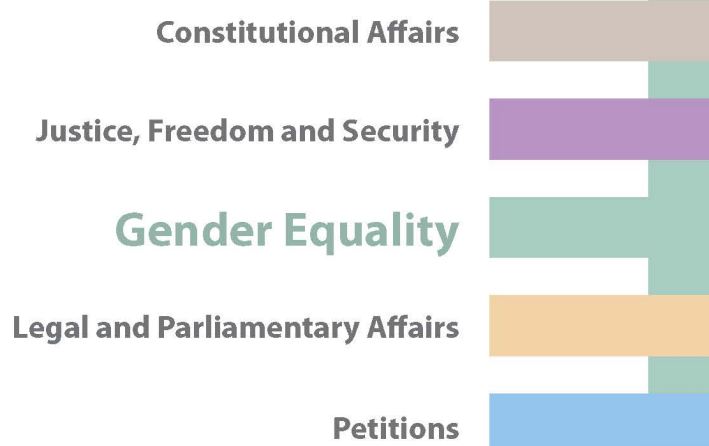


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



The Policy on Gender Equality in Sweden

Study for the FEMM Committee





DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

WOMEN'S RIGHTS & GENDER EQUALITY

The Policy on Gender Equality
in Sweden

STUDY

Abstract

Upon request of the FEMM committee, this note provides an overview of the situation of women's rights and gender equality in Sweden focussing on recent developments. It notably covers the areas of equal participation in decision-making, women in the labour market, reconciliation of private and professional life, eradication of gender-based violence, sexual and reproductive health and rights, gender stereotypes and promotion of gender equality in external development policies.

**DOCUMENT REQUESTED BY THE
COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY**

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LIST OF ABBREVIATIONS

- CEDAW** The UN Convention on the Elimination of Discrimination against Women
- CJEU** Court of Justice of the European Union
- DA** (2008:567) Discrimination Act
- EU** European Union
- FRA** Fundamental Rights Agency
- GPG** Gender Pay Gap
- HEI** Higher Education Institutions
- NGO** Non-governmental organisation
- PLA** Parental Leave Act (1995:584)
- SCB** The Swedish National Bureau of Statistics
- SOU** Statens Offentliga utrednings
- SSC** The (2010:110) Social Security Code
- UN** United Nations

EXECUTIVE SUMMARY

Sweden has had a prosperous development following World War II. According to the latest EU gender equality index Sweden comes out as **number one in gender equality**, scoring 74.3% as compared to the EU average of 54%.¹ Characteristic of Swedish society and politics is a broad common understanding regarding basic values of gender equality and equal treatment. The current government has declared itself a 'Feminist Government'. Gender equality in the broadest sense is a central concern for the current social-democratic/green government. Government gender policies are formulated as four basic aims: (i) equal division of power and influence, giving men and women the same rights and possibilities to participate in society and to shape the conditions for decision-making, (ii) economic equality, giving men and women the same rights and possibilities as regards education and remunerated work leading to lifelong economic independence, (iii) equal distribution of unpaid house- and care-work, giving men and women equal responsibilities and rights in these areas, and, (iv) to put an end to men's violence against women, giving women, men, girls and boys the same rights and possibilities to physical integrity. **Gender mainstreaming** has long been (1994) a central feature and a main strategy of Swedish gender policies, meaning that decisions in all policy areas and at all levels are to be permeated by a gender equality perspective.

There is still **no quota legislation** in place in Sweden. In politics – parliament and government – there is close to **equal representation in decision-making** due to **voluntary practices** introduced by the political parties themselves. As far as **company boards** are concerned, the 'Swedish Code on Corporate Governance' - valid for listed private and public limited-liability companies - includes a rule that 'an equal distribution among the sexes shall be the goal'. This is a **voluntary** rule and despite the Code being in place for some years now, women are still far from being equally represented on company boards; the current rate is about 25%. The share of women serving on state-owned company boards is about 50%. The government has declared that it will propose quota legislation following the shareholders' general meetings in 2016, should the share of women on company boards remain below 40%.

Women integrated the labour market in great numbers in the early 1970s and now have **almost the same employment rate as men**. **Part-time** is frequent among women, though, and the labour market is highly **segregated** – with women working to a great extent in the public sector. **Family policies** developed over the years to support equal participation in remunerated work. A very important basis is the long-standing **secular** character of Swedish society, which is also reflected in family structures and family law. An extremely important element for women's labour market integration was the introduction in 1971 of individual – or 'separate' – taxation. In addition, social security legislation builds on the idea of independent individuals.

The current non-discrimination regulation is the **Discrimination Act (DA)**, a single non-discrimination act covering seven grounds of discrimination – among them gender – and ten areas of society, implementing all relevant EU law.²

The DA prohibits direct and indirect gender discrimination as well as instructions to discriminate and harassment (including sexual harassment), all in line with relevant EU Directives. There is no frequent use in the Swedish labour market of positive action

¹ European Institute for Gender Equality, Gender Equality Index Report, 2013 p. 109.

² Diskrimineringslag (2008:567).

measures but the DA includes 'active measures' in working life and contains legal requirements to enact proactive measures such as equality plans, as well as detailed rules on triennial **Gender Pay Gap** (GPG) action plans – this will possibly become a yearly requirement according to government ambitions. Swedish case law reflects some progress as regards the possibility to instigate legal claims based on a comparison of work of equal value. Despite this, there is **still a considerable GPG in Sweden**, at 19.9% in 2013 (or of 6.1% if we take into account the overall unexplained standard weighting of GPG).

The GPG has a negative impact on **pensions**. As a consequence of demographical developments and of the ageing of the population, Sweden reformed the statutory pension scheme in the late 1990s, based on the lifetime earnings principle. The estimated negative gender impact has been dealt with in the rules on socially earned pension rights within the new scheme, such as the generous pensionable amounts accredited for child-rearing years. Nevertheless, women can be expected to make up the majority of poor pensioners for many years to come.

Reconciliation of family and professional life is now at the centre of the government's attention, focussing reforms to promote a more equal division of parental leave and strengthening public elder-care and child-care provisions. There is a generous social security parental leave scheme in place linked to the corresponding rights to parental leave in relation to the employer. Parental benefits are paid during 480 days for each child and the scheme is extremely flexible in that it is possible to take partial benefits/leave during a considerable amount of days until the child is 12 years of age. These rules are gender neutral, but in practice the use of the parental benefits scheme is far from gender neutral – women take out about 75% of the leave/benefits. How to make the use of the parental benefits scheme more equal is an issue that has been discussed for a long time in Swedish gender politics. As for now, the government has declared its intention to increase the amount of non-transferable days from 60 to 90. Complementary parental wages assured through collective bargaining are important, but can also be said to further the tradition in which women take most parental leave, since working conditions related to parenting tend to be better in sectors dominated by women. The scheme includes the right to leave when caring for a sick child and there is also a right to leave/reduced hours when caring for severely sick relatives and for urgent family reasons. Day-care facilities for children from one year of age until well beyond the initial school age are guaranteed and provided at a subsidised maximum cost at municipal level.

Eliminating all kinds of **gender-based violence** is a priority both for national and international politics and in 2007 an 'Action plan against prostitution and human trafficking for sexual purposes' was launched, identifying five priority areas: greater protection and support for people at risk, more emphasis on preventive work, higher standards and greater efficiency in the justice system, increased national and international cooperation, and a higher level of knowledge and awareness. Still, Sweden is among the Member States with the highest incidence of reported physical and/or sexual violence by a partner. Intra-marriage rape has long been a criminal offense, whereas the special crime of **stalking** was introduced as late as 2011 – although previous legislation already criminalised repeated harassment qualifying as gross violation of integrity and foresaw domestic exclusion and restraining orders. In the last two decades, genital mutilation, forced marriages and honour crimes have acquired a high profile in the Swedish debate and since 1982 **genital mutilation** is a criminal offence in Sweden. No case of genital mutilation has yet been reported to have taken place within Sweden, but a recent report estimates that 19,000 girls now resident in Sweden are at risk. Since 1 July 2014 **forced marriage** is a special crime in Sweden.

Sexual crimes are legislated in the Penal Code and a major reform was made in 2005, lessening the requirement of violence in relation to rape, notably when taking advantage of an incapacitated victim. The 2014 Government Declaration announced a series of measures

including increased support for sexual-crime victims, handling sexual crimes more effectively, assessing sexual-crime legislation and increasing penalties.

Countering **prostitution** is a key concern in Swedish gender equality policies and a long-term goal is to eliminate prostitution altogether. Policies focus on the responsibility of the buyer and the purchase of sexual services has been a criminal offence in Sweden since 1999. In addition, according to governmental declarations 'buying sex abroad' will be criminalised in the near future.

Trafficking of human beings for sexual exploitation is closely linked with prostitution and the 2007 'Action plan on prostitution and human trafficking for sexual purposes' states that it should also be eliminated altogether. This objective is also an important part of the Swedish 'International Policy on Sexual and Reproductive Health Rights'.

Sexual and reproduction health rights are important issues in Sweden, shaping the whole legal and policy framework, resulting in very low maternity and infant mortality. Swedish sexual and reproduction health rights policies include issues such as gender equality, sex education, attention to vulnerable groups, the right to contraceptives, safe abortions, maternity care and neo-natal care. The right to assisted reproduction is an important issue in sexual reproduction rights and the results in this area are positive, whereas surrogacy is not legally acknowledged. The right to **abortion** is unilateral and undisputable until the 18th week of pregnancy. Generally speaking, there is a broad consensus regarding the right to abortion in Sweden, including among political parties (only the Swedish Democrats would like to see a restricted right) and society as a whole (although there are minor groups campaigning against abortion and debates flourish every now and then). The area of health and medical care (including social services) are among the areas covered by the DA.

Finally, the overarching goal of Swedish **external development policies** is to contribute to a just and sustainable global development for all. The gender aspects are especially highlighted and policies follow a 'dual track' of gender mainstreaming and specific measures. Since 2006 there is an 'International Policy on Sexual and Reproductive Health and Rights' which serves as the basis for the bilateral, multilateral, operational and normative work that Sweden carries out in international contexts. A new platform for development policies has been announced which might promote, among other things, the strengthening of women's independence, economically and in other areas.

INTRODUCTION

KEY FINDINGS

- A **characteristic of Swedish society and politics is a broad common understanding regarding basic values of gender equality and equal treatment**, and there are only minor discrepancies among the political parties.
- In 2005, Sweden saw the birth of a **new feminist political party called Feministiskt Initiativ**.
- The current social-democratic/green government has declared itself a **'Feminist Government'** and has presented a reform programme.
- However, due to the **delicate political balance in the Swedish Parliament** – we are dealing with a minority government – it is far from clear that everything will go according to governmental plan.

In October 2014, following the general elections that took place the previous month, a new social-democratic/green government was formed. The government announced in its Declaration of Government a series of new ambitious plans regarding gender policies and gender-related legislation. Due to the delicate political balance in the Swedish Parliament and the nature of the government – which is a minority one – it is far from clear that everything will go according to governmental plan. Having said this, it is however important to stress that **Swedish society and politics share a broad common understanding regarding basic values of gender equality and equal treatment**: only the Swedish Democrats³ hold a somewhat different view on some issues such as family values and abortion, while only **minor discrepancies exist among the other political parties** represented in Parliament. Nevertheless, the current Government is slightly more radical than the former Conservative Alliance in terms of gender equality policy. **In 2005 a new political party, Feminist Initiative (*Feministiskt initiativ*)**, was formed – the party is not yet represented in the Swedish Parliament but since 2014 it is present in the EU Parliament, with feminism/gender equality as its core value.

In its **Declaration of Government**⁴ the current social-democratic/green government declared itself a **'Feminist Government'** and announced that gender mainstreaming will be strengthened; victims of gender violence will receive more support; rape legislation will be reformed; the pay gap will be reduced and wage planning made every year; there will be three months of parental leave reserved for each parent instead of only two months; the so-called child-care support – a kind of minimum support for non-economically active parents, to be voluntarily decided upon at municipal level and considered a back-lash for women – will be abolished; and if women do not make up at least 40% of company boards by 2016, quota legislation will be introduced. These declarations were followed up in the budgetary bill for 2015:⁵ an amount of 150 million SEK/year for the period 2015-2018 was destined to counteract gender violence, and to raise slightly the basic levels of parental leave benefits (also the reforms regarding 'the third daddy-month' and the abolition of child-care support were included there). However, the bill was not adopted by Parliament and therefore the way forward for these reforms is still unclear. In a recent declaration⁶ the government stated that gender equality is a priority area for the next budget – which this

³ Sverigedemokraterna.

⁴ Available at: <http://www.regeringen.se/sb/d/3039/a/247180> - accessed 2015-01-22.

⁵ Governmental Bill 2014/2015:1..

⁶ Available at: <http://www.regeringen.se/sb/d/19844/a/253057> - accessed 2015-01-22.

time might be accepted by the Parliament following a recent political compromise. If the government succeeds in implementing its plans, important gender reforms will be enacted, and it is hope this will lead to increased substantive gender equality.

1. GENERAL INFORMATION

KEY FINDINGS

- Sweden scores **number one in the recently published EU Gender Equality Index**.
- Sweden has had a **prosperous development following World War II** and **women entered the labour market in large numbers in the 1970s**.
- **Women's activity rate now almost equals that of men** – part-time work is still frequent, though, and the labour market is highly segregated.
- The **secular character of Swedish society reflected in family structures and family law** forms an important background explanation.
- Important for women's labour-market integration was **the introduction in 1971 of 'separate' taxation** regarding married couples.
- **Social security** legislation builds on the idea of **independent individuals**.
- **The first equal opportunities act was introduced in 1980**.
- **Gender equality is now covered by the 2008 Discrimination Act (DA)** – a single non-discrimination act covering seven grounds of discrimination and ten areas of society. It implements all existing EU law on non-discrimination.
- **Gender equality** in the broadest sense is a **central concern for the current government**, as well as **measures for reconciliation of family and professional life**, strengthening of **gender mainstreaming** within government and public authorities, elimination of all kinds of **gender-based violence**, and **sexual and reproductive health and rights**.
- **Gender equality** is dealt with in **the Ministry for Health and Social Affairs, among other ministries**. There is an **Equality Ombudsman (DO)** and a **special role for the Swedish Mediation Office** as concerns the GPG.
- **Gender mainstreaming** is a **central feature** since 1994 and now a **main strategy** of Swedish gender policies.
- **Gender-differentiated statistics** comprise a central concern of the Swedish National Bureau of Statistics.

1.1. Background

Sweden has enjoyed **prosperous development following World War II**. **Women integrated the labour market in great numbers in the early 1970s**, often in part-time employment. Thus, early on, Sweden had a relatively high share of part-time employment. These figures stagnated in the 1980s. In 1987, 45% of all Swedish women worked **part-time**, while in 2013 this figure fell to 30%. During the same period the share of men working part-time increased from 6% to 11%.⁷ In 2012, the activity rate of women between 15 and 74 years of age was 68.3%, as compared to that of men, 73.9%, and overall, 71.1%.⁸ The Swedish labour market is **highly gender-segregated**, though.

⁷ SCB, På tal om kvinnor och män – Lathund om jämställdhet 2014.

⁸ SCB, Statistical Yearbook 2014.

Women work to a great degree (approx. 85%) in the public sector, whereas men dominate in the private sector (approx. 85%).

Family policies that were developed over the years aimed at supporting equal participation in remunerated work. A very important basis for these policies is the long-standing **secular character of Swedish society**, which is also **reflected in family structures and family law**. Children born out of wedlock were made 'equal' to those born within marriage in regard to heritage and other rights, and cohabitation outside marriage increased rapidly as early as the 1960s. Nowadays an eventual marriage is likely to follow years of cohabitation, while many children are born out of marriage. Rules on divorce have long been very liberal and the reshaping of families through separation is frequent. Moreover, already back in 1939 – long before the introduction of more general employment protection and equal-treatment legislation – Sweden introduced an act prohibiting dismissal of women on the grounds of pregnancy or marriage. **An extremely important element for women's labour market integration was the introduction in 1971 of individual – or 'separate' – taxation**. Until then, the married couple was seen as a unit, and due to high taxation women's wage work was not financially rewarding. In addition, **social security legislation builds on the idea of independent individuals**. A general feature of Swedish social security legislation is thus its individual character – generally speaking, there are no derived rights within the family but every adult is individually insured. The 1970s also saw the further development of the parental benefit scheme in social security.

The **first equal opportunities act was introduced in 1980⁹** by the then liberal government, against the will of the Social-Democrats and the trade union movement. Individual rights in a liberal tradition were considered incompatible with the collectively bargained working conditions on the Swedish labour market. This view has gradually changed, not least in view of Sweden becoming a member of the EU. **The current non-discrimination regulation is the Discrimination Act (DA).**^{10 11}

According to the latest EU gender equality index, Sweden is ranked first (followed by Denmark and Finland), scoring 74.3% as compared to 54% as the EU average.¹²

1.2. An overview of gender equality in law and policy

1.2.1. Gender equality: main issues and recent developments

Gender equality and related policies have been a central concern in Sweden since at least the 1970s and **the current social-democratic/green government is committed to further development of these policies.**¹³

The current non-discrimination regulation is **the Discrimination Act (DA)¹⁴, a single non-discrimination act covering seven grounds of discrimination – including sex – and ten areas of society**. It is truly horizontal in character; definitions are found in Chapter 1, whereas the bans 'tacitly' covering all grounds, as well as types of discrimination, are found in Chapter 2. The grounds covered by the DA are gender, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation and age. The areas covered are working life, education, labour market policy activities, the starting or running of a business and professional recognition, membership of

⁹ Jämställdhetslagen (1979:1118).

¹⁰ Act (2008:567). See Section 1.2.1 for more information.

¹¹ Available in English at: <http://www.do.se/en/About-the-Equality-Ombudsman/> - accessed 2015-01-22. The leading Swedish commentary to the DA is found in Susanne Fransson and Eberhard Stüber, *Diskrimineringslagen*, Norstedts, Mölnlycke 2010.

¹² European Institute for Gender Equality, *Gender Equality Index Report*, 2013 p. 109

¹³ Compare declaration available at: <http://www.regeringen.se/sb/d/19844/a/253057> - accessed 2015-01-22.

¹⁴ Act (2008:567).

employees', employers' or professional organisations, goods and services, health and medical care and social services, the social insurance system, national military and civilian service and when a public servant assists the public. The DA not only **implements all EU acts on non-discrimination: it goes further by ensuring a wider protection from discrimination in more fields and for more grounds.**

Government gender policies pursue four basic aims: (i) equal division of power and influence, giving men and women the same rights and possibilities to participate in society and to shape the conditions for decision-making, (ii) economic equality, giving men and women the same rights and possibilities as regards education and remunerated work leading to lifelong economic independence, (iii) equal distribution of unpaid house- and care-work, giving men and women equal responsibilities and rights in these areas, and (iv) to put an end to men's violence against women, giving women, men, girls and boys the same rights and possibilities to physical integrity.¹⁵

Measures for reconciliation of family and professional life are now at the centre of the government's attention, which is focussing reforms to promote a more equal division of parental leave and strengthening public elder-care and child-care provision.

The strengthening of gender mainstreaming within government and public authorities is also being pursued more actively in recent times.

Sweden promotes the objective of the **elimination of all kinds of gender-based violence as a priority both domestically and internationally**, with a focus on measures concerning **sexual and reproductive health and rights**. The government intends to provide extra funding to strengthen delivery care and women's health.

1.2.2. Gender equality machinery

The organisation and responsibilities of the governmental bodies and offices charged with gender equality issues have varied throughout the years. As for now, **the Special Minister for (children, the elderly, and) gender equality, placed at the Ministry for Health and Social Affairs, is the main responsible actor**, but **gender equality issues are also dealt with in many other ministries** such as those of labour, education and culture. Moreover, **gender mainstreaming is the foundation – or the flagship – of Swedish gender policies.**

The 2008 Discrimination Act established a new 'single' **Equality Ombudsman (DO)** competent to deal with discriminations based on all grounds and areas covered by the Act, thereby replacing (among others) the former Gender Equality Ombudsman.¹⁶

Wage-setting is generally considered an issue for the social partners to agree upon through collective bargaining; that said, **the Swedish National Mediation Office**¹⁷ plays a special role in this field, as it is charged with **reporting and analysing pay differentials between women and men** (the Gender Pay Gap) on a yearly basis.

1.2.3. Gender mainstreaming and gender budgeting

Gender mainstreaming has long been (1994) a central feature and a main strategy of Swedish gender policies, meaning that decisions in all policy areas and at all levels are to be permeated by a gender equality perspective. A specific policy consisting of five parts was adopted in 2011, to be implemented at central, regional and local level:

¹⁵ Governmental web-page: www.regeringen.se/sb/d/16278/a/14257 - accessed 2014-11-20.

¹⁶ JämO, jämställdhetsombudsmannen. For the DO web-page, see: www.do.se.

¹⁷ Medlingsinstitutet.

(i) a strategy in the Government Offices, (ii) a development programme for government agencies, (iii) support at regional level, (iv) quality assurance in municipalities and county councils, and, (v) initiatives to gather and share experience and knowledge about practical implementation of gender mainstreaming.¹⁸

The 2014 Declaration of government focused again on gender mainstreaming, defining it as a core concern together with 'gender budgeting', which was introduced as a new technique when formulating the State budget. Moreover, both issues are referred to in a recent government declaration on priority policies, which also sketches the mainstreaming actions that will be undertaken within the government and state authorities.¹⁹

The impact of legislation on gender equality has to be examined and taken into proper consideration during the decision-making process, for instance on the occasion of public consultations and inquiries²⁰. Such gender mainstreaming exercise is compulsory, as provided by the Ordinance on Inquiries^{21, 22}.

Finally, **gender-differentiated statistics** are a very important tool to make differential treatment and its effects visible. **The Swedish Bureau of Statistics provides such statistics on a broad basis**, and since 1984 has published a yearly booklet on Swedish gender equality in figures²³ and has a special web-page for gender equality.²⁴

¹⁸ Governmental Offices Fact Sheet U14.001, February 2014, Gender Mainstreaming.

¹⁹ Declaration available at: <http://www.regeringen.se/sb/d/19844/a/253057> - accessed 2015-01-22.

²⁰ Inquiries and consultations are a very important step within the Swedish legislative process.

²¹ Ordinance (1998:1474).

²² Section 15 foresees a duty to explicitly consider the consequences for gender equality of any proposal. See further Ds 2000:1, Kommittéhandboken (Department stencil 2000:1, Handbook for Inquiry Committees).

²³ *På tal om kvinnor och män – Lathund om jämställdhet*.

²⁴ See <http://www.scb.se/sv/Hitta-statistik/Temaomraden/Jamstalldhet/> - accessed 2015-01-22.

2. GENDER EQUALITY POLICY AREAS

2.1. Equal participation in decision-making

KEY FINDINGS

- **No quota legislation** is in place.
- Some "positive action" practices as regards higher education institutions were in place but have now been abolished.
- **In politics** – parliament and government – a **close-to-equal gender representation has been achieved, due to voluntary practices.**
- No quota legislation is yet in place as regards company boards.
- A legislated **quota regarding company boards has been announced for 2016 onwards** - should women not make up 40% of such representation by that time.

The Swedish Instrument of Governance²⁵ contains some background rules on sex equality, including a rule allowing **positive action**. The scope for positive action is also dealt with in the non-discrimination legislation, now the DA, which states that the general prohibition against (among other grounds) gender discrimination in working life does not prevent 'measures that contribute to efforts to promote equality between women and men and that concern matters other than pay or other terms of employment'.²⁶ These rules on positive action are voluntary in character – they allow both public and private employers to apply such measures within the scope of law. **There is no quota legislation in place.**

Generally speaking, according to the Instrument of Governance²⁷ only objective criteria are to be taken into account when appointments to State posts are made, and such criteria include merits and abilities. However, there is a long-term practice within Swedish public administrative law admitting a certain scope for positive action within this constitutional rule on objective grounds. This practice has legal 'support' in the **Appointments Ordinance**²⁸, stating that in addition to merits and abilities, account must also be taken 'of objective reasons consistent with the general aims of policies relating to the labour market, equality, social matters and employment'. This rule is generally referred to as the basic rule on the permissive 'equality interval'.

Against this background, the Swedish government took some initiatives in the 1990s to come to terms with the unequal **gender balance in higher education** by introducing rules on positive action concerning the academic position of professor. These initiatives eventually led to the *Abrahamsson* case before the CJEU.²⁹ In its judgment, the CJEU rejected this regulation to the extent it was compulsory to appoint a person of the underrepresented sex 'who, although sufficiently qualified, does not possess qualifications equal to those of other candidates of the opposite sex', if this proved necessary to ensure appointment of a candidate of the underrepresented sex. In the same case, however, the CJEU also held that the Swedish administrative practice – according to which the rule of preference for the underrepresented sex is applied when candidates possess 'equivalent or substantially equivalent merits' - to be in accordance with Community law.

²⁵ Regeringsformen (1974:152).

²⁶ See Chapter 2 Section 2.2 allowing positive action, in derogation of the prohibition of discrimination described in Section 1.

²⁷ See Chapter 11 Section 9.

²⁸ See Section 4 of the (1994:373) Appointments Ordinance (*Anställningsordningen*).

²⁹ CJEU, case C-407/98.

In the aftermath of the *Abrahamsson* case, the government decided to use 'targets' to make higher education institutions work more actively to recruit/promote female professors. The goals varied according to the profile of the individual HEI and they ranged between 6 and 23% in 1997-1999 and between 15 and 40% in 2005-2008. During the latter period, some HEIs had as their general goal to recruit 40-60% of each sex among professors and lecturers. These targets were only 'goal-setting' and not used as quotas to be applied in the employment process as such.

Also in the area of higher education, there was legal scope for local selection rules with regard to admission of new students. Some universities applied selection criteria, giving preference to the underrepresented sex (normally men) in the case of equal merits. However, as of 1 August 2010 the government abolished the then-existing possibility to give preferential treatment to equally qualified applicants of the underrepresented sex.³⁰

2.1.1. Political decision-making

Women achieved the right to vote for the Swedish Parliament in **1921** and for a long time their representation in the Parliament was very low. In 1957 their share was 10%, growing slowly to only about 40% in the beginning of the 1990s. After the 2014 elections 44% of members of Parliament were women (152 out of 349). Women's share has thus oscillated between 44% and 47% in recent years. As for the current Government, 12 out of 24 ministers – or 50% – are women. The influential ministerial positions of both foreign affairs and finance are held by women. **This relative gender balance was achieved voluntarily and without the need to resort to gender quotas.** During recent decades, a general practice among political parties has emerged whereby every second candidate for election is a woman (the main motive being public opinion or general expectations among voters).³¹

2.1.2. Economic decision-making

As of yet **there is no quota legislation** regarding women's representation on company boards. **There is, however, a 'Swedish Code on Corporate Governance'** valid for listed private and public limited-liability companies.³² The Code is monitored by the Swedish Corporate Governance Board and applies to all companies listed at the OMX Nordic Exchange Stockholm and NGM Equity. The Code includes a rule (4.1) stating that 'an equal distribution among the sexes shall be the goal'. This is a voluntary rule, but according to another rule (2.6) there is also an obligation to motivate the final proposal regarding the composition of a board. Despite the Code being in place for some years now, women are still far from being equally represented on company boards – according to a recent survey their share was **24.7% in 2014**.³³ The effects of rule 4.1 of the Swedish Corporate Governance Code is nevertheless said to have led to a significant increase in the number of female board members in listed companies over time.

The situation is much better as far as **state-owned companies** are concerned. 'General owner policies' apply, aiming at ensuring that boards are gender equal, i.e. they are composed of at least 40% of each sex. Statistics show that this goal was reached already in June 2003 and that today the share of women in state-owned company boards is about 50%.³⁴ Notwithstanding the fact that this objective was to be achieved on the basis of a

³⁰ Concerning higher education, see further Ann Numhauser-Henning, *Women in Academia and Equality Law, Aiming High – Falling Short?*, Kluwer Law International, The Hague 2006.

³¹ SCB, Statistical Yearbook 2014 as well as www.riksdagen.se/sv/Start/Valet-2014/ - accessed 2014-11-20, and, www.regeringen.se/sb/d/109/a/247135 - accessed 2014-11-20.

³² *Svensk kod för bolagsstyrning*, available at: <http://www.corporategovernanceboard.se>, accessed 2015-01-23..

³³ <http://www.dagensjuridik.se/2014/06/andelen-kvinnor-i-bolagsstyrelser-okar-forsta-g...> - accessed 2015-01-23.

³⁴ Compare further SCB, *Kvinnor och män i näringslivet 2013*.

soft rule – or rather a political ambition – this policy has been rather effective. This is most certainly because the state is also the owner of these companies, and is thus in a position to implement its gender equality policy.

A recent survey among 20 large companies made by one of Sweden's major newspapers revealed that women are even more **under-represented among trade union representatives on company boards** than among company board members, generally speaking (only 19% as compared to 25%).³⁵

Against this background, **legislated quotas for women on company boards have been discussed** for quite some time in Sweden. Some years ago, a proposal on legislation concerning quotas ('Company boards and gender distribution')³⁶ was presented on the basis of a governmental inquiry initiated by the then social-democratic government. The draft law suggested that public limited-liability companies which were listed on the stock exchange, as well as all state-owned public and private limited-liability companies, should be covered by new and compelling rules in the Swedish Companies Act, requiring at least 40% of each sex on company boards. Employee representatives on the board were nonetheless exempted from the proposed compulsory rules: a non-compelling rule was instead proposed, to be inserted in the Act on Employee Representation in Private Companies³⁷ to promote equal representation. The proposal, which was presented in June 2006, never led to a legal reform, and the social-democratic government was replaced by a conservative one in the autumn of 2006.

The issue of quotas gained public attention and was an issue for debate during the election year 2010. The Social Democrats, Greens and the Left parties – in the opposition at that time – promised to introduce legislation on quotas by 2012 at the latest, should they get into government (which they did not).³⁸ The conservative Alliance – re-elected in September 2010 for another four years – was divided on the issue of quotas: the Conservative Party (*Moderaterna*) seemed to have taken a positive stand on quotas,³⁹ while the Liberal Party and the Centre Party were opposed.⁴⁰ When in October 2011 the Conservative Party General Assembly rejected a proposal by the Party Board in favour of gender quotas for company boards, all hopes of legislative action disappeared and the issue was removed from the immediate political agenda for a few years.

The current social-democratic/green government has stated in its programme that **it will propose legislation on gender quotas** after shareholders' general meetings in 2016, should the share of women on company boards remain below 40% at that time.⁴¹

³⁵ *Svenska Dagbladet* 20 November 2014.

³⁶ Ds 2006:11, *Könsfördelningen i bolagsstyrelser*.

³⁷ Act (1987:1245).

³⁸ Compare *Aftonbladet* 3 December 2010, *Sahlin: "Vi lovar att det blir en ny lag"*.

³⁹ Compare *Veckans Affärer* 21 January 2010, *Schlingmann: 2014 blir det kvotering*, as well as *Expressen* 5 July 2010, *Littorin: Kvotera in kvinnor i styrelserna*.

⁴⁰ *Dagens Nyheter* 4 March 2009, *Maud Olofsson and Nyamko Sabuni*.

⁴¹ Declaration of Government, October 2014.

2.2. Women in the labour market

KEY FINDINGS

- **Women are highly integrated in the Swedish labour market.**
- Women work **part-time** to a much greater extent than men.
- **The Swedish labour market is still highly segregated** and women work extensively in the public sector.
- The DA implements all relevant EU law on gender employment discrimination.
- The DA contains detailed rules on **equality plans** and **GPG action plans** for employers with 25 or more employees.
- **Case law reflects important progress** as regards the possibilities to instigate legal **claims based on a comparison of work of equal value**.
- Despite this, there is a **general GPG** for the economy as a whole of **13.9%**, only somewhat below the average EU figure.
- Taking into account differences in occupation, sector, age, education and working hours, the overall **unexplained standard weighting GPG is 6.1%**.
- The GPG varies considerably from sector to sector, however.
- There is also a considerable **gender gap in pensions**.
- **Swedish pension reform is designed to cover 'social earnings'** in the form of child-rearing years, care-leave, etc.
- Nevertheless, **women** can be expected to make up the majority of **poor pensioners** for many years to come.

2.2.1. Employment

Women entered the Swedish labour market in great numbers in the 1970s. The Swedish labour market is still highly segregated: women work to a great extent in the public sector and to a considerable degree in part-time work.

Gender equality in employment is regulated in the DA. It **prohibits direct and indirect gender discrimination as well as instructions to discriminate and harassment (including sexual harassment)**, in line with relevant EU Directives. The Swedish legislator has made use of the exception for genuine occupational requirements, whereas the scope for **positive action** proper is regulated as an exemption from the ban on discrimination.⁴² The DA also includes so-called '**active measures**' in working life and contains legal requirements on proactive measures such as equality plans, etc.⁴³ An employer with 25 or more employees is required to **draw up a plan every three years** for their activities to promote gender equality. According to governmental plans, this might become a yearly requirement.

⁴² The exception to the general ban provided in Chapter 2 Section 2 of the DA is expressed in the following terms: 'the ban does not apply if the treatment of the person concerned is part of an effort to promote equality (between men and women) in working life and is not a matter of applying pay terms or other terms of employment'. Despite this, there is no frequent use of positive action measures in the Swedish labour market, see also Section 2. 1.

⁴³ See Chapter 3 of the DA.

The DA **also bans gendered wages**. Such a ban is implicitly and tacitly covered in the DA and thus regulated in a rather subtle way.⁴⁴ In the application of the law, courts are presumed to interpret the concept of 'pay' in accordance with the case law of the CJEU. The concept of 'equal pay', however, is elaborated in the DA in relation to active measures.⁴⁵ Enterprises with 25 employees or more are required by the DA to draft **GPG action plans** every three years – which, according to government plans, might become a yearly requirement.

There is no express legislation on the justification of pay differences apart from the definition above. A number of cases have been heard by the (Swedish Supreme) Labour Court, though. The negative outcome of most of these cases has been criticised by claiming that the Labour Court has willingly accepted 'the market argument' made by employers as an excuse for pay differentials, thereby failing to live up to the standards of EU case law. Some of these cases, however, reflect **progress as regards the possibilities to instigate legal claims based on a comparison of work of equal value**.⁴⁶

Despite the ban on gender pay differentials, there is **still a considerable GPG in Sweden**. According to the Swedish National Mediation Office⁴⁷ annual report, **the 2013 GPG for the economy as a whole was 13.9%**, somewhat below the average EU figure. Taking into account differences in occupation, sector, age, education and working hours, **the overall unexplained standard weighting GPG is 6.1%**. The GPG varies considerably from sector to sector, though: women's pay is 8.6% lower than men's in the non-manual private sector, while it is only 2.3% lower in the manual private sector. The smallest gender imbalance is found in the municipal sector, where women's pay is only 0.6% lower than that of men.⁴⁸

2.2.2. Pensions

The GPG directly affects pensions. The gender pension gap in the EU is close to 40%, about twice as high as the current GPG.⁴⁹

As a consequence of demographical developments associated with an ageing population, **Sweden reformed the statutory pension scheme the late 1990s** in order to make the scheme sustainable in the long term, although it remained a mandatory 'universal' system where all people working or living in Sweden are covered and the state's pension

⁴⁴ See Chapter 2 Section 1 of the DA.

⁴⁵ See Chapter 3 of the DA on active measures: 'Work is to be considered equal in value to other work if, based on an overall assessment of the nature of the work and the requirements imposed on the worker, it may be deemed to be of similar nature. Assessments of work requirements shall take into account criteria such as knowledge and skills, responsibility and effort. When the nature of the work is assessed, particular regard shall be taken of the working conditions'.

⁴⁶ In the case 'Labour Court 1996 No. 41', the Labour Court did not exclude the possibility that the work of a midwife and a hospital technician could be compared and found to be of equal value. In the case at stake it did not find the method used by the then Equal Opportunities Ombudsman to be sufficient to prove this. In the case 'Labour Court 2001 No. 13', however, the Court found that the midwife and the technician perform work of equal value following an assessment in terms of knowledge and skills, responsibility, effort and working conditions (now part of the definition of work of equal value according to the DA). Nevertheless, the Labour Court accepted the employer's 'excuse' that the higher wages of the technician were justified by market arguments – there was an alternative labour market for technicians with significantly higher wages, an acceptable motive to adjust the wages of technicians to a somewhat higher level.

⁴⁷ *Medlingsinstitutet*.

⁴⁸ This is a sector dominated by women and characterised by fairly unqualified jobs. For more information on 2013 data, see *Medlingsinstitutet, Årsrapporten för 2013*, available at: http://www.mi.se/publicerat/senaste_rapporten/ - accessed 2015-01-22.

⁴⁹ Compare Francesca Bettio, Platon Tinios and Gianni Betti, *The Gender Gap in Pensions in the EU*, Report to the European Commission 2013, available at: http://ec.europa.eu/justice/gender-equality/files/documents/131118_pension_gap_report_en.pdf - accessed 2014-11-12.

commitments in terms of solidarity remain extensive.⁵⁰ The elimination of the former income-related 'supplementary' pension system - which foresaw that pension rights amounted to 60% of a person's average income during his or her best 15 years of earnings - raised concerns in relation to possible negative gender impact, because Swedish women could experience a lowering of their pensions due to having worked part-time during a period of their lives.

Such estimated negative gender impact has been **dealt with** in a number of ways, notably through **rules on socially earned pension rights**. The revised law includes a scheme with generous rules on pensionable amounts accredited for **child-rearing years**. A parent who stays at home or reduces her/his working hours to take care of a child under four years of age is credited with pension rights corresponding to her/his earnings before the child was born or to 75% of national average earnings.⁵¹ Furthermore, **pension rights can be earned** not only through regular work (and residence) but also when enjoying social benefits: sickness benefits, unemployment benefits, parental benefits and other family-/disability-care benefits, etc.⁵²

Considering the extent to which Swedish women now take part in regular wage-work, the persisting **gender pension gap is a slowly diminishing problem**. The unjust division of unpaid work is best addressed by the rules on parental leave benefits and other care benefits, providing pension rights. Moreover, in the statutory scheme, pensions are calculated on the basis of common life expectancy tables for men and women, to the benefit of women: women on average live longer than men, so women can be expected to receive a larger pension. There are also rules on the transfer of pension rights between spouses that, despite being gender neutral, mainly benefit women, who are typically the ones with lower pensions in their own right.

Nevertheless, women can be expected to make up the majority of poor pensioners for many years to come: the 'flexible retirement'-positive characteristics of the new Swedish pension scheme - allowing pension rights to be earned on a lifelong basis and providing for flexible combinations of part-time work and pension - have been discussed as 'a trap' for women, because women with low lifelong earnings would thus find themselves obliged to go on working after the age of 65, in search of a more adequate pension.

Most of the income received by Swedish pensioners comes from the public pension system, but almost everyone also receives an **occupational pension**. There are four main schemes (covering some 90% of all employees) for the state sector, the municipal sector, the white-collar private sector and the blue-collar sector, respectively.

In Swedish law there is only a gender-neutral 'adjustment pension' of temporary character for **survivors**. Such a pension is payable to surviving spouses under the age of 65, where there are children. The official view is that women's wage-work and Swedish family and gender policies in general justify the abolishment of special widows' pensions payable only

⁵⁰ The new scheme is a defined-contributions scheme based on the lifetime earnings principle. The statutory pension scheme is a two-tier system consisting of an *earnings-based pension* based on earnings up to the ceiling - 7.5 income base amounts or SEK 300,000 (approx. EUR 33,000) - and an inner tier of a *guaranteed pension*, based on years of residence requiring 40 years of residence after the age of 24 for a 'full' guarantee pension. The pension scheme is complemented by a new means-tested maintenance support for elderly persons to guarantee a reasonable standard of living for residents who have not earned a sufficient statutory pension through work and/or residence. The new pension scheme is extremely flexible with regard to pensionable age and new pension rights can be earned on a life-long basis. However, guarantee pension and elderly maintenance support apply only to people 65 years of age or older. Compare, for instance, Nils Eliasson, Protection of Accrued Pension Rights, An Inquiry into Reforms of Statutory and Occupational Pension Schemes in a German Norwegian and Swedish Context, Juristförlaget, Lund 2001.

⁵¹ These generous pension rights for parents who stay at home are not really consistent with general Swedish family policy, which encourages both parents to work full-time after the period of parental benefit has expired.

⁵² Notwithstanding the fact that the latter rules work mainly to the benefit of women (who are still the dominant caretakers, even within contemporary Swedish society), the official approach is that the social insurance system is not to be used to compensate for gender differences on the labour market, as this would merely serve to reinforce traditional gender rules. On the contrary, the system aims to 'level the playing field' in relation to pensions, considering also that social security benefits are covered by the general ban on gender discrimination.

to women. However, successive (and restrictive) reforms in the 1990s have attracted much attention and debate in Sweden from the viewpoint of women. The main strategy of the legislator as regards these claims has been to phase out the reforms by means of more or less generous transitional rules.⁵³

2.3. Reconciliation of Private and Professional Life

KEY FINDINGS

- High activity rates also among women increase requirements on efficient parental leave and benefit rights as well as child-care facilities.
- There is a **generous and very flexible social security parental leave scheme in place**, linked to the corresponding rights to parental leave in relation to the employer.
- In addition to this scheme there are **collectively bargained parental wages** to top up incomes above 'the ceiling' in social security.
- Nevertheless, **the use of the parental leave scheme is far from gender neutral**, with women taking out about 75% of all benefit days.
- There are however **60 non-transferable days** to encourage fathers to go on parental leave, **to be increased to 90**.
- **Collectively bargained family rights** – most developed in sectors dominated by women – **tend to make equal application even more difficult**, however.
- At municipality level there are **guaranteed child-care facilities for children one year old or older**.
- There are also **special benefits for the care** of sick children and severely sick relatives as well as for urgent family reasons.

2.3.1. Maternity, paternity and parental leave

When Swedish women entered the labour market in the 1970s, a social security parental leave scheme was also introduced. **The Parental Leave Act (PLA)⁵⁴ contains the main rules on the right to parental leave**, including maternity and paternity leave. The PLA stipulates the right to leave of absence in relation to the employer, whereas the right to pay during such leave is covered by the general social security parental leave benefit scheme regulated in the 2010 Social Insurance Code. However, 'extra parental wages' paid by the employer according to a collective agreement are especially important to large groups of salaried employees, owing to the upper earnings 'ceiling' in the social security benefit scheme.

The PLA foresees **six different types of leave**: maternity leave of fourteen weeks before and/or after giving birth and during nursing, full leave with or without parental benefit until the child is 18 months old, partial leave with parental benefit, partial leave without parental benefit, leave with temporary parental benefit for the sake of caring for a sick child and full- or half-time leave with municipal care support. There is always a right to partial leave without parental benefit in the form of a reduction in normal working hours by up to one

⁵³ See further Eliasson, supra n. 50.

⁵⁴ Act (1995:584).

quarter, for the care of a child who has not reached the age of 12 years. These rights to leave are thus independent of but often **linked to the rights of benefits according to the Social Security Code.**

Parental benefits are paid during 480 days for each child (including adoptive children); 390 days at sickness-benefit level and another 90 days at the (guaranteed) minimum level. Parental benefit at sickness-benefit level is income-related and thus requires prior employment, but there is also a basic guarantee-level parental benefit scheme for parents not complying with this condition. The scheme is extremely flexible in that it is possible to take partial benefits/leave for a considerable amount of days until the child is 12 years of age. However, only 96 days of the 480 can be taken out after the child is four years of age.

Parental benefits are paid to the parent – whether the mother or the father – who actually abstains from work to take care of the child and thus, generally speaking, are transferable between the parents. 60 days at income-replacement level are non-transferable, however. These rules are thus gender neutral. In practice, however, **the use of the parental benefits scheme is far from gender neutral.** The parental benefit scheme is administered by the National Social Security Board⁵⁵, which every now and then reports on its use. According to a 2013 Report, men's share of parental benefit days amounts to only 24.4%, whereas women take out 75.5%. Nevertheless, men's share has steadily increased since the schemes' introduction back in 1974. What is slightly more positive is that the share of parents dividing parental leave equally has tripled and now amounts to 12.7% as compared to 4% in 2000.⁵⁶ The report stresses young age, higher education and higher earnings – especially for mothers – as important elements when it comes to the sharing of parental leave. Public-sector parents are more equal than those in the private sector, as are those living in a metropolitan area. The issue of how to make the application of the parental benefits scheme more equal has been discussed for decades in Swedish politics, and still is.⁵⁷

The costs for the statutory parental benefit scheme are paid for by employers through general pay-roll taxation. **Complementary collective bargaining on parental – or even maternity – wages** is important for quite extensive groups of workers/mothers, due to the income ceiling in the social security scheme. The contents of such agreements vary between different sectors of the labour market.⁵⁸

While the DA implements EU law in the area of pregnancy/maternity discrimination, **the PLA further reinforces the protection against unfair treatment for reasons connected with parental leave**, covering protection against dismissal on the grounds of maternity, paternity and parental leave, as well as deteriorated working conditions. There is also an express right to discontinue the leave and resume working to the same extent as before the period of leave. There is no strict prohibition against dismissal during pregnancy

⁵⁵ Försäkringskassan.

⁵⁶ Försäkringskassan, *De jämställda föräldrarna* (2013:8). Data is for 2012.

⁵⁷ The most radical position is to make the scheme strictly individual – in practice to divide it equally between the parents with, generally speaking, no transferability between them. As for now, the current government has declared its intention to increase the amount of non-transferable days at income-replacement level from 60 to 90. Among other more or less recent reforms to make the use of the scheme more gender neutral are the lifting of the ceiling in the public social security scheme – from 7.5 to 10 basic amounts – in relation to parental benefits to make it more convenient for those (often fathers) with somewhat higher earnings to go on leave, and the introduction of an 'equality bonus' for families when the parent with the highest earnings goes on leave.

⁵⁸ They usually imply a 'top-up parental wage', compensating for the ceiling in the statutory benefit scheme – incomes above 10 'basic amounts' or approximately EUR 49,000 (SEK 441,000) a year are not replaced. Basically the extra protection is known to be better in sectors of the labour market dominated by women (such as the municipality sector) because trade unions are tending to try to meet the special needs of their members. However, this way, the social partners – through their collective agreements – can be accused of furthering the tradition in which mostly women take parental leave; this is what is most convenient for the family as a whole, because working conditions related to parenting tend to be better in sectors/branches dominated by women. See further: Laura Carlson *Searching for Equality, Sex Discrimination, Parental Leave and the Swedish Model with Comparisons to EU, UK and US Law*, Iustus Förlag, Uppsala 2007.

or leave for unrelated reasons, but the notice period cannot be made effective until the worker is actually back at work.

2.3.2. Barcelona targets on childcare facilities

Swedish legislation guarantees the right to parental leave for parents taking **care of a sick child with a maximum of 60 days a year per child until the child is 12 years of age.**

According to a special Act, there is also a right to leave/reduced hours when **caring for severely sick relatives.**⁵⁹ This right to leave is maximised to 100 benefit days (240 days in the case of caring for a relative with AIDS caused within the health care system). In addition there is a right to **leave for urgent family reasons.**⁶⁰

Day-care facilities for children of one year of age until well beyond the initial school age are **guaranteed and provided at municipal level at a subsidised maximum cost.**⁶¹

Care support is a possibility for municipalities to locally decide to introduce a special care support benefit for parents wanting to spend time with their small children (1-3 years of age).⁶² The maximum benefit can be combined with wage-work but cannot be used by parents using a public day-care centre for their children.⁶³

2.4. Eradication of gender-based violence

KEY FINDINGS

- **The fight against gender-based violence holds a central position** in Swedish gender policies, as expressed in **the 2007 'Action plan against prostitution and human trafficking for sexual purposes'**.
- **Domestic violence** is an important part of gender-based violence and the reporting incidence of such violence is high in Sweden.
- The special **Restraining Order Act** has been in place since 1988 and **stalking** became a crime under the Penal Code in 2011.
- **Sexual crimes** are regulated in Chapter 6 of the Penal Code. In response to public debate, **a reform in 2005** aimed at making legislation more effective, addressing among other things the requirement for conviction that violence must have been used by an offender taking advantage of incapacitated victims, and crimes involving several offenders.

⁵⁹ Lagen (1988:1465) om ledighet för närståendevård. This right to leave is related to a special-care benefit regulated in Chapter 47 of the Social Security Code.

⁶⁰ Lagen (1998:209) om rätt till ledighet av trängande familjeskäl. There are no explicit time limits to this right but its character – related to severe sickness or accidents making the employee's presence absolutely necessary – indicates that the time period for receiving benefits is relatively limited.

⁶¹ There is a regulation on special state funding for municipalities applying a maximum fee for such public child-care facilities. The maximum fee to be applied according to this regulation is EUR 134 (SEK 1,260) a month for one child and an additional EUR 89 (SEK 840) for the second and EUR 45 (SEK 420) for the third child. Access to such facilities is thus guaranteed within three months, once the child has reached one year of age. Day-care facilities for children are thus subsidised to a considerable extent by public means.

⁶² Prop. 2007/08:91, Vårdnadsbidrag – familjepolitisk reform (Governmental Bill 2007/08:91, Care Support – A Family Policy Reform).

⁶³ This special benefit is set to SEK 3,000 per month (approx. EUR 319). It was introduced in 2008 on the initiative of the Christian Democrats – part of the then Conservative Alliance in government. The current government has declared its intent to do away with this care support, because it considers the measure to be a 'trap' for women.

- There is **an ongoing debate on the requirement of consent** to a sexual act and the current government has announced its intent to go forward with this in a future reform concerning sexual crimes.
- **The work against trafficking is a central concern** of the 2007 Action plan against prostitution and human trafficking for sexual purposes.
- **Work against prostitution is a key concern** in Swedish gender policies and the goal is to eliminate it altogether. **Focus is on the 'buyer'**, and since 1999 **the purchase of sexual services has been criminalised** in Sweden; however, it is not against the law to sell such services.
- **Genital mutilation** has long been a criminal offence and a key concern in gender policies. There are **no known cases of genital mutilation performed in Sweden** but the **group at risk is calculated to be 19,000 girls now resident in Sweden**. Since 2014 **forced marriage** has been regarded as a specific crime under Swedish law.
- The **protection of the victims of gender-based violence is a central concern** and the government's intention is to increase victim support. Nevertheless, **women's shelter centres are mainly organised as private NGOs**; though they do receive some state funding. There is a **National Centre for Knowledge on Men's Violence against Women** and a **national helpline** for victims of violence; these resources have been commissioned by the government.

Violence against women is a breach of the fundamental right to life, freedom, dignity and physical and emotional integrity. Combating violence is an important priority of the European Union⁶⁴ and of Sweden. **The fight against gender-based violence** – i.e. men's violence against women, an expression of structural power differences between men and women – **holds a central position in Swedish gender policies.**

2.4.1. Domestic violence

Domestic violence is an important part of gender-based violence. Sweden is one of the Member States with the highest incidence of reported physical and/or sexual violence by a partner; in 2012 28% of women who have or have had a partner reported such violence, as compared to 22% among the EU-28.⁶⁵ One possible reason for these high figures may be that such incidents are more likely to be openly addressed and challenged in societies with a relatively high degree of equality.⁶⁶ Since 2014 the National Police Board has been tasked with fighting against domestic violence in all forms. **Intra-marriage rape** has long been a criminal offense in Sweden, just like any other rape.

2.4.2. Sexual violence

Sexual crimes are criminalised within **the Penal Code**,⁶⁷ which underwent major reforms in 1984 and 2005. Sexual offences always constitute a violation of sexual and personal integrity. Criminal liability for **rape** requires that the offender uses force or threats to perpetrate the sexual act. Following a harsh public debate in reaction to some judgments, this requirement was slightly changed in **the 2005 reform**, amending 'violence or serious

⁶⁴ Several instruments in the area of Justice, Freedom and Security have been developed to promote closer cooperation between Member States and harmonise responses against crimes which include violent behaviour.

⁶⁵ FRA, Violence against women: an EU-wide survey, Results at a glance, Luxembourg 2014, p. 15 et seq.

⁶⁶ Ibid. p. 16.

⁶⁷ See notably Chapter 6 of the Penal Code.

threat' to 'using unlawful coercion'. In response to to case law – involving young women who were heavily intoxicated and then exploited sexually by several offenders, acts hitherto amounting only to 'sexual exploitation' – the law was also amended so that an offender who has exploited a situation where a victim was already incapacitated by (eventually voluntary) intoxication now can and should be convicted of rape. The involvement of several offenders implies the existence of a gross crime. Serious sexual offences against children under the age of 15 always constitute rape, even when no violence is involved. Recently, a debate has emerged in Sweden on the **requirement of consent** to the sexual act, as well as discussion about whether this should be inserted in the law. So far this requirement has been rejected, with the argument that it might lead to a risk that the investigation of the crime focuses too much on the victim and on scapegoating women. As for the future, the 2014 Declaration of Government showed increased ambitions in the field by announcing that support for sexual-crime victims was to be increased, sexual crimes were to be more effectively handled, and sexual-crime legislation was to be assessed and penalties increased in view of the principle of common understanding as the basis for sex.

2.4.3. Sexual harassment

Sexual harassment is a frequent form of gender-based violence, also in Sweden, and this offence is covered by the DA.⁶⁸ However, it is mostly discussed in an employment context.⁶⁹

2.4.4. Stalking

The special crime of **stalking** (unlawful persecution) was introduced in the Penal Code as late as 2011, although repeated harassment meeting the requirements for gross violation of integrity was criminalised before 2011, while **the Restraining Order Act**⁷⁰ allowed authorities to issue domestic exclusion and restraining orders. Throughout the years the Act has been strengthened, among other things through the introduction of electronic monitoring. Despite an increase in the number of applications, the proportion of applications that are approved is diminishing and the effectiveness of the act has been called into question.⁷¹ In addition, the new criminalisation of stalking was assessed to have had a limited effect – there were relatively few crimes reported and even fewer convictions.⁷² Also here, Sweden is among the Member States with the highest prevalence of stalking – more than 30% of women 15+ years of age reported stalking, as compared to 18% in the EU-28.⁷³

2.4.5. Trafficking in human beings for sexual exploitation and Prostitution

Human trafficking is a special form of often gender-based violence implying crimes against individuals and a violation of their fundamental rights. It is a form of modern slavery to which poverty-stricken women and children, in particular girls, are more vulnerable, and it relates to coercive sexual relations, forced marriages and possible HIV infection.

⁶⁸ Compare FRA, Violence against women: an EU-wide survey, Results at a glance, Luxembourg 2014, p. 28 et seq.

⁶⁹ See further, for instance, Ann Numhauser-Henning and Sylvaine Laulom, Harassment related to Sex and Sexual Harassment Law in 33 European Countries, Discrimination versus Dignity, European Commission 2013 – available at: http://bookshop.europa.eu/en/harassment-related-to-sex-and-sexual-harassment-law-i...-accessed_2015-01-21.

⁷⁰ Act (1988:688).

⁷¹ Compare the recent assessment by The Swedish National Council for Crime Prevention (Brå), Kontaktförbud. En utvärdering av ändringarna i lagen 20011, Rapport 2015:3.

⁷² The Swedish National Council for Crime Prevention (Brå), Olaga förföljelse, Tillämpningen av den nya straffbestämmelsen, Rapport 2015:2.

⁷³ FRA, Violence against women: an EU-wide survey, Results at a glance, Luxembourg 2014, p. 26 et seq.

The work against **trafficking is a central concern of the 2007 Action plan against prostitution and human trafficking for sexual purposes**^{74, 75} and is also an important part of the Swedish **International Policy on Sexual and Reproductive Health Rights**.⁷⁶

The fight against prostitution is a key concern in Swedish gender equality policies and the long-term goal is to eliminate prostitution altogether.⁷⁷ Policies focus on **the responsibility of the buyer** – men are expected to take full responsibility for their sexual behaviours and actions. To this end, since 1999 the **purchase of sexual services has been regarded as a criminal offence** in Sweden – punished with up to one year in prison – and Sweden’s ambition is to encourage other countries to introduce similar legislation.⁷⁸ In addition, according to governmental declarations, ‘buying sex abroad’ will be criminalised in the near future. The purchase of sexual services is now regulated in the Penal Code,⁷⁹ whereas it is not against the law to sell sexual services. Criminalisation of the buyers was expected to have a deterrent effect on prospective purchasers of sex, reduce prostitution in general and create barriers for organised groups and individuals abroad involved in prostitution activities in Sweden – and thus trafficking in human beings for sexual exploitation. An evaluation of the ban on the purchase of sexual services and its effects during the first ten years⁸⁰ showed that it had been effective and is an important tool in addressing and preventing both prostitution as such and trafficking.

The **trafficking** of human beings for sexual exploitation is closely linked with prostitution and policies aim at eliminating it altogether. Here, too, policies aim at discouraging the buying of sexual services, levelling out social, political and economic inequalities in the countries of origin – a situation which is regarded as the breeding ground for prostitution and trafficking – and protecting and supporting the victims.⁸¹ Attention is also drawn to the close connection between prostitution, trafficking and the spread of HIV and AIDS. The five priority areas identified in the 2007 Action Plan are also relevant in relation to trafficking: greater protection and support for people at risk, more emphasis on preventive work, higher standards and greater efficiency in the justice system, increased national and international cooperation, and a higher level of knowledge and awareness. The basis for this policy is thus made up of Sweden’s commitments in the EU, the Council of Europe and the UN.⁸²

The EU Directive 2004/81/EC on the **residence permit** issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities, is

⁷⁴ Available at <http://www.regeringen.se/content/1/c6/11/06/28/c77ec2bb.pdf> – accessed 2015-01-21.

⁷⁵ Available at <http://www.regeringen.se/content/1/c6/11/06/28/c77ec2bb.pdf> – accessed 2015-01-21. The action plan was evaluated by The Swedish National Council for Crime Prevention (Brå) in 2011, see the reports ‘Prostitution och människohandel för sexuella ändamål, slutredovisning av regeringens handlingsplan, Rapport 2011:18’ and ‘Polisanmälningar rörande människohandel för sexuella ändamål, Rapport 2011:19’.

⁷⁶ Sweden’s International Policy on Sexual and Reproductive Health and Rights, Department of Foreign Affairs UD 06.008, available at www.regeringen.se/sb/d/108/a/61468 - accessed 2015-01-16.

⁷⁷ Compare Sweden’s International Policy on Sexual and Reproductive Health and Rights, Department of Foreign Affairs UD 06.008, available at www.regeringen.se/sb/d/108/a/61468 - accessed 2015-01-16.

⁷⁸ Ibid.

⁷⁹ See Chapter 6 of the Penal Code

⁸⁰ SOU 2010:49. Förbud mot köp av sexuell tjänst, en utvärdering 1999-2008, Stockholm 2010.

⁸¹ Sweden’s International Policy on Sexual and Reproductive Health and Rights, Department of Foreign Affairs UD 06.008 p. 19.

⁸² Already in 2002 – following the 2001 Vilnius conference ‘Women and Democracy’ – the Nordic and Baltic countries collaborated in a comprehensive campaign against prostitution and trafficking. This was also when the special crimes of ‘trafficking in persons and children for sexual purposes’, respectively, were introduced in Chapter 4 in the Penal Code. Attempts to and preparation for these crimes were criminalised. The main measures included in the Action Plan are: rehabilitation for victims of trafficking, installation of a national rapporteur for human trafficking, training for the judiciary, the police, public prosecutors and employees of the Swedish Migration Board, stronger preventive focus when processing visa and residence applications and a focus on a safer return for the victims of trafficking. Special support was also to be given for the continued cooperation in the Baltic Sea Region. Actions under the plan are monitored at national level by the Stockholm County Administrative Board.

implemented through the Foreigners Act⁸³ allowing for the provision of a temporary residence permit.

2.4.6. Female Genital Mutilations (including male genital mutilations, forced marriages and honour crimes)

Genital mutilation, forced marriages and honour crimes are essential elements as domestic violence is concerned. In the last two decades these issues have received considerable attention in Swedish debate and current Swedish policies implement both the actions proposed in the 2013 EU Commission's Communication on Female Genital Mutilation (COM(2013) 833 final) and the 2014 Istanbul Convention of the Council of Europe.

Genital mutilation has been a criminal offence in Sweden since 1982 on the basis of the Act on the prohibition of genital mutilation.⁸⁴ Only two cases have been presented before the Swedish courts and they both involved genital mutilation that took place outside Sweden. So far there are no known cases of genital mutilation being performed in Sweden. From a policy point of view, **the work against genital mutilation is a key concern** and is monitored through the National Board of Health and Welfare (*Socialstyrelsen*), a government agency in Sweden under the Ministry of Health and Social Affairs.⁸⁵ In a recent report,⁸⁶ and based on the assessment of UNICEF, it is calculated that possibly 38,000 women may have undergone some type of genital mutilation before coming to Sweden (of which 7,000 were under the age of 18). **The group at risk** – girls under the age of 18 born in Sweden with a mother born in a country where genital mutilation is an accepted practice – **is calculated to be 19,000 girls now resident in Sweden**. An important part of the work of the National Board of Health and Social Affairs is to work to improve knowledge about genital mutilation within the Swedish health care organisation, to better meet the needs of these women. The **circumcision of boys** under the age of 18 is also regulated through a dedicated Act⁸⁷, which states that circumcision must be performed within the public health care organisation or by especially authorised persons and requires the consent of both parents. It may not be performed against the boy's will and requires his consent if his age permits this.

Forced marriage has been a special crime in Sweden since 1 July 2014 and this is also the case with 'misleading a person to travel to undertake a forced marriage',⁸⁸ while attempt of and preparation for a forced marriage are also criminalised. In the same legislation, the possibility to marry before the age of 18 was prohibited in Sweden, and the possibility to recognise such marriages entered into abroad was further restricted. Working against forced marriages is also an important part of the governmental 2014-2017 Youth Policy.⁸⁹

⁸³ Act (2005:716).

⁸⁴ Act (1982:316).

⁸⁵ See, for instance, the report 'Uppdrag att förebygga kvinnlig könsstympning i Sverige. Återrapportering' (Commission to prevent female genital mutilation in Sweden, Report), The National Board of Health and Welfare, 2006.

⁸⁶ Socialstyrelsen, Flickor och kvinnor i Sverige som kan ha varit utsatta för könsstympning. En uppskattning av antalet, January 2015.

⁸⁷ The (2001:499) Act on circumcision of boys.

⁸⁸ See Chapter 4 Sections 4c and 4d of the Criminal Code, respectively.

⁸⁹ Forced marriage was also criminalised before 2014 as a crime of 'undue force'. In relation to Youth Policy, see also Ungdomspolitiskt handlingsprogram 2014-2017, www.regeringen.se/sb/d/2479/a/242060 - accessed 2015-01-15.

2.4.7. Protection of victims of gender-based violence

The **protection of the victims of gender-based violence** holds a prominent place in Swedish gender policies. Yet, centres and shelters for women providing protected housing, counselling, etc., are mainly provided by voluntary and private NGOs such as ROKS⁹⁰ and Unizon⁹¹, even if the State does provide some funds. In addition, at municipal level, sheltered living is sometimes provided. The current government has declared its intention to increase funding for these purposes. Support of victims is also channelled through the police, health care institutions, etc. Moreover, at Uppsala University there is a **National Centre for Knowledge on Men's Violence against Women**⁹²; this centre is sponsored by the government, and it also runs a **national helpline** for victims of violence. It is free of charge and open 24/7.

2.5. Sexual and Reproductive Health and Rights

KEY FINDINGS

- The **right to health care** in Sweden is **universal and based on residence**. Health and medical care is covered by the DA and a ban on gender discrimination in relation to access to preventive, investigative and actual health care, in both the public and private sector.
- **Sexual and reproductive health and rights** are considered a **core issue** in Sweden. Policies include a number of interlinked issues such as gender equality, sex education, and attention to vulnerable groups, as well as the right to contraceptives, safe abortions, maternity care and neo-natal care.
- The fertility rate was 1.91 children per woman in 2012. Both maternal and infant mortality in Sweden are very low.
- Since 1975, women have a **unilateral and undisputable right to abortion** until the 18th week of pregnancy. The **abortion rate** has since been fairly **stable**. Generally speaking, there is **broad consensus** in Swedish society supporting the right to abortion. Nevertheless, debates flourish now and then.
- **Insemination and IVF treatment** are regulated in an act of 2006 and reserved for **women in a partnership** (regardless of the sex of the partners). The government has announced its intent to make such treatment **available also for single women in the future**. **Surrogacy is not legally acknowledged** in Sweden.
- The Social Security Code contain rules on **special pregnancy benefits**. Pregnancy-related symptoms may **also qualify for sickness benefits** to the same extent as other, non-pregnancy related symptoms.

The right to health care in Sweden is universal and is based on residence. The health service is organised at county (regional) level, whereas social services such as long-term care are provided by municipalities.

In Sweden the area of health and medical care (including social services) is among the areas **covered by the DA**, including in relation to gender. While gender discrimination is

⁹⁰ Riksorganisationen för kvinnojourer och tjejjourer i Sverige. Visit their web-page at www.roks.se.

⁹¹ Visit their web-page <http://unizon.se>.

⁹² Visit their web-page <http://nck.uu.se/en/>.

prohibited,⁹³ differential treatment is possible 'if it has a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose'.⁹⁴ The ban covers public as well as private actors, in relation to access to preventive, investigative and actual health care. Individual medical assessment as such is not covered by the ban (although it shall be carried out according to medical expertise), nor are medical errors. Swedish law goes beyond current EU law in this field because it implements, among other international instruments, the CEDAW Convention. National statistics normally differentiate between men and women when presenting figures on health and medical care, to monitor the effectiveness of application of the ban on gender discrimination in the field.⁹⁵ There is also comprehensive research regarding women's health issues in Sweden.⁹⁶

Sexual and reproductive health and rights are a core issue in Swedish contexts, from both external development and internal policies. Nevertheless, access to delivery care is one of the most frequently discussed issues in Sweden, as women often have to travel far to deliver, or are transported between hospitals. The current government has declared its intention to strengthen delivery care services.⁹⁷ In any case, figures show that the performance of maternal health services is very good and **maternal mortality** is hardly measurable – 0.0 and 0.1 in 2011 and 2012 respectively, among 100,000 women.⁹⁸ Mainly as a result of well-developed preventive care during pregnancy, **infant mortality** is very low (2.3 girls and 2.9 boys out of 1,000 in 2012).⁹⁹ In 2012 the **fertility rate** among Swedish women was 1.91 – above the average for the EU. It has been on the increase slightly during the last decade or so.

Sexual and reproductive health and rights imply a right to one's own sexuality – sexual autonomy – in all aspects. Swedish sexual and reproductive health and rights policies thus include a number of different issues which are interlinked: gender equality, sex education, attention to vulnerable groups, and the right to contraceptives, safe abortions, maternity care and neo-natal care.¹⁰⁰ To this end, sexual orientation is an important dimension of general education in Sweden and the access to consultation and preventive measures are well developed, through special consultation clinics available to people from a young age (15) and without involvement of the parents.

2.5.1. Abortion

The **right to abortion** is an important part of female sexual and reproductive health and rights. The Swedish Abortion Act entered into force in 1975 – 40 years ago –¹⁰¹ providing for **a unilateral and undisputable right to abortion until the 18th week of pregnancy** upon request by a woman. After this period, relevant authorities can issue a special authorisation under exceptional circumstances. There is always the possibility of abortion when medically justified for the sake of a woman's health. The right to abortion is combined with a right – not an obligation – to counselling for seeking an abortion. The only major amendment to the law was made in 1995 – in force since 1 January 1996 – when the time limit was increased from 12 to 18 weeks. The number of abortions completed per year has been fairly stable since 1975, oscillating between 30,000 and 38,000 – in 2011 the number was 37,696.¹⁰² Generally speaking, there is a **broad social and political**

⁹³ See Chapter 2 Section 13 of the DA.

⁹⁴ See Chapter 2 Section 13a.

⁹⁵ Compare SCB, Statistical Yearbook 2014,

⁹⁶ Compare the overview carried out by Sveriges Kommuner och Landsting (Swedish Municipalities and Counties, responsible for national health care institutions), Goldina Smirthwaite, (O)jämställdhet i hälsa och vård – en genusmedicinsk kunskapsöversikt ((In)equality in health and care – a gender medical overview), 2007.

⁹⁷ Compare declaration at <http://www.regeringen.se/sb/d/19844/a/253057>.

⁹⁸ SCB, Statistical Yearbook 2014, table 20.17.

⁹⁹ SCB, Statistical Yearbook 2014, p. 76.

¹⁰⁰ Compare the Swedish International Policy on Sexual and Reproductive Health and Rights, *supra* n. 76.

¹⁰¹ Act 1974:595. A more restricted right to abortion had existed since 1938.

¹⁰² See Statistical Yearbook 2014 table 20.14.

consensus supporting the right to abortion in Sweden; only the Swedish Democrats would like to see a restricted right. Nevertheless, there are minor groups that oppose abortion and **debates flourish every now and then**.¹⁰³ For instance, a debate recently took place in relation to conscientious objection by employees in the health sector dealing with abortion practices,¹⁰⁴ but at national political level there is neither acceptance nor support of introducing this possibility.¹⁰⁵

2.5.2. Assisted Reproduction Technology

The **right to assisted reproduction** is an important issue of sexual reproductive rights and the results in this area are good – in principle infant mortality in this regard is as low that of 'natural' pregnancies.¹⁰⁶ The issue is regulated in the Act on genetic integrity.¹⁰⁷ Both **insemination** and **IVF treatment** require that the woman concerned is married to or cohabits with a partner (opposite or same sex) and that this partner has agreed to the treatment as such. Issues related to gender equality and sexual orientation, as well as to the denial of such rights for single women, are still debated, but the government has declared its intention to provide such services also for single women.¹⁰⁸ There is a right for the eventual child to obtain information about the donator at a later stage. **Surrogacy is not legally acknowledged** in Sweden.

2.5.3. Maternity

Pregnancy and parenthood are supported by social security schemes, as described under Section 2.2.1 above, while public social security is also covered by the DA ban on gender discrimination. The Social Security Code (SSC) contains **special rules on pregnancy benefits**, which require that the ability to work is restricted by at least 25% and that there is no possibility to transfer to another work position internally. This right prevails during the last 60 days of the expected pregnancy.¹⁰⁹

No right to pregnancy benefits is granted for **sick leave**. There is a right to income-related sickness benefits for employed persons who are not able to work due to an illness as defined by the SSC. In this case the ability to work must also be reduced by at least 25%. Sickness benefits in cash are granted following a decision of the National Insurance Board in the first instance. Long-term problems related to pregnancy (such as back problems, etc.) were initially regarded as 'a natural' consequence of pregnancy and were not considered as an 'illness', hence sickness benefits were denied. This was the stance taken by the *National Insurance Board* in a case from 2009¹¹⁰, which was then followed by an opposite judgment by the Stockholm District Court (T 10670-07, judgment 2009-11-03), which found direct discrimination with a reference to the CJEU's case *Dekker* (C-177/88) and by the *Appeal Court Svea Hovrätt* which also found direct discrimination on the grounds of sex to be at hand.¹¹¹ This judgment is very important for pregnant women in

¹⁰³ See, for instance the Swedish newspaper UNT 2015-01-11, Motståndet mot abort fortsätter.

¹⁰⁴ See further, for instance, the Swedish newspaper DN 2014-10-22, Samvetsklausuler i enskilda landsting hotar fria aborten.

¹⁰⁵ The Governmental homepage 2014-12-18, www.regeringen.se/sb/d/19498/a/251976 - accessed 2015-01-15.

¹⁰⁶ Compare article 'Minskade risker med assisterad befruktning' and related research, *Sydsvenskan* 2015-01-21.

¹⁰⁷ Act (2006:351).

¹⁰⁸ Compare also SOU 2014:29, Assisterad befruktning för ensamstående kvinnor.

¹⁰⁹ There is always a right, however, to such benefits if the work, by its very nature, is prohibited for pregnant women according to special legislation; also in this case an internal transfer cannot be possible.

¹¹⁰ The National Insurance Board denied a pregnant woman with back problems sickness benefits, arguing that 'a right to sickness benefits requires the pregnancy to deviate from what could be regarded as "the normal process of pregnancy" in that there were complications amounting to "illness".' "Illness" was defined as 'any abnormal physical or psychological condition not related to the normal process of life'. Only certain quite specific complications during pregnancy were regarded as such 'abnormal' conditions amounting to illness.

¹¹¹ The Appeals Court began by stating that the underlying cause of the symptoms amounting to an illness is of no relevance for the application of sickness-benefit insurance. The mere fact that *Försäkringskassan* took into account

Sweden, in that pregnancy-related symptoms qualify for sickness benefits to the same extent as other, non-pregnancy related symptoms.¹¹²

2.6. Gender Stereotypes

KEY FINDINGS

- All work against gender discrimination also targets gender stereotypes.
- **Still there are gender stereotypes in Swedish society.**
- An important area is **advertising – still not a legislated area.**
- There is, however, RO, a self-regulation organisation founded by industry.

Notwithstanding the fact that there is a broad common understanding in Sweden that men and women are equal in rights – a view reflected at many levels in society, not least in the high activity rates among Swedish women and in basically equal political representation for women and men – **there are still gender stereotypes** and these are also reflected in society and facts such as the GPG, the unequal use of parental benefits, women's poor representation on company boards, etc.

While all activities fighting gender discrimination at large – carried over within the framework of the DA and by the Equality Ombudsman (DO) – target gender stereotypes, there are **no mandatory rules, for instance against gender discrimination in advertising**. However, the Swedish Advertising Ombudsman (RO)¹¹³ – a self-regulatory organisation founded by industry – receives complaints about advertising and assesses whether advertisements follow the Consolidated ICC Code on guidance of the Advertising and Marketing Communication Practice from the International Chamber of Commerce.¹¹⁴ An allegation can be made by anyone from the general public, but there are no sanctions whatsoever to follow with the verdict, apart from the 'shame and blame' function. Every year a considerable number of cases of alleged gender discriminatory advertisements are brought to the RO.

The RO also deals with **discriminatory job advertisements**, which are also covered by the general ban on sex discrimination in working life in the DA and can thus be taken before the Swedish (Supreme) Labour Court.¹¹⁵ No such cases have yet been presented, though.

in these cases that the symptoms were pregnancy-related implied that it had applied a special and more severe reference norm than the one used for the relevant comparator – a 'non-pregnant' man.

¹¹² Previously, women have had to use their limited days of pregnancy benefits/parental leave benefits in this situation.

¹¹³ *Reklamombudsmannen* (RO); Web-page: <http://reklamombudsmannen.org>.

¹¹⁴ See: [http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2011/Advertising-and-Marketing-Communication-Practice-\(Consolidated-ICC-Code\)/](http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2011/Advertising-and-Marketing-Communication-Practice-(Consolidated-ICC-Code)/) - accessed 2 September 2014.

¹¹⁵ Compare the CJEU case law in *Ferryn* (C-54/07) and *Accept* (C-81/12).

2.7. Promotion of Gender Equality in External Development Policies

KEY FINDINGS

- **The overarching goal** of Swedish external development policies is **to contribute to a just and sustainable global development for all**.
- Gender aspects are especially highlighted and **women's role in development is one of three prioritised policy areas** as reported to Parliament in 2011.
- **Gender mainstreaming is the key tool** in relation to three 'methods' or strategies used in bilateral development cooperation: (i) specific measures to strengthen women's conditions and to further gender equality, (ii) integrated measures as part of any project and (iii) dialogue in cooperation.
- Since 2006 there is also an **International Policy on Sexual and Reproductive Health and Rights**.
- The current government has announced **an upcoming new platform for development policies**, implying among other things the **strengthening of women's independence**, both economically and otherwise.

The fostering of gender equality and women's empowerment worldwide is a continuous concern at EU level, according to the 2010-2015 Strategy for gender equality. These are values and goals which also inform Swedish external development policies in a gender perspective. The still-prevailing **policies for global development** were decided upon already back in 2003, in great consensus. The overarching goal is to contribute to a just and sustainable global development for all. The **gender aspects were particularly highlighted**: 'Women and girls shall be guaranteed the same rights as men and boys. Women's and girl's participation and interests shall be guaranteed within all areas of politics. The practical work with integrating a gender equality perspective and the application of existing knowledge and information must be intensified. Methodological developments in this area shall be strengthened'. **Policies follow 'the dual track' of gender mainstreaming and specific measures**.

These policies are continuously followed up. During the previous Conservative Alliance, **gender equality and women's role in development was one of three prioritised policy areas for Swedish development cooperation**.¹¹⁶ **Gender mainstreaming** was the key tool in relation to three 'methods' or strategies used in bilateral development cooperation: (i) specific measures to strengthen women's conditions and to further gender equality, (ii) integrated measures as a part of other projects and (iii) dialogue in cooperation. In relation to multilateral cooperation, four organisations are referred to: the United Nations Population Fund, UNICEF, the United Nations Development Fund for Women, and the World Bank Group.

Since 2006 an **International Policy on Sexual and Reproductive Health and Rights** has been in place.¹¹⁷ This policy builds on international agreements including the Beijing Platform. It is the basis for the bilateral, multilateral, operational and normative work that Sweden carries out in different ways in international contexts. The basis for this policy is that 'sexual health refers to quality of life and personal relations, counseling and health care. Sexual Rights include the right of all people to decide over their own bodies and

¹¹⁶ As reported to the Parliament in 2011 (Regeringens skrivelse 2010/11:167, Biståndets resultat – tema jämställdhet och kvinnors roll för utveckling).

¹¹⁷ Sweden's International Policy on Sexual and Reproductive Health and Rights, Department of Foreign Affairs UD 06.008, available at www.regeringen.se/sb/d/108/a/61468 - accessed 2015-01-16.

sexuality. Reproductive health is a state of complete physical, mental and social well-being in relation to the reproductive system and all its functions, and is more than the mere absence of disease. Reproductive rights comprise the right of individuals to decide on the number of children they have and intervals at which they are born. Everyone must be able to exercise these rights without risk of discrimination, violence or coercion.' It is also stated that 'an analysis of gender-based power structures is a basic element to be able to carry out good SRHR (Sexual and Reproductive Health and Rights) work'.

According to the Governmental Declaration in October 2014 'Sweden is to be a strong voice in the world for freedom, peace, human rights and solidarity'. To this end, **a new platform for development policies has been announced, which should cover, among other things, the strengthening of women's independence, both economically and in other areas.**

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DIRECTORATE-GENERAL FOR INTERNAL POLICIES

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- Justice, Freedom and Security
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