



Green Economy - Impact on Female Employment

Supranational Legal Issues

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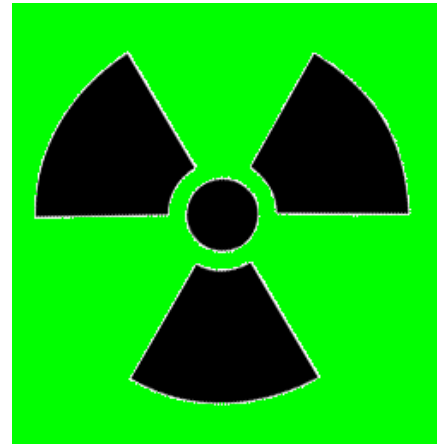
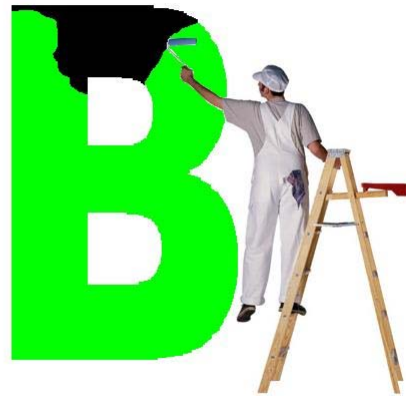
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I. Basic Question(s)

Defining „Green Jobs” as a term

JOB



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II. Legal Background

Treaty of Lisbon

Article 1a

- 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**.

Article 2

- The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, **aiming at full employment** and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

Article 2 (cont.)

- It 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.

Article 5b

- 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.'

Treaty of Lisbon: Shared competence

Article 2 C

- 1. The Union shall share competence with the Member States where the Treaties confer on it a competence.
- 2. Shared competence between the Union and the Member States applies in the following principal areas:
 - (a) **internal market;**
 - (b) **social policy, for the aspects defined in this Treaty;**
 - (c) **economic, social and territorial cohesion;**
 - (d) agriculture and fisheries, excluding the conservation of marine biological resources;
 - (e) environment;
 - (f) consumer protection;
 - (g) **transport;**
 - (h) trans - European networks;
 - (i) **energy;**
 - (j) area of freedom, security and justice;
 - (k) common safety concerns in public health matters, for the aspects defined in this Treaty.

LEGISLATION RELATING TO RES

Chronology:

- Commission **Green Paper** of 20 November 1996 on renewable sources of energy [[COM\(96\) 576final](#) - Not published in the Official Journal].
- **Nov. 1997**: Commission publishes **White Paper** setting out a Community Strategy and Action Plan for renewable energy. [Commission Communication of 26 November 1997 on energy for the future: renewable sources of energy - White Paper for a Community strategy and action plan [[COM\(97\) 599 final](#) - Not published in the Official Journal].
- **Sept. 2001**: EU adopts **Directive 2001/77/EC** Directive on the Promotion of Electricity from Renewable Energy Sources.
- **Directive 2002/91/EC** of 16 December 2002 on the **energy performance of buildings**.
- **May 2003**: EU adopts **Directive [2003/30/EC Directive]** on the promotion of the use of biofuels or other renewable fuels for transport.
- Decision No [1230/2003/EC](#) of the European Parliament and of the Council of 26 June 2003 adopting a multiannual programme for action in the field of energy: "Intelligent Energy - - Europe" (2003 - 2006) [Official Journal L 176 of 15.7.2003].
- **Commission Communication** of 26 May 2004 on the share of renewable energy in the EU. Commission Report in accordance with Article 3 of Directive [2001/77/EC](#)

- **Communication** from the Commission of 7 December 2005 - *Biomass Action Plan* [[COM\(2005\) 628](#) final - Official Journal C 49 of 28.02.2005].
- **Commission Communication** of 7 December 2005 "The support of electricity from renewable energy sources" [[COM\(2005\) 627](#) final - Official Journal C 49 of 28 February 2006]
- **Decision 1639/2006/EC** of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme(2007 - 2013).
- **Communication** from the Commission to the Council and the European Parliament of 6 October 2006: "Mobilising public and private finance towards global access to climate - friendly, affordable and secure energy services: **The Global Energy Efficiency and Renewable Energy Fund**" [[COM\(2006\) 583](#) final - Not published in the Official Journal].
- **10 Jan. 2007**: Commission presents **Renewable Energy Roadmap** as part of its energy and climate change package. [Commission Communication of 10 January 2007: "*Renewable Energy Road Map*. Renewable energies in the 21st century: building a more sustainable future" [[COM\(2006\) 848](#) final - Not published in the Official Journal].
- **March 2007**: EU summit endorses a binding target to source 20% of the bloc's energy from renewable sources by 2020.

- **Communication** from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 13 November 2008 – ‘Offshore Wind Energy: Action needed to deliver on the Energy Policy Objectives for 2020 and beyond’ [[COM\(2008\) 768 final](#) – Not published in the Official Journal]
- **23 Jan. 2008**: Commission presents a proposal for a new renewables **Directive**.
- **9 Dec. 2008**: Political agreement on the Renewables Directive .
- **11 - 12 Dec. 2008**: EU summit agrees final version of the Renewables Directive.
- **Directive [2009/28/EC](#)** of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Text with EEA relevance).
- **30 June 2009**: EU issues template for National Renewable Energy Action Plans (NREAPs).
- **30 June 2010**: Deadline for EU states to present National Renewable Energy Action Plans.
- **2020**: Target date for EU objective of sourcing 20% of energy from renewable sources.

III. Social Dialogue

- **1. Parties:** These can be direct relations between the social partners themselves ("bipartite") or relations between governmental authorities and the social partners ("tripartite").
- **Examples** of social dialogue activity include mutual information, open discussion, concertation (on - going tripartite dialogue), exchanges of opinions, consultation and negotiation (agreements /common opinions).
- **Sources:** European social dialogue is enshrined in the Treaty of Maastricht (articles 138 and 139; ex 118a and 118b) and it is promoted by the European Commission as an instrument for a better governance and promotion of social and economic reforms.
- **Types:** There are two approaches:
 - 1) cross - industry social dialogue and
 - 2) sectoral social dialogue.

- The concept of “social dialogue” pervades discussions of labour relations in Europe.

- Value: In the estimation of many scholars and policymakers, the concept opens the way to an entirely new and potentially transformative paradigm in deliberative democracy.

Treaty of Lisbon: social dialogue

Article 136a

- The Union **recognises and promotes the role of the social partners** at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.
- The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.’.

Maastricht Art. 138

Article 138

- 1. The Commission shall have the task of promoting the consultation of management and labour at Community level and shall take any relevant measure to facilitate their **dialogue** by ensuring balanced support for the parties.
- 2. To this end, before submitting proposals in the **social** policy field, the Commission shall consult management and labour on the possible direction of Community action.
- 3. *If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the commission an opinion or, where appropriate, a recommendation.*
- 4. *On the occasion of such consultation, management and labour may inform the Commission of their wish to initiate the process provided for in Article 139. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.*

Maastricht Art. 139

Article 139

- 1. Should management and labour so desire, the **dialogue** between them at Community level may lead to contractual relations, including **agreements**.*
- 2. Agreements concluded at Community level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 137, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.*

IV. Mainstreaming Gender Equality

Combating discrimination is a major challenge for the European Union. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, as well as the rule of law. Hence **the EU must take all measures necessary to combat discrimination of all kinds**, notably as regards employment and the labour market.

The focus is on creating better living and working standards for women and men by alleviating poverty, promoting human rights and fostering gender equality and equal opportunities for all.

- For many years the focus of EU action in the field of non - discrimination was on preventing discrimination on the grounds of nationality and sex (NB: The European Commission refers to sex discrimination as 'gender' discrimination).
- In 1997, however, the Member States approved unanimously the Treaty of Amsterdam. Article 13 of this new Treaty granted the Community new powers to combat discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
- Since the Treaty of Amsterdam came into force in 1999, new EC laws, or Directives, that have been enacted in the area of anti - discrimination are the Racial Equality Directive, **2000/43/EC**, and the Employment Equality Directive, **2000/78/EC**.

Directive [2000/78/EC](#) of 27 November 2000, establishing a general framework for equal treatment in employment and occupation

- Employment and occupation are crucial to ensuring equal opportunities for all and in large measure contribute to the full participation of citizens in economic, social and culture life. However, **many cases of discrimination have been identified in the field of employment and the labour market.**
- The Member States ban discrimination in the field of employment and occupation. However, the scope of this prohibition, its content and enforceability vary from country to country. Hence the Directive is designed to lay down a general minimum framework in this area.

Scope of the Directive

The proposal concerns the following areas:

- conditions of access to employed or self - employed activities, including promotion;
- **vocational training**;
- employment and working conditions (including pay and dismissals);
- membership of and involvement in an organisation of employers or workers or any other organisation whose members carry on a particular profession.
- This applies as much to the public sector as to the private sector including public bodies as well as for paid and unpaid work.

The concept of discrimination

- **The concept of discrimination**
- The proposal for a directive aims to combat both **direct discrimination** (differential treatment based on a specific characteristic) and **indirect discrimination** (any provision, criterion or practice which is neutral on its face but is liable to adversely affect one or more specific individuals or incite discrimination).
Harassment, which creates a hostile environment, is deemed to be discrimination. Reasonable arrangements must be made to guarantee the principle of equal treatment for disabled persons, limiting it to cases which do not involve unjustified difficulties.
- **Minimum requirements**
- The proposal contains a "non - regression" clause which concerns Member States whose legislation provides for a higher level of protection than that afforded by the Directive.

Cases in which differences in treatment are Authorised

Genuine occupational qualifications

- In certain cases differences in treatment may be justified by the nature of the post or the conditions in which the job is performed.

Differences in treatment on grounds of age

- Differences in treatment on grounds of age are permissible when they are objectively and reasonably justified by a legitimate labour market aim and are appropriate and necessary to the achievement of that aim (protection of young people and older workers, requirements as to the extent of job experience, etc.).

Positive action

- Member States have the right to maintain and adopt measures intended to prevent or compensate for existing inequalities (measures to promote the integration of young people, the transition from work to retirement, etc.).

The Employment Equality Directive 2000/78/EC

- Implements the principle of **equal treatment in employment and training** irrespective of religion or belief, disability, age or sexual orientation in employment, training and membership and involvement in organisations of workers and employers.
- Includes identical provisions to the Racial Equality Directive on definitions of discrimination and harassment, the prohibition of instruction to discriminate and victimisation, on positive action, rights of legal redress and the sharing of the burden of proof.
- Requires employers to make reasonable accommodation to enable a person with a disability who is qualified to do the job in question to participate in training or paid labour.
- Allows for limited exceptions to the principle of equal treatment, for example, where the ethos of a religious organisation needs to be preserved, or where an employer legitimately requires an employee to be from a certain age group to be recruited.

THANK YOU FOR YOUR ATTENTION!