

Integrating European Values modules in studies
(IN EU VALUES)

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EU VALUES

ANTI-DISCRIMINATION

OSS

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Abbreviations

art . = Article

c. = comma

Cost . = Constitution

Cass.Pen = Criminal cassation

cp . = penal code Constitution

cpp . = code of penal procedure cpp

DL . = Decree -law

Legislative **Decree** = Legislative decree

DPR . = Decree of the President of the Republic

DPCM = Decree of the President of the Council of Ministers

L. _ = Law

TEC = Consolidated text establishing the European Community - EC Treaty

TFEU = Treaty on the Functioning of the European Union

EU = European Union

Goals

This work integrates the regional OSS training course, social and health worker.

The objective of the project is to inform health and social workers about the Community, international and internal regulatory sources on the protection from discriminatory acts and treatments.

Among the types of discrimination, those on which attention is focused are gender discrimination, that referable to disability and the issue of gender and health in view of a necessary relatively recent approach to medicine and health and social welfare services.

For each type of discrimination, the definitions, the reference legislation, the framework of sanctionable conducts are introduced, as well as the contrast and prevention policies through Plans and Strategies based on external sources but implemented and implemented in Italy through national and regional planning.

For each of the typologies, a theoretical approach and good practices are also proposed for the dimension of prevention and contrast to the phenomenon for setting up the care relationship.

Teaching methodology

The learning of abstract, generic concepts will be supported by a constructivist-type methodology with heuristic and experiential teaching tools that engage the trainer and the learner in a dynamic process that allows the student to be an aware and responsible subject through tools such as examples, cases, role playing, scaffolding and cooperative learning starting from pre-knowledge and practical experiences.

FIRST LESSON – DURATION 3 HOURS

1. PRELIMINARY EUROPEAN CONCEPTS AND PRINCIPLES:

1.1 The principle of equality and non-discrimination in the constitutional system

In the Italian Constitution, the principle of equality and protection from discriminatory acts and treatments find expression in the general principle of equality are enshrined in art. 2 and 3

Article 2

The republic recognizes and guarantees the inviolable rights of man, both as an individual and in the social formations where he develops his personality, and requires the fulfillment of the mandatory duties of political solidarity.

Article 3

All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the republic to remove the economic and social obstacles which, by effectively limiting the freedom and equality of citizens, prevent the full development of the human person and the effective participation of all workers in the political, economic and social organization of the Village.

Art.6

The Republic protects linguistic minorities with specific regulations.

With particular reference to the genre :

Article 29

The Republic recognizes the rights of the family as a natural society founded on marriage.

Marriage is ordered on the moral and juridical equality of the spouses, with the limits established by law to guarantee family unity .

Article 37

The working woman has the same rights and, for equal work, the same wages as the worker. The working conditions must allow the fulfillment of its essential family function and ensure the mother and the child adequate special protection.

The law establishes the minimum age limit for paid work.

The Republic protects the work of minors with special rules and guarantees them, for equal work, the right to equal pay.

Article 48

All citizens, men and women, who have reached the age of majority are voters.

Voting is personal and equal, free and secret. Its exercise is a civic duty.

The law establishes the requirements and methods for exercising the right to vote for citizens residing abroad and ensures its effectiveness. To this end, a Foreign district has been established for the election of the Chambers, to which seats are assigned in the number established by the constitutional provision and according to criteria determined by the law.

The right to vote cannot be limited except for civil incapacity or as a result of an irrevocable penal sentence or in cases of moral unworthiness indicated by law.

Article 51

All citizens of either sex can access public offices and elected offices on equal terms, according to the requirements established by law. To this end, the Republic promotes equal opportunities between women and men with specific measures.

The law may, for admission to public offices and elected offices, make Italians not belonging to the Republic equal citizens.

Whoever is called to elective public functions has the right to have the time necessary to fulfill them and to keep his job .

With reference to disability:**Article 32**

The republic protects health as a fundamental right of the individual and in the interest of the community, and guarantees free care to the poor. No one can be forced to undergo a certain medical treatment except by law. The law cannot under any circumstances violate the limits imposed by respect for the human person.

Art.34

The school is open to everyone. Lower education, imparted for at least eight years, is compulsory and free. The capable and deserving, even if without means, have the right to reach the highest levels of studies.

1.2 Direct discrimination and indirect discrimination

Since the first draft of the law ratifying the New York Convention, *International convention on the elimination of all forms of racial discrimination*, concluded in New York on 21 December 1965 and in force since 4 January 1969, the statement regarding the discriminatory phenomenon that it intended to combat, indicated as descriptive parameters the concept of discrimination and that of racial hatred. The concept was extended to an ethnic, national or racial group, meaning that, in addition to the phenomenon of racism proper, i.e. referring to the belonging of certain individuals or communities to a certain "race", the intention was to combat the phenomena of hatred and of discrimination even when they concerned people belonging to a certain ethnic group or a certain nationality.

The notion of discrimination is described from a normative point of view in art. 1 of the New York Convention , according to which it "means any distinction, exclusion, restriction or preference based on race, color, descent or ethnic origin, which has the purpose or effect of destroying or endangering

the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

In the Italian legal system, an almost identical notion of discrimination is provided by art. 43 Legislative Decree 286/1998 (Consolidated law on immigration), albeit in exclusive correlation to the legislation in which this provision is placed: "For the purposes of this chapter, discrimination is any behavior which, directly or indirectly, involves a distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin, religious beliefs or practices, and which has the purpose or effect of destroying or impairing recognition, enjoyment or exercise, on equal terms, of human rights and fundamental freedoms in the political, economic, social and cultural fields and in any other sector of public life".

Italian jurisprudence has in turn attempted to provide a description of the discrimination. The Cassation has, for example, affirmed that, when we speak of "feeling of aversion or discrimination based on" ethnic origin or colour", we refer to "a feeling immediately perceptible as inherent in the exclusion of conditions of religious hatred. or he identified discrimination as a "manifest prejudice of inferiority of a single race". Reference is often made to the feeling of superiority of one's race and, conversely, of inferiority of the race or ethnic group to which the conduct is directed.

In the jurisprudence of the European Court of Human Rights, discrimination is described in a very general and broad way as already mentioned and consists in treating people who find themselves in comparable situations differently, unless objectively and reasonably justified.

The foundation of the notion provided by the Strasbourg Court is constituted by the art. 14 of the Convention on Human Rights, which states that the enjoyment of the rights and freedoms recognized in the Convention must be ensured without any discrimination, in particular those based on sex, race, colour, language, religion, political or other opinions, national or social origin, membership of a national minority, wealth, birth or any other status.

In Italy, the point of reference is the **Legislative Decree 9 July 2003, n. 216**, art. 2.

Concept of discrimination - equal treatment

1. For the purposes of this decree and except for the provisions of article 3, paragraphs 3 to 6, the principle of equal treatment means the absence of any direct or indirect discrimination on the grounds of religion, personal beliefs, handicaps, age or sexual orientation. This principle implies that no direct or indirect discrimination is practiced, as defined below:
 - a) direct discrimination when, due to religion, personal beliefs, handicap, age or sexual orientation, a person is treated less favorably than another person is, has been or would be treated in a similar situation;
 - b) indirect discrimination when an apparently neutral disposition, criterion, practice, act, pact or behavior can put people who profess a particular religion or ideology of another nature, people with disabilities, people of a particular age or of a sexual orientation in a situation of particular disadvantage compared to other people.
2. Without prejudice to the provisions of article 43, paragraphs 1 and 2 of the consolidated text of the provisions concerning the regulation of immigration and rules on the condition of foreigners, approved with legislative decree 25 July 1998, n. 286.
3. Also considered as discrimination, pursuant to paragraph 1, are harassment or unwanted behaviour, carried out for one of the reasons referred to in article 1, with the purpose or effect of violating the dignity of a person and to create an intimidating, hostile, degrading, humiliating or offensive environment.
4. An order to discriminate against persons on the grounds of religion, belief, disability, age or sexual orientation is considered discrimination within the meaning of paragraph 1.
5. The extension of the notion of discrimination to groups distinguished not only by ethnic, or racial, or geographical origin, but by other connotations (e.g. religious, gender, etc.) takes place

following a progressive awareness of the possible, multiple manifestations and directions of discriminatory conduct or conduct aimed at discriminating.

6. In part, discriminatory behavior on a religious basis also tends to have an ethnic or racial root within them, to the extent that the discriminated religion is in turn characterized, at least in the collective imagination, by links with the membership of its faithful to this or that ethnic origin (this is the case of Judaism, but also of Islam).
7. To a lesser extent, religiously motivated discrimination also affects followers of religions not closely linked to a certain ethnic or cultural or geographical affiliation (as in the case of Christianity).

On the other hand, as regards gender discrimination, which for a long time has affected the condition of women, in recent decades we have witnessed discriminatory manifestations against categories of subjects whose sexuality has long been considered as an anomaly, if not a pathology or a deviance (to homosexuality, in its various meanings).

In all these cases, the discriminatory conduct starts from the emphasis on diversity and belonging to certain categories or groups of people, united by a factor (ethnic or geographical origin, religious belief, sexual orientation) seen as a connotation negative, as an object of mockery, contempt, hatred, or as a sign of an alleged inferiority.

SECOND LESSON - DURATION 3 HOURS

1.3 The principle of equality and non-discrimination in the supranational and European system

The European anti-discrimination system consists of a framework of rules developed in many contexts but mainly by the jurisprudence of the ECHR and by Union law.

The **ECHR**, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, is the first human rights treaty inspired by the United Nations Universal Declaration of Human Rights.

The **ECHR** establishes the legally binding obligation for the Contracting States to recognize the human rights set forth in the Convention to every person under their jurisdiction.

The prohibition of discrimination is sanctioned by art. 14 which guarantees equal treatment in the enjoyment of the rights recognized in the Convention:

The enjoyment of the rights and freedoms recognized in the present Convention shall be ensured without any discrimination, in particular those based on sex, race, colour, language, religion, political or other opinion, national origin or social status, membership of a national minority, wealth, birth or any other status.

Protocol no. 12 (2000) to the ECHR, broadens the scope of the prohibition of discrimination by guaranteeing equal treatment in the enjoyment of all rights including the rights established by national legislation. According to the explanatory report of the protocol, its adoption stems from the desire to consolidate protection against discrimination, considered fundamental in the guarantee of human rights. In particular, the protocol arises from the debate on strengthening gender and racial equality.

In the European Union, anti-discrimination legislation has its legitimacy in the Treaty on the Functioning of the European Union (TFEU) which constitutes, together with the Treaty on European Union (TEU), one of the two 'pivotal' treaties of the European Union, the basis fundamental law of the same (formerly the Treaty establishing the European Economic Community, signed in Rome on 25 March 1957; then modified by successive Treaties, among which we can mention in particular the Treaty of Maastricht of 7 February 1992; the current text was last amended by the Treaty of Lisbon which entered into force on 1 December 2009)

To the art. 19 of the TFEU (previously art. 13 of the TEC), authorizes the Council, subject to a unanimous resolution of the same and approval by the European Parliament, to "take appropriate measures to combat discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation".

In 2003, this article was amended by the Treaty of Nice to allow for the adoption of incentive measures.

The European Convention for the Protection of Human Rights and Fundamental Freedoms led to the establishment of the European Court of Human Rights (ECHR), an independent international judicial body whose task is to judge violations of the European Convention on Human Rights. Human Rights (ECHR).

The Court, established in 1959, is made up of 47 judges (as many as there are Contracting States) elected by the Parliamentary Assembly of the Council of Europe, by majority vote, on the basis of a list of three candidates presented by each State. Judges sit in an individual capacity and their mandate lasts nine years with no possibility of re-election. The President is in office for 3 years and can be re-elected.

The Court may be referred either to the Contracting States for any failure to comply with the provisions of the Convention and its protocols by another High Contracting Party, or to individuals, non-governmental organizations or groups of individuals who claim to be victims of violations by of a Contracting State of the rights recognized in the **Convention** or in its Protocols.

Another regulatory point of reference in Europe which sanctions rights and freedoms and establishes the control system which guarantees their respect is also the European Social Charter, which came into force in 1999.

The Parties recognize as the objective of a policy that they will pursue with all useful means, at national and international level, the creation of conditions capable of guaranteeing the effective exercise of the following rights and principles set forth therein.

The rights guaranteed by the Charter affect all individuals in their daily lives:

Right to housing : access to adequate housing at a reasonable price for all; reduction in the number of "homeless" people; a housing policy aimed at satisfying the needs of all disadvantaged categories; provisions to limit evictions; equal access for foreigners to social housing and housing subsidies; housing and housing subsidies corresponding to the needs of families.

Right to health protection: an accessible and effective health structure for the whole population; a disease prevention policy with a focus on ensuring a healthy environment; elimination of occupational risks to ensure in law and in practice health and safety in the workplace; right of working mothers to protection.

Right to education: free primary and secondary education; free and effective career guidance service; access to initial training (general and secondary technical education), tertiary and university technical education, vocational training, including continuing education; specific measures for foreign residents; integration of disabled children into the general education system; access for disabled people to education and career guidance.

Right to work : prohibition of forced labour; prohibition of work for young people under the age of 15 years; special working conditions for young people between 15 and 18; right to freely chosen work; a social and economic policy aimed at achieving full employment; fair working conditions with regard to pay and working hours; protection against sexual and moral harassment; freedom to form trade unions and employers' organizations for the protection of their economic and social interests; individual freedom to adhere or not to promote joint consultations, collective negotiation, conciliation and arbitration; protection in the event of dismissal; right to strike ; access of disabled people to the world of work.

Right to legal and social protection : protection of the juridical status of the child; re-education of juvenile delinquents protection against ill-treatment and violence; prohibition of any form of exploitation (sexual or otherwise); juridical protection of the family (equality of the spouses within the couple and towards the children, protection of children in case of separation of the parents); right to social protection, social assistance and the use of social services; right to protection against poverty and social exclusion; childcare facilities; specific protective measures for the elderly.

Right to free movement of persons : right to family reunification; citizens' right to leave their country; procedural guarantees in case of expulsion; simplification of immigration formalities.

Right to non-discrimination : the right of women and men to equal treatment and equal employment opportunities; guarantee of enjoying all the rights guaranteed by the Charter for citizens and aliens legally residing and/or working in the country concerned, without distinction based on race, sex, age, colour, language, religion, opinions, national or social origin, state of health or membership of a national minority; prohibition of discrimination based on family responsibilities; right of the disabled to social integration and participation in the life of the community.

The body of the Council of Europe responsible for monitoring the implementation of the Social Charter is the **CEDS** , the European Committee of Social Rights.

Its function is to monitor compliance by the states with the obligations envisaged by the Charter. It is made up of fifteen independent and impartial members elected by the Committee of Ministers of the Council of Europe for a term of six years, renewable once. The Committee decides whether the national situation of the contracting states complies with the Charter.

The form of control is the examination of the reports and the comparison with the dictates of the Charter.

Its decisions, published annually, are called " conclusions".

In the event of non-compliance by a state, if it fails to take the necessary measures to comply, the Committee of Ministers recommends that state to amend the situation in its domestic law or practice. The work of the Committee of Ministers is prepared by the Governmental Committee composed of representatives of the governments of the contracting states of the Charter, assisted by observers representing the European social partners.

A Protocol, opened for signature in 1995 and entered into force in 1998, allows complaints alleging violations of the Charter to be submitted to the European Committee of Social Rights.

European Union law against discrimination based on racial or ethnic origin, religion or belief, disability, age or sexual orientation is now transposed into national law in all Member States.

The main challenges are the lack of public awareness of their rights and the insufficient level of reporting of discriminatory events.

To support this process, the Commission provides funding to raise public awareness and train legal practitioners on equality law.

The principle of non-discrimination is one of the fundamental principles of the European Union and thanks to the EU anti-discrimination rules and the measures taken by the Commission to enforce them, citizens can make use of these rights in all Member States.

The real challenge is to ensure that victims of discrimination can effectively exercise their rights, that is, that they know where to turn for assistance and have access to justice.

To ensure that EU rights to equal treatment are properly implemented in practice, the Commission recommends that Member States continue to raise awareness of anti-discrimination rights and focus on those most at risk, involving employers and labor unions.

The Commission provides funding to support this kind of activity; facilitate the reporting of discrimination by improving victims' access to reporting mechanisms. National equality bodies play a crucial role and the Commission will continue to support their network and ensure that they effectively carry out their tasks under EU law; ensure access to justice for those who have suffered discrimination. The Commission's guidelines indicate concrete how to lodge a complaint and the Commission funds training on the application of equality law for legal practitioners and NGOs

representing victims of discrimination;

Until 2000, EU non-discrimination law only covered the context of employment and social security, and only covered discrimination on grounds of sex.

In the 1990s, various interest groups exerted considerable pressure to extend the prohibition of discrimination enshrined in EU law to other areas, such as race and ethnic origin, sexual orientation, religious beliefs, age and disability. The fear of a resurgence of extremist nationalism in some EU Member States has led the heads of government to ensure the political will necessary to amend the Treaty establishing the European Economic Community, in order to give the Community the competence to adopt legislation in such areas.

The Charter of Fundamental Rights of the European Union, proclaimed in **Nice on 7 December 2000** and adopted in **Strasbourg on 12 December 2007**, provides in art. 21 "Any form of discrimination based, in particular, on grounds of sex, race, skin color or ethnic or social origin, genetic characteristics, language, religion or personal beliefs, political or any other nature, membership of a national minority, property, birth, handicap, age or sexual orientation.2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, any discrimination based on nationality is prohibited, without prejudice to the specific provisions contained in the Treaties themselves".

In 2000 specific directives:

Directive 2000/43 of 29 June 2000, which implements the principle of equal treatment between people regardless of race or ethnic origin.

Directive 2000/78 of 27 November 2000, which establishes a general framework for equal treatment in employment and occupational conditions.

In 2004, the Directive on equal treatment of men and women in access to goods and services extended the protection against discrimination based on sex to this sector.

On 29 October 2004, the then 25 countries of the Union signed the **European Constitution in Rome**, the fundamental document which, in addition to establishing the functioning of the European bodies, establishes the charter of rights of European citizens.

The European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities" (Article 2 of the Treaty on European Union – TEU).

Internally, on 7 December 2000, the European Parliament, the Council of the European Union and the European Commission adopted the Charter of Fundamental Rights of the European Union which assumed, with the entry into force of the Treaty of Lisbon, the same legal value as the Treaties.

The Union has thus equipped itself with its own important normative reference in the field of fundamental rights. The protection and promotion of human rights within the EU operate both at the internal level of the Union (i.e. the defense of human rights within the Member States), and at the external level, i.e. that of the EU's relations with third countries and in international organizations.

With the law n. 57 of 7 April 2005, the Parliament ratified the Treaty of 29 October 2004, which adopts a "Constitution for Europe".

The European Constitution, made up of 450 articles divided into four parts, replaces most of the existing Treaties.

In Part II, the values on which the Union is founded are indicated. In particular:

TITLE III: EQUALITY

Article II-80 : Equality before the law All people are equal before the law.

Article II-81 : Non-discrimination

1. Any form of discrimination based, in particular, on sex, race, skin color or ethnic or social origin, genetic characteristics, language, religion or personal beliefs, political opinions or any other

nature, membership of a national minority, property, birth, disability, age or sexual orientation.

2. Within the scope of application of the Constitution and subject to specific provisions contained therein, any discrimination on grounds of nationality is prohibited.

Article II-82: Cultural, religious and linguistic diversity

The Union respects cultural, religious and linguistic diversity.

Article II-83: Equality between men and women

Equality between men and women must be ensured in all areas, including employment, work and pay.

The principle of equality does not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex.

Article II-84: Rights of the minor

1. Children have the right to the protection and care necessary for their well-being. They can freely express their opinion; this is taken into consideration on matters that concern them according to their age and maturity.
2. In all acts relating to minors, whether performed by public authorities or by private institutions, the best interests of the minor must be considered paramount.
3. The minor has the right to maintain regular personal relationships and direct contacts with the two parents, unless this is contrary to his interest.

Article II-85: Rights of the elderly

The Union recognizes and respects the right of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

Article II-86: Integration of people with disabilities

The Union recognizes and respects the right of persons with disabilities to benefit from measures aimed at guaranteeing their independence, social and occupational integration and participation in the life of the community.

TITLE II: NON-DISCRIMINATION AND CITIZENSHIP

Article III-123 European laws or framework laws may regulate the prohibition of discrimination on grounds of nationality as set out in Article I-4(2).

Article III-124

1. Without prejudice to the other provisions of the Constitution and within the framework of the powers conferred by it on the Union, a European law or framework law of the Council may establish the necessary measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council acts unanimously after obtaining the consent of the European Parliament.
2. By way of derogation from paragraph 1, European laws or framework laws may establish the basic principles of Union incentive measures and define such measures to support actions by Member States aimed at contributing to the achievement of the objectives referred to in paragraph 1, for exclusion of any harmonization of their laws and regulations.

An important role for the protection of human rights within the EU is played **by the European Union Agency for Fundamental Rights (FRA)**, established in 2007 with headquarters in Vienna. The Agency's purpose is to provide European institutions and national authorities with assistance and consultancy, in relation to fundamental rights, in the implementation of Community law, as well as to help them adopt measures or define appropriate initiatives.

In recent years, the European Union has also issued Guidelines on key human rights issues, including the death penalty, children's rights, torture and other cruel, inhuman or degrading treatment or punishment, the promotion and protection of freedom of religion or belief, children and armed conflict.

The EU also publishes an annual report on the Union's policies and initiatives in the field of human rights and democracy at the international level. Added to this is the Annual Report presented by the European Parliament on its activities to promote human rights.

European Council

Italy is a founding country of the Council of Europe and is one of the major contributors to the organisation's budget. The Council of Europe aims to promote democracy, human rights, European cultural identity and the search for solutions to social problems in Europe.

"European Convention on Human Rights" (ECHR) was signed in Rome on 4 November 1950, which set up an original system of international protection of human rights, offering individuals subjects the right to invoke judicial control over the respect of their rights, through the establishment of a European Court of Human Rights based in Strasbourg. The supranational monitoring system envisaged by the ECHR and in particular the role played by the Court constitute an unprecedented model at a global level.

Notable institutions acting within the Council of Europe are the European Commissioner for Human Rights and the European Commission for Democracy through Law, better known as the **Venice Commission**. The Commissioner, an independent and impartial institution, has the mandate to promote respect for human rights in the 47 member states of the Council of Europe through a permanent dialogue with the respective authorities in order to promote the development of national structures for the protection of human rights.

The Venice Commission provides legal advice to the member countries of the Council of Europe, assisting them in particular in adapting their legal and institutional structures to European and international standards in the fields of democracy, human rights and the rule of law. Established in 1990, the Commission is made up of "independent experts of international renown for their experience in democratic institutions or for their contribution to the development of law and political science".

The role of the EU in human rights, democratization, the rule of law and therefore anti-discrimination legislation and equal opportunities policies is fundamental.

supranational element present in the integration process, the EU is in fact endowed with a system of sources and acts of secondary law that are directly effective and applicable throughout the territory of the Member States.

The EU is also endowed with an institutional apparatus which operates according to and in the primary pursuit of EU interests and policies, as well as a judicial system capable of guaranteeing the uniform application and interpretation of EU law.

The institutional framework consists of 5 main institutions: **the European Council, the Council of the European Union, the European Commission; the Court of Justice of the European Union, the European Parliament or European Parliament.**

In pursuing its objectives, the EU exercises the competences attributed to it by the Treaties, some of which are of an exclusive nature, others competing with the competence of the Member States; in exercising its powers, the EU applies the principles of subsidiarity and proportionality (Principle of subsidiarity. European Union law). Furthermore, the EU is characterized by being an economic and monetary union (Economic and Monetary Union. European Union Law) and has its own institutions for the exercise of exclusive competence in monetary matters, the **European Central Bank and the European System of Central Banks (ESCB).**

THIRD LESSON – DURATION 3 HOURS

2. DISCRIMINATION FACTORS IN EUROPE

2.1 The prohibition of gender discrimination: from the Constituent Assembly to the affirmation of constitutional principles

On 2 June 1946, Italians were called to the polls to vote in the referendum on the institutional form to be given to the country and to elect 556 deputies of the Constituent Assembly which would draft

the new republican constitution

For the first time, women were also allowed to vote.

In the history of the country, the elections of 2 June represented the first elections that were held by universal suffrage, all citizens, men and women, over the age of twenty-one, without distinction of sex, income and educational qualifications.

Voting took place to choose between Monarchy and Republic and to elect **556 deputies of the Constituent Assembly which would draft the new Constitution**.

Those entitled to vote were about 28 million Italians. The referendum gave a favorable outcome to the Republic.

Commission of 75 was set up within it.

Composed of 75 deputies chosen according to a proportional criterion among the various parties, the Commission of 75, divided into three sub-committees, had the task of elaborating and proposing the draft Constitution to the Assembly.

The Assembly met for the first time **on July 20, 1946**; on 28 July he appointed **Enrico De Nicola** as provisional head of state.

After six months, the draft Constitution was presented which was discussed in **173** sessions and approved on **22 December 1947**.

The Constitution of the Italian Republic was promulgated by the provisional Head of State De Nicola on 27 December 1947. It entered into force on 1 January 1948.

21 women were elected and they contributed to introducing and articulating the guiding principle of equality and non-discrimination for the Italian democratic reconstruction.

The fundamental step was when the UDI, the Union of Italian Women, submitted to the elected members of the Constituent Assembly a list of provisions in favor of women to be included in the Constitution, explicitly asking for legal equality.

As reported by the constitutional lawyer Marilisa D'Amico: "legal equality with men in every field, the recognition of the right to work and access to all schools, professions, careers; the right to adequate protection which allows the woman to fulfill her duties as mother; equal valuation, treatment and compensation of men for equal work, performance, responsibility".

The requests of the UDI were brought by the women to the Constituent Assembly and then accepted in the constitutional text, forming a common front.

Furthermore, it was thanks to the young Teresa Mattei the very important addition in the second paragraph of the art. 3 of the expression "de facto" which imposes on the Republic the commitment (substantiality) to remove the obstacles to full personal development and effective participation.

From the reconstruction of the debates in the Assembly it emerged that there was resistance to sanctioning the effective equality between women and men, through the proposal to provide for exceptions.

The debate flared up when it was proposed to add the nativist principle of "attitudes" to the concept of elective offices, while, **in art. 37** against the definition of the role of women in society linked to the family: the choice was between a "prominent role in the family" and an "essential role in family function". Locutions that have two different courses.

A bitter debate also flared up on the principle of equality in the workplace both for equal pay and for protection in the workplace.

In the subcommittee facing the proposal by **Nilde Iotti**, also supported by **Dossetti and Togliatti**, to introduce the paragraph "the same rights and the same treatment that are due to workers", the honorable Merlin created indignation on the part of Nilde Iotti as she believed that the formula was equivocal since it would have generated the interpretation of the formula in the sense that they "must have the wages due to the male worker".

Other interventions specified that equal pay should be linked to equal performance, implying a presupposition of the inferiority of women in the workplace.

On this last point, the proposal to add "for the same yield" sparked an equally bitter debate.

The debate became even more heated in relation to the protection of the family function of women

shared by the Communist Party and the Christian Democrats aimed at guaranteeing women "particular conditions that allow her to fulfill her work and her family mission". La Pira proposed adding the adjective "prevailing" to characterize the family mission of the woman and in the end a compromise was reached by replacing the adjective "prevailing" with "essential".

The Italian Constitution provides for legal gender equality in specific articles as indicated above, while non-discrimination is dealt with in the following paragraph.

Article 3

All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the republic to remove the economic and social obstacles which, by effectively limiting the freedom and equality of citizens, prevent the full development of the human person and the effective participation of all workers in the political, economic and social organization of the Village.

With particular reference to gender:

Article 29

The Republic recognizes the rights of the family as a natural society founded on marriage. Marriage is ordered on the moral and juridical equality of the spouses, with the limits established by law to guarantee family unity .

Article 37

The working woman has the same rights and, for equal work, the same wages as the worker. The working conditions must allow the fulfillment of its essential family function and ensure the mother and the child adequate special protection.

The law establishes the minimum age limit for paid work.

The Republic protects the work of minors with special rules and guarantees them, for equal work, the right to equal pay.

Article 48

All citizens, men and women, who have reached the age of majority are voters.

Voting is personal and equal, free and secret. Its exercise is a civic duty.

The law establishes the requirements and methods for exercising the right to vote for citizens residing abroad and ensures its effectiveness. To this end, a Foreign district has been established for the election of the Chambers, to which seats are assigned in the number established by the constitutional provision and according to criteria determined by the law.

The right to vote cannot be limited except for civil incapacity or as a result of an irrevocable penal sentence or in cases of moral unworthiness indicated by law.

Article 51

All citizens of either sex can access public offices and elected offices on equal terms, according to the requirements established by law. To this end, the Republic promotes equal opportunities between women and men with specific measures.

The law may, for admission to public offices and elected offices, make Italians not belonging to the Republic equal citizens.

Whoever is called to elective public functions has the right to have the time necessary to fulfill them and to keep his job .

In recent years there has been a significant increase, quantitative and qualitative, of legislative interventions on gender equality.

In Europe, since the 1960s, the problem of equal opportunities between men and women has been tackled with the drafting of five action programmes, decade after decade.

In particular, a wide range of actions have been undertaken since the 1990s to support the role of women in European society.

1997 can be considered a turning point, as a new article was introduced into the Treaty establishing

the European Community (TEC), namely Article 13 (now Article 19 TFEU), which empowers the Council to take measures to combat discrimination based on a whole range of new grounds, including racial or ethnic origin, religion or belief, age, disability and sexual orientation. In 2003, this article was amended by the Treaty of Nice to allow for the adoption of incentive measures.

The 2017 European Pillar of Social Rights reaffirmed the principles of gender equality and equal opportunities. **Several directives** have been adopted in this context :

Directive 2000/78 / EC establishing a general framework for equal treatment in employment and occupation;

There directive 2006/54/EC concerning the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation ;

Directive 2019/1158 / EC on work-life balance for parents and carers which takes a broader perspective on the sharing of caring responsibilities between women and men;

The proposal for a **Directive of the European Parliament and of the Council COM (2020) 152** aimed at strengthening the application of the principle of equal pay for men and women for equal work or work of equal value through pay transparency and enforcement mechanisms .

In order to implement more active employment policies in the territory of the Union, in November 1997, the EU Member States launched the European Employment Strategy, the basis of which had been laid down by the Essen European **Council of 1994**.

This Strategy constitutes the cornerstone of European employment policies and is based on the four pillars of the **Treaty of Amsterdam** :

- **employability** (making sure people have the right skills);
- **entrepreneurship** (facilitating the creation of businesses and the recruitment of employees);
- **adaptability** (developing new and flexible working practices in a rapidly changing world);
- **equal opportunities** (ensuring equal conditions of access to jobs for women and men and equal treatment at work).

Through this Strategy, the promotion of employment thus becomes a matter of common interest for the European Union and obliges the Member States to coordinate their policies in order to achieve a high level of employment.

Indeed, the structure of the Strategy implies a continuous action of development and consolidation. Each year, Member States approve employment guidelines, which are then implemented through **National Action Plans (NAPs)**. The European Commission has the task of evaluating the impact of the NAPs on national policies, possibly formulating recommendations on the possibility of improving them.

In 2020, the European Commission adopted a series of policy documents on gender equality, which foresee the adoption of specific measures and actions for the coming years.

On 5 March 2020, the Gender Equality Strategy 2020-2025 was presented, containing a series of actions considered essential for achieving the traditional objectives in terms of gender balance: stop violence and gender stereotypes; equal participation and opportunities in the labor market; equal pay; gender balance in decision-making and politics.

The implementation of the strategy will proceed through the adoption of targeted measures to achieve gender equality, combined with greater gender mainstreaming.

The strategy includes, among other things:

- **broadening** the range of crimes where harmonization can be introduced across Europe, extending it to specific forms of violence against women, including sexual harassment, abuse of women and

female genital mutilation;

- **a law** on digital services to clarify what measures are expected of platforms to tackle illegal online activities, including violence against women;
- **the strengthening** of the presence of women in sectors characterized by skills shortages, in particular the technological sector and that of artificial intelligence;
- **the launch** of a public consultation on pay transparency and the presentation of binding measures to combat wage inequality;
- **Strengthened** efforts to implement EU rules on work-life balance.

Furthermore, on 25 November 2020, the European Commission and the High Representative for the EU's Common Foreign and Security Policy presented the European Union Action Plan on Gender Equality – An Ambitious Agenda for Equality gender and women's empowerment in EU external action (EU Gender Action Plan - GAP III).

The plan includes initiatives, for the period 2021-2025, aimed at increasing the EU's commitment to gender equality, as a cross-cutting priority of external action, as well as fostering strategic engagement of the EU at multilateral, regional and national.

The Plan is aimed at increasing the EU's contribution to achieving sustainable development objective no. 5 as part of the 2030 Agenda, relating to the achievement of gender equality and the empowerment of all women and girls.

In Italy, the main novelty is constituted by the d. lgs. 11 April 2006, no. 198, containing the "Code of equal opportunities between men and women".

This is the general regulation on the matter and at least the passages in which it is envisaged that:

- a. "Equal treatment and opportunities between women and men must be ensured in all fields, including those of employment, work and pay" (art. 1, paragraph 2);
- b. the principle of equal opportunities does not prevent positive actions in favor of the under-represented gender (art. 1, paragraph 3);
- c. a "National Committee for the implementation of the principles of equal treatment and equality of opportunity between male and female workers" (art. 8) is set up;
- d. there are councilors for equal opportunities operating at the local level (articles 12 ss.);
- e. both direct (art. 25, paragraph 1) and indirect (art. 25, paragraph 2) discrimination are prohibited;
- f. sexual harassment is considered a form of discrimination (art. 26);
- g. the differentiation of wages and other treatments concerning work is prohibited (articles 28 ss.);
- h. dismissal due to marriage is forbidden (art. 35);
- i. special instruments of jurisdictional protection are guaranteed (articles 36 ss. and 55-quinquies ss.);
- L. positive actions are admitted and promoted (art. 42 ss.);
- m. equal access to goods and services is guaranteed (articles 55-bis ss.).

In addition to this special discipline, a very complex legislation is added, which cannot be fully mentioned here, but the main rules are listed below:

Law n. 903 of 1977 – Equal treatment of men and women in matters of work

Law n. 125 of 1991 – Positive actions for the realization of equality between men and women in the workplace

Law n. 53 of 2000 – Provisions for the support of maternity and paternity, for the right to care and training and for the coordination of city times.

Legislative decree n. 165 of 2001 – General rules on the organization of work employed by public administrations

Legislative decrees n. 215 and 216 of 2003 – Legislative decrees implementing the directives on equal treatment

Legislative Decree n. 198 of 2006 – Code of equal opportunities between men and women

Legislative Decree 25 January 2010, n. 5 – Implementation of Directive 2006/54/EC on the principle of equal opportunities and equal treatment of men and women in matters of employment and

occupation. Important in this regard is the Department for Equal Opportunities.

In 1996, the Office of the Minister for Equal Opportunities was established at the Presidency of the Council of Ministers. On 12 July 1997, with the decree of the President of the Council of Ministers, the functions of the Minister were established. The Department for Equal Opportunities was established with DPCM n. 405 of 28 October 1997 , modified with the DM of 8 April 2019, the DM of 30 November 2000 , the DM of 30 September 2004 , the DPCM of 1 March 2011 and the DM of 4 December. 2012 .

ANALYSIS OF THE FUNCTIONS OF THE **DEPARTMENT**

The 2021 budget law (article 1, paragraphs 104 and 106 of Law no. 178/2020) provides for the establishment of a Women's Business Committee at the Ministry of Economic Development.

FUNCTION ANALYSIS

At the European level, the achievement of gender equality and the empowerment of all women and girls is one of the **17 Sustainable Development Goals** that countries have committed to achieve by 2030.

In Italy, legislative action in recent years has focused, on the one hand, on the world of work, which has been the subject of numerous regulatory interventions aimed at recognizing equal rights and greater protection for working women. In particular, the provisions aimed at promoting the reconciliation between life and work times (also through a bonus for babysitting services) and parenting support, as well as the provisions for contrasting the so-called blank resignation. The support instruments aimed at the creation and development of enterprises with predominantly or wholly female participation have also been strengthened .

Another line of interventions concerned the implementation of art. 51 of the Constitution, on equal access between women and men to elected offices , affecting the electoral systems present at the various levels (national, regional, local and in the European Parliament), as well as on the promotion of women's participation in the bodies of listed companies.

Increasing attention has also been paid to measures aimed at combating violence against women , pursuing three objectives: to prevent crimes, to punish the perpetrators and to protect the victims. The centrality of issues relating to overcoming gender inequalities is also reaffirmed in the National Recovery and Resilience Plan (**PNRR**) to relaunch national development following the pandemic. In fact, the Plan identifies gender equality as one of the three transversal priorities pursued in all the missions that make up the Plan. The entire Plan will also have to be evaluated from a gender mainstreaming perspective.

In Italy, the actions were aimed above all at work-life balance and the world of work, in particular:

maternity leave

Mandatory paternity leave .

Family leave .

Transfer of personnel between administrations

Agile work .

Instead of parental leave

Corporate welfare .

Return to work of working mothers .

Equal pay fund.

Contribution to unemployed or single-earner mothers .

Suspension of tax obligations .

ACTIONS ANALYSIS

Incentive for hiring women

Law **92/2012** recognized private employers, including non-entrepreneurs, including employers in the agricultural sector, an incentive for hiring women who find themselves in disadvantaged conditions.

SPECIFICATION OF CATEGORY OF WOMEN IN DISADVANTAGED CONDITIONS

Recent actions are aimed at increasing female employment which aim to condition their execution to the hiring of young people and women, also through training/specialization contracts which can be activated before the start of the same projects through the **implementation with the art. 47 of Legislative Decree 77/2021** which indicates for the procedures relating to the stipulation of public contracts financed, in whole or in part with the resources envisaged by the National Recovery and Resilience Plan (PNRR) and by the National Plan for Complementary Investments (PNC), the Requirement of the quota of 30 per cent of recruitments to be allocated to new youth and female employment (Article 47, paragraph 4);

a Directive COM (2021) 93 - on which the Chambers have expressed the expected opinion - is being examined by the European Parliament and the Council, which aims to counter the inadequate application of the fundamental right to equal pay pay and to ensure that this right is respected throughout the EU. The proposed directive pursues these objectives:

- ensuring pay transparency within organisations;
- facilitating the application of key equality concepts
- pay, including those of "pay" and "work of equal value";
- strengthening enforcement mechanisms.

With regard to gender-based violence, the activity of the legislator continued in the **XVIII legislature** to introduce measures to prevent crimes of violence against women, severely punish the perpetrators and offer adequate protection to the victims. This activity is in line with the regulatory evolution already accomplished on the matter in the last legislature, with the ratification of the Istanbul Convention (Law No. 77 of 2013), the amendments to the penal code and criminal procedure aimed at exacerbating the penalties for some crimes most often committed against women (Decree-Law No. 93 of 2013), the issuing of the first "Extraordinary action plan against gender-based violence" and the provision of funds to support victims .

During the XVII legislature, the Parliament:

- a) has provided - with the law n. 161 of 2017, reforming the so-called Anti-Mafia Code - that preventive measures may also be applied to suspects of stalking (special public security surveillance, prohibition of stay in one or more municipalities and patrimonial measures) and that, with the consent of the concerned, the so-called electronic bracelet can also be applied to the stalker, once its availability has been ascertained;
- b) has modified - with the law n. 4 of 2018 - the crime of murder aggravated by personal relationships, pursuant to art. 577 of the Criminal Code, providing for life imprisonment if the victim of the crime of homicide is the spouse, even if legally separated, the other part of the civil union, the person linked to the murderer by a stable emotional relationship and permanently cohabiting with him.

The murder of the divorced spouse or part of the terminated civil union is instead punished with imprisonment from 24 to 30 years.

Prevention, punishment and protection of victims of gender-based violence crimes are the objectives of **law n. 69 of 2019** , approved by the Parliament in this legislature, and known by the public opinion with the expression Red Code, to underline a specific path of protection, also in the process, of the victims of violent crimes, with particular reference to the crimes of sexual and housekeeper.

In particular, with regard to criminal law, the law introduced **four new crimes into the code**:

- **the crime of deformation of a person's appearance through permanent injuries to the face** (new art. 583-quinquies of the criminal code), punished with imprisonment from 8 to 14 years. At the same time, the crime of very serious personal injury pursuant to art. 583, second paragraph, n. 4 cp, which punished very serious personal injuries with permanent deformation or disfigurement of the face with imprisonment from 6 to 12 years. When the commission of this crime results in homicide,

the penalty is life imprisonment. Furthermore, the reform includes this new crime in the catalog of violent intentional crimes which give the right to compensation from the State;

- **the crime of illicit dissemination of sexually explicit images or videos without the consent of the persons represented** (so-called Revenge porn , included in article 612-ter of the criminal code after the crime of stalking), punished with imprisonment from 1 to 6 years and fine from 5,000 to 15,000 euros; the penalty also applies to those who, having received or in any case acquired the images or videos, disseminate them in turn in order to cause harm to the interested parties. The offense is aggravated if the facts are committed in the context of an affective relationship, even if it has ceased, or with the use of IT tools;
- **the crime of coercion or inducement to marry** (art. 558-bis of the criminal code), punished with imprisonment from 1 to 5 years. The case is aggravated when the crime is committed to the detriment of minors and it also proceeds when the fact is committed abroad by, or to the detriment, of an Italian citizen or a foreigner residing in Italy;
- **the crime of violation of the provisions of removal from the family home and of the prohibition of approaching places frequented by the offended person** (art. 387-bis), punished with imprisonment from 6 months to 3 years.

With further interventions on the penal code , the **law n. 69 of 2019** provided for amendments to the crime of ill-treatment against family members and cohabitants (art. 572 of the criminal code) aimed at:

- increase the penalty;
- provide for a special aggravated case (punishment increased by up to half) when the crime is committed in the presence or to the detriment of a minor, a pregnant woman or a disabled person, or if the fact is committed with weapons;
- always consider the minor who witnesses the abuse as a person offended by the crime.

Furthermore, the crime of ill-treatment of family members and cohabitants is included in the list of crimes which allow the application of preventive measures against suspects, including the measure of the prohibition of approaching places frequented by the person to be protected.

The law also changed:

- **the crime of persecution** (article 612-bis of the criminal code), with an increase in the sentence;
- **crimes of sexual violence** (articles 609-bis et seq. of the Criminal Code), by tightening the penalties and extending the time limit granted to the offended person to lodge a complaint (from the current 6 months to 12 months). The provision also reformulates and exacerbates the aggravating circumstances when sexual violence is committed to the detriment of a minor;
- **the crime of sexual acts with a minor** (art. 609-quater of the criminal code) with the provision of an aggravating circumstance (penalty increased by up to one third) when the acts are committed with minors under the age of 14 in exchange for money or any other benefit , even if only promised. This crime also becomes prosecutable ex officio.
- **the crime of homicide** , with the extension of the field of application of the aggravating circumstances of homicide aggravated by personal relationships. Finally, with an amendment to the art. 165 criminal code, the law n. 69 of 2019 established that the granting of the conditional suspension of sentences for crimes of domestic and gender-based violence is subject to participation in specific courses of recovery.

As far as criminal procedure is concerned, the structure of the law aims to speed up the establishment of criminal proceedings for crimes of domestic and gender-based violence, consequently speeding up any adoption of measures to protect victims (the so-called Red Code). To this end, the law n. 69 of 2019 provides, in the face of crime reports relating to crimes of domestic and gender-based violence:

- that the judicial police, having acquired the news of the crime, immediately report to the public prosecutor, even orally; oral communication will be followed without delay by written communication;
- that the public prosecutor, within 3 days of registering the news of the crime, obtain information from the offended person or from whoever reported the crime; this term can be extended only in

the presence of unavoidable needs for the protection of minors or for the confidentiality of investigations, also in the interest of the offended person;

- that the judicial police carry out the investigative acts delegated by the Public Prosecutor without delay and make the documentation of the activities carried out available to the Public Prosecutor without delay.

With further interventions on the criminal procedure code, **the law, among other things:**

- introduces the obligation for the criminal judge - if civil proceedings for the separation of spouses or cases relating to the custody of minors or relating to parental responsibility are in progress - to transmit to the civil judge without delay the measures taken against one of the parties relating to crimes of domestic or gender-based violence;
- modifies the precautionary measure of the ban on approaching places frequented by the offended person to allow the judge to guarantee compliance with the coercive measure through control procedures using electronic means or other technical instruments (so-called electronic bracelet);
- provides for a series of communication obligations to the person offended by a crime of domestic or gender-based violence and to his relative lawyer

With **the Decree-law** n. 93 of 2013, the legislator asked the Government to adopt extraordinary plans to combat violence against women.

The provisions of the Plan have been partially modified recently by art. 1, paragraph 149, of the 2022 budget law (Law No. 234/2021), which changed the name from the Extraordinary Action Plan against sexual and gender-based violence to the National Strategic Plan against violence against women and Domestic violence.

This denomination follows the terminology used in the **Istanbul Convention** .

The 2021-2023 Plan re-proposes the structure of the previous Plan, with an articulation in **4 thematic Axes (prevention, protection and support, prosecution and punishment, assistance and promotion)** according to the lines indicated by the **Istanbul Convention** , each of which are linked specific priorities.

ANALYSIS OF THE PLAN IN THE FOUR AXES - FINANCIAL RESOURCES)

In relation to the world of work, the constitutional references already indicated **in art. 37 of the Constitution:**

The working woman has the same rights and, for equal work, the same wages as the worker. The working conditions must allow the fulfillment of its essential family function and ensure the mother and the child adequate special protection.

The law establishes the minimum age limit for paid work.

The Republic protects the work of minors with special rules and guarantees them, for equal work, the right to equal pay.

With reference to elected offices and the world of work, a large step forward was made with the introduction of **Legislative Decree Of 11 April 2006, n. 198**, containing the "Code of equal opportunities between men and women".

SPECIFICATION ON THE MAIN STEPS

Other legislation is added to this special discipline

With regard to elected offices, in Italy, the prohibition of discrimination is set forth in art. 51 of the Constitution:

All citizens of either sex can access public offices and elected offices on equal terms, according to the requirements established by law. To this end, the Republic promotes equal opportunities between women and men with specific measures.

The law may, for admission to public offices and elected offices, make Italians not belonging to the Republic equal citizens.

Whoever is called to elective public functions has the right to have the time necessary for their fulfillment and to keep his job.

In relation to gender discrimination in elected offices, the Constitution then underwent modifications of a certain importance.

In particular the art. 51 underwent a change: initially, it only established that "All citizens of one or the other sex can access public offices and elected offices in conditions of equality, according to the requirements established by law". Now, with the Constitutional Law of 30 May 2003, n. 1, a second sentence was added, "To this end, the Republic promotes equal opportunities between women and men with specific provisions".

Even with the reform of the art. 117, paragraph 7, introduced by art. 3 of the Constitutional Law of 18 October 2001, n. 3, there is something new: "Regional laws remove all obstacles that prevent full equality of men and women in social, cultural and economic life and promote equal access for women and men to elected offices".

Alongside these references, other important indications follow:

1. in the text reformed by the law 3 November 2017, no. 165, establishes that in each list candidates must be placed "according to an alternating order of gender" and an identical rule is dictated **by art. 9**, paragraph 4, of Legislative Decree no. lgs. 20 December 1993, no. 533 ("Consolidated text of the laws on the election of the Senate of the Republic").
2. **the art. 56** of the Equal Opportunities Code, provides for favorable rules for women's access to the European Parliament.
3. **the art. 4**, paragraph 1, lett. c-bis) of the Law of 2 July 2004, n. 165, regarding regional elections, establishes that the regional electoral laws must respect some fundamental principles; in particular, they must observe that of the "promotion of equal opportunities between women and men in accessing elected offices, providing that:
 - a. if the electoral law provides for the expression of preferences, in each list the candidates are present in such a way that those of the same sex do not exceed 60 per cent of the total and the expression of at least two preferences is permitted, one of which is reserved for a candidate of a different sex, under penalty of annulment of the preferences subsequent to the first one.
 - b. if lists without expression of preferences are envisaged, the electoral law provides for the alternation between candidates of different sexes, in such a way that candidates of one sex do not exceed 60 percent of the total.
 - c. if single-member constituencies are envisaged, the electoral law regulates the balance between candidates presented with the same symbol in such a way that candidates of one gender do not exceed 60 per cent of the total".

In recent legislatures, regulatory measures have been introduced aimed at promoting gender balance within elective assemblies, not only in Europe, but also local, regional and national (Law No. 215/2012 for municipal elections; the Law No. 56/2014 for the elections - of second degree - of the metropolitan and provincial councils; Law No. 20/2016 for the elections of the regional councils; Law No. 165/2017 for the elections to Parliament.

Promotional measures of equal opportunities have also been included in the most recent provisions concerning the regulation of political parties.

The provisions of the 2008 Finance Law also derive from the constitutional amendment of article 51, which, by regulating the organization of the national government, establish that its composition must be consistent with the constitutional principle of equal opportunities in accessing public offices and elective offices (art. 1, paragraphs 376-377, Law 244/2007)

In the field of labor market and business:

- **Law n. 125 of 1991** – Positive actions for the realization of equality between men and women in the workplace
- **Law n. 53 of 2000** – Provisions for the support of maternity and paternity, for the right to care and training and for the coordination of city times

- **Legislative decree n. 65 of 2001** – General rules on the organization of work employed by public administrations
- **Legislative decrees n. 215 and 216 of 2003** – Legislative decrees implementing the directives on equal treatment
- **Legislative Decree n. 198 of 2006** – Code of equal opportunities between men and women
- **Legislative Decree 25 January 2010, n. 5** – Implementation of Directive 2006/54/EC on the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

Already in 1992, the legislator provided for positive actions for female entrepreneurship with the Law of 25 February 1992, n. 215 , providing provisions for companies with predominantly female participation and on its legitimacy, the Constitutional Court ruled in favor with Sent. no. 109 of 1993. providing that the interventions envisaged by Law 215/1992, constituted "interventions of a positive nature aimed at filling or, in any case, at attenuating an evident imbalance to the detriment of women, who, due to discrimination accumulated over the course of past history due to the domination of certain social behaviors and cultural models, it has led to favoring males in the occupation of the positions of entrepreneur or company manager".

Modification, first in 2011, then, in 2019 of the art. 147-ter of Legislative Decree lgs. 24 February 1998, no. 58 "Consolidated text of the provisions on financial intermediation"

For Adoption , nature and purpose **of affirmative action**.

SPECIFICATION ON Chapter IV - Promotion of Equal Opportunities (Legislative Decree 11 April 2006, n. 198)

At the European level, the achievement of gender equality and the empowerment of all women and girls is one of the **17 Sustainable Development Goals** that countries have committed to achieve by 2030.

In Italy, legislative action in recent years has focused, on the one hand, on the world of work, which has been the subject of numerous regulatory interventions aimed at recognizing equal rights and greater protection for working women. In particular, the provisions aimed at promoting the reconciliation between life and work times (also through a bonus for babysitting services) and parenting support, as well as the provisions for contrasting the so-called blank resignation. The support instruments aimed at the creation and development of enterprises with predominantly or wholly female participation have also been strengthened .

The centrality of issues relating to overcoming gender inequalities is also reaffirmed in the **National Recovery and Resilience Plan (PNRR)** to relaunch national development following the pandemic. In fact, the Plan identifies gender equality as one of the three transversal priorities pursued in all the missions that make up the Plan. The entire Plan will also have to be evaluated from a gender mainstreaming perspective.

a Directive COM (2021) 93 - on which the Chambers have expressed the expected opinion - is being examined by the European Parliament and the Council, which aims to counter the inadequate application of the fundamental right to equal pay pay and to ensure that this right is respected throughout the EU. The proposed directive pursues these objectives:

- ensuring pay transparency within organisations.
- facilitating the application of key concepts relating to equal pay, including those of "pay" and "work of equal value".
- strengthening enforcement mechanisms.

The XI Commission (Labour) of the Chamber is examining some bills which contain provisions aimed at the employment of women victims of gender-based violence. In particular, the proposals intend to

ensure this objective both through the recognition of tax breaks for the hiring of women victims of violence, and through the inclusion of the same in protected categories for the purposes of compulsory placement in the workplace.

The tools to support the creation and development of enterprises with a prevalent or total female participation have undergone a consistent implementation. Recent legislative interventions have on the one hand strengthened credit support and on the other introduced forms of direct support, together with actions for the diffusion of entrepreneurial culture among the female population, entrusted to public bodies in charge of this. The Women's Business Committee was set up - pursuant to the provisions of the 2021 budget law - at the Ministry of Economic Development and its powers include that of formulating recommendations relating to the state of legislation and administrative action, national and regional, in subject of female entrepreneurship and on the themes of the presence of women in business and in the economy.

The resources of the **PNRR** definitely strengthen the picture. The law of 30 December 2020, n. 178 established the Women's Enterprise Fund and provided that the Fund could grant non-repayable grants for the start-up of women's enterprises (with particular attention to sole proprietorships, freelance activities and activities started by unemployed women of any age); as well as zero-interest or subsidized loans to start and support the activities of women's businesses. The combination of grants and loans is also permitted.

The activities must focus on collaboration with the regions and local authorities, with trade associations, with the chambers of commerce system and with the committees for women's entrepreneurship, also through forms of co-financing between the respective programs on the subject. The Minister of Economic Development must then annually submit to the Chambers a report on the activity carried out and on the possible measures to be taken to solve the problems relating to the participation of the female population in the economic and entrepreneurial life of the country. To this end, the law provides for the establishment of the Women's Business Committee, which the Minister uses to carry out the activities indicated above.

The Interministerial Decree of 30 September 2021, adopted by the Ministry of Economic Development in agreement with the Minister of Economy and Finance and with the Minister for Equal Opportunities and the Family, regulates the scope of application, the aims of the intervention, the distribution of the financial endowment of the Fund and the implementation methods of the subsidy interventions from it, divided into the following lines of action:

- a) incentives for the birth and development of women's businesses;
- b) incentives for the development and consolidation of women's businesses;
- c) actions for the dissemination of culture and entrepreneurial training for women.

The Legislative Decree n. 34/2019 (L. n. 58/2019) introduces measures aimed at supporting, through facilitated conditions of access to credit, the creation of micro and small enterprises with predominantly or total participation by young people or women, throughout the national territory.

The subsidized zero-interest mortgages have a maximum duration of ten years (instead of 8 as envisaged before decree-law no. 34/2019) and for an amount not exceeding 75% of the eligible expenditure within the limits permitted by the state aid regulations of minor importance, so-called "de minimis" (Regulation (EU) No. 1407/2013), whereby the amount of the aid - in terms of interest relief - cannot exceed 200,000 euros over three financial years. The intervention in question was strengthened with the 2020 budget law (Law n. 160/2019 art. 1, paragraph 90, letter d)), which introduced the possibility of integrating the subsidized loans referred to in chapter 01 of Legislative Decree no. 185/2000, with a non-repayable quota (cf. infra), granted with an over the counter procedure, in an amount not exceeding 20 per cent of eligible expenses.

The investment initiatives must concern the production of goods in the sectors of industry, handicrafts, the transformation of agricultural products or the provision of services in any sector, including commerce and tourism, as well as initiatives relating to other sectors of particular relevance for the development of youth entrepreneurship (identified by the implementing inter-ministerial

decree).

The beneficiaries are the companies:

- a) established no more than sixty months after the date of submission of the
- b) application for relief;
- c) of micro and small size;
- d) established in corporate form;
- e) in which the team is made up, for more than half of the members and participation shares, by persons aged between 18 and 35 or by women.

The XI Commission (Labour) of the Chamber is examining some bills which contain provisions aimed at the employment of women victims of gender-based violence. In particular, the proposals intend to ensure this objective both through the recognition of tax breaks for the hiring of women victims of violence, and through the inclusion of the same in protected categories for the purposes of compulsory placement in the workplace.

The tools to support the creation and development of enterprises with a prevalent or total female participation have undergone a consistent implementation. Recent legislative interventions have on the one hand strengthened credit support and on the other introduced forms of direct support, together with actions for the dissemination of entrepreneurial culture among the female population, entrusted to public bodies in charge of this. The Women's Business Committee was set up - pursuant to the provisions of the 2021 budget law - at the Ministry of Economic Development and its powers include that of formulating recommendations relating to the state of legislation and administrative action, national and regional, in subject of female entrepreneurship and on the themes of the presence of women in business and in the economy.

The resources of the **PNRR** definitely strengthen the picture. The law of 30 December 2020, n. 178 established the Women's Enterprise Fund and provided that the Fund could grant non-repayable grants for the start-up of women's enterprises (with particular attention to sole proprietorships, freelance activities and activities started by unemployed women of any age); as well as zero-interest or subsidized loans to start and support the activities of women's businesses. The combination of grants and loans is also permitted.

The activities must focus on collaboration with the regions and local authorities, with trade associations, with the chambers of commerce system and with the committees for women's entrepreneurship, also through forms of co-financing between the respective programs on the subject. The Minister of Economic Development must then annually submit to the Chambers a report on the activity carried out and on the possible measures to be taken to solve the problems relating to the participation of the female population in the economic and entrepreneurial life of the country. To this end, the law provides for the establishment of the Women's Business Committee, which the Minister uses to carry out the activities indicated above.

The Interministerial Decree of 30 September 2021, adopted by the Ministry of Economic Development in agreement with the Minister of Economy and Finance and with the Minister for Equal Opportunities and the Family, regulates the scope of application, the aims of the intervention, the distribution of the financial endowment of the Fund and the implementation methods of the subsidy interventions from it, divided into the following lines of action:

- a) incentives for the birth and development of women's businesses;
- b) incentives for the development and consolidation of women's businesses;
- c) actions for the dissemination of culture and entrepreneurial training for women.

The Legislative Decree n. 34/2019 (L. n. 58/2019) introduces measures aimed at supporting, through facilitated conditions of access to credit, the creation of micro and small enterprises mainly or totally youth or female participation, throughout the national territory.

The subsidized zero-interest mortgages have a maximum duration of ten years (instead of 8 as envisaged before decree-law no. 34/2019) and for an amount not exceeding 75% of the eligible expenditure within the limits permitted by the state aid regulations of minor importance, so-called "de minimis" (Regulation (EU) No. 1407/2013), whereby the amount of the aid - in terms of interest relief - cannot exceed 200,000 euros over three financial years. The intervention in question was strengthened with the 2020 budget law (Law n. 160/2019 art. 1, paragraph 90, letter d)), which introduced the possibility of integrating the subsidized loans referred to in chapter 01 of Legislative Decree no. 185/2000, with a non-repayable quota (cf. infra), granted with an over the counter procedure, in an amount not exceeding 20 per cent of eligible expenses.

FOURTH LESSON - DURATION 3 HOURS

2.2 Gender discrimination from the point of view of health care

Since the 1970s it has become increasingly evident that the development of medicine had taken place through studies conducted mainly on male subjects.

Since the 1990s, traditional medicine has undergone a profound evolution through an innovative approach which aims to study the impact of biological, environmental, cultural, psychological and socio-economic variables determined by gender on the physiology, pathology and clinical characteristics of diseases.

In the 1980s, the first reference for orientation towards gender-oriented health care policies was given by the UN with a convention aimed at eliminating all forms of discrimination against women.

With the **Convention** on the Elimination of All Forms of Discrimination Against Women (CEDAW) adopted in 1979 by the United Nations General Assembly - International Treaty on Women's Rights, it entered into force on 3 September 1981, in fact the Member States are urged to take "appropriate measures to eliminate discrimination against women in the field of health care".

Thus was born the concept of gender medicine from the idea that the differences between men and women in terms of health are linked not only to their biological characterization and reproductive function, but also to environmental, social, cultural and relational factors defined by the term "gender".

The inclusion of the issue of "gender differences" in pharmacological experimentation, scientific research and health care policies is therefore recent.

The gender approach in medicine (treatment and prevention of diseases) and consequently in health care finds support from a whole series of studies in various fields:

- **Gender difference** in many diseases common to men and women - they very often present different incidence, symptoms and severity.
- **Men and women** may also have a different response to therapies and adverse drug reactions.
- **Access to care** has significant gender-related inequalities. Women get sicker more, consume more drugs and are more subject to adverse reactions, and are socially "disadvantaged" compared to men (physical and psychological violence, higher unemployment, economic difficulties).
- **For the same pathologies**, women can present, compared to men, different signs and symptoms (myocardial infarction) or different localizations (colon neoplasms, melanoma). Women have an immune system capable of activating more effective immune responses than men, and are therefore more resistant to infections, but at the same time show greater susceptibility to autoimmune diseases.
- **In Western countries**, although women live longer than men, the expectation of a "healthy

life" is equivalent between the two sexes; in fact, in women, the years of advantage are often burdened by disability, mainly related to the consequences determined by chronic diseases and poor quality of life,

- **The response to therapies** , in the field of gender differences, is of significant importance. Some physiological parameters (height, weight, percentage of lean and fat mass, quantity of water, gastric pH) are different in men and women and condition the absorption of the drugs, their mechanism of action and their subsequent elimination. Despite these variables, the effects of the drugs have been studied mainly on male subjects and the dosage in the clinical trial is defined on a man weighing 70 kg. In addition to the factors mentioned above, age and ethnicity are further relevant variables in the response to therapy. The same can be said for the performance of medical devices and the effects of their use .
- **Medicines and Medical Devices** . Gender differences in pharmacology are very important and in part attributable to the different biology between the two sexes: hormonal variations, weight, body composition, gastric acidity, glomerular filtration. All of these factors influence the absorption, distribution, metabolism and elimination of drugs. Compared to men, women consume more drugs, often in polypharmacy , and record a greater number of adverse events. The effectiveness of some drugs differs between genders. To date, the number of women in intervention clinical trials is very low and even in preclinical trials most of the studies are conducted on male animals. The same situation can be found in the field of studies on medical devices, such as prostheses or venous catheters. In fact, a use of medical devices that takes into account the anatomical-functional differences related to gender is not yet sufficiently considered.
- **Cardiovascular disease** in women is an issue that has been little considered and women poorly included in clinical trials related to heart disease. Furthermore, the understanding of the pathophysiological mechanisms of cardiovascular pathologies in women is still not clear, for example, they may present different symptoms of heart attacks. The incidence of cardiovascular pathologies is lower than in men during the fertile age, it equals men after the meno-pause, until it exceeds it after the age of 75, this by virtue of the endocrine-metabolic variations due to the lack of of estrogenic protection. In Italy, mortality from cardiovascular, heart and brain diseases is higher for women than for men and the leading cause of death for women, as in all industrialized countries, is myocardial infarction.
- **Neurological Diseases** . The brain differs both structurally and functionally in males and females. Neuroimaging demonstrated the presence of dimorphic brain regions in both sexes, with greater volume of the frontomedial cortex , amygdala, and hypothalamus in males, and paralimbic frontal regions , orbital cortex, precentral gyrus, and lingual gyrus in females. Connectome studies have shown that male brains have increased intra-hemispheric connections, while female brains have increased inter-hemispheric connectivity. These structural differences explain the better integration between perception and coordinated action in males, who are better at visuospatial tasks , and between logical processing and intuitive thinking in females, who are better at verbal tasks. Epidemiological studies of the incidence and prevalence of neurological diseases in both sexes include sexual cerebral dimorphism – together with genetic, hormonal, immunological factors, and the response to psychosocial stress – among the risk factors for specific morbid conditions. For example, Alzheimer's disease, multiple sclerosis and major depression affect females more frequently, while Parkinson's disease has a higher incidence in males. Gender also influences the brain changes associated with aging, modulated by hormonal changes that occur after menopause.
- **Bone diseases** . Among bone diseases, osteoporosis is still today a pathology perceived as a characteristic of the female sex linked to the lack of estrogen that occurs in the postmenopausal age . In fact, epidemiological studies show that in Europe 6% of men aged between 50 and 90 have osteoporosis. Osteoporosis, and the consequent increase in the risk of fractures, are mainly studied in women, although, with a ten-year delay, men also develop osteoporosis and a risk of fracture in old age. Furthermore, mortality after hip fracture is higher in men than in women. Yet, determination of bone mineral density is tested 4 times

less in humans. Most osteoporosis drugs have only been studied in women and are not currently prescribed for men. Osteoarthritis in Italy affects over 4 million people, with associated costs of over 6.5 billion euros. Men and women before the age of 50 suffer from it in similar percentages but, after the age of 60, women are progressively more at risk, until they suffer twice as much as men, with an increasing number of joints involved and an increasing severity of the damage with the age. Female gender is a risk factor for prosthetics and women have greater pain and functional disability with the same radiological degree. It is therefore important to focus research efforts on the study of gender solutions that allow to prevent/obstruct joint degeneration.

- **Psychiatric Illnesses** . Large population studies have generally confirmed the significantly higher prevalence (on average double) of major depression, dysthymia, generalized anxiety disorder, panic disorder, social phobia and specific phobias in the female gender, compared with significantly higher rates of antisocial personality and substance and alcohol use disorders in the male gender. The greater exposure of women to certain highly stressful life events and situations would contribute in a very significant way to the greater female risk of falling ill with certain disorders. The best example is given to exposure to violence, suffered in the course of life by an estimated percentage of women ranging from 16 to 50%; this, whether physical, sexual or psychological, is strongly correlated as a risk factor to pathologies typically more frequent in women, such as depression, post-traumatic stress disorder, dissociative disorders, suicide attempts, somatoform disorders (mental disorders characterized by the presence of physical reported by the patient, but without a medical basis). From a phenomenological point of view, it is well known that women with depression report more somatic symptoms than men, such as asthenia, appetite and sleep disturbances, while in schizophrenia, depressive symptoms and schizoaffective forms are more frequent in women (defined by the simultaneous presence of typical symptoms of schizophrenia and mood disorder) while in men apathy, lack of language, social isolation and cognitive deficits seem to be more frequent.
- **Respiratory diseases** . Gender differences in the respiratory area are in fact already present in the embryonic period. In the two sexes, the lung and the airways present significant differences in terms of embryonic development, anatomical and functional characteristics. Furthermore, some studies have shown both in Europe and in the USA a "feminization" of many pathologies that previously constituted a "male primacy". For example, both chronic obstructive pulmonary disease (COPD) and asthma have been recognized as pathologies with gender differences in terms of clinical manifestations, the presence of comorbidities, functional and radiological aspects, response to therapy. A fundamental role seems to be represented by risk factors, such as lifestyles and exposure to pollutants.
- **Autoimmune Diseases** . Rheumatic diseases in general, and autoimmune diseases in particular, have a very significant female predominance. Men contract bacterial and viral infections more easily because they have a less powerful immune system than women, but this aspect leads them to have fewer autoimmune diseases than women. On the other hand, if the man becomes ill, for example with Graves' disease or systemic lupus erythematosus, he has a worse prognosis. Therefore, any research effort must consider gender differences from both a preclinical (with models that mirror both sexes) and clinical (in terms of risk factors, treatment, and natural history) perspectives.
- **Dermatological diseases**. Even dermatological diseases recognize an important influence of this kind in many aspects, such as the quality of life and the experience of one's skin and, consequently, also the clinical-therapeutic approach can be influenced. Some gender peculiarities concern dermatological diseases of the allergic type, in particular contact dermatitis . Allergy to the black color of hair dye due to the p- phenylenediamine allergen mostly affects the female population as well as the better known nickel allergy. The female gender must also be considered in the context of the screening and follow-up of melanocytic lesions to avoid an " overtreatment " of clinically and dermatoscopically atypical lesions that can present to women in particular locations such as the buttocks and folds. Melasma is a common pigmentation disorder that leads to facial hyperpigmentation in females . The multifactorial pathogenesis is due to stimulation by female sex hormones in subjects predisposed to photodamage.

- **Vaccines** . It is known that women develop more intense innate and acquired immune responses, both humoral and cell -mediated, than men. This is reflected in a different response to vaccines in the two sexes: significantly higher titres of protective antibodies are achieved in women in response to vaccines than in men. However, women experience adverse reactions to vaccines more often. In fact, the reports received by AIFA of adverse reactions for female subjects are about double those recorded for males; however, it must be taken into account that this datum is affected not only by the fact that the female population is more numerous than the male one, but also by a possible influence of biological, hormonal and genetic factors that are not yet completely defined, and by the greater attention that women have to one's state of health which therefore entails a greater aptitude for observing adverse drug reactions. Sex hormones, genetic and epigenetic factors and the different composition of the microbiota play a key role and can influence the immune responses and the vaccination outcome in men and women. Uncovering the mechanisms involved will help identify ways to reduce adverse reactions to vaccines in women and enhance the immune response in men.
- **Viral infections.** Viral infections present important differences in males and females as regards their prevalence, intensity, outcomes and pathogenetic mechanisms. These differences are partly justified by the different immune response in the two sexes (greater in the female), but other factors, for example linked to lifestyles or to the very characteristics of the pathogen, can play an important role. A paradigmatic example is represented by the HIV virus. Indeed, in HIV infection , gender differences can influence the risk of infection, disease progression and response to antiretroviral therapy. In fact, women are more susceptible to HIV infection than men and this susceptibility is certainly favored by a series of anatomical, biological and social factors. Furthermore, we must not forget the favorable role of other sexually transmitted infections and of hormonal contraceptives, often used instead of "barrier" contraceptives, such as the condom. The possibility of transmitting the infection horizontally (heterosexual) and vertically places HIV-positive women at the center of complex problems that require specific management and greater support than that provided to male patients. Gender can also play an important role in the immunoactivation process , influencing different clinical outcomes . There is, for example, a higher prevalence of myocardial infarction among HIV-positive women than HIV-negative women, but also compared to HIV-positive men. Increase the number of women in randomized clinical trials tested and controlled in order to understand the different metabolism and the specific mechanisms of toxicity, could help to identify a "personalized" therapy on the basis of the characteristics of the patient's sex.
- **Bacterial infections** . It has been demonstrated that many infectious diseases of bacterial origin are sexually dimorphic. Urinary tract infections are more common in women, while endocarditis and mediastinitis occur more frequently in men. It should be remembered that sex hormones play a role in the dimorphic clinical expression of acute infectious diseases, which may in part explain the difference in reported incidences of infectious diseases.
- **Metabolic diseases** . The body composition of men and women is very different. Women have a higher percentage of fat mass and men more muscle mass. Women are more likely to deposit subcutaneous and lower limb fat, while men are more likely to accumulate visceral fat. After menopause, the distribution of adipose tissue in women changes by increasing in the truncular region. Although men and women are both susceptible to obesity, the health consequences differ between genders. The link between mortality and body mass index is stronger in women than in men. Furthermore, with the same age and degree of overweight, the increase in visceral adipose tissue is more strongly associated with cardiometabolic risk markers (insulin resistance, dyslipidemia, metabolic syndrome) in women than in men, in which it is instead more harmful the increase in intramuscular fat. The subcutaneous adipose tissue of the lower limbs is protective against atherosclerosis in women and not in men because it probably represents an evolutionary consequence of the need to more efficiently accumulate energy in the adipose tissue of women involved in the reproductive process. Because of their greater propensity to be overweight and the fall in estrogens which positively influence glucose homeostasis, the prevalence of type 2 diabetes mellitus is higher among women than among men only after the age of 70. Diabetic women, compared to men, have

a double risk of heart disease, an earlier incidence of myocardial infarction with higher mortality, an increased risk of heart failure, stroke and claudication . The influence of sex steroids on the different level of risk and grouping of risk factors in the two genders is still uncertain.

- **Oncology** . Many gender differences have been described in oncology however , women still remain underrepresented in clinical trials in important areas such as oncology. The efficacy of chemotherapy varies and the difference in the clinical characteristics of the tumors, with the same histology and stage, is sometimes observed, but not included in daily clinical attention and guidelines. Lung cancer mortality has increased by 500 percent in women since the 1950s and women develop lung cancer 2.5 times more often than men, even if they are non-smokers. The reasons for these differences are not yet known , which are not only linked to hormonal factors, but also genetic and metabolic ones, and research in this field is an absolute priority. The role of estrogen also appears to have a negative influence since some large cell tumors express estrogen receptors. Understanding the impact of hormonal factors on the development and progression of tumors could have important therapeutic implications, as has already happened for prostate and breast tumors. Colon cancer is the second leading cause of death in both sexes in Europe and the USA, but affects women 5 years later than men, usually in the ascending colon and in men in the descending colon, and also mortality in woman is 5 years delayed. For this reason, it would be more appropriate to extend screening to women over the age of 70. Melanoma is a neoplasm that can present a different localization in women and men (most frequently trunk in men and limbs in women) and sees a greater survival in women. Thyroid cancer is more common in women but has a worse prognosis in men. The reasons for these epidemiological differences are not known, but it has been proposed that hormones may play an important role. Gender differences are, obviously, at the basis of some exclusive (prostate and ovarian) or almost exclusive (breast) types of cancer of a single gender. Recently, epidemiological studies have also highlighted significant gender differences in the incidence, aggressiveness, progression, prognosis and response to therapy, including immunotherapy, in many types of tumors common to both sexes.
- **Pediatrics**. Belonging to a gender can condition the psycho-physical development of the person from the first years of life. Already from fetal life, gender differences influence the possibility of developing different anomalies. The risk of cesarean delivery or prematurity is more frequent in males. In the pediatric age some data show gender-related differences, for example for some infectious diseases in which the incidence is higher in males (bronchiolitis, osteomyelitis, meningococcal meningitis), while in females an immune response develops, both humoral and cellulose . -mediated, superior and prolonged which is protective against infections, but which exposes to a greater risk of developing autoimmune and inflammatory diseases. Another clinical evidence in the pediatric age concerns the prevalence of autism spectrum disorders (DAS) which is greater in males; however, the diagnosis of DAS in females is associated with greater disease severity and lower IQ. Attention Deficit Hyperactivity Disorder (ADHD) also has a much higher incidence in males. Other examples of differences in pediatrics concern certain types of tumors (lymphomas and brain tumors more frequent in males) and metabolic pathologies (type I diabetes more frequent in females), respiratory (asthma more frequent in males) or autoimmune (pediatric lupus erythematosus much more common in girls).
- **Disorders of sexual development**. Disorders of Sex Development (DSD) deserve particular attention in the field of gender medicine . DSDs are defined as congenital conditions in which the development of chromosomal, gonadal, or anatomical sex is atypical. The wide phenotypic variability of these conditions ranges from minimal alterations to a picture of severe genital ambiguity. Developing a correct diagnosis is a complex objective, but necessary for the correct management of patients, both for medical problems, since some conditions put the patient's life at risk (for example, congenital adrenal hyperplasia), and for psychological impact that this condition has on the affection and family in the short and long term. DSDs constitute a challenge for the correct application of gender medicine, but they also represent an important opportunity for understanding the processes that determine sexual and gender identity.

In the 1980s, the first reference for orientation towards gender-oriented health care policies was given by the UN with a convention aimed at eliminating all forms of discrimination against women. With the Convention on the elimination of all forms of discrimination against women (**CEDAW**) adopted in 1979 by the General Assembly of the United Nations - International treaty on women's rights, entered into force on 3 September 1981 - the Member States, in fact, are urged to take "appropriate measures to eliminate discrimination against women in the field of health care". Subsequently, **the World Health Organization (WHO), the European Community (EC), the European Medicines Agency (EMA), the European Agency for Safety and Health at Work (OSHA), the National Institutes of Health (NIH) in the USA**, intervene with specific actions aimed at:

- recognize gender as a fundamental determinant of health,
- eliminate gender inequalities in health care
- provide information on the drug/medical device interface and gender differences,
- reduce work-related risks on women's health,
- ensure, in clinical trials of drugs and medical devices, an equal representation of women, still classified as a "demographic subgroup".

In particular, **the WHO in 2009** established a department dedicated to women's health and attentive to gender differences.

Subsequently, the WHO identifies "gender" as an essential theme of health planning (Action Plan 2014-19).

In 2017, a group of experts from the WHO Regional Office for Europe met in Copenhagen to develop the first strategy.

It is hoped that such activities can stimulate the development of specific national health policies for women and men.

In accordance with international policies on gender medicine, the EC intervenes with the publication of the document. *The state of health of European women* (1997), which explores the issue of specific health indicators for women.

Two institutes are also founded: **the European Institute of Women's Health (2007) and the European Institute for Gender Equity (2011)**,

The EC also takes care of the 2011 Report on the state of health of men in Europe, helping to highlight the great health disparities between men of different nations and subsequently, with the launch of the "Europe 2020" programme, focuses attention the importance of gender equality in social progress.

Institutes, research and the Report contribute to affirming how gender is a fundamental variable of health and disease and, in 2011, work began to outline guidelines for integrating the gender dimension into the 2018-2020 Framework Programme.

In Italy, attention to gender medicine is manifested for the first time in 1998 when the Ministries for Equal Opportunities and Health launch the project "A health tailored to women".

and drugs for women" work table was set up at the Ministry of Health, which was attended by the Istituto Superiore di Sanità (**ISS**), the Italian Medicines Agency (**AIFA**), the Agency for Regional Health Services (**ASSR**) and the Italian Society of Pharmacology (**SIF**), coordinated by Undersecretary Elisabetta Alberti Casellati.

In 2007 the then Minister of Health Livia Turco established the Commission on Women's Health which published the report State of women's health in Italy, in which it is recommended to collect gender data on health, define specific training courses at university level and for NHS operators and to promote research programs from a gender perspective.

the Ministry of Health and AIFA funded research projects in the field of gender medicine.

The National Institute of Statistics (ISTAT) recently introduced the so-called "sex stratification" as a methodological tool for the analysis of epidemiological data in order to identify different

characteristics according to specific gender indicators. In 2005, the National Women's Health Observatory (ONDA) was born in Milan, which it subsequently added to its denomination "and gender" and became a Foundation.

The objective of the Foundation is to promote a culture of gender health at the level of:

- institutional, health care,
- scientific-academic and social and to guarantee women the right to health according to principles of equity and equal opportunities.

Since 2011, the ISS has paid attention to gender medicine by activating **the Degenerative Diseases, Aging and Gender Medicine** Department within the Department of Medicines. Since 2017, the Reference Center for Gender Medicine has been established, which carries out biomedical research, training and communication activities, as well as institutional activities from a gender perspective. The Reference Center for Gender Medicine of the ISS, with the association National Study Center on Health and Gender Medicine create the Italian Network for Gender Medicine with the aim of developing scientific research, promoting the training of doctors and health professionals and information for the population.

Since 2015, the entities making up the network have founded The Italian Journal of Gender- Specific Medicine, a tool of fundamental importance in the dissemination of gender research and culture. The ISS also has an active scientific collaboration agreement with the University of Ferrara, with particular interest for the University Center for Studies on Gender Medicine.

The concept of gender medicine has also been implemented by some Italian Regions through its inclusion in the Regional Social-Health Plan, the establishment of technical tables and regional centres, the attribution of gender objectives to the General Managers of the healthcare companies, the organization of training and refresher courses for healthcare professionals.

The issue of gender medicine was mentioned for the first time in 2011 by the "Omnibus" decree-law and in the same year the parliamentary intergroup "Supporters of gender medicine" was established. Thanks to this group, in March 2012 the joint motion on gender medicine was approved in the Chamber of Deputies.

But it is in 2018, with Law **3/2018** that for the first time in Italy the inclusion of the "gender" parameter in medicine is guaranteed, which will thus be able to consider this determinant both in the clinical trials of drugs and in the definition of pathways diagnostic-therapeutic and training courses for students and health professionals.

On 21 June **2019**, the **Plan for the application and dissemination of Gender Medicine** of 6 May 2019 prepared by the Ministry of Health was published , with the support of the Reference Center for Gender Medicine of the Istituto Superiore di Sanità and with the collaboration with a national technical-scientific table of regional experts in Gender Medicine and the representatives for Gender Medicine of the network of Scientific Hospitalization and Treatment Institutes (IRCCS)

The plan is aimed at giving a coordinated direction for the diffusion of Gender Medicine through dissemination, training and indication of health practices, which, in research, prevention, diagnosis and treatment, take into account the differences deriving from gender, in order to guarantee the quality and appropriateness of the services provided by the National Health Service in a homogeneous way on the national territory.

PLAN ANALYSIS: GENERAL OBJECTIVES AND SPECIFIC OBJECTIVES in 4 areas.

LAZIO REGION CASE

FIFTH AND LAST LESSON – DURATION 2 HOURS

2.3 Discrimination of persons with disabilities

The United Nations Convention on the Rights of Persons with Disabilities, December 2006, commits Member States to recognize the right of persons with disabilities, to " **Promote, protect and ensure the full and equal enjoyment of all human rights and freedoms by persons with disabilities, and to promote respect for their inherent dignity**". [...] "Respect for inherent dignity , individual

autonomy, including the freedom to make one's own choices, and the independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of persons with disabilities as part of human diversity and of humanity itself; equal opportunities; accessibility ; equality between men and women; respect for the development of capacities of children with disabilities and respect for right of minors with disabilities to preserve their identity"; a "To raise awareness in society as a whole, including at the household level, about the situation of persons with disabilities ; to increase respect for the rights and dignity of persons with disabilities; to combat stereotypes, prejudices and harmful practices concerning persons with disabilities , including those based on gender and age, in all domains; to promote awareness of the abilities and contributions of persons with disabilities" [...] to live independently and be included in society, to the recognition of the right to education, to work and to participate in cultural and recreational life,

The UN Convention on the rights of children and adolescents, ratified by the Italian Parliament with Law no. 176 of 1991, provides in art. 23, co. 3, that "minors with disabilities have effective access to education, training [...] and can benefit from these services in a manner capable of realizing the most complete social integration and their personal development, also in the cultural and spiritual", by virtue of the right to education recognized to them in art. 28;

In Italy, fundamental for inclusion is Law **104/1992** "Framework law for assistance, social integration and the rights of handicapped persons." GU 17 February 1992, n. 39 (the text to be consulted is the one in force after the last modifications introduced by the Law of 8 March 2000, n. 53 and by the legislative decree of 26 March 2001, n. 151).

ANALYSIS OF THE LAW access to services EXAMPLES.

ANALYSIS IN PARTICULAR OF THE ARTICLES 1,3,12,13

The right to education is guaranteed **by art. 14** of the **Charter of Fundamental Rights of the European Union of 2000** which underlines the centrality of the person, the right of every individual to education and professional training, as well as recognizes and respects the right of persons with disabilities to benefit from measures aimed at guaranteeing their autonomy, social and professional integration and participation in the life of the community.

The revised **European Social Charter** (ETS No. 163), opened for signature on 3 May 1996 and ratified by Italy on 5 July 1999, states in particular the following:

ARTICLE 15 E ANALYSIS OF THE COMMITMENT OF THE PARTIES

Recommendation Rec (2006) 5 of the Committee of Ministers to member states on the Council of Europe Plan of Action to promote the rights and full participation of persons with disabilities: Improving the quality of life of persons with disabilities in Europe 2006- 2015, adopted on 5 April 2006, provides for numerous lines of action

In Italy the principle dictated by article 34 of the Constitution becomes substantial in 1992 with the **Law of 5 February 1992, n. 104** "Framework law for assistance, social integration and the rights of disabled people." GU 17 February 1992, n. 39 (the text to be consulted is the one in force after the last modifications introduced by the Law of 8 March 2000, n. 53 and by the legislative decree of 26 March 2001, n. 151) .

ANALYSIS OF THE MAIN STEPS

The first action proposed is to counter the isolation and segregation of people with disabilities. The promoters are the Ministry of Labor and Social Policies and the State-Regions Conference. The collaborators are **OND, ANCI, ISTAT** , the Organizations of people with disabilities and others of the Third Sector and the Ministry of Health.

Two-year action program for the promotion of the rights and integration of people with disabilities :

- Recognition of the condition of disability, multidimensional assessment aimed at supporting the system of access to services and benefits and personalized planning
- Health, right to life, habilitation and rehabilitation
- Scholastic inclusion and training processes of which (Law 104 /1992 is one of the first sources)
- Work and occupation
- Promotion and implementation of the principles of accessibility and mobility
- International cooperation and international projection of disability policies
- Development of the statistical system and monitoring of policy implementation

The support structure used by the Minister for the promotion and coordination of government action in the field of disability is the Office for policies in favor of persons with disabilities whose functions and responsibilities are:

Taking care of the fulfilments necessary for the realization of the interventions connected to the implementation of the policies aimed at guaranteeing the protection and promotion of the rights of persons with disabilities and at favoring their full and effective participation and social inclusion, as well as their autonomy, in line with the United Nations Convention on the Rights of Persons with Disabilities and the Charter of Fundamental Rights of the European Union.

ANALYSIS OF THE FUNCTIONS OF THE OFFICE FOR POLICIES IN FAVOR OF PEOPLE WITH DISABILITIES.

In March 2021, the European Commission adopted the Strategy for the Rights of Persons with Disabilities **2021-2030** .

With this ten-year strategy, the European Commission intends to improve the lives of people with disabilities in Europe and in the world.

The strategy builds on the achievements of the previous European Disability Strategy 2010-2020 , which paved the way towards a barrier-free Europe and towards the empowerment of people with disabilities to enjoy their rights and participate fully in society and life. 'economy. Despite the progress made over the last decade , people with disabilities still face significant barriers and are at increased risk of poverty and social exclusion. The aim of the new strategy is to make progress towards ensuring that all people with disabilities in Europe, regardless of gender, racial or ethnic origin, religion or belief, age or sexual orientation, can:

- enjoy of their rights humans
- have equal opportunities and equal access to society and the economy
- being able to decide where, how and with whom to live
- move freely in the EU regardless of their assistance needs
- no longer be victims of discrimination.

This new, enhanced strategy takes into account different disabilities, including long-term physical, mental, intellectual or sensory impairments (in line with Article 1 of the United Nations Convention on the Rights of Persons with Disabilities), often invisible.

It takes into account the risks of multiple disadvantage faced by women, children, the elderly, refugees with disabilities and people with socio-economic difficulties, and promotes a cross-sectoral perspective in line with the United Nations 2030 Agenda for Sustainable Development and the Sustainable **Development** Goals (**OSS**).

The new strategy therefore provides for an ambitious set of actions and initiatives in various sectors and has numerous priorities.

The role of the EU in leading by example

the EU's intention to make the strategy a reality by promoting the rights of people with disabilities worldwide.

Main initiatives

- AccessibleEU : a database with information and good practices on accessibility in all sectors (by the end of 2022)
- European Disability Card: will be proposed by the European Commission and will be valid in

all EU countries. The card will make it easier for disabled people to obtain adequate support when traveling or moving to another EU country (by the end of 2023).

- Guidelines with recommendations to Member States on how to improve independent living and inclusion in the community of people with disabilities, allowing them to choose whether to live in accessible and supported accommodation or to continue living in their own homes (2023).
- A framework for social services of excellence for people with disabilities (2024)
- A package to improve the integration of people with disabilities into the labor market (to be launched in the second half of 2022)
- Platform on Disability : Brings together national authorities responsible for implementing the Convention, organizations of persons with disabilities and the Commission. It supports the implementation of the strategy and strengthens collaboration and exchanges to this end.
- New human resources strategy of the European Commission, including actions to promote the diversity and inclusion of people with disabilities.
- MODELS of behavior in the social welfare relationship.

Conclusions

In a working context in which the service is of a health and/or social health nature, in the social complexity in which "old" discriminations have been joined by "new" ones as well, the proposed training course is oriented towards the objective of socializing future operators on the issue of anti-discrimination legislation, on community, international and national plans and strategies in order to raise awareness of the phenomenon of discrimination.

From the point of view of a "recent" figure who has entered the area of social and health professions and is included in individual care plans, the issue addressed from a regulatory point of view and strategic plans to stem discrimination can represent a space for reflection for a figure professional to date of support to the organization and above all of development to the organization.

Furthermore, the awareness that discrimination in all its forms and expressions is a violation of human rights, often not questioned and not de-constructed in behavior patterns and interactions can, through good practices and active communication, offer a support in outlining a fundamental ethical principle at the basis of the social and health care relationship: the orientation towards social justice.

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