

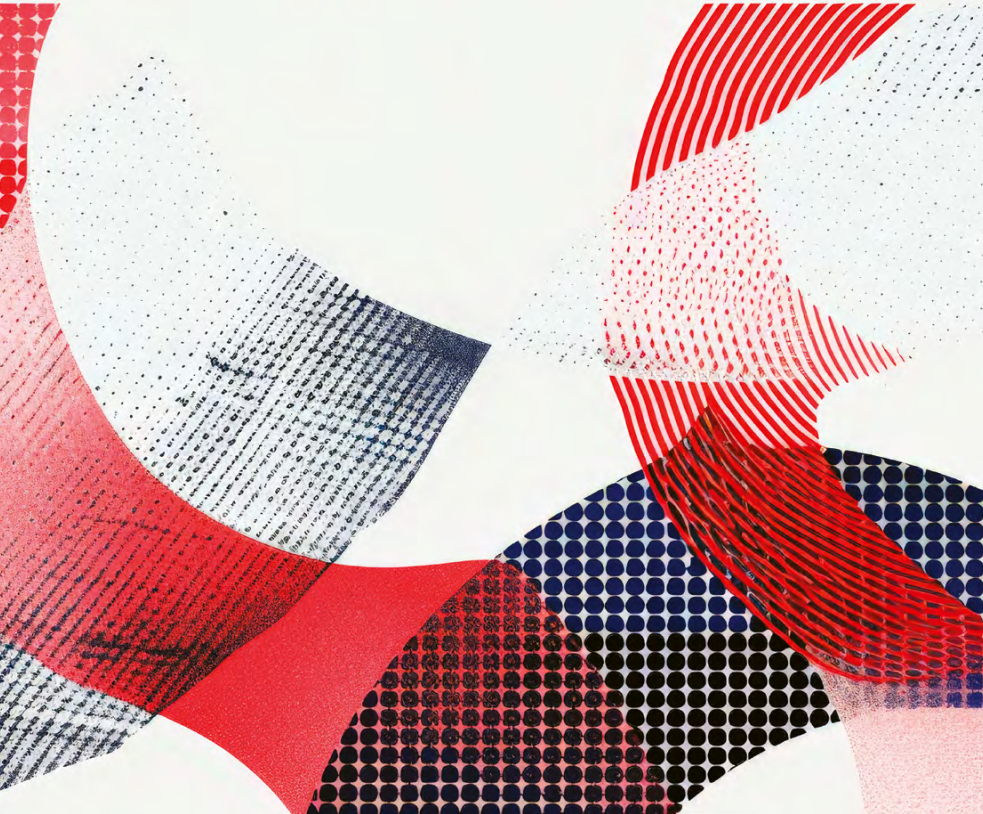
INTERNATIONAL SCIENTIFIC CONFERENCE

GENDER EQUALITY IN THE POST-YUGOSLAV SPACE:

Challenges, Policies, and Perspectives

MAY 21–22, 2026

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of Social Sciences



GENDER EQUALITY IN THE POST-YUGOSLAV SPACE:
CHALLENGES, POLICIES AND PERSPECTIVES

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Sanja Zlatanović*

GENDER EQUALITY IN LABOUR LAW: MENSTRUAL LEAVE AND THE CHALLENGE OF SYMMETRICAL PROTECTION

Gender equality is a cornerstone of contemporary labour law and international human rights law. Within the European legal framework, the principle of equal treatment of women and men is firmly established by Directive 2006/54/EC, which prohibits direct and indirect discrimination in employment and occupation. However, formal equality alone is increasingly recognized as insufficient to address structural inequalities, social stereotypes, and biological differences affecting workers' positions in employment and labour. Substantive equality requires differentiated measures to achieve genuinely equal opportunities.

A prominent recent development is the introduction of menstrual leave as a labour law mechanism to accommodate menstrual health conditions that may affect women's working capacity. In 2023, Spain became the first EU country that introduced the statutory right to menstrual leave, allowing medically certified leave financed through the social security system. Similar provisions exist in Asian jurisdictions, including Japan and South Korea, reflecting a broader trend toward recognizing reproductive health needs and promoting inclusive working conditions.

The paper examines whether menstrual leave constitutes a legitimate positive measure to achieve substantive gender equality in employment, using legal-theoretical, normative, and comparative methods. The analysis situates menstrual leave within European equality law and the jurisprudence of the Court of Justice of the European Union, including *Dekker v Stichting Vormingscentrum voor Jong Volwassenen* (C-177/88) and *Webb v EMO Air Cargo* (C-32/93), which confirm the compatibility of pregnancy-related protections with equal treatment.

The paper also addresses concerns that gender-specific measures may reinforce stereotypes, or create indirect inequalities.

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It explores functional symmetry through gender-neutral or men-inclusive measures, such as reproductive health leave, fertility-treatment leave, or preventive well-being leave schemes. The central argument is that genuine gender equality in labour law requires a balance between targeted supportive measures for women and broader mechanisms ensuring equal dignity, protection, and well-being for all workers, both men and women.

Keywords: Labor law, Gender equality, Menstrual leave, Substantive equality, EU equality law