



EU AT

Conference Closing the Gender Pay Gap 22 May 2006, Brussels

Documentation



FEDERAL MINISTRY OF
HEALTH AND WOMEN



*Cofinanced by the European Commission,
Directorate-General for Employment, Social Affairs
and Equal Opportunities.*

© Published by:
Federal Ministry of Health and Women
Radetzkystraße 2, A-1030 Vienna, Austria

ISBN 3-900019-85-1

Editing:
Agnes Schulmeister, Martina K. Steiner

Layout:
Alena Fachberger

Printed by:
Federal Ministry of Health and Women

Vienna, August 2006



Women's Euro by courtesy of WomenIT

Conference
Closing the Gender Pay Gap

22 May 2006, Brussels

Documentation

TABLE OF CONTENTS

INTRODUCTION

Maria RAUCH-KALLAT, Austrian Federal Minister for Health and Women_____1

Vladimír ŠPIDLA, Commissioner for Employment, Social Affairs
and Equal Opportunities_____5

THE GENDER PAY GAP. ORIGINS AND POLICY RESPONSES

Janneke PLANTENGA, Utrecht School of Economics_____7

EU LEGISLATIVE INITIATIVES AND INTERPRETATION AND RECENT RULINGS FROM THE EUROPEAN COURT OF JUSTICE

Regine WINTER, European Court of Justice_____15

EXPERIENCES WITH LEGISLATION, BEST PRACTICES AND INITIATIVES FROM MEMBER STATES

Frank FAHEY, Minister of State for Justice, Equality and Law Reform, Ireland_____25

Asa REGNER, Ministry of Justice, Sweden_____28

Catherine LARET-BEDEL, Office for Women's Rights, Ministry of Social Cohesion
and Equality, France_____29

WAYS OF MOVING TOWARDS EQUAL PAY

Edeltraud RANFTL, Johannes Kepler University Linz, Austria_____33

RECENT INITIATIVES AND EXPERIENCES OF THE EUROPEAN SOCIAL PARTNERS

Catelene PASSCHIER, European Trade Union Confederation (ETUC)_____41

Inge REICHERT, European Centre of Enterprises with Public Participation and
of Enterprises of General Economic Interest (CEEP)_____45

Thérèse de LIEDEKERKE, Union of Industrial and Employers' Confederations
of Europe (UNICE)_____47

Liliane VOLOZINSKIS, European Association of Craft, Small and Medium-sized
Enterprises (UEAPME)_____51

WOMEN'S PROJECTS AND GOOD PRACTICES

Birgit ARENS, EUROCHAMBRES Women Network, Belgium, Project: CH.A.S.E._____55

Kerstin WITT-LÖW, Institute SOFIA, Austria, Project: KLARA!_____59

Gunilla STERNER, Ministry of Industry, Employment and Communication, Sweden,
Project: BETSY_____62

Christine BAUR, Ombud for Gender Equality in Employment, Austria,
Project: EQUINET_____65

DISCUSSION_____67

CONCLUDING REMARKS

Luisella PAVAN-WOOLFE, European Commission, GD Employment, Social Affairs
and Equal Opportunities_____71

Theresa PHILIPPI, Cabinet of the Minister Maria Rauch-Kallat_____73

WOMEN'S EURO_____75

INTRODUCTION

Maria RAUCH-KALLAT

Austrian Federal Minister for Health and Women

Vladimír ŠPIDLA

*Commissioner for Employment, Social Affairs
and Equal Opportunities*



Maria RAUCH-KALLAT
Austrian Federal Minister for Health and Women

Dear Commissioner,
Dear Minister Fahey,
Dear members of the European Parliament
and of the Austrian Parliament,
Dear experts,

The call for “equal pay for work of equal value” is one of the oldest demands raised by the women’s movement from the very beginning, along with the fight for equal suffrage.

Unlike the latter, pay justice has not been fully realised so far.

This issue is a particularly obstinate and complex obstacle on the way to achieving full equality of women and men.

In view of the manifold and complex reasons for the enduring pay inequality, it is imperative that we do not relent in our efforts to fight it.

These efforts must be undertaken at all levels, an approach mirrored by the dense programme of today’s conference. First of all, it is the governments that need to take action, which is why I am glad to welcome my Irish counterpart, Frank Fahey, as well as representatives of the Swedish and French governments, who will present their latest initiatives with a view to exchanging best practice models.

However, we know that the mere legal prohibition will not eliminate pay inequalities. In most member states, the social partners play an important role in fixing wages and salaries. For the first time ever, today’s conference assembles all four EU-accredited umbrella associations of social partners with the purpose of increasing the joint efforts for closing the pay gap.

In March 2005, the social partners adopted a remarkable action framework for gender equality, submitting a number of case studies. Closing the pay gap is one of their four priorities. The social partners’ presentations will be one of the afternoon focuses as well as a highlight of the event.

I am very pleased that the employers’ side has promptly followed our invitation. This is a large step forward vis-à-vis the last pay gap conference in Germany in 2002, which was only attended by representatives of the European Trade Union Confederation.

The presence of numerous representatives of social partner organisations from member states, nominated on our request by the ministers of equality, is designed to ensure the direct flow of information to the member states and to create a solid basis for further joint efforts.

Now let me say a few words to the social partners: Perhaps you will know that the Austrian Trade Union Confederation is currently in a phase of restructuring





and reorientation. I would be very pleased to see this as a chance to have more women in top positions, and I am convinced that a higher proportion of women will entail structural and content-related improvements.

A survey conducted by Catalyst, an US research society, showed that the companies with the highest proportion of women had a 35 % plus of investment income and up to 34 % more yields for shareholders. A fact substantiated by business practice will also benefit the executive bodies of all social partners.

We also have specific proposals for income policy negotiations: The proportion of women on the bargaining teams for collective agreements should correspond to the proportion of women working in the respective sector. For the purpose of a gender mainstreaming strategy, the catalogues of demands exchanged prior to negotiations should be scrutinised for their impact on men and women.

In Austria, we have recently worked on the problems of job choice stereotypes, launching a number of initiatives for encouraging girls to choose technical occupations. This includes information events for vocational instruction teachers and pilot projects with partner companies.

Also within the framework of the Austrian EU-Presidency, the conference "Researching Women in Science and Technology" took place in Vienna on May 15 and 16, which focused on the increase of the proportion of women in research and technology.

The "Talent Check" developed by EUROCHAMBRES Women Network (EWN) is already being used in Austria in order to support young women with their occupational choices. Within the framework of the EQUAL project KLARA!, Austrian women are trained as equal pay agents for closing the pay gap at the company level.

Both projects will be presented in more detail in the afternoon.

In this context, I can list only a few of the many reasons for the pay gap; however, we must not forget to mention women's individual bargaining power. In 2004, I launched an Austria-wide mentoring programme completed so far by 3000 women. The individual relationship between mentor and mentee is an excellent tool for strengthening self-esteem and assertiveness. We have prepared information sheets for you in English.

On the information desk, you will also find the guide compiled by the Austrian Ministry of Health and Women for a non-discriminatory job evaluation as well as a manual of the National Equality Body that describes the implementation of the new EU equal treatment directives and relates them to company practice.

The present conference aims at building on the basis of the preliminary work in order to prepare the way for the next steps towards full income equality. In this context, we need to take a look at the work of the European Court of Justice, which, since its groundbreaking "Defrenne" judgment, has provided many valuable statutory bases for income equality.

At the beginning of the afternoon session, Dr Ranftl, who has made an important contribution to the 2002 Berlin Conference, will bridge the levels of governments



and social partners, thus providing an element of continuity with regard to previous work.

Our first topic will be a synopsis of the pay gap status and of the counter-measures undertaken in the member states. The survey on which today's first expert speech is based on was conducted by a network of independent experts on behalf of the European Commission.

As explained by Commissioner Špidla, the Commission makes a lasting contribution towards combating pay inequality. I would like to thank both you and your team for their work and for the good cooperation during the preparations for today's conference.

Before I give the floor to the next speaker, I should like to apologise for not being able to spend the whole day with you. Today's conference, whose realisation is a special concern of mine, coincides with the general meeting of the World Health Organisation, which I need to attend in my function as Minister of Health.

I wish you a successful conference, fruitful discussions and lots of stamina for the further efforts to achieve income equality in your spheres of activity.

I would now like to ask Professor Plantenga, who coordinated the reports of the expert network on the pay gap on behalf of the European Commission, to deliver her speech.



Vladimír ŠPIDLA
**Commissioner for Employment, Social Affairs
and Equal Opportunities**

First of all, I should like to congratulate the Austrian Presidency on this conference and to express my gratitude for the organisational work.

The pay gap between women and men is not merely an important and complex issue. It is also a central issue on the way to gender equality. For over 50 years, there have been efforts to achieve gender equality, yet women's incomes in the EU still fall short of men's by an average of 15 %. This fact is simply unacceptable.



However, the last half-century has also seen important progress. The principle of equal pay for male and female workers for equal work or work of equal value has existed ever since the foundation of the European Community.

Thanks to the consistent and dynamic rulings of the Court of Justice, Article 141 of the Treaty establishing the European Community has become a central part both of the legal provisions on gender equality and of the entire European social law.

Pursuant to the interpretation of the European Court of Justice, this Article has the status of a fundamental right within the framework of the European legal system. The equal pay principle is laid down in a special directive adopted in 1975. This directive aims at standardising the national provisions regulating the application of the principle of equal pay for women and men.

Most importantly, I think that a further reduction of the pay gap requires monitoring of the correct implementation of the applicable European law and the relevant rulings of the Court of Justice.

However, we must also enhance the effectiveness of the existing provisions. We need to ask ourselves whether the current provisions meet contemporary requirements. Since their adoption, the structure of the labour markets has undergone significant changes. The laws were passed when the economy was still dominated by the industry, and women worked at home. Today, most women work in the service sector. The existing laws must be examined accordingly. Besides, we should scrutinise the applicable provisions to see if they still reflect women's careers, which frequently differ from men's. An example is the challenge of reconciling job and family, which even to this day primarily affects women. Since it is mostly women who do the household chores and care for the family, they are often forced to choose job modalities that prevent better paid careers.

In this context, legislation is still an important tool. This is demonstrated by several legislative initiatives launched recently in individual member states in order to combat the pay gap more effectively. France has just adopted a law aimed at slashing pay differences within five years by obliging enterprises to show results within this period. Sweden also introduced changes in its Equal Opportunities Act



urging the social partners to cooperate with regard to the mandatory determination of pay rates. These two examples will be presented this morning. Both are very interesting approaches currently examined by us with the aim of finding to what extent these initiatives can serve as models for other member states.

Although legislation is an important aspect, it is not sufficient by itself to solve the problem: **The factors responsible for the pay gap go far beyond the legal framework.**

Pay inequality of women and men is merely a reflection of the numerous inequalities of women and men in the labour market. In some respects, the pay gap is an indicator of economic discrimination.

Why wonder about the pay gap when almost one third of women work part time, with the effect of slowing their careers? Why wonder about the pay gap when women account for a mere third of management positions in companies? Why wonder about income disparities when women work predominantly in sectors or occupations with the lowest pay rates?

If we want to eliminate the pay gap we must change all that. It is an ambitious goal, implying that women and men are to be equal not only legally but also economically.

To address this challenge, the Commission adopted a Gender Equality Roadmap on 1 March. This roadmap provides new impulses for gender mainstreaming and will be a central part of our future efforts in this direction.

The roadmap establishes the six priority fields of action, the first being "Achieving Equal Economic Independence For Women and Men". Clearly, the goal is to achieve the employment targets agreed at Lisbon, to increase women's labour participation rate, and to reduce unequal treatment of women and men in the labour market, which includes unequal pay.

The most important item contained in the roadmap for 2007 is a communication of the Commission on the pay gap between women and men. Within the framework of this memorandum, it is intended to determine the factors responsible for unequal pay and to suggest appropriate counter measures. The Commission wants to examine all options for action and integrate all available tools, including the efficient application of the existing legal provisions. Among others, it will have to scrutinise the following aspects: occupational segregation, vocational training and advanced training, transparent evaluation and pay systems, as well as job classification.

The targets set for this memorandum are ambitious and linked with many high expectations. If we want to make progress in this complex area, we will need all the support we can get, in particular from the member states and the social partners. We can only make progress through joint and concerted action.

I am convinced that this Conference will make a valuable contribution towards the preparations for this communication.

Thank you for your attention.

**THE GENDER PAY GAP.
ORIGINS AND POLICY RESPONSES**

Janneke PLANTENGA
Utrecht School of Economics



Janneke PLANTENGA
Utrecht School of Economics

The Gender Pay Gap. Origins and Policy Responses

Facts

Let me start with a perhaps somewhat disappointing statement: there is no such thing as the gender wage gap. Estimates about the differences between male and female wages depend on the data available, the specific sample, the method used etc. The same country may have a relatively wide, average or even narrow gender pay gap depending on the data source used. As a consequence, there is a wide variation in results over time, between countries and even among studies for a particular country.

Yet there are a few regularities. For example, in comparison to a random sample of the population, the gender wage gap is much lower if only a sample of new entrants in the labour market is investigated. Put differently, the wage gap tends to be wider for those who have been in a job for a relatively long period of time. Secondly, the wage gap is lower in the public sector. This may be due to the more compressed wage structure in the public sector compared to the labour market as a whole and to the higher share of female skilled and professional workers in the public sector. It also appears the wage gap is higher for married employees and significantly lower for singles. Presumably this has something to do with gender specific specialisation in paid and unpaid work between the spouses.

Keeping in mind the fact that the results are highly sensitive to differences in data sources, figure 1 provides an overview of the gender pay gap based on the Structure of Earnings Survey 2002 (SES). This survey is considered as the most reliable source with respect to harmonized pay data. The SES covers all EU Member States, except Malta. Moreover, the acceding countries Bulgaria and Romania are included, as well as Norway. Unfortunately, the data cover only employees in the private sector (that is industry and services), excluding health care and education. This certainly has an impact on the extent of the gender pay gap as – as stated before – the gender pay gap is lower in the public sector compared to the private sector.

The figures indicate that overall – in the private sector – the gender pay gap in the 25 Member States is almost 25 %. In line with the Employment Guidelines of the EU the gender pay gap is calculated as the difference between men's and women's gross hourly earnings as a percentage of men's average gross hourly earnings. (Overtime payments are not included.)

Figure 1 also indicates that differences between countries are quite significant. On the basis of the SES data, the largest gap is found in the UK (30 %), the smallest in Slovenia (11 %). Countries like Ireland, Austria, Estonia, Cyprus and Slovakia do not seem to be doing very well on this indicator, whereas Poland, Hungary, Sweden, France and Belgium score a bit more favourably. All in all, it appears that the gender pay gap for the new member states are a bit smaller than for the former member states – yet the differences are not very large.



Origins

What are the factors behind this pay gap? What explains the persistency of the gender wage gap? First of all, it has to be noted that the gender pay gap as such does not signal discrimination as such – there may be important differences in the characteristics of women and men which influence the wage level and which have to be taken into account in order to make a neat comparison. From a theoretical point of view, factors that have to be taken into account refer to differences in personal characteristics between men and women (age, education and experience), differences in job characteristics (occupation, sector, firm size), effects of wage distribution and finally discrimination. Let us elaborate a bit on the different factors.

Traditionally, differences in pay are explained by referring to differences in individual characteristics. Especially within the framework of human capital theory, the gender pay gap is analyzed in terms of gender differences in productivity-related qualifications like education, training and experience. Given the gendered division of labour, women are less likely to invest in market oriented formal education because they expect a shorter and more discontinuous working life; an investment in education will therefore not pay off well in the future. More limited experience and less investment in education will reduce their productivity and will translate in lower wages. Therefore, in order to compare like with like, it is important to adjust the pay data so as to unravel which part of the overall gender pay gap is the result of differences in individual characteristics.

In addition to the 'classical' human capital variables, it is also quite common to adjust the pay data also for differences in job characteristics. That is: variables like occupation, job level and firm size are included in order to make a more neat comparison. The total wage differential between men and women can then be decomposed into an explained part E due to differences in personal and job characteristics and an unexplained residual U , often referred to as the discrimination effect, which is due to both unobservable differences and the differences in rewards for identical characteristics.

This unraveling of the overall gender pay gap into unequal productivity on the one hand and unequal treatment on the other seems relatively straightforward. Yet there has been a lot of debate about which variables have to be included in the wage regression. Especially the status of the control variables like occupation, industry and firm size is controversial. It could be argued that gender differences in these job characteristics are a reflection of discrimination rather than productivity, and as such, they should not be included as explanatory variables in the earnings function. Phrased differently: the controls for occupation eliminate some of the effects of occupational barriers as sources of discrimination. As a result, the effects of discrimination are underestimated. On the other hand: the level of discrimination may be overestimated if not all relevant (productivity related) variables are included. And they seldom are, given the usual difficulties with the available data. Therefore the unexplained part may more closely correspond to the 'level of our ignorance', than the actual level of discrimination.

In addition to differences in individual and job characteristics, the gender pay gap may also be related to the overall structure of wages, that is 'the array of prices determined for labour market skills and the rewards to employment in particular sectors' (Blau & Kahn 2000). The logic behind this is rather straightforward. Since women, on average, tend to have less labour market experience



than men, and work in different occupations, the gender pay gap will increase if the return to experience will increase or if the occupational wage differences will increase. The same reasoning applies when the gender pay gap is compared between countries; countries with relative high rewards to skills and experience and a relatively large wage dispersion will tend to have larger gender pay gaps – all else equal.

Prices of skill or experience may be affected by relative supplies, by the structure of demand, by technology (strongly growing innovative firms might pay high wages for highly trained workers) or by the wage-setting institutions. Centralized systems of wage setting, for example, tend to reduce inter firm and inter industry wage variation, thereby lowering the gender pay gap. In addition, because in all countries the female wage distribution lies below the male distribution, centralised systems that raise the minimum pay levels, regardless of gender, may also have a positive impact on the gender wage gap.

Although we do not have enough information to estimate the relevance of all the different elements, Eurostat calculated the adjusted gender pay gap for the SES 2002, taking into account – that is correcting for – the following six characteristics: age, education, occupation, working hours, economic activity and size of the enterprise. The results are shown in figure 2.

When discarding for the major differences a gap of 20 % remains. The difference between the unadjusted and adjusted pay gap is relatively small, which is presumably due to the fact that the characteristics are rather broadly defined. For example the variable occupation only has two categories (manual versus non-manual) and the same holds for the variable economic activity which only correct for industry versus services. No doubt a more detailed classification of variables would have let to a larger difference between the unadjusted and the adjusted pay gap.

Figure 2 also indicates that for most countries the adjusted gap is lower than the unadjusted gap. That is – if corrected for these characteristic and the comparisons is based on more 'equal' persons – the gender pay gap is smaller. In particular, the pay gap has decreased in Ireland, Greece, the Netherlands, Cyprus, Austria and UK (7 percentage points). For a few countries however, the adjusted gap is larger than the unadjusted gap (2-3 percentage points): Hungary, Poland, Lithuania, Latvia and Slovenia. So apparently some of the wage differential is concealed behind the overall average.

Policy responses

Policy initiatives to reduce the gender pay gap basically fall under three policy categories:

- *equal pay policy* aiming at tackling direct or indirect gender wage discrimination,
- *equal opportunities policy* aiming at encouraging women to have continuous employment patterns, and de-segregating employment by gender,
- *wage policies* aiming at reducing wage inequality and improving the remuneration of the low paid.

Equal pay policy refers basically to the equal pay legislation and anti discrimination laws. The expected positive effect of this policy is reasonably straightforward.



ward, although the impact will presumably depend on the effectiveness of the enforcement of the legislation.

Another important sub-set of policy refers to equal opportunities. Given that an uninterrupted career is still an important factor in the overall gender wage gap, it is extremely important to enable women to have more continuous employment patterns. Policies targeted towards increasing child care facilities are therefore important. Although data are difficult to summarize, it is quite clear that the availability and affordability of childcare differs extensively over the EU member states. In only a few countries, childcare is seen as a social right and offered at highly subsidized prices. In other countries, public subsidies are limited and childcare services are only supplied through the private market at high prices. In a few cases, the limited availability of affordable childcare places is acknowledged as a real barrier for labour market participation especially for low-income families. This no doubt affects the earning capacity of women negatively.

Parental leave is another important part of reconciliation policy. The effects in terms of the gender pay gap are a bit more complicated though. On the one hand such policies may raise the relative earnings of women by keeping them connected to the labour market and/or particular firms. This may increase the incentives of employers and female workers to invest in firm-specific training. On the other hand, the existence of such policies, given the fact that they create some distance from the labour market, might also reduce the female participation rate and damage future career paths and earnings. It is also possible that the costs of such policies are shifted to the wages of the users. Especially extended paid parental leave may result in substantial wage reductions among female employees.

Yet another element of equal opportunities policy would be to encouraging young girls to consider a wide range of occupational options, to channel them towards future oriented training courses especially in sciences and technology. Yet – although important – it is also a difficult approach: a major limitation is that any such changes happen very slowly. It may take generations to desegregate the labour market. In addition, it might also signal the wrong message: if we focus too strongly on desegregation the implicit meaning may be that it's all about women taking the wrong educations, choosing the wrong carrier pattern and perhaps finally having poor negotiation skills, when it comes to wage negotiation. Rather than focusing on career advice and training so that girls will not enter undervalued occupations, we should better deal with the undervaluation itself.

This brings us to the third policy area – wage policies. It is well know that compressed wages and the introduction of minimum wage potentially improve earnings of women especially those who are low qualified. In this respect, the current trend towards more decentralized systems of wage setting does not seem to be very helpful as they are likely to increase inter industry and inter firm wage differentials. In addition, a widening of the gap between the minimum wage and the medium wage may increase male-female wage differentials. Therefore, reducing wage inequality and improving the remuneration of low pay jobs are important policy areas if the focus is on reducing wage differentials between men and women. This is not an easy job, though, given the current socio-economic trend towards decentralisation and deregulation. This brings us towards the challenges.



Challenges

The decentralisation and deregulation of wage setting mechanism is a real challenge at the economic level. There is a growing emphasis on market forces and the allocative efficiency of wage differentials. That means women may be swimming upstream: women with better educational background, less children, shorter periods of employment interruption are confronted with a labour market with growing wage differentials and less collectively agreed wages and wage components. As a result, the differences in wages remain more or less the same.

A second important development with respect to the process of wage setting is the introduction of variable pay schemes and the pay for performance. In principle, paying workers more in accordance with their performance may be favourable for women and might reduce the gender wage gap. An important precondition in this respect is an objective system of performance evaluation. At the same time, however, an increase in performance-based pay systems may increase gender wage differences, for example if variable pay systems are limited to certain jobs. In addition, criteria of evaluation are not always written down or may be unfavourable for women. For example, in the Netherlands flexibility is quite often used as a criterion in evaluation. This is, however, a criterion that experts in the field of equal pay consider as a potential source of (indirect) discrimination between men and women.

Apart from the economic, there is also a political challenge. It goes without saying that it is impossible to develop policy initiatives if there is no awareness of the gender gap as a problem that needs to be tackled. In that respect, it is a real problem that nobody feels responsible for closing the gender pay gap. There is no real 'problem owner' with regard to the gender pay gap. National governments might acknowledge that there is a problem with the gender pay gap, but they might be rather reluctant to go against the policy of deregulation and voluntary action by employers in the private sector. And employers may simply refer to market forces which seem to indicate different equilibriums for different occupations. In addition, scientific research with all its econometric complexities does not seem to help as the outcomes are not simply translated into policy action. For example the statement that 80 % of the unadjusted pay gap can be accounted for by several variables does not mean that this wage gap is to the same extent justified.

Best Practices

Finally – having set the stage and having sketched the spectrum of policy responses, let me present a few examples of actual policy responses - that is let me finish with a few 'best practices' and I will concentrate here on issues directly relevant for the level of wages:

As mentioned before, it all starts with providing information and awareness raising. Information is needed to assess the wage differentials, and reliable data are needed to monitor any progress in the field. In addition, it is important to disseminate information. A few countries have introduced, taking the US as an example, an **"Equal Pay Day"** as an important initiative to inform a larger public with respect to the persistence of gender wage inequality. Belgium has been organising a equal pay day for the second time on March 31 because women need 15 months to earn what men do in a year. Another important initiative under the heading of providing information and awareness raising is the introduc-



tion of a **wage calculator** or **wage indicator** on the internet (the Netherlands and Hungary). One of the goals of this project is to improve the information about real wages, beyond the information about the formal wages agreed in a specific collective bargaining agreement.

Also extremely important are initiatives targeted towards developing and distributing instruments targeted towards a more just system of job evaluation. In several countries there are initiatives focussing on developing tools to support managers, officials and activist to address the gender pay gap, or to draw up guidelines, or supply training courses for the application of non-discriminatory systems of job evaluation. Initiatives in this respect have been taken by e.g. Belgium, Denmark, Greece, Ireland, Lithuania, Austria and Sweden. Important developments also refer to the elimination of 'all women' categories within the framework of collective agreements (Spain) or more generally improve the transparency of the collective bargaining process. Of course in order to be effective all these tools and guides and courses have to be translated into a programme of action or into a set of specific policy initiatives and this is the more difficult part of story.

Let me conclude. At this moment the gender pay gap is 15, 20 or 25 % depending on the particular data base and the sectors included. Until now, policies targeted towards closing the gender pay gap have not been very successful. Presumably, in order to be more effective, we need a two track approach: on the one hand special measures geared towards improving the position of women on the labour market. On the other hand, we have to integrate the gender perspective into the overall wage policy. That is: we should make real progress in the issue of gender mainstreaming.

For further reading see:

Jill Rubery, Damian Grimshaw and Hugo Figueiredo (2002). The gender pay gap and gender mainstreaming pay policy in EU Member States. Manchester: EWERC.

Downloadable at:

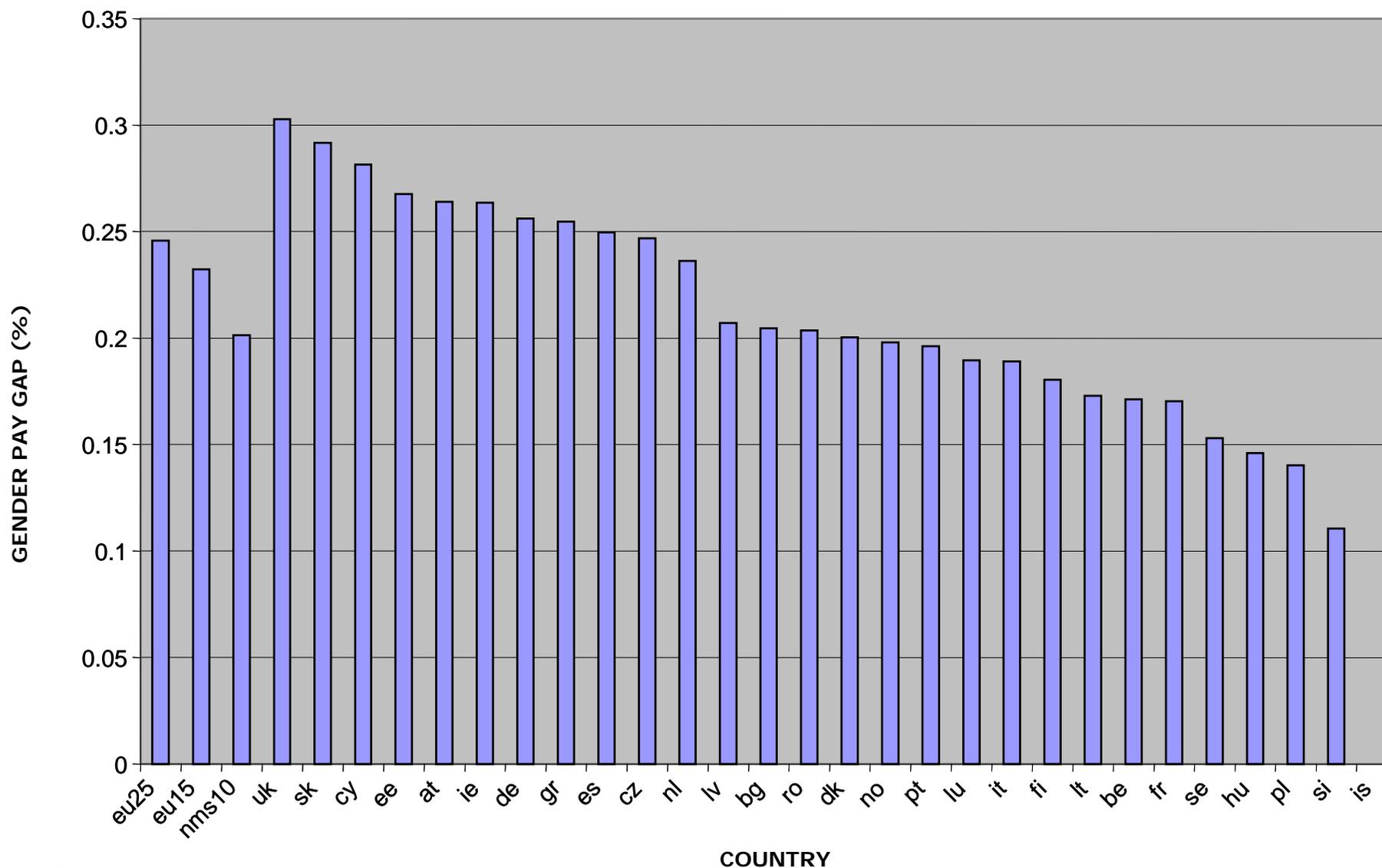
<http://www.mbs.ac.uk/research/european-employment/projects/gender-social-inclusion/documents/paysynthesis.pdf>

Janneke Plantenga & Chantal Remery. The gender pay gap. Origins and policy responses. A comparative review of thirty European countries. The co-ordinators' synthesis report prepared for the Equality Unit, European Commission, 2006. EU expert group on Gender, Social Inclusion and Employment (EGGSIE) forthcoming.



Figure 1:

GENDER PAY GAP IN EU-25, ROMANIA, BULGARIA AND NORWAY, 2002

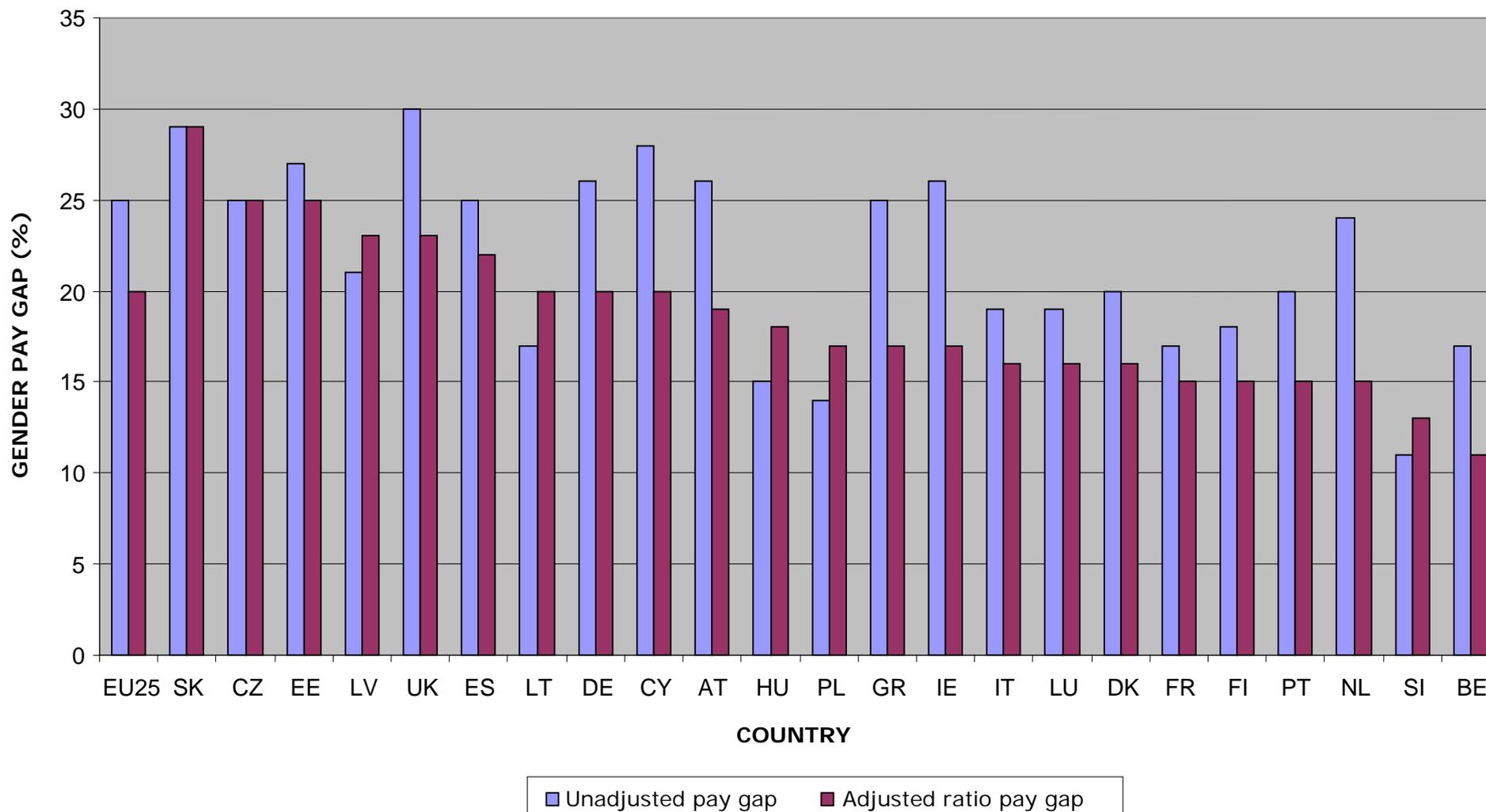


Source: SES 2002



Figure 2:

UNADJUSTED AND ADJUSTED GENDER PAY GAP IN EU-25



Source: SES 2002 (Paternoster)

**EU LEGISLATIVE INITIATIVES
AND INTERPRETATION
AND RECENT RULINGS FROM THE
EUROPEAN COURT OF JUSTICE**

Regine WINTER
European Court of Justice



Regine WINTER
European Court Of Justice

**Gender Pay Gap – EU Legislative Initiatives and Interpretation and
Recent Rulings from the European Court of Justice**

Introduction

There are many causes for the enduring existence of a substantial pay gap between women's and men's incomes (gender pay gap). Therefore the problem requires various different approaches. This fact is reflected in various legal regulations set forth in Community law that go far beyond the pay area as such. It would exceed the scope of this discussion to present the spectrum of these tools in an appropriate manner. I will limit myself to the principle of equal pay as expressed in the prohibition of gender-based discrimination.¹

The outlines of the equal pay principle have been specified bit by bit by the legislation of the Court of Justice of the European Communities (ECJ). However, the Court's rulings in this as well as in all other areas depend to a large extent on national courts recognising the Community law relevance of cases pending before them and giving the ECJ opportunity to interpret Community law by submitting a request for a preliminary ruling (Article 234 EC). This explains why the rulings relating to "gender" and "pay" are very detailed in some aspects, having been processed by various requests for a preliminary ruling, while other aspects still lack clarity.

The principle of equal pay for male and female workers forms part of the foundations of the Community. This was highlighted by the ECJ as early as 1976 in the seminal ruling *Defrenne II*². Article 141 EC directly affects the legal systems of all EU member states. The implementation of this principle into legal reality is compulsory, not voluntary. This is laid down not only in the Equal Pay Directive 75/117/EEC³, but also specifically in Article 141 paragraph 1 EC: "Each member state shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied".

As is common in Community law, also for the application of the equal pay principle the practical effect ("effet utile") is relevant, which must not be diminished, as frequently emphasised by the ECJ⁴.

¹Apart from the principle of equal pay for men and women for equal work or work of equal value (Article 141 EC) discussed in this paper, European Union law also contains further fundamental bans on pay discrimination: the prohibition of pay discrimination on grounds of nationality; based on Article 13 EC, the prohibition of pay discrimination in Council Directive 2000/43/EC of 29 June 2000 on the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, p. 22) and in Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, p. 16), a prohibition of pay discrimination based on religion or belief, disability, age or sexual orientation; and finally there are prohibitions of pay discrimination with respect to part-time work and fixed-term work pursuant to Council Directive 1999/70/EC of 28 June 1999 on the ECB-UNICE-CEEP framework agreement on fixed-term employment contracts (OJ L 175, p. 43) and Council Directive 97/81/EC of 15 December 1997 on the framework agreement on part-time work concluded by UNICE, CEEP and ECB (OJ 1998, L 14, p. 9).

²ECJ 8 April 1976, 43/75, *Defrenne II*, [1976] Reports of Cases before the Court of Justice (ECR.), 455.

³Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women (OJ L 45, p. 19).

⁴Cf. only ECJ 30 March 2000, C-236/98, *JämO*, [2000] ECR I-2189, paragraph 43.



This claim of “practical effect”, which goes far beyond a formal or half-hearted handling of Community law, is a necessary prerequisite for European integration to succeed. To act within the meaning of the “practical effect” of Community law is the duty of all government institutions, including the courts.

Every individual before every national court in every member state may invoke the equal pay principle of Article 141 EC. National provisions must be interpreted in accordance with this provision.

Article 141 EC is endorsed by the Equal Pay Directive 75/117/EEC⁵. Article 1 paragraph 1 of the Directive says, “The principle of equal pay for men and women outlined in Article 119 of the Treaty [...] means, for the same work or for work to which equal value is attributed, the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration”. Since the Treaty was renumbered in 1997, “Article 119” is now “Article 141”.

Complementary definitions are to be found in the Directive on the burden of proof 97/80/EC⁶ and Directive 2002/73/EC⁷.

The principle of equal pay for men and women for equal work or work of equal value

I will now look a little closer at the interpretation by Court rulings of the principle of equal pay for men and women for equal work or work of equal value.

Pay

According to the established practice, the concept of pay within the meaning of Article 141 EC and Directive 75/117/EEC comprises any consideration, whether in cash or in kind, whether immediate or future, provided that the worker receives it, albeit indirectly, in respect of his employment from his employer.⁸ This means that in practice, pay covers all forms of remuneration, such as basic pay, time in lieu, compensation for services rendered, allowances, bonuses, special payments, payment in kind (e.g. the provision of company cars for private use as well as company apartments). Also covered are newer forms of remuneration, such as stock funds.

In the past, the Court of Justice has had several opportunities to give its interpretation on the concept of pay within the meaning of Article 141 EC and the Directive 75/117/EEC. A few examples will illustrate further facets of the pay concept of Article 141 EC: Compensation for loss of pay for attendance of training courses providing the knowledge necessary for working on staff councils constitutes pay;⁹ an end-of-year or Christmas allowance constitutes pay,¹⁰ as does

⁵Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women (OJ L 45, p. 19).

⁶Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on gender (OJ 1998, L 14, p. 6).

⁷Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 269, p. 15).

⁸Established practice, cf. ECJ 30 March 2000, C-236/98, JämO, [2000] ECR I-2189, paragraph. 39; ECJ 21. July 2005, C-207/04, Vergani, [2005] ECR I-7453, paragraph. 22.

⁹ECJ 4 June 1992, C-360/90, Bötzel, [1992] ECR I-3589; ECJ 6 February 1996, C-457/93, Lewark, [1996] ECR I-243; ECJ 7 March 1996, C-278/93, Freers and Speckmann, [1996] ECR, I-1165.



a benefit paid to a female employee on maternity leave by the employer under statutory provisions or collective agreements,¹¹ pay provided during a period of sick leave,¹² and payments provided by the employer upon termination of the employment relationship.¹³ Access to and benefits from occupational pension schemes,¹⁴ including the survivor's pension,¹⁵ also fall within the concept of pay. This refers not merely to occupational pension schemes in the narrower sense, but all retirement pensions paid to the employee on the grounds of the employment relationship by his/her former employer, without, however, belonging to the statutory social security system.

In the event of a judicial review, each element of the remuneration is viewed separately. Genuine transparency permitting an effective review is assured only if the principle of equal pay applies to each aspect of remuneration granted to men and women, excluding any general overall assessment of all the consideration paid to workers.¹⁶

Equal work

The meaning of the "equal" work concept can be inferred from the literal sense. We do not need to assume complete identity, as the term also refers to essentially equal work.

Many of the cases ruled on by the ECJ so far deal with part-time employment. In most of these cases, "equal work" was clearly the starting point, but the seemingly neutral criterion "part-time work" entailed a difference in the treatment of employees. Since part-timers are mostly women, this is one of the causes of the gender pay gap. In many rulings, the ECJ has stated clearly that gender-based discriminatory remuneration for part-time work is prohibited under the equal pay principle.¹⁷

Work of equal value

With the aid of the Community law concept of "work of equal value", different types of work can be compared with a view to revealing whether they are of

¹⁰ECJ 9 September 1999, C-281/97, Krüger, [1999] ECR I-5127, paragraph 17; ECJ 21 October 1999, C-333/97, Lewen, [1999] ECR I-7243, paragraph 24.

¹¹ECJ 30 March 2004, C-147/02, Alabaster, [2004] ECR I-3101.

¹²ECJ 13 July 1989, 171/88, Rinner-Kühn, [1989] ECR 2743, paragraph 7; ECJ 8. September 2005, C-191/03, McKenna, [2005] ECR I-7631, paragraph 29.

¹³e.g. on the occasion of redundancies, cf. ECJ 17 May 1990, 262/88, Barber, [1990] ECR I-1889; severance grant following termination of employment (BAT), cf. ECJ 27 June 1990, C-33/89, Kowalska, [1990] ECR I-2591; bridging allowance provided for by a works agreement (social plan) upon dismissal, ECJ 9. December 2004, C-19/02, Hložek [2004] ECR I-11491. The taxation of severance pay on cessation of the employment relationship does not constitute pay but a condition governing dismissal (included in the concept of working condition) within the meaning of Directive 76/207/EEC, cf. ECJ 21 July 2005, C-207/04, Vergani, [2005] ECR I-7453, paragraphs 23, 29.

¹⁴Cf. i.a. ECJ 13 May 1986, 170/84, Bilka, [1986] ECR 1607; ECJ 17 May 1990, 262/88, Barber, [1990] ECR I-1889; ECJ 28 September 1994, C-7/93, Beune, [1994] ECR I-4471; ECJ 17 April 1997, C-147/95, Evrenopoulos, [1997] ECR I-2057; ECJ 29 November 2001, C-366/99, Griesmar, [2001] ECR I-9383; ECJ 12 September 2002, C-351/00, Niemi, [2002] ECR I-7007; ECJ 13 January 2004, C-256/01, Allonby, [2004] ECR I- 873.

¹⁵ECJ 6 October 1993, C-109/91, Ten Oever, [1993] ECR I-4879; ECJ 7 January 2004, C-117/01, K.B., [2004] ECR I-541.

¹⁶St. Rsp., cf. only ECJ 17. May 1990, 262/88, Barber, [1990] ECR I-1889, paragraphs 34 and 35; ECJ 30 March 2000, C-236/98, JämO, [2000] ECR I-2189, paragraph 43; ECJ 26 June 2001, C-381/99, Brunnhofer, [2001] ECR I-4961, paragraph 35; ECJ 27. May 2004, C-285/02, Elsner-Lakeberg, [2004] ECR I- 5861.

¹⁷E.g. ECJ 13 May 1986, 170/84, Bilka, [1986] ECR 1607; ECJ 27 June 1990, C-33/89, Kowalska, [1990] ECR I-2591; ECJ 23 October 2003, C-4/02 and C-5/02, Schönheit and Becker, [2003] ECR I-12575.



equal value. The crucial factor is not whether the concurrence of the value can be identified from the outside. Jobs differing as widely as that of a hospital nurse or of an engineer can be of equal value.

This concept can be used to address structural pay inequalities. With its constituent fact of “equal value”, Article 141 EC counteracts the relative undervaluation of female-dominated occupations.

The value concept is geared to the job evaluation methods in so far as it concerns the value of “work performed”, irrespective of the quantity and quality of the concrete performance. The methods themselves must be discrimination-free. It is necessary to ascertain whether, taking account of a number of factors such as the nature of the work, the training requirements for performance of those tasks and the working conditions under which they are performed, work of equal value is being performed¹⁸. If it is a matter of comparing performance differences and the underlying criteria, the value must be substantiated with the aid of performance evaluation methods taking into account the productivity of the workers. Again, these methods must be discrimination-free. For other pay elements, comparison must be geared to the inner logic of the respective form of pay.

These are the base lines. However, it must be specified how to go about verifying the constituent fact of work of equal value in individual cases. Few pertinent questions have been submitted to the ECJ, which is why it had little opportunity to provide helpful answers.

I will now give a short description of the rulings given so far:

- The *Rummler* judgment (1986)¹⁹ states that the equal pay principle requires essentially the nature of the work to be carried out be considered objectively. Consequently, the same work or work to which equal value is attributed must be remunerated in the same manner whether it is carried out by a man or by a woman. Besides, the judgment contains important directions for job classification schemes. They must be based on criteria which do not differ according to whether the work is carried out by a man or by a woman and must not be organized, as a whole, in such a manner that it has the practical effect of discriminating generally against workers of one sex.
- The *Danfoss* judgment (1989)²⁰ was not specifically about the constituent fact of work of equal value.
- In the *Enderby* case (1993),²¹ which dealt with the comparison of the jobs of speech therapist and pharmacist, the requesting Court of Appeal of England and Wales did not pose any questions about the equal value of work. Based on the temporary assumption of equal value, the Court of Appeal, for reasons related to process economy, primarily wanted to address issues concerning the burden of proof and justification, which is why it submitted only questions relating to those areas.
- A piece-work pay scheme, i.e., questions related to performance evaluation, was the subject matter dealt with in the *Royal Copenhagen* judgment

¹⁸Cf. e.g. ECJ 11 May 1999, C-309/97, Angestelltenbetriebsrat der Wiener Gebietskrankenkasse, [1999] ECR I-2865, paragraph 17; ECJ 26 June 2001, C-381/99, Brunnhofer, [2001] ECR I-4961, paragraphs 43, 48.

¹⁹ECJ 1 July 1986, 237/85, Rummler, [1986] ECR 2101, paragraph 13.

²⁰ECJ 17 October 1989, 109/88, Danfoss, [1989] ECR 3199.

²¹ECJ 27 October 1993, C-127/92, Enderby, [1993] ECR I-5535.



(1995)²². In this ruling, the ECJ clarified that Article 141 EC – and its predecessor, Article 119 EEC Treaty respectively – is applicable to performance evaluation schemes. The judgment gives several directions for the assessment of such schemes.

- In the *JämO* case (2000)²³, dealing with the comparison of a midwife's pay with that of a clinical technician, the requesting Swedish Arbetsdomstol does not give its opinion on the question whether the two jobs are of equal value. The questions submitted to the ECJ concerned the taking into account of a supplementary allowance and a reduction in working time on grounds of inconvenient working hours.
- Some degree of orientation is provided by the *Brunnhöfer* judgment (2001),²⁴ which has one section explicitly dealing with the topic "determining whether work is the same or of equal value". As regards the content of this section, we must take into consideration a common feature of ECJ rulings, namely that the text proceeds from a specific question submitted by the national court from the latter's perspective. Therefore the reply cannot be perceived as all-embracing but rather as limited by the question, whose wording is frequently mirrored in the reply. Under this judgment, it is necessary to ascertain whether, taking account of a number of factors such as the nature of work, the training requirements for performance of those tasks and the working conditions, work of equal value is being performed.
- The initial situation of the *Lawrence* judgment (2002)²⁵ had comparisons of work related to cleaning and catering services in schools with work in such areas as gardening, refuse collection and sewage treatment. However, these comparisons and the question of equal value were not the subject of the questions submitted by the Court of Appeal.
- The *Nikoloudi* judgment (2005)²⁶ repeated that, so far as concerns equal pay, in light of the very wording of Article 119 of the EC Treaty (or Article 141 EC respectively) and of the case law, the work which may serve as a comparison need not be the same as that carried out by the person who invokes the principle of equality in his/her favour.

So far, these are about all the relevant rulings available.

For determining the value of different types of work and examining the possibility of their being of equal value, it will be useful to combine job evaluation methods – provided they are discrimination-free – with a glance at international experiences. The concept of "work of equal value" is familiar worldwide in many legal systems; outside Europe, for example, in the US, Australia and Canada.

An interesting example is provided by the pragmatic legislation for enforcing pay equality developed in the Canadian province of Ontario.²⁷ It does not only have means for directly comparing jobs predominantly performed by women with jobs predominantly performed by men (job-to-job). It also provides indirect compari-

²²ECJ 31 May 1995, C-400/93, Royal Copenhagen, [1993] ECR I-1275.

²³ECJ 30 March 2000, C-236/98, *JämO*, [2000] ECR I-2189.

²⁴ECJ 26 June 2001, C-381/99, *Brunnhöfer*, [2001] ECR I-4961, paragraphs 43, 48.

²⁵ECJ 17 September 2002, C-320/00, *Lawrence et al.*, [2002] ECR I-7325.

²⁶ECJ 10 March 2005, C-196/02, *Nikoloudi*, Slg. 2005, I-1789, Rn. 28.

²⁷Cf. specifically on the Canadian model, *Winter*, *Gleiches Entgelt für gleichwertige Arbeit – ein Prinzip ohne Praxis?*, Nomos Verlag, Baden-Baden (Germany) 1998, pp. 306 to 356.



son methods designed to work on enforcing pay equality even in job areas without any comparable male-dominated types of jobs. For example, a proportional comparison uses representative male-dominated reference groups to draw up a “job rate line” diagram that allows you to infer the relative value of other – possibly female-dominated – jobs. It is interesting that the identification of reference groups is based not only on up-to-date percentages with fixed reference values but also involves aspects such as “historical incumbency” and “gender stereotype”.

Ontario’s experience with the *Pay Equity Office*²⁸ can also provide an important example for the potential available to specialised institutions with respect to research, training and targeted counselling in order to breathe life into the claim to equal pay for work of equal value. In the EU area, much remains to be done. We can learn from several member states that have undertaken concrete steps at the national level. The planned *European Institute for Gender Equality*, due to start work in 2007, also gives cause for hope.

Discrimination in cases of equal work or work of equal value

Unequal pay for equal work frequently – but not always²⁹ – constitutes direct discrimination, which can be either open or disguised. Open direct discrimination on grounds of gender is directly linked to gender.

Under Article 2 paragraph 2 of the Directive 76/207/EEC – as amended in the Directive 2002/73/EC³⁰ – we speak of “direct discrimination” where one person is treated less favourably on grounds of sex than another is, has been, or would be treated in a comparable situation. This form of discrimination is not amenable to any justification.

Pay discrimination for work that is different but of equal value is usually not linked directly to gender. These manifestations of discrimination are deeply rooted in the structure of the pay schemes. Differences in pay are attached to seemingly objective job criteria, functional or occupational designations. Whether they are used in a discriminatory fashion can only be determined with the aid of benchmarks of the legal concept of *indirect discrimination*. Rather than being immediately visible, this manifestation of discrimination can be identified only when the effects of a regulation are investigated separately by gender.

Pursuant to Article 2 paragraph 2 of the Directive 76/207/EEC, as amended in Directive 2002/73/EC³¹, we speak of “indirect discrimination” where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

²⁸Cf. *Winter*, above, pp. 348 to 351.

²⁹ The cases relating to part-time work ruled on so far frequently also concerned cases of equal work, where, however, the seemingly neutral differentiation criterion of part-time work was ultimately related to indirect discrimination.

³⁰Pursuant to Article 3 paragraph 1 c) of Directive 76/207/EEC as amended in Directive 2002/73/EC, this definition is also pertinent to pay in accordance with Directive 75/117/EEC.

³¹Pursuant to Article 3 paragraph 1 c) of Directive 76/207/EEC as amended in Directive 2002/73/EC, this definition is also pertinent to pay in accordance with Directive 75/117/EEC.



Transferring the principles of the legal concept of indirect discrimination to the problem of work of equal value in a scheme of basic pay differentiation requires the following steps: identifying the correct reference person(s) or group(s), comparing the jobs, comparing the pay. The justification offered by the employer, if any, must then be reviewed in the judicial proceedings.

Justification

As mentioned above, there are no grounds for justification in the event of *direct pay discrimination*.³²

Indirect pay discrimination is discrimination where the discriminating provisions, criteria or practices are not justified. According to the abovementioned definition in Article 2 paragraph 2 of the Directive 76/207/EEC, as amended in Directive 2002/73/EC³³, the discriminating provisions, criteria or practices can be objectively justified by a legitimate aim; the means of achieving that aim must be appropriate and necessary.

The previous ECJ rulings can serve as guidelines regarding individual justification categories.

For example, differences in "*training*" and "*mobility*" justify differences in pay only if they are of relevance for the specific task performed.³⁴

The evaluation of the "*seniority*" criterion (length of service) – i.e., whether and how the employer must or can justify applying this criterion – is currently the subject of a request for a preliminary ruling.³⁵ Previous rulings on this criterion were characterised by a certain ambiguity.³⁶ Since seniority is a widespread criterion in many public service pay schemes in Europe, the ECJ ruling can have considerable repercussions. Generally, seniority is used as a pay criterion for various purposes, which should also affect potential justification. Under the previous ECJ rulings, the appropriateness of this approach depends specifically on the purpose for which length of service is taken into account. The purpose may be to reward company loyalty or to recognise experience acquired.³⁷ Rewarding or engendering loyalty to an employer (company loyalty) can be justified if the relevant pay element is actually suitable for and capable of fostering loyalty to a single employer.³⁸

³²The definition of direct discrimination in Article 2 paragraph 2 of Directive 76/207/EEC as amended in Directive 2002/73/EC also endorses this opinion by giving a definition of direct discrimination, also applicable to pay in accordance with Directive 75/117/EEC.

³³Pursuant to Article 3 paragraph 1 c) of Directive 76/207/EEC as amended in Directive 2002/73/EC, this definition is also pertinent to pay in accordance with Directive 75/117/EEC.

³⁴Cf. ECJ 17 October 1989, 109/88, Danfoss, [1989] ECR 3199.

³⁵In its submission of 11 January 2005, C-17/05 (Cadman vs. Health & Safety Executive, intervenor: Equal Opportunities Commission), the Court of Appeal (England & Wales) (Civil Division) requested the renewed clarification of the relevance of „length of service“ as a pay criterion (OJ C 69/8 of 19 March 2005). Cf. the final motions of Advocate-General Poiares Maduro of 18 May 2006 (<http://www.curia.europa.eu>). On vocational training cf. ECJ 11 May 1999, C-309/97, Angestelltenbetriebsrat der Wiener Gebietskrankenkasse, [1999] ECR I-2865, paragraph 19.

³⁶Cf. ECJ 17 October 1989, 109/88, Danfoss, [1989] ECR 3199; ECJ 7 February 1991, C-184/89, Nimz, [1991] ECR I-297, paragraph 14; ECJ 2 October 1997, C-1/95, Gerster, [1997] ECR I-5253, paragraph 39; ECJ, 2 October 1997, C-100/95, Kording, [1997] ECR I-5289, paragraph 23; ECJ 10 March 2005, C-196/02, Nikoloudi, [2005] ECR I-1789 and ECJ 27 October 1993, C-127/92, Enderby, [1993] ECR I-5535, paragraph 25.

³⁷ECJ 10 March 2005, C-196/02, Nikoloudi, [2005] ECR I-1789, paragraph 63.

³⁸ECJ 15 January 1998, C-15/96, Schönig-Kougebetopoulou, [1998] ECR I-47, paragraphs 26 to 28 on promotion on grounds of seniority under the BAT, which does not really reward employee loyalty to one employer but



The rulings further imply that "*budgetary considerations*" and "*additional expenses*" do not constitute eligible grounds for justification. Any budgetary shortages must have only "gender-neutral" impact.³⁹ The same should apply to arguments of "*cost savings*".

According to the ECJ rulings, the employment market argument of "*shortage of candidates for a job*" can in principle justify unequal pay for work of equal value.⁴⁰ It must be verified whether and to what extent a shortage of candidates caused by the employment market situation justifies unequal pay. The principle of proportionality must be applied. In this context, it must be presumed that this justification can persist only for the duration of this shortage.

Mere "*generalisations*" concerning the capacity of a specific measure as an "*employment policy*" are not enough to show that the aim of a discriminatory provision is unrelated to any discrimination and that the means chosen are or could be suitable for achieving that aim. It is necessary to provide evidence on the basis of which it could reasonably be considered that the means chosen are or could be suitable for achieving that aim.⁴¹

Several times, the ECJ has given its interpretation with regard to the question whether a difference in pay can be successfully justified by arguing that it is the result of "*collective bargaining*". This had been explicitly negated in a number of judgments.⁴² In contrast, the "*Royal Copenhagen*" judgment states that the national courts may assess whether collective bargaining unrelated to any discrimination on grounds of gender constitutes an objectively justifying factor.⁴³ However, it is still an open question how this can be determined. Should the case arise, this problem will require further clarification by requests for a preliminary ruling.

Requirements to pay schemes – Against an undervaluation of female-dominated occupations

I should like to underscore once more that the undervaluation of certain types of work, e.g., "women's work" – work predominantly performed by women –, can be embedded in the structure of job evaluation schemes. As mentioned before, much the same applies to performance evaluation schemes. From the legal point of view, it is important to note that the legal claim to equal pay can only be realised if the job evaluation and performance evaluation methods used are free of potentially discriminating mechanisms and criteria.

affords employees considerable mobility within a group of legally separate employers. On these grounds, justification was rejected.

³⁹Cf. ECJ 24 February 1994, C-343/92, Roks et al., [1994] ECR I-571; cf. also ECJ 6 April 2000, C-226/98, Birgitte Jørgensen, [2000] ECR I-2447; ECJ 20 March 2003, C-187/00, Kutz-Bauer, [2003] ECR I-2741, paragraphs 59-61.

⁴⁰ECJ 27 October 1993, C-127/92, Enderby, [1993] ECR I-5535, paragraph 26 ff.

⁴¹ECJ 20 March 2003, C-187/00, Kutz-Bauer, [2003] ECR I-2741, paragraph 58; ECJ 11 September 2003, C-77/02, Steinicke, [2003] ECR I-9027, paragraph 64.

⁴²ECJ 7 February 1991, C-184/89, Nimz, [1991] ECR I-297, paragraph 16-21; ECJ 27 June 1990, C-33/89, Kowalska, [1990] ECR I-2591, paragraphs 17-20; ECJ 15 December 1994, verb. Rs C-399/92, C-409/92, C-425/92, C-34/93, C-50/93 and C-78/93, Helmig et al., [1994] ECR I-5727, paragraph 11. In a more modified form, ECJ 27 October 1993, C-127/92, Enderby, [1993] ECR I-5535, paragraphs 22, 23 (the fact that separate collective bargaining processes were carried out by the same parties is not sufficient justification).

⁴³ECJ 31 May 1995, C-400/93, Royal Copenhagen, [1995] ECR I-1275, paragraph 46 f.



There are no generally valid guidelines on the equal value of different jobs – in the long run, they are all of an abstract nature. It all depends on the individual case, on the concrete equality of value of different jobs in an actual pay scheme. Besides, in some of the EU member states any preset scheme for the evaluation of different jobs might be incompatible with the autonomy in collective bargaining.

However, Community law provisions and ECJ rulings can serve as a basis for deriving a number of reference points for reviewing “job classification schemes”, which include schemes for both job and performance evaluation.

Specifically, Article 1 paragraph 2 of the abovementioned Directive 75/117/EEC says, “In particular, where a job classification scheme is used for determining pay, it must be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex”.

On this background, we can use ECJ rulings, specifically the Rummler judgment⁴⁴, to derive the following catalogue of requirements to pay schemes:

Legal requirements to a (more) discrimination-free pay differentiation:

- Transparent pay (rate) schemes
- Work must be remunerated “according to its nature”, and the “type of work performed” must be taken into account objectively.
- As regards the prohibition of gender-based pay discrimination: “women’s work” and “men’s work” must be assessed under the same differentiation criteria, in so far as the latter conform to the nature of the work.
- The individual differentiation criteria must be
 - weighted in a discrimination-free manner,
 - interpreted in a discrimination-free manner,
 - applied in a discrimination-free manner.
- The entire system as such must not be discriminatory.

Conclusion

I hope that I have succeeded in showing the large, so far widely unused potential for putting an end to structural pay discrimination in the Community law concept of “work of equal value”. In future, we can expect valuable impulses from the planned “*European Institute for Gender Equality*”. However, whether the concept of equal pay for work of equal value will be filled with life and put into practice has a lot to do with how the law appliers in the member states will apply and continue to develop it.

⁴⁴In particular, a fundamental ruling is ECJ 1 July 1986, 237/85, Rummler, [1986] ECR 2101; important impulses are provided by ECJ 27 October 1993, C-127/92, Enderby, [1993] ECR I-5535; ECJ 7 February 1991, C-184/89, Nimz, [1991] ECR I-297; ECJ 17 May 1990, 262/88, Barber, [1990] ECR I-1889; ECJ 17 October 1989, 109/88, Danfoss, [1989] ECR 3199.

**EXPERIENCES WITH LEGISLATION,
BEST PRACTICES AND INITIATIVES
FROM MEMBER STATES**

Frank FAHEY

*Minister of State for Justice, Equality and Law Reform,
Ireland*

Asa REGNER

*Ministry of Justice
Sweden*

Catherine LARET-BEDEL

*Office for Women's Rights,
Ministry of Social Cohesion and Equality
France*



Frank FAHEY
Minister of State for Justice, Equality and Law Reform, Ireland

Chairperson, Commissioner, fellow Ministers and distinguished guests,

On behalf of all the Member States of the European Union, I should like to thank the Austrian Presidency, Minister Rauch-Kallat and her team for having the foresight to organise this excellent conference today which is enabling us all to think proactively about the persistent problem of the gender pay gap.

I believe that a multi-faceted approach is required to address the complex issue. This is the approach we have tried to take in Ireland, with some degree of success, although, as you will hear shortly, new research has presented us with new challenges.

Twenty years ago, the gender pay gap in Ireland was about 25 per cent. Ten years ago it was still over 20 per cent. The latest statistics show that the gender pay gap is still around 12 to 13 per cent, and therefore it is an ongoing cause for concern in an age which fully endorses gender equality.

Irish research in 2003 on solutions to the gender pay gap found that increased labour market participation by women was important. It found that, while the arrival of children in the family had little impact on the labour market participation of a man, a woman with identical qualifications and experience would typically have nine years less labour market participation by age 47.

The researchers also concluded that membership of a trade union and centralised wage bargaining appeared to be associated with narrower gender wage differentials.

These findings led to a series of policy recommendations by a working group, the most important of which were that:

- the Government should continue to develop childcare services;
- it should review the National Minimum Wage regularly; and
- there was a need for better maternity and parental leave

I am delighted to report that Ireland has made considerable progress on these key recommendations, which has, no doubt contributed to the reduction in our gender pay gap to just over 12 per cent.

At the turn of the Millennium, Ireland was far behind the rest of Europe in the development of childcare because, until relatively recently, women most gave up paid employment with the arrival of their first baby. However, the economic advances of the late 1990s marked a huge increase in labour market participation for women and an increased demand for formal childcare.

This led to a major investment initiative, partly funded by the EU, to develop childcare over the period 2000 – 2006. This has created over 41,000 new centre based childcare places, an increase of over 70 per cent in our stock of childcare places in seven years. It also enables disadvantaged parents to avail of childcare at reduced rates to engage in work or training.



We recognised that still more work is required in the development of childcare and last December, announced a new € 575 million Childcare Investment Programme 2006–2010, to create a further 50,000 childcare places, building upon the earlier achievements.

The issue of affordability of childcare is a key topic across Europe. Rather than provide tax credits for childcare costs, all parents in Ireland are assisted with the costs of caring for their children through very significant increases in child benefit which is now a minimum of € 150 per child under 18 per month. We recently added a special annual payment of € 1,000 for each child aged under six years, starting this year.

We have also increased paid and unpaid maternity leave with similar increases are promised for next year. Parents will then be entitled to a total of 56 weeks between paid and unpaid maternity leave. This is also complemented by parental, adoptive and carer's leave and is a major support for women in the labour force who have childcare and/or other responsibilities.

The National Minimum Wage (NMW) has played a significant role in narrowing wage differentials because, in Ireland, women tended to occupy a greater proportion of lower paid jobs and their incomes are now protected by Minimum Wage legislation. In May 2005, the National Minimum Wage increased from € 7.00 per hour to € 7.65, an increase of over 9 per cent, and well ahead of inflation.

At the EU Presidency meeting in Birmingham, I said that I would like to see our gender pay gap reduce by one per cent per year. Shortly after that, I launched new research which further emphasised the complexity of this challenge.

The research looked at the gender pay gap among graduates, taking the measure three years after they left university. The research found that:

- Female graduates who had entered the private sector earned 8.2 per cent less than their male counterparts.
- Again, among those who worked in the private sector, 42 per cent of the men received bonuses compared with 32 per cent of women.
- In addition, the bonuses received by the men were 25 per cent higher than those received by the women.

The research also found that:

- Men were more likely to have received training in the preceding two years; and
- They were more likely to have received promotion with their present employer.

This presents us with a number of new challenges as to how we foster women to develop their careers and address these additional factors in the gender pay gap. The researchers identified a number of causal factors including subject choices made by girls at secondary levels. They also suggest that employers and work organisations may continue to play a role in reproducing gender segregation and gender inequality in the labour market.



I think that research like this shows that the gender pay gap is every bit as complicated as we all believe. If we are to bring it right down to parity, we, as policy makers and social partners, need to look at the many different influences through education policy, employment practices, social supports, career development and we need to find a multi-facetted response which will enable us to achieve the goal of parity.

I think that the exchange of information and good practice is essential if we are to achieve the goal and I now look forward to hearing of experiences in other Member States.

Thank you.



Asa REGNER
Ministry of Justice, Sweden

In Sweden the original version of the Equal Opportunities Act entered into force in 1980. In 1994 the Equal Opportunities Act was substituted by a new act. This new act required public and private employers with at least ten employees to conduct annual wage surveys. The rules were amended in 2001. The section that concerns wage surveys and analysis, states that the purpose is to discover, rectify and prevent unwarranted differentials in pay and other terms of employment between women and men.

Swedish legislation distinguishes itself in a number of ways in an international comparison. For example, pay differentials that are identifiable but cannot be explained, either on an individual level or a group level, shall be calculated and rectified as soon as possible but at the latest within three years. In this connection, it is interesting to note that pressure can be used by ordering fines if gender equality plans or wage surveys do not comply with the law. The change in the law was seen as an opportunity to vitalise the participation of local trade unions in wage survey work.

The change in legislation in 2001 has implied that only now do the regulations that were introduced in 1994 function in the way the lawmaker had intended. Above all, the full impact of stricter regulations has been seen during the last two years.

Swedish Equal Pay legislation is unique in a European perspective from at least two aspects. No other country has experiences with pro-active legislation in order to rectify unwarranted differentials in pay between women and men. Only Finland has adopted similar legislation. In Denmark a bill on gender based wage statistics is under discussion. Secondly, reports show that equal pay litigation in most EU countries has a poor record.

A great number of employees, mainly women, are being affected by correction in pay as a result of workplace pay analyses concerning work of equal value.

Pay discrimination can be counteracted with reference to the Equal Pay legislation at every single employer. Unwarranted pay differential between women and men in different sectors, branches and occupational groups requires, however, the breaking-up of the structures in the labour market.

The Swedish government has adopted an Action Plan for equal pay for women and men. The action plan concerns all spheres that directly or indirectly influence the pay of the individuals. That means in addition to the Equal Pay legislation that the plan of action includes spheres such as the type of employment, competence development and the unequal distribution of paid and unpaid work. The long-term ambition is that all forms of discrimination on the grounds of sex in the labour market must be abolished.



Catherine LARET-BEDEL

**Office for Women's Rights, Ministry of Social Cohesion and Equality,
France**

The law on equal pay for women and men

On the occasion of his speech to the representative groups of the country, the French President requested the government to prepare a law aiming at closing the gender pay gap within a time frame of five years.

With the purpose of meeting the challenges of demographic change and increasing women's participation in the labour market, the Minister in charge of equal occupational opportunities has presented a draft bill concerning equal pay for women and men to Parliament.

This draft bill is in line with the prolongation of the national multi-industry agreement of March 1, 2004 about gender mix and equal occupational opportunities for women and men, which has been signed by all social partners.

The law pursues three objectives:

1) The elimination of the gender pay gap within a time frame of five years. This shall be achieved by way of a joint assessment of the situation based on specific indicators and followed by negotiations with occupational groups and enterprises.

A three-step approach is introduced: (1) specification of new objectives for negotiations, (2) the automatic launch of negotiations and (3) an evaluation procedure that could lead to the introduction of a mandatory contribution to be imposed on uncooperative enterprises.

– **Industry negotiations:** article 3: A well-defined step-by-step process

1. The goal is to "define" and to "plan" measures allowing the **elimination** of the gender pay gap within a maximum of five years, that is, by the year 2010; including the obligation to conduct negotiations in a spirit of commitment and dedication.

In order to achieve this, the social partners must assess these gaps, relying on the report describing the differences between women and men regarding access to the labour market, training, job promotion, working conditions and employment conditions as well as on relevant indicators for each occupational sector (article L. 132-12 French Labour Code). This report will thus be the basis for all negotiations regarding this matter.

2. Automatic launch of negotiations: if the management has not started negotiations by the year following the promulgation of the law, trade unions may request the start of negotiations. If this is the case, negotiations must start within 15 days from the day of the respective trade union's request.

Just like all other collective agreements, the agreement must be submitted to the local Authority of Labour and Vocational Training (DDTEFP).

However, if the agreement has not been submitted or if the minutes show that there has been disagreement regarding the employers' and trade unions' proposals, the Minister of Labour will summon a joint committee with



the purpose of starting or continuing negotiations. This is to ensure that negotiations are not merely a formal act, but yield results.

In addition to this, in case an industry agreement does not include dispositions regarding the elimination of gender pay gaps, the extension of the industry agreement in question will be denied.

- **Negotiations with enterprises:** Article 5: a similar approach, combined with financial sanctions: obligation to conduct negotiations in a spirit of commitment and dedication.

The approach to be employed is in line with the one intended for industry negotiations.

Thus, the goal is to “define” and to “plan” measures allowing the elimination of the gender pay gap within a maximum of five years, that is, by the year 2010.

In order to achieve this, the social partners must assess these gaps, relying on the report describing differences between women and men regarding access to the labour market, training, job promotion, working conditions and employment conditions (article L. 432-3-1 French Labour Code). This report will thus be the basis for the negotiation regarding this matter.

Negotiations about actual salaries will be subject to the opening of negotiations about the gender pay gap. Each party’s proposals will be on record.

Negotiations will be launched automatically as well.

Just like all other collective agreements, the agreement must be submitted to the local Authority of Labour and Vocational Training (DDTEFP). Those companies that have not started negotiations about this matter will be denied the registration of collective agreements regulating salaries.

3. Regarding the evaluation procedure for the application of the law, there are two clauses applicable in two phases, valid for industry agreements and works agreements on company level alike:

A report about the application of the law will be elaborated in late 2008 by the Council on equal occupational opportunities for women and men (CSEP) and submitted to Parliament.

Based on this report, the government will have the right to present a bill introducing financial sanctions, consisting in a financial contribution based on the payroll to be paid by enterprises that have not started negotiations about this matter.

Those enterprises that do not have a union steward or are not within the scope of an industry agreement relating to equal pay shall “take into account objectives to be attained regarding equal occupational opportunities for women and men”.

- 2) **Reconciling work and family life** by introducing a compensation mechanism mitigating the effects of motherhood on salaries. As a matter of fact, the law requires that during their absence, employees on maternity or adoption leave receive, in addition to general raises, half of individual raises received by employees working in the same occupational category or, if not applicable, the average of individual raises granted in the company.



As soon as companies treat “parenthood” as defined in the national multi-industry agreement of March 1 regarding equal occupational opportunities and gender mix, the incompatibility of work and family life will belong to the past.

Measures intended for this purpose focus on two activities: supporting enterprises, especially SMEs, in their human resources management (2-1) and promoting women’s careers.

2-1 Support enterprises, especially SMEs, in their human resources management

- An indicator focusing on the relationship between work and family work has been introduced, showing the organisation of work time in enterprises with regard to obligations and employees’ family life. This indicator has been specified by the Council on equal occupational opportunities for women and men and will give way to a decree.
- The government has introduced financial aid for SMEs with less than 50 employees, allowing them to provide replacement for employees on maternity or adoption leave. A decree issued by the Council of State will determine the requirements for receiving this aid.
- The implementation of actions aiming at creating equal occupational opportunities, especially actions to improve the reconciliation of work and family life must be taken into consideration by forward-looking labour force management as well as competence management in enterprises with less than 300 employees.
- A “family” tax credit, already granted to enterprises offering training for employees on parental educational leave, will from now on also be available for training expenses for new employees, hired after the resignation or dismissal of employees on parental leave. This situation covers employees changing jobs and avoids that this job change prevents her or him from receiving training, provided that the training in question starts within three months following employment and within six months after the end of the leave.

2-2 Promoting women’s careers:

- If an industry agreement requires it, an extra pay amounting to at least 10 % of the training allowance is granted to employees having additional child care expenses due to trainings outside of working hours.
- Furthermore, periods of absence of employees on maternal or adoption leave, parental presence leave or educational leave are taken into account when assessing their entitlement to training.
- Finally, the burden of proof in the case of pregnant women becoming victims of direct discrimination has been modified.

3) Improving young women’s and women’s access to apprenticeships as well as initial and continuing training: as of today, vocational training programs still disregard the need for gender mix today’s society calls for. Apprenticeships and vocational training are ideal areas for conveying this message, which must find its expression in all occupations being truly open to women and men alike.



The law encourages all parties involved in vocational training to take better account of the need for gender balance in all educational programs. Orientation about equal occupational opportunities has been introduced for people active in vocational training so that they eventually put these ideas into practice in their jobs.

WAYS OF MOVING TOWARDS EQUAL PAY

Edeltraud RANFTL

Johannes Kepler University Linz, Austria



Edeltraud RANFTL
Johannes Kepler University Linz, Austria

Ways of moving towards Equal Pay **Strategies and policies to achieve equal pay**

The last big conferences dealing with the problem of pay inequality took place in 2002 in Berlin, in Oslo (Betsy Project) and Copenhagen. I am very pleased that today's EU Conference has been dedicated to an exchange of experience.

The Berlin EU Conference focused on models and initiatives developed to achieve equal pay⁴⁵ – i.e., the implementation of the principle of equal pay for women and men for equal work or work of equal value.

In the meantime, only a few countries have actually launched large-scale projects. To be sure, there are excellent projects, policies and initiatives – we have been hearing about them today – but I am sorry to say that the time of large EU projects targeting equal pay (such as Betsy) is over. Looking at the various reports on gender equality, the subject seems to have been rather banished to the back room. But pay inequalities are still one of the major sources of gender-based unequal treatment.

I will now give a short overview of some crucial strategies and policies related to equal pay, showing the key players that need to take action (or are already doing so).

My emphasis will be on the social partners.



This concerns the national, company and sectoral level as well as the level of the European Union. The levels for action are law, (pay) policy and a combination of both.

When discussing strategies and looking for suitable measures, it is a good idea to distinguish between **occupational discrimination** and **pay discrimination**. Differences in pay are due to a bunch of causes. On the one hand, discrimination may occur as a result of the evaluation and pay scheme, on the other – as a result of the access to different jobs or positions. Unequal treatment frequently occurs due to actually gender-neutral regulations, which may, however, result in

⁴⁵ Note: my theoretical approach is primarily based on the Comparable Worth Debate.



discrimination against women. For example, this is the case with limited advancement opportunities for part-timers. While this is a violation of the equality principle, it does not constitute an infringement of equal pay. So we can distinguish between employment discrimination and pay discrimination in the narrower sense. Both forms lead to pay inequality, which means lower pay for women (Silvia Strub, 2004).

In order to take targeted measures, we need to separate these levels and distinguish between issues related to equal opportunities and pay equality and between unequal treatment in the run-up to the market (e.g., in the educational system) or in the market (with respect to employment).

We can also derive strategies from a variety of analyses of the obstacles to the implementation of the equal value principle.

An example for barriers: In practice, people know little about the meaning of "work of equal value" and how it can be determined. In practice, we have little know-how with regard to discrimination-free job evaluation.

Potential (political) strategies that are successfully realised in various countries:

There are different initial situations with respect to the implementation of the principle "equal pay for work of equal value". Not all countries have ombudsoffices or centres for equal treatment. Equality officers are rarely found in companies.

Awareness-Raising

- Systematic data collection
- Companies and business sectors
- Concrete examples – work of equal value

Important: Preparation for target groups
Who? Works councillors, trade unions, employers

Background: there is still a lack of detailed analyses and information.

With respect to sensitisation and awareness raising, it is important to collect concrete data by gender (company and business sector data) and to pinpoint concrete examples for work of equal value.

However, comparisons based on hourly wages are not sufficient!

All of you will know that in this context, unequal treatment looks less dramatic by comparison, since allowances, bonuses and other pay elements are not taken into consideration! And these pay elements make up a substantial part of total pay, especially for men.



Information – Awareness-raising

Campaigns and public discussions

- Poster campaigns
- Public media, websites

Who? Various actors, trade unions, equality centres

Goal: Persons without preliminary knowledge are also sensitised to the problems.

Campaigns and public discussion are a means for awareness-raising. Examples: big poster campaigns in Ontario, comprehensive website of the Equal Opportunities Commission in Great Britain.

Providing know-how

- Equal value principle
- Sources of discrimination
- Approaches
- Discrimination-free job evaluation

Who? Employers, trade unions, government authorities

For **example**, training with respect to indirect discrimination in pay schemes and collective agreements.

Providing know-how about discrimination-free job evaluation; rather than recommend one scheme, it is important to continue developing and testing schemes that answer the concrete situations of the institutions and enterprises.



Modernising pay schemes and collective agreements

- Scanning the agreements for discriminatory potential (checklists)
- Revising and redefining of pay and grading schemes

Who? Trade unions, employers – cooperation in redefining

Scanning the employment contracts and collective agreements makes sense because it helps find and pinpoint possible discrimination potential (checklists – see below).

For a revision and re-definition of pay and grading schemes, we need a long-term approach based on social partnership.

Modernisation – Pay schemes

- **More discrimination-free job evaluation**

For company projects:
composition of groups and experts according to the social partnership model

Both jobs and work organisation have undergone significant changes. Many pay schemes are outdated and do not meet the new requirements.

Positive **examples** for modernising the pay schemes are furnished by the NHS (National Health Service. In the comprehensive project on discrimination-free job evaluation the composition of all working groups is based on the social partnership model!). Sweden and Finland have also gathered positive experience with more discrimination-free evaluation schemes.

Important: Social partners must agree on the realisation of such projects.



Equal Pay Task Force Groups

Task: Analysing and developing proposals and measures

Members/actors

- Trade unionists
- Employers' organisations
- Equality institutions
- Experts

■ **Examples:**
Great Britain, Finland, Australia

Task force groups: Their primary function is to conduct or commission analyses and to develop policy proposals.

Examples: In Great Britain, comprehensive investigations have been conducted and recommendations developed in the last years. Finland set up a working group as early as 1987 to discuss the evaluation of jobs and the definition of evaluation criteria. The Finnish industry also developed job evaluation schemes and carried out projects.

Legislation - Regulations

- Minimum wages (examples Ireland, UK)
- Pro-active legislation (Sweden, France)

Actors: State + cooperation of social partners

Regine Winter says that a structural problem requires a systematic solution, which is why we need procedural laws.

In the Netherlands, for example, employers' and employees' organisations have jointly developed a checklist that is used in practice. The social partners are expected to intervene and to develop or demand clear regulations and instructions.



Due to the highly complex causes of unequal and low pay for women, there is no such thing as the one appropriate strategy. In practice, it will be useful to target a combination of various strategies and policies.

The successful implementation of the majority of policies requires the *interplay of several actors*.

Tools

The social partners can use already existing tools or test them for their own purposes.

Examples: The social partners in the Netherlands have developed a joint checklist in order to trace and eliminate sources of discrimination.

The Equal Opportunities Commission (UK) has developed guidelines for the social partners to conduct **Equal Pay Reviews** (Equal Pay Review Kit). Further **checklists** can be found on the website of the Betsy Project or in the guide written by Tondorf/Ranftl from the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

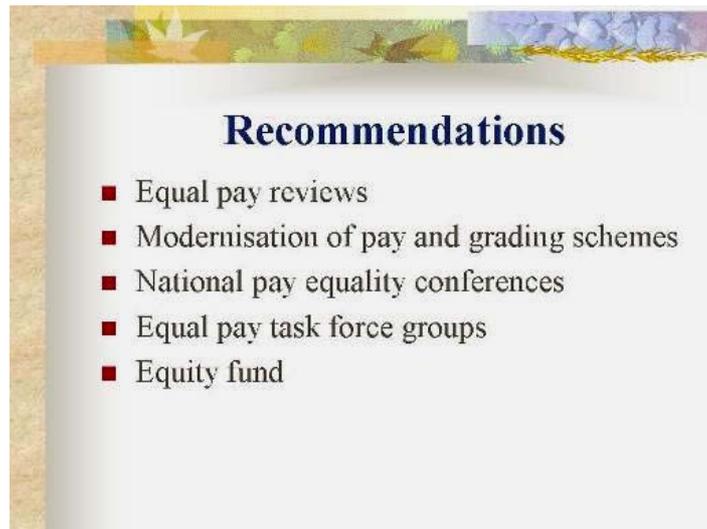
Further well prepared materials are Pay Check (UK) or the information compiled by the Ministry of Employment and Work in Belgium – Evaluation et classification des Fonctions.

Besides, there are **job evaluation schemes** explicitly geared to non-discrimination (it is not enough just to insert gender-neutral phrasings!), e.g., from Nordic countries (Harriman and Holm HAC), ABAKABA, NJC (National Joint Council; UK).

However, a detailed collection of tools has not been available so far, or rather, has not been made easily available so far to all actors. I used to hope that Equal Pay Tools (website www.equalpaytools.org: in 11 languages) would offer a clear overview of the schemes used in the individual member states, thus providing a genuine tool box, but I am sorry to say that it did not turn out quite like that (presumably, this site is not sufficiently well-known, and the models, measures etc. are not being communicated).



These are my chief **recommendations to the social partners**:



- Review your pay schemes (incl. collective agreements) for equal value: equal pay audits, equal pay reviews
- Modernise pay schemes by using discrimination-free job evaluation schemes
- Provide know-how
- Organise national pay equality conferences (such as at the business sector level) – get the **social partners to the round table!**
- Implement Equal Pay Task Force groups
- Set up an equity fund.

I am sorry to say that the demand raised by Beverley Jones at the 1999 Stockholm Conference, i.e., the initiation of an **equity fund** for the realisation of equal pay, has not been fulfilled so far. This fund might also be used to provide financial support for smaller enterprises to help with the introduction and implementation of discrimination-free pay schemes.

I will now **conclude** by saying that there is too little emphasis on the fact (although it was mentioned this morning) that equal pay also helps boost societal and economic development! The Equal Opportunities Commission (UK) writes: "Paying women less is bad for economy and business". As you know, equal pay is not so much a question of the techniques applied, but also of political will, which means that to a large extent, it is a question of political negotiation and implementation processes between social partners.

RECENT INITIATIVES AND EXPERIENCES OF THE EUROPEAN SOCIAL PARTNERS

Catelene PASSCHIER

European Trade Union Confederation (ETUC)

Inge REICHERT

*European Centre of Enterprises with Public
Participation and of Enterprises of General Economic Interest
(CEEP)*

Thérèse de LIEDEKERKE

*Union of Industrial and Employers' Confederations of Europe
(UNICE)*

Liliane VOLOZINSKIS

*European Association of Craft, Small and Medium-sized
Enterprises (UEAPME)*



Catelene PASSCHIER
European Trade Union Confederation (ETUC)

First of all, I would like to start by saying 'thank you very much' for the invitation. Today's conference is an important initiative by the Austrian Presidency. It is not an easy initiative to put equal pay as a very central issue on the agenda again.

When preparing for this introduction, I discussed with a few colleagues if this was still a "sexy" issue. Several of us had the feeling that we have been discussing equal pay for ever. It has always been in the European Treaty, it has always been high on the agenda of European and national and sectoral and local women trade unionists. And where did we get after all these discussions? And is that still something that moves women? And after direct discrimination has been successfully attacked at various levels, it is increasingly difficult for women to identify with the feeling of being wronged by a gender pay gap.

What kind of thing is the gender pay gap? It feels wrong. But what are you going to do with it? It is in my view a thermometer, more than something that is easy to attack. It is a thermometer of the degree of gender inequality on the labour market and in society at large: The persistence of occupational segregation, the over-representation of women in precarious and low wage jobs and sectors, their under-representation in decision-making positions, the undervaluing of women's work in general and the unequal division of labour between men and women with regard to family and care. There is an increasing understanding in Europe that we have a problem here, that it is actually a shame and that we need to tackle it. But let's be fair. At the beginning of the 21st century we see that there is enormous pressure to increase the labour market participation of women, more people at work, more work to be done during a lifetime. The arguments are clear. It is global competition, it is demographic change. But what is the position of women in all this? Actually, I have the feeling that women have to solve all these problems by being centipedes. They have to have more children, preferably at an earlier age, to participate more in paid work, to take care of the sick and the elderly, to keep communities together by a lot of voluntary work, to actively age – I don't think I will have the perspective of early retirement. I think we will still have to take care of our grandchildren because our daughters will not find enough childcare facilities.

Will we be able to tackle the challenges of the 21st Century by making everybody work longer? Longer days, longer weeks, longer years, longer lives. And solve the problems with a nice mixture of equal opportunities policy and work-life balance measures? I would like to say 'no'.

I would like to take you back 100 years. This is one of my favourite posters. It shows a man sitting on a bench. He is reading a newspaper. You see in the distance some trees and a woman with a long skirt playing with a little child. And what does the poster say? 8 hours work, 8 hours sleep and 8 hours free. When you look at the poster that was really the beginning of last century's image of how workers would be freed from working hours that were too long. But workers were male workers. The whole issue of care does not figure in this picture. It is the woman playing with a child, what she does the rest of the day we do not know. And that is really how things got moving on the eight hour working day.



When in the second half of the 20th century women entered the labour market on a massive scale, they just entered into this picture. Even in Eastern Europe, where they were much more involved in paid work at all levels of society than in Western Europe, they entered the labour market in the understanding that they would silently continue to take the care responsibilities on their shoulders. And I think they still do so today. Maybe not always silently, but still.

I often use the image of having two people at the start of a race, a man and a woman. One has a backpack and the other does not have a backpack. Guess who is the one with the backpack? And guess who will win the race. Even though women are stronger in the long run, if you are running with a backpack, which is what women do, a backpack with the children in it, your parents, your neighbours, your husband, everybody you have to take care of, it is all there, the household chores, even though you have a vacuum cleaner which you did not have 100 years ago, you will lose the race. If we tell women that they should participate in this race but we do not do anything about this backpack, I can assure you, what we will maintain is an unequal situation, unfair competition. That is it. It is unfair competition between men and women for money, for jobs and for power. And we loose on all those things and we end up in those dead-end jobs, no career, low pay and low pensions.

The question is therefore if we leave this division of the labour as it is, the organisation of work, of working time and then just add women to the picture. The current situation is increasingly ambiguous with women in part-time work, flexible arrangements for women, care arrangements for women. We always add 'and men' but the reality is that they do not use them.

Most work-life balance models focus on individual solutions for all these individuals. Many of them are in this room and they all individually struggle to prove that they can be a centipede. As long as the emphasis lies on those individual solutions and as long as the emphasis of official politics is to open up choice for men, the choice to work long hours, the choice to have opt-outs under the Working Time Directive, the choice to have an open way to careers and power and not to be too burdened by all these other things, there will not be real choice for women and there will be a continuation of unequal pay. Therefore the way the Council of Ministers in the next months will bring forward an important issue on the EU agenda, which is the revision of the Working Time Directive, will be an issue that is of major importance for the perspectives of women to have real choice and more equality in terms of pay. Because what we should start to do is to address contradictions. And this is what you do when you mainstream. When you just have conferences on equal pay but as soon as we discuss employment or we discuss working time or other issues, you forget about equal pay and about equality, then you will not solve any problems.

Now this does not mean that we should not also talk about equal pay and actions on equal pay. Of course, there is more than just discussing working time and work-life balance. I recently read a report published last year by the UK's House of Commons, Trade and Industry Committee, entitled 'Jobs for the girls: The effect of occupational segregation on the gender pay gap' which was very interesting. I can recommend it to you and one very interesting conclusion in that report is that they say: "It seems to us that the Equal Pay Act is reaching the limits of its usefulness because what we are increasingly seeing is that because of occu-



pational segregation we have a big problem dealing with people that cannot find a comparator any more because they find themselves in situations where men do one kind of job in a totally different sector and women in another kind of sector. People will increasingly need to act as groups and not as individuals to do something about the forms of unequal pay that we see.”

That brings me to an issue that is also a sensitive one, and that is the importance of focussing again on the need for a collective approach, which is also the experience of many of our unions.

The good news is that when you have collective action and when you find unions and employers working together to collectively address the issue of pay, then you will find that in those areas and sectors there are shorter working hours for men and women, there are more flexible work options for men and women, and the pay gap is smaller. But collective solutions are not trendy nowadays. There are many other things that are not trendy, that are important for women as well, to mention a few: more and better public services, more collective support systems, mutualisation, better controlled working time arrangements, more central wage bargaining, less individual wage bargaining and more obligations - sticks and carrots, for people involved or that should be involved in improving the wage situation of women.

The ETUC has been active for many years on the issue of equal pay although I must say we are evaluating what kind of new approach we can invent to put it higher on the agenda again. We had an equal pay campaign in the old 15 Member States before the enlargement. We will probably need such a campaign again. We found a lot of different strategies among our unions but we have two overriding conclusions after that campaign. The first one is that we see the importance of the supportive legislative framework. What we see is that in those countries where there is a certain legal framework – let’s say in the form of sticks and carrots for social partners to take action – more action is taken.

The second conclusion is that if we want to be really serious and if we want to see effects then we – and that is our responsibility – have to include equal pay for women and raising low wages in collective bargaining, in training for gender equality for male negotiators but also training of women to take part in negotiations. That is still a long road to go and that is what I would call mainstreaming of equal pay in collective bargaining. It is one of the three issues in our equality plan in ETUC that we adopted at our congress of 2003.

Mainstreaming is a great challenge. It is to make sure that it is not just equality bodies, and that is not just my body as the person responsible for gender equality in the ETUC daily executive but also your colleagues who are responsible for employment or the Lisbon agenda or collective bargaining or for certain other important areas that really take this issue on board.

How do we make sure that it gets out of the ghettos of women’s committees and people responsible for gender equality? Of course, we can do a lot of things as trade unions but it takes two to tango. And I have really welcomed that we have been able to work together very closely with the employers’ organisations at European level reaching an agreement last year, which I think is giving a very



good overview of what we need – an integrated approach and at the same time targeted actions.

I will leave it my colleagues from the employers' organisations to tell you a little more about it. I would like to recommend that everybody take notice of it, not just because it is an interesting text but also to prevent it from staying 'just a text', another nice text for another nice drawer. What we need is for people to say: 'well, this is what you wrote down, what are you going to do about it?' I need those people to go to my unions to say that; we need people to say that to employers' organisations. We have organised a monitoring mechanism. This year we will review what happened with the agreement and which actions were taken at national level. Of course, we hope that we will then get a little bit further on this long road, not just to equality but also to some changes.

Because indeed mainstreaming is the challenge and that is not just adding women to the picture but changing the image. I would like to see a new image at the beginning of the 21st century, not with this man on the bench and the woman nicely playing with this child and for the rest of the time invisibly doing all the other things she has to do. But something that takes really an equal and more modern picture and that also people see as an attractive perspective for the future.

So what we need is to address the gender pay gap as something that really demands a clear political and practical commitment. I have very much welcomed the fact that the Austrian Presidency has shown this commitment. The Commission has shown this commitment in the roadmap for gender equality announcing a Communication on equal pay next year. This commitment is also taken on board in the framework of actions of the social partners. You could say that this creates a great momentum and somehow we have to make this momentum into something that starts working and moving. And to do that, I really would like all of you to try to imagine what mainstreaming means, and also start discussing all the other important issues such as working time, employment policies, social security changes, demographic change. When all these issues are on the table – that is when and where we have to mainstream our equal pay demands.

Thank you for your attention.



Inge REICHERT
European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP)

Ladies and gentlemen,

First of all, I should like to thank the Austrian Presidency on behalf of my organisation for the invitation to this exceptionally interesting conference.

I represent CEEP. Along with UNICE, the employers' association of private enterprises, and ETUC, the European Trade Union Confederation, CEEP is the third social partner in the European cross-sectoral Social Dialogue, where it represents Europe's public employers. Besides, its duties under the terms of the statutes include the promotion of services for the common good in Europe. CEEP has national sections in almost all member states of the European Union, in Romania and Turkey, as well as individual members (public enterprises) in most member states. The members come from all service sectors of common interest, e.g., railway, mail, telecommunication, water/sewage, electric power, gas, airports, waste disposal, banking, hospitals or providers of social services; in many member states, they come from the communal sector, such as responsible territorial communities or authorities for services of common interest.

In their 2002-2005 working programme, the European social partners undertook to pay more attention to the issue of gender equality in working life.

The negotiations on this subject resulted in the so-called "Framework of Actions on Gender Equality", adopted on 22 March 2005 by all European social partners.

As one of 4 priorities, "Gender Pay" is an important part of this framework agreement.

To begin with, it must be said that the fact that women earn less than their male colleagues (15 % on the EU average) cannot be tolerated in Europe in the long run.

In adopting the Framework of Actions on Gender Equality, the social partners of all member states have undertaken the clear obligation to improve the status quo. For this purpose, it is mandatory that the job evaluation and pay schemes are revised or designed in a completely gender-neutral manner. However, the problem will require more than just adaptations in the pay structures in order to approach the complex phenomenon of the "gender pay gap" and to reduce it effectively and permanently.

The reasons for pay differences can be explained only to a very small extent by discriminatory pay schemes. This fact was corroborated by many contributions heard today in the course of this conference. We, too, have found that individual life decisions and gender-specific behaviour account for a much larger part of inequalities.

Why is it that so few women apply for technical jobs? According to information furnished by our members, the proportion of female applicants is much lower than the proportion of women training in technical courses (e.g., for engineering jobs). We can hardly speak of a case of pay-related gender discrimination if women are not interested in the relevant job offers, provided that the job ads



were formulated in a gender-neutral manner. Perhaps this can be explained by justified fears of male networks? What is the role of women's life conceptions? Perhaps there are erroneous or insufficient notions of job images or of the concrete everyday working reality when it is dominated by men? Why do women prefer jobs related to human resources, administration, education, media, justice or medicine? In which sectors and member states do we find the largest differences? In the public sector, the problem is certainly less pronounced than in the private industry, but it does exist all the same.

Moreover, we need to look more closely into the societal influences behind the individual decisions of men and women to work part-time or accept a teleworking job. We must give our answers as social partners.

Once we have examined the results systematically, with the Framework of Action on Gender Equality as a first step in this direction, we will be able to better target our efforts in encouraging women and men to train for and take up occupations dominated by the other gender. As regards the public sector, we know that the enterprises and authorities try to integrate women but do not always succeed. This is why effective tools need to be further developed and improved.

Summing up, we can say that the disadvantaged position of women with respect to pay is a problem of work organisation, possibly of sporadically malfunctioning labour markets, but also of the cultural background in the member states. At any rate, the (more recent) statistics (Eurostat) point in this direction. Again, the relevant tools need to be modernised and further developed.

Economic reasons also urgently call for active promotion, since neither the labour markets nor the social systems of the future will work without better integration of women. Our approaches to the problems described above within the Framework of Action are only the beginning of an integrated process.

It will be necessary to include all steps of working life and working processes. Women must not be abused as a reserve army for enterprises. Such an approach would not be sustainable with respect to the demographic development in Europe. Examples of such problems are old-age poverty of women and the financing of pension systems.

Women's career development must be driven more systematically in order to achieve a sustained increase of the proportion of women in management. Ultimately, this means that reconciling job and family work equally concerns men and women.

Last but not least I should like to comment on Professor Plantenga's speech, since it coincides with our members' experience: in matters of gender-specific choice of occupation and training, we must not merely focus on girls and women, specifically with respect to the practical tools ("girls' day" etc.). We must also find ways to integrate men into so-called women's jobs and to make these occupations attractive to men. Bureaucratic measures, such as gender mainstreaming programmes, will not solve the problem.

As social partners, we are at the beginning of a process. Although the first steps have been taken, much remains to be done.



Thérèse de LIEDEKERKE
Union of Industrial and Employers' Confederations of Europe (UNICE)

Ladies and gentlemen,

Thank you for the invitation to address this conference on a very important and complex issue: gender equality and in particular the gender pay gap.

I will now present the main elements of the framework of actions that we negotiated last year on gender equality. I will take a broader perspective than simply the gender pay gap issue and will brush over underlying causes and factors that can have an influence on the position of women relative to that of men on the labour market. I will also zoom for a brief moment on a very practical example of a case study that we looked at when we were discussing how to work on the gender pay gap during the course of the negotiations on this framework of actions.

First of all, a few words about UNICE: UNICE is the confederation of business and is representing companies of all sizes in 34 different countries.

Framework of Actions on Gender Equality: this text was adopted and presented last year during the tripartite social summit that preceded the Spring EU Council. We have put our work in the context of the overall European growth and job strategy. Through the framework of actions on gender equality we clearly wanted to improve the overall functioning of labour markets.

Throughout the course of discussions the social partners came to the joint conclusion that the issue was not so much an issue for legislation. We saw no need for additional EU legislation on this issue. But there was clearly a challenge in trying to make further progress in gender equality in practice. In fact, once you have put in place the necessary legislative framework to fight against discrimination, you have done perhaps the easiest part of the job. The necessary next step is to implement the framework and to improve gender equality on the labour market in practice. That is a more difficult and lengthy process.

We wanted to identify and define a joint approach to gender equality based on the assessment of the current situation and advocated integrated strategies in order to make progress.

What has been achieved so far: It is clear that progress has been made. There are more girls completing secondary schools, girls are often more successful at university level. They participate in lifelong learning. There are a number of strong points on which we can build.

Progress was also made with regard to employment rates. The female employment rate was at 55.7 % in 2004. The gap between male and female employment rates has decreased from 18.1 % in 1999 to 15.2 % in 2004. There has been a positive evolution even if we are not completely there yet.

Women in managerial positions have seen progress but still remain an important challenge. 32 % of managers are female. Clearly, we still have to integrate more women into boards and have more female CEOs.



What are the remaining challenges and priorities for action?

First of all, gender roles in society and work-life balance.

For the moment there is still a lower employment rate of women with small children. That is very striking if you compare the participation rate of women and men throughout different age levels. And there are still much more women taking career breaks for family reasons.

Secondly, education, especially educational choices.

There are still less women in engineering and science or technology education. It is not good enough to have highly educated women. They also need to have excellent education in fields where they will be able to improve their position on the labour market. Undoubtedly, there are professions which are very much sought for on the labour market.

Thirdly, occupational segregation.

I provide an example to illustrate the degree of segregation at the labour market. Today four in ten employed women work in public administration, education, health or social activities compared to less than two in ten men.

Finally, the pay gap: the difference in average pays levels of women and men remain fairly high but what are the underlying causes?

Labour market segregation is an important cause of the remaining gender pay gap and labour market desegregation featured very prominently in the joint approach that we have advocated together in the Framework of Action.

Furthermore, we have put a strong focus on diversity management policies in companies. One of the most important challenges is to meet the diverse needs of men and women. Integrating gender equality policies into a wider diversity management strategy helps to reach men, rather than looking at gender equality measures which tend then to be seen as concerning women only. This element was included in our joint approach.

Four priorities for actions: We defined four priorities for action by the social partners in Member States.

1) Addressing gender roles on the labour market

e.g.

- Cooperation with education, guidance bodies
- Gender mix in male or female dominated sectors and professions
- Job titles and advertisements

2) Promoting women in decision-making

e.g.

- Release women's untapped potential at all levels
- Gender neutral recruitment and promotion criteria
- Retention of competent women & career development
- Female entrepreneurship
- Women in social dialogue



3) Supporting work-life balance

e.g.

- Taking account of individuals' and companies' needs
- Flexible work arrangements
- Care facilities

4) Tackling the gender pay gap

e.g.

- Informing about legislation
- Clear and up-to-date statistics at national and sector levels to understand reasons lying behind the gap
- Transparent and gender neutral pay systems (pay attention to possible discriminatory effects of secondary elements of pay)

Turning now to the crux of the issue and the gender pay gap. We agreed that the necessary legislative framework to fight pay discrimination was in place but of course it is important that people know the content of this legislation. The second key element which was flagged out as part of our work, is the importance of having clear and up-to-date statistics at national and sector levels to understand the reasons lying behind the pay gap. If you want to develop policies or solutions you need to make sure that they are actually tackling the underlying causes of this symptom. Hence, the importance of understanding what is behind the figures. Finally, an overall recommendation also to make sure that you have transparent and gender-neutral pay systems with special attention to the effects of the secondary elements of pay and to screen the pay system to ensure that there are no discriminatory elements in that domain.

I would like to give you a few examples of good practices which were studied as part of this work. A guide on employment for SMEs that was done by the TUC and a UK SME organisation, contained guidance on how to ensure that you have no gender discrimination in companies. I think the first speaker referred to training and guidance prepared by the Belgian ministry. Social partners themselves have developed a number of practical tools in this area.

The second was a study about women's and men's wages that was done by Danish trade unions and employers. It clarified causes and reasons for statistical differences.

Finally, we analysed a case study that showed how Finnish social partners in the chemical sector worked in order to unify two different pay systems and collective agreements and how they worked progressively in order to overcome no longer justified differences.

Some words about the case study. Two different collective agreements one for white collars and one for blue collars making the distinction between clerical and technical employees in the chemical industry were examined. Originally, clerical employees were female dominated, whereas the technical employees were male dominated. As the job content evolved, it became increasingly clear that these two previously different types of jobs were moving closer and closer together so as to make it no longer necessary to have two different pay systems. At the same time there was a merger of the two different trade unions that were re-



sponsible for the initial negotiations of these two initially different pay systems. All these factors helped to merge these two distinctive pay systems into one.

I wanted to flag out this example because it gives you a good impression of the process that is involved. Merging or changing pay systems, especially collectively agreed pay systems, do not happen just like that over night. It is a long process. In fact, the whole work started in 1992 with a series of discussions with employees. More than 200 joint information meetings were organised in order to build support for this merger process. Then there was a gradual step-by-step merger of the two pay systems into a single pay system, with still two separate wage scales in 1997, in 1998 a unification of the collective agreements, in 1999 the last step in this merger process which allowed establishing a single wage scale.

I chose this example because I think it is important to keep the realities in mind. Time is crucial and there is a need to spread the financial cost for companies. When reviewing job evaluation systems, one should bear in mind that putting the emphasis on competences rather than on seniority often leads to more gender-neutral criteria. Because of the temporary withdrawal of women from labour markets in certain periods of time, seniority is not a gender-friendly element for women.

We will have our first annual report on the follow-up of the framework of action at the end of this year in the autumn of 2006. It will also be on our website and you will have an opportunity to judge how things and how members have worked in practice on those four priorities. In the meantime you can find the full text of the framework of actions on the UNICE website. Of course, the same text is also present on the ETUC website, UEAPME website and CEEP website. If you are interested to look at the details of the framework of actions as well as on the key studies that backed it up, everything is available online.

Thank you very much.



Liliane VOLOZINSKIS
European Association of Craft, Small and Medium-sized Enterprises
(UEAPME)

Ladies and gentlemen,

As already mentioned in the course of this morning, the question of equality between men and women is not only a fundamental right; it is also a common value of the European Union. The subject we will be addressing today – the “Gender Pay Gap” – is a very serious issue that concerns us all.

UEAPME considers that reducing the gender pay gap will contribute to reaching the objectives set forth in the Lisbon Strategy and increase the participation rate of women in the labour market.

The question of equal pay for men and women is a strongly regulated topic. There is, in fact, a whole arsenal of regulations, which have nevertheless not given way to a completely satisfactory solution of this problem.

This is why the European social partners wish to make specific contributions in addition to the already existing legal framework.

UEAPME with the other European social partners have negotiated and adopted **a Framework of Actions on Gender Equality** in which the **gender pay gap** is one of the four major priorities that have been identified as requiring national attention.

This framework of actions has been well received by our members. It is, however, still too early to draw preliminary conclusions. This is one of our joint commitments for the upcoming autumn.

Based on our previous work and on the analysis of case studies, **two observations** can be made regarding the gender pay gap:

- 1) **Legislation alone cannot reduce the gender pay gap. Increased involvement on the part of all actors** (social partners, enterprises and employees, authorities, but also society as a whole) is required in order to achieve this goal.
- 2) In order to reduce the gender pay gap, actions must not be limited to the corporate sphere. Given the **diversity of underlying factors, tackling this issue requires a broad approach**: this explains the need for simultaneous action regarding the three other priorities included in our framework of actions, namely:
 - Addressing gender roles in society as well as the desegregation of the labour market
 - Promoting women in decision-making on all levels, especially improving women’s access to management positions and promoting female entrepreneurship
 - Supporting work-life balance



As Professor Plantenga explained this morning, **the gender pay gap is mainly the result of a combination of many factors, namely, the following:**

- Gender roles in society
- Segregation in the labour market as a result of educational choices made by girls and boys (vertical/horizontal)
- Personal traits
- Choices regarding job type, i.e., part-time work
- Career breaks and nonlinear careers
- Less external and internal mobility
- But also, although to a lesser extent, occupational classifications and existing remuneration systems etc.

In view of this situation, we have **listed a selection of tools elaborated by the social partners. These tools could serve as an inspiration and provide an impetus for national social partners regarding future actions.**

1. Analyse non-discriminatory remuneration systems drafted by the social partners. However, when modernising remuneration systems, premature pay rises must be avoided in order to maintain corporate competitiveness.
2. Conduct remuneration analyses (bonuses, variable parts, performance bonuses) and revise elements that could be detrimental to equality - achieve better gender neutrality.
3. Implement Equality Plans (recruiting, promotions, training etc.).
4. Gather statistical data at national or sectoral levels for the purpose of gaining better insight and conducting profound analyses of the situation at hand.

Among these concepts, we have identified 5 major areas of action targeted at craft and medium-sized enterprises:

- 1 First and foremost, awareness-raising must be promoted among the various stakeholders - social partners, managers, employers and company directors need to be sensitised to this issue. Given their key role in this issue, corporate managers must set an example to follow.
- 2 It is essential to provide more information about current legislation regarding equal remuneration, especially to SMEs.
- 3 SMEs need easy and specific tools, especially practical guides, allowing them to understand how they can realistically contribute to reduce the gender pay gap on a corporate level.
- 4 There is no one size-fits all solution that applies to all businesses, like implementing equality plans or maintaining detailed company statistics. This type of data is far from being significant, while causing administrative costs, especially for micro businesses having an average of 4 or 5 employees (which is true of 92 % of all European enterprises).
- 5 It is absolutely necessary to tackle the various factors mentioned earlier because this issue imperatively calls for an integrated approach that must not be limited to actions at corporate level.



As a matter of example, I would like to point out some best practice examples and actions carried out by our members, all having the objective of directly or indirectly reducing the gender pay gap:

Example 1:

Regarding the publication of practical guides for SMEs allowing them to meet their legal obligations

Our British member, the Forum of Private Business (FPB), joined efforts with the British Trades Union Congress (TUC) to publish a practical guide targeting the specific needs of SMEs. It provides easy step-by-step information about the introduction of equal pay for equal work or work of equal value.

Example 2:

Regarding awareness-building activities and providing information to corporate managers and employees

Our Austrian Member, the Austrian Economic Chamber (WKÖ), plays an active role in KLARA! (a project which will be discussed in further detail in the following session). One of this project's objectives is to create a network of equal pay and equal occupational opportunities for men and women in the labour market.

Among others, this project includes an innovative approach: training women to become so-called **"multipliers"**. These multipliers provide practical advice to companies and employees alike and suggest methods for fighting the gender pay gap, always taking into consideration the company-specific situation.

Example 3:

Regarding the conclusion of collective agreements or national or sectoral framework agreements

Our members in France – UPA and CGPME – played an active part in the negotiation of a cross-sectoral agreement regarding job desegregation and equal occupational opportunities for women and men, into which the gender pay gap issue has been incorporated.

Additional examples

Regarding broader measures that actively contribute to reducing the gender gap:

- 1) Desegregation of the labour market. Several traditionally male-dominated industries (especially the construction industry) introduced powerful initiatives with the purpose of actively promoting women's access to these occupations, both as employees and as corporate managers.
CAPEB, our French member, representing the construction industry, was one of them, launching a large campaign targeted at women to enhance the appeal of occupations in the construction industry.
- 2) Promoting female entrepreneurship. This is a recurring issue in our national member organisations.



Italy, a country of family businesses par excellence, is a very good example. Italy has introduced a great number of measures encouraging women to set up their own businesses or simply take over a family business.

Austria, Belgium and Germany also actively encourage women to become entrepreneurs and provide a variety of accompanying measures (networks, financing, expert advice etc.).

An increasing number of female entrepreneurs will certainly strongly contribute to solving the problem of equal occupational opportunities and equal pay.

In conclusion:

- It is clear that this issue is a highly complex one
- There is no one-size fits all answer, especially not for SMEs
- This issue calls for an integrated and active approach involving all actors
- This is what we have set out to do by introducing our joint “framework of actions” initiative

Whatever the proposed solutions may be, they must be realistic and adapted to the respective company’s size.

Many thanks.

WOMEN'S PROJECTS AND GOOD PRACTICES

Birgit ARENS

EUROCHAMBRES Women Network, Belgium

Project: CH.A.S.E

Kerstin WITT-LÖW

Institute SOFIA, Austria

Project: KLARA!

Gunilla STERNER

Ministry of Industry, Employment and Communication, Sweden

Project: BETSY

Christine BAUR

Ombud for Gender Equality in Employment, Austria

Project: EQUINET



Birgit ARENS
EUROCHAMBRES Women Network, Belgium
Project: CH.A.S.E.

Thanks to

- a) the Austrian EU Presidency, conference organisers for the opportunity to present EUROCHAMBRES Women Network and its activities,
- b) the European Commission without whom the projects that are to be presented would not have been feasible.

Prior to speaking about EWN and its activities, a few words about EUROCHAMBRES:

EUROCHAMBRES represents 44 national chamber associations from various European countries, spanning from Iceland to Russia (going beyond the 25 EU Member States and the current candidate countries).

These national Chamber associations comprise a network of approx. 2,000 local and regional Chambers, representing in turn over 18,800,000 enterprises and 120,000,000 employees.

The Chambers' members – enterprises – are cross-sectoral and of all sizes, with over 95 % of SMEs.

EUROCHAMBRES Women Network became an official part of EUROCHAMBRES activities in 2003, with the objective of adding the Chambers' "female touch" to the overall Lisbon targets.

The network consists of representatives – male and female – of European Chambers of Commerce and Industry, comprising national Chamber associations as well as regional and local Chambers.

There are 3 main underlying reasons that led to the creation of the network, taking into account the overall economic situation (the Lisbon agenda), and the potential role of the Chamber network:

- 1) The Lisbon targets of increased sustainable economic growth and more and better jobs cannot be achieved without involving the female population – a huge potential that remains untapped to a certain extent.
- 2) Involving women in the economic environment also entails tackling the specific problems they face (e.g. childcare) and proposing specific solutions.
- 3) Chambers at local/regional/national level are involved in fruitful activities, but a lack of exchange at European level is noted, lack of exchange that the network wants to overcome.

Thanks to its different activities, and through its "top-down" and "bottom-up" approach, EWN pursues three main objectives:

- 1) Contribute to long-term economic growth
- 2) Foster equal opportunity rights
- 3) Address the specific needs of working women

During its short lifetime, the network is proud to be in the position to show several achievements, thanks to two EU-wide projects that it has carried out with



the financial support of the European Commission, in the frame of the 5th gender equality action programme:

- An economic analysis of women in business
- A stereotype busting survey
- Concrete tools to help young women
- Highlighting successful role models

The first project: "Women in Business and in Decision-Making"

The project sought to identify obstacles that women face when creating an enterprise, and in the daily management of their companies. Furthermore, good Chamber practices across Europe relating to the promotion of female entrepreneurship were gathered and disseminated.

The project consortium promoted positive actions that would help to overcome particular obstacles:

- I comitate per la promozione dell'imprenditoria femminile (IT) – how to involve women in Chambers' decision-making processes
- Women's Cooperative Bank (CY) – an alternative way of access to finance
- Career Counselling Guide (GR) – how to break the glass ceiling and foster one's professional career
- «E trifft U» – start up meets entrepreneur (DE) – the positive effect of networking between female start-up entrepreneurs and confirmed business women

The survey carried out in the frame of "Women in Business and in Decision-Making" showed that over 18 % of the surveyed entrepreneurs were involved in the Chamber's decision-making bodies, while 22.5 % were involved in other decision-making bodies (including social and cultural activities).

In the frame of the CHASE project, women were questioned about their perception regarding the participation of women in decision-making positions. 90 % of all respondents clearly stated that there are not yet enough women in decision-making positions, while 10 % consider that there are enough.

While women recognize that there are not yet enough women in decision-making positions, their awareness is not yet translated into higher numbers on the ground. There appears to be clearly room for action to that respect.

The factors (stereotypes) that influence women in their working environment were part of the research work carried out in "CHASE - Chambers against stereotypes in employment", second project of the network.

CHASE targeted women in traditionally male-dominated sectors, with the aim of creating major awareness among young women about the stereotypes that influence their career choice and employment situation, and of offering them positive tools for overcoming the stereotypes and broadening their professional horizon.

The project comprised 4 main stages:

- A stereotypes survey
- The identification of role models



- The development of the "Talent Check" internet tool
- The mentoring programme

The very brief summary of the survey results shows that stereotypes are widely spread in the employment environment.

Survey results

- Business = male affair
- Man = career
- Woman = household & children
- A question of credibility for female entrepreneurs
- Lack of confidence in capabilities perceived by female entrepreneurs when contacting male counterparts
- Lack of self-confidence stated by female employees
- Women and decision-making (cf. above comment)

While some stereotypes are stronger than others, the fact that they are still widespread shows that positive actions are needed to overcome them. As those stereotypes are part of our cultural heritage, positive actions need to go beyond the direct employment field.

Different suggestions for overcoming stereotypes were made in the frame of the survey, and among the most prominent ones were a "different approach from primary school onwards" and "the promotion of role models via the media".

The project survey enabled the project partners to identify 39 women from 8 different European countries who are successful in traditionally male-dominated sectors. These success stories have been published in a *role models brochure*. Each woman tells her own story of how she made her way in a male dominated sector. While these women have very different economic and cultural backgrounds, they have two points in common: their female intuition and determination to go for it against all odds.

The other positive tools that were developed in the frame of the project are the "*Talent Check*" internet tool and the *mentoring programme*.

The *Talent Check* tool targets more specifically young girls that are about to make their professional choice, but it can of course be used by any person wishing to check his/her talents and discover what male-dominated jobs he/she would be suited for.

Through a series of questions, the preferences and capacities of the user are determined, and a list of 10 action fields, corresponding to the analysis results, is proposed. In each action field, a series of male-dominated jobs is listed, including specific information regarding the training/education to be chosen for the proposed career.

During the life-time of the project, over 5800 people across Europe have used this tool, and a large majority found it useful to find out more about their professional preferences.



The *mentoring programme* aims to link female students in technical/scientific sections with enterprises in the corresponding sectors.

The local/regional Chamber of Commerce and Industry, in cooperation with the university in its region, organises the matchmaking and monitors the process.

Both mentors and mentees have reported positive results. Particularly the mentees reported an enhancement of self-esteem and professional motivation; a better definition of professional goals and the understanding of the importance of networking.

To conclude, based on the activities that EWN has carried out so far, and considering the subject of today's event "Closing the gender pay gap", a horizontal approach is necessary to close the gender pay gap, as it is very closely linked to the way that female employment is perceived by society in comparison to male employment. And it is only by changing people's perception that we will be in the position to overcome current hurdles.

Yet, changing people's perception means changing cultural aspects, and these changes take time, and require the involvement of a large number of stakeholders from different horizons.



Kerstin WITT-LÖW
Institute SOFIA, Austria
Project: KLARA!

I am pleased to present the project KLARA! and specifically the training course for Equal Pay Agents.

KLARA!, the Network for Equal Pay and Gender Equality in the Labour Market, is a development partnership within the framework of the EU EQUAL Programme scheduled to run from 2005 to 2007. As we are in the middle of our project, I cannot talk about finished actions and results but of our work in progress.

KLARA! is being coordinated by the network of Austrian counselling centres for women and girls. The project is funded by the European Social Fund and the Austrian Federal Ministry of Economics and Labour.

As an EQUAL project, KLARA! has national development partners and international partners.

The **national development partners** include:

- Federal Chamber of Labour (AK)
- Austria Federal Economic Chamber (WKÖ)
- Federal Ministry of Health and Women
- Public Employment Service (AMS)
- National Equality Body
- University of Vienna.

Operative partners are NGOs, i.e. three Austrian women's counselling centres as well as Sofia, an institute of holistic social research and its application represented by me at this conference.

KLARA!'s **transnational partners** are development partnerships from Italy, Spain, Slovakia and Slovenia. There are regular meetings and exchanges with the international partners. A film on gender gaps in the five participating countries is planned as a product of this international cooperation.

What are KLARA!'s goals? **KLARA! aims** to anchor equal pay as an important criterion for gender equality in the labour market through various activities:

1. KLARA! wants to sensitise people. In the autumn, we will launch a campaign entitled „*Frauen verdienen mehr!*“ (“Women deserve more – Women deserve to earn more!”) which will include the distribution of freecards with various motives.
2. KLARA! wants to network Austrian gender equality experts from institutions and NGOs. They meet in focus groups, discuss obstacles encountered in the equal pay area, exchange strategies and plan joint activities.
3. KLARA! wants to put strategies to the test. For example, a mentoring programme for female migrants in Vienna is geared to supporting female migrants to achieve their job ambitions.
4. KLARA! wants to strengthen women's counselling centres. Three women's counselling centres in rural regions are to become competence centres for gender-appropriate training and counselling.



5. KLARA! wants to enhance qualifications by offering a training course for future Equal Pay Agents. This is the part of the programme that I should like to describe in more detail.

KLARA!'s training course for Equal Pay Agents is coordinated by the Sofia Institute. It is a one-year course running from January 2006 through March 2007, which means that it has been running for just a few months. The course includes 20 seminar days spread over seven seminars, two of which have already taken place. Another important part of the course is project work, which I will describe at a later point, and the work in peer groups.

So what are Equal Pay Agents? What is it they do? What skills do they have? Equal Pay Agents have an additional qualification for contributing towards reducing the pay gap between women and men in their job areas. They have basic knowledge with regard to legal, economic, psychological and sociological aspects of equal pay and know measures, tools and strategies for reducing the pay gap. There have not been any Equal Pay Agents before, so they open up a new job field.

Which target groups are addressed by the course?

The target group of the course includes persons who can apply this qualification in their sphere of work, such as:

- Officers responsible for issues related to women, equal treatment and gender mainstreaming
- Works councillors and trade unionists
- Human resource officers
- Business and organisation consultants
- Women's and career consultants, coaches
- Employees of promotion and budget departments
- Ombudswomen for equal treatment

The announcement of this course met with great interest and attracted a large number of enrolments. 17 participants were selected, with selection criteria based on regional and occupational diversity. Our female participants certainly come from a large variety of occupational backgrounds: five project managers, three works councillors, three women's and gender mainstreaming officers, one trainer, one scientist, one organisation consultant, one ombudswoman for equal treatment, one economic policy lobbyist and one tax consultant.

As regards the **structuring of the contents**, the course is made up of seven seminar blocks that impart both crucial fundamental knowledge and implementation strategies.

- The first block, entitled "Women and Money", is about data and facts, obstacles and equal pay strategies.
- The second block contains legal basics; the establishment of an internet communication forum is geared to facilitating communication with and among participants between seminar blocks.
- The third block, "Macroeconomics and its Impact on Women", puts women's disadvantaged earning situation into a wider economic perspective.



- The fourth block, "Interventions at the Company Level", deals with job evaluation procedures among other things. I am glad that Dr Ranftl will lead this seminar jointly with her colleague, Dr Tondorf.
- The fifth block focuses on strategies at the individual level, namely "Pay Bargaining and Self-Marketing".
- The sixth block deals with PR work, while the final block in February 2007 will be used for the participants' presentation of their project papers.

These project papers feature importantly in the training concept because they serve as examples for the work potential of Equal Pay Agents. Since the course has just begun, the following projects are still in the planning phase. Even at this early stage, they demonstrate the large diversity of potential activities of Equal Pay Agents.

Some examples of participants' projects:

- A participant who is a works councillor is currently witnessing a new pay scheme being set up in her organisation. She wants to be on the alert and to examine the impact of the new pay scheme on women and men.
- A participant, also a works councillor, examines the application and impact of a new collective agreement on her organisation.
- Another participant wants to evaluate internal organisational pay structures within the scope of a research project.
- Two participants want to do PR work and develop an equal pay website.
- Several participants working in the training area want to compile a trainers' manual on equal pay that can become part of the gender training.
- For the training area, the programme also includes the development and testing of a questionnaire on equal pay sensitisation of persons attending courses of the Public Employment Service.
- A participant who is an officer for women's issues wants to organise a series of events on the subject of "Women and Money", including such issues as the analysis of pay slips or the calculation of individual pension claims.

What are the **next steps** planned by us for the KLARA! training course for Equal Pay Agents?

As it is aimed at networking, KLARA! wants to bring course participants together, so that the future Equal Pay Agents and equality experts of the abovementioned focus groups will be given the opportunity to act in a joint network.

The course is not supposed to be a one-time project but is planned to be continued at the University of Vienna after the Equal Project has been closed.

Of course we would like to see Equal Pay Agents to become an international concept, and to have not only Austrian but also European Equal Pay Agents.

I should like to conclude with the KLARA! message, which will also be the motto of our PR campaign in autumn:

WOMEN DESERVE MORE – WOMEN DESERVE TO EARN MORE!

Thank you very much for your attention!

**Gunilla STERNER****Ministry of Industry, Employment and Communication, Sweden****Project: BETSY**

"**BETSY**- Benchmarking as a tool for realizing equal pay" was an EU project carried out between 2002 and 2003, coordinated by Sweden, with Italy, Spain, Germany and Finland as partners. In Sweden and Finland regional authorities were conducting the project activities, in the other countries NGOs together with universities were the actors.

The aim was to stimulate employers to take action on gender equality in their personnel policies and specially to decrease the gender wage gap between men and women. Another purpose was to raise awareness among employers and trade unions of national and Community laws concerning equal pay for equal work and work of equal value.

The project was financed by the transnational partners and the European Commission, with the support of the European Community Programme relating to the Community Framework Strategy on Gender Equality 2001-2005.

There was close cooperation with another project on equal pay, PEP. The website www.equalpay.nu was built up together and is still in use, sponsored by the Swedish Ombudsman for Equal Opportunities. In the PEP project the countries cooperating were Sweden, Norway, Denmark and Austria. Governmental authorities like Equal Opportunities Ombudsmen carried out this project. In the PEP-project 27 private and public employers started activities for equal pay and 800 wage-negotiators took part in training activities. I recommend you to take a look at the website, there is quite a lot of information gathered, check-lists and tool-boxes with a lot of methods, links to laws and regulations, etc.

In the project BETSY a method called **GEMS**, Gender Equality in Management Systems, was used by the 40 participating companies and social organisations. The aim of the method is to implement the gender perspective in the management system and running of companies and organisations. The method generates a profile showing the employer's level of ambition regarding work with gender issues relating to pay and benefits. It is a kind of self evaluation of the organisations' efforts with a grading component. The score card consists of different questions regarding the company's wage policy, which should be answered and signed by the management. The method has also a competitive side, it can be used for ranking: "who is doing best in this group of employers?" The competitive quality was very stimulating in the first phase and made the project attractive for employers. The companies wanted to get public attention for their gender equality work. At the website, toolkit 2 in the toolbox, you can get more information about the method GEMS.

The work in the project took place in national networks of employer representatives, trade unions and gender equality experts in each country (Spain had two groups). The target group was people working with pay issues in companies and organisations. The groups consisted of around ten participants who met regularly during a year. First, the participants were trained in existing laws and regulations concerning equal pay, then they discussed and created the measuring score cards. During the meetings the participants had the evaluating cards filled in, and signed by the top management in the company. At the next meeting the participants informed the other people in the group on how they had evaluated



their company's equality work and they got feedback from the others. During this discussion participants could interpret and relate to the different levels of the card in a similar way.

It turned out that networking was one of the most successful parts of the project. Many employers appreciated the opportunity to discuss gender related issues with other employers in the group, instead of solving the problems alone. As all employers were hosting one of the meetings, they all had the possibility to show their company and their work for gender equality to others.

The method GEMS has later been used in a project on reconciliation of family and working life, HERA II, coordinated by Spain (Fundacion Mujeres).

Sustainable results of the project

It is still too early to see what effects the project has made in decreasing the gender pay gap, as the statistic data have not yet been compiled for the years after 2003, when the project ended.

I have called the participants in the BETSY project some weeks ago to hear if they had noticed any sustainable results of the project besides the website that still is in use.

It seems that some long lasting effects have been achieved.

The Government of **Åland** reports that they focused a lot on training in the project. The participants were offered theoretical knowledge and tools to transform the knowledge into concrete actions. The project could shape possibilities and give prerequisites. It was, however, up to the participants to make use of the possibilities.

In Åland the County Administrative Board was most successful. They had a cooperative management with the County Governor taking part in all activities. This resulted in a new annual report of human resources and a new gender equality plan with concrete measures. The project resulted in new routines concerning the handling of salaries and in a use of gender salary surveys to find and adjust gender differences in salaries.

From **Spain** Fundacion Mujeres reports that they have used products and results from BETSY in later projects and activities relating to gender mainstreaming and labour organizations.

Fundacion Mujeres has found two items related to equal opportunities especially difficult to handle: equal pay and quotas. BETSY has been a good source of knowledge in this field. The method GEMS has been used also in projects concerning life and work balance, and the method is useful as a tool for rising awareness, training analysis and taking action on gender matters within enterprises. In the project BETSY a monograph with law references and description of methods to measure equal pay within organisations was compiled. That material is still in use today. Lessons learned from BETSY are that you have to show best practices and real examples for enterprises and trade unions to get them to understand the problem of wage discrimination.

"We analyse the wage policy of the enterprise always emphasizing the profits of avoiding wage discrimination. BETSY showed that it is important to link equal pay policies to short/medium/long time profits to the enterprise. We try to show the link between equal pay and quality of human resources and productivity.



BETSY also showed us that it is important to establish strong networks that support gender processes involving workers representatives and employers' representatives. These representatives have many problems to persuade their managers and organizations on gender issues in general and especially on equal pay matters, in this way networking has turned out very effective.

We also learned that raising awareness and training of social agents has to combine gender principles, legislation and methods and tools, that is a combination of theory and practice including examples and best practices."

That was some comments from two of the attending countries. As the project manager and earlier regional gender expert in the County of Stockholm, I can add that in **Sweden** several of the participating employers (a bank, a hospital, municipalities and trade unions) chose to participate in a following project on reconciliation of family and working life. BETSY gave them an incentive to further develop the work for gender equality.

The web-site is still functioning and the Equal Opportunities Ombudsman uses it for training purposes. About **20,000 visitors** have found the site.

To conclude my speech, there is to say that the **training**, the **score card** and the **networking** were the main elements of success.

Thank you for your attention.



Christine BAUR
Ombud for Gender Equality in Employment, Austria
Project: EQUINET

Thank you for giving me the opportunity to present the "Equinet" project at this conference.

"Equinet" is the sequel of the project "Towards a uniform and dynamic implementation of EU anti-discrimination legislation: the role of specialised bodies", funded by the European Commission within the framework of the Action Programme to Combat Discrimination.

The Council Directives 2000/43/EC (racial or ethnic origin directive) and 2000/78/EC (framework directive) complemented the long existing provisions of the European Union relating to the equal treatment of men and women. The implementation of the so-called anti-discrimination directives required the introduction of new legal concepts as well as the extension of anti-discrimination policy from the gender area to the new concepts.

Most EU member states lack practical experience in handling the following concepts:

- Direct/indirect discrimination
- Objective justification
- Harassment
- Instruction to discriminate
- Reversal of the burden of proof
- Enforcement options
- Special bodies for combating discrimination
- Dissemination of information
- Defense of rights

Equinet, the European Network of Equality Bodies, supports the cooperation of these bodies and ensures the cross-European exchange of information between these bodies. These activities are geared to achieving a uniform implementation of the European anti-discrimination laws and the improvement of the legal protection of persons affected by discrimination.

The Network partners exchange their experience and knowledge within the scope of their legal expertise, their strategies related to law enforcement, and the training of employees. Moreover, the Network serves as a platform for the dialogue with the European institutions dealing with anti-discrimination.

28 institutions from 23 member states are currently interlinked in this network under the leadership of the Dutch Equal Treatment Commission. The Secretariat is provided by the Belgian Migration Policy Group.

Article 13 of the directive on ethnic origin obliges the member states to name one or several bodies whose task it is to promote the realisation of the principle of equal treatment of all persons without discrimination on grounds of racial or ethnic origin. These bodies can be part of an institution that is responsible for the protection of human rights at the national level or of the rights of the individual.



The member states must ensure that these bodies are vested with authority in the following areas:

- without prejudice to the rights of the victims and associations, organisations or other legal entities, to provide independent support according to Article 7 paragraph 2 to the victims of discrimination in their efforts to pursue their complaints;
- to conduct independent investigations on the subject of discrimination;
- to publish independent reports and submit recommendations on all aspects related to such discriminations.

Member states differ as regards the legal mandate and the tasks assigned to these bodies. Some bodies have been established to address just one equal treatment issue; others have the mandate to deal with discrimination for various reasons, depending on the legal provisions in individual states. Large differences between the individual bodies also exist with respect to technical knowledge and practice.

Seven conferences were held in the course of the first project phase. Two of these conferences were dedicated to gender-related themes. The conference “Gender-based discrimination as compared to discrimination based on other criteria” took place in Vienna. Another experts’ conference was held on the subject “Equal pay for work of equal value”. This shows the importance of expertise in gender equality for anti-discrimination work.

The current emphasis of the “Equinet” work is on strengthening cooperation and exchange of information. Three working groups have been set up. Training is provided for employees of anti-discrimination bodies. One of its major concerns is installing an internet website for networking purposes.

This site is already in existence; part of it will also be available to the general public.

DISCUSSION

Helen GRIMSHAW

Women and Equality Unit, United Kingdom

Tindara ADDABBO

University of Modena and Reggio Emilia, Italy

Loukia ARGYROPOULOU

General Secretariat for Gender Equality, Greece

Martina THOMASBERGER

Chamber of Labour, Austria

Catelene PASSCHIER

European Trade Union Confederation (ETUC)

Thérèse de LIEDEKERKE

*Union of Industrial and Employers' Confederations of Europe
(UNICE)*

Daniela BANKIER

European Commission

**Helen GRIMSHAW**

Women and Equality Unit, Department for Communities and Local Government, United Kingdom

Thank you Madam Chair. It is not really a question, I am afraid. It is just to acknowledge all the excellent presentations and to tell you about the main initiative in the UK which aims to close the gender pay gap.

It certainly echoes a lot of the comments that have been made by the speakers today. It contains a lot of the same elements in fact. The initiative is the Women and Work Commission. This was a group of experts appointed by the Prime Minister to look at closing the gender pay gap within a generation. They included business people, trade unionists, education experts, people from the voluntary sector and equal opportunities bodies. It highlighted the gender pay gap as an economic issue. Its report in February made 40 practical recommendations, which addressed all the different causes of the gender pay gap. These included better informing girls at school – better informed career choices, measures to help women to combine work and family life, to help women access learning and training throughout their careers and to develop career pathways, and also to improve practice in the workplace on things like pay systems and eradication of discrimination. It is a strong agenda and it will be taken forward. The government will issue an action plan in due course, perhaps a little like the Swedish action plan. All the partners, the government, the trade unions, the employers, and schools and training organisations will be called on to play their parts. Thanks.

Tindara ADDABBO

University of Modena and Reggio Emilia, Italy

I am Tindara Addabbo, expert of the Italian Government's Department for Equal Opportunities and the ISFOL Equal Opportunities Unit. I just want to make a point about the importance of indicators on the gender wage gap and the policy implications related to them. If you look at the unadjusted wage gap, Italy performs quite well as far as the size of the gap is concerned. However, when taking into account the low female employment rate in Italy as compared to the EU average and when adjusting the wage gap by correcting for the non random selection of women in employment (lower educated women, who are likely to receive lower wages if they were employed, tend to be excluded from employment) we can see that the gap increases a lot.

Another methodological point has also relevant policy implications: the size of the wage gap varies across the whole distribution of wages. If we use econometric techniques to decompose the gender wage gap across the distribution of wages and by level of education we find the highest wage gaps with lower educated women, especially in the first decile of the distribution. This reminds of the "sticky floor" hypothesis and of statistical discrimination against low-educated women.

These comparatively higher gender wage gaps of lower educated women cannot be detected if one looks only at the median or at the mean wage gap. This has implications with respect to the way wages are set and calls for further analyses of the impact of an increase in women's employment rates on the gender wage gap. According to the Lisbon targets, the Italian female employ-



ment rate should increase. This could bring more women with a lower level of education (currently not employed) into the labour market, and the gender wage gap might increase.

Turning to the highly educated, it is interesting to notice that highly educated women show the lowest wage gaps with respect to highly educated men at all wage levels except at the highest deciles of the wage distribution. In the highest deciles, the wage gap between highly educated women and men exceeds that between lower-educated women and men. This is closely linked to the fact that women in Italy suffer from vertical employment segregation and have very limited access to positions at the top. This evidence strongly calls for policies to remove the glass ceiling which prevents women from accessing top positions, policies that have been rightly mentioned during this conference.

Loukia ARGYROPOLOU

General Secretariat for Gender Equality, Greece

Thank you. I would like to mention a good practice. I represent the General Secretariat for Gender Equality, which is a governmental body of the Ministry of the Interior competent to promote legal and natural equality in Greece.

I would like to thank you all for all the enlightening information on the subject that you provided us with. Now in the area of policy I deem it necessary to mention the initiative of our research centre for gender equality, which is called KETHI. This is a legal entity operating under private law and it is supervised by the General Secretariat for Gender Equality in Greece. It implemented a European project which was called "Equal pay, mind the gap" within the years 2002 to 2003.

I will only mention, just to keep it short, that the main focus of this project was to build upon the experience of transnational partners and was based mainly on networking, as we heard so many times today. The desirable result was to create awareness of women in the labour market and to make the gender pay gap visible through information, sensitisation, campaigning and training of professionals. Another important purpose was to mobilise women's NGOs and, finally, to put equal pay on the agenda of the social partners.

There were important conclusions of the above-mentioned problem. Very shortly, policies aiming at reconciliation of work and family life alongside with fair distribution of work within the family that may influence positively the pay gap issue, promoting dialogue between the social partners and cooperation of governmental bodies and women's NGOs are key factors to be taken seriously. The monitoring of relevant indicators measuring issues pertaining to equality between women and men will contribute to the gender pay gap reduction. The contribution of the use of a single pay roll is very important to this effect. We heard it today, this is crucial. The existing of gender-based segregation of labour indicates the existence of productive resources which are not utilised. And I will close by mentioning that one of the established obstacles to change is the traditional character of a national society. Although there might be legislative armour regarding the protection of equality, there might be an inconsistency with respect to its practical implementation due to prevalent man-centred viewpoints.

Thank you.



Martina THOMASBERGER
Chamber of Labour, Austria

I am Martina Thomasberger and I work in the Women's Division in the Chamber of Labour in Vienna. We represent workers in Austria.

I would like to get back very briefly to something Regine Winter pointed out in her presentation, namely that the Court of Justice, where the further development of case law is concerned, relies on questions of the Member States or referrals from the national courts.

We give our members detailed legal advice and where needed individual counselling on judicial procedures. Indeed the Brunnhofer case came from our Chamber in Vienna and we backed the Court of Justice proceedings. But to the women concerned there is a mental and psychic need, and very often a financial burden as well, of which we take care for our members in some cases. It is very difficult for an individual to stand up to all this and to get through the whole process. From our viewpoint, it would be appropriate and important for cases to be taken to the court on a less individual basis.

I think the roadmap covers this idea. I think that among other things the implementation of the directives needs to be improved. I would hope that the debate on both the roadmap and the improvements in implementation can lead to a situation where it is not so much the individual having to take the case to court all the time. Obviously, we cannot get rid of this principle because you need that legal safety and the individual having it, but new ways for legal protection in discrimination cases might increase the possibility of, say, social partner arrangements on taking an action to court on behalf of individuals in a particular set of circumstances. Thank you.

Catelene PASSCHIER
European Trade Union Confederation (ETUC)

I would like to support your remark, which is that we really see increasingly – what I mentioned also – that there is a limit to individual cases in many different ways. Increasingly the successful cases are where there are groups, unions or non-governmental organisations taking a certain issue up. There were quite some interesting results in the UK because there was this big employer, the National Health Service (NHS), and women within the NHS could take up a case because they could compare within a very large group of workers. But for women who are employed by a very small company it is very difficult to find comparators, even if they have the feeling that they are not treated in the right way. We think it would be useful to have collective claiming rights in court also. But at the same time I do believe that it is important but not sufficient. We cannot get the results just by court cases. Court cases can be some kind of stick, sometimes to get things moving and they are very important to create a basis for, let's say, an understanding of what is the legal obligation. But at the same time, I think, there is a very important case to make for much more attention for equal pay in collective bargaining. Actions such as those of the Belgian unions – an equal pay day, raising awareness, developing tools, making due actions about it and then try to get things moving, with the support of an equality charter between the three federations in Belgium trying to get equality on the mainstream agenda of unions. Those things are also happening on the



employers' side. I think that is really what is needed. But legal cases and collective claim rights are of course an important supportive tool.

Thérèse de LIEDEKERKE

Union of Industrial and Employers' Confederations of Europe (UNICE)

Obviously, in a state of law, if an individual has been wronged that individual must have access to the court. I am a bit more cautious about group or class actions because then you enter into a different type of exercise. I think one has also to acknowledge that you can have then actions for more political purposes, which can have very high implications for employers. So there you have a tool which can be used in another way.

We must be all the more cautious that in the EU system we have already a partial reversal of the burden of proof. There are very far-reaching protections for the individual. Tilting the balance even could have negative implications for the economy as a whole and not only for individual employers.

My final point would be that one has perhaps forgotten or not said sufficiently clearly that in a market economy there will always be pay differentials. If you want to have sound economic growth and sound employment, pay levels have to be in line with productivity levels. There are good reasons for pay differentials. When we are discussing the pay gap, we are discussing a statistical symptom of the fact that women have not yet reached equal opportunities levels with men on the labour market. We do not discuss the fact that there is across-the-board discrimination. Arguing for the disappearance of pay differentials would be incompatible with a market economy.

Daniela BANKIER

European Commission

I just wanted to comment briefly on the remark by our colleague from the Austrian Chamber of Labour.

I think it is a very interesting point to emphasise the tension between on the one hand the collective nature of the problem we are facing, namely the gender pay gap and, on the other hand, the individual nature of seeking redress before national courts. It remains of course extremely difficult (and one has to acknowledge that) for individual women or victims to pursue their rights before national courts.

Now the recent European law recognises this difficulty in the Directive 2002/73 that was quoted this morning. We provide for Member States an obligation: Member States have to make sure that interested organisations can bring cases of discrimination before national courts on behalf of or in the name of the victim. Of course, these cases that are brought before national courts can make their way until the European Court Justice by way of preliminary ruling. So, to some extent, I think, the recent European law recognises the difficulties. Thank you.

CONCLUDING REMARKS

Luisella PAVAN-WOOLFE

*European Commission, GD Employment,
Social Affairs and Equal Opportunities*

Theresa PHILIPPI

Cabinet of the Minister Maria Rauch-Kallat



Luisella PAVAN-WOOLFE

European Commission, GD Employment, Social Affairs and Equal Opportunities

I would like to thank the Presidency again for convening this conference on a central though complex theme.

We have had interesting discussions, with sometimes contrasting views, which is a further evidence of the complex matter which we face.

In the course of this long day we have had the opportunity to listen to

- 1) The economic and legal experts' view on the pay gap
- 2) Member States policies to address the problem
- 3) Social partners response
- 4) Examples of good practices

Now it is time to sum up our discussions and to draw paths for action for the future.

On the one hand, we have facts. The role of women in the labour market has grown strongly over recent decades. In fact, most of the progress we have recorded in terms of reaching the Lisbon employment targets can be put on the credit of the continuous entry of women in employment. Three quarters of the new jobs created in the past five years in the EU have been filled by women. Nevertheless, women's employment rate remains lower than men's (about 15 points). More importantly, work patterns of women and men are significantly different. Part-time work, for example, concerns almost one-third of women, against only 7 % of men.

This points to the qualitative, more than the quantitative position of women on the labour market. The main problem women face, is indeed their position on the labour market relatively to men. Most of the pay gap originates from the lower value attributed to women's work. Women are concentrated in low graded jobs, in service work, in the public sector and in part-time jobs. Within the EU, most women work as sales-persons or domestic and personal care workers. These are all low-paid jobs. In contrast, all growth sectors, high-technology ones in particular, are dominated by men. And amongst women having a career, the proportion of women in decision-making positions remains under 30 %, the glass ceiling preventing them to access higher levels of responsibilities and higher paid jobs.

Segregation is reinforced by educational choices, which from an early age orient young women and men towards different sectors and different careers. But the segregation is also the result of stereotypes and of their influence on the attractiveness of a given sector for women and for men. Segregation is also the reflection of the lack of reconciliation between professional and private life, which may force women to unwanted working patterns, such as part-time work, that are less paid and less valued, with fewer career possibilities.

Finally, the pay gap has also far-reaching consequences in a context of demographic changes. Indeed, lower earnings and shorter careers greatly affect women's pensions, since women live longer than men. As a consequence, women



remain economically dependent throughout their life, and three-quarters of those living in poverty in the EU are women.

From this analysis, which was shared by all the participants today, it appears that the very existence of a gender pay gap in all Member States is the evidence of a number of inequalities between women and men in our societies, amongst them economic inequalities, stereotypes, unbalance of responsibilities and lack of representation at decision making level.

Fighting the gender pay gap, as underlined for example by Minister Fahey this morning, will require a comprehensive approach that tackles all the underlying factors:

- Access to the labour market with jobs quality,
- Ensuring a satisfactory work/life balance for all, not only for women,
- Promoting equal access of women and men to decision-making positions,
- Fighting stereotypes, including and especially in education.

It is no surprise that these are precisely four amongst the six priority areas for Community action in the next years highlighted by the "Roadmap for Gender Equality" adopted by the Commission on 1st of March.

This confirms the role of the gender pay gap as a "thermometer" of the degree of gender inequality, as mentioned by Catelene Passchier this afternoon. Fighting the pay gap simply translates into fighting for more equality between women and men.

To win this battle, we need to be supported by a clear commitment at the highest political level. In this regard, the Gender Equality Pact adopted by the Heads of State and Government last March is a reassuring message.

Social partners also have a specific responsibility in reducing the gender pay gap. It is in enterprises that the level of salaries is set. The framework for actions is a reassuring message from them that the reduction of the pay gap is in the interest of everybody, employees as much as employers.

Finally, at European level, the roadmap foresees that we will present a Communication on the gender pay gap next year. It is probably expected with great interest but also with great expectations. It will not be an easy task, but today's conference will definitely be of high importance to feed into our work.

The actions needed to address the underlying factors of the gender pay gap should include:

- Developing the knowledge of the phenomenon and notably statistics;
- evidencing the gender pay gap as a part of the Lisbon strategy, notably in the National Reform Programmes;
- the promotion of work-life balance for all, including flexible working arrangements;
- promoting women's careers and breaking the glass ceiling;
- the fight against stereotypes in education and training and in the media.

Thank you for your attention.



Theresa PHILIPPI
Cabinet of the Minister Maria Rauch-Kallat

Thank you very much, Ms. Pavan-Woolfe, for your closing remarks. I will keep my summary extremely brief because we are already half an hour late.

As Dr Ranftl pointed out in her speech, 2002 was the year in which the last big conferences dealing with the gender pay gap took place. Both, the Roadmap for Equality between Women and Men and the European Pact for Gender Equality highlight the issue of equal pay between women and men as one of their key priorities. The motivation of the Austrian Presidency to initiate this conference was to give a fresh impetus to discuss the gender pay gap and to set the ground for the issue to gain momentum.

The conference today gathered experts from all EU countries as well as from Bulgaria and Romania. The invitation of political representatives, of national and European social partners, of experts of the national equality bodies and NGOs was aimed at providing a forum for the exchange of information and best practices within the EU Member States and was intended to allow for creating a still closer network among all relevant partners involved in the process of closing the gender pay gap. The women's projects that were presented in the afternoon, as well as agreements, such as the Framework of Action on Gender Equality that was signed by the European Social Partners in March 2005, targeted equal opportunities policies as presented by Minister Fahey, and legal provisions, as outlined by Asa Regner and Catherine Laret-Bedel, show that the gender pay gap has to be tackled from various sides, on various levels and that the reduction of the gender pay gap needs to be backed by a clear commitment: pay inequalities between women and men lack justification and must not be tolerated any longer.

As Dr Ranftl mentioned, gender pay equality will have a positive effect on national economies. If we want to progress in the Lisbon Process, we must not be blind in one eye – economic advancement cannot be reached when leaving one half of the population behind. Women and men – together – will strive to reach the Lisbon objectives that were so courageously defined by the European Council in 2000.

Direct discrimination, stereotypes, sectoral and occupational segregation, non linear careers due to the care for children, elderly and other dependants, traditional decisions regarding occupations for women, access to education and training, biased job evaluation and pay systems were identified as the main reasons for the gender pay gap. Legal instruments and their correct implementation, effective national gender equality policies, the involvement of women in wage negotiations, measures to allow both women and men to reconcile professional and private life, initiatives for better qualifications and mentoring for women in the labour market are among the promising methods of resolution to close the gender pay gap.

Asa Regner and other speakers reminded us today that the gender pay gap is a problem that touches the whole issue of power structures in society. It is the responsibility of all of us to act. Since closing the gender pay gap is such a complex and multi-faceted issue, it can only be tackled in cooperation with all relevant partners and institutions.



Now, I would like to thank the European Commission for supporting the Austrian Presidency in financing and organising this conference. My gratitude to Ms. Pavan-Woolfe for her brilliant moderation, to Fay Devonic for her big support, to Daniel Waterschoot who found so many solutions for us and to my compatriot Daniela Bankier who helped me pave the way for a renewed impetus in combating the gender pay gap. Finally, I would like to thank all the speakers for their valuable contributions and aspects they have highlighted. Thank you very much to all of you for your attention and interesting inputs.

WOMEN'S EURO



WOMEN'S EURO



In Finland, a salary differential between women and men still exists. It is approximately 20 % in men's favour.

The salary level must be equalised:

- equal salary must be paid for the same and equally valued work
- supporting women's salary and career development must be considered in gender equality action plans at work places
- in the salary reform, a personal bonus must be used in equalising women's and men's salary level
- women's higher level of education must show in their salaries and career development
- the costs of parenthood must be divided equally between the employers of both parents

Low paid fields are dominated by women. In incomes policy negotiations, sufficient salary lots for women must be accepted in order to make the salary level of female-dominated fields meet that of the male-dominated fields. Respect for female-dominated fields can thus be increased by concrete action.

THIS MATTER MUST BE CORRECTED. THE TIME IS NOW!

The benefactor of Women's Euro campaign, describing women's salary differential, is the Minister of Social Affairs and Health, Sinikka Mönkäre.



The campaign is carried out by WomenIT - Women in Industry and Technology (www.womenit.info). The campaign takes place May 2004 - April 2005. The idea is borrowed from www.htf.se/kvinnoslantenn



**Brochures can be ordered under
+43 1 711 00 – 4700
broschuerenservice@bmgf.gv.at**