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## Are Times of Europeanisation Times of the Gender Experts?

### The Window of Opportunity in the EU Accession Process in Croatia<sup>1</sup>

ROSWITHA KERSTEN-PEJANIĆ

#### Introduction: Tracing Europeanisation in Practice

The full accession of Croatia to the European Union (EU) in July 2013 opens up a range of possibilities for testing and observing matters of *Europeanisation*. Studying questions of Europeanisation gives us some very essential answers on how the European Union matters, not just in Brussels. And not just for the single market. The EU has established dominant models regarding social matters, one of which is gender equality. In the phase prior to accession of a given country to the EU, adapting the current dominant model of a political field often constitutes a matter of fulfilling the conditions for actually becoming a member state. Hence, the pre-accession period is a high point regarding a country's transformation in matters of policies and politics as well as dominant models, discourses and standards, and can be a time of substantial change in belief systems. Gender equality makes up for a notably contested field of social politics, as it is often aimed at changing traditions and orders of social life, traditionally perceived as personal choices and private convictions.

The following study is concerned with one aspect of the interplay of these pre-accession features, namely, the possibility of agency for domestic gender experts pushing for changes in the gender equality order of Croatia. In search for such agency, expert interviews have been conducted with political gender actors and members of feminist organisations of Croatian civil society. These interviews provide an insight into the experiences of experts with the Europeanisation of Croatian gender equal-

ity standards, and show some aspects of their specific role in the realisation of the relevant provisions.<sup>2</sup>

Studies on *Europeanisation* create a highly specialised research field in the analysis of the EU. With the accession of Central and Eastern European states (CEES) in 2004 and the 2007 enlargement featuring the South-Eastern European countries Bulgaria and Romania, studying the direct impact of the EU on the (accessing) member states has become even more enriched with data and recent research questions. According to Börzel/Risse, “(w)ith the borders of the European Union moving south-eastwards, we have been awarded yet another real-world experiment on the domestic impact of the EU” (2012, 92).

The last enlargement round, with Croatia joining the EU in July 2013 – which is in the centre of this paper – has currently completed this picture of ample empirical breadth. With the accessing states as one-to-one observation objects of the changes put into practice, of the challenges and benefits in fulfilling the expectations and requirements of the EU, of the resistances against and of the actual impacts of these changes, there is a new and rich ground of case studies and empirical data to be explored and developed (cf. Grabbe 2003, 305). While Schimmelfennig/Sedelmeier observe an “unprecedented influence” (2005a, 1) of the EU on the CEES in “restructuring domestic institutions and the entire range of public policies” (ibid.), the main concern of this paper is domestic actors’ influence on these processes of restructuring.

While the empirical and material part of Europeanisation research has its strong standing in a rich variety of questions and problems, there seems to be a shortcoming in the theoretical and knowledge-developing aspects of this research field (cf. Auel 2006, 294). Given the fact that studies on Europeanisation have their roots in different theories of European integration (cf. Börzel/Risse 2000, 8; Flockhart 2010, 788; Freyburg/Richter 2010, 265), the major concerns have focused on methodological questions. As Radaelli puts it: “Europeanisation is not a new theory. It is an approach that enables us to orchestrate existing concepts (...). It is a process, rather than end-state. It is an *explanandum*, rather than an *explanans*” (2004, 5-6). Such an understanding of Europeanisation is also depicted by Traguth/Hüttemann, who suggest “(...) to develop Europeanisation as a concept establishing a causal relationship between developments (...) occurring at EU level and (...) within members states...” (2009, 99).

Concepts of Europeanisation models proposed by Börzel/Risse as well as by Traguth/Hüttemann also take account of the fact that Europeanisation is a process generating changes at the domestic level through “adaptational pressure” (Traguth/Hüttemann 2009, 100) leading to “impacts upon the domestic processes, policies and institutions” (Börzel/Risse 2000, 3). Börzel/Risse in their early account of Europeanisation see the leading aspect of these mechanisms in the question regarding “the goodness of fit” (Börzel/Risse 2000, 6), pointing to the potential convergence versus the potential gap between EU incentives and the domestic state of the art on a given issue.

Apart from this very principal mechanism, Radaelli adduces how Europeanisation can have an impact not only in terms of *adaptational pressure* and *hierarchical governance* (cf. Traguth/Hüttemann 2009, 100) through demands stated by the EU officially, but also in a more indirect way as part of cooperative processes of social learning, e.g. with other member states.

Another important analytical step suggested by Radaelli (2003) – *explanations* (as opposed to the *mechanisms* of the process of Europeanisation) – is concerned with the possible *intervening variables* in explaining the outcome as well as the “likelihood and direction of change” (Radaelli 2003, 45) in the process of Europeanisation in a given case at stake. These variables can be found in the role certain actors, discourses, time frames, institutions and institutional capacities play for the specific kind and dimension of the Europeanisation process. With a focus on such mechanisms and explanations, we can also challenge the dominant tendency in research studies mainly exploring *top-down* processes of Europeanisation (cf. Radaelli 2004, 4; cf. also McCauley 2011, 1021).

For the following analysis of pre-accession Europeanisation of gender policies in Croatia and the role of gender experts within this realm, the analytical step of explaining how pressures and incentives set by the EU are met by domestic actors is at the centre of interest. Yet, stressing the relevance of *bottom-up* pressures by domestic actors during the accession period should not lead to overlooking that what determines the rules of the game, especially in times of accession conditionality, is the very dominant and demanding position of the European Union vis-à-vis candidate states (see also the *External Incentives Model* in Schimmelfennig/Sedelmeier 2005a, 10; 2005b, 220).

### Croatia: Discourses on Gender Equality in a Newly *Europeanised* State

Already prior to the dynamic impacts of the Europeanisation process, the former socialist countries in Eastern Europe have experienced major political and social changes in the last decades since the fall of the Berlin Wall. *Europeanisation* as one of these changes is hard to distinguish from other major developments in the region, such as *democratisation* or *transformation* altogether (cf. Caratan 2009, 171). In addition, the so-called transformation in CEES has added special conditions to the processes of Europeanisation, with the EU being the major external actor in “reinforcing and accelerating transition to democracy and market economies” (Héritier 2005, 204).

The transformation, with its clashes of leadership, public influence and belief systems has created a severe *backlash* for many groups of people. Women, but also LGBT people and ethnic or national minorities have been targets of rising conservative and nationalist discourses and attacks. In Croatia these tendencies have been even stronger and specifically influential after the devastating period of the war and the chauvinistic and nationalistic time of the 1990s that followed the war and the

breakup of Yugoslavia (cf. Ivoš-Nikšić 2000), with the referendum against same-sex marriage in December 2013 as a last visible outcome of the relevant attitudes.

Gender policies play a role in the process of EU integration, although presumably a small one in comparison to other areas of political activity. The third of the Copenhagen criteria refers to the mandatory adoption of the *acquis communautaire*: i.e., acquired laws, case law and other institutional EU legislation. Still, the EU has, despite all rhetorical force, shown to be a rather weak actor in promoting gender equality *practices* (cf. MacRae 2010, 156; Dobrotić/Matković/Zrinščak 2013, 223). Hence, the actual outcome of a *de jure* implementation of the *gender acquis* often depends on mediating factors such as women's movements in the given country (cf. Avdeyeva 2009). This seems to be a valid evaluation of the Europeanisation process with regard to gender equality, despite the fact that "applicants are committed to converging with a maximalist version of the EU policies" (Grabbe 2003, 307), and it seems to be above all a matter of the lack of real commitment of the EU with regard to social policy altogether (cf. Grabbe 2003, 324) and gender policies especially (cf. MacRae 2010).

The 2004 enlargement has been well reviewed and examined, one common finding being that gender policy has been given too small a role in the negotiation processes in comparison to its prominent standing in official statements (cf. Unmüssig/Allroggen 2006, 56; Feldmann-Wojtachnia 2005, 162). Yet, integration, still has non-negligible positive implications for social and economic equality and especially regarding raising awareness of existing structural disadvantages based on gender: "Finally, and perhaps most importantly, the emphasis placed on equal opportunity issues by various EU institutions and leaders during the accession process has led to a growing awareness of gender issues in the societies of candidate countries" (Watson 2002, 51). Even MacRae, in a critical assessment of the EU's *gender myth*, grants the EU some importance regarding the diffusion of gender equality policies: "There is some truth to the myth that the EU has been a key promoter of gender equality polity" (2010, 160).

The former Yugoslav area currently experiences different, overlapping discourses regarding socially accepted gender roles, with a perceivable impact on the divergence of attitudes about gender equality. After decades of communist politics and a formal equality discourse which officially considers the question of women's rights solved, notions of gender equality have been largely challenged since the breakdown of the socialist system and the violent break up of Yugoslavia (cf. Blagojević Hughson 2012; Melčić 2007). This challenge comes with a strong nationalist and religious counter-discourse that manifests itself in a particularly strong role allocation with regard to gender and sexuality (cf. Galić 2011, 20; Bijelić/Hodžić 2013). Recently, coalitions of conservative and religious forces have been able to dominate public discussions on feminism, sexual education and same-sex marriage (cf. Mlinarić 2013; Hodžić/Bijelić 2014, 24-26). For several years now, the contradicting discourses are additionally tested and overlaid by EU discourse(s) on gender equality, as these

backward, nationalist and essentialist discourses with their severe impact on gender questions have been deeply challenged by the strife for membership in the European Union and the attendant need to get in line with the *gender acquis* (cf. Galligan/Clavero 2012; Fuhrman 2005). Especially for Croatia, these incentives for structural changes have been evaluated as quite successful, at least with regard to the harmonisation of laws and a declared political commitment to gender equality and equal rights for all people (cf. Špehar 2011, 9).

Since European integration has been a long-term shared aim of representatives of the Croatian political elite from different backgrounds (cf. Samardžija/Vidačak 2008, 75), women's activists and gender experts working on gender questions have been enabled to use the EU as an argument in pushing for gender legislation (cf. Stachowitsch 2006, 236). This rhetorical part of the use of the *window of opportunity* (cf. Dobrotić/Matković/Zrinščak 2013, 219) by Croatian gender actors has helped to change the official discourse on gender equality in the last years. Still lagging behind is the actual implementation and practicability of these developments for people confronted with discrimination, e.g., in the work place. Prevailing regimes of inequality in people's private lives and domestic arrangements are also highly problematic (cf. Baranović/Leinert Novosel 2011, 259). A slow development of urgently necessary institutional reforms has been problematised by many studies (cf. Rodin 2005 Maršić 2008), and above all the judicial system has been an obstacle to a final implementation of gender legislation (cf. Bodiroga-Vukobrat 2013, 44). In addition, there is a prevailing lack of consciousness that discrimination and unequal treatment are matters that can actually be acted against (cf. Špehar 2011, 12). It is due to the continuing pressure of legal experts that this situation is slowly changing (cf. Bodiroga-Vukobrat 2013, 45), as well as due to their ability to build what Liebert calls *gender policy advocacy coalitions* (2002, 249).

### Europeanising Gender Standards in Croatia

The "hard" part of EU equality policies that is determined by directives and Treaties relates mainly to social politics and especially to non-discrimination within the work place. Given the *adaptational pressure* (cf. Radaelli 2003, 42) attached to them – clearly deduced from the fact that the European Commission was directly requiring *and* monitoring the implementation of these policy changes in its annual Progress Reports on Croatia in the twelve years preceding accession –, the required changes are framed in a bluntly hierarchical *top-down* logic. Bulmer/Radaelli describe the hierarchical order attached to that matter with a coercive need and a direct impact of the EU level: "(...) the agreed policy template has to be 'downloaded' to the member state level. The commission has to ensure that legislation is properly implemented, and it can refer laggard governments to the ECJ if necessary. The supremacy of European law is indicative of the hierarchical nature of arrangements" (2005, 344).

Yet, next to these *acquis* requirements, there is a great variety of non-binding aspects of gender equality politics. Auel, referring to Radaelli, points to a range of indirect effects that are able to empower national actors to influence the domestic structure of a given political matter (cf. Auel 2006, 305). This is the case for a range of related issues on gender equality that do not necessarily fall under the EU's binding gender legislation but are still emphasised as important and relevant problems with a clear opportunity to be tackled within the adjustment process of pre-accession Europeanisation. What Radaelli calls "domestic opportunity structure" (2003, 42) is a chance for domestic actors to influence the shaping of gender politics beyond those clearly-defined policies that need to be integrated anyway. In the Croatian case, gender experts have been enabled by the fact that Europeanisation has led to such beneficial domestic opportunity structures in matters of gender equality politics. Yet, the time frame of these beneficial structures has been a strictly limited period in which this *window of opportunity* has been open and propitious for their working agenda.

### The Official Setting of Gender Expertise in Croatia

Two main official institutions in promoting and pushing gender equality politics in Croatia are the Government's *Office for Gender Equality* (Office) and the *Office of the Ombudswoman for Gender Equality* (Ombudswoman). Both institutions were established in 2004, with the first *Gender Equality Act* of 2003 (cf. Hrvatski Sabor 2003) providing their legal basis. Their importance for the development of gender equality politics and the implementation of the EU's *gender acquis* lies above all in their role as domestic mediators (cf. Grabbe 2003, 319). The actual outcome of EU incentives for the Croatian context is largely due to these institutions. Their roles are quite neatly (but not exclusively) divided regarding their parts in the Europeanisation of Croatian gender equality. While the Office is active in adapting the rules and creating the relevant laws, the Ombudswoman focuses on the actual implementation of these new standards (cf. Kesić 2007, 53f. and 58f.).

This active role in the formal adaptation is illustrated by Helena Štimac Radin, Head of the Office, when she states: "In 2008 we have been working on the new Act on Gender Equality<sup>3</sup>, which has at large been compiled here in the Office" (Štimac Radin 2014).

Regarding the Office's collaboration with the Commission and the institution's role as the first contact with regard to the adaptation of the Croatian law to the *acquis*, Štimac Radin explains:

"Thus, we have been working really a lot on the adjustment of the law in the Office. I have been a member of the working group, we went to Brussels, on --I don't know how many-- meetings. And we had to report to the Commission on the progress regularly. Thus, we had to write records on the progress of the field of gender equality all the time" (Štimac Radin 2014).

The Ombudswoman's role in Europeanisation processes is not that clearly discernible, as her activities are less directly part of the relations with the EU institutions. One of her many activities is monitoring whether the political parties are meeting mandatory quota arrangements. With this example (out of many), she describes her proactive way as a promoter of the new Croatian gender equality standards: "We are doing an election analysis of the local elections, of the elections for the European Parliament. We sent advice and recommendations to all the parties..." (Ljubičić 2014). As a former official in the government's Office for Human Rights, the current Ombudswoman, Višnja Ljubičić has also been part of the accession negotiations:

"I was the (...) negotiator and actually the head for the fields of gender equality and anti-discrimination law. We have been negotiating in Brussels in 2006 so that we could close the chapter around 2009" (Ljubičić 2014).

Especially interesting is her evaluation of the role of the Europeanisation process for the development of the Croatian gender equality and anti-discrimination law. After stating that many of the existing laws have been in force for about ten years already and expressing her dissatisfaction with the fact that there is still a lack in the de facto implementation of these laws, she very clearly reacts to the posed question, whether these laws are related to the Europeanisation of Croatia: "This is exclusively the adjustment with the directives from the European Union" (Ljubičić 2014).

As *facilitating factors* of Europeanisation (cf. Börzel/Risse 2000), state-level gender experts (or, *femocrats*, cf. Olsson Blandy 2010) play a key role regarding the mediation between the EU level and the Croatian national level. From a national perspective, these institutions and the people working in them provide *top-down pressure* in the development of gender policies. Having the official say in matters of gender equality, they form part of the political elite and can build coalitions with party officials and members of the government. And yet, as a matter of fact, they are the institutions that have been founded first and foremost in direct effect of the early efforts of the Croatian state to *europeanise* its gender standards.<sup>4</sup> Apart from the two named institutions, a large body of local and regional agencies exists, as well as further specialised coordinators in ministries, administrations, and civil services (cf. Kesić 2007, 37ff.).<sup>5</sup> The Office and the Ombudswoman as major institutions in the Croatian setting of gender politics are highly visible in the shaping of activities and the public discourses on gender standards. Furthermore, they intensely lobby the national political elite with the aim of enhancing national Croatian gender standards. However, agency as well as changes of discourses and belief systems, seem to run a risk of being structurally neglected in Europeanisation research. Radaelli points to this fact in his discussion of the *goodness of fit*-approach: "The goodness of fit has to account for agency and the transformative power of discourse to gain more precision" (2004, 16). The tendency to overlook domestic actors and matters of *social*

*learning* (Schimmelfennig/Sedelmeier 2005a, 18) in the Europeanisation process can be avoided by explicitly asking for agency when analysing the *explanations* of certain aspects of Europeanisation.

### Agency in the Window of Opportunity at State-Level and in Civil Society

Taking a closer look at the ways in which domestic gender experts gained influence in the pre-accession period provides us with an impression of them as *intervening variables* in the explanations of the outcomes of Europeanisation.

In the example of the *National Policy for Gender Equality for the Period 2011-2015* (cf. Vlada Republike Hrvatske 2012) we can trace the *window of opportunity* in Štimac Radin's account of this document as an explicitly *domestic* strategy paper that is not created under the direct influence of the EU:

“And this is our National Policy for gender equality, our own strategy, of the state, which is submitted by the Croatian parliament, and we here in the Office, well, we set it up, right? So, this is the strategy, the basic national strategy (...). And we in the Office principally set it up and we first sent it to the government and the government sent it to the parliament” (Štimac Radin 214).

Despite this clear demand to not ignore such national proactive initiatives, Štimac Radin was knowledgeable enough to make the earlier version of the National Policy part of the *National Program of Croatia for the accession to the EU* (cf. Vlada Republike Hrvatske 2009) and, hence, has found a way of making the European Commission request reports on the implementation of that document too: “(...) I have squeezed this National Policy, first of all, into our National Program for the accession to the European Union” (Štimac Radin 2014). Accordingly, another advantage of “squeezing in” the National Policy into the government's overall accession program was its visibility to the European Commission and, hence, its increased political weight: “The Commission every year went into negotiations of the Progress Reports. And then, they requested record on how this strategy was executed” (Štimac Radin 214).

With this strategic course of action, Štimac Radin gives us a perfect example of how domestic actors are able to use Europeanisation in order to put certain topics and ideas on the national agenda. Plus, since she made her National Policy a matter of monitoring for the Commission, it officially became a matter of Europeanisation, too. In this sense, she enabled herself (and her peers) to use the *EU argument* in relation to matters of gender equality that, strictly speaking, have not been proper part of EU requirements. This strategy of using the “political opportunity structure created in Brussels” (Traguth/Hüttemann 2009, 103), has proved handy for gender experts in other countries too. Olsson Blandy also notes that “domestic actors find creative ways of using the EU as a ‘window of opportunity’ for accomplishing domestic change” (2010, 31). Or, as Schimmelfennig/Sedelmeier state: “The EU further em-

powers these societal actors domestically through external legitimacy and authority” (2005a, 18).

Altogether, the tendency among experts and actors to use the EU, and EU conditionality, as an argument for achieving their aims seems to be an advantageous strategy. Not only state-level experts, but also other domestic actors reported on the relevant potential in the EU accession process as an important time slot for the achievement of goals which would have otherwise not been successfully implemented.

Civil society actors, no matter whether passionate Europeans or not, have been very keen on the possibilities of the Europeanisation process prior to the accession of Croatia.<sup>6</sup> Two convincing examples are the director of the *Centre for Women's studies* in Zagreb and vice-president of the *European Women's Lobby* (EWL), Rada Borić, and Croatian gender and human rights activist Sanja Sarnavka, director of the feminist human rights organisation *b.a.b.e.*, two leading figures in Croatian feminist activism. Borić, engaging in a highly critical assessment of the institutional settings and the state of implementation of gender equality policies in Croatia, states:

“On the one hand, while we have been in this “waitingroom of Europe“ (...), it was a good position for Croatia, since thanks to the different requirements for the accession to Europe, the door was wide open for gender mainstreaming in Croatia” (Borić 2014).

But also gender experts less keen about EU gender standards have seen this opportunity and have been able to use it. When asked about her evaluation of the EU accession process, Sarnavka explains:

“Well, I have to admit that I didn't expect anything from it. When asked, I said, that I would most of all have liked us to stay in the pre-accession forever, cause that has fit me best, since this helped us in lobbying and in recommending. We would then threaten them with the European Union, and then they would immediately bring some law. And we knew that in the very moment when we would be a member, this would end our story (...)” (Sarnavka 2014).

### **Conclusions: Empowerment of Domestic Gender Experts by the Europeanisation Conditionality and Self-Empowerment**

Drawing from the above cases and observations and the statements by Croatian gender experts, it can be stated that there is more in the Europeanisation of a given field than the simple process of “downloading” EU rules and laws. Although fulfilling the requirements in order to meet the conditions set by the EU for becoming a members state contains in fact very lopsided hierarchical elements, there is still room for domestic actors to add topics, to place emphasis on some items (and take it away from others) and, above all, to put pressure on the political elite and the government to take the given policy field serious (cf. also Rošulj-Gajić 2014, 72).

In this sense, actors act as *facilitating factors* in the Europeanisation process in order to get as much of their aims and norms on the political agenda.

The preceding comments by leading Croatian gender experts have shown that it is above all the pre-accession phase in which rules can be set, norms defined and discourses changed. As a matter of fact, these changes made in the pre-accession process actually have a high potential of persistence (cf. Sedelmeier 2012). These *lock-in processes* of law-making and institution-setting under the impression of EU requirements provide domestic actors with a degree of influential agency that they might not have in “normal” times. Knowing this, gender experts, both in the official political as well as in the feminist civil society institutions, have been able to establish subjective orientations of activities and implicit maxims of decision-making<sup>7</sup> that have facilitated them with agency even beyond the already existing empowerment coming from the agenda setting of EU incentives.

The current EU *gender acquis* is a well-developed set of valid rules and provisions, animated by a broad case law on gender equality matters. There is a clear tendency already at the EU level to rhetorically exaggerate this gender standard compared to its practical outcomes and its level of implementation. The formal facts of the Europeanisation process are rather clear as the acceding countries from the Eastern part of Europe have faced a very profound change of system, rules and norms in the last decades and the EU has played a major role in triggering these changes. Still, the chief cause of a lasting effectiveness of Europeanisation outcomes might be in the responsibility of the domestic actors, especially in a highly contested political field such as gender equality. The selected statements of the interviewed experts show the importance of a good understanding of the possibilities of the *window of opportunity* that had been wide open during the pre-accession period.

## Notes

- 1 I would like to thank Prof. Costas Canakis from the University of the Aegean in Mytilene, the anonymous reviewer and the editors of this volume for comments and suggested improvements to earlier versions of this paper.
- 2 Note that Bogner/Menz (cf. 2005, 65-66) point to the efficacy in practice (“Praxiswirksamkeit”) of experts, which, together with their specific knowledge of the field and their subjective personal construction of meaning of their own activities, allows for the rich data that can be collected doing expert interviews.
- 3 Cf. Hrvatski Sabor 2008, RKP.
- 4 As mentioned above, both institutions were founded with the first Gender Equality Act in 2003 (articles 18 and 19).
- 5 See also the map on the institutional framework in Croatia regarding official gender equality agencies on the Office’s homepage: cf. <http://www.ured-ravnopravnost.hr/site/hr/institucionalni-mehanizmi.html> (3.11.2015).
- 6 For their essential role as norm advocates regarding the promotion of gender equality rights in Croatia at large, cf. Rošulj-Gajić 2014.

- 7 Cf. Bogner/Menz (2005, 38) and their explanation of analysing "Handlungsorientierungen" through expert interviewing.

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