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Gender-neutral Language in EU Secondary Legislation

The Case of the English Language

Abstract

English does not have a grammatical gender, thus having an “intrinsic predisposition towards gender-neutral forms” (Poddighe 2020, 3). Most personal nouns do not indicate a specific gender, as in the case of person or engineer. However, there are also personal nouns with lexical gender, such as king or queen (Hellinger 2001). As a result, in English there is a risk of creating sentences that are not gender-neutral.

Within the EU, the promotion of the use of a more inclusive language represents an important objective. For this reason, in recent years, various documents containing guidelines on gender-neutral language have been elaborated to encourage members of the EU institutions to adopt a language that is as inclusive as possible.

This article, therefore, provides a brief overview of gender in the English language. Subsequently, specific gender-neutral language guidelines for English and corpora of EU secondary legislation (directives, regulations, decisions, recommendations, opinions) drawn up in English are analyzed. Data are processed by using WordSmith Tools 8.0 in order to carry out the comparison of word frequencies between the corpora under analysis. The ultimate objective is to perform a diachronic linguistic analysis of the 1982-2022 period to assess whether EU secondary legislation has been drafted in compliance with the recommendations of the gender-neutral language guidelines. Specifically, the following lexico-grammar features are analyzed: the use of gender-neutral terms, the avoidance of the generic masculine pronoun and the use of alternative options.

Keywords: *EU legislative drafting, gender-neutral language, corpus-based analysis, EU secondary legislation, English language*

1. Introduction

In this article, gender is analyzed from a linguistic point of view. It is therefore important to first clarify what is meant by linguistic gender. A first basic definition is provided by Hockett, who states that “[g]enders are classes of nouns reflected in the behavior of associated words” (1958, 231). Put differently, “the essential criterion of linguistic gender is taken to be *agreement* (also known as *concord*), or systematic and predictable covariance between a semantic or formal

property of one grammatical form and a formal property of another” (Curzan 2003, 13). Moreover, according to Quirk et al., “[b]y *gender* is meant a grammatical classification of nouns, pronouns, or other words in the noun phrase, according to certain meaning-related distinctions, especially a distinction related to the sex of the referent” (2010, 314). As Corbett states, “[t]he classification frequently corresponds to a real-world distinction of sex, at least in part, but often too it does not” (1991, 1).

The number of genders in languages is not limited to two or three¹. It has been proved indeed that languages can show up to even twenty gender classifications. The possible number of genders in languages is therefore not subject to a determinable limit (Curzan 2003, 13). However, while many Indo-European languages have (grammatical) gender, some others have lost it, as in the case of English (Hellinger 2001, 107; Corbett 2014, 6; Audring 2016, 1). Nevertheless, As Prewitt-Freilino, Caswell and Laakso observe, “[a] lack of grammatical gender, however, does not necessarily reflect gender neutrality” (2012, 270). This is also confirmed by Hellinger and Baußmann who state that languages lacking grammatical gender can still convey gender in the broader sense. In such languages, ‘lexical’ and ‘social’ gender need therefore to be taken into consideration (2001, 6).

In the case of the English language, there are specific personal nouns with lexical gender, such as *prince*, *princess*, *queen*, *king*, *sister*, *brother*, *mother*, *father*. Such terms own a specific semantic property, which can be either female or male, and are therefore lexically specified. However, most English personal nouns do not show a specific gender, as in the case of *person*, *teacher*, or *engineer*. Such terms are used indeed to refer to both female and male referents and are generally accompanied by the binary gender-specific pronouns *he* or *she* (Hellinger 2001, 107).

Gender in English can have important social implications as well. Specifically, although in English most nouns do not show lexical gender, they can show a significant gender-bias. For instance, whenever the gender referent is unknown, some specific terms indicating high-status jobs, such as *lawyer*, *surgeon*, or *physician*, are traditionally accompanied by the ‘generic *he*’. On the contrary, low-status jobs are indicated by terms such as *nurse* or *secretary* and they are conventionally accompanied by the female pronoun *she* (Hellinger 2001, 108). As a consequence,

¹ Most Indo-European languages generally show two or three genders. Some languages distinguish between masculine, feminine and neuter (as in the case of German), while some others have reduced to two gender classes, namely masculine and feminine (as in the case of Spanish or Italian). For more details, see Corbett, Greville G. *Gender*. Cambridge: Cambridge University Press, 1991.

in English—as well as in those languages that are regarded as grammatical gender languages—there is a risk of creating sentences that are not gender-neutral.

In the past decades, there has been an increased attention on gender-neutral language, especially in English-speaking countries. As Xanthaki (2020, 6-7) states

In the English-speaking world, gender neutrality is gaining ground. GNL [gender-neutral language] has been adopted by the New South Wales Office of Parliamentary Counsel in 1983, by New Zealand in 1985, by the Australian Office of Parliamentary Counsel in 1988, by the UN and the International Labour Organization roughly around 1989, by Canada in 1991, by South Africa in 1995, and by the US Congress, albeit not consistently, in 2001. In the UK GNL is applied to all government Bills and Acts since 2007. However, most Commonwealth drafters in other jurisdictions find it difficult to understand the rationale of GND [gender-neutral drafting], since most Interpretation Acts expressly state that “he includes she.”

New Zealand and Australia were indeed the first English-speaking countries to embrace the principle of gender-neutral drafting to write laws (Williams 2008, 141). In the latter half of the 1980s, various international organizations such as the United Nations and the International Labour Organization have also started the transition to gender-neutral drafting. With regard to the institutions of the European Union, the English texts of both the EU Treaties and the legislation have traditionally been drafted according to the masculine rule² (Pennisi 2022, 175). However, the transition to gender-neutral drafting in English has occurred within the EU institutions as well, although it has started about a decade later than the United Nations and the International Labour Organization (Williams 2008, 143-144). In the 1997 Amsterdam Treaty, for instance, the masculine rule was still applied. However, as Williams (2008, 144) states with reference to the 1997 Amsterdam Treaty

Since then gender neutrality would appear to have become a consolidated principle in the drafting of major documents, such as the Treaty establishing a Constitution for Europe (2004) or the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (2007). On the other hand, the principle has been applied unevenly in the drafting of Directives, even in recent years.

The EU currently gives great importance to gender issues (Robinson 2020, 20). Equality between women and men is a fundamental value of the European Union. This is confirmed by the establishment of bodies and committees specifically focused on gender and equality issues.

² The so-called masculine rule is a legislative drafting policy that is based on the traditional assumption that *he* subsumes *she* (Williams 2008, 139).

For instance, the European Institute for Gender Equality (EIGE) was established in 2010 with the aim of promoting gender equality and fighting discrimination based on sex and gender across the European Union. Although it is an autonomous body, EIGE operates within the framework of the European Union policies and initiatives. Then, in 2014 the Council of Europe Convention on preventing and fighting violence against women and domestic violence—which is also known as the Istanbul Convention—entered into force with the aim of setting binding standards to prevent gender-biased violence, to protect victims of violence and punish perpetrators. Furthermore, in 2016 the European Parliament adopted the Resolution of 8 March 2016 on Gender Mainstreaming in the work of the European Parliament, in which it is highly recommended to focus attention on the use of specific terminology in relation to gender equality issues (Pennisi 2022, 173). During the last decade, the focus on gender-neutral issues and, specifically, on gender-neutral language has therefore begun to assume particular importance within the EU institutions. As Hellinger and Baußmann (2001, 18-19) observe,

Language as a tool of social practice may serve several functions (e.g. the exchange of information); it has social-psychological functions in that it reflects social hierarchies and mechanisms of identification, and it contributes to the construction and communication of gender. More specifically, language is assumed to codify an androcentric worldview. Recommendations and guidelines for non-discriminatory language identify areas of conventional language use as sexist and offer alternatives aiming at gender-fair (and symmetric) representation of women and men.

Guidelines for non-discriminatory language can therefore have an important social impact. At the European level, several guidelines on gender-neutral language have been elaborated with the aim of promoting a more gender-neutral language and of changing society's perception of men and women, but also of persons with disabilities and other groups of people in our societies. For instance, in the *Inclusive Communication in the GSC*—which is the acronym for General Secretariat of the Council of the European Union—elaborated in 2018 (Council of the European Union 2018, 5), it is acknowledged that

Communication is a powerful tool. It is a vehicle for moulding our attitudes, perceptions and behaviour, and reflects the world in which we aspire to live and work. Words and pictures therefore matter, because communication can become discriminatory if we fail to consider the assumptions which influence the language and visuals we use. Language is always changing: words evolve and how we use them should evolve in tandem. Using gender-neutral and bias-free language is a way of moving away from outdated perceptions about men, women, persons with disabilities and other groups of people in society.

The aim of such guidelines on gender-neutral language is to promote equality and to renew commitment to the values contained in Article 2 of the Treaty on European Union, which states that “[t]he Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.”

This article aims therefore at conducting a diachronic analysis of the 1982-2022 period to assess whether EU secondary legislation has been drafted in compliance with the recommendations of the guidelines on gender-neutral language. In order to do so, this article provides first a brief overview of gender in the English language (Section 2). Subsequently, the specific gender-neutral language guidelines for English and various corpora of EU secondary legislation³ (directives, regulations, decisions, recommendations, opinions) drafted in English in the 1982-2022 period are analyzed and compared (Section 3). Specifically, the following lexico-grammar features are analyzed: the use of gender-neutral terms (Subsection 3.1), the avoidance of the generic masculine pronoun (Subsection 3.2), the alternative options to the generic masculine pronouns (Subsection 3.3).

2. A brief overview of gender in the English language

English has not always lacked inflectional endings. Old English or Anglo-Saxon⁴ was a highly inflected language, just like Latin or Russian. Furthermore, Old English had three grammatical genders, namely feminine, masculine, and neuter (Curzan 2003, 12), as well as strong and weak inflectional paradigms, two numbers (singular and plural) and four cases. Specifically, in Old English “adjectives, verbs, determiners and other word classes showed morphological agreement with their heads” (Hellinger 2001, 106). Furthermore, because of the inflections, the order of the elements in the sentence was not fixed. However, in main clauses the SVO order prevailed, whereas in subordinate clauses the SOV order was more frequent (Hellinger 2001, 106).

The grammatical gender categories of Old English described above were very similar to those of Modern German, which is considered as the ‘sister’ language⁵ of Modern English (Curzan 2003,

³ www.eur-lex.europa.eu. Last visited 29/10/2022.

⁴ Old English or Anglo-Saxon was the language spoken from the 5th century to the 11th century, namely from the arrival of the Germanic tribes in England to the Norman Conquest in 1066 (Hellinger 2001, 107).

⁵ English is indeed a Germanic language. Specifically, English belongs to the West Germanic branch of the Indo-European family of languages and shares similar grammatical structure with languages such as German, Dutch, Swedish, Norwegian (Hellinger 2001, 107).

12). Nevertheless, although English shares many common words with German and the Germanic languages in general, most of its lexicon derives from Latin. Indeed, thanks to the Roman Christianizing of Britain in 567, English came into contact with Latin language and culture, thus acquiring numerous words from Latin (Baugh and Cable 1993, 10). Consequently, English shares part of its lexicon with the Romance languages deriving from Latin.

After the Norman Conquest in 1066, English became the language used by the lower classes for two centuries, whereas French was mainly used by the nobles. When English regained supremacy—after about two centuries—and started to be used again by the entire population, it was a very different variety from the one spoken in 1066 (Baugh and Cable 1993, 2). Middle English started its transition to Modern English in the 15th century. Specifically, during the latter century the shift from West Saxon to London English occurred (Hellinger 2001, 106).

As previously mentioned, Old English had three grammatical genders, and such a formal gender system was gradually lost between the 10th century and the 14th century because of a decay of inflectional endings and the disintegration of declensional classes (cf. Kastovsky 2000, 714; Hellinger 2001, 106).

Based on the above, it can be observed that the English language that is widely spoken today⁶ is the result of centuries of transformation. In particular, with regard to gender, Modern English “shows no such morphological agreement” and “is no longer a (grammatical) gender language” (Hellinger 2001, 107). However, as mentioned in the previous section, many high-status occupational nouns are traditionally semantically gender-biased. For this reason, they are usually accompanied by the ‘generic *he*.’ Furthermore, traditionally, in sex-indefinite contexts the use of the ‘generic *he*’ has prevailed as well, thus implying an automatic inclusion of women within the male category. However, in the 1970s many feminists have started arguing that “*he* should not be used when the referent includes women, and that speakers of English should find some substitute” (Bodine 1975, 30).

The urge to start using a more gender-neutral language arose in the 1970s, and this has also led to the introduction of many guidelines which help promote gender-neutral language at the international level. For the purposes of this study, the gender-neutral language guidelines that have been recently drawn up at the European level by many of its institutions are analyzed in

⁶ It should be highlighted that it is not correct to speak about one single variety of English. Indeed, as Romaine states, “[t]he spread of English as an international language makes it increasingly difficult to say anything which will apply to the language as a whole. The singular term *English* seems no longer adequate to describe the social, regional and other variation in a language used by millions. It is now one of a few languages whose non-native speakers outnumber its native speakers” (2001, 154).

the following section. The aim is to verify whether specific recommendations regarding the use of a more gender-neutral language have been observed during the drafting of EU secondary legislation.

3. Corpora and methodology

In this section, a diachronic linguistic analysis of the 1982-2022 period is carried out in order to analyze specific features at lexico-grammar level in EU secondary legislation, and to assess whether such legislation has been drafted in compliance with the recommendations of the gender-neutral language guidelines under consideration. Specifically, the latter include the *Gender-Neutral Language in the European Parliament*⁷ elaborated by the European Parliament in 2018, the *Inclusive Communication in the GSC*⁸ elaborated by the General Secretariat of the Council in 2018, the *Toolkit on Gender-Sensitive Communication: A Resource for Policymakers, Legislators, Media and Anyone Else with an Interest in Making Their Communication More Inclusive*⁹ elaborated by the European Institute for Gender Equality in 2019, and the *Inclusive Language* section of the *English Style Guide: A Handbook for Authors and Translators in the European Commission*¹⁰ by the European Commission elaborated in 2016 and last updated in 2022. All of the just mentioned documents serve as guidelines for policymakers, legislators and all experts working in the European institutions that are responsible for planning, drafting, proposing, and implementing EU laws, which include EU secondary legislation as well.

The diachronic analysis has been conducted with a corpus-based approach and, specifically, on six corpora containing EU secondary legislation¹¹ (directives, regulations, decisions,

⁷ European Parliament. “Gender-Neutral Language in the European Parliament,” 2018. www.europarl.europa.eu/cmsdata/151780/GNL_Guidelines_EN.pdf. Last visited 29/10/2022.

⁸ Council of the European Union. “Inclusive Communication in the General Secretariat of the Council. European Union,” 2018. www.consilium.europa.eu/media/35446/en_brochure-inclusive-communication-in-the-gsc.pdf. Last visited 29/10/2022.

⁹ The European Institute for Gender Equality (EIGE). “Toolkit on Gender-Sensitive Communication: A Resource for Policymakers, Legislators, Media and Anyone Else with an Interest in Making their Communication More Inclusive,” 2019. eurogender.eige.europa.eu/system/files/events-files/toolkit_on_gender-sensitive_communication_eige_2019.pdf. Last visited 29/10/2022.

¹⁰ European Commission. “English Style Guide: A Handbook for Authors and Translators in the European Commission,” January 2016. Last updated: September 2022. ec.europa.eu/info/sites/default/files/styleguide_english_dgt_en.pdf. Last visited 28/11/2022.

¹¹ EU secondary law includes five types of legal acts that may be adopted by EU institutions. Such legal acts include regulations, directives, decisions, recommendations, and opinions. The latter are described in Article 288 of the Treaty of Functioning of the European Union (TFEU), which provides that regulations, directives, and decisions are binding legal acts by stating that “[a] regulation shall have general application. It shall be binding in its entirety and directly

recommendations, opinions) elaborated in 1982 (including 1,291,866 tokens), 1992 (including 1,341,833 tokens), 2002 (including 1,242,833 tokens), 2012 (including 1,201,162 tokens), and in the time frames 2013-2017 (including 1,214,345 tokens) and 2018-2022 (including 1,256,84 tokens)¹² for a total number of 7,547,925 tokens. The 1982-2022 period was selected to conduct the present study as the English-speaking society has been particularly conscious of gender-neutral language since the 1970s (Williams 2008, 139; Hord 2016, 13; Pennisi 2020, 6). In addition, an equal number of EU legal acts elaborated during each specific year or time frame has been included in each of the corpus under discussion to ensure balance between the corpora. Data have been processed using WordSmith Tools 8.0¹³ through the Concord function. Thanks to the latter, specific lexico-grammar features have been analyzed in a diachronic perspective. In particular, the Concord function has been used for the following purposes:

- To investigate the use of gender-neutral and gender-discriminatory terms in the corpora under investigation (Subsection 3.1);
- To investigate the use of the masculine pronouns *he*, *his* and *him* and, precisely, to verify whether their frequency has changed during the 1982-2022 period or not (Subsection 3.2);
- To investigate the use of alternative options to the generic masculine pronouns (Subsection 3.3). More precisely, it has been verified whether the frequency of the expressions *he or she*, *his or her*, and *him or her* has changed during the 1982-2022 period or not (Subsection 3.3.1). Moreover, the use of gender-neutral pronouns (Subsection 3.3.2) such as the ‘singular *they*’ and the neologisms ‘ze,’ ‘hir,’ ‘hirs, and ‘hirsself’ are analyzed. With specific regard to the ‘singular *they*’, the analysis has been conducted through a manual verification of the use of the pronoun *they* in all the sentences detected by the WordSmith Tools 8.0 software in which it was present.

applicable in all Member States. A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.” Article 288 of the TFEU further stipulates that recommendations and opinions are non-legislative, non-binding legal acts by stating that “[r]ecommendations and opinions shall have no binding force.”

¹² The year of each corpus is assigned according to the date of the legal acts that are contained in it. The last two corpora include legal acts belonging to a longer time frame as this was necessary to ensure balance between all six corpora. Specifically, from the 2013 onwards, the legal acts of a single year did not provide sufficient data for carrying out the analysis.

¹³ WordSmith Tools is an integrated suite of programs for observing how words behave in texts (Scott 2020).

Specifically, the agreement of *they* with the subject and the verb has been verified by using the Concord function in order to examine its frequency within the corpora under analysis.

In the following subsections, the results of the diachronic analysis are shown and discussed. Even though such results cannot be generalized, they allow us to draw conclusions on the type of gender-neutral language used in EU secondary legislation drafted in the 1982-2022 period.

3.1 Use of gender-neutral terms

According to the *Toolkit on Gender-Sensitive Communication*, “[g]endered nouns and adjectives should be avoided and replaced with gender-neutral terms” (European Institute for Gender Equality (EIGE) 2019, 29). Furthermore, the *Gender-Neutral Language in the European Parliament* states (European Parliament 2018, 5) that

In order to avoid gender references, one can use gender-neutral terms, i.e. words that are not gender-specific and refer to people in general, with no reference to women or men (‘chairman’ is replaced by ‘Chair’ or ‘chairperson,’ ‘policeman’ or ‘policewoman’ by ‘police officer,’ ‘spokesman’ by ‘spokesperson,’ ‘stewardess’ by ‘flight attendant,’ ‘headmaster’ or ‘headmistress’ by ‘director’ or ‘principal,’ etc.).

The *English Style Guide* also recommends to “[a]void word choices which may be interpreted as implying that one gender is the norm” (European Commission 2022, 68), and the *Inclusive Communication in the GSC* recommends to “[u]se gender neutral nouns that make no assumption about whether it is a man or woman who does a particular job or plays a particular role” (Council of the European Union 2018, 8).

In this subsection, data regarding the frequency of specific gender-discriminatory and gender-neutral terms mentioned in the guidelines under consideration are identified and analyzed in the corpora under consideration. The gender-discriminatory and gender-neutral terms and expressions¹⁴ that have been identified in the guidelines originally included a greater number

¹⁴ The gender-discriminatory and gender-neutral terms identified in the guidelines included the following terms and expressions: *spokesperson*, which should be used to replace *spokesman*; *synthetic* or *artificial* for *man-made*; *staff* for *manpower*; *ordinary people* for *the common man*; *demanding task* for *man’s job*; *humankind* for *mankind*; *chairperson* or *chair* for *chairman*; *firefighter* for *fireman*; *fisher* for *fisherman*; *police* for *policeman*; *tradesperson* for *tradesman*; *craftsperson* for *craftsman*; *labor hours* for *man hours*; *business executive* for *businessman*; *expertise* for *workmanship*; *politician* or *diplomat* for *statesman*; *creator* for *mastermind*; *grand plan* for *masterplan*; *community* for *brotherhood*; *salesperson* for *salesman*; *worker* for *workman*; *person* or *individual* for *man* (The European Institute for Gender Equality (EIGE), 2019, 55-56;

of terms. However, since such terms do not occur in the corpora under analysis, it is not possible to draw conclusions on their use. For this reason, Table 1 shows fewer terms than those listed in the guidelines. As shown in the table, the terms that have been taken into account include *chairman/chairmen* and *man-made*, whereas gender-neutral terms include *chair*, *chairperson*, *synthetic* and *artificial*. The latter terms are specifically mentioned in the guidelines on gender-neutral language under consideration and are described as gender-neutral terms to use as alternatives to the aforementioned ‘gender discriminatory’ terms.

In order to carry out the analysis, WordSmith Tools 8.0 was used to verify the frequency of such terms in each individual corpus under investigation. Items that had been previously identified have been searched through the Concord function and have been ordered in terms of frequency. Table 1 shows the results.

Terms	1982 corpus	1992 corpus	2002 corpus	2012 corpus	2013-2017 corpus	2018-2022 corpus
Chairman/ Chairmen	51 <0.01%	146 0.01%	0	0	5 <0.01%	0
Chair	0	0	7 <0.01%	135 0.01%	13 <0.01%	14 <0.01%
Chairperson	0	0	5 <0.01%	0	13 <0.01%	45 <0.01%
Man-made	265 0.02%	0	1 <0.01%	0	8 <0.01%	14 <0.01%
Synthetic	139 0.01%	8 <0.01%	0	0	15 <0.01%	7 <0.01%
Artificial	31 <0.01%	0	0	0	0	0

Tab. 1: Gender-neutral and gender-discriminatory terms in the 1982, 1992, 2002, 2012, 2013-2017, 2018-2022 corpora

As it can be noticed from the data collected, with regard to the gender-discriminatory terms *chairman* and *chairmen*, frequencies of such terms have been on the decrease. Furthermore, *chairman* and *chairmen* are not present at all in the 2002, 2012 and 2018-2022 corpora (in the 2013-2017 corpus such terms only occur 5 times). On the contrary, the use of the gender-neutral term *chair* starts increasing in 2012 by exceeding the use of *chairman* and *chairmen*. With regard to the gender-discriminatory expression *man-made*, the latter is still used in the most recent legislation (both in the 2013-2017 corpus and in the 2018-2022 corpus). Conversely, the

European Parliament, 2018, 10-12; European Commission, 2022, 68-69; Council of the European Union, 2018, 8-9).

gender-neutral term *synthetic* is also used in the most recent legislation and its frequency rate is similar to *man-made*. Although results cannot be generalized, data show that with regard to the gender-neutral alternative options shown in Table 1, various forms seem to co-exist.

3.2 Avoidance of generic masculine pronouns

According to the principle of linguistic relativity, language and grammar have a great influence on the way individuals structure their way of thinking (Whorf 1956, 23). Indeed, it is often argued by feminists and critics that “the generic *he* has reinforced sexist attitudes and behaviors in a more subtle, psychological manner” (Gastil 1990, 630). As the *Gender-Neutral Language in the European Parliament* (European Parliament 2018, 7) states

The traditional grammatical convention in most grammatical gender languages is that for groups combining both sexes, the masculine gender is used as the ‘inclusive’ or ‘generic’ form, whereas the feminine is ‘exclusive,’ i.e. referring to women only. This generic or neutralising use of the masculine gender has often been perceived as discriminating against women.

As a matter of fact, it has long been assumed that the masculine *he* includes the feminine *she*. This male bias can be described as “an implicit assumption that an undefined person is a man” (Lindqvist et al. 2018, 110) However, as mentioned in Section 2, in recent decades the urge to change such a linguistic usage in English has increased. In this connection, in the *Inclusive Communication in the GSC* (Council of the European Union 2018, 8) it is stated that

Rather than using masculine pronouns ‘he/his/him’ to refer to people of all genders, it is preferable to have a more gender-inclusive approach. There are many simple ways to avoid the generic use of masculine pronouns when drafting. Depending on the type of document, as well as its register, style and length, you have a choice between the following options:

- Use ‘he or she’ (as opposed to the wording ‘he/she’); [...] However, this approach can be cumbersome in a lengthy document and does not include non-binary people. Using this option at least once in the text, in combination with the other options described below, signals that your intention is to be gender-neutral.
- Turn the noun into a plural form followed by ‘they’ whenever possible [...];
- Use ‘they’ in relation to a singular noun [...];
- Omit the pronoun [...];
- Change the possessive pronoun ‘his’ to ‘a’ or ‘the’ [...];
- Use the relative pronoun ‘who’ instead of ‘if he’ [...];
- Repeat the noun [...];
- Use the imperative if appropriate [...];
- Use the second person [...].

The avoidance of the generic masculine pronoun is also recommended by the other two reference guidelines, which recommend using alternative solutions whenever it is possible (The European Institute for Gender Equality (EIGE), 2019, 55-56; European Commission, 2022, 68-69). In this subsection, the use of the masculine pronouns *he*, *his* and *him* is therefore investigated to verify whether it has undergone changes in terms of frequency during the relevant time frame. The results are shown in Table 2.

Masculine pronouns	1982 corpus	1992 corpus	2002 corpus	2012 corpus	2013-2017 corpus	2018-2022 corpus
He	119 0.01%	329 0.03%	61 <0.01%	106 <0.01%	211 0.02%	25 <0.01%
His	214 0.01%	386 0.03%	112 0.02%	333 0.03%	327 0.03%	66 <0.01%
Him	43 <0.01%	40 <0.01%	19 <0.01%	47 <0.01%	38 <0.01%	8 <0.01%

Tab. 2: Use of generic masculine pronouns in the 1982, 1992, 2002, 2012, 2013-2017, 2018-2022 corpora

Based on the data collected, the use of masculine pronouns has decreased significantly in the 2018-2022 corpus. Results suggest that the abovementioned strategies recommended by the *Inclusive Communication in the GSC* have been adopted to avoid or at least reduce their use. In the following subsection, alternative options to the generic masculine pronouns are analyzed and discussed.

3.3 Alternative options to generic masculine pronouns

As mentioned in Subsection 3.2, the *Inclusive communication in the GSC* recommends using alternative options instead of generic masculine pronouns. In the following sub-subsections, some of these alternatives are analyzed in order to verify whether the EU secondary legislation under analysis was drawn up in accordance with such a recommendation. Specifically, the use of *he or she*, *his or her* and *him or her* (Sub-subsection 3.3.1), the use of the ‘singular *they*’ (Sub-subsection 3.3.2) and the use of the gender-neutral pronoun ‘*ze*’ (Sub-subsection 3.3.3) are analyzed and discussed, as their use results particularly controversial according to different scholars.

3.3.1 Use of ‘he or she,’ ‘his or her’ and ‘him or her’

The first alternative option to the ‘generic *he*’ that is analyzed here concerns the use of *he or she*, *his or her* and *him or her*. With regard to the use of such pronouns, Dembroff and Wodak

state that “we have a duty not to use binary gender-specific pronouns (*he* or *she*) to refer to genderqueer individuals” (2018, 375), and that in a broader sense “we have a negative duty not to use any gender-specific pronouns (*he* or *she*) to refer to anyone, regardless of their gender identity” (Dembroff and Wodak 2018, 371). Furthermore, Bodine states that grammarians have tried to eradicate the use of binary gender-specific pronouns by claiming that *he* or *she* is ‘clumsy,’ ‘pedantic,’ or ‘unnecessary’ (1975, 133). The use of *he* or *she* seems therefore rather controversial, although it is considered as a valid alternative to the ‘generic *he*’ by the *Inclusive Communication in the GSC*. The latter recommends to “[a]void gender-specific pronouns for people whose gender is unknown. It is preferable to use ‘they’ or reformulate the sentence so that no pronoun is needed, or use ‘he or she,’ ‘s/he’ (albeit this option is falling out of favour)” (Council of the European Union 2018, 9). In the *Toolkit on Gender-Sensitive Communication* (European Institute for Gender Equality (EIGE) 2019, 20) it also specified that

When using a gendered pronoun (e.g. he or she), the speaker is assuming the gender of the person they are talking about. Often people use gendered pronouns even when they do not know the gender of the person they are talking about or when talking about a group of people that could be of either gender. This practice perpetuates gender stereotyping by repeating commonly held expectations about the gender of people in certain roles. Instead you should use gender-neutral language. A common way to do this is to use the plural ‘they.’ This is becoming more and more common in standard English.

In addition, the *Gender-Neutral Language in the European Parliament* further suggests using *he* or *she* only if none of the following strategies work: use of plural forms, use of the imperative, omission of the pronoun or use of the passive form. If necessary, it is further suggested avoiding its repetition in the same sentence (European Parliament 2018, 10). Finally, the use of *he* or *she* is not mentioned in the *English Style Guide* (European Commission 2022, 69), although it suggests that

If the text clearly refers to a specific individual on a particular occasion, and you know the gender of the person concerned, use the appropriate pronoun. This may be ‘he’/‘him’/‘himself,’ ‘she’/‘her’/‘herself,’ or—in the case of a non-binary person—‘they’/‘them’/‘themselves’ used in a singular sense.

In this subsection, the use of *he* or *she*, *his* or *her* and *him* or *her* is analyzed in order to verify whether the frequency of such expressions has remained unchanged during the time frame taken into consideration. Table 3 below shows the results.

Binary gender-specific pronouns	1982 corpus	1992 corpus	2002 corpus	2012 corpus	2013-2017 corpus	2018-2022 corpus
He or she	18 <0.01%	8 <0.01%	11 <0.01%	51 <0.01%	119 0.01%	20 <0.01%
His or her	0	4 <0.01%	3 <0.01%	162 0.01%	150 0.01%	60 <0.01%
Him or her	0	0	4 <0.01%	24 <0.01%	14 <0.01%	6 <0.01%

Tab. 3: Use of binary gender-specific pronouns

What emerges from Table 3 is that frequencies of *he or she*, *his or her* and *him or her* have been on the increase, thus demonstrating the effort in moving towards an inclusion of both sexes in EU secondary legislation, especially from 2012 onwards. However, in the 2018-2022 corpus data show a decrease in the use of such binary gender-specific pronouns. Overall, data therefore suggest that alternatives to the use of gendered pronouns and sentence rephrasing¹⁵ have occurred since 2018, as suggested by the *Inclusive Communication in the GSC* and the *Toolkit on Gender-Sensitive Communication*.

Furthermore, data show that various forms seem to co-exist with regard to the alternative options to the generic masculine pronouns that are used in the EU secondary legislation under analysis and, in particular, with regard to the use of *he* and *he or she*. For instance, in Article 4(2) of the Regulation (EU) 2021/821 of the European Parliament and of the Council of May 2021, setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast), *he* is used to refer to an exporter whose gender is unspecified as it is stated that

Where an exporter is aware that dual-use items which *he* proposes to export, not listed in Annex I, are intended, in their entirety or in part, for any of the uses referred to in paragraph 1 of this Article, the exporter shall notify the competent authority. That competent authority shall decide whether or not to make the export concerned subject to authorization. (Emphasis added)

¹⁵ The recommendations of the *Inclusive Communication in the GSC* concerning the ways to avoid the ‘generic *he*’ (Council of the European Union 2018, 8) are also included in other guidelines on gender-neutral language at the European level. For instance, the *Toolkit on Gender-sensitive Communication* invites the readers to use *he or she*, but also to replace pronouns with the articles *the* or *a* if the gender of the person to whom reference is made is unknown, removing the pronoun, using the gender-neutral pronoun ‘*ze*’, using *person*, and other alternatives. For more details, see European Institute for Gender Equality (EIGE) 2019, 52-55.

However, in Article 10(2) of the Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC—which is drafted in 2021 as well—*he or she* is used to refer to a third-country national whose gender is unspecified as it is stated that

An application for an EU Blue Card shall be considered and examined either when the third-country national concerned is residing outside the territory of the Member State to which *he or she* wishes to be admitted, or when *he or she* is already residing in the territory of that Member State as holder of a valid residence permit or long-stay visa. (Emphasis added)

3.3.2 Use of gender-neutral pronouns

The *Toolkit on Gender-Sensitive Communication* suggests using gender-neutral pronouns as an option to replace traditional gender pronouns and, therefore, to use a more gender-neutral language. The gender-neutral pronouns taken into analysis in this study are the ‘singular *they*’ and the neologisms ‘ze,’ ‘hir,’ ‘hirs,’ and ‘hirsself’ that are used as a third-person singular gender-neutral pronoun. Specifically, the gender-neutral pronoun ‘ze’ is an alternative option to the use of the generic masculine pronouns that is suggested by the *Toolkit on Gender-Sensitive Communication*, which states that “[t]his can be a way of including people of non-binary gender in the discussion” (The European Institute for Gender Equality (EIGE) 2019, 28). The *Gender-Neutral Language in the European Parliament*, the *Inclusive Communication in the GSC*, and the *English Style Guide* do not mention the abovementioned neologisms. It is assumed that this is because such terms are new and unfamiliar. Indeed, Dembroff and Wodak (2018, 402) raise a fundamental question with regard to their use by stating that

Another common concern with neologistic pronouns is that ‘ze’ would ‘other’ or ‘exoticize’ any genderqueer persons that ‘ze’ is used to refer to. By using a new, unfamiliar term for non-binary persons, one might worry, we would grammatically work against the goal of socially incorporating these persons by suggesting that they are not ‘normal,’ in the sense that they fall outside the bounds of normalized social categories.

Furthermore, Bradley et al. have suspected that ‘ze’ might be read as a typo for *he* by those who are unfamiliar with such a neologism or that other readers who are familiar with it might interpret it as gender-neutral, but not non-binary, thus suggesting that a greater familiarity and awareness of this term might lead to a faster acceptance and use (Bradley et al. 2019, 4). Nevertheless, Dembroff and Wodak (2018, 402) further state that

Introducing ‘ze’ (or some other neologism) as a third-person singular personal pronoun allows

us to retain *they* as a plural pronoun without raising concerns about ungrammaticality or clarity of communication. We grant that introducing a new pronoun would be incredibly difficult. But we still think it is a prescription worth taking seriously.

The use of the pronoun ‘ze’ is therefore a very controversial matter, as highlighted by the conflicting opinions provided above. Based on the analysis carried out with the WordSmith Tools 8.0 it has been possible to verify that in all corpora under analysis the gender-neutral pronouns ‘ze,’ ‘hir,’ ‘hirs’ and ‘hirsself’ are not used. The reason for such a non-use may be attributed to the lack of familiarity with the neologism in question, as already highlighted (Dembroff and Wodak 2018, 402; Bradley et al. 2019, 4).

Another gender-neutral pronoun that is discussed in this section is the ‘singular *they*’, which is one of the alternatives suggested by the *Gender-Neutral Language in the European Parliament* and the *Inclusive Communication in the GSC*. However, Bodine highlights that “[i]f the definition of ‘they’ as exclusively plural is accepted, then ‘they’ fails to agree with a singular, sex-indefinite antecedent by one feature—that of number” (1975, 133). Indeed, as Dembroff and Wodak state, “[t]here are two central reasons why one might object to the appropriation of *they* as a singular, gender-neutral pronoun: first, that such uses of *they* are ungrammatical; and second, that *they* is not in fact gender-neutral” (2018, 400). It follows that the ‘singular *they*’ needs to be cautiously used, as also mentioned by the *Gender-neutral language in the European Parliament* (European Parliament 2018, 11), which states that

There is an increasing tendency to use ‘*they*’ and its derivatives in certain contexts for a singular subject, thus not specifying the person’s gender, as in: ‘*Someone may not know their tax number.*’ This may be considered acceptable, though caution should be exercised when it comes to the reflexive/emphatic form: should one accept ‘*Someone may unintentionally cause harm to themselves?*’ In such cases ‘*themselves*’ is a possible neologism, but does not appear to be established as yet, although this may evolve. For the moment and if there is no alternative, use ‘*themselves.*’

Although the abovementioned guidelines on gender-neutral language elaborated at the European level accept the cautious use of the ‘singular *they*’, data show that the latter is not used in any of the corpora under analysis. On the contrary, based on the manual analysis of the sentences detected by WordSmith Tools 8.0, other strategies have been adopted in EU secondary legislation in order to use a more gender-neutral language. For instance, in Recital (18) of the Regulation (EU) 2021/821 of the European Parliament and of the Council of May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items, the possessive determiner *its* has been used to refer to an exporter, as it is stated that

Guidelines for Internal Compliance Programmes should be introduced in order to contribute to achieving the level- playing field between exporters and to enhance the effective application of controls. Such guidelines should take into account the differences in sizes, resources, fields of activity and other features and conditions of exporters and their subsidiaries, such as intra-group compliance structures and standards, thereby avoiding a ‘one model for all’ approach and helping each *exporter* to find *its* own solutions for compliance and competitiveness. (my emphasis)

Its, *it*, and *itself* are generally used to refer to things. However, as shown in the previous example, in this case *its* is used as a gender-neutral determiner.

Furthermore, turning the noun into a plural form followed by *they* whenever possible is another option that has been used in the most recent legislation under analysis. For instance, in Article 27(1) of the Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast), it is stated that

Exporters of dual-use items shall keep detailed registers or records of *their* exports, in accordance with the national law or practice in force in the Member State concerned. Such registers or records shall include in particular commercial documents such as invoices, manifests and transport and other dispatch documents containing sufficient information to allow the following to be identified:

- (a) A description of the dual-use items;
 - (b) The quantity of the dual-use items;
 - (c) The name and address of the *exporter* and of the consignee;
 - (d) Where known, the end-use and end-user of the dual-use items.
- (Emphasis added)

As it can be noticed, the noun *exporter* is used both in its singular and plural form. As suggested by the *Inclusive Communication in the GSC*, at the beginning of the sentence *exporter* is used in its plural form as it is followed by *their*. Alternatives to the use of the ‘singular *they*’ seem therefore to be preferred when drafting legislation within the European institutions.

4. Concluding remarks

As Hellinger and Baußmann (2001, 19) observe

Gender-related reform is a reaction to changes in the relationships between women and men, which have caused overt conflicts on the level of language comprehension and production. Reformed usage symbolizes the dissonance between traditional prescriptions such as the use of masculine/male generics and innovative alternatives. In most cases it explicitly articulates

its political foundation by emphasizing that equal treatment of women and men must also be realized on the level of communication.

The need to use a more gender-neutral language is a symptom of social changes and an urge to promote gender equality against all discriminations based on sex and gender. This is confirmed by the creation of autonomous bodies such as the EIGE—whose core value is equality between women and men—and by the introduction of guidelines on gender-neutral language at European level.

Based on the diachronic analysis carried out in the present study, it is possible to state that at the European level there is a strong interest in strengthening gender equality and the use of a more gender-neutral language. The guidelines under analysis aim indeed at raising awareness on the importance of a more gender-neutral language and at providing practical tools, advice and examples to everyone involved in the drafting of EU documents and legislation.

Based on the data collected, observations can be made on gender-neutral language in EU secondary legislation drafted in the 1982-2022 period. Specifically, with regard to the lexicogrammar features analyzed in the present study, the most salient results concern the use of generic masculine pronouns—which has decreased after 2018—and the alternative options to generic masculine pronouns. These options include the use of *he or she*, the use of ‘singular *they*’ and the use of gender-neutral pronouns. The use of such alternatives is particularly controversial and debatable, as discussed in Subsection 3.3: *He or she* is often considered non-gender-neutral by scholars; the use of ‘singular *they*’ is often considered ungrammatical (Dembroff and Wodak 2018, 400; Bodine 1975, 133); the introduction of the neologisms ‘ze,’ ‘hir,’ ‘hirs’ and ‘hirsself’ is often regarded as difficult and risky, although it could prove to be a valid option (Dembroff and Wodak 2018, 402; Bradley et al. 2019, 4). As a matter of fact, the selected EU secondary legislation has shown a highly cautious recourse to the use of ‘singular *they*’ and of the neologisms ‘ze,’ ‘hir,’ ‘hirs’ and ‘hirsself,’ as data indicate that they have not been used at all in the corpora under analysis. It is assumed that drafters opt to proceed with care in using certain alternative approaches and neologisms to achieve gender-neutrality. This is probably because the neologisms recommended by the *Toolkit on Gender-Sensitive Communication* are new and unfamiliar, as highlighted by Dembroff and Wodak (2018, 402). However, it will be interesting to observe whether their use will increase in the future.

Another important observation needs to be made: based on the data extracted from the corpora, various strategies seem to co-exist with regard to both the gender-neutral terms analyzed in Subsection 3.1 and the alternative options to the generic masculine pronouns analyzed in Subsection 3.3. With reference to the latter, for instance, sentence rephrasing or other

additional strategies have been preferred in drafting EU secondary legislation. For instance, *its* has been used as a gender-neutral adjective, or nouns have been turned into a plural followed by *they* (see Sub-subsection 3.3.2).

Based on the diachronic analysis conducted, it can be stated that the evolution towards a more gender-neutral language in EU legislation is at a developing stage. Guidelines on gender-neutral language already represent an important starting point to accomplish such a goal. In the coming years, it will be interesting to observe whether such guidelines will continue to be used, and whether those that are already used as guidance for the drafting of EU legislation will work synergistically to develop additional guidelines and to achieve a single approach to gender issues in EU legislative drafting. This could prevent the use of various and often contrasting approaches to gender-neutral language in EU secondary legislation.

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