

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Tackling the pay gap between women and men’

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On 18 July 2007 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Tackling the pay gap between women and men.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 April 2008. The rapporteur was **Ms Kössler**.

At its 444th plenary session, held on 22 and 23 April 2008 (meeting of 22 April), the European Economic and Social Committee adopted the following opinion by 128 votes with 3 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Commission's political resolve to continue to fight against the pay gap between women and men. Like the Commission, the EESC takes a very serious view of the fact that pay differentials show no sign of narrowing. They remain in spite of the measures that have been implemented and the resources already made available. It is therefore important that all stakeholders should be involved in this effort and show themselves willing to achieve real change. The European Union's growth and employment strategy, which is anchored in the Lisbon Treaty, is an important instrument to increase labour market equality and to cut pay differentials between women and men. Pay must be equalised in order to achieve the goals of the Lisbon strategy, guarantee public welfare and secure global competitiveness. This is important for the future of both women and men.

1.2 The EESC makes the following recommendations for promoting equalisation of pay to the EU institutions, national governments, national equal opportunities bodies and the social partners.

1.2.1 The EESC considers that every Member State must ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied in national legislation and collective agreements, in accordance with the Equal Pay Directive (75/117/EEC).

1.2.2 The EESC believes that Member States should focus their efforts on tackling the causes of pay differentials, which are related to the fact that men's and women's work are valued differently, that there is a division of labour in the labour market based on gender and that there are differences between

men and women in terms of their involvement in the labour market and position of power and status.

1.2.3 As far as existing legislation is concerned, it is necessary that:

- it be used effectively to tackle pay discrimination;
- the legal scope for positive discrimination measures under EC Treaty Article 141(4) be retained and applied effectively in order to make it easier for the under-represented gender to pursue a professional activity;
- employers make annual checks and reviews of wages and wage trends to identify the problems of gender discrimination in job classification systems and implement the appropriate solutions by establishing an equal opportunities plan, including transparent pay systems;
- Member States must ensure easy access to mechanisms to appeal and report cases of discrimination and it shall be for the respondent to prove before a court or other competent authority that there has been no breach of the principle of equal treatment, in accordance with Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex ⁽¹⁾.

1.2.4 In agreements between the social partners, there is a need to ensure:

- that social dialogue and collective bargaining be strengthened at all levels as one of the main instruments for eliminating unequal pay for men and women;
- a careful study of current criteria of job classifications — their explicit and implicit implications, progression of work in the context of time, availability and home responsibilities;

⁽¹⁾ Article 4: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:014:0006:0008:EN:PDF>.

- that there be transparency when it comes to provisions on notification and consultation of employees and their representatives on the pay and pay trends of women and men within same organisation;
- to adopt measures to prevent gender-stereotyping when setting pay scales for women and men;
- to offer the possibility of flexible working hours.

1.2.5 As equal opportunities in the labour market are key to tackling the pay gap between women and men, it is important:

- to take measures to provide equal access to the labour market, to increase participation by both sexes throughout the labour market and to exploit Structural Fund support for this;
- to provide children and young people of both sexes with good models which encourage the take-up of non-traditional jobs;
- to achieve gender equality in terms of participation and influence at work;
- to adopt combined, and consistent measures to ensure mutually integrated balance between private and working life, thereby making it possible to combine family responsibilities and professional activity;
- that paid parental leave be introduced in countries where it does not exist at present, for example, by adopting the provisions applied in EU institutions, and that parents be given the possibility to take longer periods of paid parental leave. Member States need to take effective measures to facilitate access for men and women in sharing parental leave⁽²⁾;
- to offer well-developed and subsidised childcare facilities, enabling parents to continue working with shorter career breaks, and to extend quality and affordable forms of support for those in need of care and their families⁽³⁾;
- to provide extensive and publicly subsidised facilities for the elderly and other care-dependent people.

1.2.6 In addition, Member States must take the responsibility for ensuring:

- that information on the causes of gender pay differentials and gender discrimination is disseminated to all stakeholders;

⁽²⁾ This issue is on the agenda of the European Social Partners, as proposed during the second consultation of the European Social Partners on reconciliation of professional, private and family life.

⁽³⁾ The Committee refers to the recommendations presented in previous opinions, most recently the EESC opinion of 13 February 2008 on the 'Proposal for a Council Decision on guidelines for the employment policies of the Member States (under Article 128 of the EC Treaty)', rapporteur: Mr Greif, CESE 282/2008 (SOC/303), and specifically point 2.3.

- the exchange of effective methods and increased dialogue between countries;

- that both the general public as well as representatives of employees and employers and legal experts are informed about the rights of those who suffer discrimination.

1.2.7 The Committee urges the European Institute for Gender Equality to give priority to the issue of the gender pay gap in carrying out its tasks.

1.2.8 The Committee is very concerned with the findings of the Commission Report on 'Equality Between Women and Men — 2008'⁽⁴⁾. The report states that there is an under-representation of women in sectors crucial for economic development that are usually well remunerated and therefore a major challenge should be to boost the qualitative aspect of equality.

1.2.9 The Committee also supports The European Platform for Women Scientists⁽⁵⁾, urging all stakeholders at European and national level to give special focus to women in science and research. Only 29 % of scientists and engineers in the EU are women.

1.3 The Committee expects government institutions and political leaders in Member States to set a good example through their practices and conduct in implementing the principles discussed in this opinion.

1.4 The EESC recommends that special attention is given to the influence of mass media to eliminate stereotypical images of men and women and to promote a representation of both sexes more accurately reflecting their contribution to society in all spheres.

2. Introduction

2.1 The Commission communication notes that, in the EU, women continue to earn an average of 15 % less than men. Closing the gender gap is one of the key concerns highlighted in the 'Roadmap for equality between women and men 2006-2010'⁽⁶⁾. The gender pay gap extends well beyond the question of equal pay for equal work. One of the main causes is linked to the way women's competences are valued compared to men's. Jobs requiring similar qualifications or experience tend to be paid less when they are dominated by women.

⁽⁴⁾ COM(2008) 10 final, 23 January 2008.

⁽⁵⁾ See www.epws.org.

⁽⁶⁾ EESC opinion of 13 September 2006 on 'A Roadmap for equality between women and men 2006-2010', rapporteur: Ms Attard, (OJ C 318, 23.12.2006). Other opinions that can be mentioned in this context are: EESC opinion of 28 September 2005 on the 'Creation of a European Institute for Gender Equality', rapporteur: Ms Štečková, (OJ C 24, 31.1.2006) and EESC opinion of 29 September 2005 on 'Poverty among Women in Europe', rapporteur: Ms King, (OJ C 24, 31.1.2006). See also the ETUC Charter on Gender Mainstreaming in Trade Unions, adopted by the ETUC Congress in Seville, 23 May 2007, and the European Commission Manual for Gender Mainstreaming of Employment Policies, July 2007.

2.1.1 The pay gap also reflects inequalities on the labour market mainly affecting women — in particular the difficulties in reconciling work with private life. Women have greater recourse to part-time work and more frequent career breaks, which limit their opportunities to take part in lifelong learning and negatively impact on their professional development. They still lag behind when it comes to holding managerial positions and they encounter more obstacles and resistance as they proceed along their career paths. As a consequence, women's career paths are more often interrupted, slower and shorter, and hence less well paid than men's. Statistics show that the pay gap grows with age, education and years of service — differences in pay are over 30 % in the 50-59 age group and 7 % for the under 30s; it is over 30 % for those with third-level education and 13 % among those with lower level secondary education.

2.1.2 The communication identifies four fields of action:

- ensuring better application of existing legislation (analysing how current laws could be adapted and better implemented and raising awareness);
- fighting the pay gap as an integral part of Member States' employment policies (exploiting the full potential of EU funding, in particular the European Social Fund) ⁽⁷⁾;
- promoting equal pay among employers, especially through social responsibility;
- supporting exchange of good practice across the EU and involving the social partners.

2.1.3 The communication aims to analyse the causes of the pay gap and identify courses of action at EU level. It highlights that the pay gap can only be tackled by acting at all levels, involving all stakeholders and focusing on all the factors that cause it.

3. General comments

3.1 *The Committee agrees that it is important that all stakeholders should be involved in efforts towards closing the pay gap.*

3.1.1 The progress made by women within education, research and enterprise is not reflected in their position on the labour market. The employment rate for women is lower than for men (55,7 % compared to 70 %) and much lower for women in the 55-64 years age group (31,7 %). Moreover, unemployment is higher for women than for men (9,7 % against 7,8 %).

⁽⁷⁾ See footnote 3.

3.1.2 The EESC considers that national governments, national equal opportunities bodies and, in particular, the social partners in all Member States have a clear obligation to work to reduce existing structural differences such as segregation in various sectors, professions and working patterns, and to ensure that the wage systems adopted reduce existing pay differentials between women and men.

3.1.3 The progress women have made, not least in important areas such as education and research, is not reflected in pay structures and income ratios. An important reason why women have lower incomes than men is that women take career breaks to care for the children and the family. It is the woman who gives birth and also devotes disproportionately more time to looking after the children than men do. Parental leave means shorter periods in work, less overall professional experience and fewer continuing education opportunities; and the longer the absence from the labour market, the poorer the salary prospects. Women also bear the primary responsibility for looking after the elderly and other care-dependent people.

3.1.4 Women's unfavourable labour market position and the resulting pay gap have an impact on their pension rights. Consequently, pension systems should be changed to ensure that women who take career breaks for maternity or parental leave are not disadvantaged, and that pension systems guarantee equality between the sexes alongside the long-term objective of securing individual systems ⁽⁸⁾. Men and women should share family responsibilities and parental responsibility must not entail any worsening of pension rights.

4. Specific comments

4.1 As early as 1957, Article 119 of the Treaty of Rome laid down the principle that men and women should receive equal pay for equal work. This article, which has become Article 141 of the Treaty, now stipulates that each Member State must ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

4.1.1 Article 141(4) therefore allows the Member States, 'with a view to ensuring full equality in practice between men and women in working life', to maintain or adopt measures providing for specific advantages in order to 'make it easier for the underrepresented sex to pursue a vocational activity'.

⁽⁸⁾ EESC opinion of 29 November 2001 on 'Economic Growth, Taxation and Sustainability of Pension Rights in the EU' (OJ C 48, 21.2.2002), rapporteur: Mr Byrne; co-rapporteur: Mr van Dijk.

4.1.2 The legal scope for positive discrimination measures should remain and in some cases be extended as there are still big differences between women and men in managerial positions. In 2000 only 31 % of high-level appointments were taken up by women and by 2006 this had only increased by one percentage point to a total of 32 %⁽⁹⁾.

4.1.3 Directive 75/117/EEC, adopted by the Council in 1975 established, inter alia, that the principle of equal pay for men and women means that there may be no discrimination on the grounds of sex for equal work or for work of equal value. This legislation has provided the basis for most Member States' equal pay legislation and collective agreements, thereby strengthening women's position in the labour market.

4.1.4 According to the EC Treaty Article 141 'pay' means 'the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer'.

4.1.5 There should be more agreement between national equal rights provisions on employment and pay conditions in order to avoid direct and indirect discrimination of women.

4.1.6 The existing legislation has clearly been inadequately implemented in terms of ensuring that the principle of equal pay for equivalent work is applied. This type of discrimination is difficult to detect. The parties concerned are not always aware that they are being discriminated against and/or find it hard to produce evidence for it. The Committee believes that employers or their representatives must have effective means at their disposal for checking whether they receive the same pay for the same work or for work of equivalent value.

4.1.7 An active instrument for monitoring and achieving fair pay scales is for employers in large and medium-sized firms to make annual checks and reviews of wages and wage trends to identify the problems of gender discrimination in job classification systems and implement the appropriate solutions by establishing an equal opportunities plan including transparent pay systems to ensure that the skills, experience and potential of all staff are rewarded fairly. Equal pay plans should be drawn up with concrete objectives, e.g. to reduce pay differentials by 1 % per year. Employers in all Member States should, every year, provide employees and their representatives with wage statistics, broken down by gender.

4.1.8 One obstacle to implementing the legislation in full is that people lack information and knowledge about the current provisions. Only one third of citizens say they know their rights

if they are discriminated against⁽¹⁰⁾. The Committee considers it important to continue to inform the public, employee and employer representatives and legal advisers about these rights.

4.1.9 Member states must ensure easy access to mechanisms to appeal and report cases of discrimination and it shall be for the respondent to prove before a court or other competent authority that there has been no breach of the principle of equal treatment (Directive 97/80/EC).

4.1.10 In spite of legislation and collective agreements, the differences between women's and men's salaries have not been levelled out. This indicates that there are other underlying factors (psychological, social and cultural) behind the pay differentials, for example the difficulty in reconciling family responsibilities with a professional activity. It is important to find a balance between private and working life. The Committee therefore considers that the fight for equal pay must be carried out in a large number of areas.

4.1.11 The statutory option to take social clauses into account during public procurement procedures must be exploited, so that preference can be given to players who aim for equality and fair pay scales for men and women.

4.1.12 The Committee feels that government administration in Member States must set a good example for all other employers — not only in relation to issues directly linked to equal pay and promotion, but also in terms of arrangements such as flexitime enabling a good life-work balance and of training policy to ensure equal opportunities.

4.1.13 Public personalities play a key role in raising awareness; this includes politicians. By setting a good personal example in their professional and private lives, they can often have more of an impact than expensive promotional campaigns.

4.2 *Fighting the pay gap as an integral part of Member States' employment policies*

4.2.1 The European Union's growth and employment strategy, which is anchored in the Lisbon Treaty, is an important instrument to increase labour market equality and to cut pay differentials between women and men. The Committee believes it is important to take measures to provide access to the labour market, increasing participation at all levels, and to exploit the potential for Structural Fund support for this.

⁽⁹⁾ Eurostat, Labour Force Survey, Managers in the EU — Distribution by sex 2000 and 2006.

⁽¹⁰⁾ Eurobarometer.

4.2.2 The Committee suggests the following measures:

- ensure transparency in job classification systems with a set of criteria that is drawn up and implemented free of gender discrimination;
- ensure different evaluation criteria that are related to the nature of the job and not to the person and that do not contain potential different forms of discrimination;
- encourage take-up of non-traditional jobs in order to influence and reduce labour market imbalances. The aim is for women to choose and apply for jobs in science and technology, and for men to choose and apply for jobs in female-dominated occupations;
- encourage employers to develop, implement and follow up equal opportunities plans, one element of which is a pay survey;
- encourage employers and employees to contribute towards skills development;
- encourage employers and trade unions to come forward with inspection arrangements to monitor the way pay scales are determined. This will involve using labour market nomenclature, legal proceedings, case law and classification of occupations;
- encourage and promote changes that encourage women to apply for and achieve higher managerial positions and directors posts in research and development, technology and innovation;
- support and promote the inclusion of a higher proportion of women at all staff levels in growth sectors such as tourism, the environment and the ecosystem sector, telecommunications and biotechnology;
- promote gender-stimulating management practices;
- include a specially designed indicator in the employment strategy for monitoring pay equalisation at Community level.

4.3 *The Committee suggests the following measures to enhance equal opportunities in education and vocational training:*

- promote the participation and increase the proportion of women in vocational and labour market training courses in technology and computer skills, particularly at the higher levels within the IT sector;
- encourage and promote, through education, work experience and other labour market measures, a climate in which more men will apply for jobs in the service and care sector;

- encourage more flexible education and labour market training courses in order to reach out to women in rural and sparsely-populated areas;
- promote women's opportunities for improving their professional skills through vocational training during parental leave and as soon as they return to work.

4.4 *The Committee suggests the following measures to create and enhance opportunities for women to start and grow their own business:*

- exploit the Structural Funds to get more women to start their own business ⁽¹⁾;
- create and raise equality awareness among managers, directors and start-up consultants;
- new focus and design for SME support services (financial and technical) in order to meet and provide for the needs of women who want to start and grow their own business;
- provide financial support/loans for women who start and grow a business;
- provide support for female entrepreneur networks and organisations and mentoring of women by women;
- provide special support for women to set up and grow businesses in the telecommunications and high-tech sectors;
- provide support for women who promote and lead social economy initiatives.

4.5 *Women's right to pursue a career and earn a living needs to be enhanced. It must be possible for both men and women to live decently on their wages. The Committee suggests the following measures to make it easier to reconcile working life with family responsibilities:*

- subsidised childcare, which enables parents to continue working after having children and can lead to shorter career breaks;
- training support for child- and healthcare staff;

⁽¹⁾ EESC opinion of 25 October 2007 on 'Entrepreneurship mindsets and the Lisbon Agenda', rapporteur: Ms Sharma; co-rapporteur: Mr Olsson (OJ C 44, 16.2.2008).

- the introduction of paid parental leave in countries where it does not exist at present, for example, by adopting the provisions applied in EU institutions, and enabling parents to take longer periods of paid parental leave. It must be possible to split parental leave between both parents; setting aside part of parental leave for fathers is an important step forward in efforts to get fathers to take greater responsibility in the family. Economic incentives to compensate for any loss of income should be mobilised to try and get more men to take parental leave. (This issue is on the agenda of the European Social Partners as proposed during the second consultation of the European Social Partners on reconciliation of professional, private and family life) ⁽¹²⁾;
- support for teleworking to provide more opportunities for those who, for various reasons, are unable to commute to attend training courses and take up employment;
- create opportunities for labour reinsertion courses, using the tax system, for example. These courses should target women who have been out of the labour market for extended periods because they have been on parental leave, looking after children;
- publicly subsidised facilities for the elderly and other care-dependent people, which make it easier for women in particular to take part in the labour market.

4.6 *The Committee suggests the following measures to increase women's participation and influence:*

- create a gender balance on committees and decision-making bodies;
- involve representative equal opportunities organisations and women's organisations in monitoring committees, partnerships and other forums;
- exploit the potential to promote women to leadership and decision-making positions in structures that are responsible for management and implementation;
- ensure that women equal enjoy ongoing equality in the world of work so that they are not only in demand during an economic upturn and are hit first and hardest when there is a downturn;
- hold regular discussions with organisations that are active in the field of equal opportunities.

⁽¹²⁾ In Denmark all firms have been legally obliged to pay into a central equalisation fund for parental leave since 1 October 2006. This means that no firms are disadvantaged when having to pay out salaries during parental leave, and that there is no risk of parents on leave becoming an economic burden on individual employers. There is a similar scheme in Iceland where all employers and employees pay into a state fund for parental care. A three-part model is applied where the mother and father are each entitled to one-third of the nine-month parental leave period and the remaining third can be divided between them as they see fit. Following the entry into force of the parental leave law, nearly 90 % of Icelandic fathers take parental leave.

4.7 *Work to ensure employers implement the equal pay principle and accept social responsibility*

4.7.1 Equal pay for equal work has become increasingly accepted in Europe, although not as a matter of course in all 27 EU countries. Although the ILO's Equal Remuneration Convention (adopted in 1951) was ratified by all 27 Member States more than 50 years ago and stipulates in Article 2 that 'Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value', there is still an assumption that women can fall back on a man's income, which is divorced from reality in today's society. It is not easily accepted that work of equivalent value will also be rewarded with equal pay. There is an intrinsic difficulty in assessing whether jobs or professions are equivalent. A number of court cases can provide guidance in this area.

4.7.2 The Committee believes that employers could use the following measures to reduce the pay gap between women and men:

- flexitime improves gender equality in the labour market. Voluntary part-time work is one way for parents to combine work with their responsibility for caring for the family. It is, however, important to ensure that they can return to full-time work later. Giving parents who are reluctantly working part time the opportunity to work full time enables them to be economically independent, which is especially important for those who have care duties to fulfil;
- working hours must be made compatible with family responsibilities. The gender-based distribution of home and care duties must be changed in order to create a better balance between men and women. The man's role as a carer in the family and household must be strengthened;
- models for comparing jobs and professional responsibilities provide a basis for assessing pay, thus constituting an instrument for implementing the equal pay principle. There is also a need to develop job evaluation schemes which can be used to determine jobs of equal value across different staff groups. This would help to ensure that the same pay is paid for equal work regardless of gender;
- seeing parental leave in a positive light and rewarding this experience through promotion and pay structures. However, this should not put people without children in an unequal position with regard to pay and career advancement;

- society and employers can help to increase women's employment and career advancement potential by providing child-care;
- employers can make it easier and provide more scope to reconcile family responsibilities with working life by offering leave during school holidays and when children are sick;
- in countries where there is no statutory right to paternity leave following the birth of a child or adoption, employers can lead by example by being socially responsible and offering such leave ⁽¹³⁾;
- offering leave to care for close relations who are sick;
- providing further education for women and investing in career development programmes for women;
- teaching men, and women themselves, to see, understand, recognise and capitalise on women's skills.

4.8 *Promote exchange of good practice throughout the European Union and involve the social partners*

4.8.1 The Committee believes that concrete progress can be achieved by exchanging and promoting effective methods and through strengthened dialogue between the Member States. True equality and fair pay structures can only be achieved if all

Member States take constructive measures and work to eliminate the pay gap between women and men. Employer and employee organisations and the EU Gender Equality Institute have an important role to play in achieving this objective.

4.8.2 The social partners must help to reduce pay differentials through targeted initiatives during pay negotiations. A concrete example of a successful initiative in this area is the framework agreement on gender equality adopted by the social partners at EU level in 2005 where one of the four priorities is tackling the gender pay gap ⁽¹⁴⁾.

4.8.3 Changes of various kinds are needed in statistics on wages so as to make information on pay differences a more adequate basis for decisions. The causes of pay differentials need closer study and sharing the resulting knowledge can be used to reveal, correct and prevent discrimination.

4.8.4 To this end, the Dublin-based European Foundation for the Improvement of Living and Working Conditions and the EU Gender Equality Institute should compile and present comparable statistics from the Member States on women's representation in management and on boards of directors in both the public and private sectors, together with statistics showing the progress in the various Member States with regard to equal pay for equal work.

Brussels, 22 April 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽¹³⁾ Since 1 July 2006 Sweden has had new parental leave legislation which lays down that employees on parental leave may not be treated unfairly by employers. The new law means that those on parental leave may not be treated differently from other workers. According to the Equal Opportunities Ombudsman, employees on parental leave must be treated as if they were at work. Women take, on average, considerably longer periods of parental leave than men, which means they are more likely to be miss out on bonuses and ex gratia payments.

⁽¹⁴⁾ Framework of Actions on Gender Equality:
http://ec.europa.eu/employment_social/news/2005/mar/gender_equality_en.pdf.