Europeanization of gender equality policy in Denmark and United Kingdom

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1. Introduction

Originally, European Economic Community (EEC) was driven by economic integration and social policy was a minor consideration (Geyer, 2000). However, the dynamics of market integration have led to a substantial spill-over in EEC’s involvement in social policy. Though, the social dimension was mainly relevant in terms of the social consequences of economic integration actions and the necessary social preconditions to make the economic project work.

It was an effort by the Commission to establish a “social dimension” of EC/EU-wide policies or at least minimum standards. However, member states, at the beginning, were neglecting the EC/EU “social dimension” because of the wish to keep the social policy at the national level in order to protect their welfare state regimes. The obstacles to EU “social dimension” can also be explained by the fact that member states did not have resources or capacity for social policy reforms.

The legislative reform of EC/EU social dimension was limited to a few areas where the Treaty of Rome allowed more significant latitude. Especially, the gender equality provisions of Article 119 EEC were the only major social mandate in reach of the EC (Leibfried, 2005). Furthermore, the Council unanimously agreed to a number of directives which gave the “equal treatment” provision some content.

Community Law on the gender equality currently consists in Article 119 of the Treaty of Rome and five equality Directives¹. Article 119 EC directly obliged member states, within a specific period, to “maintain the application of the principle”. It is not a purpose of this paper to look at all the five Directives, but rather focus on the Equal Pay Directive and Equal Treatment in Working Conditions Directive. The latest one is included, as it has been the progression of gender policy and has its foundation in equal pay provisions.

The gender equality policy until mid 1990’s was based on idea of “harmonization”, it meant that for common market to function properly, the member states’ pre-existing national policies and legislations on gender equality, would have to be continually and increasingly harmonized by the EC (Geyer, 2000). The so-called “positive” integration, in the field of Equal pay and equal Treatment directives, were driven by European Court of Justice (ECJ), Commission and the European Parliament.

In the late 1980’s and early 1990’s, as European integration rapidly accelerated, debates raged over the impact of the EC/EU on member state policy arenas. Nevertheless, concept of Europeanization, as a new term, was used to explain the impact of the EC/EU on member state policy arenas. Although, the concept of Europeanization does not have a single and precise definition, all definitions conceive of Europeanization as a process rather than a status.

This paper is examining Europeanization as a top-down process of how domestic pre-existing policy and institutions have been affected by EC/EU induced policy (Featherstone, 2003). Moreover, Europeanization is used to denote how public administrative institutions adjusted to the EU policy requirements.

We are not interested to examine whether the domestic policy on gender equality is being Europeanized, as we take it for granted that the Europeanization process has had an impact on domestic level. Our research scope is to find out how and to what degree Europeanization of gender equality policy affects national policies and administrative systems.

Adrienne Héritier (2001) states, that member states’ responses to European policy requirements can present diverse picture on processes of change. This could be explained by institutional ease with which European policy demands can be put up with existing national policies. Moreover, the different responses to European policy effects can be explained by long, strong and varied (West) European institutional histories,
with different paths of state- and nation-building, resources and capabilities (Rokkan in Olsen, 2002).

In a context of the latter, it is interesting and challenging to see outcome of Europeanization in Denmark and United Kingdom. Both countries joined EC at the same time in 1973 and they are characterized by almost similar economic and political conditions. However, different outcome of Europeanization in both countries can be expected due to their divergent state traditions; in United Kingdom’s administrative style is centralized, based on Anglo-Saxon legal system versus Denmark’s administrative style as being highly decentralized and based on Continental legal system.

What is puzzling in a study like this is that on the one hand, the national administrative styles and structures expose a considerable degree of divergence. On the other hand, there is the expectation that implementation of EU gender equality policy should lead to domestic policy and polity convergence among member states. Policy implies general problem solving approach, the policy instruments, and the policy standards set, whereas polity focuses on describing administrative structures, public administration, judicial structures, and state traditions (Börzel & Risse, 2003). In this context it is interesting to examine what are the factors that determine different outcomes of Europeanization on domestic policy and polity.

A study on how EU policy affects domestic administrative practices and structures could be seen as challenging because there is no European administrative policy, which is concerned with structure and style of domestic administration. However, we cannot ignore that European policies have an impact on domestic administrative styles, mainly because policy content and administrative implementation requirements are often closely related. Furthermore, we are aware of the fact that national administrative style and structure changes are dependent on policy context and sector.
Thus, our research area includes the following issues: research on Europeanization, policy implementation and public administration. This research area leads to the following research question:

**How the Equal Pay and Equal Treatment directives affected Denmark’s and United Kingdom’s national policy and their administrative structure?**

In order to answer the research question the following sub-questions will be used:

- How the concept Europeanization is defined in relation to the paper’s problem field? And, how the concept of Europeanization can be strengthened from theoretical point of view.
- What are the member states’- Denmark and United Kingdom- pre-existing policy and their administrative styles?
- What are the challenges faced by UK and DK when implementing the EU equality directives?
- What are the outcomes of Europeanization in DK and UK?
2. Methodology

This section presents the choices made by us in order to conduct this research. It includes issues on how problem formulation should be answered and in relation to this, which methodological steps will be used for our analysis. This section includes empirical data, comparative national research, time limit, data, delimitation and operationalization of analysis.

*Comparative national research*

Our study is a comparative one and is so at different levels. It includes two countries, Denmark (DK) and United Kingdom (UK), which implies that comparisons across the countries will make an important part of our analysis.

Ragin (1994: 78) sees comparative research as a research that holds the middle between qualitative research (few cases, many features) and quantitative research (many cases and few features). Comparative analysis in the domain of gender equality policy is important for scientific and political reasons. As Richard Hauser remarked, it increases the scientific knowledge about the objectives and problems that dominate social policy in the countries under review. It also provides information on the instruments used to pursue these objectives and on their effectiveness. More than that, it tells us more about the economic and political conditions under which new social policy instruments are introduced and it expands the empirical basis for generalizations and theories (Hauser in Berghman and Cantillon, 1993: 79). We have to be aware that comparative analysis relies on the assumption that states are not unique in all their aspects, but that central elements exist, are common to all countries.

In our project we consider that the process of European integration offers conditions for the comparative study of administrative change and the challenges posed by the implementation of EU policy on the national level. Our comparative study will be drawn on how different national administrative systems – UK versus DK - cope with legislation imposed by the EU. Therefore, the question is how national administrative systems respond to similar challenges. As long as sectoral administrative arrangements
may vary from country to country, the same European policy will not pose identical challenges to domestic administration.

One way to overcome methodological problems concerns the selection of countries. According to the approach of “most similar systems” the selected countries should have as many similar features as possible in order to reduce the number of intervening variables and varying parameters (Przeworski and Teune in Knill, 2001: 52).

A cross-country comparison of UK and DK seems to be, in our understanding, quite in line with the requirements of the “most similar systems” approach. Both countries are characterized by almost similar economic and political conditions, including economic and industrial development, education, standards of living and social services. Both countries joined the EU in 1973 and both of them at that time were still uncertain about the advantages of membership (Allen in Bulmer and Lequesne, 2005: 120).

Moreover, some particular parameters relevant in the gender policy field reveal some similarities in above mentioned countries. Both United Kingdom and Denmark faced some problems when implementing the gender policy (in our case the Equal Pay and Equal Treatment directives). We are going to present the differences these countries are in respect to their administrative style and structures. The diverging characteristics are concerning not only the state and legal tradition but also the political administrative style. The differences are mainly in the administrative style – centralized (UK) versus decentralized in (DK), pluralist versus corporatist/or negotiated economy. Both countries are representatives of two different legal systems – Anglo-Saxon and Continental systems. In the social domain there are also some contrasts. The difference refers to the pay disparity, which is very low in DK and very high in UK.

By describing these differences, it is in our interest to investigate how these varying administrative arrangements are adapted to European requirements.

Empirically this study focuses on the implementation of EU gender policy in UK and DK especially on directives on Equal Pay (75/117/EEC) and on Equal Treatment
(76/207/EEC). We expect that the implementation of these directives led to significant effects on national policy and administration. The implementation of these two directives presents an interesting case also because the implementation gaps are particularly prevalent. What is puzzling in our case is that DK was considered “the least likely case” in which EU’s policy could have an impact, mainly because the dominant view is that the domestic polices and agreements have driven gender equality in Denmark and not supranational ones (Martinsen, 2007: 2). In regards to UK, due to the relative weakness of the British gender equality policy, the EU gender policy played a significant role. Another interesting point in relation to these polices is who exactly controls how EU policies are implemented – is it the executive or other actors?

**Time limit**

Our study investigates how EU policies have been implemented and which administrative changes followed from this, by taking as starting point as year 1973 when both countries, UK and DK, joined EU, until year 2001, when the new era of gender equality with start of gender mainstreaming. This is because the effects of Europeanization are not visible or seldom visible in the short term, they rather manifest themselves over time (Martinsen, 2007). Thereby a study dealing with Europeanization over an inadequate time can lead us to conclude differently.

**Data**

Our study is based on qualitative research. We are using secondary literature as the primary source.

**Delimitations**

The delimitation, which we are going to make for this study, refers to the following issues. For our study we are taking a top-down approach of Europeanization. Thus we are not going to look at how domestic actors influenced the supranational policy formulation process, which led to the selection of the policy to be implemented. Our goal is to look at the national actors’ role during the implementation process. Moreover, we are looking at the Europeanization process affecting domestic policy and polity dimensions. We are not interested on EU’s interaction with national institutions, but on
how EU policy is challenging the administrative style of the countries under investigation.

**Research framework**
We are going to conduct our analysis in three analytical steps. Firstly, we are mapping on how the Equal Pay and Equal Treatment directives were implemented in Denmark and United Kingdom, and who controlled the implementation process. Secondly, it is important to identify the national adaptive behavior, meaning the policy misfit, as well as the role of mediating factors. Thirdly, we are going to examine how the implementation of the directives challenged the administrative style of abovementioned countries, and whether the changes occurred at or within the “core” of administrative structure. For graphical illustration see Table 1.

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<th>European integration</th>
<th>Europeanization</th>
<th>Explanatory variables</th>
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Table 1. Methodological steps
**Structure of the project**

Our study will have the following structure:

In Chapter III we are going to present the theories and concepts which will be applied to our empirical case. Our theoretical framework includes the concept of Europeanization, Implementation theory and Historical institutionalism complemented with Agent-based approach. In Chapter IV we are presenting our empirical case. First a description of European gender policy will be introduced. Then we will describe the administrative style and structure in UK and DK and a section on comparative approach of these countries will be introduced. Our analysis is conducted in Chapter V. This Chapter includes a description on how Equal Treatment and Equal Pay directives were implemented in both countries. Furthermore, we will examine the national adaptive behavior and the role of mediating factors, and, finally, how these challenged the administrative style of above mentioned countries.
3. Theoretical framework

3.1 Explaining concept Europeanization

The concept of Europeanization is used in different ways to describe a variety of phenomena and processes of change. There cannot be found a single shared definition on Europeanization as the explanation is often delimited to a specific article or book chapter. However, it is argued that “the dynamics of Europeanization can be understood in terms of limited set of ordinary processes of change” (Olsen, 2002: 932). In order to understand the Europeanization, the clear definition of what is changing is needed. As this paper focuses on the impact of Europeanization on domestic political processes of the member states, the studies of “top-down” processes is used in order to capture how the European Union matter. Furthermore, the “top-down” process is used to refer to how the specific domestic policy, institutions and actors are affected. Ultimately, when defining the impact of Europeanization the illustration of it by Radaelli (2004: 4) can be used:

“Pressure” from Europe on member states → intervening variables → reactions and change at the domestic level.

Furthermore, Börzel (in Featherstone & Radaelli, 2003: 29) defines Europeanization as a “process by which domestic policy areas become increasingly subject to European policy-making”. In order to analyse the domestic impact of Europeanization and outline processes of domestic change, Börzel and Risse (2003) distinguish three major dimensions—policies, politics and polity. This paper will only focus on the domestic effect of Europeanization on policies and polity (see Table 2), however, in line with descriptions on policies and polity, a short account on politics will also be given.

As there are incrementally more policy areas which are affected by policy-making at EU level, the implementation of these policies leads to considerable changes in the policy framework of the member states. Some scholars stress that such Europe-induced policy changes are able to affect the domestic policy style, the general problem solving
approach, the policy instruments, and the policy standards set (Knill & Lensschow in Börzel & Risse, 2000).

When describing the domestic effect of Europeanization on polity, most of the works focus on domestic institutions, both formal and informal. The studies focus on whether and to what extent European policies and institutions affect domestic systems of administrative structures, public administration, judicial structures, and state traditions.

The last dimension - politics, according to Börzel and Risse (2000), can also be affected by the policies which are made at the European level. Furthermore, they state, “this [can] likely have consequences for domestic processes of societal interest formation, aggregation, and representation” (Börzel & Risse, 2000: 3). However, it is hardly known anything about how appearance of a European structure of political and societal interest representation impacts on domestic processes of political contestation and interest collection. There are still disputes on whether Europeanization contributes to de-politicization (Mair in Börzel & Risse, 2000) or whether the European policy-making causes an increasing politicization at the domestic level (Radaelli in Börzel & Risse, 2000).

Table 2 shows the extract of domestic effect of Europeanization, taken from Börzel and Risse (2000: 4)

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<td>- problem-solving approaches</td>
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<td><strong>Polity</strong></td>
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<td>- judicial structures</td>
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<td>- public administration</td>
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<td>- state traditions</td>
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<td>- economic institutions</td>
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However, the choice only on policies and polity does not change the general proposition that Europeanization is non-controversial when affecting the member states. Furthermore, there is a general consensus between scholars (Cowles, Caporaso, Risse, and Héritier) that the policy effects of Europeanization in member states are expected to vary because of differences of institutional ease with which European policy demands
can be put up with existing national policies (Héritier, 2001: 5). Furthermore, the different responses to European policy effects can be explained by long, strong and varied (West) European institutional histories, with different paths of state- and nation-building, resources and capabilities (Rokkan in Olsen, 2002). Variations of penetration of domestic institutions by European development are dependent on whether the state are proud of its historical achievements and does its best to protect them, or whether the state is eager to get beyond “the burden of the past” (Olsen, 2002). In order to explain the domestic change, there must be identified mechanisms which Europeanization can affect. Risse and Börzel (2000) identify two conditions for expecting domestic change in response to Europeanization:

1. In order to detect Europeanization, there must be some degree of “misfit” or incompatibility between European-level processes, policies and institutions and the ones of domestic-level. “Goodness of fit” forms adaptational pressures that are necessary but not sufficient condition for expecting change.
2. There are some facilitating and mediating factors - institutions and actors - who respond to the adaptational pressures.

“Goodness of fit” - the condition of domestic change

Börzel and Risse identify two types of misfit: policy and institutional misfit (2000). Policy misfit can challenge national policy goals, standards, the instruments used to achieve policy goals and the underlying problem-solving approach. The institutional misfit can challenge domestic rules and procedures and the collective understandings attached to them. Furthermore, Börzel stresses that “European rules and procedures, which give national governments privileged decision powers vis-à-vis other domestic actors, challenge the territorial institutions of highly decentralized member states which grant their regions autonomous decision powers” (2000: 5). Europeanization might even threaten deeply collective understandings of national identity as it touches upon constitutive norms such as state sovereignty (Risse in Börzel & Risse, 2000). Börzel and Risse (2000) further state, that institutional misfit is less direct than policy misfit, although it can emerge in substantial adaptational pressure, its effect is likely to be long-term and incremental.
Radaelli (2003) proposes that the “goodness of fit” when associated with the pressure pathway should be limited to the context of positive integration, where the specific policy is defined at the EU level and then implemented on the domestic level. This process is based on adaptational pressures, where it implies coercion, for example, certain directives specify a period of time at the end of which member states are forced to introduce regulatory arrangements (Radaelli, 2003). In the situations where the adaptational pressures are very high, European institutions can challenge the identity, constitutive principles, core structures, and practices of national institutions (Cowles et al, 2001). In contrast, where the degree of similarity between EU policy requirements and national legislation is high, or where EU legislation is expressed in unclear terms, only a modest, if any, need for change results (Héritier, 2001). If the difference between European policy demands and pre-existing national policies are taken for granted as well as there is presumption that the preferences of key actors are similar to European goals, the reform capacity of a country determines whether or not European policy is realized (Héritier, 2001).

Finally, the substantial effect at the domestic level produced by misfit depends on the presence of factors facilitating adaptation. The transformation of policies and polities in the member stats is expected, only if and when these intervening factors are present (Börzel & Risse, 2000).

**Mediating factors - the conditions for domestic change**

As mentioned before, the Europeanization only leads to redistribution of resources and differential empowerment at the domestic level, if there is considerable misfit it provides actors with new opportunities and limits, or domestic actors have the capacities to exploit new opportunities and avoid limits. In such scenario, the presence or absence of facilitating factors is crucial for the degree to which domestic change adjusting to Europeanization should be expected (Cowles et al, 2001). There are defined two mediating factors that influence the degree of adjustments.

1. **Multiple veto points.** The existence of multiple veto points in a given policy-making structure has been identified as a main factor delaying
structural adaptation (Tsebelis in Cowles et al, 2001). Moreover, the process of change triggered by European demands and its outcomes is pictured as a development of overcoming an institutionally defined number of formal and factual veto points (Héritier, 2001). In the situations where many formal and factual veto positions are present and there is no corresponding consensual capacity to build supportive coalitions, the probability of adjustments is low, and vice versa (ibid). General perception among scholars is that the multiple veto points is likely to inhibit or slow down the adaptation to Europeanization pressures, however there are also institutional factors that might help to overcome such veto points.

2. Existing formal institutions. They can provide actors with material and ideational resources necessary to exploit European opportunities and to induce structural change (Börzel & Risse, 2000). The European political opportunity structures may offer domestic actors additional resources; however the lack of the necessary action capacity of the member state may mean that they are not able to exploit them.

Consequentially, both multiple veto points and existing formal institutions are compatible with “logic of consequentialism” assuming utility-maximizing actors with fixed interests and preferences (Cowles et al, 2001). These institutional factors do not present or influence actors’ views of the world, interests, or identities, but rather determine whether the new opportunities and limits resulting from Europeanization in case of misfit can be translated into an effective redistribution of resources among actors (Börzel & Risse, 2000).

After explaining the detection of Europeanization, the outcomes of it, or the measures of implementation on domestic change will now be described. There are four possible outcomes of Europeanization (drawing upon Börzel, Cowles, Caporaso, Risse, Héritier and Knill): retrenchment, inertia, absorption and transformation. Radaelli (2003)
defines retrenchment and inertia as “negative” outcomes, and absorption and transformation as “positive” outcomes.

Retrenchment is described as a very paradoxical effect, as the national policy becomes “less European” than it was. In the specific policy, the domestic actor or institution behaviour can have an increased intervention towards the European-induced policy. This can be explained, when analysing the domestic mediating factors (see below for explanation).

Inertia is a situation of lack of change, as the country finds EU political choices, models or policy too dissimilar to domestic practice. Furthermore, inertia may take the forms of delays in the transposition of directives and sheer the resistance to EU-induced change. However, in the long term, inertia can become impossible to maintain both economically and politically. Consequentially, some scholars tend to stress, that the long periods of inertia should produce crisis and unexpected change.

Absorption indicates changes of adaptation. The member states are able to incorporate European policies and readjust their institutions, however, without considerably modifying existing processes, policies and institutions. Furthermore, the certain non-fundamental changes may be absorbed without disrupting the member states’ “core”. The degree of domestic change is illustrated as low.

In the case of transformation, the member states replace existing policies, processes, and institutions by new, substantial different ones. It can also change the existing institutions to the extant that their essential and/or the underlying collective understandings are fundamentally changed. Here the degree of domestic change is high (Börzel & Risse, 2000).

As the Europeanization is still perceived as a concept and not a theory we will link it with the Implementation theory and Historical institutionalism theory complemented with an Agent-based approach.
3.1.1 Implementation theory

The study of implementation concerns of who controls the distribution of resources at the domestic level after a policy has been decided at the European level. When implementing the specific European-induced policy, the redistributive consequences in the domestic administrative system, either directly or indirectly, can be expected (Martinsen, 2007). Furthermore, the reallocative effect of European policies explains the extent to which implementation organizes actors and interest groups in the implementation process. The implementation of Community law and policies has been interpreted as the phase where member states regain control over the impact of policy, since they can interpret and control the scope and reach of policies that have been adopted (ibid). However, this proposition disregards some important aspects of policy-making, as the fact that the member states are heterogeneous and they do not act with single purpose, when considering the benefits, costs and risks of a policy. Furthermore, the implementation involves multiple actors with varied and even competing interests, and consequentially, Europeanization is perceived as a dynamic process that unfolds over time (ibid).

According to Dimitrakopoulos and Richardson (in Martinsen, 2007), implementation theory may be useful to understand the often “long and winding road” by which EU policies are given effect. In the classic implementation theory, the “decision points” (literature on Europeanization conceives “decision points” as “veto points”) are crucial to the impact of policies in the implementation process. A “decision point” may hinder efficient and successful implementation, as the permission of actors must be achieved. Furthermore, veto players can mobilize opposition to hinder the implementation of supranational decisions, where in large number of veto players it can even lead to lower speed and lower quality of implementation (Mbaye in Martinsen, 2007). However, the subsequent development of implementation theory, argues that it is unlikely that all domestic stakeholders and veto players adopt and defend a single and homogenous interpretation of the “national interest”. The implementation theory also suggests that the national bureaucracy can not be seen as the single united actor during the implementation of Community rules (Jørgensen in Martinsen, 2007). Moreover, the implementation theory argues that the national governments and bureaucracies will not
have a monopoly of power and influence when implementing EU policies. It can be explained with the fact that also in democratic systems, governments and national bureaucracies do not enforce national policies via top-down hierarchical model of control (Meyers & Vorsanger in Martinsen, 2007).

In the situation where the EU policy decisions become effective channels for challenging national policies, decision points can contain interventions where stakeholders act to facilitate implementation and extend the impact of specific EU policy in opposition to the government standpoint. Furthermore, national parliaments as well as other stakeholders can take an interest in how EU rules are interpreted, and the competing views whether the “correct” implementation of specific EU policy may emerge.

One has to remember, that Europeanization of a policy area “may unfold iteratively over several years or even decades” with national implementation feeding back into this long-term process (Bugdahn in Martinsen, 2007: 548). During the process where subsequent challenges and modification of the specific policy can be at present, the European Commission and the European Court of Justice may play a key role in “pushing” full implementation of policy. It can be done through identifying and monitoring restrictive application or non-compliance by the national government (Börzel in Martinsen, 2007). Interest groups as national stakeholders may point out implementation deficit and thus “pulling” the impact of EU regulation. In the short term, national governments and bureaucracies may exercise a dominant influence over implementation, though, in the longer time, “the combination of supranational mechanisms of enforcement and powerful national actors may be decisive” (Martinsen, 2007: 548).

3.2 Historical institutionalism and agent based framework

For the purpose of this project we are going to apply a modified framework of historical institutionalism. The modified form includes as starting point historical institutionalism to which an agent-based approach is added. This modified institutional framework was applied by Knill and inspired us for our study. We have to emphasize that Knill’s model
was applied to the study of Europeanization of national administration which had the environmental policy as empirical case. Our goal is to expand this model to the study the Europeanization of administrative styles but this time having gender policy as the research case. Moreover, we are not going to apply this model as such. We are going to link this model with implementation theory and veto points/ decision points approach.

Both historical institutionalism and agent-based approach have explanatory strengths as well as weaknesses. However, the main question is not to settle on which approach is theoretically superior, but is to link them in a complementary way.

In this section we are going to emphasize on historical institutionalism approach and agent-based approach separately.

Historical institutionalism took up a position in between rational choice and sociological institutionalism. Historical institutionalism “focuses on the effects of institutions over time, in particular, the ways in which a given set of institutions, once established, can influence or constrain the behavior of the actors who established them” (Hall & Taylor in Pollak, 2005: 139). Put it in another way, the basic idea is that “the policy choices made when an institution is being formed, or when a policy is initiated, will have a continuing and largely determinate influence over the policy far into the future” (King, Skocpol, Piersen in Peters, 2005: 71). According to Krassner and Pierson the standard term for describing this argument is “path dependency”, meaning that “when a government program or organization embarks upon a path there is an inertial tendency for those initial policy choices to persist” (in Peters, 2005: 71). However, the path may be altered, but it requires a good deal of political pressure to produce that change. What makes the historical institutionalism distinctive is “its emphasis on the effects on institutions and politics over time and in particular its rejection of the usual functionalist explanations for institutional design” (Pollack, 2005: 139). According to functionalist approach, “political institutions are assumed to have been deliberately designed by contemporary actors for the efficient performance of specific functions and no attention is paid to historical legacies” (Pollack, 2005: 139). In contrast with this view, historical
institutionalists state “that institutional choices taken in the past can persist, or become locked in, thereby shaping and constraining actors later on time” (Pollack, 2005: 139).

In order to see how much historical institutionalism can explain, the following issues need to be explored: what is an institution in historical institutionalism approach, how institutions are formed and how they change, how individuals relate to institution and institutional design. The basic question in the consideration of institutional based analysis is what constitutes an institution?

In the terms of historical institutionalism, Ikenberry argues that institutions extend “from specific features of government institution to the more overarching structures of the state, to the nation’s normative social order” (in Peters, 2005: 74). The key feature of historical institutionalism is the overall claim, that first an institution is created and the initial policy choices have been made, they are not easily changed.

Historical institutionalists are not particularly concerned with how individuals relate to the institutions within which they function. There is an implicit assumption of historical institutionalism that when individuals choose to participate in an institution they will accept constrains imposed by that institution (Peters, 2005).

Historical institutionalism approach is almost silent when it refers to the design of the institution. However Guy Peters (2005: 81) argues that “design is perhaps the central question for historical institutionalism, given that the initial choices of policies and structures are argued to be so determinate of subsequent decision within the institution”.

Agency-based approaches have a less determining explanatory role vis-à-vis to institutional factors. In contrast to the analysis from an institution-based approach (in our case historical institutionalism) in agency-based approach change is explored from the perspective of methodological individualism. As Knill explains, “human action is the cornerstone of these social science explanations” (2001: 23). In the context of agency based framework institutions still matter, but not as independent variables but more as intervening variables between the interaction of actors and corresponding

Agency-based approaches do not face the problem of determinism and conservatism in the same way as historical institutionalism does. In an agent-based approach institutions change because actors are changing their preferences.

Concerning our empirical case, the historical institutionalism is going to be complemented with an agent-based perspective only when historical institutionalism does not have explanatory power concerning the actors’ preferences.

The choice of historical institutionalism has three analytical advantages. First, compared to agency based rational choice approaches, historical institutionalism provides, as Knill states, a more abstract and parsimonious basis that allows for the development of ex ante hypothesis on institutional change (Knill, 2001).

Second, an other advantage of historical institutionalism is that emphasizes “that the structuring effects of institutions may not only be the result of their normative and cognitive impact, but can also be interpreted in terms of lock-in effects and power distributions defined by distinctive institutional configurations” (Knill, 2001: 26).

Third, historical institutionalist approach provides a more narrow conception of institutions, “which is restricted to sets of formal and informal rules, norms and conventions that prescribe behavioral roles, shape expectations, and constrains and enable activities” (North, Thelen & Steinmo in Knill, 2001: 26).

3.3 Applicability of the theories

For the purpose of our study we need to explain how we are going to apply the theories selected by us to our empirical framework. As we mentioned above the top-down approach of Europeanization was chosen for our theoretical framework. This is because Europeanization in this approach has explanatory power in order to clarify the process
through which EU level process lead to domestic change. By saying this we will be able to explain how EU directive have an impact on the administrative styles and structures. Closely linked to the term of Europeanization is the concept of adaptational pressure which has important connotation for our research. As we mentioned above the impact of European policies on domestic administrative structure basically depends on the institutional compatibility of European policy requirements and national administrative arrangements. In this context, the degree of adaptation pressure which EU directives exercise on national administrative arrangements is taken as an independent variable. Moreover, we have to analyse whether Equal Pay and Equal Treatment directives require changes within or of the core of national administrative styles and structures.

Furthermore, we have to mention that it is not enough to examine the concept of administrative pressure only from an institutional dimension (institutional requirements imposed by EU directives) but also from a dynamic perspective. This is because administrative traditions are not static but rather they depend on the state capacity for administrative reforms. So, for our analysis framework the degree of EU adaptational pressure will be examined by taking in consideration the following aspects: the compatibility of national legislation with European policies, the administrative challenges which every state faces because of these directives and finally the factors which determine the potential for administrative reforms.

Another methodological tool, which we are going to use, is our explanatory variables. One of them is the adaptation pressure which results from the Europeanization process. The general assumption is that adaptation pressure will vary among the states. When analyzing adaptation pressure the emphasis will be on the following components: policy dimension, an institutional dimension and a dynamic dimension which refers to the administrative reform capacity.

Closely related to the concept of Europeanization, as we mentioned, is the implementation theory, which is an explanatory tool in the terms that is going to be applied in order to understand the way by which EU policies are given effect. According to the classic implementation theory there are “decision points”, which could
lower the quality and the speed of implementation. However, in our case we are applying a contrasting version of classical veto points approach. We are using veto points mainly as facilitating factors when implementing EU gender equality directives.

Complementary to the concept of Europeanization, an institution based approach linked with an agent-based approach will be applied. This modified institutional framework was applied by Knill and inspired us for our study. Our explanation for choosing this approach resides on the fact that European adaptation pressure has to be considered from the general institutional context of national administrative traditions. This approach will allow us to testify the path-dependency approach, mainly how states response to Europeanization and how we can explain the observed administrative patterns. However, historical institutionalism cannot explain all the changes in countries which are characterized by a high reform capacity and where there is a constellation of actors involved in the process of implementation.
4. Empirical framework

4.1 Development of the EC/EU gender policy

Traditionally, the gender policy has evolved as an element of the Community’s social policy. However, due to the Community’s nature, the gender equality principles were exclusively related to labour relations. The gender policy was founded on Article 119 in the Treaty of Rome (now 141 ToA), pushed by French government’s concerns of being economically undercut by other EC/EU competitors, and it viewed that the harmonization of social costs was necessary for establishment of well-functioning market founded on a fair competition. However, member states did modest effort to implement the article and the development of the gender policy, consequently, slowed down for over two decades.

In the 1970’s several interrelated developments led to a rebirth of EC/EU gender policy. These included feminist movement, legal developments (Gabrielle Defrenne case in 1968; Case C-149/77) and the creation of the 1974 Social Action Programme (SAP). The 1974 SAP was a watershed development in early EC/EU social policy (Geyer, 2000). Under the section titled “Attainment of full and better employment in the Community” the SAP encouraged the EC/EU and member states to take actions in order to achieve the equality between men and women. In response to that, the Commission developed three main legislative proposals: the 1975 Equal Pay Directive (75/117/EEC); the 1976 Equal Treatment in Working Conditions Directive (76/207/EEC); and the 1979 Equal Treatment in Social Security Directive (79/7/EEC).

The EC/EU in the 1980’s has moved to more specific actions in the area of gender equality. The Commission has adopted “Action programmes” (in 1982-1985, 1986-1990, 1991-1995 and in 1996-2000 respectively) which aimed at enforcing the equality legislation in practice. The growing support for equality continued especially in the 1990’s where series of events have pushed even further in the gender matters. Scholars see this decade as a turning point in the gender mainstreaming, that is a “systematic
incorporation of gender issues throughout all governmental institutions and policies” (Pollack & Hafner-Burton, 2000: 434).

As this paper focuses on how implementation of Equal Pay Directive and Equal Treatment Directive affected the two member states: Denmark and United Kingdom, further description of the abovementioned directives and Article 119 EEC will be given.

4.1.1 Article 119 EEC (now Article 141 EC)

Article 119 EEC states that each member state is obliged, within a specific time period, to ensure and maintain “the application of the principle that men and women should receive equal pay for equal work” an defining pay as “the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the workers receives, directly or indirectly, in respect of his employment from his employer”. However, the narrowness and the relatively weak foundation of EC law in the late 1950’s meant that member states did little for implementation of the equal pay principle in the domestic policy (Hoskyns in Geyer, 2000). Moreover, the Article 119 was questioned in the sense of whether it implied conferred direct effect upon the individuals. The situation remained unresolved until the European Court of Justice made its judgment in the Defrenne II case. Further, the ECJ declared that “respect for fundamental personal human rights is one of the general principles of Community law…there can be no doubt that the elimination of discrimination based on sex forms part of those fundamental rights” (Barnard in Geyer 2000: 171). Consequently, the ECJ reaffirmed that Article 119 was directly applicable not only to public authorities, but also to collective labour agreements.

4.1.2 Equal Pay Directive (75/117/EEC)

The directive was perceived as the easiest and most obvious extension of the EC/EU gender policy as it was originally passed in order to harmonize the existing laws of the member states in relation to equal pay. Some scholars stress that this directive was passed in order to provide the Commission with control mechanism to monitor the implementation of the Article 119 in the member states, because namely the lack of monitoring was seen as the reason for bad implementation (Ellis, 1998).
In general, the Equal Pay Directive established the “principle of equal pay” which meant, basically, equal pay for equal work or work of equal value. Besides, the directive stated that the job classification, which defined the payment of employees, must be based on same criteria for men and women and that all discrimination based on sex must be abolished. Furthermore, the member states were required to ensure that the principle of equal pay was enforced, and in order to do so they had to introduce necessary measures in their legal systems and repeal all the domestic legislation that was in conflict with the principle of equal pay. The directive also required from the member states to provide effective remedy to individuals. The time limit of the implementation of the directive was only one year and within two years after the end of one-year time limit the member states had to submit all the necessary information to the Commission, which in turn, draw a report and submit it to the Council.

4.1.3 Equal Treatment in Working Conditions Directive (75/207/EEC)
The Equal Treatment in Working Conditions Directive (further referred to as Equal Treatment Directive) was the logic development of gender policy and it took up the concerns raised by women’s groups and policy-makers about gender discrimination beyond the area of pay. Article 1 of the directive restated and built upon the basic orientation of the Equal Pay Directive. Furthermore, Article 1 of the directive pushed member states “to put into effect the principle of equal treatment for men and women as regards access to employment, including promotion, and to vocational training and as regards working conditions” (Cowles et al, 2001: 23). The Equal Treatment Directive under Article 5 obliged the member states to abolish or amend all the national laws, regulations and practices that contradicted to the directive. Consequentially, the right to equal treatment, as the right to equal pay, had direct effect and could be invoked by individuals against EC/EU member states.

The time limit of implementation of the directive was 30 months since the notification of the directive, although for revision of all the domestic laws, the member states were given a period of four years after the notification of the directive. Besides that, the member states were required to regularly assess all the occupational practices and notify the Commission on the results. The new laws on the issues covered by the directive, which were discussed or drafted, had to be communicated to the Commission. At last,
within two years after the expiry of the 30-months deadline, the member states had to submit all necessary information to the Commission, which in turn drafted a report for the Council.

It is worth mentioning, that the ECJ, national courts, the Commission, and domestic and trans-national actors engaged in the clarification, interpretation, monitoring, and enforcement of abovementioned provisions. As mentioned before, the ECJ, with its landmark decisions regarding the direct effect and superiority of EU law, played a significant role in EC/EU gender equality policy (Cowles et al, 2001). Ultimately, the ECJ and domestic courts cooperate in order to clarify and interpret European law through the preliminary ruling procedure (Article 177 EEC, now Article 234) and the Commission monitors and enforces implementation through the infringements procedure (Article 169 EEC, now Article 226).

Further Chapters will deal with an examination of interpretation of above mentioned provisions in Denmark and United Kingdom, and how this affects/affected these states’ policies and polities, which form an understanding of Europeanization.

4.2 Empirical case of Denmark and United Kingdom

4.2.1 The administrative style of Denmark and United Kingdom
In this section we will present the British and Danish state traditions and styles. This is because we wish to show that the key differences towards the state traditions, legal system reform capacity can determine the degree of adaptational pressure and thereby divergent effects of Europeanization.

In the UK legal and civil service traditions favour patterns of administrative intervention and interest intermediation. These features are describing the mediating ideal type. Public administration is perceived as a means of mediating between societal interests. Compared to the Continental European tradition, in UK there is no ideological boundary developed between the state and society. Britain was often characterized as a “stateless society” or in terms of “government by civil society” (Nettle, Badie & Birnbaum in Knill 2001: 74). In contrast to the Continental development, public
activities did not emanate from an autonomous state, but from the competition of different societal interests represented in the Parliament. In contrast with the other countries, the state intervenes more strongly in private markets.

Referring to the Danish system, it is described as administrative corporatism, which means a reduced distance between the population and politicians and close contact and inclusion of interest groups in the political and administrative processes. There are very highly organized interest organizations that participate in the policy-making, thus making it almost impossible for the government to dominate the area of policy making.

Furthermore in Denmark, the national state is perceived as a strong state in the context of negotiated economy, where private, public and semi-public actors are bind together in a norm- and rule-governed policy network (Torfing, 1999). The strong associational tradition is also present, in the sense that the economic associations and legal popular associations (cooperatives, folk high schools, etc.) are “reflected in political participation as well as in the predominant culture of compromise and consensus mobilization through negotiations with a multitude of actors” (Torfing, 1999: 15).

Political processes can be defined as consensus politics, as all players (state, different associations and interest organisations) work for the common best result. The state intervention in the economic sphere, in contrast with the British case, is quite limited.

4.2.2 The legal system

The tradition of legal system in Britain should be linked with the distinctive tradition of the state. What characterizes the British tradition is the fact that legal system is based on medieval tradition of an evolutionary judge made Common Law. The British legal system evolved, as Knill states, “bottom-up in society and had gradually became integrated into a body of valid law rather by being ‘created’ by autonomous institutions separated from and standing ‘above’ society” (Knill, 2001: 76).

The British law is seen as a way of mediating social developments, as an instrument for the resolution of conflicts which take place in the civil society.

In the contrast with UK legal system, Denmark belongs to continental legal system. This means that the primary source of law is written statute or law, on which judges rely in deciding particular cases. In the case of Denmark the distribution of power among
Parliament, Government and Court is stated in the Constitution. Moreover, legal limits are imposed on the activities of the administration with respect to the citizens.

4.2.3 The British and Danish state and patterns of administrative organization

There is a general aspect that characterizes administrative structure and organization in Britain, namely the lack of hierarchical control between different administrative levels. Compared to Continental European countries, the distribution of administrative competencies seems to be quite flexible, where shifting competences and administrative reorganization takes place often. It is due to the fact, that British civil servants are characterized as generalists, while in Denmark civil servants are highly specialized and have professional autonomy.

The structural flexibility in UK could be explained as follows. First, the British state has a unitary structure, which means that the responsibilities for policy formulation and implementation lay within central government. Central government is empowered with the allocation of administrative competences within and between the central and local level (Smith, 1999). Compared to the British centralized administrative style, the main characteristic of Danish administrative system is that it is highly decentralized. This means that the municipalities play a very important role and have a considerable degree of autonomy.

Moreover, Danish central government is constrained by the historical strength of local government, which has its guaranteed power in the Constitution. That means, that local governments can resist to power of central government (Rhodes, 1999).

Local authorities in Britain lack constitutionally guaranteed competences and responsibilities, “thus they are empowered to undertake only those competences guaranteed to them by Parliamentary statute” (King in Dunleavy et al, 1993: 217). Therefore, the central government has not only power to diminish administrative competencies given to the local level, but can also change the whole structure of local government as well as its finances (Page & Peters in Knill, 2001).

2 www.um.dk/Publication/UM/English/Denmark – 05.05.2007
Compared to the administrative development in Continental Europe, administration in Britain emerged without a central organizatorical format which could make the system more comprehensible. Because of this pattern, the increase in civil service functions, which occurred due to industrialization and the welfare development, lead to the creation of new administrative bodies on an ad-hoc basis, rather than allocating new functions to the already existing authorities and within existing structures (Kingdom, 1989). The fact that there is no structural coherence concerning the allocation of administrative competences has significant connotation for administrative coordination and control. This is a main characteristic of the British administrative system, that authorities in charge for a certain area enjoy a significant degree of autonomy.

In addition, the presentation of British administrative style reflects as Knill mentioned “a strongly embedded core aspect of British administrative tradition” (2001: 83). The notion of state indicates the participation of societal actors during policy formulation and implementation. The way the state intervenes is therefore based on non-hierarchical, less interventionist regulatory instruments. Law, as we mentioned, has a role of mediating social developments rather than intervening in societal activities from the above. In relation to patterns of administrative structure the conclusion is that neither the allocation of administrative responsibilities between different levels of government nor the patterns of administrative organization at each of this level expose a clear and consistent picture (Knill, 2001).

In contrast to UK, Danish state tradition is perceived as consensual with highly integrated relation among state and society through strong local governments, and through integration with the organisations. Thereby, the Danish central government cannot be perceived as strong executive as it in the case of UK. Compared to UK’s parliamentary sovereignty, Denmark is a constitutional state. Moreover, participation in public decision-making is more regularized and formalized, as reflected in concepts like integrated participation in government, political segmentation and corporatist features.
4.2.4 Reform capacity

The administrative reform in UK, implied more than pure rhetoric, had fundamental consequences. In Britain there is an important potential to transform administrative structures and practices. This potential for administrative reform is mainly a result of the strong position of the executive within the British political system. On the other side, in Denmark, due to lack of strong position of the executive, reforms have to be agreed by a multi-party coalition and then negotiated with other affected parties (Rhodes, 1999).

As mentioned before, the British political system facilitates a strong executive leadership (Barberis in Pyper & Robins, 2000). Because of the centralization of political power, which is typical for the Westminster model, British government is to a less extent confronted with institutional veto points when they are promoting their political proposals or implementing some policies. In this respect, Danish government is more constrained with institutional veto points because of its consensus tradition. The fact that the British political system has a strong and integrated executive leadership needs also to be linked to the Constitutional principle of Parliamentary supremacy. This is because the British Parliament is the only formal institutional veto point which may restrict the scope for executive leadership. Apart from the Parliament, there are no others constitutional and institutional constrains which would control the government activities (Smith, 1999). In Britain the Parliament is seen as the highest court in the land. This means that the opportunities to block governmental activities through the courts are rather low in UK.

Although in UK there is a long tradition concerning the involvement of societal associations in the formulation and implementation of policy, this doesn’t reduce significantly the capacity of the executive leadership. In addition we could sum up that the powerful role of the executive needs to be understood in the light of particular institutional factor, such as the unitary state structure, the supremacy of the Parliament, and the internal organization of governments as well as the pluralist patterns of interest intermediation.
In order to understand the administrative reform capacity in UK, we have to mention that the political development in Britain was characterised by stability and continuity from the 17th century onwards. Characteristic for British administrative style is the fact that major political innovations or transformation do not have a bureaucratic source. Opposed to the British style in Denmark, there is a highly bureaucratic style and a hierarchic structure of administration, which is designed to promote objective decision making on the basis of appropriate law or regulations (Rhodes, 1999).

In Britain the reform capacity is quite high and this has its explanation, as Knill mentions in the institutional entrenchment of administrative structures, which is quite low (Knill, 2001). One of the reasons of this kind of development emerges from the supremacy of the Parliament and the lack of a written Constitution. This means that any administrative change requiring Parliamentary legislation can be achieved by a simple majority. More than that, there are no specific obstacles which could prevent public sector reforms, as for example, compared to DK, where a change to the Constitution must first be passed by the Folketinget; this approval must then be repeated after a general election; there is a further demand that a referendum shall be held on the Constitutional proposal in which a majority of the votes cast must be in favour of the proposal, and this majority shall be at least 40% of all those entitled to vote. Another facilitating factor for administrative reforms is explained by the given British legal system, which didn’t develop a certain body of administrative law in order to control the administrative activities. Informal, permanently changing internal circulars mainly define the civil service law (Knill, 2001). Because of these features government has a lot of flexibility when facing administrative reforms. Furthermore, because in Britain there is a lack of detailed and tightly coupled rules guiding administrative practice and procedures, the institutional costs of administrative change are significantly reduced.

**4.2.5 Collective agreements**

This section will briefly present the role of collective agreements in Denmark and United Kingdom. When talking about labour equality in the job market and implementation of the EC directives, we cannot ignore the role of the interest

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3 [http://www.um.dk/Publication/UM/English/Denmark - 05.05.2007](http://www.um.dk/Publication/UM/English/Denmark - 05.05.2007)
organizations, as trade unions and employer’s associations and the importance of their collective agreements.

Denmark has a very long and strong tradition of collective bargaining in labour relations. As Nielsen writes, Denmark was a pioneer in developing the concept of collective bargaining (2002). The trade unions and employer’s interest organizations in Denmark play a very important role in the labour relations. They act as legislators, by establishing collective agreements, as litigants, by representing the parties in court, and participating as lay judges in special labour courts and industrial tribunals.

There is no statutory definition for the collective agreements as formal and written agreement in Denmark. Nevertheless, the Danish collective agreements are of binding nature and have mandatory normative effect. In contrast to this, the British collective agreements are not legally binding but they are based on honour. In the British case, the Equal Pay Act of 1970 has established that a collective agreement which does not have equality clause must include it. Besides that this law has stated that if there are separate collective agreements and pay structures for women and men, this should be revised.

Our comparative description of DK and UK could be summed up in the following graph.

<table>
<thead>
<tr>
<th>Features</th>
<th>United Kingdom</th>
<th>Denmark</th>
</tr>
</thead>
<tbody>
<tr>
<td>State model</td>
<td>- Unitary</td>
<td>- Decentralized</td>
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<tr>
<td></td>
<td>- Strong</td>
<td>- Strong</td>
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<tr>
<td></td>
<td>- Mediating</td>
<td>- Consensus</td>
</tr>
<tr>
<td>Patterns of governance</td>
<td>- Statist polity</td>
<td>- Negotiated economy</td>
</tr>
<tr>
<td>Access to decision-making</td>
<td>Closed</td>
<td>Open</td>
</tr>
<tr>
<td>Bureaucracy</td>
<td>- Generalists</td>
<td>- Specialists with professional autonomy</td>
</tr>
<tr>
<td></td>
<td>- Freedom to manage</td>
<td>- Political control</td>
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<td>Sub-national autonomy</td>
<td>Weak</td>
<td>Strong</td>
</tr>
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5. Analysis

The next section is an illustration on implementation of the Equal Pay and Equal Treatment directives followed by an analysis on who is in control of implementation process. Afterwards we will analyze the national adaptational behaviour towards EU gender policy as well as the role of mediating factors. Finally, we are going to investigate how the directives challenged the administrative structures in UK and DK.

5.1.1 United Kingdom’s implementation of Equal Pay and Equal Treatment directives

Prior the directives, the UK had some legislation on the sex discrimination. The Sex Disqualification Act of 1919, although provided that person shall not be disqualified from certain positions on the grounds of sex, it has not been really relied upon. Nevertheless, the subsequent legislation was of more practical importance in the issues of gender equality, e.g. UK Equal Pay Act of 1970, Sex Discrimination Act of 1975. For instance, the Equal Pay Act has established that the collective agreements that do not have equality clause must include it. Moreover, the act has provided that collective agreements and formal pay structures which specifically differentiate between men and women must be amended. These later acts were passed due to pressures from different interest groups (McCrudden, 1994).

The United Kingdom has ratified and is part of a number of international treaties and conventions, however, similarly to Denmark, these were not incorporated into the national law. Although the UK had own laws on the matters of gender equality prior the EC law, these had to be in conformity with the Union laws, in particular with the Article 119.

Prior the passing of the Directives, the UK had a basic structure for hearing of equality in pay and treatment matters. They also had the Equal Opportunities Commission, a highly specialized and autonomous body with no electoral interests (Caporaso & Jupille in Cowles et al, 2001).

As Caporaso and Jupille pointed out, traditionally UK is considered as a country with the largest difference in payment between men and women, and high number of other
practices related to inequality (ibid). Earlier the principle of equal value stated in the Directive on Equal Pay has been ignored by UK, but it set up a standard for “like work”. The job classification scheme for assessing of these “like works” was left to discretion of employers, which in turn didn’t provide with effective mechanisms to ensure the equality principle.

As mentioned above, the UK had its own act on discrimination, the Sex Discrimination Act of 1975. However, the act didn’t comply with the requirements of the later Directive on Equal Treatment. Thus the Commission has found that the UK has not fully implemented the Directive on Equal Treatment, since the UK didn’t incorporate the terms from the directive into the domestic legislation. By 1979 the UK has failed to annul the collective agreements which were in breach with the principle of equal treatment. Therefore it has been officially notified by the Commission that the UK is in breach of the Community law. In 1982 the ECJ held that the UK has indeed failed to implement the directive. Since then the UK acts on Equal pay and Sex Discrimination have been amended or repealed a few times, and the issues related to pregnancy, retirement, equal pay, general standards for use of comparators (for evaluating the work for equal value) and indirect discrimination were included (Caporaso & Jupille in Cowles et al, 2001). Moreover, “equality clause” was incorporated into the employment contract of an individual in addition to the “like work” and work classified as “equivalent” (McCrudden, 1994).

There were quite a number of cases invoked by individuals against the UK. In number of instances the ECJ has ruled in favour of individuals. One of the most well-known cases is the Marshall case, which prohibited discrimination between men and women in compulsory retirement age. At first this decision considered only public employer, but it has been extended to private bodies as well by the Sex Discrimination Act of 1986. The amendments in this Act were also resulted from the ECJ’s second ruling against UK, where the court has decided that the UK has infringed the Community law.

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4 Commission v. UK (case 61/81)  
5 Marshall v. Southampton & SW Hampshire Area Health Authority (case 152/84)  
6 Commission v. UK (case 165/82)
Equal pay and equal treatment principle enforcement agencies

The primary method of dealing with the issues of equal pay and equal treatment is to bring up the case to the ordinary industrial tribunals. The cases of equal value require preliminary stage before the trial, where the tribunal decides whether the case shall proceed further. If the case has been approved, the tribunal hires an independent expert in order to find out whether the complainant and the comparator are engaged in work of equal value.

Advisory Conciliation and Arbitration Service (ACAS) has a duty to make conciliation between the parties prior the trial. An officer from the ACAS may attempt to conciliate the parties when an individual has made a complaint to the tribunal. In case the parties have reached the agreement, it will be officially registered at the industrial tribunal. In the opposite case, where the parties don’t reach conciliation, the case is further sent to the tribunal. The industrial tribunal consists of three members and in the cases of sex discrimination and equal pay, there is a formal requirement that at least one of the members must be a woman (McCrudden, 1994).

The Equal Opportunities Commission (EOC) has been established by the Sex Discrimination Act of 1975. The EOC is an autonomous agency, which consists of 8-15 members appointed by the Secretary of State. The Commission has a duty to promote the equality and fight against sex discrimination in general, to provide advises and control the implementation of the acts related to the equality issues. If it is required by the Secretary of State, the EOC shall draw a draft of the amendments for the legislations related to equality. Besides that the Commission can provide a Codes of Practices for employers, trade unions and employment agencies. The EOC can conduct research or assist a research related to equality. Moreover, it can begin investigation before there are any complaints from individuals. Depending on the type of investigation, the Commission may provide with recommendation or non-discrimination notice. It is within the competences of the EOC to apply to a county court for an order to require a person, who is believed to be in non-compliance with or has no intentions to meet the requirements stated in the non-discrimination notice, to comply with the notice.
The members of the EOC are not civil servants and the Secretary of State may, on reasonable justifications, such as physical and mental health, economic grounds and failure to perform the duties, dismiss a member from the Commission (McCruden, 1994).

5.1.2 Danish implementation of Equal Pay and Equal Treatment directives
Before the 1970’s there were practically not many special laws on gender equality issues in Denmark. The Danish Constitution has no specific provisions concerning the equality and there are no provisions on the discrimination based on sex and ethnic origin either. The first laws concerning the equality issues were Law on Equal Pay for Public Servants (1919) and Act on Equal Access to Public Sector (1921), which dealt with the public sector employees. The international treaties and laws to which Denmark is part, aren’t incorporated in the national law, therefore the implementation of these are considered to be almost non-binding (Nielsen, 1995).

Just before Denmark entered the Union, a debate on whether to approve a special law on equal pay was going on in the Danish parliament, which was concluded that such a law is not necessary, since such issues are solved by the collective agreements. Traditionally the issues related to labour have been solved by collective bargaining and not by legislation. Moreover, the discrimination both direct and indirect was permitted in the private sector and the employer in this sector was allowed to fire employee on the grounds of pregnancy. Nevertheless, these practices became unlawful with implementation of the Directive on Equal Treatment (76/207/EEC). Thus, in order to comply with Community legislation the Equal Treatment Act in 1978 was adopted (Nielsen, 1995).

Despite the increased number of women entering the labour market at the time of Danish entry to EU, some view that Denmark’s gender equality policy was somehow in stagnation and that the Union has played an important role in re-birth of this issue (Emerek, 2005).
After the Directive on Equal Pay was passed, the Danish government has had a long debate with the social partners whether they have to adopt legislation in order to implement the directive or to continue relying on the collective bargaining. Finally it was decided that legislation is necessary and the Equal Pay Act was adopted in 1976. However, the act didn’t include the work for equal value, but merely stated the “the same work”, and thus the Commission has initiated a case against Denmark. In 1983 the ECJ has found that Denmark has insufficiently implemented the directive, which resulted in an amendment of the act in 1984, with the new act incorporating “work for equal value”.

As mentioned above, the equal treatment issues were not regulated by law in Denmark, but by collective bargaining. In 1978 thus the government has passed the Equal Treatment act which was Danish implementation of the EC directive on equal treatment. This was done in a close cooperation between the government and the social partners. However, in 1980 the Commission has found that the Danish legislation has only covered prohibition of discrimination between men and women working at the same working place and thus had no provision on the prohibition of discrimination between men and women at different working places. This led to amendment of the Act on Equal Treatment in 1984, which included the provisions on discrimination at different work places.

As we have seen, the interest groups and social partners have and still play a paramount role in the gender policy. The Danish trade unions are the main litigants irrespective of whether the case is brought in ordinary court or in labour court and industrial tribunal. Before the mid 1980’s the trade unions were unwilling to invoke the EC law in the domestic courts, however, after the Danfoss case this practice was changed (Martinsen, 2007).

The Danfoss case7 has played a crucial role in the further development of equality principle not only in Denmark but also in other member states. This case which was invoked by the Danish Union for Commercial and Clerical employees was brought up

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7 Case 109/88
by the Danish Court before the ECJ. In this case the Court has decided that the responsibility of burden of proof must be divided between the employee and employer. This case among others show the important role of the social partners in the development of the gender issues in the area of pregnancy, maternity, discrimination and burden of proof⁸.

In implementing the EC directives, Denmark uses a combination model, i.e. a combination collective agreement and fall-back laws. This means that all the cases not covered or protected by the collective agreement must come under the law, i.e. only those who are not members of any trade union are covered by the law. This model is accepted by the ECJ as soon as the collective agreements are clear and precise and publicly available (Nielsen, 2002).

**Administrative bodies and methods of enforcement of equality principle**

One of the main changes caused by the EC directives was the establishment of the Equal Status Council. The Council was formally established in 1975 by the Prime Minister on the recommendation from the Commission on the Status of Women in Society (Nielsen, 1995) and was confirmed by law in 1978⁹. Although the Equal Status Council was positioned under the Prime Minister’s Office, it got assigned some independent competences, such as, monitoring of equality situation in the society and in the labour market; the consultancy of central and local authorities. Moreover, the Equal Status Council was not a part of the hierarchy of the state authorities, and it had an independent status in its work. Hence, it could directly approach all ministries and other public authorities, and consult them within the equality work, however, without having the legality of issuing injunctions¹⁰.

The Council consisted of a president and eight members from social partners, interest organizations and interest groups, as trade union, employer’s association, women’s organizations and researchers on women’s studies.

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⁸ Cases 177/88, C-400/95, C-66/96, C-109/00
⁹ Law no. 164, 12 of April, 1978 about The Equality Council
¹⁰ [www.statsministeriet.dk](http://www.statsministeriet.dk) – 05.05.2007
The amendments to the Equal Treatment and Equal Pay Act in 1989, the Equal Status Council’s competences were extended and employers and employees were imposed to provide information on discrimination cases to the Council. After the changes in Equality Law in 1992, the Equality Council got the opportunity to involve the experts and to do company visits in connection with the concrete cases.

The Equal Status Council has been a central player in the interaction with politicians, central and local administrations, interest organisations and research institutions, which, in some way, had influenced the content, shape and direction of equality work. The ministries, as central administrations, through the legislation had the obligation to work for equality and report yearly on this subject to the Equal Status Council. The county authorities and municipalities, as decentralized administrations, were subordinate to demand to work for equality between men and women, and they are obliged to publish equality reviews on their equality politic and every second year.

The Prime Minister was not a Minister of Equality as such, but he was the one who represented general equality questions concerned with government’s equality policy, e.g. in connection with the Danish Parliament’s enquiries. Additionally, the general equality laws were competence of the Prime Minister. The other ministers represented equality work within their own jurisdiction and replied to the enquiries related to gender equality within their own professional area. For example, the laws on Equal Pay and Equal Treatment were under the Minister of Labour, while counties and municipalities’ equality work was under the Home Affair Minister.11

Interest organisations’ involvement in equality work was dependent on particular interest field, e.g. the equality in labour market was presented by employer- and employee organisations; women’s demand on equality in every area of society was presented by women organisations, and men’s demand for equality in special areas was presented by men’s organisations.

11 [www.statsministeriet.dk](http://www.statsministeriet.dk) – 05.05.2007
Concerning the conflicts that arose from the interpretation of the collective agreements, were settled down by arbitration and the cases related to the breach of collective agreements were decided by the labour courts. Cases related to individual employment matters were decided by ordinary courts, whereas the labour court and industrial tribunals took cases related to the breach of collective bargaining. In case of the problems related to the collective bargaining, the first thing to do was to try to solve the issues by negotiations. Further step was to go to private arbitration, and if this didn’t solve the problem, then the parties had to address to the labour court. One of the main bodies that participated in the negotiation stage is the Official Conciliation Service, established by the Danish Government mainly due to high costs related to negotiations where the agreements could not be reached and extended for a long period of time. This body consisted of three publicly appointed members, and all the industries were distributed between them. The Conciliation Service had a duty to organize the negotiations and see to that the negotiations are going smoothly. Besides that it participated in the renewal of the collective agreements\textsuperscript{12}.

In the cases where EC law is not involved, an individual who is a member of a trade union can leave the matter to the trade unions. However, if the trade union refuses to take the case, the individual cannot enforce his/her rights. In the cases where EC law is involved an individual can bring up the case to the ordinary court if the trade union does not wish to involve in the case. Moreover, if the trade union has a wish to take the case in front of labour court or industrial tribunal, the individual “probably” has no rights to take the case individually to the ordinary courts. Nevertheless, an individual who is not a member of any trade union can bring the case in ordinary court whether the EC law is concerned or not (Nielsen, 2002).

5.2 Goodness of fit

As mentioned in Chapter 3.1, domestic policy misfit in relation to EU policy can challenge national policy goals, standards, instruments used to achieve policy goals and underlying problem-solving approach. Thereby, the goodness of fit between Europe and United Kingdom’s and Denmark’s provisions will be evaluated. In order to do that,

\textsuperscript{12} \url{www.eurofound.europa.eu/} - 05.05.2007
firstly, the pay disparities will be used as the indicators of goodness of fit. Here, goodness of fit is dependent on what extent the abovementioned member states satisfy the expectations or requirements of European policy and law. Secondly, we have to examine how national levels define terms such as “equal”, “pay”, “treatment”, “work” and “value”. If these terms are defined similarly to European legislation, fit will be good and adaptational pressure will be relatively low. Furthermore, we argue that low adaptational pressure will lead to few changes in the administrative styles and structures of the states.

5.2.1 Pay disparities

United Kingdom traditionally manifests one of the largest male-female pay disparities in the Community. In 1972 the difference between men’s and women’s gross hourly earning in industries counted 41.2 % (Caporaso & Jupille, 2003: 26). However, between 1972 and 2000 pay disparities decreased to 18%\(^\text{13}\). Still we can conclude that pay gap between men and women are quite high in UK.

In comparison to United Kingdom, Denmark has relatively low pay disparity and has already met the Lisbon strategy goals and is considered to be one of the countries with lowest pay disparity (Emerek, 2005). In general, the pay gap between men and women in 2000 on the labour market as a whole is between 12% and 20%, and in the private sector the pay gap is on 17%\(^\text{14}\). Although pay disparity between men and women working in the same work is low in Denmark, there is still a phenomenon of vertical segregation, where the highly paid leader positions are mainly occupied by the men (Emerek, 2005; Nielsen, 2002).

As the pay disparities are used to indicate poor fit between the aspirations of EU equality policies and domestic conditions, the expected adaptational pressure for UK is higher than that for DK.

\(^{13}\) www.eurofound.europa.eu/eiro - 03.05.2007

\(^{14}\) www.eurofound.europa.eu/eiro/index.html - 03.05.2007
5.2.2 Article 119

As mentioned in section 5.1.2, Denmark had some legislation related to the equality only in the public sector; however, these did not provide equality in the private sector. Besides that, the collective agreements were dealing with the equality issues in the employment and these contracts were binding. However, these collective agreements were not implemented in the Danish legislation and were only binding for those who had agreed on them. The existing legislation did not comply with that of EU and, thereby, we can conclude that the adaptational pressure on implementation of Article 119 in the Danish legislation is high.

In the case of UK, there was a basic structure for hearing of equality in pay and treatment matter, and there was an Act on Sex Disqualification of 1919, which, however has not been really relied upon. Thereby, the legislation was not in conformity to the Article 119 and we can conclude that EU legislation on gender equality exerts high adaptational pressure on UK’s legislation.

5.2.3 Directive on Equal Pay

In order to understand the degree of adaptational pressure which EU directive exercised on national legislation and structure, we need to have the following remarks. In the DK case, the pressure for adaptation was seen as low, mainly because there is a general view that Denmark has been far ahead compared to other European countries in guaranteeing rights for women and because of the low pay disparities. However, if we examine the DK legislation in the area of gender equality, we can see that the pressure for adaptation was high. According to the Directive, member states had to ensure that the principle of equal pay was enforced and thereby, necessary measures had to be introduced in their legal systems. Moreover, all domestic legislation that were in conflict with the principal of equal pay had to be repealed. In Danish case, its legislation did not comply with requirements of Equal Pay Directive. The problem was the provision on “equal pay for work of equal value” which Denmark misinterpreted and applied that concept as “same work”. As collective agreements already claimed to equal pay for “same work”, Denmark, thereby, meant that they complied with requirements of Equal Pay Directive. Consequentially, the adaptational pressure related to the
implementation of the Directive became high, as the provision on “equal pay for equal work” had to be incorporated in the collective agreements and Danish legislation.

In the case of UK, we can also conclude that the adaptational pressure related to the implementation of the Directive was high. UK had resisted the provision on “equal pay for work of equal value” prior to enactment of the Equal Pay Directive. Similarly to Denmark, UK set up an equal pay for “like work” standard and left the job classification to the responsibility of employers. Because employers faced disincentive to establish job-evaluation schemes (insofar as they opened the door to equal pay claims), women’s rights were not ensured, and the British act did not fully implement the Directive. However, we expect the Equal Pay Directive to have a greater adaptational pressure on Denmark, than on United Kingdom, because of Denmark’s strong reliance on the collective agreements.

5.2.4 Directive on Equal Treatment

Because Denmark did not have any provisions or legislations on the equal treatment and although these issues were regulated by the collective bargaining, we can say here that there was misfit between the Danish policy and the EU policy. Despite enactment of the Act in 1978, the Danish government was found to be in infringement of the Community law, mainly because the act did not incorporate the provisions of the Directive correctly by not covering equal treatment on general terms. All this shows that there was a high adaptational pressure on Denmark.

In the case of UK, the pressure for adaptation was also high. Although UK had its own Sex Discrimination Act, they did not, at first place incorporate the EU directive in their law, which led to few amendments afterwards.
Below we give a graphic illustration on adaptational pressure compared in the case of United Kingdom and Denmark.

<table>
<thead>
<tr>
<th>Factor</th>
<th>UK Description</th>
<th>UK Pressure</th>
<th>DK Description</th>
<th>DK Pressure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pay disparity</td>
<td>Relatively high</td>
<td>High</td>
<td>Relatively low</td>
<td>Low</td>
</tr>
<tr>
<td>Article 119</td>
<td>-Did not influence -No provisions on equal value</td>
<td>High</td>
<td>Did not influence -No provision on equal value</td>
<td>High</td>
</tr>
<tr>
<td>EPD</td>
<td>-evaluation schemes -wrong implementation -failure to nullify inconsistent collective agreements</td>
<td>High</td>
<td>-wrong implementation -gender restriction in private sector -inconsistent collective agreements</td>
<td>High</td>
</tr>
<tr>
<td>ETD</td>
<td>-unjustified restriction on equal treatment principle</td>
<td>High</td>
<td>-no provisions on equal treatment</td>
<td>High</td>
</tr>
</tbody>
</table>

### 5.3 Mediating factors

As mentioned in section 3.1., in case of high adaptational pressures, the presence or absence of mediating factors is crucial for degree of domestic adaptation to Europeanization. In the case of policy misfit, as we stated earlier in the text, both UK and DK exerted high misfit to requirements of the EU gender equality policy, and thereby there is a high adaptation pressure. Therefore, pre-existing mediating institutions and practices will ease these pressures and will influence structural outcomes. To look at national bureaucracies as the only actor when implementing the EU gender equality policy would be a mistake in itself. As we can see in our study, neither Denmark nor United Kingdom’s national governments have a monopoly when implementing EU gender equality policy. Thus, we are identifying the following institutions which will facilitate the process of implementation of the EU policies: trade unions, national courts and public agencies. These mediating institutions are varying from state to state. In UK for instance, the courts and public agencies played a major
role when implementing equality directives, while in DK we are identifying trade unions and to a lesser extent public agencies and courts.

5.3.1 Equality Agencies

As Caporaso and Jupille point out the existence of public bodies designed to work in the matters of gender equality may affect the adaptational pressures. According to them, there are three main dimensions, which are autonomy, specialization and function of the particular body. The higher the autonomy of the body, the higher their capacity to affect the structural change related to the Europeanization. In contrast to this, the low autonomy suggests that there is little influence from the side of the body. The degree of specialization of the organization may increase the adaptational pressure and thus increase the domestic change, while a multifunctional organization with broad mandates which simply added the issues of gender equality will provide little influence on the structural change. The functioning of an organization has also effect on the domestication of the European policies in a sense that a public body that can provide sanctioning mechanism has more capacity to influence on the domestic structure than those who’s competences are limited to consultation and monitoring (Caporaso & Jupille, 2003: 24).

As mentioned in the previous sections, the British Equal Opportunities Commission is a highly autonomous body, which is independent of electoral interests and political influence. The EOC cooperates largely with women’s groups and has a high popularity. This body has a large mandate on protection of women’s rights and is highly specialized. All the above suggests that the British EOC is playing a key role as facilitator of Europeanization of domestic structure. Moreover, UK is the only member state who allows semi-public agencies to represent litigants in the judicial process. The British landmark cases in the field of EU gender equality law have been funded by the EOC (Tesoka, 1999).

In contrast to the British EOC, the Danish Equality Council was not an independent body, but was functioning under the Prime Minister Office. Besides that the Equality Council consisted of representatives from the Trade Unions and interest organizations and thus we can hardly say that the Council was specialized in gender equality matters.
Taking departure in this point, we can conclude that the degree of effecting the domestic change is relatively low.

5.3.2 Courts

Another mediating factor which played an important position in implementing the equality directives were courts.

In UK as we mentioned before, the courts’ referral to the ECJ on the sex discrimination issues is certainly one of the highest in the EU. This can be exemplified by the high number of legal proceedings concerning Article 119 and both directives in the period of 1975-1997, which in the case of UK is 22 compared to 6 in Denmark (Caporaso & Jupille, 2003: 29-30).

We stated before, that UK had its basic structure of hearing the cases related to gender equality before the passing of the EC directives and from the fact that the British courts have been widely applying for preliminary ruling to the ECJ, we can conclude that the British courts have played an important role in the gender equality. This sanctioning mechanism provided by the courts also means that they have a high degree of influence on the domestic structure. This activity of British courts could be explained by the fact that there was striking inconsistencies between the Community and national law, and on the other side, because the Convention of Human Rights was not incorporated in the domestic law. This means that the courts were forced to apply EC law.

In the case of Denmark, the courts were more active in relation to Equal Treatment Directive then with Equal Pay Directive. The Danish courts were key players when clarifying the scope and meaning of the Community Equal Treatment provisions in relation to Danish labour market policies and practices (Martinsen, 2007).

From the above we can conclude that the Danish courts were mediating institutions in the implementation of the Equal Treatment Directive. The activity of the Danish courts in Equal Pay Directive was low due to the fact that the legislation on equal pay was pre-existing in collective agreements. However, in the case of equal treatment, increase of the activity of Danish courts can be explained by the similar factors as in the case of
UK, i.e. no incorporation of international human rights principles in the domestic law and lack of legislation on equal treatment.

5.3.3 Trade unions
As we said in the previous section, the social partners played also important role in the implementation process of the EU gender policies. In Danish context, the trade unions in the very beginning were reluctant to the Community legislation. This was so due to longstanding traditions of collective agreement and a monopoly of the trade unions in the issues related to labour relations. This has also strengthened the position of the Danish executive, opposing to supranational labour market regulation. This continued until the infringement procedure against Denmark in 1985.

The attitude of the Danish trade unions in the issues of equal treatment incrementally began to change, especially after adoption of Single European Act in 1986. Trade unions recognized the positive impact of the EU gender policies and instrument of preliminary rulings has on equality for Danish women. This change of trade union’s preferences caused strong impact on acceleration and deepening of the gender equality in Denmark.

The British trade unions, although being not as strong as in Denmark, have still involved in equality litigation. This is determined by their devotion of great amount of resources to cases concerning equal pay and equal value.

5.4 Administrative change
The starting point here is to investigate how the Community policy on gender impacted the domestic administrative structures and how these patters of administrative changes can be explained.

5.4.1 Administrative changes in Denmark
In the case of Denmark, administrative adaptation to the changes required by the equality directives took place after a considerable delay; it took Denmark 10 years to comply with the EC directives. This is because the administrative changes required by the EC directives were embedded in the macro institutional core of national administrative tradition. Danish policies on gender equality in social and labour market
have been rooted in very strong tradition and practices. More than that, social partners have traditionally had access to the policy-making and policy implementation and were closely involved with the government in formulating social and labour policies. Because this tradition is so deeply rooted in Danish administrative style, it created a great challenge for Denmark to comply with the Community requirements.

However, the path-dependency approach can not explain the shift in trade unions’ preferences. That’s why we need to apply the modified version of historical institutionalism complemented by agent-based approach. Moreover, according to the implementation theory, a government cannot control the implementation alone. In the beginning the government’s position opposing to supranational policies, was strengthened by trade unions, which had same standpoint on the issue. Moreover, the government without an opposing voice had more control and power. However, the trade unions have changed their preferences, because they realized the positive impact of European legislation. This meant that the government’s position got weakened and since the trade unions have stopped acting as a support for the government it became a powerful actor. This means that the Europeanization had a redistributive effect in the control of powers in implementing the EC law. Therefore, we can conclude that the Trade Unions changed their position from a veto point to a facilitating factor in the implementation process.

Another factor which could explain the delay in complying with the EC equality directives is the low reform capacity of Danish government. This is due to the weak position of the Danish executive, in a sense that any change requires consensus and it is hard to reach consensus with such multiplicity of actors involved.

An important change determined by the implementation of the directives was shared burden of proof established by ECJ ruling in Danfoss case. Here, the ECJ has ruled that the burden of proof must be shared by the employer and employee. This meant that the directives, indirectly, through the case law of the ECJ have impacted on the legal proceeding in the national law not only in Denmark, but also in other member states.
Summing the above, we can say that even though the adaptational pressure was high in Denmark and there was resistance in the beginning, in the long-run, the implementation process was facilitated by different mediating factors. The resistance could be explained by the challenges posed by the EC requirements to the core of administrative structure. The implementation of the EC directives in the Danish case required changes at the core of their administrative structure by challenging the longstanding and deeply rooted traditions of collective agreements. Despite these challenges, Denmark did not have major changes of the administrative structure. Collective agreements are continuing to serve as implementation mechanism of the EC law on equality together with back-up national laws. However, there still were changes within the core, as establishment of institutions specialized on the gender equality, such as Equal Status Council.

5.4.2 Changes in administrative structure in United Kingdom

As European requirements were in contradiction with the core principle of British administrative tradition, the expectation would have been resistance rather than adaptation. However, our findings show that UK had a more positive profile for change both from the standpoint of misfit of its basic legislation with European one and from the perspective of domestic factors facilitating change.

One of the main changes which occurred in Britain was the position of the Parliament. The reliance of the national courts on the ECJ preliminary ruling procedure has weakened the legislative power of the Parliament in the area of gender equality. Thus, the courts shifted their traditional role of mediating to a more active position in relation to enforcement of EC law at the national level.

Another change which was caused by the EC directives on gender equality was a change in the litigation procedure. This was incorporated in the Trade Union Reform and Employment Rights Act of 1993. The Act has provided rights to an individual to bring a discriminatory clause of a collective agreement to an industrial tribunal in order to establish “that it would, if applied to her, inflict discrimination upon her” (Tesoka, 1999: 16).
Moreover, changes were introduced in the area of domestic legislation. Although UK had its own legislations on the gender equality issues, these pre-existing laws were amended due to EC requirements. This was due to incompliance of these laws with EC laws.

In this context we can conclude that the challenges faced by the UK concerned in some cases (relationship between Parliament and the judiciary) the core of British administrative style. In other cases the challenges were more within the core. However, in both cases the changes emerged without a high resistance to adaptation. The British implementation performance could be explained also by the high administrative reform capacity which can reduce the institutional gap between European requirements and existent national arrangements.

The main goal of this chapter was to find out the degree of domestic policy and structural change. From our study we come to the conclusion that both countries experienced high adaptational pressure. Moreover, both UK and DK faced changes at the core of their administrative style and structure. However we have to stress that their response to European requirements were divergent.

From the above statements we can conclude that both countries experienced a certain degree of absorption towards European equality policies. This is because both countries have adapted the EU requirements on the basis of their existing policies without major changes at the core of their administrative structure. However, the degree of absorption in these countries is different. The degree of absorption in UK was higher than in the case of DK. This is because in Denmark the collective agreement tradition was more embedded in the administrative structure than in the case of UK. Moreover, the facilitating factors in UK have played more active role in Europeanization of gender equality. Finally, we can say that the Europeanization had different effects on both countries. This difference can be explained by the long, strong and varied institutional histories with different paths of nation building in these countries.
6. Conclusion

The main goal of our study was to investigate the impact of European gender policies on national administration styles and structure. More than that, we wanted to examine how and to what extend we could expect administrative changes at the national level in order to comply with the EU requirements.

In order to address these questions we used a top-down approach of Europeanization in the sense of how EC/EU specific policy affects domestic pre-existing policy and institutions. In order to do that, we examined domestic “goodness of fit” of EC/EU gender equality policy, adaptational pressure and mediating institutions. We also chose to link concept of Europeanization to Implementation theory, in order to describe who controls the implementation process. Furthermore in order to avoid the deterministic nature of historical institutionalism we complemented it with an agent-based approach. This is because the agent-based approach takes a more dynamic perspective of institutional change acknowledging that institutional stability should not be taken as granted but can vary with the administrative reform capacity of the states.

To summarize our findings we can mention that states respond differently to the EU requirements. In this sense we found out that Europeanization doesn’t have a convergent effect but causes administrative divergence. This is because countries are varying in their administrative styles and structures, and they are also different in respect to their administrative reform capacity. Moreover, countries differ in respect to their administrative traditions, legal systems, interplay between the actors and degree of centralization.

Both countries, United Kingdom and Denmark faced high adaptational pressure in relation to the equality directives. However, United Kingdom had more positive profile for change in the context of misfit, domestic mediating factors and reform capacity when implementing equality directives. Although Denmark was considered “the least likely case” in which to find positive impacts of EU policies on gender equality, it faced the same high adaptational pressure and it took 10 years for Denmark to comply with
the EC directives. This is due to the path-dependency, in a sense that the traditions were the main veto points in the implementation of the EC legislation. Thereby, we can conclude that both countries absorbed the EC/EU gender equality policy, however the degree of the absorption differed. In United Kingdom absorption was higher because of the more active facilitating factors and because of its high reform capacity, while in Denmark absorption was lower because the EC requirements were challenging the deeply rooted tradition of the collective agreements.
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