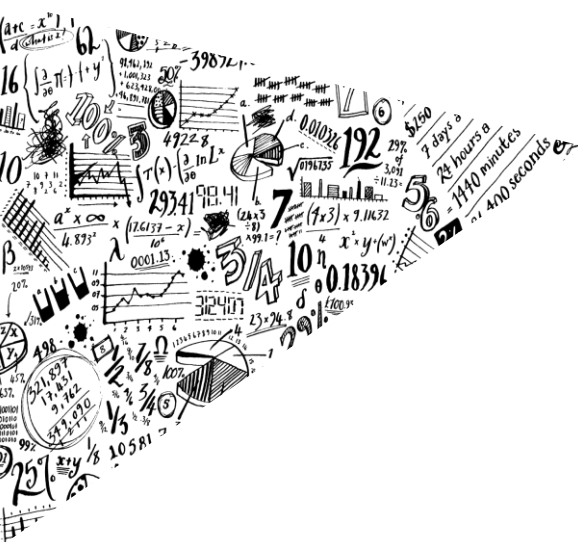


# European Commission

## Directorate General-Justice

### Evaluation study on the application of the Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security



**Stakeholders' Interviews**  
**Italy**  
**Expert**  
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Building a better  
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# 1 Interview guidelines

## 1.1 Relevance

Q1. To what extent the objectives proposed in the Directive are still aligned to the needs perceived at the MS level?

From the respondent point of view, there have been major processes of reform in the last years also about social security systems. There is however a constant need of attention to the theme, also aimed at making Europe more inclusive and gender equal. Also taking into account significant financial constraints, it has been sometimes difficult to guarantee a substantive level of protection for women.

Q2. What is the proportion of allocated social security schemes under the following three pillars?

Pension scheme	Weight in percentage%
1) Statutory schemes	
2) Occupational schemes	
3) Private insurance schemes	

In Italy the first pillar absorbs around 16% of GDP. The sum of occupational and private schemes equals around 8% of GDP. Therefore the first pillar covers around 66% of the total social security expenditure (Data from INPS).

## 1.2 Effectiveness

Q3. What are the main achievements obtained at the MS level in relation to the main objectives of the Directive?

Italy was already quite advanced in terms of gender equality and social security schemes before the Directive was issued, with specific regard to the principle of equal treatment, parental leave and pay policies, argues the respondent. Already in December 77, art. 2 of the law 903, covered also the area of maternity benefits.

We have further upgraded our legal framework with the law decree 198/2006 eventually included in the Code of Equal Opportunities of 2010. Especially in the latter there are a lot of provisions on gender equality.

Thus, in terms of legislation, we could argue that the Directive has achieved perfectly its objectives. Relevant acts are also law 8/2000 and Consolidated law 151 on parental leave and maternity.

However, there is a cultural field that is yet to be addressed and discrimination persists especially in the labour market.

Q4. Please list the main elements that have contributed to or hampered the achievement of the objectives of the Directive 79/7.

As anticipated, the Italian system was already well set to welcome the provisions of the Directive, also thanks to art. 37 and 51 of the Constitution. However there is still a deep gap between the law and its implementation. The cultural factor in Italy is largely dominant and affects heavily the labour market and gender pay gaps.

Furthermore, the Italian framework on gender equality is rather fragmented. Initially, the Presidency of the Council of Ministries (PCM) had been entrusted with the coordination on equal opportunities, then also a Ministry was made. Nowadays, there is only a department within the PCM that however deals prevalently with gender discrimination in the area of human rights.

Talking nowadays about social security is particularly challenging, especially for the budget constraints in which the Public Administration operates. Furthermore, the financing is scattered across different ministries and sectors, with no clear oversight.

Another element that should be noted is that even though there are initiatives to foster gender equality they should be always conveniently advertised and this is not always the case. For instance, if the legislation is overly complex, women may involuntarily renounce to benefit they would be granted because of a lack of guidance and information.

- Q5. Are there in particular any laws or regulations at the national level contrary to the principle of equal treatment of men and women in social security scheme? If yes, which ones and why?
- Q6. Despite the text of the legislation and/or the regulations, which administrative practices make that the principle of equal treatment of the Directive 79/7 as interpreted by the CJEU is respected by the relevant national ministries or institutions responsible for social security?  
Vice versa, which administrative practices make that the principle of equal treatment of the Directive 79/7 as interpreted by the CJEU is not respected?

Despite the absence of laws contrary to the application of the Directive, we still experience serious difficulties with respect to the implementation level and to the cultural habits. Labour contracts have still for instance a large impact on the working hours that in turn affect the possibility for women to participate to the labour market, with imbalances mirrored in social security schemes.

What is peculiar in the Italian framework is indeed the distance between the general rules and the enforcement, especially when it comes to the vast variety of labour contracts and treatment that we have also between the public and private sector. For instance, parental leave have a disparate impact in the public and private sector.

- Q7. How has the case law of the CJEU been picked up in your country by e.g. courts and administrative bodies? Has the Directive 79/7 as interpreted by case law of the CJEU resulted in legislative or regulatory changes? Please mention what regulations and national laws have been adjusted and identify the relevant objectives of the Directive 79/7.
- Q8. Absent any legislative or regulatory changes further to the case law of the CJEU, have administrative practices changed? Please mention which practises have been adjusted and identify the relevant objectives of the Directive 79/7 and the relevant CJEU case law.

Case law may have had an impact on rules, but administrative practices are a different matter. Financial constraints also play a major role. For instance, on parental leave the purpose of extend such provision also to male for 15 days would cost around 400 millions, only for Italy.

- Q9. How has the Directive been transposed into national laws? Please mention what regulations and national laws have been in relation to what objectives of the Directive with respect to both statutory social security schemes and social assistance schemes in so far as they are intended to supplement or replace the former
- Q10. What other measures have been foreseen at the national level for the principle of equal treatment between men and women in statutory social security schemes and in social assistance schemes in so far as they are intended to supplement or replace the former? There exists any horizontal legislation on equal treatment?

See questions 3 and 4

- Q11. Have there been implemented measures at the national level to enable all persons to pursue their claims by judicial process, possibly after recourse to other competent authorities in relation to the application of the principle of equal treatment between men and women? If yes, which ones?

The counsellor for equal opportunity was intended as an authority that could assist proceedings on equal treatment and discrimination, and also try to come to a conciliation with the employers. However, due to budget constraints, such assistance is rather scarce. The most usual procedure is now to make reference to labour inspectors.

**Q12.** Irrespective of any explicit measures to facilitate judicial or administrative recourse, do the existing/general procedures offer sufficient access and appeal for persons to pursue their claims and complaints if they deem to be discriminated despite the principle of equal treatment between men and women?

Not really, as proceedings are rather long and there is no much of assistance because of the aforementioned budget constraints.

**Q13.** Is there any derogation under art. 7(1) and exclusion under art. 3(2) in the legislative framework of your member state. If yes, which are their underpinnings?

**Q14.** Are there any significant social developments in your country that may cast doubts over the persisting need of such derogations and exclusions?

Out of the area of expertise

## 1.3 Efficiency

**Q15.** How do you perceive the following categories of costs in relation to the implementation of the main objectives of the directive?

	1- very low burden	2	3	4	5 – Very high burden
1) Costs relating to the personnel for monitoring the achievement of the objectives					
2) Reporting costs to produce the information for monitoring the achievement of the directive					
3) Costs relating the introduction of new laws, regulations, procedures, etc.					
4) Costs for the institutions and maintenance of governance bodies for the achievement of the objectives of the directive					
5) Costs associated to the introduction of new mechanisms for claims					
6) Cost associated to the use of unisex actuarial factors					
7) Other, please specify					

**Q16.** In general, were the costs associated to the implementation of the Directive 79/7 proportionate to the results and benefits obtained?

The reasoning on cost must be much more general than the one suggested in the grid. Despite the costs, however limited from the interviewee's perspective, one should take into account the overall benefits that stem from a proper functioning of the system. Gender equality is coupled with competitiveness, efficiency. Nowadays, every enterprises with more than 100 employees are bound to take positive action to enforce gender equality, to draft a fact sheet on gender balance and so forth. However is the systemic effect, once the system is ongoing, that should be properly assessed. It is clearly positive and no minor starting up cost should prevent the legitimate action to pursue gender equality. Such costs are indeed opportunities.

## 1.4 Coherence

**Q17.** Is the Directive's approach to ensure equality between men and women and to combat discrimination based on gender coherent with the approach taken in the following directives?

	1- low degree of consistency	2	3	4	5 - High degree of consistency
▶ Directive 2006/54/EC on occupational social security schemes					
▶ Directive 2004/113/EC equal treatment between men and women in the access to and supply of goods and services					
▶ Directive 2010/41/EU on equal treatment self-employed					
▶ Directive 75/117/EEC on the principle of equal pay					

Please comment on your indicated selection

Overall, there is an high level of coherence of the European Framework on Gender Equality. However the national level is too fragmented.

## 1.5 Sustainability and European and added value

**Q18.** In what regards and to what extent does the Directive contribute to the development of gender equality policy in your MS?

The most relevant positive contribution of the Directive is that it has provided an incentive for the harmonisation of the European welfare schemes. However, further attention and a more inclusive Europe would be needed in order to have substantial equality.

**Q19.** What would be the consequences of repealing the Directive?

It would be detrimental to abolish/repeal the Directive. It is absolutely crucial to keep the level of attention very high, as there is also a cultural factor to counter. The persistence of the Directive may help in this sense.

## 1.6 Future trends and recommendation

**Q20.** Are you planning to propose any legislative, regulatory or administrative changes further in order to improve the implementation of the Directive 79/7 as interpreted by the CJEU case law, please specify? If not, are you aware of other plans in this direction by your Member State?

Out of the area of expertise

**Q21.** What could be further improved to foster the principle of equal treatment between men and women at the national level with regard to social security schemes?

The legislative level is not that relevant, in the respondent's perspective. It would be more important to work with the proper institutions and research centres that should pro-actively look into the enforcement of gender equality. It's the monitoring and implementation system that may need refinements. It would be ideal to identify selected experts with a good understanding of the issue, to instruct better processes.

**Q22.** In your opinion, would it be beneficial to merge the EU directives on statutory, occupational and voluntary schemes in a single document?

In the respondent's opinion it would be hardly possible. In any event, this is not where we fail to achieve the Directives' goals. It would be much more efficient to rethinking and improve the monitoring system and the implementation phase.

**Q23.** In your opinion, would it be beneficial to introduce at EU level a minimum provision on care credits?

In the respondent's opinion it would be extremely beneficial. As caring activities are de facto a substitution of the welfare state, such periods must be credited for the social security schemes. Such change would be highly beneficial also culturally and not only for maternity benefits. If there were a way to incentivise also men to take over caring responsibilities, for instance that of the elderly, we could really move towards true gender equality. It is a matter of cultural approach.