

What part did the EU play in raising women's pensionable age?

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*Women born in 1954 or later now have to wait longer to claim their pensions in order to bring them into line with men. **Annick Masselot**, **Roberta Guerrina** and **Bridgette McLellan** explain how the UK implemented an EU directive requiring the sexes to be treated equally for social security purposes. They argue that although, on average, women are worse-off in old age and many regard the change as retrograde, the principle of gender equality stands.*



With the referendum just a week away, the campaigns have turned their attention to social policy. [David Cameron warns that pensions will be greatly affected by Brexit](#). The counterclaim by the Leave side is that EU has played a part in the increase in women's retirement or pensionable age. This is a fairly complex issue that requires a detailed understanding of European and Member States' competencies on issues of social insurance and welfare. So what is at stake for women, many of whom have seen their pensionable age rise in the last 12 months?



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One issue often overlooked in discussions of pensions and social security is the importance of the principle that men and women should enjoy equal access to [these schemes](#). It goes without saying that the principle of equal treatment

is key to achieving gender equality. As obvious as this seems, the principle itself is rather complex in as far as it [challenges structural and cultural barriers to achieving equality of outcomes](#).

So it seems counter-intuitive that the principle of equal treatment should disadvantage women by raising their pensionable age to that of men. Is it true that the introduction of this principle within European legislation has led to inequitable outcomes?

The key directive

The story begins with the adoption of [Council Directive 79/7/EEC](#), which addresses equal treatment in relation to statutory social security matters. The directive specifically required Member States to ensure that there was no direct or indirect discrimination whatsoever on grounds of sex by the end of 1984. As the UK had not at that point implemented national provisions relating to equal treatment in statutory social security schemes, the directive directly shaped the nature and scope of gender equality laws surrounding pensions.

As is made clear by [early rulings by the Court of Justice of the European Union](#), however, the responsibility of ensuring equal treatment after this date often fell on individuals directly affected by the State's failure to correctly transpose the directive – if transposed at all. This was particularly so in the UK in relation to [benefits regarding invalidity](#). A fairly significant [body of case law](#) in this area clarifies further the scope of European legislation and the obligations of Member States in this regard.

From a technical perspective, while Article 4(1) of Directive 79/7 enshrines the principle of equal treatment, Article 7(1)(a) allows for exceptions to the overall principle when applied to setting pensionable age. It specifically acknowledged that changes in state pension need to be gradual and are the responsibility of Member States. In interpreting the [scope of the exclusion](#), the [Court of Justice of the EU](#) held that such “discrimination” was necessary in order to achieve the overarching objectives of the directive.

The exception for the difference in pensionable age was considered to be a temporary, in order to enable States to adapt their pension system progressively without disrupting their complex financial equilibrium. Discrimination concerning contribution periods, which are necessarily linked to the determination of pensionable age, was therefore held to fall within the exclusion, as to hold otherwise would render the derogation ineffective. However, it was always the case that eventually, pensionable age was going to become equal.

The need for an equal pension age

Directive 79/7 certainly played an influential role in shaping the UK statutory social security system. It resulted in the removal of various forms of discrimination in order to ensure a progressive move towards gender equality. As to the issue of discrimination regarding pensionable age, the UK Pensions Act 1995 provides for the equalisation of pensionable age, which is set to increase to 65 for both sexes in 2020, gradually increasing to 68 thereafter. While the increased pensionable age may not fit comfortably with popular understandings of how to advance gender equity, an equal pension age fulfils a key requirement of equal treatment.

If we look at the wider socio-economic context, it is worth noting that the gender pay gap in old age is twice as large as the pay gap between men and women in the labour market. This in turn means that [women are at higher risk of poverty in old age](#). Of course, EU provisions have influenced UK social security legislation, ensuring equal treatment in both statutory and occupational schemes. However, the rise in the pensionable age should be seen chiefly as a consideration of national financial policy rather than the consequence of EU regulation.

This post represents the views of the authors and not those of the BrexitVote blog, nor the LSE.

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