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GLOBAL EUROPE CENTRE WORKING PAPER 2015

*Democracy in the European Union: Examining
Gender (Im)balance in the European Parliament*

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Abstract

This project examines political representation in the European Union (EU) from a gender-balance perspective. A justification for gender-balance representation mechanisms will be drawn in order to set a base for explaining the different methods used in the Member States of the European Union in order to conclude what is the best stream of action to take in the road to achieving gender-balanced representation.

I GENDER-BALANCED REPRESENTATION AND THE EUROPEAN PARLIAMENT

Female political participation has been a source of growing concern to the United Nations, the European Union and the Council of Europe, lavishing rules and recommendations to encourage states to adopt measures with the objective of reducing this representative deficit, not only as an imperative of justice but also because it represents a strengthening of democracy that rests on the participation of all people in each of the decision making processes. Women are half of the population and are entitled to have their specific and different interests, partly generated by an imposed socialisation, to be present in representative institutions.

This working paper focuses on the lack of gender-balanced representation in the European Parliament. Through the analysis of the data for the electoral results for the European Parliament since 1979¹, the present study intends to establish that the lower presence of women than men in the European Parliament has been a constant throughout all these years. Additionally, an insight to the justification of parity democracy and the different measures used in the Member States of the European Union in order to achieve an equal representation of women and men in legislative bodies will be provided so as to properly examine the different possibilities and the need for parity representation.

1 A Supranational Legislative Body: The European Parliament

There are various reasons why the choice of the European Parliament as the object of study might be questioned. On the one hand, electoral turnout in European elections remains to progressively decrease, as the data registered since the 1979 elections prove². On the other hand the aggregate representation of women in the European Parliament is consistently higher than in the national parliaments of Member States³.

The following conclusions may be drawn from the previously stated facts: In the first place, the lack of importance attributed to European elections and decision-making bodies is the very reason why the representation of women is higher in the latter than

in national parliaments. Moreover, the analysis and drawing up of proposals towards the achieving of parity representation in the European Parliament may not reflect on an actual result in all levels of political representation, for European elections are not taken as seriously as those carried out at the national level.

However, the importance of the European Union in the construction of global democracy and the trickle down effect its policies and action streams have on national politics is undeniable. The EU is the only solid supranational organisation in the world, furthermore it is the largest organisation made up of nation-states which has a Parliament directly elected by citizens, seeing as the only other supranational organization with a Parliament directly elected by its citizens, the Andean Community, has only five member states⁴. It consequently provides the possibility of comparing the effect of mechanisms implemented by States to achieve a gender-balanced representation within the framework of the same legislative body.

The elimination in differences between States in the independent variable "electoral system" is the other main factor that allows a more accurate depiction of how quotas and other elements introduced in political systems in order to achieve parity democracy determine the female presence in legislative bodies. The reform of the electoral procedure for the election of the representatives of the European Parliament passed in 2002⁵ set a number of relevant provisions with the aim of

working towards the harmonisation of the electoral procedures for the elections for the European Parliament in the different Member States:

- *"Members of the European Parliament are to be elected on the basis of proportional representation, using either a list system or single transferable vote.*
- *Member States became free to establish constituencies or subdivide their electoral areas as they wished, provided this did not affect the proportional nature of the voting system.*
- *Member States were permitted to establish a minimum threshold for the allocation of seats, provided this did not exceed five per cent of vote cast.*
- *The Office of Member of the European Parliament became incompatible with that of member of a national parliament."*⁶

2 The Concept of Parity Democracy: Historical Evolution

The aim of this working paper is not exclusively to place the focus on the lack of a gender-balanced representation in the European Parliament but to establish the model of Parity Democracy as the only form of Democracy possible. The justification of parity will thus be approached from different legal and political perspectives in order to conclude that parity is, and must be, a constitutive element of Democracy.

Since the birth of Democracy as conceived by contractualist authors such as Jean-Jacques Rousseau and John Locke, feminist authors demanded to acquire the possibility of participating in political decision-making processes. Feminist thought appears as a correction to the first enlightened democracies, echoing through writers and activists such as Mary Wollstonecraft and Olympe de Gouges who voiced claims of participation in public life which was, at that time, denied to women as a consequence of their alleged lack of rational thought.⁷



¹ The European Parliament: Historical Background. (2015). Retrieved March 9, 2015, from www.europarl.europa.eu/ftu/pdf/en/FTU_1.3.1.pdf

² Turnout 2014 – European Parliament. (nd). Retrieved March 15, 2015, from www.europarl.europa.eu/elections2014-results/en/turnout.html

³ Fortin-Rittberger, J, and Rittberger, B (2014). Do electoral rules matter? Explaining national differences in women's representation in the European Parliament. *European Union Politics*, 15(4), 496-520. Retrieved March 1, 2015, from SAGE journals.

⁴ Naturaleza. (nd). Retrieved March 20, 2015, from www.parlamentoandino.org/index.php/acerca-de/rol-institucional/naturaleza

⁵ Council Decision 2002/772 EC, Euratom of 25 June and 23 September 2002, amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Decision 76/787/ECSC, EEC, Euratom (OJ L 283 of 21 October 2002).

⁶ Strauch, N, and Pogorelis, R (2011, October 1). Electoral Systems: The Link Between Governance, Elected Members and Voters. Retrieved April 1, 2015.

⁷ See generally Cobo, R (1995). *Fundamentos del patriarcado moderno*: Jean Jacques Rousseau. Madrid: Ediciones Cátedra.

I GENDER-BALANCED REPRESENTATION AND THE EUROPEAN PARLIAMENT CONT

However, the concept of Parity Democracy in itself did not appear until quite recently, the actual “demand of establishing parity between men and women in positions of political decision-making is something new”⁸ and its construction proves necessary in the justifying of gender-balanced representation in decision-making and power institutions.

The immediate precedent can be placed on the Declarations of Human Rights that emerged after the Second World War in which sex was placed as one of the main categories on which discrimination was based on. It was around this time that suffrage was extended to women across Europe, yet it is still possible to see that the progress made in the inclusion of women in political decision-making positions has not been significant, especially when compared to other arenas of social life.⁹

The importance of discrimination based on sex is especially relevant for several reasons. Firstly, it is not an abstract type of discrimination but one that is specifically directed and suffered by only one of the two sexes, women. Secondly, discrimination based on sex has been directed to women for the very reason of being women across all cultures and legal systems, denying them the same rights enjoyed by men. Thirdly, sex remains, alongside race, to be a permanent (almost unchangeable) characteristic of the human being. Finally, its relevance relies especially upon the fact that sex, as a category on which discrimination is based on, overlaps all other categories of discrimination.¹⁰

It was in the final years of the decade of 1980 when the concept of parity democracy appeared within the context of a generalised growing interest amongst researchers on the relations between power, government and gender understood as the social construction based on the biological differentiation of sex. This interest also extended to non-governmental and governmental organisations¹¹, leading to the Committee of Ministers of the Council of Europe adopting a resolution in November of 1988 on the equality of with the aim of promoting awareness on the demand of democracy and rights of the individual in relation to the equality of women and men.¹²

Perhaps one of the most important turning points in the recognition of the fact that, a lack of women in representative institutions necessarily meant a lack in Democracy was the Conference of Athens of 1992. In order to understand the concern on the lack of women in positions of power and the construction of the concept of parity democracy, the content of the Declaration of Athens must be mentioned. This declaration began its statement as follows:

We note that the current position of women in the Member States of the European Communities as in other European countries is still characterised by profound inequality in all public and political decision-making authorities and bodies at every level -local, regional, national and European.

We note with concern that women's participation in political decision-making has not improved in a number of European countries since the mid-seventies and that recent political developments have resulted in a significant decrease in the proportion of women in decision-making, particularly in the legislative assemblies in some of these countries.

We conclude that women's access to the same formal rights as men, such as the right to vote, stand for election and apply for senior posts in public administration, has not produced equality in practice.

We therefore deplore the lack of strategic policies to give practical reality to the principles of democracy.

The Declaration of Athens considered the lack of practical equality to hinder democracy, however it is not possible to frame the need for a gender-balanced representation within all interpretations of democracy. This is why Section II of this working paper will focus on developing a concept of gender-balanced representation that can fit in the democratic system in order to conclude that the only possible way to justify the need for gender-balanced representation is within the framework of parity democracy.



⁸ Vogel-Polsky, E (2000). Democracia Paritaria en Europa. In Políticas de Género en la Unión Europea (p91). Madrid: Narcea Ediciones. Own translation.

⁹ Vogel-Polsky, E (2000). Democracia Paritaria en Europa. In Políticas de Género en la Unión Europea (p91). Madrid: Narcea Ediciones. Own translation.

¹⁰ Sevilla Merino, J (2004). Mujeres y ciudadanía: La democracia paritaria (p27-28). Valencia: IUED – Universitat de València. Own translation

¹¹ Vogel-Polsky, E (2001). Democracia Paritaria en Europa. In Políticas de Género en la Unión Europea (p95). Madrid: Narcea Ediciones. Own translation.

¹² Subirats, M (1999). Democracia Paritaria: Recorrido histórico y planteamiento actual. In Hacia una Democracia Paritaria: Análisis y Revisión de las Leyes Electorales Vigentes (p44). Madrid: CELEM (Coordinadora Española para el Lobby Europeo de Mujeres).

II WOMEN AND CITIZENSHIP: PARITY AS A CONSTITUTIVE ELEMENT OF DEMOCRACY

The lack of a gender balanced representation in political institutions and, specially, in legislative bodies has led to a widespread debate on the issue of parity as a constitutive element of Democracy. If the very meaning of Democracy is “the government of the people” and parliaments are meant to be the voice of a State’s population, with the duty of expressing and carrying out the will of the electorate, the fact that these institutions lack a proper representation of half of the members of society does seem to lead to a deficit in Democracy.

However, why is this so? Why is it necessary for women to be represented in parliaments? Furthermore, if the objective is to actually implement the quota system, that is, the obligation of a certain percentage of women appearing in electoral ballots for each political party, it is of undeniable importance that an argument which reflects that a lack of gender-balanced representation leads to a lack of Democracy, which, in turn justifies limiting the autonomy of political parties.

Using the model established by Blanca Rodríguez Ruiz and Ruth Rubio-Marín¹³, throughout the following lines, the aim of this working paper will be to justify the implementation of mechanisms designed to produce a gender-balanced representation within the framework of both a legal and political perspective, considering the different approaches to the right to equality as well as the models of democracy.

1 The Right to Equality and the Right to Equal Representation

1.1 Formal Equality and the Traditional Representation Model

Title III of the European Charter of Fundamental Rights is dedicated to the right to equality in its different aspects, being the right to equality between women and men addressed by article 23. The right to equality between women and men is thus set as a basic principle for all Member States of the European Union, which must respect it and build their legal system within the frame of this right. Furthermore the above mentioned article establishes the possibility of undertaking measures of affirmative action as it states that *the principle of*

equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

The right to equality can be addressed both from a formal and substantive point of view. Formal equality, or equality before the law, cannot be set as the basis of an argument to defend a gender-balanced representation in parliaments for it considers the essence of equality to lie within the idea that all citizens, as individuals, have the same set of legally recognised rights which, in turn, allow them to freely develop as political subjects.

*“In the political domain, the right to formal equality and the right to vote appear as defining elements of a representation model in which every citizen has one, and only one, vote, and can freely choose among citizens who freely and equally enjoy their right to run for office without constraints of any sort. This general, abstract, unitary, and procedural model of representation [...] is not easy to reconcile with either electoral quotas or parity”.*¹⁴

Consequently, the traditional democratic representation model, which highlights the importance of a unitary electoral body, is closely related to the impossibility of justifying gender-balanced representation mechanisms from the standpoint of formal equality. Applying this notion of equality as the basis for the construction of political systems and political representation entails that any measure taken in order to provide any specific advantage to the underrepresented group would break the indivisibility of the electorate, thus violating the right to equality.

1.2 Substantive Equality: French, Italian and Spanish Constitutional Court Rulings

Any proposal towards the implementation of a system in which there is a gender balanced representation is faced with widespread opposition as it is difficult to justify that there must be a certain presence of women in representative bodies. The implementation process has led in some cases to the need for Constitutional Courts to develop a justification based on the Constitutional recognition of substantive equality. It must also be highlighted that, in several cases and as it will be further developed in section IV, States have had to reform their Constitutions in order to recognise this notion of equality.

The main objective of this section is to develop the concept of substantive equality through the analysis of Court rulings and reflect how it can be incorporated into the different models of democracy in order to justify gender-balanced mechanisms.

The French Conseil Constitutionnel was first faced with the obligation of delivering a resolution related to the constitutionality of quotas in 1982. It declared the unconstitutionality of the measure implemented in order to ensure that no less of 25% of electoral ballots would be formed by members of one of the two sexes¹⁵, for it *“infringed on the principle of the indivisibility of the republic established in Article 3 of the Constitution of the Fifth Republic and Article 6 of the Declaration of the Rights of Man”*.¹⁶

It was only after amending the Constitution in 1999¹⁷ which added a last paragraph to article 3 of the French Constitution that the Conseil Constitutionnel upheld the constitutionality of gender-based quotas: *the law favours the equal access of women and men to electoral mandates and elective functions, just as to professional and social responsibilities*. The Court understood that the Constitutional reform had led to the principle of equality being nuanced, introducing a substantive approach to it which, in turn, allowed for affirmative action mechanisms to be implemented.



¹³ Rodríguez-Rubio, B, and Rubio-Marín, R (2009). Constitutional Justification of Parity Democracy. *Alabama Law Review*, 60(5), 1173. Retrieved March 5, 2015

¹⁴ Rodríguez-Rubio, B, and Rubio-Marín, R (2009). Constitutional Justification of Parity Democracy. *Alabama Law Review*, 60(5), 1171-1195. Retrieved March 5, 2015.

¹⁵ Sevilla Merino, J (2004). *Mujeres y ciudadanía: La democracia paritaria* (p67). Valencia: IUED – Universitat de València.

¹⁶ Praud, J, and Dauphin, S. (2010). *Parity democracy: Women's political representation in Fifth Republic France*. Vancouver: UBC Press.

¹⁷ Constitutional Law number 99-569, 8th of July 1999 regarding equality between women and men also added a new paragraph to article 4 of the Constitution indicating that political parties shall contribute to the implementation of the principle enunciated in the last paragraph of the third article in conditions determined by the law. In 2008, the last paragraph of article 3 was removed and added to article 1 of the Constitution by Constitutional Law number 2008-724, 23rd July 2008 of Modernisation of the Institutions of the Fifth Republic keeping the mandate towards political parties, being the reference in article 4 made to article 1.

II WOMEN AND CITIZENSHIP: PARITY AS A CONSTITUTIVE ELEMENT OF DEMOCRACY CONT

As for the Italian case, Law of 25th May 1993 included a provision which municipalities with under 15.000 inhabitants could represent neither sex by more than two thirds in electoral ballots. The Constitutional Court ruled the unconstitutionality of this provision; the resolution indicated that, *“while the measures adopted by Laws of 10th April 1991 and 25th February 1992 on male to female parity in the workplace and support to female entrepreneurship could be adopted to eliminate situations of social or economic inferiority as a prerequisite for the full exercise of fundamental rights, they can not directly influence the content of those rights, but should aim to promote equality at the points of departure. On the subject of passive electorate, any gender differentiation can only be regarded as objectively discriminatory.”*¹⁸

The Court established that articles 3¹⁹ and 51²⁰ of the Italian Constitution based access to posts subjected to popular election on absolute equality between both sexes, consequently sex could not be established as a requirement for eligibility or to be included in an electoral ballot. The Court concluded that *“the measures declared unconstitutional were not aimed at eliminating those obstacles preventing women from achieving a certain presence but directly provide them with that result”*.²¹

As a consequence of the evolution and interpretation by the Constitutional Court of equality in accessing posts subjected to public election, Constitutional Law of 30th May 2003 was passed, amending article 51 of the Constitution adding the following: *the Republic shall adopt specific measures promoting equal opportunities between women and men.*

The special interest in the decision of the Spanish Constitutional Court relies on the uniqueness of this case for the Court declared the constitutionality of the provisions referred to the implementation of sex quotas in electoral ballots without the need of a Constitutional reform.

The Constitutional reforms in countries such as France or Italy was specifically directed to introduce the possibility of establishing measures directed to promote a gender-balanced representation in elected posts. Hence, since their Constitutions set a specific provision for the action of public authorities promoting equal opportunities and access to public office for both sexes, once the previously mentioned amendments were passed it was easy to justify the constitutionality of the implementation of gender-balanced representation mechanisms.

However, this was not the case in Spain. Since in Spain there was no Constitutional reform, the Spanish Constitutional Court was faced with the challenge of justifying the quota system introduced by Organic Law 3/2007, on Real Equality of Women and Men from the standpoint of substantive equality as it was already established in the Spanish Constitution.

Organic Law 3/2007 introduced a reform in the Organic Law of the General Electoral Procedure adding a second part to article 44, including the principle of a balanced composition of women and men as a requirement for the valid formation of electoral ballots. Principle embodied in the demand that candidates of either of the two sexes make up at least a 40% of the electoral ballot as a whole; a ratio which must also be kept in each section of five candidates, in the lists of alternate candidates, and in grouped ballot nominations to the Senate.

The Italian Constitutional Court's resolution of 1995 was alleged by the plaintiffs so as to indicate that removing obstacles that make it more difficult for one of the sexes to reach certain objectives does not imply to directly grant these objectives. In addition, both Italian and French Constitutional reforms were cited in order to argue that the introduction of the modifications introduced by Organic Law 3/2007 to the Spanish electoral procedure had to be preceded by a constitutional amendment.

The Spanish Constitutional Court and the defence presented by the Spanish Government argued that a constitutional reform in Spain was not necessary in order to introduce the reforms set by Organic Law 3/2007 partly from the perspective of comparative law. Before entering to consider the other issues alleged on the unconstitutionality of the Law currently examined it is important to highlight the point concerning the differences between the Spanish and French and Italian cases so as to understand why a Constitutional Amendment was not needed in order to reform the Spanish electoral regime.

“The Italian and French jurisprudence are explained from an essential difference among those systems and the Spanish one. The singularity of the Spanish case is materialised in the amplitude of the content of article 9.2 of the Spanish Constitution. Article 9.2 is specifically working papered towards political participation; furthermore, to the idea of removing obstacles that prevent an equal access to political representation it adds the ideas of promoting and facilitating equal access.

Hence, the introduction in other European countries of similar measures to those at issue was preceded or accompanied by constitutional reforms that have incorporated the idea of promoting equality between men and women in the field of political representation -thereby trumping a formal vision of equality in political participation and transcending the mandates of mere removal of obstacles to achieve its effectiveness- in similar terms to those already contained in the Spanish Constitution, which is, obviously, our only canon of constitutionality”.²²

As it was previously stated, the fact that there was not a provision for a Constitutional reform meant that the Spanish Constitutional Court had to go further than just stating that the Constitution allowed for public authorities to introduce measures to remove obstacles in the access of women to political representation. For this reason, the Spanish Court ruling becomes very useful in developing the argument on the need of gender-balanced mechanisms in political representation from the angle of substantive equality.



¹⁸ Sevilla Merino, J (2014). Democracia Paritaria y Unión Europea. In Integración europea y género (p167). Madrid: Tecnos.

¹⁹ Referred to the principle of equality

²⁰ Referred to the right to access public office (passive suffrage)

²¹ Legal Foundation 6 of the Italian Constitutional Court Resolution of 6th September 1995

²² Legal Foundation 2 Spanish Constitutional Court Ruling 12/2008 (own translation)

Conversely, it is essential to highlight that, although the Spanish Constitutional Court did develop a more theoretical justification of the need of mechanisms for a gender-balanced representation than the French and Italian Constitutional Courts did, it mostly based its resolution on the legitimacy of the electoral procedure reform from the constitutional standpoint of substantive equality rather than from the angle of a gender-based theory of democracy. For this reason the Court's resolution does not present a completely rounded justification for parity democracy, as it will be later explained.

Once the reference to comparative law has been made, we can now enter to discuss each of the points alleged by the plaintiffs. What the plaintiffs questioned was *"whether the new law contradicted the equality principle in relation to the right to participate in public affairs, the freedom of association in the context of political parties, including their right to self organization, and their ideological freedom and free speech. More broadly speaking, the plaintiffs also questioned whether the law contradicted the principle of the unitary sovereignty of the Spanish nation."*²³

The Court bases its decision on the uniqueness of sex as a criterion for differentiation, it states that *"the measure is not based on majority/minority criteria (as would be the case if the elements of differentiation such as race or age), but attending to a criterion (sex) that universally divides all society in two equilibrated groups."*²⁴ The Court does not therefore understand the quotas introduced by Organic Law 3/2007 as measures of affirmative action. Thus, if the Court had continued to develop this understanding of measures for a gender-balanced political representation, it would be possible to find a defence of parity as a constitutive element of democracy within the ruling. Withal, the Court mainly focused its decision on substantive equality as established by article 9.2 of the Spanish Constitution.

It was argued that the sole protection of women was not enough reason to justify a different treatment and that the fact that the beneficiary of these measures were exclusively women based on the very fact that they are female contradicted the principle of non-discrimination established in article 14 of the Spanish Constitution in its development by ruling 81/1982 of the Constitutional Court.

Promotional measures designed to compensate the disadvantages suffered by a collective within society have limits and these limits are what the plaintiffs mostly based their arguments on.

To the argument built upon the limitations these measures impose to the right of equality in the exercise of passive suffrage²⁵, the Constitutional Court indicates that the electoral requirement for gender balance has as direct recipients only those who submit nominations. According to Article 44.1 of the Organic Law of the General Electoral Procedure, these recipients would exclusively be parties, federations and coalitions of parties and groups of voters. It is not therefore, strictly speaking, a condition of eligibility or cause for ineligibility, and it does not immediately affect the right of individuals to stand for election. It is a condition referred to political parties and groups of voters, that is, legal entities that are not subject to the rights of active and passive suffrage, whose violation is alleged²⁶.

The reform set by Organic Law 3/2007 did limit the freedom of political parties guaranteed in article 6 of the Spanish Constitution as it establishes a maximum presence of 60% of one of the two sexes in electoral ballots. The constitutional court solves this matter by relying on the synergies generated by articles 1 and 9.2 of the Spanish Constitution. Article 1 of the Constitution places equality as a superior value of the Spanish legal system and article 9.2 indicates the obligation of public authorities to promote equality and eliminate those obstacles that prevent effective equality and freedom of individuals and the groups in which they integrate and facilitate the participation of all citizens in the political, cultural, economic and social life.

Since the Constitution must be understood as a whole, a unitary compound of precepts that complement one another, the superior value of equality contains both its formal and substantive aspect, including the latter the possibility of authorities to establish measures of affirmative action towards the fulfilment of equality in political participation.²⁷

Moreover, the Court continues to state that, being political parties qualified public associations by their constitutional functions, they become a valid channel for the achievement of substantive equality. Article 9.2 of the Spanish Constitution therefore legitimates those legislative measures that modulate certain activities of political parties in order to attain the effective implementation of the constitutional principle of equality.

The Court also highlights that the autonomy of political parties is not absolute, as it must be subjected to the Constitution and the Law. In the formation of electoral ballots the autonomy of political parties is also restricted by other measures referred to the eligibility of candidates, residence of candidates, and the obligation of blocked and locked ballots in certain cases. For this reason, the limits imposed based on sex as a criterion are not the only ones existing in the Spanish legal system and does not lack a constitutional justification.²⁸

It is also not possible to find any sort of discrimination towards either sex, for the fact that the reform set by Organic Law 3/2007 does not establish a differentiated treatment based on the sex of the candidates but a maximum of a 40 to 60 ratio means that there is not a pejorative treatment towards men or women²⁹.

As for the violation of the ideological freedom of political parties guaranteed in articles 16 and 20 of the Constitution, the Court states in Legal Foundation 6, *"parties are not required to share the values that underlie parity democracy. They can even pursue a change in the electoral laws on gender parity. All they must respect is the mandatory balanced composition of electoral lists destined to ensure men and women's equal enjoyment of their right to stand for elections"*.³⁰



²³ Constitutional Court Ruling 12/2008, 29th January, Abstract (own translation)

²⁴ Legal Foundation 5 of Constitutional Court Ruling 12/2008 (own translation)

²⁵ Article 23 of the Spanish Constitution

²⁶ Legal Foundation 3 of Constitutional Court Ruling 12/2008 (own translation)

²⁷ Legal Foundation 4 of Constitutional Court Ruling 12/2008

²⁸ Legal Foundation 5 of Constitutional Court Ruling 12/2008

²⁹ Legal Foundation 5 of Constitutional Court Ruling 12/2008

³⁰ Rodríguez-Rubio, B, and Rubio-Marín, R (2009). Constitutional Justification of Parity Democracy. *Alabama Law Review*, 60(5), 1192. Retrieved March 5, 2015

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The Court establishes that what the reform aims to do is conciliate the requirements of equality before the law and prohibition of discrimination (article 14 of the Spanish Constitution) and substantive equality (article 9.2) with the mandates of passive suffrage (article 23) and the configuration of political parties as mechanisms for political participation (article 6). It concludes that even if there is a limitation of the freedom of political parties, the means used are proportionate to the objective and the reform therefore does not violate article 9.2 of the Spanish Constitution and on the basis of this same article, a violation of the right to run for office is ruled out.³¹

1.2.1 The Shortcomings of the Substantive Equality Perspective: special focus on the Spanish Constitutional Court Resolution

The Spanish Constitutional Court's resolution relies on the idea of unitary representation and argues that parity does not contradict this notion but does not elaborate on why this is the case and does not manage to justify the political relevance of sex. The closest the Court gets to structuring an argument for the need of a balanced political representation of men and women is the following statement:

"A political representation articulated from the standpoint of the necessary division of society in two sexes is perfectly constitutional for it is understood that this equilibrium is decisive for the definition of the content of the rules and regulations which are to emanate from those political bodies. It is not the ideological or political content that is addressed, but the precontent or framework over which any political decision must be formed: radical equality between men and women."³²

This brief reference to the model of representation is still not enough to structure parity as a constitutive element of democracy, specially seeing as the resolution heavily relies upon the notion of substantive equality and its configuration in the Spanish Constitution in the justification of parity mechanisms.

This, in turn, leads to opening a stream for criticism such as the one presented by the dissenting vote in the Court ruling.

Substantive equality is embodied as a characteristic of social and democratic State and at the political level it places a mandate upon State institutions to guarantee the equal access of all citizens to positions of power, both formally (before the law) and through mechanisms that ensure similar opportunities for, in this case, men and women. From the standpoint of substantive equality it is thus possible to justify the implementation of gender-based quotas in political representation being these understood as affirmative action measures.

Conversely, as the dissenting vote in the Spanish Constitutional Court's ruling 12/2008 argues, the traditional representation model is the only one upheld by the Spanish Constitution, consequently, the justification of parity not being set within the framework of a new model of political representation, presents a break with the unity of the electoral body as understood by the traditional representation model.

On a more general basis, but also following the arguments set by the dissenting vote, it is not easy to justify why women and not other underrepresented groups would benefit from these measures from the standpoint of substantive equality. Furthermore, it can also be argued that quotas, which establish a mandatory minimum presence of either of the two sexes, are over inclusive as they also set a minimum presence for men, who are not an underrepresented group. This makes it difficult to argue why gender parity is necessary when there are other measures set to promote the right to equality of women overall and thus also in the political arena.

In conclusion although the substantive equality approach does provide us with some justification for the need of parity mechanisms it is only through the understanding of political representation within the framework of parity democracy that it is possible to understand that the presence of women in political bodies is a constitutive element of democracy.

2 Justifying Parity within Inclusive Models of Democratic Representation

2.1 Deliberative Democracy and Mirror Democracy

It is difficult to withstand the justification of mechanisms for gender-balanced representation from the perspective of deliberative democracy. *"Deliberative politics acquires its legitimating force from the discursive structure of an opinion- and will-formation that can fulfil its socially integrative function only because citizens expect its results to have a reasonable quality."³³*

The concept set by Habermas understands that the best possible political representation in Democracy can be achieved through the integration of the largest number of social groups in decision-making processes and institutions without challenging unitary representation of the electoral body. The idea is that each group does not only represent its specific interests but through the common deliberation, the decisions made within political institutions would have a higher degree of legitimacy amongst all citizens.

On the one hand this could constitute the foundation for justifying mechanisms for a gender-balanced representation. On the other hand, in doing so it would be difficult to exclusively justify the introduction of quotas or other mechanisms for inclusion of women and not other underrepresented groups.

The same would happen if we were to take the perspective of a mirror representation model of democracy. Underlying Mirror representation we find *"the notion that no one can better express the distinctive perspectives of a group than someone who is a group member, and that no one else is likely to be a better judge of group interests."³⁴* Consequently, this model requires for political institutions to include a proportional representation of each social group, not being possible to argue for the exclusive implementation of representation mechanisms based on gender.



³¹ Legal Foundation 9 of Constitutional Court Ruling 12/2008

³² Legal Foundation 7 of Constitutional Court Ruling 12/2008

³³ Habermas, J (1996). *Deliberative Politics: A Procedural Concept of Democracy*. In *Between facts and norms: Contributions to a discourse theory of law and democracy* (p304). Cambridge, Mass.: MIT Press

³⁴ Phillips, A (2000). *Democracy and the Representation of Difference and The Politics of Presence: Problems and Developments* (p10). Aalborg: Aalborg Universitet.

2.2 Parity Democracy

It is necessary to focus on the construction of parity democracy as the pathway to justify gender balanced representation. In order to do so the starting point must be placed in contractualist theory as the blueprint for democracy. The social contract as it is constructed by Jean Jacques Rousseau and John Locke amongst others represents the idea that each individual as a member of society provides their consent to a certain social organisation, that is to say, every citizen has the initial right to decide under what type of society their personality will be developed in.

We therefore find ourselves with the idea of the political subject. It must be noted that the authors above mentioned developed their theories within a context in which the objective was to avoid absolutism as a form of government. This led to the development of a notion of political subject that heavily lay on the understanding of the individual as an independent being, free from the need of being tutored by a higher political power. It was thought that only a truly independent individual, an autonomous creature, would be able to take on the responsibility of making decisions related to the political design of society:

*"The bonds of servitude are formed merely by the mutual dependence of men one upon another and the reciprocal necessities which unite them, it is impossible for one man to enslave another, without having first reduced him to a condition in which he can not live without the enslaver's assistance; a condition which, as it does not exist in a state of nature, must leave every man his own master, and render the law of the strongest altogether vain and useless."*³⁵

Similarly, in Locke's labour theory of property we find that freedom is acquired through property, and only the free individual is granted the consideration of political subject, seeing as women cannot be owners they did not have the right to participate in political (public) matters. As a matter of fact, Locke makes a special effort in differentiating the power of government institutions over the subject from that power exercised by a husband over his wife and only attributes rights to women within the household.³⁶

However, human beings are interdependent amongst each other both in their existence and in the development of their personalities. Kant understands that *"the practical imperative will thus be the following: Act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means"*.³⁷ Following the model and process presented by Kant, the individual recognises oneself in respect to his or her relationship with others. Furthermore, the very idea of society is based on the interdependence of humankind. As a result of this reality, a construction of society in which the idea of dependence was eliminated from the decision-making process had to be developed.

In order to satisfy this need for independence and individuality, a sexual contract³⁸ is created: a division between the public and private spheres, being women relegated to the latter. On the one hand, the public sphere hence becomes the arena for decision making at all levels, for economic and productive activities, it is occupied by men and to it correspond the values of competitiveness, individualism and independence amongst others. On the other hand, the private sphere involves all areas related to the home, to care ethics, it is the area where all individuals fall back on when the factor of dependence appears, clear examples being the cases of illness or the elderly who need to be taken care of. The work done in the private sphere is managed by women and not economically valued, providing the elimination of the possibility of dependence within the political subject as this possibility is only available to those who participate in the public sphere.³⁹

Even with the recognition of female active and passive suffrage the differentiation between the public and private spheres and the values corresponding to each one of them continued, enduring an appearance of independent citizens and actors in the public sphere through the assignment to the private sphere of dependency-related tasks. The work carried in the private sphere is as necessary to the construction and development of society as the work carried out in the public sphere is. It is therefore not possible to deny the existence of these care related tasks and values, especially if the aim is to construct a better democracy in which all aspects of social living are taken into account.

All of the above leads to the construction of the political subject being incomplete. *"The subject and, specially, the model internalised by regulations is the male model, [...] we can point out the existence of two social models, with all the variations and interactions, on the one hand is the female model linked to the private sphere, regardless of the fact that many women are also in the public sphere, as a model they participate in the private one, which does not enjoy of recognition in any of the levels of valuation (legal, social and economic), and over which men of any race, colour or social position have power. Men, on the other hand, belong to another model, also with all the variations and interactions, to the public sphere model where debate and recognition in all legal, social and economic levels is focused"*.⁴⁰

The aim of parity democracy is to dismantle this social-sexual contract; to introduce female values in political representative institutions in order to produce a trickle down effect that will affect all levels of the public sphere, thus recognising dependency-related tasks and values as essential to the development of humankind and modern society; basically, to understand that the only possible version of democracy is parity democracy. Through the redefinition of *"autonomy as interdependence"*, *"the autonomy paradigm can then no longer be the dependence-free adult, but rather the adult who takes responsibility for his or her own dependence, as well as for those who depend upon him or her, as natural limitations on any life working paper"*.⁴¹

"The parity democracy model, in brief, articulates a justification of gender parity that rests on the idea that there is something distinctive, both structural and foundational, about the political exclusion of women that needs to be addressed in its own idiosyncrasy –something that reflects the sexual contract upon which the modern patriarchal state rests and politics is defined. This does not mean that the exclusion or underrepresentation of other groups is irrelevant or insufficiently expressive of a democratic deficit that deserves attention. It means rather that parity has its own democratic logic distinct form, though compatible with, the logic of representation quotas of minority groups.

*Parity democracy is then an enterprise concerned with redefining the sexes, state, and democracy in such a way that human interdependence gains a central place in the public sphere. Under this logic, parity democracy should be read into constitutionally enshrined democratic principles, as an interpretation of democracy and popular sovereignty that moves beyond the undemocratic implications of the sexual contract. No constitutional amendment is thus needed to justify it. [...] Finally, one could at the same time defend parity and the need of quotas for other marginalised groups, but one would need to do so on different grounds."*⁴²

³⁵ Rousseau, J (1755). A Discourse Upon the Origin and the Foundation of the Inequality among Mankind. Barcelona: Orbis.

³⁶ See generally: Locke, J (1986). The second treatise on civil government. Amherst, NY: Prometheus Books

³⁷ Kant, I (2002). Groundwork for the metaphysics of morals (pp46-47). New Haven: Yale University Press.

³⁸ Pateman, C (1988). The sexual contract. Stanford, California: Stanford University Press

³⁹ Productive roles (It includes both market production with an exchange-value, and subsistence/home production with actual use-value, and also potential exchange-value) as opposed to reproductive roles (childbearing/rearing responsibilities, and domestic tasks done by women, required to guarantee the maintenance and reproduction of the labour force). Unit 1: A conceptual framework for gender analysis and planning: gender roles. (1998, November 2). Retrieved February 28, 2015, from www.ilo.org/public/english/region/asro/mdtmanila/training/unit1/groles.htm

⁴⁰ Sevilla Merino, J, and Ventura Franch, A (2014). El Derecho a la participación Política de las Mujeres: Fundamento Constitucional de la igualdad de mujeres y hombres en la representación política. In El Derecho a la Participación Política de las Mujeres: Resultados de la aplicación de la Ley de igualdad en las elecciones a las Cortes Generales (2004-2008-2011) (p50). Valencia: Tirant lo Blanch.

⁴¹ Rodríguez-Rubio, B, and Rubio-Marín, R (2009). Constitutional Justification of Parity Democracy. Alabama Law Review, 60(5), 1182. Retrieved March 5, 2015

III STATE OF THE QUESTION: REVIEW OF THE MEASURES ADOPTED BY MEMBER STATES TOWARDS THE ACHIEVING OF PARITY DEMOCRACY⁴³

1 Informal Agreements within Parties and Voluntary Quotas⁴⁴

Austria

The system adopted in Austria so as to promote a gender-balanced political representation is voluntary political party quotas. This results in The Greens-Green Alternative Party having established a 50 per cent quota for women in their party lists since 1993; the Austrian's People's Party a 33.3 per cent since 1995 and the Social Democratic Party of Austria a 40 per cent quota for women in party lists since 1985.

Cyprus

The Movement of Social Democrats has a 30 per cent quota for women and the Democratic Rally of Cyprus has a 30 per cent gender quota in its candidates for the parliament, municipal and European elections, as well as for the party's internal structures.

Czech Republic

The Social Democrats in the Czech Republic establish an internal norm by which 25 per cent of candidates elected by the party must be women. If a local party organization has failed to nominate 25 per cent women among its top candidates, then the Social Democratic Women's Organization has the right to nominate extra women.

Germany

The Social Democratic Party of Germany has a 40-60 per cent gender parity rule for boards and lists established in Article 11.2 of its Party Statutes and in Articles 4 and 8.2 of the Electoral Code of the Party.

As for the Left Party, Article 10.5 of the Party Statutes establishes that the first two places in nomination lists are reserved for women and also sets a mandate for women and men to be placed alternatively in the rest of the list.

In the case of Alliance 90/The Greens, they have had a 50 per cent quota for women on party lists since 1986.

Finally the Christian Democratic Union sets in Article 15.2.3 of its Party Statutes that at least one third of electoral lists and party officials have to be women and foresees the mandate of repeating internal elections if the quota is not met.

Hungary

On the one hand, the Hungarian Socialist Party has a 20% quota for women. On the other hand, in electoral lists for Politics Can be Different for the National Assembly and the European Parliament a maximum of two candidates of the same sex can be placed following one another.

Lithuania

In Lithuania only the Socialist Democratic Party has implemented voluntary quotas, establishing a minimum presence in electoral lists of one-third for each sex.

Luxembourg

Quotas applied by the political parties of Luxembourg oscillate between the requirements of a minimum presence of a third for either sex and absolute parity (50-50%). The Christian Social People's Party targets a 33 per cent quota for women on their electoral lists. The Left party has a general 50 per cent quota within both, their internal structure and electoral lists. As for Luxembourg Socialist Worker's Party, although the target is parity, for now it has adopted a 33 per cent quota for internal positions. Finally, the Green Party's objective is to achieve parity in party bodies, positions and lists.

Malta

In Malta, only the Labour Party has established voluntary quotas, with a 20 per cent minimum presence of women in party lists.

Netherlands

The Labour Party alternates between men and women in electoral lists, however, it also considers other elements such as age and ethnicity. The Green Left also has quotas for women but the percentage varies. Other parties have also implemented other types of measures to achieve a more gender-balanced representation, for instance, agreements between intra-party structures or territorial organisations on the number of female candidates to be selected for nomination. The Christian Union also adopted a resolution in 2004 by which it demanded national and sub-national party boards and committees to ensure that at least a third of candidates are women.

Romania

Both the Democratic Party and the Social Democratic Party have adopted a 30 per cent gender quota.

Slovakia

Only the People's Party – Movement for a Democratic Slovakia has a gender-balanced mechanism, its target is to achieve parity.

Sweden

Although in Sweden there are no legislated quotas, the system of informal agreements within parties is quite efficient.

The Social Democratic Party has an alternate system for electoral lists since 1993 and quotas for the party's internal structures since 1978. In 1993 the Left Party also established the quota system, being the minimum presence of women established at a 50 per cent and mandating that electoral ballots presented by the party alternate candidates of each sex. Prior to this, quotas for the party's internal bodies were already in place since 1987.

The Green Party introduced a 50 per cent quota in 1997 but had internal quotas since 1981. Finally, the Moderate Party established that two women and two men would be placed in the first four positions in the party list for the election to the European Parliament in 2009.

United Kingdom

The Liberal Democrats adopted in 2001 a 40 per cent target of women candidates but rejected all-women shortlists, that is, establishing lists in which only female candidates appeared in the top positions or *winnable seats*.

The Labour Party's target is to select 50 per cent of winnable parliamentary seats from all-women shortlists.

2 Legislated Quotas

Belgium

Belgium first passed a law that established mandatory quotas in electoral ballots in 1994. However, the measure was not successful for it required for political parties to include a maximum of two thirds of one of the two sexes in electoral lists. Consequently what parties did was placing female candidates mostly at the bottom third of the ballot, making it more difficult for women to actually be elected.

In order to effectively ensure the equal opportunities of women and men in the access to representative political positions a Constitutional reform was passed in the year 2002 adding a last paragraph reading *Equality between women and men is guaranteed* to article 10 of the Constitution. More importantly, the Constitutional reform added article 11 bis stating *that women and men may equally exercise their rights and freedoms, and in particular promotes their equal access to elective and public mandates* in reference to the rules and regulations of the regions of Belgium.⁴⁵

Finally, Federal law of 11 March 2003 (Min. Decree of 17 April 2003) establishes the obligation of a 50-50 per cent ratio of men to women in candidate and alternate lists. Furthermore, the first and second members of candidate and alternate lists cannot be of the same sex (article 117 bis of the Electoral Code).

Article 119 quiquies of the Electoral Code also includes legal sanctions for non-compliance being as electoral of political parties not observing disposition 117 bis will not be admitted by the electoral authorities.

⁴² Rodríguez-Rubio, B, and Rubio-Marin, R (2009). Constitutional Justification of Parity Democracy. *Alabama Law Review*, 60(5), 1183. Retrieved March 5, 2015

⁴³ All the information within this section is retrieved from Quota Database | quotaProject: Global Database of Quotas for Women. (nd). Retrieved April 24th from www.quotaproject.org/

⁴⁴ For the countries in this section, only those parties with representation in their national parliaments and which include voluntary quotas are mentioned

⁴⁵ Sevilla Merino, J (2004). *Mujeres y ciudadanía: La democracia paritaria* (p71-72). Valencia: IUED – Universitat de València.

Croatia

The Act on Gender Equality passed in 2008 establishes in its article 12.1 that *the implementation of specific measures shall serve to promote equal participation of women and men in legislative, executive and judicial bodies, including public services, and to gradually increase the participation of the underrepresented sex in order for its representation to reach the level of its percentage in the total population of the Republic of Croatia.* Article 12.2 also indicates that *specific measures shall be introduced where one sex is substantially underrepresented in order to achieve the objective set in paragraph one of that same article.* Finally, the third paragraph of article 12 understands that *one sex is substantially underrepresented [...] if it accounts for less than 40% of representatives in political and public decision-making bodies.*

More importantly to the subject of this working paper, article 15 of the Act on Gender Equality makes a specific reference to the elections to the European Parliament as follows: *when drawing up and proposing lists of candidates for the election of representatives to the Croatian Parliament, for the election of members of representative bodies of units of local or regional self-government or for the elections to the European Parliament, political parties and other authorised entities submitting such lists shall observe the principle of gender equality and seek to achieve the balance in terms of the representation of women and men on such election lists pursuant to the provision of Article 12 of this Act.*

Finally, in reference to the sanctions that proceed when political parties fail to observe the mandates of articles 12 and 15, article 35 of the above mentioned act establishes a HRK 50,000.00 in the case of elections to the national and European Parliaments.

France

The French Constitution establishes in its article 1.2 that *the law favours the equal access of women and men to electoral mandates and elective functions,*

just as to professional and social responsibilities. This legal text also recognises the responsibility of political parties in promoting and providing the effectiveness of this principle in articles 3 and 4.

The French Electoral Code has been reformed several times in order to include provisions that require a balanced presence of women and men in electoral ballots. Law 2000-493 of 6 June 2000 designed to promote equal access of women and men to elective offices and functions was the first to introduce the subject of gender quotas, Law 2013-702 of 2 August 2013 on the election of senators also included dispositions on the matter at hand and Law 88-227 on financial transparency of political life introduces specific requirements for electoral ballots. All in all the French electoral system offers the following gender-based quota structure:

On the one hand, the obligation of electoral ballots for elections with proportional representation in two rounds (this applies to elections to the National Assembly) must integrate an equal number of men and women in each section of six candidates. The 50-50% rule for the whole list includes a provision by which the number of candidates from one sex to the other can only differ by 2%. If parties do not comply with this rule the public funding provided to parties based on the number of votes they receive in the first round of elections will be decreased 'by a percentage equivalent to three quarters of the difference between the total number of candidates of each sex, out of the total number of candidates.'⁴⁶

On the other hand, in national elections with proportional representation in one round (elections to the senate when the number of senators to be elected is equal or higher than three and in elections to the European Parliament) each list must be formed alternating candidates of either sex. In those districts which use a majoritarian rule system, on candidate lists, the principal candidate and his or her alternate must be of the opposite sex. If political parties do not obey this rule, the matter shall be brought before the Administrative Court.⁴⁷

It must also be taken into account that the Socialist Party has a 50% quota in place for electoral lists since 1990.

Greece

The Greek Constitution sets the basis for ensuring that the legal introduction of quotas is not considered contrary to the principle of equality for it states in the second paragraph of Article 116 that *adoption of positive measures for promoting equality between men and women does not constitute discrimination on the grounds of sex. The State shall take measures for the elimination of inequalities actually existing, in particular to the detriment of women.*

As for the actual regulation of quotas, Presidential Decree 26/2012 establishes in Article 34 that at least a third of candidate lists of political parties, must be occupied by candidates of each sex. Every decimal number will be rounded up to the next whole number if it is above a half.

If the quota requirement is not met, the list will not be accepted by the Supreme Court according to Article 35 of Presidential Decree 26/2012.

The Pan-Hellenic Socialist Party also has a forty per cent quota established for lists presented by them.

Ireland

In 2012 an amendment to the Law of Political Financing was introduced by which half of State funds would be eliminated for political parties which did not select and a minimum of 30 per cent of female candidates in their lists. The required gender quota of candidates is to rise to at least 40% women and at least 40% men within 7 years from the date of the first election held in line with this new rule, and the penalty will apply during those 7 years.

Italy

The Italian Constitution indicates in paragraph 7 of Article 117 that *Regional laws have to remove all obstacles which prevent the full equality of men and women in social, cultural, and economic life, and promote equal access for men and women to elective offices.* This Constitutional reform set the necessary base for several regions to adopt gender quotas in their Regional laws on electoral processes.

Quotas for elections to the European Parliament were also recently introduced under Law 96 of 2012 *"which curtails by 5% public contributions to parties that do not respect the proportion of 2/3 maximum of the same sex candidates in their lists."*⁴⁸

It must also be noted that the Democratic Party foresees in Article 19 of its Statutes a 50% quota for women with a strict alteration female-male rule.



⁴⁶ Law No. 88-227, Article 9.1

⁴⁷ Electoral Code, Articles 294-305

⁴⁸ The Policy of Gender Equality in Italy: In-Depth Analysis for the FEMM Committee. (2014). Retrieved May 3, 2015.

III STATE OF THE QUESTION: REVIEW OF THE MEASURES ADOPTED BY MEMBER STATES TOWARDS THE ACHIEVING OF PARITY DEMOCRACY CONT

Poland

In Poland the percentage of women in the *Sejm* (lower house) and the *Senat* (upper house) has always been quite low: it has never surpassed a 23 per cent. The largest process directed to increase female participation in power, which led to better results, preceded the election of autumn 2001.

The change in electoral tendency, the increase in power of the female lobby and the increased favourable attitudes towards the presence of women in politics converged with the implementation of internal quotas in three political parties: Alliance of the Democratic Left, Labour Union and Union for Freedom.

It was as a consequence of these internal regulations that in 2001 women constituted a higher proportion of candidates to the Parliament than in previous elections: representation of women in the *Sejm* increased from 13 per cent to 20 per cent.

Political parties that did not introduce quota mechanisms felt the need to show their acknowledgement of the problem of unequal political representation and tried to convey that the lack of formal regulations did not prevent their parties from promoting the presence of women in decision-making positions.

The debate on the introduction of a mechanism that enhanced the process of achieving equality between men and women has been carried out sporadically since 1990. The attempt at introducing these mechanisms has focused on two strategies:

On the one hand, the introduction of a quota system as part of the Law on the equality of women and men. This legislative proposal was supposed to comprehensively approach all issues related to equality between women and men and create mechanisms to avoid discrimination. One of the most problematic issues within the proposal of this and which most debate generated was a 40 per cent

quota in all political positions chosen by designation and not election. The proposal was presented before the Parliament several times being rejected all of them. On the other hand, the introduction of a quota system as part of the electoral law.

Throughout the debates on the electoral law of 2001 a legislative proposal that aimed to provide both sexes with equal opportunities in elections was presented. It established a minimum percentage of 30 per cent for candidate lists in national elections. This proposal was rejected without hardly any debate.

Finally, it was in 2011 when the Law that introduced quotas for the elections in local councils, the lower national house and the European Parliament, was passed. The Law establishes that the number of candidates of either sex in electoral lists cannot be inferior to 35 per cent of the total number of candidates in said list.

If an electoral list does not comply with this requirement, the committee notifies the authorised person on the need of modifying the list within the next three days. If the party does not provide a correctly structured list in time, the committee refuses the registration of the list. For lists including 3 candidates there must be at least a candidate of each sex.

Portugal

Portugal modified its constitution in order to allow affirmative action measures to be implemented in electoral regulations establishing in article 109 of its Constitution that *"The direct and active participation in politics by men and women is a fundamental instrument in the consolidation of the democratic system, and the law shall promote both equality in the exercise of civic and political rights and the absence of gender-based discrimination in access to political office."* In the same sense, paragraph h) of article 9 of the Constitution declares that promoting equality between men and women constitutes a fundamental task of the State.

In 2006 Equality Law No. 3/2006 of 21 August was passed. For European, national and local elections it established that the National Assembly shall be composed in a way that pursues a minimum representation of one third for each sex. Also in multi-member constituencies, the lists cannot have more than 2 consecutive names of the same sex. When a list fails to follow the previously stated mandate, the error will be made public and political party will suffer a reduction of the public funding which is provided by the State for the development of the electoral campaign, said reduction will be proportional to the inequality on lists and will not be applied to lists with less than three candidates.

Slovenia

Due to the socialist past of the country, the debate on the implementation of any sort of mechanism designed to increase female representation was not started until the decade of 1990. These measures were associated by political parties and the general population with the socialist heritage. The situation changed as a consequence of several reasons.

On the one hand, the objective to enter the European Union was hindered by the fact that Slovenia, a highly developed country, had one of the worst female representation levels in decision-making positions. On the other hand, the pressure exerted by a national network, the Coalition for Parity, was very relevant. This Coalition was established in 2001, it counted with the participation of almost 200 influential and well-known women with different political origin and baggage, and had the support of several relevant men. The organisation signed a petition to achieve equal representation in all political decision-making bodies.

Prior to the changes in electoral legislation, some centre and left-wing political parties introduced internal quotas: the Liberal Democracy Party and Social Democrats.

After several failed attempts to obtain quotas regulated by Law, a general awareness that something must be done began to grow amongst centre-left leaders.

The actual change started in June 2002, with the passing of the Law on Equal Opportunities for Women and Men, which contains various dispositions for the advancement of gender-balance in political participation and decision-making.

The most relevant dispositions are: to establish equal opportunities as a duty of all society; a mandate to the National Assembly to respect the principle of a balanced representation of men and women in the creation of working bodies and composition of delegations; the establishment of an obligation for political parties to promote a balanced representation and participation.



Political parties which are included in the Party record must also pass a plan in which the methods and measures for the promotion of balanced representation within the internal structure of the party and electoral lists for the National Assembly and local bodies, as well as for presidential elections.

Later, in June 2004, the National Assembly passed a constitutional amendment that modified Article 43 of the Slovenian Constitution. This amendment added a disposition on equal and universal rights, a new paragraph that grants the legislative power the ability of establishing, within a law, measures to promote equal opportunities between women and men in reference to the election of State and local authorities.

In September of that same year, in compliance with Article 14 of the Law on Equal Opportunities between Women and Men, the Government passed a decree regulating the criteria for the implementation of the principle of gender-balanced representation. The decree establishes the procedures to guarantee balanced representation in the arrangement of working bodies and in the appointing of Government representatives. The decree establishes that the principle of balanced representation is respected when at least a 40 per cent representation of women and men is guaranteed. There are certain exemptions to this principle as a consequence of objectively justified reasons, for example in those cases in which belonging to a public organisms is a consequence of a particular role.

In 2003 changes in the Law on the election of Slovenian Members to the European Parliament had also been introduced, requiring at least a 40 per cent representation of each sex to be guaranteed in all candidate lists. Lists must be drawn in such a way that at least one of the candidates of each sex appears in the first half of any list of seven candidates.

In 2005, the Law of reform of local elections established that candidate lists for the election of a Local Council had to be drawn in such a way that it was guaranteed that each sex at least represented a 40 per cent of all candidates of the list. Also, candidates in the first half of the list shall be alternated by sex. The law established that, throughout the transition period up to the year 2014, year in which the 40 per cent representation of each sex would become mandatory, at least a 20 per cent of candidates of each sex would have to appear in the lists for the local elections of 2006, said percentage would rise to 30 per cent for the elections of 2010. During this transition period, a partial derogation was admitted with respect to the alternation of candidates within the top half of the list.

In 2006 there were changes in the Electoral Law for the National Assembly and European Parliament. Through Article 43 it was established that there had to be a minimum of 35 per cent of candidates of each sex. In the transitory dispositions, the law establishes that in the first elections to the National Assembly and European Parliament right after the passing of this law, the percentage would be of 25 per cent.

Spain

In Spain, Organic Law 3/2007, on Real Equality of Women and Men establishes that electoral lists for the election of the Upper House and the European Parliament must have a minimum presence of 40 per cent for either sex. The forty to sixty ratio is also mandatory for each section of five candidates in order to avoid that all women are placed in the bottom half of the list. Parties have a brief period to adjust electoral lists that do not comply with the requirements previously stated. If during said period they do not modify the list the electoral commission will not admit it.

The same rules apply in local elections, with the exception of municipalities with under 3.000 inhabitants.

As for the Upper House, when candidates to the Senate are grouped in lists, these lists will have to be as close as possible to gender-balance.

Many of the political parties in Spain also have internal rules establishing mandatory quotas for the electoral lists presented by them.

The Spanish Socialist Worker's Party has a minimum 40 per cent quota for either sex since 1997 mandated by the party's statutes. This quota applies to the composition of all internal structures as well as for the drawing up of electoral lists.

The United Left introduced a 25 per cent quota in 1989, however, since 1997 this percentage rose to 40 per cent for all decision-making bodies within the party and electoral lists.

Finally, the only other national party with a quota system is Podemos. Although its creation is recent (2014) it is quite relevant since it obtained five seats in the elections to the European Parliament. The rule is identical to that of the Spanish Socialist Worker's Party and the United Left.

At the regional levels, parties that have also established quotas (in all cases of a 40 – 60 ratio) are: Initiative for Catalonia – Green, Republican Left of Catalonia, Nationalist Galician Block and Canarian Coalition.

3 Countries with no Gender-Balance Mechanism

Bulgaria, Denmark, Estonia, Latvia and Finland do not have agreements within parties or legislated quotas for elected positions. It is however interesting to highlight a couple of facts concerning the Danish and Finnish cases.

Denmark

It is interesting to undertake the Danish case, for the Socialist People's Party and the Social Democratic Party adopted and later abandoned quotas throughout the last two decades of the 20th Century. The Left Socialist Party also introduced parity and candidate quotas of 50 per cent in 1985, however this party does no longer exist.

Finland

In Finland the Act on Equality between Women and Men of 1985 introduced with its reform in 1995 a 40 per cent minimum presence of one of the two sexes for *government committees, advisory boards and other corresponding bodies, and in municipal bodies and bodies established for the purpose of intermunicipal cooperation*. However there are no quotas established for elected positions and it explicitly excludes quotas in municipal councils.



IV HISTORICAL EVOLUTION⁴⁹

Within this section we will analyse the general trend experienced by the Member States in the number of female Members of the European Parliament. Throughout the introduction to the working paper the problem of the lower presence of women than men in the European Parliament was established. The aim is now to reflect the lack of a gender balanced representation in the mentioned institution. In order to do this, a detailed analysis of the evolution of the female to male ratio of representatives since 1979 will be developed, including the distribution and evolution by Member State, making a special emphasis in the relationship between the gender-balance mechanism in place in each Member State and the number of female representatives.

1 General Evolution

The aggregate evolution in the presence of women in the European Parliament has progressively increased since the first election in 1979. However, parity representation is still quite far away from being accomplished, seeing as the female presence is of 37 per cent for the 2014-2019 term.

2 Evolution in Member States with Informal Agreements within Parties and Voluntary Quotas⁵⁰

Austria

Austria joined the European Union in 1995. By that time the three political parties that nowadays include quotas for a gender-balanced representation already did, furthermore, quotas had already been in place for four years in the last party to include them (the Austrian's People Party) by the time the first election to the European Parliament in which Austria participated took place.

Consequently, the increased amount of female Members of the European Parliament is probably due more to the growing awareness on the need to include women in decision-making positions partly generated by the quotas previously put in place than a direct consequence of the implementation of quotas within parties.

It must be highlighted however that the increase in the percentage of female Members of the European Parliament is of only four points (38 per cent to 44 per cent) from 1999 to 2014, noting a significant plummet of 10 points (38 per cent to 28 per cent) from the year 1999 to the year 2004 but a very relevant increase from 2004 to 2009 (28 per cent to 41 per cent).

Cyprus

The first elections to the European Parliament in which Cyprus took part in were the same year in which this country joined the European Union, in 2004. The percentage of female Members of the European Parliament was zero, this percentage increased to 33 in 2009 and decreased to 17 per cent in the 2014 elections.

The low number of representatives Cyprus has in the European Parliament (only six) is also quite relevant seeing as percentages show more significant changes even if there is only one woman less than in the previous election.

Czech Republic

The Czech Republic has kept a quite stable and low percentage of women since the first elections to the European Parliament it took part in 2004, the same year as it joined the European Union. There has only been a three-point increase, from 21 per cent in 2004 to 24 per cent in 2014 with a slight downfall in the 2009 election to 18 per cent.

The low presence of women is probably due partly to the fact that there is only one party out of the seven Czech parties with representation in the European Parliament that has actually set internal quotas; the Social Democrats have a 25 per cent quota and only have four out of the twenty-one seats the Czech Republic has.

Germany

It is quite surprising, considering that most of the seats allocated to Germany (79 out of a total of 96 seats) are currently occupied by parties that have internal quotas, that the percentage of women does not nor has ever reached a 40 per cent. The percentage of women has at least remained constantly above a 30 per cent since the 1989 election. Furthermore, except for a decrease in 2004 to a 33 per cent of elected female representatives, this percentage has been kept above 35 per cent since 1994.

The fact that the Party with the largest amount of Members of the European Parliament is the Christian Democratic Party seems to be part of the cause for the low percentage of women seeing as its quota rule demands only a third of electoral lists to be made up of women but does not however set a rule for placing women in the top positions (those that will surely be elected). Looking at the data, it can be concluded that Germany has settled around the top thirties for the percentage of female representatives elected.

Hungary

Hungary was one of the ten Member States that joined in 2004, having only taken part in three elections to the European Parliament; in 2004, 2009 and 2014. Although the amount of female representatives remained quite close to 40 per cent in the first two elections (the percentage was of 38 and 36 per cent respectively for the 2004 and 2009 election), the percentage of Hungarian female members of the European Parliament fell to 19.

Distribution by opening sessions



Evolution of the distribution of female and male members of the European Parliament
Source: <http://www.europarl.europa.eu/elections2014-results/en/gender-balance.html> (retrieved on 11/04/2015)

⁴⁹ All the data used in this section has been drawn from: Turnout 2014 – European Parliament. (nd). Retrieved March 15, 2015, from www.europarl.europa.eu/elections2014-results/en/turnout.html

⁵⁰ For the countries in this section, only those parties with representation in their national parliaments and which include voluntary quotas are mentioned

This data, can probably be explained by the fact that the conservative party, which does not have gender-based quotas, currently has 12 out of the 21 seats allocated to Hungary. Moreover, there are only two political parties out of the six that obtained seats in the European Parliament that have quotas set for electoral lists. These two parties only make up a total of three seats and in the case of the Hungarian Socialist Party the quota is of a 20 per cent for women, which is undeniably low.

Lithuania

In Lithuania there has been a constant and significant decrease in the percentage of female Members of the European Parliament since it joined in 2004. From a 38 per cent of women in 2004 the percentage has plummeted, to a 25 per cent in 2009 and 9 per cent in 2014. It must also be taken into account that only the Socialist Democratic Party, which only has two out of the eleven seats reserved for Lithuanian representatives, has implemented quotas, establishing a minimum presence in electoral lists of one-third for each sex.

Luxembourg

Once again we find ourselves with a country in which the number of seats in the European Parliament is very low (six), a fact that leads to a very slight change in the actual number of women to a much higher difference in percentages.

However, it still must be highlighted that the constant presence of a 50 per cent of women from 1984 to 1994, which had risen from a 17 per cent female presence in the first elections to the European Parliament in 1979, has experimented a clear decrease since 1994. Even though the percentage did go back up to absolute parity in 2004, in the past two elections there has been another significant decrease (17 per cent in 2009 and 33 per cent in 2014).

Malta

Malta only has six seats in the European Parliament. It is however interesting to highlight that from a 0 per cent of women present in 2004 (year in which it first joined the European Union) and 2009 there has been a significant increase, to a 67 per cent of female representatives.

It is especially surprising that conversely to the picture displayed in other State Members, this significant increase is equally due to the number of female representatives in the Group of the European People's Party than in the Group of the Progressive Alliance of the Socialists and Democrats in the European Parliament, as each of them includes two women, even though the Labour Party, integrated in the Socialist and Democrats of Europe, is the only party including a quota system.

Netherlands

There has been a constant increase in the percentage of Dutch female Members of the European Parliament since 1979; this trend has however suffered a six per cent decrease in the 2014 election. It is also interesting to observe that the number of women is evenly distributed across all political parties.⁵¹

Romania

The percentage of female representatives has remained fairly steady since Romania was incorporated to the European Union in 2007; it however suffered a decrease in 2014 from a 36 per cent of female Members of the European Parliament in 2009 to 31 per cent in 2014.

Slovakia

From 2004, year in which Slovakia joined the European Union, to 2009 there was a two point increase in the percentage of women (from 36 per cent to 38 per cent), this percentage however decreased in 2014 to 31.

Sweden

Sweden, alongside Finland, displays the best results for female presence in the European Parliament, having these steadily increased since 1999, which was the first year in which elections took place after Sweden joined the European Union in 1995. The percentage of Swedish female Members of the European Parliament has never been below 40 per cent and, more importantly, has been over 50 per cent for the past and present terms, after the elections of 2009 and 2014.

Also, in general all political parties have a more or less even number of women and men. It must also be pointed out that the Feminist Party won a seat for the first time in the 2014 election.⁵²

United Kingdom

If any country shows a progressive increase in the presence of female Members of the European Parliament that is the United Kingdom, from a 14 per cent of women in 1979, the percentage currently stands at 41.

3 Evolution within Member States with Legislated Quotas

Belgium

Even though the Belgian Law demands absolute parity in electoral lists, the percentage of women in the European Parliament still remains fairly low. Furthermore, although there was a steady increase in the percentage of female representatives since 1979, with a slight decrease in the 1999 election, the 2014 results show a significant reduction in the percentage of female Members of the European Parliament, from 36 per cent in 2009 to 29 per cent.

One of the main reasons leading to this is probably the fact that even though the electoral law demands parity in electoral lists it does not make a requirement to place candidates in a certain order depending on their sex, for instance alternating between both sexes, thus, parties place more women in positions within the list where it is more difficult for them to be elected.

Croatia

Even though Croatia entered the European Union in 2013 a significant increase from that year to the 2014 election in the percentage of female Members of the European Parliament, from 33 per cent to 45 per cent.

France

The general trend in France has been to increase the presence of female Members of the European Parliament except for a slight decrease from the elections of 2004, when the percentage of women peaked at 45 per cent, to the elections of 2009 (44 per cent) and 2014 (42 per cent).

Since 1999, the percentage of women has not fallen below 40 per cent. This was the year when the most significant increase in female presence took place, probably due to the fact that it was around this time that the quota debate was more relevant as it was when the Constitution was amended to allow for the legal introduction of quotas. Law 2000-493 introduced mandatory quotas the following year.

Greece

Although there has been a general increase in the number of Greek female representatives in the European Parliament, the rise was halted in the 2014 elections, falling the percentage by 8 points, from 32 per cent in 2009 to 24 per cent in 2014. Overall, it is possible to conclude by observing the data that the presence of women in the European Parliament representing Greece is not very significant.

Ireland

Although Sweden and Finland offer the best general evolution, Ireland stands levelled with the first in the percentage of women for the 2014 election. The general trend since 1979 has been to increase the percentage of female representatives, with significant reductions in 1989 and especially 2009; while the percentage of Irish female Members of the European Parliament was of 38 per cent during the 2004-2009 term, this figure fell to 25 per cent for the 2009-2014 term.

Finally, the 30-point increase in the 2014 election is probably a direct consequence of the amendment introduced in 2012 to the Law of Political Financing establishing mandatory quotas under penalty of a reduction in the financing of parties.

⁵¹ European Parliament / MEPs. (2014). Retrieved May 6, 2015, from www.europarl.europa.eu/meps/en/search.html?country=NL

⁵² European Parliament / MEPs. (2011). Retrieved May 6, 2015, from www.europarl.europa.eu/meps/en/search.html?country=SE

IV HISTORICAL EVOLUTION CONT

Italy

Although the presence of Italian female representatives in the European Parliament remained fairly low and steady since 1979, there was a significant increase in 2004, year in which the elections resulted in a 21 per cent of women being elected, while the proportion of women elected for the previous election, of 1999, had been of 11 per cent.

The most relevant increase in the percentage of Italian female representatives took place in the elections of 2014, from the 21 per cent that had been kept constant for the 2004-2009 and 2009-2014 terms the figure increased to 40 per cent. The fact that Law 96 of 2012 "*which curtails by 5% public contributions to parties that do not respect the proportion of 2/3 maximum of the same sex candidates in their lists*"⁵³ was passed prior to the 2014 election is probably the reason for this pronounced increase.

Poland

Poland shows a similar case to that of Belgium in the sense that, even if there are legislated quotas, the fact that there is no obligatory criteria relative to the order candidates have to be placed in, women are generally in positions within the lists which makes it more difficult for women to be elected. This leads to the percentage of women being fairly low. Although the general trend since 2004 has been an increase in the percentage of female representatives, from 15 per cent in 2004, to 22 per cent in 2009 and 24 per cent in 2014, the road to parity still has a long way to go for Polish female Members of the European Parliament.

Portugal

There is an upward trend for the percentage of Portuguese female representatives in the European Parliament since 1989 with the exception of a decrease in this percentage in the 1994-1999 term from 13 per cent to 8 per cent.

It is especially relevant to highlight the increase the presence of women underwent in the European election following the passing of the Portuguese Equality Law of 2006: from 25 per cent in the 2004-2009 term to 36 per cent in the 2009-2014 term. The relevance of this case relies on the fact that the Equality Law does not establish a rule for placing candidates in a certain order according to their sex, which could lead, as it does in other countries such as Belgium or Poland, to political parties placing women in the bottom positions of the list. However, in this case, the general quota for party lists does work correctly as it is reflected not only in the number of women present in electoral lists but also in the number of women elected.

Slovenia

The picture offered by the Slovenian case is quite surprising seeing as the 2004 election results are quite close to absolute parity for there was a 43 per cent of female Slovenian representatives; however, this percentage fell by 14 points to 29 per cent in 2009, and although it rose back up to 37 per cent in the 2014 election it has still not gone back up to the balanced results of 2004.

The results offered are directly linked to the quotas established by the Electoral Law. The amendment passed in 2003 introduced a minimum 40 per cent presence of women in electoral lists with mandatory alternating between female and male candidates, however the reform of 2006 reduced this percentage to 35, indicating that for the first election right after the law was passed the percentage to comply with was 25.

Spain

Except for a decrease in the percentage of female representatives in 2004, the general trend for the Spanish case is an increase in the percentage of female Members of the European Parliament.

However, it is interesting to highlight that even though the Spanish Equality Law was passed in 2007, the objective of a 40 per cent female presence was not achieved in the election following the passing of this law (the election of 2009), but in the 2014 election. This result can be explained by the fact that, although the Organic Law on Real Equality of Women and Men does establish a requirement of a forty to sixty ratio for each section of five candidates it is still possible for political parties to place women in the two last positions of this section of five. Consequently, although the percentage of female representatives was quite close to 40 per cent, the fact that it does not reach this figure proves that parties did what was in their hand (aware or unaware of it) to place in women in a way that led to the minimum possible female candidates to be elected while respecting the law.

In 2014, the percentage of female Spanish representatives in the European Parliament did surpass a 40 per cent, this is probably due to the fact that several of the political parties voluntarily presented lists in which female and male candidates were alternated (zipper lists).

4 Evolution within Member States with no Gender-Balance Mechanism

Bulgaria

Although the results for female representation were quite close to absolute parity when Bulgaria first joined the European Union in 2007, this figure has steadily decreased throughout the past two elections. The decrease from the year Bulgaria became a Member State and until the next election in 2009 was not very significant as it only meant a three point decrease (from 44 to 41 per cent). However, the same cannot be said of the difference between the results for the 2009-2014 term and for the 2014-2019 term as the last election to take place resulted in 29 per cent of female Bulgarian representatives.

Denmark

The percentage of female Members of the European Parliament presents a fluctuating image for the Danish case. The lowest figure is presented by the 1979 elections, however after then, the percentage of women oscillates between 38 and 46 per cent. If anything stands out is the fact that the 2014 broke with the upward trend that had been taking place since the 1999 election, falling back to 38 per cent from the maximum 46 per cent of women reached for the 2009-2014 term.

Estonia

There is a constant absolute parity for Estonian representatives in the European Parliament since this country joined the European Union in 2004.

Finland

The results for Finland were quite close to absolute parity in 1999 and 2004, with a 44 and 43 per cent of female representatives respectively. For the 2009 and 2014 Finland has not only reached parity but also surpassed it, having more female than male Members of the European Parliament. It must be noted that the 2009 result is especially surprising for the percentage of Finnish women was of 62 per cent. Although the percentage went down to 54 in 2014, this is still a very good result for political participation.

Latvia

There is an increase in the percentage of female representatives from 2004 to 2009 (from 33 per cent to 38 per cent), with only a slight decrease to 37 per cent in 2014.

⁵³ The Policy of Gender Equality in Italy: In-Depth Analysis for the FEMM Committee. (2014). Retrieved May 3, 2015.

V CONCLUSIONS

When analysing the general picture offered by the evolution in results to the elections to the European Parliament it is possible to observe a very scattered picture, with the evolution in the presence of women varying significantly from one country to another. This fact makes it difficult to establish a general cause-effect rule between the type of gender-balance mechanism and the actual percentage of women elected. However from the data analysed it is possible to draw up a few conclusions.

The set of countries in which some political parties have adopted quotas do not show a consistent image as a consequence of two factors. On the one hand, not all parties have adopted quotas and, on the other hand, even when most political parties have, the minimum percentage required for either sex varies from one organisation to another generating such a variation between independent variables that it limits the possibilities of establishing cause-effect relationships between the gender-balance mechanism established and the general results for each country. If a cause-effect relationship is to be established, the data analysed should be broken down by political party.

Thus, in order to reach any conclusions on whether quotas are effective or not, it is better to observe those countries in which quotas are legislated for the image offered is more consistent and enhances the possibilities of comparison from one State to another. In any case, when comparing the overall results for Member States with legislated quotas and those in which some of the parties have introduced voluntary quotas, the percentage of female representatives is higher in those Member States with legislated quotas (37.5 per cent), than in those with voluntary quotas (34.5 per cent). It is important to note, however, that the difference is not very significant.

When referring exclusively to the results for Member States with legislated quotas, there are a few elements to highlight. Firstly, there is a general upward trend in the percentage of female representatives directly related to the moment when regulations introducing quotas are set in place.

Secondly, in some cases it is possible to see how political parties limit their implementation of quotas to barely complying with the minimum requirements set by the law, which leads to women being presented with more difficulties to be elected. This can be observed in some of the Member States in which the quota regulation does not include a requirement for alternating candidates of one sex and the other. Finally, in those countries in which the increase in the percentage of female representatives becomes especially noticeable after the implementation of quotas, it is possible to appreciate a risk of accommodation, that is to say, once the minimum requirements have been met and there is an "acceptable" number of women in parliament, there is a general stabilisation of the presence of women.

What is generally perceived is that, once there is an internal recognition by political parties and institutions within a country of the need of parity representation, the results are more consistent with the objectives pursued by the quota mechanism. For example, in the case of Finland, although there are no quotas established for the drawing up of electoral lists, the fact that there is legislation to ensure that women are placed in positions of power leads to, on the one hand, the incorporation of their values to power structures and, on the other hand, the accepting by the general population of the equal right and ability of women to participate in the public sphere, in particular in public decision-making positions. In this same sense it is also possible to highlight the case of Spain where the minimum requirements set by legislated quotas have eventually been surpassed by some of the political parties.

However, unless female values are effectively incorporated to institutions and the collective imaginary it is very difficult to imagine a scenario in which women have the same opportunities as men in the access to positions of power. In order to do so, and especially given the fact that the instruments for communication between political institutions and the general population are political parties, these are the organisations that must include these values through facilitating the access of women not only in the composition of electoral ballots but especially in the composition of parties' internal bodies and structures.

Although the setting in place of gender-based quotas might not be enough to cover all aspects that must be undertaken in order to properly recognise the private sphere as a part of the construction of society, the data examined shows they are a necessary starting point, especially in those countries in which the presence and access of women to positions of power and representative institutions is still far from being equal to that experienced by men.

In conclusion, if the European Union means to stand as a world referent for Democracy, parity should be recognised as a constitutive element of Democracy, including this concept as well as the necessary means to achieve it in European electoral rules and regulations. This is the only possible stream of action possible in order to ensure that all Member States offer equal opportunities to men and women and both, the public and private spheres, are correctly represented and valued.

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