army (the *Bundeswehr*) to women, and by restricting the use of gender quota to situations where they were not applied mechanically, risking to discriminate against men with special burdens or responsibilities. The ECJ—depicted by scholars as the driving force behind legal integration in the EU—took its time. Finally, with its judgment issued on January 11, 2000, it opened a new era for the *Bundeswehr*. In fact, the changes every soldier had to cope with as a consequence of this judgment were considered fundamental, affecting “the very nature and character of the German armed forces” (Kümmel & Biehl, 2000a, p. 9). This statement by two researchers of the Social Research Institute of the *Bundeswehr* is not an exaggeration. In fact, the EU Court left no doubt that it backed Tanja Kreil’s case against the German Government. Regarding *Case C-285/98 Tanja Kreil v. Federal Republic of Germany* [2000] ECR I-69, the ECJ ruled that German legislation generally barring women from military posts involving the use of arms was contrary to the Community principle of equal treatment between men and women, although derogations concerning certain special combat units were possible.

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In their decision, the ECJ judges urged the German Government to change the formal norms included in the Basic Law that during more than fifty years had banned women from being hired by the armed forces. Within less than ten months, by November 2000, the German government adjusted the German Constitution and, thus, the legal bases of the Bundeswehr. Since January 2001, women have unrestricted access to all careers within the German armed forces.

Beyond mere legislative transposition, the Ministry of defense also adopted organizational changes in the Bundeswehr necessary for making ECJ norms of equal treatment for women and men effective and integrating women into military practice. In the German Ministry of Defense, a steering group, “Women in the Armed Forces,” was created under the leadership of Brigade General Jörg Sohst. Its tasks comprised: (1) legal questions such as changes in the soldier law and the soldier carrier regulations; (2) infrastructural and logistic–organizational requirements regarding uniform, accommodation, or hygiene; (3) ergonomic aspects such as the adjustment of arms and equipment to women soldiers; (4) changes in the guidelines for education and formation; (5) information and preparation of interested women; and 6) assessment of the degree to which the army should open its ranks to women (Kümmel & Biehl, 2000b, p. 7). Finally, also at the level of cultural norms, studies were launched about the ambivalent attitudes held by male soldiers toward opening the military to women, and their underlying notions of masculinity, femininity and gender relations (Kümmel & Biehl, 2001). Courses in “gender training” were developed to dismantle resistance on the part of male soldiers based on “justified or nonjustified” gender stereotypes (Kümmel & Biehl, 2000b).

The Kalanke case provoked another strategic gender policy change in Germany, especially regarding Länder governments and the question of whether exclusively women or—under certain conditions—also men were targeted as underrepresented groups that would potentially benefit from recourse to the 1976 Equal Treatment Directive. It was a man—Eckhard Kalanke—who legally challenged the City of Bremen’s Law on Equal Treatment for Men and Women in the Public Sector (Landesgleichstellungsgesetz). The Bremen act called for preferential treatment of women over equally qualified men in the selection process for public sector jobs. In its judgment, the ECJ ruled that a “tie-break” positive action scheme, even in an employment sector where women are underrepresented, was contrary to the terms of the Equal Treatment Directive (CD 76/207/EEC)

Finally and third, at the instrumental level, gender mainstreaming was introduced by the Council of Europe, the European Union, and a minority of the German Länder, following the example of the Nordic countries, as well as of international organizations, such as the United Nations. In

1999, the German federal government also took the decision to implement gender mainstreaming, adopting “equal opportunities for women and men” as a leading principle and horizontal task, and to implement the gender specific approach as a principle and method in all policy sectors, concepts, and processes. Thus, the federal government coalition of Social Democrats and Greens elected in 1998 created opportunities that have helped mainstreaming advocates to expand and transform the “women’s policy” framework inherited from the preceding governments formed by Christian Democrats and Liberals during 1982–1998. Given the constraints of the still largely traditional gender policy regime of Germany, how can these instances of transformative change in employment policy be accounted for?

EXPLAINING EUROPEANIZATION: HARD VERSUS SOFT MECHANISMS FOR PROMOTING GENDER EQUALITY

The puzzle to be examined is how European gender norms and policy approaches, such as mainstreaming, can become effective across the European multilevel polity. It is argued that vis-à-vis the resistances of domestic gender regimes, the Europeanization of equal treatment policy in national, regional, and local contexts over the past decades has generated a variety of mechanisms for the cross-border diffusion of new policy ideas that can help to promote gender mainstreaming. A legalist account sees implementation merely as a result of legal rights and the construction of a supranational constitution by individual litigation. For instance, Stone, Sweet, and Brunell have claimed that domestic policy change was a consequence of legal enforcement mechanisms, triggered by the Article 234 EC preliminary ruling procedure that citizens use to find redress for their queries at the European Court of Justice (Stone, Sweet & Brunell, 1998, p. 76). However, in view of the significance of national courts in the enforcement of EC law, the Court’s role appears more limited, since it does not decide the cases, but merely answers a set of questions posed by national judges (Shaw, 2000). Following Sabrina Tesoka, the structures of opportunity and incentives in the field of gender equality include “state models,” “patterns of governance,” “access to decision-making,” the “position of the judicial branch,” “sub-national autonomy,” and “configuration of alliances” (Tesoka, 1999, p. 6).

The argument developed here is that during the second half of the 1970s and during the 1980s, Europeanization by institutional EC pressures and constraints best explains how and why member states only reluctantly and inefficiently adapted to supranational equal rights provisions. By contrast, during the 1990s the dynamics of Europeanization
changed: more than an effect of EC pressures, Europeanization in the area of gender rights was promoted by processes of learning and “reframing.” The issues involved in the 1976 equal treatment act, and, more so, in the Kalanke case, indicate that these mechanisms became more relevant for capturing these processes.

Compared to these legal compliance mechanisms that EU equal opportunity policy employs, the mainstreaming approach opens a whole new toolkit and range of instruments that are conspicuously absent from EU regulatory policy. Depending on the EU policy sectors, mainstreaming advocates (cf. Pollack & Hafner-Burton, 2000), are engaged with, to some limited extent, financial incentives that can be operated for advancing mainstreaming, for instance, in structural, research and developmental programs (cf. Wallace & Wallace, 2000, p. 28). Structural funds rely on spending mechanisms and involve programs and projects realized by regional and local authorities and agencies. Since the overwhelming share of spending is concentrated in Portugal, Ireland, Greece, and Spain, it can be expected that gender mainstreaming may have had a relatively larger impact in these countries than elsewhere (cf. Braithwaite, 1999), with the exception of some of the poorer regions in Germany, or the United Kingdom. Most importantly, mainstreaming draws on the potential of knowledge-based instruments for promoting exchanges between national and regional decision makers and organizations of civil society, such as women’s organizations or trade unions. One of the core devices for elite learning and for the diffusion of best practices is the innovative “method of open coordination” developed by the EU in the frameworks of employment and research programs.

For instance, the coordination and assessment of domestic employment policy is based on common benchmarks, requiring gender impact assessments, peer review, and monitoring by the commission. These “soft” analytical, educational, and consultative tools (Mazey, 2001, p. 16) include “guides to gender impact assessment,” “flying experts,” and “gender trainings,” or documentations of “examples for best practices” in the field of equal opportunities for women and men (European Commission, 2000), and provide political and administrative decision makers with informational, cognitive, rhetorical, and discursive devices necessary for implementing mainstreaming. However, in the German debate, feminists emphasize two risks. On the one hand, since the mainstreaming approach renounces binding provisions and legal enforcement, it may not be sufficient for overcoming interest or value-based, deeply rooted resistances against the new approach. On the other hand, decision makers might use mainstreaming as a strategy for dismantling women’s institutional structures and positive action programs. Therefore, in member

7For changes in the women’s policy framework under the left-wing coalition government with regard to equal employment and reconciliation policies in Germany, see the articles by Koch and Vogt and Zwingel in this volume.
states and regions where governments are unwilling to adopt or tend to misuse the new approach, the European “epistemic” institutional environment should not only elicit and promote elite learning, but also contribute to building public concern and to supporting domestic and transnational epistemic communities (Haas, 1998, pp. 20ff., 34), as well as enhance public pressure and checks on decision makers. In some of these critical cases, the institutionalization of mainstreaming will not least depend on the future of Europe: the institutional reform dynamics of the European multisided polity between deepening and enlargement.

CONCLUSION: EU GENDER EQUALITY FRAMEWORKS, DOMESTIC FRAMEWORKS, AND DOMESTIC POLICY TRANSFORMATION

From the first EC directives on the equal rights for women and men in 1975 it took twenty years for the issue of gender equality to permeate public awareness in Germany. In spite of their striking discrepancies with European egalitarian norms, the dominant view in West Germany prevailed that gender equality meant tax relief for married couples, and that these are made up by a male full-time breadwinner and a female homemaker, publicly assisted in their care responsibilities by an educational system based on half-day schooling, and women’s and mothers’ protection from work requirements. These contradictions were not politicized and rarely discussed in any public arena. The reluctance of policymakers to put the continuing misfit with the European Equal Treatment Directive onto the political agenda and to adjust the German legal order more speedily to the EC norms was as striking as the absence of gender issues in the debate on the First Equal Rights Act of 1980. As Petra Kodré has argued in her analysis of the introduction of quotas during the 1980s in the West German Länder (Kodré, 1997), and as Henrike Müller has found in her study of political debates on women’s issues in the new East German Länder, in these discussions the EC remained an actor behind the scenes until well into the 1990s (Kodré & Müller, 2003, p. 112).

It was the aim of this article to demonstrate that finally, due to politicization of these issues, German policymakers started to transform features of the traditional order of a male breadwinner–female caregiver regime, most visibly lifting the ban on women workers to take night shifts, admitting women soldiers to the army, broadening the frame of equal opportunities from women’s policies toward encompassing men, and, finally, mainstreaming gender in a broader range of public policies. At the same time, a new, three-phase model of gender relations began to emerge, based on policies aimed at promoting women’s participation in the educational system before they started being absorbed by their “family phase,” and to ease their way back into the (part-time) labor force, once their children are grown up. Finally, since the EC explicitly advocates reconciliation between work and family responsibilities to promote
substantial equal opportunities, feminist policymakers concerned with gender issues in Germany have acknowledged the EU as a potential ally and gender equality advocate.

In this transformative process, two ECJ cases—the Kalanke and the Kreil decisions—served as catalysts for gendering public policy debates and for facilitating normative as well as strategic shifts in the dominant employment policy paradigms. Analyses of public debates on particularly contentious issues in the protracted and resilient process of Europeanization in the Federal Republic of Germany have helped to identify shifts in fundamental notions of equal treatment and protective measures for women, changes in target groups and scope of application; and innovations in gender policy instruments. Summarizing this argument about employment policy changes in Germany that have occurred as an effect of Europeanization, the changes toward substantial gender equality—although delayed due to the domestic “needle’s eyes”—have added up to more than just mere “formal compliance” and contribute to forge policy transformation—most visible in women’s access to employment in the armed forces, and, since the 2002 elections, the federal government’s commitment to introduce whole-day schools and expand public child care facilities. Thus, our conclusion is that Europeanization has transformed German employment policy by gendering it.

To further explain these transformative effects of Europeanization in the area of German employment policy, “hard” legal tools—such as directives and ECJ decisions—proved necessary to enforce compliance and institutional adaptation. However, without norm clashes producing contentious public policy debates, legal mechanisms would hardly have been sufficient to promote transformative changes at the normative and strategic level. Discourse analyses of these contentious issues is necessary to explore the soft mechanisms that sensitize public opinion and promote transnational elite learning and exchanges of best practices. Insofar as discursive and institutional enhancements for elite learning will prove effective strategies of Europeanization also beyond the confines of Germany and other present member states, in particular in the Eastern accession countries, the EU might manage to escape from deadlock, and European gender rights would have a chance vis-à-vis the new “needle’s eyes.”

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